

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023**

**SENATE BILL 902  
RATIFIED BILL**

AN ACT TO MODIFY THE DURHAM COUNTY OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

**SECTION 1.** Section 9 of Part III of S.L. 2001-480, as amended by S.L. 2002-36 and Part IV of S.L. 2005-233, reads as rewritten:

**"SECTION 9.(a)** Distribution and Use of Tax Revenue. – Durham County shall distribute and use the net proceeds of the tax collected under this act as provided in this section. As used in this section, "net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, but not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year. For the purpose of calculating and distributing the threshold in the previous section, net proceeds, all three taxes levied under Section 6 of this act shall be considered together.

Durham County shall distribute the net proceeds of the room occupancy tax as follows:

- (1) For fiscal year 2024-2025, the net proceeds shall be distributed as follows:
  - a. Of the net proceeds derived from the levy of the first three percent (3%) of the room occupancy tax, fifty-seven and one-half percent (57 1/2%) shall be retained by Durham County and forty-two and one-half percent (42 1/2%) shall be distributed to the City of Durham. These proceeds may be used for any purpose authorized by law.
  - b. The net proceeds derived from the levy of the next two percent (2%) of the room occupancy tax shall be distributed to the Durham Convention and Visitors Bureau. At least two-thirds of these funds shall be used to promote travel and tourism, and the remainder shall be used for tourism-related expenditures.
  - c. The net proceeds derived from the levy of the remaining one percent (1%) of the room occupancy tax shall be distributed monthly to the Durham Convention and Visitors Bureau. The Bureau shall distribute and use the net proceeds in this sub-subdivision in the following priority order:
    1. To the City of Durham, the first one million four hundred thousand dollars (\$1,400,000) collected annually to finance the debt service associated with the construction of the Performing Arts Theater. Funds distributed pursuant to this sub-sub-subdivision (i) shall be used to finance the debt service associated with the construction of the Performing Arts Theater until March 2034 and (ii) shall be considered tourism-related expenditures by the Bureau for every year in which the funds are distributed for purposes consistent with this sub-sub-subdivision.



2. To Durham County, the next five hundred thousand dollars (\$500,000) collected annually to be used for improvements to the Museum of Life and Science. This may include the financing of debt service. Funds distributed pursuant to this sub-sub-subdivision (i) shall be used for improvements to the Museum of Life and Science until March 2034 and (ii) shall be considered tourism-related expenditures by the Bureau for every year in which the funds are distributed for purposes consistent with this sub-sub-division. Funds distributed pursuant to this sub-sub-subdivision prior to March 2034 that remain unspent by the Museum of Life and Science at the end of any fiscal year shall be remitted to the Durham Convention and Visitors Bureau to be used by the Bureau to promote travel and tourism and for tourism-related expenditures in accordance with sub-sub-subdivision 3. of this sub-subdivision.
  3. Funds remaining after the distributions made pursuant to sub-sub-subdivisions 1. and 2. of this sub-subdivision shall be retained by the Durham Convention and Visitors Bureau. At least two-thirds of these funds shall be used to promote travel and tourism, and the remainder shall be used for tourism-related expenditures.
- (2) For fiscal year 2025-2026, the net proceeds shall be distributed as follows:
- a. Of the net proceeds derived from the levy of the first two percent (2%) of the room occupancy tax, fifty-seven and one-half percent (57 1/2%) shall be retained by Durham County and forty-two and one-half percent (42 1/2%) shall be distributed to the City of Durham. These proceeds may be used for any purpose authorized by law.
  - b. The net proceeds derived from the levy of the next three percent (3%) of the room occupancy tax shall be distributed to the Durham Convention and Visitors Bureau. At least two-thirds of these funds shall be used to promote travel and tourism, and the remainder shall be used for tourism-related expenditures.
  - c. The net proceeds derived from the levy of the remaining one percent (1%) of the room occupancy tax shall be distributed in accordance with sub-subdivision c. of subdivision (1) of this subsection.
- (3) For fiscal year 2026-2027, the net proceeds shall be distributed as follows:
- a. Of the net proceeds derived from the levy of the first one percent (1%) of the room occupancy tax, fifty-seven and one-half percent (57 1/2%) shall be retained by Durham County and forty-two and one-half percent (42 1/2%) shall be distributed to the City of Durham. These proceeds may be used for any purpose authorized by law.
  - b. The net proceeds derived from the levy of the next four percent (4%) of the room occupancy tax shall be distributed to the Durham Convention and Visitors Bureau. At least two-thirds of these funds shall be used to promote travel and tourism, and the remainder shall be used for tourism-related expenditures.
  - c. The net proceeds derived from the levy of the remaining one percent (1%) of the room occupancy tax shall be distributed in accordance with sub-subdivision c. of subdivision (1) of this subsection.

