

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 633*

Short Title: Chatham Conveyance Tax.

(Local)

Sponsors: Senators Kinnaird and Lee.

Referred to: Finance.

April 1, 1997

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE CHATHAM COUNTY TO LEVY AN EXCISE TAX ON
2 INSTRUMENTS CONVEYING REAL PROPERTY IN CHATHAM COUNTY.

3 The General Assembly of North Carolina enacts:

4 Section 1. (a) Authorization. The Chatham County Board of Commissioners may,
5 by resolution, levy an excise tax on instruments conveying certain interests in real
6 property in Chatham County. The tax imposed may not exceed one dollar (\$1.00) on
7 each one thousand dollars (\$1,000) or fraction thereof of the total consideration or value,
8 whichever is greater, of the interest conveyed, including, in the case of a sale, the value of
9 any lien or encumbrance remaining on the property at the time of the sale. This tax is in
10 addition to the tax levied by Article 8E of Chapter 105 of the General Statutes.

11 The value of a lease subject to this tax shall be computed on the basis of the
12 present value of the fixed lease payments and, if the lease payments are based in whole or
13 in part on the lessee's receipts, the estimated amount of the lessee's receipts. Based upon
14 the recommendation of the Chatham County Tax Collector, the board of commissioners
15 shall, at least annually, set the discount rate to be used to determine the present value of
16 lease payments. This determination shall be conclusive.

17 (b) Scope. A tax levied under this section applies to all instruments conveying an
18 interest in real property in Chatham County except an instrument:
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- 1 (1) Conveying an interest in real property from the United States, the State
- 2 of North Carolina, or a political subdivision of the State.
- 3 (2) Recording a lease for a term of 10 years or less, unless:
- 4 a. The lease gives the lessee an option to renew the lease for a
- 5 period that, when added to the term of the lease, exceeds 10
- 6 years;
- 7 b. The lease is for substantially the same parties as a lease
- 8 previously recorded, and the term of the new lease, when added
- 9 to that of the previous lease, exceeds 10 years; or
- 10 c. The lease requires or permits the property to be transferred to the
- 11 lessee for less than the fair market value of the property.
- 12 (3) Securing indebtedness.
- 13 (4) Recording a transfer in which no consideration was paid or is due the
- 14 transferor by the transferee.
- 15 (5) Conveying an interest in real property located in more than one county
- 16 if the greater part of the property, with respect to value, lies in a county
- 17 other than Chatham County.

18 In addition, this tax does not apply to conveyances of an interest in real
19 property by operation of law, by will, or by intestacy.

20 (c) Collection. A tax levied under this section is payable by the transferor of the
21 interest to the Chatham County Tax Collector. This tax must be paid at the tax collector's
22 office before the instrument conveying the interest is recorded. The tax collector may
23 require any documentation, including an affidavit of value, the tax collector considers
24 necessary to establish the accuracy of the tax to be paid. The tax collector shall stamp or
25 otherwise mark each instrument subject to the tax to indicate that the tax has been paid.
26 The Chatham County Register of Deeds may not accept for recordation an instrument
27 subject to a tax levied under this section unless the instrument bears the tax collector's
28 mark indicating that the tax has been paid.

29 (d) Appeal. A person who is liable for the tax levied under this section who
30 disputes the amount of tax due shall pay the tax stated by the tax collector to be due, but
31 may appeal the payment of the tax by filing a written notice of appeal with the tax
32 collector within 30 days after paying the tax. A notice of appeal shall state the reason for
33 the appeal and the amount of tax the appellant contends is due. Upon receipt of a notice
34 of appeal, the tax collector shall forward a copy of the notice of appeal to the clerk of the
35 board of commissioners, and to the chair of the Land Transfer Tax Appeals Board if the
36 board has been established.

37 (e) Tax Appeals Board. Appeals may be heard by the board of commissioners,
38 or the board of commissioners may by resolution provide for appeals to be heard by a
39 Land Transfer Tax Appeals Board. Should the board of commissioners elect to hear
40 appeals, the same time limitations set forth for the Tax Appeals Board shall apply.

