

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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1

HOUSE BILL 765

Short Title: Modify Vance Occupancy Tax.

(Local)

Sponsors: Representative Fox.

Referred to: Finance.

March 26, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO AUTHORIZE VANCE COUNTY TO LEVY AN ADDITIONAL
3 THREE PERCENT ROOM OCCUPANCY TAX AND TO MAKE OTHER
4 CHANGES TO THE VANCE COUNTY ROOM OCCUPANCY TAX.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Section 1 of Chapter 1067 of the 1987 Session Laws reads as
7 rewritten:

8 "Section 1. Occupancy tax. – (a) Authorization and scope. – The Vance County
9 Board of Commissioners may ~~by resolution, after not less than 10 days' public notice~~
10 ~~and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three
11 percent (3%) of the gross receipts derived from the rental of any room, lodging, or
12 similar accommodation furnished by a hotel, motel, inn, or similar place within the
13 county that is subject to sales tax imposed by the State under G.S. ~~405-~~
14 ~~164.4(3),~~105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax
15 does not apply to accommodations furnished by nonprofit charitable, educational, or
16 religious organizations.

17 (b) Authorization of additional tax. – In addition to the tax authorized by
18 subsection (a) of this section, the Vance County Board of Commissioners may levy an
19 additional room occupancy tax of up to three percent (3%) of the gross receipts derived
20 from the rental of accommodations taxable under subsection (a) of this section. The
21 levy, collection, administration, and repeal of the tax authorized by this subsection shall
22 be in accordance with the provisions of this section. Vance County may not levy a tax
23 under this subsection unless it also levies the tax authorized under subsection (a) of this
24 section.

25 (c) Administration. – A tax levied under this section shall be levied,
26 administered, collected, and repealed as provided in G.S. 153A-155. The penalties
27 provided in G.S. 153A-155 apply to a tax levied under this section.

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

12 (c) ~~Administration. The county shall administer a tax levied under this section. A~~
13 ~~tax levied under this section is due and payable to the county tax administrator in~~
14 ~~monthly installments on or before the 15th day of the month following the month in~~
15 ~~which the tax accrues. Every person, firm, corporation, or association liable for the tax~~
16 ~~shall, on or before the 15th day of each month, prepare and render a return on a form~~
17 ~~prescribed by the county. The return shall state the total gross receipts derived in the~~
18 ~~preceding month from rentals upon which the tax is levied.~~

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

21 (d) ~~Penalties. A person, firm, corporation, or association who fails or refuses to~~
22 ~~file the return required by this section shall pay a penalty of ten dollars (\$10.00) for~~
23 ~~each day's omission. In case of failure or refusal to file the return or pay the tax for a~~
24 ~~period of 30 days after the time required for filing the return or for paying the tax, there~~
25 ~~shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to~~
26 ~~any other penalty, with an additional tax of five percent (5%) for each additional month~~
27 ~~or fraction thereof until the tax is paid.~~

28 Any person who willfully attempts in any manner to evade a tax imposed under this
29 section or who willfully fails to pay the tax or make and file a return shall, in addition to
30 all other penalties provided by law, be guilty of a misdemeanor and shall be punishable
31 by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six
32 months, or both. The board of commissioners may, for good cause shown, compromise
33 or forgive the penalties imposed by this subsection.

34 (e) ~~Distribution and use of tax revenue. – Vance County shall set aside in a~~
35 ~~special account fifty percent (50%) of the net proceeds of the occupancy tax and may~~
36 ~~spend these funds only to promote travel and tourism in Vance County, to sponsor~~
37 ~~tourist-oriented events and activities in Vance County, and to finance tourist-related~~
38 ~~capital projects County and for tourism-related expenditures in Vance County. Vance~~
39 ~~County shall remit the remaining net proceeds of the tax to its general fund; Vance~~
40 ~~County may use these funds for any lawful purpose. As used in this subsection, "net~~
41 ~~proceeds" means gross proceeds less the cost to the county of administering and~~
42 ~~collecting the tax, as determined by the finance officer. The following definitions apply~~
43 ~~in this subsection:~~

- 1 (1) Net proceeds. – Gross proceeds less the cost to the county of
2 administering and collecting the tax, as determined by the finance
3 officer, not to exceed seven percent (7%) of the amount collected.
4 (2) Promote travel and tourism. – To advertise or market an area or
5 activity, publish and distribute pamphlets and other materials, conduct
6 market research, or engage in similar promotional activities that
7 attract tourists or business travelers to the area; the term includes
8 administrative expenses incurred in engaging in the listed activities.
9 (3) Tourism-related expenditures. – Expenditures that are designed to
10 increase the use of lodging facilities in a county or to attract tourists or
11 business travelers to the county and expenditures incurred by the
12 county in collecting the tax. The term includes expenditures to
13 construct, maintain, operate, or market a convention center and other
14 expenditures that, in the judgment of the county, will facilitate and
15 support tourism.

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

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

27 **SECTION 2.** G.S. 153A-155 reads as rewritten:

28 **"§ 153A-155. Uniform provisions for room occupancy taxes.**

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

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

36 (c) **Collection.** – Every operator of a business subject to a room occupancy tax
37 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall
38 be collected as part of the charge for furnishing a taxable accommodation. The tax shall
39 be stated and charged separately from the sales records and shall be paid by the
40 purchaser to the operator of the business as trustee for and on account of the taxing
41 county. The tax shall be added to the sales price and shall be passed on to the purchaser
42 instead of being borne by the operator of the business. The taxing county shall design,
43 print, and furnish to all appropriate businesses and persons in the county the necessary
44 forms for filing returns and instructions to ensure the full collection of the tax. An

1 operator of a business who collects a room occupancy tax may deduct from the amount
2 remitted to the taxing county a discount equal to the discount the State allows the
3 operator for State sales and use tax.

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

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

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

27 (g) This section applies only to Avery, Brunswick, Craven, Currituck, Davie,
28 Granville, Madison, Nash, Person, Randolph, Scotland, ~~and Transylvania~~ Transylvania,
29 and Vance Counties."

30 **SECTION 3.** This act is effective when it becomes law.