

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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HOUSE BILL 685

Short Title: Occupancy Tax for Certain Counties.

(Local)

Sponsors: Representative Gibson.

Referred to: Finance.

March 19, 2001

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE ANSON, MONTGOMERY, AND STANLY COUNTIES
TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

PART I. COUNTY ADMINISTRATIVE PROVISIONS

SECTION 1. G.S. 153A-155 reads as rewritten:

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

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

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

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

(d) Administration. – The taxing county shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the county finance officer in

1 monthly installments on or before the 15th day of the month following the month in
2 which the tax accrues. Every person, firm, corporation, or association liable for the tax
3 shall, on or before the 15th day of each month, prepare and render a return on a form
4 prescribed by the taxing county. The return shall state the total gross receipts derived in
5 the preceding month from rentals upon which the tax is levied. A room occupancy tax
6 return filed with the county finance officer is not a public record and may not be
7 disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

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

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

22 (g) This section applies only to Anson, Avery, Brunswick, Craven, Currituck,
23 Davie, Granville, Madison, Montgomery, Nash, Person, Randolph, Scotland, Stanly,
24 and Transylvania Counties."

25 PART II. ANSON COUNTY

26 **SECTION 2.** Anson occupancy tax. (a) Authorization and Scope. The
27 Anson County Board of Commissioners may levy a room occupancy tax of up to three
28 percent (3%) of the gross receipts derived from the rental of any room, lodging, or
29 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within
30 the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).
31 This tax is in addition to any State or local sales tax. This tax does not apply to
32 accommodations furnished by nonprofit charitable, educational, or religious
33 organizations when furnished in furtherance of their nonprofit purpose.

34 **SECTION 2.(b)** Administration. A tax levied under this section shall be
35 levied, administered, collected, and repealed as provided in G.S. 153A-155. The
36 penalties provided in G.S. 153A-155 apply to a tax levied under this section.

37 **SECTION 2.(c)** Distribution and Use of Tax Revenue. Anson County shall,
38 on a quarterly basis, remit the net proceeds of the occupancy tax to the Anson Tourism
39 Development Authority. The Authority shall use at least two-thirds of the funds
40 remitted to it under this subsection to promote travel and tourism in Anson County and
41 shall use the remainder for tourism-related expenditures.

42 The following definitions apply in this subsection:

43 (1) Net proceeds. – Gross proceeds less the cost to the county of
44 administering and collecting the tax, as determined by the finance

1 officer, not to exceed three percent (3%) of the first five hundred
2 thousand dollars (\$500,000) of gross proceeds collected each year and
3 one percent (1%) of the remaining gross receipts collected each year.

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 attract
7 tourists or business travelers to the area; the term includes
8 administrative expenses incurred in engaging in these activities.

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

14 **SECTION 3.** Anson Tourism Development Authority. (a) Appointment
15 and Membership. When the board of commissioners adopts a resolution levying a room
16 occupancy tax under this Part, it shall also adopt a resolution creating a county Tourism
17 Development Authority, which shall be a public authority under the Local Government
18 Budget and Fiscal Control Act. The resolution shall provide for the membership of the
19 Authority, including the members' terms of office, and for the filling of vacancies on the
20 Authority. At least one-third of the members must be individuals who are affiliated
21 with businesses that collect the tax in the city, and at least three-fourths of the members
22 must be individuals who are currently active in the promotion of travel and tourism in
23 the city. The board of commissioners shall designate one member of the Authority as
24 chair and shall determine the compensation, if any, to be paid to members of the
25 Authority.

26 The Authority shall meet at the call of the chair and shall adopt rules of
27 procedure to govern its meetings. The Finance Officer for Anson County shall be the ex
28 officio finance officer of the Authority.

29 **SECTION 3.(b)** Duties. The Authority shall expend the net proceeds of the
30 tax levied under this Part for the purposes provided in this Part. The Authority shall
31 promote travel, tourism, and conventions in the county, sponsor tourist-related events
32 and activities in the county, and finance tourist-related capital projects in the county.

33 **SECTION 3.(c)** Reports. The Authority shall report quarterly and at the
34 close of the fiscal year to the board of commissioners on its receipts and expenditures
35 for the preceding quarter and for the year in such detail as the board may require.

36 **PART III. MONTGOMERY COUNTY**

37 **SECTION 4.** Montgomery occupancy tax. (a) Authorization and Scope.
38 The Montgomery County Board of Commissioners may levy a room occupancy tax of
39 up to three percent (3%) of the gross receipts derived from the rental of any room,
40 lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar
41 place within the county that is subject to sales tax imposed by the State under G.S.
42 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not
43 apply to accommodations furnished by nonprofit charitable, educational, or religious
44 organizations when furnished in furtherance of their nonprofit purpose.

1 **SECTION 4.(b)** Administration. A tax levied under this section shall be
2 levied, administered, collected, and repealed as provided in G.S. 153A-155. The
3 penalties provided in G.S. 153A-155 apply to a tax levied under this section.

4 **SECTION 4.(c)** Distribution and Use of Tax Revenue. Montgomery County
5 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the
6 Montgomery Tourism Development Authority. The Authority shall use at least
7 two-thirds of the funds remitted to it under this subsection to promote travel and tourism
8 in Montgomery County and shall use the remainder for tourism-related expenditures.

