

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

SESSION LAW 1998-14
HOUSE BILL 1246

AN ACT TO MODIFY THE PURPOSES FOR WHICH DAVIE OCCUPANCY TAX
PROCEEDS MAY BE USED AND TO MAKE TECHNICAL AND
CONFORMING CHANGES TO THE LAW.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 928 of the 1989 Session Laws reads as rewritten:

"Section 1. ~~Ooccupaney~~Davie County occupancy tax.

(a) Authorization and Scope. ~~—~~The Davie County Board of Commissioners may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place 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. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(b) ~~Collection.—Administration.~~ — A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155.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.

~~Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects the occupancy tax levied under this section may deduct from the amount remitted to the county a discount of three percent (3%) of the amount collected.~~

(c) ~~Administration.~~ The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county tax administrator in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form

~~prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the county tax administrator under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars (\$10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid. The board of commissioners may, for good cause shown, compromise or forgive the additional tax penalties imposed by this subsection.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both.~~

~~(e) Distribution and use of tax revenue. – Davie County shall, on a monthly basis, deposit in a special account ~~thirty three and one third percent (33 1/3%)~~ at least fifty percent (50%) of the net proceeds of the occupancy tax. Funds in the special account may be used only to promote travel and tourism in Davie County and to finance tourism related capital projects in the county. However, any tax proceeds in the special account that have not been appropriated after three years following the date they were deposited in the account shall be remitted to the general fund of Davie County and may be used for any lawful purpose.~~

~~Davie County shall, on a monthly basis, remit the remaining ~~sixty six and two thirds percent (66 2/3)~~ of the net proceeds of the tax to its general funds and may use these funds for any lawful purpose. ~~As used in this subsection, "net proceeds" means gross proceeds, including penalties and interest, less the cost to the county of administering and collecting the tax, as determined by the finance office. 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 seven percent (7%) of the amount collected.~~
- ~~(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.~~

~~(f) Effective date of levy. A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this section may be repealed by a resolution adopted by the Davie County Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal."~~

Section 2. County Administrative Provisions. Section 3(b) of S.L. 1997-102, as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L. 1997-364, and Section 6 of S.L. 1997-410, reads as rewritten:

"(b) This section applies only to Avery, Brunswick, Davie, Madison, Nash, Person, Randolph, and Scotland Counties."

Section 3. This act becomes effective July 1, 1998.

In the General Assembly read three times and ratified this the 23rd day of June, 1998.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives