

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 489*

Short Title: Madison Occupancy Tax.

(Local)

Sponsors: Senator Ledbetter.

Referred to: Finance.

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 addition, if the county has not held a referendum, or if five years have passed since the

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

11 (c) **Collection.** Every operator of a business subject to the tax levied under this
12 section shall, on and after the effective date of the levy of the tax, collect the tax. This
13 tax shall be collected as part of the charge for furnishing a taxable accommodation. The
14 tax shall be stated and charged separately from the sales records, and shall be paid by the
15 purchaser to the operator of the business as trustee for and on account of the county. The
16 tax shall be added to the sales price and shall be passed on to the purchaser instead of
17 being borne by the operator of the business. The county shall design, print, and furnish to
18 all appropriate businesses and persons in the county the necessary forms for filing returns
19 and instructions to ensure the full collection of the tax. An operator of a business who
20 collects the occupancy tax levied under this section may deduct from the amount remitted
21 to the county a discount equal to the discount the State allows the operator for State sales
22 and use tax.

23 (d) **Administration.** The county shall administer a tax levied under this section.
24 A tax levied under this section is due and payable to the county finance officer in
25 monthly installments on or before the fifteenth day of the month following the month in
26 which the tax accrues. Every person, firm, corporation, or association liable for the tax
27 shall, on or before the fifteenth day of each month, prepare and render a return on a form
28 prescribed by the county. The return shall state the total gross receipts derived in the
29 preceding month from rentals upon which the tax is levied.

30 A return filed with the county finance officer under this section is not a public
31 record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S.
32 160A-208.1.

33 (e) **Penalties.** A person, firm, corporation, or association who fails or refuses
34 to file the return or pay the tax required by this section is subject to the civil and criminal
35 penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use
36 taxes. The Madison County Board of Commissioners has the same authority to waive the
37 penalties for a room occupancy tax that the Secretary of Revenue has to waive the
38 penalties for State sales and use taxes.

39 (f) **Distribution and use of tax revenue.** Madison County shall, on a
40 quarterly basis, remit the net proceeds of the occupancy tax to the Madison County
41 Tourism Development Authority. The Authority shall use at least two-thirds of the funds
42 remitted to it under this subsection to promote travel and tourism in Madison County and
43 shall use the remainder for tourism-related expenditures. The administrative expenses of

1 the Authority may not exceed fifteen percent (15%) of the funds remitted to it under this
2 subsection.

3 The following definitions apply in this subsection:

4 (1) Net proceeds. – Gross proceeds less the cost to the county of
5 administering and collecting the tax, as determined by the finance
6 officer, not to exceed five percent (5%) of the gross proceeds.

7 (2) Promote travel and tourism. – To advertise or market an area or activity,
8 publish and distribute pamphlets and other materials, conduct market
9 research, or engage in similar promotional activities that attract tourists
10 or business travelers to the area; the term includes administrative
11 expenses incurred in engaging in the listed activities.

12 (3) Tourism-related expenditures. – Expenditures that are designed to
13 increase the use of lodging facilities in a county or to attract tourists or
14 business travelers to the county. The term includes expenditures to
15 construct, maintain, operate, or market a convention or meeting facility,
16 a visitors' center, or a coliseum and other expenditures that, in the
17 judgment of the Authority, will facilitate and promote tourism.

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

22 (h) **Repeal.** A tax levied under this section may be repealed by a resolution
23 adopted by the Madison County Board of Commissioners. Repeal of a tax levied under
24 this section shall become effective on the first day of a month and may not become
25 effective until the end of the fiscal year in which the repeal resolution was adopted.
26 Repeal of a tax levied under this section does not affect a liability for a tax that was
27 attached before the effective date of the repeal, nor does it affect a right to a refund of a
28 tax that accrued before the effective date of the repeal.

29 Section 2. Tourism Development Authority. (a) **Appointment and membership.**
30 When the board of commissioners adopts a resolution levying a room occupancy tax
31 under this act, it shall also adopt a resolution creating a county Tourism Development
32 Authority, which shall be a public authority under the Local Government Budget and
33 Fiscal Control Act. The Authority shall be composed of three ex officio voting members
34 as provided in subdivision (1) of this subsection and eight members appointed by the
35 board of commissioners as provided in subdivisions (2) through (5) of this subsection. In
36 order to be appointed to the Authority, an individual must have demonstrated a
37 commitment to promoting tourism in Madison County. The members of the Authority
38 shall be:

39 (1) The mayors of the Towns of Hot Springs, Mars Hill, and Marshall, to
40 serve ex officio. Each mayor may designate another resident of the
41 mayor's town to serve in his or her place.

- 1 (2) Three residents of Madison County, one each recommended by the
2 mayors of the Towns of Hot Springs, Mars Hill, and Marshall,
3 respectively.
- 4 (3) Two residents of Madison County selected by the Madison County
5 Board of Commissioners.
- 6 (4) The Chair of the Madison County Chamber of Commerce or an
7 individual recommended by the Chair of the Madison County Chamber
8 of Commerce.
- 9 (5) Two residents of Madison County recommended by the Madison
10 County Chamber of Commerce.

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

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

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

24 Section 3. This act is effective when it becomes law.