

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 652

Short Title: Avery Occupancy Tax.

(Local)

Sponsors: Senators Moore and Garwood.

Referred to: Finance.

March 22, 2001

A BILL TO BE ENTITLED

AN ACT RELATING TO OCCUPANCY TAXES IN AVERY COUNTY.

The General Assembly of North Carolina enacts:

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PART 1. REDUCE AVERY COUNTY OCCUPANCY TAX

SECTION 1. Sections 1 and 1.1 of Chapter 472 of the 1993 Session Laws, as amended by Sections 4 and 5 of S.L. 1997-410, read as rewritten:

"Section 1. Avery County Occupancy tax.

(a) Authorization and Scope.

The Avery County Board of Commissioners may levy a room occupancy tax of up to ~~three percent (3%)~~ two percent (2%) 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 county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3) ~~and is not subject to a room occupancy tax levied by a municipality.~~ 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations. The occupancy tax rate payable on accommodations furnished within Avery County may not exceed six percent (6%).

(b) Administration.

1 A tax levied under this section shall be levied, administered, collected, and repealed
2 as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax
3 levied under this section.

4 (e) Distribution and Use of Tax Revenue.

5 Avery County shall, on a quarterly basis, distribute the net proceeds of the
6 occupancy tax as follows: two-thirds to the Avery Tourism Development Authority
7 created pursuant to ~~Section 1.1~~ of this act and one-third to the ~~Avery County~~
8 Avery/Banner Elk Chamber of Commerce. The Tourism Development Authority shall
9 use ~~at least one half~~ of the proceeds distributed to it to promote travel and ~~tourism and~~
10 ~~shall use the remainder for tourism-related expenditures.~~ tourism; the only other
11 allowable expenditure is necessary and de minimis cost it incurs in the administration of
12 its meetings and programs. The chamber of commerce shall use the proceeds distributed
13 to it only to promote travel and tourism. The chamber of commerce shall comply with
14 the same requirements for ~~reporting~~ reporting, for accounting for expenditures, and for
15 submitting an annual budget for approval by the county commissioners as are
16 established for the Avery Tourism Development Authority in ~~Section 1.1~~ of this act.
17 The Tourism Development Authority and the chamber of commerce may not spend any
18 of the proceeds distributed to them under this section except in accordance with a
19 ~~proposed budget and work plan~~ budget approved by the board of county commissioners
20 as provided in ~~Section 1.1~~ of this act.

21 (f) Definitions.

22 The following definitions apply in this ~~subsection~~ act:

- 23 (1) Net proceeds. – Gross proceeds less the cost to the county of
24 administering and collecting the tax, as determined by the finance
25 officer, not to exceed seven percent (7%) of the amount collected.
- 26 (2) Promote travel and tourism. – To advertise or market an area or
27 activity, publish and distribute pamphlets and other materials, conduct
28 market research, or engage in similar promotional activities that attract
29 tourists or business travelers to the area; the term includes
30 administrative expenses incurred in engaging in the listed activities.
- 31 ~~(3) Tourism-related expenditures. – Expenditures that are designed to~~
32 ~~increase the use of lodging facilities in a county or to attract tourists or~~
33 ~~business travelers to the county. The term includes expenditures to~~
34 ~~construct, maintain, operate, or market a convention center and other~~
35 ~~expenditures that, in the judgment of the entity making the~~
36 ~~expenditure, will facilitate and support tourism.~~

37 "Sec. 1.1. Avery Tourism Development Authority. – (a) Appointment and
38 membership. – The board of commissioners of Avery County shall adopt a resolution
39 creating ~~a county~~ the Avery Tourism Development Authority, which shall be a public
40 authority under the Local Government Budget and Fiscal Control Act. The Authority
41 shall have ~~nine~~ 11 voting members appointed by the board of commissioners as
42 follows:

- 43 (1) ~~Four individuals~~ One individual selected by the Avery County
44 Lodging Association.

