

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

S

1

SENATE BILL 148

Short Title: Modify Guilford Occupancy Tax.

(Local)

Sponsors: Senators Shaw; and Chalk.

Referred to: Finance.

February 13, 1989

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE SUNSET OF THE GUILFORD OCCUPANCY TAX
AND TO MODIFY PROVISIONS REGARDING USE OF THE PROCEEDS OF
THE TAX.

The General Assembly of North Carolina enacts:

Section 1. Chapter 988 of the 1983 Session Laws (1984 Session) reads as
rewritten:

"CHAPTER 988

AN ACT TO ALLOW GUILFORD COUNTY TO LEVY A ROOM
OCCUPANCY AND TOURISM DEVELOPMENT TAX.

"Section 1. Levy of Tax. (a) The Board of Commissioners of Guilford County
may by resolution, after not less than 10 days' public notice and after a public hearing
held pursuant thereto, levy a room occupancy and tourism development tax.

(b) Collection of the tax, and liability therefor, shall begin and continue only
on and after the first day of a calendar month set by the board of county commissioners
in the resolution levying the tax, which in no case may be earlier than the first day of the
second succeeding calendar month after the date of adoption of the resolution.

"Sec. 2. Occupancy Tax. The county room occupancy and tourism development tax
that may be levied under this act shall be three percent (3%) of the gross receipts
derived from the rental of any room, lodging, or similar accommodation furnished by
any hotel, motel, inn, tourist camp, or other similar place within the county now subject
to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(3). This
tax is in addition to any local sales tax.

1 "Sec. 3. Exemptions. The tax authorized by this act does not apply to gross receipts
2 derived by the following entities from accommodations furnished by them:

- 3 (1) religious organizations;
- 4 (2) a business that offers to rent fewer than five units;
- 5 (3) educational organizations;
- 6 (4) summer camps; and
- 7 (5) charitable, benevolent, and other nonprofit organizations.

8 "Sec. 4. Administration of Tax. (a) Any tax levied under this act is due and
9 payable to the county in monthly installments on or before the 15th day of the month
10 following the month in which the tax accrues. Every person, firm, corporation, or
11 association liable for the tax shall, on or before the 15th day of each month, prepare and
12 render a return on a form prescribed by the county. The return shall state the total gross
13 receipts derived in the preceding month from rentals upon which the tax is levied.

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

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

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

27 "Sec. 5. Collection of Tax. Every operator of a business subject to the tax levied by
28 this act shall, on and after the effective date of the levy of the tax, collect the three
29 percent (3%) room occupancy tax. This tax shall be collected as part of the charge for
30 the furnishing of any taxable accommodations. The tax shall be stated and charged
31 separately from the sales records, and shall be paid by the purchaser to the operator of
32 the business as trustee for and on account of Guilford County. The room occupancy tax
33 levied pursuant to this act shall be added to the sales price and shall be passed on to the
34 purchaser instead of being borne by the operator of the business. The county shall
35 design, print, and furnish to all appropriate businesses in Guilford County the necessary
36 forms for filing returns and instructions to ensure the full collection of the tax.

37 "Sec. 6. Disposition of Taxes Collected. (a) Guilford County shall remit
38 seventy percent (70%) of the net proceeds of the occupancy tax to the
39 Greensboro/Guilford County Tourism Development Authority and shall remit the
40 remaining thirty percent (30%) of the net proceeds of the occupancy tax to the City of
41 High Point. 'Net proceeds' means gross proceeds less the cost to the county of
42 administering and collecting the tax, not to exceed five percent (5%) of the gross
43 proceeds of the tax.

1 (b) ~~The Greensboro/Guilford County Tourism Development Authority and~~
2 ~~the City of High Point shall each allocate eighty five percent (85%) of their shares of~~
3 ~~the net proceeds of the occupancy tax in a fiscal year for activities and programs~~
4 ~~promoting and encouraging travel and tourism. The Greensboro/Guilford County~~
5 ~~Tourism Development Authority and the City of High Point shall each allocate the~~
6 ~~remaining fifteen percent (15%) of their shares of the occupancy tax proceeds in a fiscal~~
7 ~~year for specific tourist-related events or activities, such as arts or cultural events, or for~~
8 ~~promoting, improving, constructing, financing, or acquiring facilities or attractions that~~
9 ~~enhance the development of tourism.~~

10 The Greensboro/Guilford County Tourism Development Authority shall allocate
11 eighty percent (80%) of its share of the net proceeds of the occupancy tax in a fiscal
12 year for activities and programs promoting and encouraging travel and tourism. Of the
13 remaining twenty percent (20%), the Authority shall allocate one hundred seventy
14 thousand dollars (\$170,000) each year for specific tourist-related events or activities,
15 such as arts or cultural events, or for promoting, improving, constructing, financing, or
16 acquiring facilities or attractions that enhance the development of tourism.
17 Administrative costs of these grants shall be included in the one hundred seventy
18 thousand dollars (\$170,000), but such costs shall not exceed fifteen percent (15%). By
19 joint agreement of the Greensboro City Council, the County Commissioners, and the
20 Authority, the responsibility of this grant funding program may be reassigned to one of
21 the other boards. Policy for distribution of these funds shall be set by the responsible
22 board, but consideration should be given to the broad spectrum of programs and
23 activities of all citizens in Greensboro and Guilford County. The remaining portion of
24 the twenty percent (20%) shall go to the City of Greensboro for convention and tourism
25 capital improvements. Approval of expenditures from the capital fund shall be a joint
26 decision by the Greensboro City Council, the County Commissioners, and the
27 Authority.

