

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 603*

Senate Finance Committee Substitute Adopted 5/12/97

Short Title: Madison Occupancy Tax.

(Local)

Sponsors:

Referred to:

March 25, 1997

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE MADISON COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Occupancy tax. (a) Referendum. The Madison County Board of Commissioners may direct the county board of elections to conduct an advisory referendum on the question of whether a room occupancy tax of up to three percent (3%) will be levied in accordance with this act. The election shall be held on a date jointly agreed upon by the two boards and shall be held in accordance with the procedures of G.S. 163-287.

The form of the question to be presented on a ballot for a special election concerning the levy of the tax authorized by this act shall be:

[] FOR [] AGAINST

Tax on rental of lodging at hotels, motels, and similar businesses, at a maximum rate of three percent (3%), to be used to promote travel and tourism and for tourism-related expenditures.

(b) Authorization and scope. If a majority of those voting in a referendum held pursuant to this act vote for the levy of the tax, the Madison County Board of Commissioners may by resolution levy a room occupancy tax as provided in this act. In

1 addition, if the county has not held a referendum, or if five years have passed since the
2 tax was defeated at a referendum, the Madison County Board of Commissioners may by
3 resolution, after not less than 10 days' public notice and after a public hearing held
4 pursuant thereto, levy a room occupancy tax as provided in this act. The tax authorized
5 by this act may be levied at a rate of up to three percent (3%) and shall apply to the gross
6 receipts derived from the rental of any room, lodging, or accommodation furnished by a
7 hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales
8 tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State
9 or local sales tax. This tax does not apply to accommodations furnished by nonprofit
10 charitable, educational, or religious organizations or to a business that offers to rent fewer
11 than five units.

12 (c) Administration. Except as otherwise provided in this section, a tax levied
13 under this section shall be levied, administered, collected, and repealed as provided in
14 G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this
15 section.

16 (d) Distribution and use of tax revenue. Madison County shall, on a quarterly
17 basis, remit the net proceeds of the occupancy tax to the Madison County Tourism
18 Development Authority. The Authority shall use at least two-thirds of the funds remitted
19 to it under this subsection to promote travel and tourism in Madison County and shall use
20 the remainder for tourism-related expenditures. The administrative expenses of the
21 Authority may not exceed fifteen percent (15%) of the funds remitted to it under this
22 subsection.

23 The following definitions apply in this subsection:

- 24 (1) Net proceeds. – Gross proceeds less the cost to the county of
25 administering and collecting the tax, as determined by the finance
26 officer, not to exceed five percent (5%) of the gross proceeds.
- 27 (2) Promote travel and tourism. – To advertise or market an area or activity,
28 publish and distribute pamphlets and other materials, conduct market
29 research, or engage in similar promotional activities that attract tourists
30 or business travelers to the area; the term includes administrative
31 expenses incurred in engaging in the listed activities.
- 32 (3) Tourism-related expenditures. – Expenditures that are designed to
33 increase the use of lodging facilities in a county or to attract tourists or
34 business travelers to the county. The term includes expenditures to
35 construct, maintain, operate, or market a convention or meeting facility,
36 a visitors' center, or a coliseum and other expenditures that, in the
37 judgment of the Authority, will facilitate and promote tourism.

38 Section 2. Tourism Development Authority. (a) Appointment and membership.
39 When the board of commissioners adopts a resolution levying a room occupancy tax
40 under this act, it shall also adopt a resolution creating a county Tourism Development
41 Authority, which shall be a public authority under the Local Government Budget and
42 Fiscal Control Act. The Authority shall be composed of three ex officio voting members
43 as provided in subdivision (1) of this subsection and eight members appointed by the

1 board of commissioners as provided in subdivisions (2) through (5) of this subsection. In
2 order to be appointed to the Authority, an individual must have demonstrated a
3 commitment to promoting tourism in Madison County. The members of the Authority
4 shall be:

- 5 (1) The mayors of the Towns of Hot Springs, Mars Hill, and Marshall, to
6 serve ex officio. Each mayor may designate another resident of the
7 mayor's town to serve in his or her place.
- 8 (2) Three residents of Madison County, one each recommended by the
9 mayors of the Towns of Hot Springs, Mars Hill, and Marshall,
10 respectively.
- 11 (3) Two residents of Madison County selected by the Madison County
12 Board of Commissioners.
- 13 (4) The Chair of the Madison County Chamber of Commerce or an
14 individual recommended by the Chair of the Madison County Chamber
15 of Commerce.
- 16 (5) Two residents of Madison County recommended by the Madison
17 County Chamber of Commerce.