- 1 (2) ~~Two individuals~~ One individual selected by the ~~Avery County~~
2 Avery/Banner Elk Chamber of Commerce.
- 3 (3) ~~One member of the Avery County Board of Commissioners, to serve~~
4 ~~ex officio.~~
- 5 (4) ~~Two members of the public.~~
- 6 (3) Three individuals, one nominated by the Town Council of Banner Elk,
7 one nominated by the Town Council of Beech Mountain, and one
8 nominated by the Village Council of Sugar Mountain.
- 9 (4) One individual selected by the Green Valley and Frank Fire
10 Departments.
- 11 (5) One individual selected by the Newland Town Council.
- 12 (6) One individual selected by the Elk Park Town Council.
- 13 (7) One individual selected by the Crossnore Town Council.
- 14 (8) One individual selected by the Fall Creek Fire Department.
- 15 (9) One individual selected by the county commissioners.

16 The resolution shall provide for four-year terms of office for the ~~members other than~~
17 ~~the county commissioner, except that the initial terms of four members-voting members,~~
18 except that the initial terms of five members, in the discretion of the board of
19 commissioners, shall be set at three years to provide for staggered terms. The resolution
20 shall also provide for the filling of vacancies on the Authority.

21 In addition to the voting members, any town or community in Avery County that is
22 not authorized to select a voting member may appoint a non-voting member to the
23 Authority. These nonvoting members have all the rights of voting members, except the
24 right to vote.

25 The board of commissioners shall designate one voting member of the Authority as
26 chair and shall determine the compensation, if any, to be paid to members of the
27 Authority. When a vacancy occurs in any seat due to expiration of the term or
28 otherwise, the entity responsible for selecting or nominating the appointee to that seat
29 must select or nominate a replacement appointee within 30 days after the vacancy
30 occurs. The board of commissioners must, at its next meeting, appoint the person
31 selected or nominated as a replacement appointee for the vacant seat.

32 The Authority shall meet at the call of the chair and shall adopt rules of procedure to
33 govern its meetings. The Finance Officer for Avery County shall be the ex officio
34 finance officer of the Authority and shall serve as an ex officio, nonvoting member of
35 the Authority.

36 The Authority is a public body under the open meetings law, Article 33C of Chapter
37 143 of the General Statutes. The Authority must meet in the boardroom of the Avery
38 County Board of Commissioners unless another public meeting space is prescribed by
39 the board of commissioners.

40 (b) Duties. – The Authority shall expend the net proceeds of the tax ~~levied~~
41 distributed to it under this act for the purposes provided in ~~Section 1~~ of this act. The
42 Authority shall promote travel and tourism in the ~~county and make tourism-related~~
43 ~~expenditures, county,~~ as defined in ~~Section 1~~ of this act.

1 (c) Annual Budget. – On or before ~~October 1, 1997, and by May 1 of each year~~
2 ~~thereafter, May 1 of each year,~~ the Authority shall submit for approval by the board of
3 commissioners a proposed budget and work plan for expenditure of the estimated tax
4 revenues for the ~~ensuing~~ following fiscal period. If the proposed budget is not
5 approved, the Authority shall submit a revised proposed budget for approval. The
6 Authority may not spend any of the proceeds distributed to it under ~~Section 1~~ of this act
7 except in accordance with a proposed budget and work plan approved by the board of
8 county commissioners.

9 (d) Reports. – The Authority shall report quarterly and at the close of the fiscal
10 year to the board of commissioners on its receipts and expenditures for the preceding
11 quarter and for the year in such detail as the board may require."

12 **PART 2. UNIFORM ADMINISTRATIVE PROVISIONS**

13 **SECTION 2.** G.S. 160A-215 reads as rewritten:

14 **"§ 160A-215. Uniform provisions for room occupancy taxes.**

15 (a) Scope. – This section applies only to municipalities the General Assembly
16 has authorized to levy room occupancy taxes. For the purpose of this section, the term
17 "city" means a municipality.