28 The City of High Point shall allocate eighty-five percent (85%) of its share of the net
29 proceeds of the occupancy tax in a fiscal year for activities and programs promoting and
30 encouraging travel and tourism. The City of High Point shall allocate the remaining
31 fifteen percent (15%) of its share of the occupancy tax proceeds in a fiscal year for
32 specific tourist-related events or activities, such as arts or cultural events, or for
33 promoting, improving, constructing, financing, or acquiring facilities or attractions that
34 enhance the development of tourism.

35 (c) The county shall distribute the amounts due the Greensboro/Guilford
36 County Tourism Development Authority and the City of High Point by the last day of
37 the month in which the tax is collected.

38 "Sec. 7. Appointment, Duties of Greensboro/Guilford County Tourism
39 Development Authority. (a) When the board of county commissioners adopts a
40 resolution levying a room occupancy tax pursuant to this act, it shall also adopt a
41 resolution creating a Greensboro/Guilford County Tourism Development Authority,
42 which shall be a public authority under the Local Government Budget and Fiscal
43 Control Act and shall be composed of the following ~~nine~~ thirteen members:

- 1 (1) a county commissioner appointed by the board of county
2 ~~commissioners; commissioners.~~
- 3 (2) a member of the Greensboro City Council appointed by the board
4 ~~of county commissioners; Greensboro City Council.~~
- 5 (3) ~~three~~ four owners or operators of hotels, motels, or other taxable
6 accommodations in Guilford County, other than in High Point, two of
7 which own or operate hotels, motels, or other taxable accommodations
8 with more than 200 rental units, one of whom shall be appointed by
9 the Greensboro City Council and one by the board of county
10 commissioners; ~~and~~ one of which owns or operates hotels, motels, or
11 other taxable accommodations with 200 or fewer rental units appointed
12 by the board of county commissioners; and one of which owns or
13 operates hotels, motels, or other taxable accommodations without
14 meeting facilities appointed by the Greensboro City Council.
- 15 (4) one individual who has demonstrated an interest in convention and
16 tourism development, is a member of the Greater Greensboro Chamber
17 of Commerce, and does not own or operate hotels, motels, or other
18 taxable tourist accommodations, appointed by the Greensboro
19 Chamber of Commerce; Commerce.
- 20 (5) one individual who has demonstrated an interest in the arts and its
21 related fields and does not own or operate hotels, motels, or other
22 taxable tourist accommodations, appointed by the Greensboro ~~Arts~~
23 ~~Council; City Council~~ after receiving recommendations from the
24 Greensboro United Arts Council.
- 25 (6) one individual who has demonstrated an interest in convention and
26 tourism development, is a member of the Guilford County Restaurant
27 Association, and does not own or operate hotels, motels, or other
28 taxable tourism accommodations, appointed by the Greensboro City
29 Council after receiving recommendations from the Guilford County
30 Restaurant Association.
- 31 (7) two at-large individuals who have demonstrated an interest in tourism
32 development and do not own or operate hotels, motels, or other tourist
33 accommodations, appointed by the Board of County Commissioners.
34 Members appointed to fill the at-large designation shall serve a full
35 term and have all voting rights and privileges.
- 36 (6) (8) the manager of the Greensboro/Guilford County Convention and
37 Visitors Bureau, who shall serve as a non-voting, ex officio member;
38 and
- 39 (7) (9) the finance officer of Guilford County, who shall serve as a non-
40 voting, ex officio member.
- 41 (b) All members of the Authority shall serve without compensation. Vacancies
42 in the Authority shall be filled by the appointing authority of the member creating the
43 vacancy. Members appointed to fill vacancies shall serve for the remainder of the
44 unexpired term for which they are appointed to fill. Members shall serve three-year

1 terms, except the initial members of the following designations, who shall serve the
2 following terms:

- 3 (1) Members appointed pursuant to subdivisions (a)(1)
4 and (a)(2) above shall serve a one-year term;
- 5 (2) Of the members appointed pursuant to subdivision
6 (a)(3) above, the appointee of the Greensboro City Council who
7 owns or operates accommodations with more than 200 rental units
8 shall serve a three-year term, ~~term;~~ the appointee of the Greensboro
9 City Council who owns or operates accommodations with no meeting
10 facilities shall serve an initial term which expires September 30, 1989;
11 and one appointee of the board of commissioners shall serve a three-
12 year term and one a two-year term, as designated by the board of
13 county commissioners;
- 14 (3) The member appointed pursuant to subdivision (a)(4) above shall serve
15 a three-year term; ~~and~~
- 16 (4) The member appointed pursuant to subdivision (a)(5) above shall serve
17 a two-year ~~term;~~ term; and
- 18 (5) The member appointed pursuant to subdivision (a)(6) shall serve an
19 initial term which expires September 30, 1991.