- (4) For the fiscal year beginning July 1, 2027, and continuing each fiscal year thereafter, until April 1, 2034, the net proceeds shall be distributed as follows:
- a. The net proceeds derived from the levy of the first five percent (5%) of the room occupancy tax shall be distributed to the Durham Convention and Visitors Bureau. At least two-thirds of these funds shall be used to promote travel and tourism, and the remainder shall be used for tourism-related expenditures.
  - b. The net proceeds derived from the levy of the remaining one percent (1%) of the room occupancy tax shall be distributed in accordance with sub-subdivision c. of subdivision (1) of this subsection.

~~"SECTION 9.(b) Use of Proceeds From First Three Percent (3%) Tax.—Durham County shall retain fifty seven and one half percent (57½%) of the net proceeds collected from the tax levied under Section 6(a) of this act and shall distribute the remaining forty two and one half percent (42½%) of the net proceeds collected from the tax levied under Section 6(a) of this act to the City of Durham. Funds retained by the county or distributed to the City of Durham pursuant to this subsection may be used for any purpose authorized by law.~~

~~"SECTION 9.(c) Use of Proceeds From Additional Two Percent (2%) Tax.—Durham County shall, on a monthly basis, remit the net proceeds of the tax levied under Section 6(b) of this act to the Durham Tourism Development Authority created by Section 10 of this act.~~

~~The Authority may use the funds remitted to it under this subsection only to promote travel, tourism, and conventions in Durham County.~~

~~"SECTION 9.(d) Use of Proceeds From Additional One Percent (1%) Tax During First 24 Months.—Durham County shall, on a monthly basis, remit the net proceeds of the occupancy tax levied under Section 6(c) of this act to the Durham Tourism Development Authority created by Section 10 of this act. During the first 24 months that the tax is levied under Section 6(c) of this act, the Authority shall distribute and use these net proceeds in the following priority order:~~

- ~~(1) To Durham County, up to the first two hundred thousand dollars (\$200,000) collected to fund the development of a Cultural Arts Master Plan.~~
- ~~(2) The Authority shall use the next seven hundred thousand dollars (\$700,000) collected to promote travel, tourism, and conventions in Durham County.~~
- ~~(3) To the City of Durham, the next two hundred forty eight thousand dollars (\$248,000) collected. The city shall use these funds for the design and engineering costs associated with the construction of a Performing Arts Theater.~~
- ~~(4) To Durham County, the next four hundred thousand dollars (\$400,000) collected for improvements to the Museum of Life and Science. This may include the financing of debt service.~~
- ~~(5) To Durham County, the next five hundred thousand dollars (\$500,000) collected. These funds shall be credited into an Arts Reserve Fund and used to implement the Cultural Arts Master Plan developed under subdivision (1) of this subsection.~~
- ~~(6) The Authority shall use any net proceeds collected in excess of two million forty eight thousand dollars (\$2,048,000) to promote travel, tourism, and conventions in Durham County.~~

~~"SECTION 9.(e) Use of Proceeds From Additional One Percent (1%) Tax After First 24 Months.—The net proceeds of the tax collected under Section 6(c) of this act after the first 24 months that the tax is levied shall be remitted monthly to the Durham Tourism Development Authority created by Section 10 of this act. The Authority shall use and distribute these net proceeds in the following priority order:~~

- ~~(1) To the City of Durham, the first one million four hundred thousand dollars (\$1,400,000) collected annually to finance the debt service associated with the~~

~~construction of the Performing Arts Theater. Until those funds are distributed to the City of Durham for that purpose, they shall be held by the Durham Tourism Development Authority in a capital reserve fund as provided by Part 2 of Article 3 of Chapter 159 of the General Statutes except they may be expended as provided by the last sentence of Section 7(a) of this act if the tax is repealed as provided by Section 7(a) of this act. Any interest earned by that fund shall be credited to the fund.~~