18 Members shall serve for a term of two years and shall serve without
19 compensation. The resolution creating the Authority shall provide for the filling of
20 vacancies on the Authority. The board of commissioners shall designate one member of
21 the Authority as chair. The Authority shall meet at the call of the chair and shall adopt
22 rules of procedure to govern its meetings. The Finance Officer of Madison County shall
23 be the ex officio finance officer of the Authority.

24 (b) Duties. The Authority shall expend the net proceeds of the tax levied under
25 this act for the purposes provided in Section 1 of this act. The Authority shall promote
26 travel, tourism, and conventions in the county, sponsor tourist-related events and
27 activities in the county, and finance tourist-related capital projects in the county.

28 (c) Reports. The Authority shall report quarterly and at the close of the fiscal year
29 to the board of commissioners on its receipts and expenditures for the preceding quarter
30 and for the year in such detail as the board may require.

31 Section 3. County administrative provisions. (a) Article 7 of Chapter 153A of the
32 General Statutes is amended by adding a new section to read:

33 **"§ 153A-155. Uniform provisions for room occupancy taxes.**

34 (a) Scope. – This section applies only to counties the General Assembly has
35 authorized to levy room occupancy taxes.

36 (b) Levy. – A room occupancy tax may be levied only by resolution, after not less
37 than 10 days' public notice and after a public hearing held pursuant thereto. A room
38 occupancy tax shall become effective on the date specified in the resolution levying the
39 tax. That date must be the first day of a calendar month, however, and may not be earlier
40 than the first day of the second month after the date the resolution is adopted.

41 (c) Collection. – Every operator of a business subject to a room occupancy tax
42 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall
43 be collected as part of the charge for furnishing a taxable accommodation. The tax shall

1 be stated and charged separately from the sales records and shall be paid by the purchaser
2 to the operator of the business as trustee for and on account of the taxing county. The tax
3 shall be added to the sales price and shall be passed on to the purchaser instead of being
4 borne by the operator of the business. The taxing county shall design, print, and furnish
5 to all appropriate businesses and persons in the county the necessary forms for filing
6 returns and instructions to ensure the full collection of the tax. An operator of a business
7 who collects a room occupancy tax may deduct from the amount remitted to the taxing
8 county a discount equal to the discount the State allows the operator for State sales and
9 use tax.

10 (d) Administration. – The taxing county shall administer a room occupancy tax it
11 levies. A room occupancy tax is due and payable to the county finance officer in
12 monthly installments on or before the 15th day of the month following the month in
13 which the tax accrues. Every person, firm, corporation, or association liable for the tax
14 shall, on or before the 15th day of each month, prepare and render a return on a form
15 prescribed by the taxing county. The return shall state the total gross receipts derived in
16 the preceding month from rentals upon which the tax is levied. A room occupancy tax
17 return filed with the county finance officer is not a public record and may not be
18 disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

19 (e) Penalties. – A person, firm, corporation, or association who fails or refuses to
20 file a room occupancy tax return or pay a room occupancy tax as required by law is
21 subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a
22 return for State sales and use taxes. The governing board of the taxing county has the
23 same authority to waive the penalties for a room occupancy tax that the Secretary of
24 Revenue has to waive the penalties for State sales and use taxes.

25 (f) Repeal or Reduction. – A room occupancy tax levied by a county may be
26 repealed or reduced by a resolution adopted by the governing body of the county. Repeal
27 or reduction of a room occupancy tax shall become effective on the first day of a month
28 and may not become effective until the end of the fiscal year in which the resolution was
29 adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax
30 that was attached before the effective date of the repeal or reduction, nor does it affect a
31 right to a refund of a tax that accrued before the effective date of the repeal or reduction."

32 (b) This section applies only to Madison County.

33 Section 4. This act is effective when it becomes law.