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

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

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

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

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

15 (g) This section applies only to the Cities of Goldsboro, Greensboro, Lumberton,
16 Mount Airy, Shelby, and Statesville, to the Towns of ~~Banner Elk, Mooresville,~~
17 Mooresville and St. Pauls, and to the municipalities in Avery and Brunswick County
18 Counties."

19 PART 3. INCREASE BEECH MOUNTAIN OCCUPANCY TAX

20 SECTION 3. Chapter 376 of the 1987 Session Laws reads as rewritten:

21 "AN ACT TO AUTHORIZE THE TOWN OF BEECH MOUNTAIN TO LEVY A
22 ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

23 "Section 1. Occupancy Tax. – The Town Council of Beech Mountain may ~~by~~
24 ~~resolution, after not less than 10 days' public notice and after a public hearing held~~
25 ~~pursuant thereto,~~ levy a room occupancy and tourism development tax. ~~Collection of the~~
26 ~~tax, and liability therefor shall begin and continue only on and after the first day of a~~
27 ~~calendar month set by the Town Council of Beech Mountain in the resolution levying~~
28 ~~the tax, which in no case may be earlier than the first day of the second succeeding~~
29 ~~calendar month after the date of adoption of the resolution.~~

30 ~~The occupancy and tourism development tax that may be levied under this act shall~~
31 ~~be tax of three percent (3%) of the gross receipts derived from the rental of any room,~~
32 ~~lodging, or similar accommodation in the Town of Beech Mountain that is subject to~~
33 ~~sales tax imposed by the State under G.S. ~~105-164.4(3);~~105-164.4(a)(3).~~ This tax is in
34 addition to any State or local sales tax. ~~The tax shall tax or room occupancy tax.~~ The tax
35 does not apply to any room, lodging, or accommodations supplied to the same person
36 for a period of 90 continuous days or more. ~~The tax shall also not apply to sleeping~~
37 ~~rooms or lodgings furnished by charitable, educational, or religious institutions or non-~~
38 ~~profit nonprofit organizations.~~

39 "Sec. 1.1. Additional Tax. – In addition to the tax authorized by Section 1 of this act,
40 the Town Council of Beech Mountain may levy a room occupancy and tourism
41 development tax of one percent (1%) of the gross receipts derived from the rental of
42 accommodations taxable under that section. The levy, collection, administration, use,
43 and repeal of the tax authorized by this section shall be in accordance with this act.

1 Beech Mountain may not levy a tax under this section unless it also levies a tax under
2 Section 1 of this act.

3 ~~"Sec. 2. Administration of Tax. – (a) A tax levied under this act shall be levied,~~
4 ~~administered, collected, and repealed as provided in G.S. 160A-215. The penalties~~
5 ~~provided in G.S. 160A-215 apply to a tax levied under this act. The Town of Beech~~
6 ~~Mountain shall administer a tax levied under this act. A tax levied under this act is due~~
7 ~~and payable to the Town in monthly installments on or before the 15th day of the month~~
8 ~~following the month in which the tax accrues. Every person, firm, corporation, and~~
9 ~~association liable for the tax shall, on or before the 15th day of each month, prepare and~~
10 ~~render a return on a form prescribed by the Town. The return shall state the total gross~~
11 ~~receipts derived in the preceding month from rentals upon which the tax is levied. A~~
12 ~~return filed with the Town under this act is not a public record as defined by G.S. 132-1~~
13 ~~and may not be disclosed except as required by law.~~

14 ~~(b) Any person, firm, corporation, or association who fails or refuses to file the~~
15 ~~return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's~~
16 ~~omission.~~

17 ~~In case of failure or refusal to file the return or pay the tax for a period of 30 days or~~
18 ~~more after the time required for filing the return or for paying the tax, there shall be an~~
19 ~~additional tax, as a penalty, of five percent (5%) of the total tax due, for each additional~~
20 ~~month or fraction thereof until the occupancy tax is paid.~~