41 (f) Membership and Procedure. If the board of commissioners elects to provide
42 for hearing of appeals by a Land Transfer Tax Appeals Board, the establishment and
43 proceedings of the Board shall be governed by the following:

- 1 (1) The Land Transfer Tax Appeals Board shall determine appeals of taxes
2 imposed under this section. The Board shall consist of five members
3 appointed by the Chatham County Board of Commissioners. The
4 county commissioners shall designate a chair of the Board from the
5 membership of the Board. The expenses of the Board are an
6 administrative expense and shall be paid from the proceeds of the tax.
- 7 (2) Members of the Board shall serve staggered four-year terms ending on
8 June 30. Two members of the initial Board shall be appointed for a
9 term ending June 30 in the year following the year of their appointment,
10 and three members of the initial Board shall be appointed for a term
11 ending June 30 in the third year following the year of their appointment.
12 Thereafter all appointments, except appointments to fill an unexpired
13 term, shall be for four years. Members shall serve until their successors
14 are appointed. Any vacancy shall be filled by the board of
15 commissioners for the unexpired term.
- 16 (3) The Land Transfer Tax Appeals Board shall meet at the call of the chair
17 and shall meet as often as needed to hear appeals. All appeals to the
18 Board shall be heard by the Board within 45 days after the date the tax
19 collector receives a notice of appeal. The Board shall issue a written
20 decision within 20 days after hearing an appeal and shall send a copy of
21 the decision to the appellant and to the tax collector. If the decision
22 states that an appellant paid more tax than was due, the tax collector
23 shall, unless the decision is appealed within 30 days after receipt of
24 notice of the decision, immediately upon expiration of the 30-day
25 period, refund to the appellant the amount of the overpayment. The
26 appellant and the tax collector may appeal the decision of the Board in
27 an action brought in the district court of the county. An appeal to the
28 district court shall be heard de novo.
- 29 (g) Use of Tax Revenue. All proceeds of the tax shall be placed in a special
30 Capital Reserve Fund in the general fund of the county. Revenue in this fund may be
31 used by the county only for capital expenditures for the following: courts, jails and
32 detention facilities, emergency medical services, libraries, recreation, education,
33 administration, water, sewage, health, and social services.
- 34 (h) Penalties. Any person who knowingly fails to pay a tax levied under this
35 section, or who knowingly aids another to fail to pay a tax levied under this section, or
36 who, to avoid paying part or all of the tax due under this section, knowingly misstates the
37 total consideration for an interest conveyed shall be guilty of a Class 2 misdemeanor.
- 38 (i) Taxes Recoverable by Action. If a transferor fails to pay a tax imposed by
39 this section within 30 days after the tax collector's demand for the tax, the tax may be
40 recovered by Chatham County in an action brought in the district court of Chatham
41 County. In an action to recover a tax imposed under this section, costs of court shall
42 include a fee to the county of one hundred dollars (\$100.00) to help defray the expense of
43 collection.

1 (j) Effective Date and Application. A tax levied under this section shall
2 become effective on the first day of a month, as designated in the resolution levying the
3 tax, and may not become effective for at least 30 days after the adoption of the resolution.
4 A tax levied under this section applies to instruments that are executed on or after the
5 effective date of the levy, except instruments executed on or after that date that convey an
6 interest in real property pursuant to a recorded written contract made before the effective
7 date.

8 (k) Repeal. A tax levied by this section may be repealed by a resolution
9 adopted by the Chatham County Board of Commissioners. Repeal of a tax levied under
10 this section shall become effective on the first day of July following adoption of the
11 resolution and shall apply to instruments recorded on or after the effective date of the
12 repeal. Repeal of a tax levied under this section does not affect a liability for this tax that
13 accrued before the effective date of the repeal.

14 Section 2. This act is effective when it becomes law.