9 The following definitions apply in this subsection:

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

25 **SECTION 5.** Montgomery Tourism Development Authority. (a)
26 Appointment and Membership. When the board of commissioners adopts a resolution
27 levying a room occupancy tax under this Part, it shall also adopt a resolution creating a
28 county Tourism Development Authority, which shall be a public authority under the
29 Local Government Budget and Fiscal Control Act. The resolution shall provide for the
30 membership of the Authority, including the members' terms of office, and for the filling
31 of vacancies on the Authority. At least one-third of the members must be individuals
32 who are affiliated with businesses that collect the tax in the city, and at least
33 three-fourths of the members must be individuals who are currently active in the
34 promotion of travel and tourism in the city. The board of commissioners shall designate
35 one member of the Authority as chair and shall determine the compensation, if any, to
36 be paid to members of the Authority.

37 The Authority shall meet at the call of the chair and shall adopt rules of
38 procedure to govern its meetings. The Finance Officer for Montgomery County shall be
39 the ex officio finance officer of the Authority.

40 **SECTION 5.(b)** Duties. The Authority shall expend the net proceeds of the
41 tax levied under this Part for the purposes provided in this Part. The Authority shall
42 promote travel, tourism, and conventions in the county, sponsor tourist-related events
43 and activities in the county, and finance tourist-related capital projects in the county.

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

4 **PART IV. STANLY COUNTY**

5 **SECTION 6.** Stanly occupancy tax. (a) Authorization and Scope. The Stanly
6 County Board of Commissioners may levy a room occupancy tax of up to six percent
7 (6%) of the gross receipts derived from the rental of any room, lodging, or
8 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within
9 the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).
10 This tax is in addition to any State or local sales tax. This tax does not apply to
11 accommodations furnished by nonprofit charitable, education, or religious organizations
12 when furnished in furtherance of their nonprofit purpose.

13 **SECTION 6.(b)** Administration. A tax levied under this section shall be
14 levied, administered, collected, and repealed as provided in G.S. 153A-155. The
15 penalties provided in G.S. 153A-155 apply to a tax levied under this section.

16 **SECTION 6.(c)** Distribution and Use of Tax Revenue. Stanly County shall,
17 on a quarterly basis, remit to the City of Albemarle five-sixths of the gross proceeds of
18 the occupancy tax derived from accommodations in the City of Albemarle. The City of
19 Albemarle shall remit to the Stanly County Tourism Development Authority forty
20 percent (40%) of the proceeds it receives under this subsection.

21 Stanly County shall remit to each municipality in the county other than the
22 City of Albemarle the net proceeds of the occupancy tax derived from accommodations
23 in that municipality. Each of these municipalities shall remit to the Stanly County
24 Tourism Development Authority each year the greater of one dollar (\$1.00) per capita
25 of the municipality's population or one-half of the amount remitted to the municipality
26 under this subsection. The municipalities shall use the remaining funds received under
27 this subsection only for tourism-related expenditures in the county.

28 The county shall remit to the Stanly County Tourism Development Authority
29 the greater of twenty-five thousand dollars (\$25,000) a year or one-half of the remaining
30 net proceeds of the occupancy tax.

31 The Authority shall use the funds remitted to it under this subsection only to
32 promote travel and tourism in Stanly County.

33 Stanly County shall use the remainder of the net proceeds only for
34 tourism-related expenditures in the county.

35 **SECTION 6.(d)** Definitions. The following definitions apply in this section:

- 36 (1) Net proceeds. -- Gross proceeds less the cost to the county of
37 administering and collecting the tax, as determined by the finance
38 officer, not to exceed an amount equal to three percent (3%) of the first
39 five hundred thousand dollars (\$500,000) of gross proceeds collected
40 each year and one percent (1%) of the remaining gross receipts
41 collected each year.
- 42 (2) Promote travel and tourism. -- To advertise or market an area or
43 activity, publish and distribute pamphlets and other materials, conduct
44 market research, or engage in similar promotional activities that attract

1 tourists or business travelers to the area; the term includes
2 administrative expenses incurred in engaging in these activities.

3 (3) Tourism-related expenditures. -- Expenditures that, in the judgment of
4 the entity making the expenditure, are designed to increase the use of
5 lodging facilities, meeting facilities, and convention facilities in a
6 county by attracting tourists or business travelers to the county. The
7 term includes tourism-related capital expenditures.

8 **SECTION 6.(e)** Effect on Local Act. Chapter 915 of the 1991 Session Laws
9 is repealed effective on the effective date of a tax levied under this Part by Stanly
10 County.

11 **SECTION 7.** Stanly County Tourism Development Authority. As used in
12 this Part, the term "Stanly County Tourism Development Authority" means a nonprofit
13 corporation established for the purpose of promoting travel, tourism, and conventions in
14 the county, sponsoring tourist-related events and activities in the county, and financing
15 tourist-related capital projects in the county. The county and municipalities shall remit
16 funds to the Authority under this Part only pursuant to a contract that requires the
17 Authority to expend the funds to promote travel and tourism in Stanly County. The
18 contract must also require the Authority to report quarterly and at the close of the fiscal
19 year to the board of commissioners and annually to each municipality in the county on
20 its receipts and expenditures for the preceding quarter and for the year in such detail as
21 the board may require.

22 **PART V. EFFECTIVE DATE**

23 **SECTION 8.** This act is effective when it becomes law.