21 ~~Any person who willfully attempts in any manner to evade the occupancy tax levied~~
22 ~~under this act or to make a return and who willfully fails to pay the tax or make and file~~
23 ~~a return shall, in addition to all other penalties provided by law, be guilty of a~~
24 ~~misdemeanor and shall be punished by a fine not to exceed one thousand dollars~~
25 ~~(\$1,000) or by imprisonment not to exceed six months, or both. The Town Council may,~~
26 ~~for good cause shown, compromise or forgive the penalties imposed by this subsection.~~

27 ~~(c) All persons, firms, corporations, and associations who rent either their own~~
28 ~~dwelling or dwellings or rooms for other persons are required to submit to the Town~~
29 ~~town a list of all rental properties. This list shall include the owner's name, current~~
30 ~~address, and location of rental property. The list shall be submitted semi-annually on or~~
31 ~~before November 30 and May 30.~~

32 ~~Failure to file said this listing shall subject the person, firm, corporation or~~
33 ~~association to a civil penalty.~~

34 ~~Sec. 3. Collection of Tax. (a) Every operator of a business and every individual~~
35 ~~renting his or her own property subject to the tax levied pursuant to this act shall, on and~~
36 ~~after the effective date of the levy of the tax, collect the three percent (3%) room~~
37 ~~occupancy tax.~~

38 ~~This tax shall be collected as part of the charge for the furnishing of any taxable~~
39 ~~accommodations. The tax shall be stated and charged separately from the sales records,~~
40 ~~and shall be paid by the purchaser to the operator of the business as trustee for and on~~
41 ~~account of the Town of Beech Mountain. It is the intent of this act that the room~~
42 ~~occupancy tax levied by the Town of Beech Mountain shall be added to the sales price~~
43 ~~and that the tax shall be passed on to the purchaser instead of being borne by the~~
44 ~~operator of the business. The Town shall design, print, and furnish to all appropriate~~

1 businesses in the Town, the necessary forms for filing returns and instructions to ensure
2 the full collection of the tax.

3 (b) ~~Collection of the tax shall be the responsibility of the Beech Mountain Tax~~
4 ~~Administrator. In his/her discretion, the Tax Administrator may proceed against an~~
5 ~~operator whose occupancy tax is delinquent, employing all remedies for collection of~~
6 ~~tax as set out in G.S. 105-367, 105-368, 105-374, and 105-375. The Tax Administrator~~
7 ~~may audit occupancy tax reports as he/she deems necessary, utilizing information~~
8 ~~available to him/her in property tax matters.~~

9 ~~Sec. 4. Discount for Payment of Taxes When Due. Every operator who pays the~~
10 ~~occupancy tax imposed by this Article shall be entitled to deduct from the amount of the~~
11 ~~tax for which he is liable and which he actually pays a discount of three percent (3%).~~
12 ~~Provided, however, the Tax Administrator may deny a taxpayer the benefits of this~~
13 ~~section for failure to pay the full tax when due as well as in cases of fraud, evasion, or~~
14 ~~failure to keep accurate and clear records as herein required. Provided, further, that in~~
15 ~~order to receive the discount the taxpayer must deduct the three percent (3%) at the time~~
16 ~~of making his monthly remittance of tax to the Town.~~

17 ~~"Sec. 5. Disposition of Taxes Collected. Distribution and Use of Tax Revenue. – The~~
18 ~~Town of Beech Mountain shall retain from the gross proceeds of the tax collected an~~
19 ~~amount sufficient to pay its direct costs for administrative and collection expenses. "Net~~
20 ~~proceeds" shall mean gross proceeds less the direct costs for administrative and~~
21 ~~collection expenses not to exceed three percent (3%) of the amount collected. The net~~
22 ~~proceeds shall be distributed to the Town Council. The Town Council may expend the~~
23 ~~funds distributed to it pursuant to this section only to further the development of travel,~~
24 ~~tourism, conventions, and convention facilities in the Town. shall, on a quarterly basis,~~
25 ~~remit the net proceeds of the occupancy tax to the Beech Mountain Tourism~~
26 ~~Development Authority. The Authority shall use at least two-thirds of the funds~~
27 ~~remitted to it under this section to promote travel and tourism in Beech Mountain and~~
28 ~~shall use the remainder for tourism-related expenditures.~~

