

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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**SENATE BILL 92
Finance Committee Substitute Adopted 4/16/01**

Short Title: Various Local Occupancy Taxes.

(Local)

Sponsors:

Referred to:

February 7, 2001

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE VARIOUS MUNICIPALITIES AND COUNTIES TO
LEVY ROOM OCCUPANCY TAXES.

The General Assembly of North Carolina enacts:

PART I. CITY OF GASTONIA.

SECTION 1.1. Occupancy tax. – (a) Authorization and Scope. – The Gastonia City Council may levy a room occupancy tax of up to three percent (3%) 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 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 when furnished in furtherance of their nonprofit purpose.

SECTION 1.1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215.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 section.

SECTION 1.1.(c) Distribution and Use of Tax Revenue. – Gastonia shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Gastonia Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Gastonia and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct

1 market research, or engage in similar promotional activities that attract
2 tourists or business travelers to the area; the term includes
3 administrative expenses incurred in engaging in the listed activities.

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

9 **SECTION 1.2.** Gastonia Tourism Development Authority. (a) Appointment
10 and Membership. – When the Gastonia City Council adopts a resolution levying a room
11 occupancy tax under this act, it shall also adopt a resolution creating a city Tourism
12 Development Authority, which shall be a public authority under the Local Government
13 Budget and Fiscal Control Act. The resolution shall provide for the membership of the
14 Authority, including the members' terms of office, and for the filling of vacancies on the
15 Authority. At least one-third of the members must be individuals who are affiliated
16 with businesses that collect the tax in the city and at least three-fourths of the members
17 must be individuals who are currently active in the promotion of travel and tourism in
18 the city. The city council shall designate one member of the Authority as chair and
19 shall determine the compensation, if any, to be paid to members of the Authority.

20 The Authority shall meet at the call of the chair and shall adopt rules of
21 procedure to govern its meetings. The Finance Officer for Gastonia shall be the ex
22 officio finance officer of the Authority.

23 **SECTION 1.2.(b)** Duties. – The Authority shall expend the net proceeds of
24 the tax levied under this act for the purposes provided in Section 1 of this act. The
25 Authority shall promote travel, tourism, and conventions in the city, sponsor tourist-
26 related events and activities in the city, and finance tourist-related capital projects in the
27 city.

28 **SECTION 1.2.(c)** Reports. – The Authority shall report quarterly and at the
29 close of the fiscal year to the Gastonia City Council on its receipts and expenditures for
30 the preceding quarter and for the year in such detail as the city council may require.

31 **PART II. CITY OF KINGS MOUNTAIN.**

32 **SECTION 2.1.** Occupancy tax. (a) Authorization and Scope. – The Kings
33 Mountain City Council may levy a room occupancy tax of up to three percent (3%) of
34 the gross receipts derived from the rental of any room, lodging, or accommodation
35 furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is
36 subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in
37 addition to any State or local sales tax. This tax does not apply to accommodations
38 furnished by nonprofit charitable, educational, or religious organizations when
39 furnished in furtherance of their nonprofit purpose.

40 **SECTION 2.1.(b)** Administration. – A tax levied under this section shall be
41 levied, administered, collected, and repealed as provided in G.S. 160A-215. The
42 penalties provided in G.S. 160A-215 apply to a tax levied under this section.

1 **SECTION 2.1.(c)** Distribution and Use of Tax Revenue. – Kings Mountain
2 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Kings
3 Mountain Tourism Development Authority. The Authority shall use at least two-thirds
4 of the funds remitted to it under this subsection to promote travel and tourism in Kings
5 Mountain and shall use the remainder for tourism-related expenditures.

6 The following definitions apply in this subsection:

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

22 **SECTION 2.2.** Kings Mountain Tourism Development Authority. (a)
23 Appointment and Membership. – When the Kings Mountain City Council adopts a
24 resolution levying a room occupancy tax under this act, it shall also adopt a resolution
25 creating a city Tourism Development Authority, which shall be a public authority under
26 the Local Government Budget and Fiscal Control Act. The resolution shall provide for
27 the membership of the Authority, including the members' terms of office, and for the
28 filling of vacancies on the Authority. At least one-third of the members must be
29 individuals who are affiliated with businesses that collect the tax in the city, and at least
30 three-fourths of the members must be individuals who are currently active in the
31 promotion of travel and tourism in the city. The city council shall designate one
32 member of the Authority as chair and shall determine the compensation, if any, to be
33 paid to members of the Authority.

34 The Authority shall meet at the call of the chair and shall adopt rules of
35 procedure to govern its meetings. The Finance Officer for Kings Mountain shall be the
36 ex officio finance officer of the Authority.