20 Members may serve no more than two consecutive three-year terms. The members shall
21 elect a chairman, who shall serve for a term of two years. The Authority shall meet at
22 the call of the chairman and shall adopt rules of procedure to govern its meetings. The
23 finance officer for Guilford County shall be the ex officio finance officer of the
24 Authority.

25 “Sec. 7.1. Appointment of High Point Convention and Visitors Board. When the
26 board of county commissioners adopts a resolution levying a room occupancy tax
27 pursuant to this act, the City of High Point shall create a High Point Convention and
28 Visitors Board which shall be composed of a minimum of the following 12 members:

- 29 (1) One member of the Guilford County Board of Commissioners
30 appointed by the board of county commissioners.
- 31 (2) One member of the High Point City Council appointed by the city
32 council.
- 33 (3) Two owners or operators of hotels, motels, or other taxable tourist
34 accommodations in the local metropolitan area, one of whom owns or
35 operates hotels, motels, or other accommodations with more than 100
36 rental units, and one of whom owns or operates hotels, motels, or other
37 accommodations with 100 or fewer rental units, both appointed by the
38 board of county commissioners.
- 39 (4) One individual who has demonstrated an interest in tourism
40 development and does not own or operate hotels, motels, or other
41 accommodations, and is a Board member of the High Point Chamber
42 of Commerce, appointed by the Chamber of Commerce.
- 43 (5) One individual involved in the local restaurant or food service business
44 who has demonstrated an interest in tourism development, and does

1 not own or operate hotels, motels, or other tourist accommodations,
2 appointed by the High Point Chamber of Commerce.

3 (6) One individual involved in the cultural arts or tourist attraction
4 business who has demonstrated an interest in tourism development and
5 does not own or operate hotels, motels, or other tourist
6 accommodations, appointed by the High Point Chamber of Commerce.

7 (7) One at-large individual who has demonstrated an interest in tourism
8 development and does not own or operate hotels, motels, or other
9 tourist accommodations, appointed by the High Point Chamber of
10 Commerce.

11 (8) Two at-large individuals who have demonstrated an interest in tourism
12 development and do not own or operate hotels, motels, or other tourist
13 accommodations, appointed by the Board of Commissioners.

14 (9) One individual who has demonstrated an interest in tourism
15 development and is a representative of a High Point public
16 convention/trade show center, appointed by the Chamber of
17 Commerce.

18 (10) The Executive Director of the High Point Convention and Visitors
19 Bureau, who shall be a non-voting, ex-officio member.

20 Members appointed to fill the at-large designations shall serve a full term, and have
21 all voting rights and privileges.

22 "Sec. 8. Contracts Authorized. (a) The City of High Point may contract with the
23 High Point Chamber of Commerce, Convention and Visitors Bureau, or another
24 nonprofit organization to assist it in carrying out the purposes for which the tax
25 proceeds levied by this act may be expended.

26 (b) The Greensboro/Guilford County Tourism Development Authority may
27 contract with any person, firm, or agency to assist it in carrying out the purposes for
28 which the tax proceeds levied by this act may be expended.

29 (c) The Greensboro/Guilford County Tourism Development Authority and
30 the City of High Point shall each report quarterly and at the close of the fiscal year to
31 the board of county commissioners on their receipts and expenditures for the preceding
32 quarter and for the year in such detail as the board may require. The
33 Greensboro/Guilford County Tourism Development Authority shall submit its annual
34 budget to the Board of County Commissioners for approval prior to adoption by the
35 Authority. This action shall not be construed to incorporate the Authority's Budget into
36 the annual Operating Budget of Guilford County. The Authority shall furnish its annual
37 audit to the Greensboro City Council and the Guilford County Board of Commissioners.

38 "Sec. 9. Repeal of Levy. (a) The board of county commissioners may by
39 resolution repeal the levy of the room occupancy tax in Guilford County, but no repeal
40 of taxes levied under this act shall be effective until the end of the fiscal year in which
41 the repeal resolution was adopted.

42 (b) No liability for any tax levied under this act that attached prior to the date
43 on which a levy is repealed is discharged as a result of the repeal, and no right to a

1 refund of a tax that accrued prior to the effective date on which a levy is repealed may
2 be denied as a result of the repeal.

3 "Sec. 10. This act is effective upon ratification. ~~ratification and is repealed effective~~
4 ~~July 1, 1989.~~"

5 Sec. 2. This act shall become effective June 31, 1989.