29 The following definitions apply in this section:

- 30 (1) Net proceeds. – Gross proceeds less the cost to the city of
31 administering and collecting the tax, as determined by the finance
32 officer, not to exceed three percent (3%) of the first five hundred
33 thousand dollars (\$500,000) of gross proceeds collected each year and
34 one percent (1%) of the remaining gross receipts collected each year.
35 (2) Promote travel and tourism. – To advertise or market an area or
36 activity, publish and distribute pamphlets and other materials, conduct
37 market research, or engage in similar promotional activities that attract
38 tourists or business travelers to the area; the term includes
39 administrative expenses incurred in engaging in the listed activities.
40 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
41 the Tourism Development Authority, are designed to increase the use
42 of lodging facilities, meeting facilities, or convention facilities in a city
43 or to attract tourists or business travelers to the city. The term includes
44 tourism-related capital expenditures.

1 "Sec. 5.1. Beech Mountain Tourism Development Authority. – When the Beech
2 Mountain City Council adopts a resolution levying a room occupancy tax under this act,
3 it shall also adopt a resolution creating a city Tourism Development Authority, which
4 shall be a public authority under the Local Government Budget and Fiscal Control Act.
5 The resolution shall provide for the membership of the Authority, including the
6 members' terms of office, and for the filling of vacancies on the Authority. At least
7 one-third of the members must be individuals who are affiliated with businesses that
8 collect the tax in the city and at least three-fourths of the members must be individuals
9 who are currently active in the promotion of travel and tourism in the city. The city
10 council shall designate one member of the Authority as chair and shall determine the
11 compensation, if any, to be paid to members of the Authority.

12 The Authority shall meet at the call of the chair and shall adopt rules of procedure to
13 govern its meetings. The Finance Officer for Beech Mountain shall be the ex officio
14 finance officer of the Authority.

15 "Sec. 5.2. Duties. – The Authority shall expend the net proceeds of the tax levied
16 under this act for the purposes provided in this act. The Authority shall promote travel,
17 tourism, and conventions in the city, sponsor tourist-related events and activities in the
18 city, and finance tourist-related capital projects in the city.

19 "Sec. 5.3. Reports. – The Authority shall report quarterly and at the close of the
20 fiscal year to the Beech Mountain City Council on its receipts and expenditures for the
21 preceding quarter and for the year in such detail as the City Council may require.

22 ~~Sec. 6. Repeal of Levy. The Beech Mountain Town Council may by resolution~~
23 ~~repeal the levy of the room occupancy tax in Beech Mountain, but no repeal of taxes~~
24 ~~levied under this part shall be effective until the end of the fiscal year in which the~~
25 ~~repeal resolution was adopted. No liability for any tax levied under this part that~~
26 ~~attached prior to the date on which a levy is repealed shall be discharged as a result of~~
27 ~~the repeal, and no right to a refund of a tax that accrued prior to the effective date on~~
28 ~~which a levy is repealed shall be denied as a result of the repeal.~~

29 "Sec. 7. This act is effective upon ratification."

30 **PART 4. INCREASE BANNER ELK OCCUPANCY TAX**

31 **SECTION 4.** Sections 1 through 7 of Chapter 318 of the 1989 Session Laws,
32 as amended by Chapter 428 of the 1993 Session Laws and by S.L. 2000-130, read as
33 rewritten:

34 **"Section 1.** Occupancy Tax. – The Town Council of Banner Elk may levy a room
35 occupancy and tourism development tax.