- ~~(2) Thirty two years after the levy of the tax authorized under Section 6(c) of this act, instead of the allocation under subdivision (1) of this subsection, the first one million four hundred thousand dollars (\$1,400,000) collected annually shall be used by the Authority to promote travel and tourism or for tourism related expenditures.~~
- ~~(3) To Durham County, the next five hundred thousand dollars (\$500,000) collected annually to be used for improvements to the Museum of Life and Science. This may include the financing of debt service. Any of these funds that are not needed for this purpose shall be returned to the Authority and used to promote travel and tourism.~~
- ~~(4) The Authority shall use any net proceeds in excess of that provided by subdivisions (1), (2), and (3) of this subsection to promote travel, tourism, and conventions in Durham County.~~

~~As used in this subsection, "annually" means the 12 month period beginning after the first 24 months that the tax authorized under Section 6(c) of this act is levied.~~

**"SECTION 9.(f) Definitions.** – For the purpose of this Part:

- (1) "Promote travel and tourism" means to advertise or market an area or activity, to publish and distribute pamphlets and other materials, to conduct market research, and to engage in similar promotional activities that attract tourists or business travelers to the area, and also includes administrative expenses incurred in engaging in these activities.
- (2) "Promote travel, tourism, and conventions" means to advertise or market an area or activity, to publish and distribute pamphlets and other materials, to conduct market research, and to engage in similar promotional activities that attract tourists, business travelers, or conventioners to the area, and also includes administrative expenses incurred in engaging in these activities.
- (3) "Tourism related expenditures" are those that, in the judgment of the Durham Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in the county by attracting tourists or business travelers to the county, and includes capital expenditures related to that purpose."

**SECTION 2.(a)** Parts II and III of S.L. 2001-480, as amended by S.L. 2002-36, Part IV of S.L. 2005-233, S.L. 2006-98, and Section 1 of this act, are consolidated and rewritten as Sections 2 and 3 of this act.

**SECTION 2.(b) Occupancy Tax.** – Authorization and Scope. – The Durham Board of Commissioners may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of an accommodation within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax.

**SECTION 2.(c) Administration.** – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

**SECTION 2.(d) Distribution and Use of Tax Revenue.** – Durham shall, on a monthly basis, remit the net proceeds of the occupancy tax to the Durham Convention and Visitors

Bureau. The Bureau shall use at least two-thirds of the funds to promote travel and tourism and shall use the remainder for tourism-related expenditures in the county.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Durham Convention and Visitors Bureau, are designed to increase the use of accommodations, meeting facilities, or convention facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

**SECTION 3.** Establishment of the Durham Convention and Visitors Bureau as a Tourism Development Authority. – (a) Appointment and Membership. – The Durham Convention and Visitors Bureau, created on January 17, 1989, in an interlocal agreement between Durham County and the City of Durham shall act as a tourism development authority, which is a public authority under the Local Government Budget and Fiscal Control Act.

The membership of the board of directors of the Durham Convention and Visitors Bureau shall be as specified in an interlocal cooperation agreement between Durham County and the City of Durham. The agreement shall provide for the number of members, terms of office, who shall appoint the membership, and other provisions as may reasonably be necessary. The interlocal agreement may be amended as provided by its terms. At least one-third of the membership of the Durham Convention and Visitors Bureau shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the membership shall be individuals who are currently active in the promotion of travel and tourism in the county. If the interlocal cooperation agreement is terminated, the directors of the Durham Convention and Visitors Bureau shall continue to serve until the appointment of their successors pursuant to further action by the City of Durham and the County of Durham or by the General Assembly.

The Durham Convention and Visitors Bureau shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings.

**SECTION 3.(b) Duties.** – The Durham Convention and Visitors Bureau shall expend the net proceeds of the tax levied under this act for promoting travel and tourism and for tourism-related expenditures as provided in this act.

**SECTION 3.(c) Reports.** – The Durham Convention and Visitors Bureau shall file a copy of its audit report with the Durham County Board of Commissioners and the Durham City Council following the close of each fiscal year and in such detail as the Board and Council may require.

**SECTION 4.** Section 1 of this act becomes effective July 1, 2024, and applies to the distribution and use of occupancy tax proceeds on or after that date. Sections 2 and 3 of this act become effective April 1, 2034, and apply to the distribution and use of occupancy tax proceeds on or after that date. The remainder of this act is effective when it becomes law. The provisions of the prior acts consolidated and rewritten in this act that authorize the levy of and provide for the administration of the tax by the Durham Convention and Visitors Bureau shall continue without interruption so that all rights and liabilities that have accrued before the effective date of this act are preserved and may be enforced.

In the General Assembly read three times and ratified this the 28<sup>th</sup> day of June, 2024.

s/ Phil Berger  
President Pro Tempore of the Senate

s/ Tim Moore  
Speaker of the House of Representatives