

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 834
Committee Substitute Favorable 5/2/01

Short Title: Raise Washington Occupancy Tax.

(Local)

Sponsors:

Referred to:

March 28, 2001

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF WASHINGTON TO INCREASE ITS
ROOM OCCUPANCY TAX FOR TOURISM PROMOTION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 158 of the 1991 Session Laws reads as
rewritten:

"Section 1. Occupancy Tax.

(a) Authorization and scope. ~~—The Washington City Council may by ordinance, after not less than 10 days public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 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, by summer camps, or by businesses that offer to rent no more than five units.

(a1) Additional tax. – In addition to the tax authorized by subsection (a) of this section, the Washington City Council may levy a room occupancy and tourism development tax of three percent (3%) of the gross receipts derived from the rental of accommodations taxable under that subsection. The levy, collection, administration, use, and repeal of the tax authorized by this subsection shall be in accordance with this section. Washington City may not levy a tax under this subsection unless it also levies a tax under subsection (a) of this section.

(b) Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this act. Collection. — Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the tax, collect the tax. This 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

1 records, and shall be paid by the purchaser to the operator of the business as trustee for
2 and on account of the city. The tax shall be added to the sales price and shall be passed
3 on to the purchaser instead of being borne by the operator of the business. The city shall
4 design, print, and furnish to all appropriate businesses and persons in the city the
5 necessary forms for filing returns and instructions to ensure the full collection of the tax.

6 (e) Administration.—The city shall administer a tax levied under this section. A
7 tax levied under this section is due and payable to the city finance officer in monthly
8 installments on or before the fifteenth day of the month following the month in which
9 the tax accrues. Every person, firm, corporation, or association liable for the tax shall,
10 on or before the fifteenth day of each month, prepare and render a return on a form
11 prescribed by the city. The return shall state the total gross receipts derived in the
12 preceding month from rentals upon which the tax is levied.

13 A return filed with the city finance officer under this section is not a public record as
14 defined by G.S. 132-1 and may not be disclosed except as required by law.

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

23 Any person who willfully attempts in any manner to evade a tax imposed under this
24 section or who willfully fails to pay the tax or make and file a return shall, in addition to
25 all other penalties provided by law, be guilty of a misdemeanor and shall be punishable
26 by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six
27 months, or both.

28 (e) Distribution and use of tax revenue.—The City of Washington shall, on a
29 monthly basis, remit the net proceeds of the occupancy tax to the City of Washington
30 Tourism Development Authority. The Authority may spend funds remitted to it under
31 this subsection only to further the development of travel, tourism, and conventions in
32 the City of Washington through advertising and promotion, to sponsor tourism-oriented
33 events and activities in the City of Washington, and to finance tourist-related capital
34 projects in the City of Washington. As used in this subsection, "net proceeds" means
35 gross proceeds less the cost to the city of administering and collecting the tax, which
36 may not exceed five percent (5%) of the gross proceeds. The Authority shall use at least
37 two-thirds of the funds remitted to it under this subsection to promote travel and tourism
38 in the area and shall use the remainder for tourism-related expenditures.

39 The following definitions apply in this subsection:

- 40 (1) Net proceeds. – Gross proceeds less the cost to the city of
41 administering and collecting the tax, as determined by the finance
42 officer, not to exceed three percent (3%) of the first five hundred

1 thousand dollars (\$500,000) of gross proceeds collected each year and
2 one percent (1%) of the remaining gross receipts collected each year.

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

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

13 (f) ~~Effective date of levy. — A tax under this section shall become effective on~~
14 ~~the date specified in the ordinance levying the tax. That date must be the first day of a~~
15 ~~calendar month after the date the resolution is adopted.~~

16 (g) ~~Repeal. — A tax levied under this section may be repealed by a resolution~~
17 ~~adopted by the Washington City Council. Repeal of a tax levied under this section shall~~
18 ~~become effective on the first day of a month and may not become effective until the end~~
19 ~~of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied~~
20 ~~under this section does not affect a liability for a tax that attached before the effective~~
21 ~~date of the repeal, nor does it affect a right to a refund of a tax that accrued before the~~
22 ~~effective date of the repeal."~~

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

24 **"§ 160A-215. Uniform provisions for room occupancy taxes.**

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

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

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

1 the taxing city a discount equal to the discount the State allows the operator for State
2 sales and use tax.

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

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

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

26 (g) This section applies only to the Cities of Goldsboro, Greensboro, Lumberton,
27 Mount Airy, Shelby, ~~and~~ Statesville, and Washington, to the Towns of Banner Elk,
28 Mooresville, and St. Pauls, and to the municipalities in Brunswick County."

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