37 **SECTION 2.2.(b)** Duties. – The Authority shall expend the net proceeds of
38 the tax levied under this act for the purposes provided in Section 1 of this act. The
39 Authority shall promote travel, tourism, and conventions in the city, sponsor tourist-
40 related events and activities in the city, and finance tourist-related capital projects in the
41 city.

42 **SECTION 2.2.(c)** Reports. – The Authority shall report quarterly and at the
43 close of the fiscal year to the Kings Mountain City Council on its receipts and

1 expenditures for the preceding quarter and for the year in such detail as the city council
2 may require.

3 **PART III. CITY OF LINCOLNTON.**

4 **SECTION 3.1.** Occupancy tax. (a) Authorization and Scope. – The
5 Lincolnton City Council may levy a room occupancy tax of up to three percent (3%) of
6 the gross receipts derived from the rental of any room, lodging, or accommodation
7 furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is
8 subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in
9 addition to any State or local sales tax. This tax does not apply to accommodations
10 furnished by nonprofit charitable, educational, or religious organizations when
11 furnished in furtherance of their nonprofit purpose.

12 **SECTION 3.1.(b)** Administration. – A tax levied under this section shall be
13 levied, administered, collected, and repealed as provided in G.S. 160A-215. The
14 penalties provided in G.S. 160A-215 apply to a tax levied under this section.

15 **SECTION 3.1.(c)** Distribution and Use of Tax Revenue. – Lincolnton shall,
16 on a quarterly basis, remit the net proceeds of the occupancy tax to the Lincolnton
17 Tourism Development Authority. The Authority shall use at least two-thirds of the
18 funds remitted to it under this subsection to promote travel and tourism in Lincolnton
19 and shall use the remainder for tourism-related expenditures.

20 The following definitions apply in this subsection:

- 21 (1) Net proceeds. – Gross proceeds less the cost to the city of
22 administering and collecting the tax, as determined by the finance
23 officer, not to exceed three percent (3%) of the first five hundred
24 thousand dollars (\$500,000) of gross proceeds collected each year and
25 one percent (1%) of the remaining gross receipts collected each year.
- 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, in the judgment of
32 the Tourism Development Authority, are designed to increase the use
33 of lodging facilities, meeting facilities, or convention facilities in a city
34 or to attract tourists or business travelers to the city. The term includes
35 tourism-related capital expenditures.

36 **SECTION 3.2.** Lincolnton Tourism Development Authority. (a)
37 Appointment and Membership. – When the Lincolnton City Council adopts a resolution
38 levying a room occupancy tax under this act, it shall also adopt a resolution creating a
39 city Tourism Development Authority, which shall be a public authority under the Local
40 Government Budget and Fiscal Control Act. The resolution shall provide for the
41 membership of the Authority, including the members' terms of office, and for the filling
42 of vacancies on the Authority. At least one-third of the members must be individuals
43 who are affiliated with businesses that collect the tax in the city, and at least three-

1 fourths of the members must be individuals who are currently active in the promotion of
2 travel and tourism in the city. The city council shall designate one member of the
3 Authority as chair and shall determine the compensation, if any, to be paid to members
4 of the Authority.

5 The Authority shall meet at the call of the chair and shall adopt rules of
6 procedure to govern its meetings. The Finance Officer for Lincolnton shall be the ex
7 officio finance officer of the Authority.

8 **SECTION 3.2.(b) Duties.** – The Authority shall expend the net proceeds of
9 the tax levied under this act for the purposes provided in Section 1 of this act. The
10 Authority shall promote travel, tourism, and conventions in the city, sponsor tourist-
11 related events and activities in the city, and finance tourist-related capital projects in the
12 city.

13 **SECTION 3.2.(c) Reports.** – The Authority shall report quarterly and at the
14 close of the fiscal year to the Lincolnton City Council on its receipts and expenditures
15 for the preceding quarter and for the year in such detail as the city council may require.

16 **PART IV. MONROE.**

17 **SECTION 4.1. Monroe occupancy tax. (a) Authorization and Scope.** – The
18 Monroe City Council may levy a room occupancy tax of up to five percent (5%) of the
19 gross receipts derived from the rental of any room, lodging, or accommodation
20 furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is
21 subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in
22 addition to any State or local sales tax. This tax does not apply to accommodations
23 furnished by nonprofit charitable, educational, or religious organizations when
24 furnished in furtherance of their nonprofit purpose.

