

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1997**

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**SENATE BILL 585**  
**Finance Committee Substitute Adopted 4/23/97**

Short Title: Lumberton, Shelby Room Tax Changes.

(Local)

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Sponsors:

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Referred to:

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April 1, 1997

**A BILL TO BE ENTITLED**

**AN ACT TO INCREASE THE MAXIMUM RATE OF THE LUMBERTON ROOM OCCUPANCY TAX FROM THREE PERCENT TO SIX PERCENT, AND TO AUTHORIZE THE CITY OF SHELBY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX IF APPROVED BY THE VOTERS OF THE CITY.**

The General Assembly of North Carolina enacts:

Section 1. Part IX of Chapter 908 of the 1983 Session Laws, as amended by Chapter 1028 of the 1983 Session Laws and Chapter 935 of the 1987 Session Laws, as it relates to the City of Lumberton only, is recodified and rewritten as Section 2 of this act.

Section 2. Lumberton Occupancy Tax. (a) Authorization and scope. The Lumberton City Council may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city 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.

(b) Authorization of additional tax. In addition to the tax authorized by subsection (a) of this section, the Lumberton City Council may levy an additional room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of

1 accommodations taxable under subsection (a). The levy, collection, administration, and  
2 repeal of the tax authorized by this subsection shall be in accordance with the provisions  
3 of this section. The Lumberton City Council may not levy a tax under this subsection  
4 unless it also levies the tax authorized under subsection (a) of this section.

5 (c) Administration. A tax levied under this section shall be levied, administered,  
6 collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S.  
7 160A-215 apply to a tax levied under this section.

8 The tax collector may collect any unpaid taxes levied under this section  
9 through the use of attachment and garnishment proceedings as provided in G.S. 105-368  
10 for collection of property taxes. The tax collector has the same enforcement powers  
11 concerning the tax imposed by this section as does the Secretary of Revenue in enforcing  
12 the State sales tax under G.S. 105-164.30.

13 (d) Distribution and use of tax revenue. The City of Lumberton shall use the net  
14 proceeds of the tax only for tourism-related expenditures.

15 The following definitions apply in this subsection:

16 (1) Net proceeds. – Gross proceeds less the cost to the city of administering  
17 and collecting the tax, as determined by the finance officer, not to  
18 exceed seven percent (7%) of the gross proceeds.

19 (2) Tourism-related expenditures. – Any of the following expenditures:  
20 sponsoring tourist-oriented events, encouraging tourism through  
21 advertising and promotion, establishing a visitors' center, and other  
22 expenditures that directly enhance tourism. The term also includes any  
23 of the following expenditures: criminal justice system, fire protection,  
24 public facilities and utilities, health facilities, and solid waste and  
25 sewage treatment. The term does not include, however, expenditures  
26 for services normally provided by the city on behalf of its citizens  
27 unless these services promote tourism and enlarge its economic benefits  
28 by enhancing the ability of the city to attract and provide for tourists.

29 Section 3. (a) Article 9 of Chapter 160A of the General Statutes is amended by  
30 adding a new section to read:

31 **"§ 160A-215. Uniform provisions for room occupancy taxes.**

32 (a) Scope. – This section applies only to municipalities the General Assembly has  
33 authorized to levy room occupancy taxes. For the purpose of this section, the term 'city'  
34 means a municipality.

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

40 (c) Collection. – Every operator of a business subject to a room occupancy tax  
41 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall  
42 be collected as part of the charge for furnishing a taxable accommodation. The tax shall  
43 be stated and charged separately from the sales records and shall be paid by the purchaser

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

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

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

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

30 (b) This section applies only to the Cities of Lumberton and Shelby.

31 Section 4. Shelby Occupancy Tax. (a) Referendum. The City Council of the  
32 City of Shelby may direct the county board of elections to conduct an advisory  
33 referendum on the question of whether a room occupancy tax of up to three percent (3%)  
34 shall be levied in accordance with this section. The election shall be held on a date jointly  
35 agreed upon by the city council and the board of elections, which must be the date of a  
36 regular municipal election under Subchapter IX of Chapter 163 of the General Statutes.  
37 The election shall be held in accordance with the procedures of G.S. 163-287.

38 The form of the question to be presented on a ballot for the referendum  
39 concerning the levy of the tax authorized by this section shall be:

40 [ ] FOR [ ] AGAINST

41 Room occupancy tax of up to three percent (3%) on the rental of accommodations by  
42 hotels, motels, camps, and similar businesses within the city.

1 (b) Authorization and scope. If the majority of those voting in a referendum held  
2 pursuant to this section vote for the levy of the tax, the City Council of the City of Shelby  
3 may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived  
4 from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn,  
5 tourist camp, or similar place within the city that is subject to sales tax imposed by the  
6 State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax.  
7 This tax does not apply to accommodations furnished by nonprofit charitable,  
8 educational, or religious organizations when furnished in furtherance of their nonprofit  
9 purpose.

10 (c) Administration. The city may contract with Cleveland County for tax  
11 collection services relating to the occupancy tax levied under this section. Such a  
12 contract shall be under terms and conditions agreed to by the city and the county and may  
13 be modified from time to time. Except as provided in this section, a tax levied under this  
14 section shall be levied, administered, collected, and repealed as provided in G.S. 160A-  
15 215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

16 (d) Use of tax revenue. The City of Shelby may use the net proceeds of the  
17 occupancy tax only for tourism and economic development for the city. The following  
18 definitions apply in this subsection:

- 19 (1) Net proceeds. – Gross proceeds less the cost to the city of administering  
20 and collecting the tax, as determined by the city, not to exceed seven  
21 percent (7%) of the gross proceeds.
- 22 (2) Tourism and economic development. – Services and other expenditures  
23 that will enhance travel, tourism, or economic development in the city.

24 Section 5. This act is effective when it becomes law.