36 ~~The occupancy and tourism development tax that may be levied under this act shall~~
37 ~~be tax of three percent (3%) of the gross receipts derived from the rental of any room,~~
38 ~~lodging, or similar accommodation in the Town of Banner Elk that is subject to sales tax~~
39 ~~imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or~~
40 ~~local sales tax, tax or room occupancy tax. The tax shall not apply to any room, lodging,~~
41 ~~or accommodation supplied to the same person for a period of 90 continuous days or~~
42 ~~more or to sleeping rooms or lodging furnished by charitable, educational, or religious~~
43 ~~institutions or by nonprofit organizations.~~

1 "**Sec. 1.1. Additional Tax.** – In addition to the tax authorized by Section 1 of this act,
2 the Town Council of Banner Elk may levy a room occupancy and tourism development
3 tax of one percent (1%) of the gross receipts derived from the rental of accommodations
4 taxable under that section. The levy, collection, administration, use, and repeal of the
5 tax authorized by this section shall be in accordance with this act. Banner Elk may not
6 levy a tax under this section unless it also levies a tax under Section 1 of this act.

7 "**Sec. 2. Administration of Tax.** – (a) A tax levied under this ~~section~~ act shall be
8 levied, administered, collected, and repealed as provided in G.S. 160A-215. The
9 penalties provided in G.S. 160A-215 apply to a tax levied under this ~~section~~ act.

10 (b) Repealed by S.L. 2000-130.

11 (c) All persons, firms, corporations, and associations who rent either their own
12 dwelling or dwellings or rooms for other persons are required to submit to the town a
13 list of all rented properties. This list shall include the owner's name and current address
14 and the location of the rental property. The list shall be submitted semi-annually on or
15 before November 30 and May 30. Failure to file this listing shall subject the person,
16 firm, corporation, or association to a civil penalty of fifty dollars (\$50.00).

17 "**Sec. 3.** Repealed by S.L. 2000-130.

18 "**Sec. 4.** Repealed by S.L. 2000-130.

19 "**Sec. 5. Distribution and Use of Tax Revenue.** – The Town Council shall, on a
20 quarterly basis, remit the net proceeds of the occupancy tax to the Banner Elk Tourism
21 Development Authority. The Authority shall use at least one-third of the funds remitted
22 to it under this section to promote travel and tourism in Banner Elk and shall use the
23 remainder for tourism-related expenditures.

24 The following definitions apply in this section:

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

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

35 (3) Tourism-related expenditures. – Expenditures that, in the ~~judgement~~
36 judgment of the Tourism Development Authority, are designed to
37 increase the use of lodging facilities, recreational facilities, and
38 business establishments in the town or to attract tourists or business
39 travelers to the town. The term includes tourism-related capital
40 expenditures and expenditures required to make the downtown tourist
41 area and nearby green areas more accessible, attractive, and usable to
42 pedestrian tourists, in accordance with the master plan approved by the
43 Town Council.

44 "**Sec. 6.** Repealed by S.L. 2000-130.

1 **"Sec. 7. Banner Elk Tourism Development Authority.** – (a) Appointment and
2 membership. – The Town of Banner Elk shall adopt a resolution creating a town
3 Tourism Development Authority, which shall be a public authority under the Local
4 Government Budget and Fiscal Control Act. The Authority shall be composed of five
5 members who shall serve for staggered three-year terms. The members shall be
6 appointed by the mayor and approved by the Town Council. Two of the members must
7 be an owner or manager of a Banner Elk hotel, motel, or bed and breakfast and one of
8 the other members must be a representative for Lees-McRae College. The remaining
9 two members must be individuals who are currently active in the promotion of travel
10 and tourism in the town. Vacancies shall be filled in the same manner as the original
11 appointments, and members appointed to fill vacancies shall serve for the remainder of
12 the unexpired term. The Banner Elk Town Council shall designate one member of the
13 Authority as chair and shall determine the compensation, if any, to be paid to members
14 of the Authority.

15 The Authority shall meet at the call of the chair and shall adopt rules of procedure to
16 govern its meetings. The Finance Officer for Banner Elk shall be the ex officio,
17 nonvoting finance officer of the Authority.

18 (b) Duties. – The Authority shall expend the net proceeds of the tax levied under
19 this act for the purposes provided in Section 5 of this act. The Authority shall promote
20 travel, tourism, and conventions in the town, sponsor tourist-related events and activities
21 in the town, and finance tourist-related capital projects in the town.