25 **SECTION 4.1.(b) Administration.** – A tax levied under this section shall be
26 levied, administered, collected, and repealed as provided in G.S. 160A-215. The
27 penalties provided in G.S. 160A-215 apply to a tax levied under this section.

28 The tax collector may collect any unpaid taxes levied under this act through
29 the use of attachment and garnishment proceedings as provided in G.S. 105-368 for
30 collection of property taxes. The tax collector has the same enforcement powers
31 concerning the tax authorized by this act as the Secretary of Revenue in enforcing the
32 State sales tax under G.S. 105-164.30.

33 **SECTION 4.1.(c) Distribution and Use of Tax Revenue.** – The tax collector
34 shall account for the proceeds of a tax levied under this act to the city finance director
35 on a monthly basis. The city shall use at least five percent (5%) of the net proceeds of
36 the tax to promote tourism and economic development. The city shall use the remaining
37 net proceeds of the tax for construction, operation, and maintenance of a civic center for
38 Downtown Monroe Development, and for economic development.

39 **PART V. NORTH TOPSAIL BEACH.**

40 **SECTION 5.1. Occupancy tax (a) Authorization and Scope.** – The North
41 Topsail Beach City Council may levy a room occupancy tax of up to three percent (3%)
42 of the gross receipts derived from the rental of any room, lodging, or accommodation
43 furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is

1 subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in
2 addition to any State or local sales tax. This tax does not apply to accommodations
3 furnished by nonprofit charitable, educational, or religious organizations when
4 furnished in furtherance of their nonprofit purpose.

5 **SECTION 5.1.(b)** Administration. – A tax levied under this section shall be
6 levied, administered, collected, and repealed as provided in G.S. 160A-215. The
7 penalties provided in G.S. 160A-215 apply to a tax levied under this section.

8 **SECTION 5.1.(c)** Distribution and Use of Tax Revenue. – North Topsail
9 Beach shall spend the net proceeds of the occupancy tax levied for beach renourishment
10 and protection. For purposes of this section, "net proceeds" is the gross proceeds less the
11 cost to the city of administering and collecting the tax, as determined by the finance
12 officer, not to exceed three percent (3%) of the first five hundred thousand dollars
13 (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining
14 gross receipts collected each year.

15 **PART VI. SURF CITY.**

16 **SECTION 6.1.** Part IX of Chapter 908 of the 1983 Session Laws, as
17 amended by Chapter 985 of the 1983 Session Laws, as it relates to Surf City only is
18 recodified and rewritten as Section 6.2 of this act.

19 **SECTION 6.2.** Surf City occupancy tax. (a) Authorization and Scope. – The
20 Surf City Town Council may levy a room occupancy tax of up to three percent (3%) of
21 the gross receipts derived from the rental of any room, lodging, or accommodation
22 furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is
23 subject to sales tax imposed by the State under G.S. 105-164.4(a)(3) and from the rental
24 of private residences and cottages, whether or not the residence or cottage is rented for
25 less than 15 days. This tax is in addition to any State or local sales tax.

26 **SECTION 6.2.(b)** Authorization of Additional Tax. – In addition to the tax
27 authorized by subsection (a) of this section, the Surf City Town Council may levy an
28 additional room occupancy tax of up to three percent (3%) of the gross receipts derived
29 from the rental of accommodations taxable under subsection (a). The levy, collection,
30 administration, and repeal of the tax authorized by this subsection shall be in accordance
31 with the provisions of this section. The governing body of a town may not levy a tax
32 under this subsection unless it also levies the tax authorized under subsection (a) of this
33 section.

34 **SECTION 6.2.(c)** Administration. – A tax levied under this section shall 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 The tax collector may collect any unpaid taxes levied under this act through
38 the use of attachment and garnishment proceedings as provided in G.S. 105-368 for
39 collection of property taxes. The tax collector has the same enforcement powers
40 concerning the tax imposed by this act as does the Secretary of Revenue in enforcing
41 the State sales tax under G.S. 105-164.30.

42 **SECTION 6.2.(d)** Distribution and Use of Tax Revenue. – The Town of
43 Surf City may use the proceeds of the tax levied pursuant to subsection (a) of this

1 section only for tourism-related expenditures. As used in this section, "tourism-related
2 expenditures" includes any of the following expenditures: criminal justice system, fire
3 protection, public facilities and utilities, health facilities, solid waste and sewage
4 treatment, and the control and repair of waterfront erosion. The term does not include,
5 however, expenditures for services normally provided by the town on behalf of its
6 citizens unless these services promote tourism and enlarge its economic benefits by
7 enhancing the ability of the town to attract and provide for tourists.

