

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 765
Committee Substitute Favorable 6/4/01

Short Title: Modify Vance Occupancy Tax.

(Local)

Sponsors:

Referred to:

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.** Chapter 1067 of the 1987 Session Laws reads as rewritten:

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

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

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25 administered, collected, and repealed as provided in G.S. 153A-155.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

27 ~~(b) Collection. Every operator of a business subject to the tax levied under this~~
28 ~~section shall, on and after the effective date of the levy of the tax, collect the tax. This~~
29 ~~tax shall be collected as part of the charge for furnishing a taxable accommodation. The~~

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

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

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

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

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

31 (e) Distribution and use of tax revenue. — Vance County shall set aside in a
32 special account fifty percent (50%) of shall, on a quarterly basis, remit the net proceeds
33 of the occupancy tax and may spend these funds only to promote travel and tourism in
34 Vance County, to sponsor tourist-oriented events and activities in Vance County, and to
35 finance tourist-related capital projects in Vance County. Vance County shall remit the
36 remaining net proceeds of the tax to its general fund; Vance County may use these
37 funds for any lawful purpose. As used in this subsection, "net proceeds" means gross
38 proceeds less the cost to the county of administering and collecting the tax, as
39 determined by the finance officer to the Vance Tourism Development Authority. The
40 Authority shall use at least two-thirds of the funds remitted to it under this subsection to
41 promote travel and tourism in Vance County and shall use the remainder for tourism-
42 related expenditures.

1 The following definitions apply in this subsection:

2 (1) Net proceeds. – Gross proceeds less the cost to the county of
3 administering and collecting the tax, as determined by the finance
4 officer, not to exceed three percent (3%) of the first five hundred
5 thousand dollars (\$500,000) of gross proceeds collected each year and
6 one percent (1%) of the remaining gross receipts collected each year.

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

12 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
13 the Tourism Development Authority, are designed to increase the use
14 of lodging facilities, meeting facilities, or convention facilities in a
15 county by attracting tourists or business travelers to the county. The
16 term includes tourism-related capital expenditures.

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

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

28 Sec. 2. Vance Tourism Development Authority. (a) Appointment and
29 membership. – When the board of commissioners adopts a resolution levying a room
30 occupancy tax under this act, it shall also adopt a resolution creating a county Tourism
31 Development Authority, which shall be a public authority under the Local Government
32 Budget and Fiscal Control Act. The resolution shall provide for the membership of the
33 Authority, including the members' terms of office, and for the filling of vacancies on the
34 Authority. At least one-third of the members must be individuals who are affiliated
35 with businesses that collect the tax in the county, and at least three-fourths of the
36 members must be individuals who are currently active in the promotion of travel and
37 tourism in the county. The board of commissioners shall designate one member of the
38 Authority as chair and shall determine the compensation, if any, to be paid to members
39 of the Authority.

40 The Authority shall meet at the call of the chair and shall adopt rules of procedure to
41 govern its meetings. The Finance Officer for Vance County shall be the ex officio
42 finance officer of the Authority.

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

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

8 ~~Sec. 2.~~ Sec. 3. This act is effective upon ratification."

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

10 **"§ 153A-155. Uniform provisions for room occupancy taxes.**

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

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

18 (c) Collection. – Every operator of a business subject to a room occupancy tax
19 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall
20 be collected as part of the charge for furnishing a taxable accommodation. The tax shall
21 be stated and charged separately from the sales records and shall be paid by the
22 purchaser to the operator of the business as trustee for and on account of the taxing
23 county. The tax shall be added to the sales price and shall be passed on to the purchaser
24 instead of being borne by the operator of the business. The taxing county shall design,
25 print, and furnish to all appropriate businesses and persons in the county the necessary
26 forms for filing returns and instructions to ensure the full collection of the tax. An
27 operator of a business who collects a room occupancy tax may deduct from the amount
28 remitted to the taxing county a discount equal to the discount the State allows the
29 operator for State sales and use tax.

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

39 (e) Penalties. – A person, firm, corporation, or association who fails or refuses to
40 file a room occupancy tax return or pay a room occupancy tax as required by law is
41 subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a
42 return for State sales and use taxes. The governing board of the taxing county has the

1 same authority to waive the penalties for a room occupancy tax that the Secretary of
2 Revenue has to waive the penalties for State sales and use taxes.

3 (f) Repeal or Reduction. – A room occupancy tax levied by a county may be
4 repealed or reduced by a resolution adopted by the governing body of the county.
5 Repeal or reduction of a room occupancy tax shall become effective on the first day of a
6 month and may not become effective until the end of the fiscal year in which the
7 resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a
8 liability for a tax that was attached before the effective date of the repeal or reduction,
9 nor does it affect a right to a refund of a tax that accrued before the effective date of the
10 repeal or reduction.

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

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