22 (c) Reports. – The Authority shall report quarterly and at the close of the fiscal
23 year to the Banner Elk Town Council on its receipts and expenditures for the preceding
24 quarter and for the year in such detail as the board may require."

25 **PART 5. SUGAR MOUNTAIN OCCUPANCY TAX**

26 **SECTION 5.(a)** Authorization and Scope. – The Village Council of Sugar
27 Mountain may levy a room occupancy tax of up to three percent (3%) of the gross
28 receipts derived from the rental of any room, lodging, or accommodation furnished by a
29 hotel, motel, inn, tourist camp, or similar place within the village that is subject to sales
30 tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State
31 or local sales tax or room occupancy tax. This tax does not apply to accommodations
32 furnished by nonprofit charitable, educational, or religious organizations when
33 furnished in furtherance of their nonprofit purpose.

34 **SECTION 5.(b)** Administration. – A tax levied under this section must be
35 levied, administered, collected, and repealed as provided in G.S. 160A-215. The
36 penalties provided in G.S. 160A-215 apply to a tax levied under this section.

37 **SECTION 5.(c)** Distribution and Use of Tax Revenue. – Sugar Mountain
38 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Sugar
39 Mountain Tourism Development Authority. The Authority shall use at least two-thirds
40 of the funds remitted to it under this subsection to promote travel and tourism in the
41 taxing city and shall use the remainder for tourism-related expenditures.

42 **SECTION 5.(d)** Definitions. – The following definitions apply in this
43 subsection:

- 1 (1) Net proceeds. – Gross proceeds less the cost to the village of
2 administering and collecting the tax, as determined by the finance
3 officer, not to exceed three percent (3%) of the first five hundred
4 thousand dollars (\$500,000) of gross proceeds collected each year and
5 one percent (1%) of the remaining gross receipts collected each year.
- 6 (2) Promote travel and tourism. – To advertise or market an area or
7 activity, publish and distribute pamphlets and other materials, conduct
8 market research, or engage in similar promotional activities that attract
9 tourists or business travelers to the area; the term includes
10 administrative expenses incurred in engaging in the listed activities.
- 11 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
12 the Tourism Development Authority, are designed to increase the use
13 of lodging facilities, meeting facilities, or convention facilities in the
14 area or to attract tourists or business travelers to the area. The term
15 includes tourism-related capital expenditures.

16 **SECTION 6.** Sugar Mountain Tourism Development Authority. – (a)
17 Appointment and Membership. – When the Village Council of Sugar Mountain adopts a
18 resolution levying a room occupancy tax under this act, it shall also adopt a resolution
19 creating a Sugar Mountain Tourism Development Authority, which shall be a public
20 authority under the Local Government Budget and Fiscal Control Act. The resolution
21 shall provide for the membership of the Authority, including the members' terms of
22 office, and for the filling of vacancies on the Authority. At least one-third of the
23 members must be individuals who are affiliated with businesses that collect the tax in
24 the city and at least three-fourths of the members must be individuals who are currently
25 active in the promotion of travel and tourism in the village. The village council shall
26 designate one member of the Authority as chair and shall determine the compensation,
27 if any, to be paid to the members of the Authority.

28 The Authority shall meet at the call of the chair and shall adopt rules of
29 procedure to govern its meetings. The Sugar Mountain Finance Officer shall be the ex
30 officio finance officer of the Authority.

31 **SECTION 6.(b)** Duties. – The Authority shall expend the net proceeds of
32 the tax levied under this act for the purposes provided in this act. The Authority shall
33 promote travel, tourism, and conventions in the area, sponsor tourist-related events and
34 activities in the area, and finance tourist-related capital projects in the area.

35 **SECTION 6.(c)** Reports. – The Authority shall report quarterly and at the
36 close of the fiscal year to the village council on its receipts and expenditures for the
37 preceding quarter and for the year in such detail as the village council may require.

38 **PART 6. EFFECTIVE DATES**

39 **SECTION 7.** Sections 3 and 4 of this act become effective the first day of
40 the fourth month after this act becomes law. The remainder of this act is effective when
41 it becomes law.