8 The Town of Surf City may use the proceeds of the tax levied pursuant to
9 subsection (b) of this section only for beach renourishment and protection.

10 **PART VII. TOPSAIL BEACH.**

11 **SECTION 7.1.** Part IX of Chapter 908 of the 1983 Session Laws, as
12 amended by Chapter 985 of the 1983 Session Laws, as it relates to Topsail Beach only
13 is recodified and rewritten as Section 7.2 of this act.

14 **SECTION 7.2.** Topsail Beach occupancy tax. (a) Authorization and
15 Scope. – The Topsail Beach Town Council may levy a room occupancy tax of up to
16 three percent (3%) of the gross receipts derived from the rental of any room, lodging, or
17 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within
18 the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3) and
19 from the rental of private residences and cottages, whether or not the residence or
20 cottage is rented for less than 15 days. This tax is in addition to any State or local sales
21 tax.

22 **SECTION 7.2.(b)** Authorization of Additional Tax. – In addition to the tax
23 authorized by subsection (a) of this section, the Topsail Beach Town Council may levy
24 an additional room occupancy tax of up to three percent (3%) of the gross receipts
25 derived from the rental of accommodations taxable under subsection (a). The levy,
26 collection, administration, and repeal of the tax authorized by this subsection shall be in
27 accordance with the provisions of this section. The governing body of a town may not
28 levy a tax under this subsection unless it also levies the tax authorized under subsection
29 (a) of this section.

30 **SECTION 7.2.(c)** Administration. – A tax levied under this section shall be
31 levied, administered, collected, and repealed as provided in G.S. 160A-215. The
32 penalties provided in G.S. 160A-215 apply to a tax levied under this section.

33 The tax collector may collect any unpaid taxes levied under this act through
34 the use of attachment and garnishment proceedings as provided in G.S. 105-368 for
35 collection of property taxes. The tax collector has the same enforcement powers
36 concerning the tax imposed by this act as does the Secretary of Revenue in enforcing
37 the State sales tax under G.S. 105-164.30.

38 **SECTION 7.2.(d)** Distribution and Use of Tax Revenue. – The Town of
39 Topsail Beach may use the proceeds of the tax levied pursuant to subsection (a) of this
40 section only for tourism-related expenditures. As used in this section, "tourism-related
41 expenditures" includes any of the following expenditures: criminal justice system, fire
42 protection, public facilities and utilities, health facilities, solid waste and sewage
43 treatment, and the control and repair of waterfront erosion. The term does not include,

1 however, expenditures for services normally provided by the town on behalf of its
2 citizens unless these services promote tourism and enlarge its economic benefits by
3 enhancing the ability of the town to attract and provide for tourists.

4 The Town of Topsail Beach may use the proceeds of the tax levied pursuant
5 to subsection (b) of this section only for beach renourishment and protection.

6 **PART VIII. DARE COUNTY.**

7 **SECTION 8.** Chapter 449 of the 1985 Session Laws, as amended by
8 Chapter 826 of the 1985 Session Laws and Chapters 177 and 906 of the 1991 Session
9 Laws, is further amended by adding a new section to read:

10 "Section 3.1. Supplemental Occupancy Tax. In addition to the taxes authorized by
11 Sections 1 and 3 of this act, the Dare County Board of Commissioners may levy a room
12 occupancy tax of one percent (1%) of the gross receipts derived from the rental of
13 accommodations taxable under Section 1 of this act. The county may not levy a tax
14 under this section unless it also levies the taxes under Section 1 and Section 3 of this
15 act. A tax levied under this section may not become effective before the first day of the
16 second month after the resolution levying the tax is adopted. The levy, collection,
17 administration, and repeal of the tax authorized by this section shall be in accordance
18 with Section 1 of this act. The county shall use the net proceeds of the tax authorized by
19 this section only for shoreline protection activities the board of commissioners considers
20 necessary to protect the public health, safety, and economic well-being of the county."

21 **PART IX. CITY UNIFORM PROVISIONS.**

22 **SECTION 9.** City administrative provisions. – G.S. 160A-215 reads as
23 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 Gastonia, Goldsboro, Greensboro,
27 Kings Mountain, Lincolnton, Lumberton, Monroe, Mount Airy, Shelby, and Statesville,
28 to the Towns of Banner Elk, Mooresville, North Topsail Beach, ~~and~~ St. Pauls, Surf City,
29 and Topsail Beach, and to the municipalities in Brunswick County."

30 **PART X. EFFECTIVE DATE.**

31 **SECTION 10.** This act is effective when it becomes law.