

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 585
House Committee Substitute Favorable 6/26/91

Short Title: Local Assessments/Room Tax.

(Local)

Sponsors:

Referred to:

April 11, 1991

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE CITY OF DURHAM TO CHANGE THE MANNER IN WHICH CORNER LOT RELIEF FROM SPECIAL ASSESSMENTS FOR WATER AND SEWER PROJECTS IS CALCULATED; TO REPEAL THE MERCHANT'S DISCOUNT UNDER THE MOORESVILLE ROOM OCCUPANCY TAX; AND TO AUTHORIZE RUTHERFORD COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended, is further amended by deleting from the second sentence of sub-subsection 77(14)(c) the following:

"where there is a water main or sewer already laid on the intersecting street on which the lot abuts and by which the lot is or can be served, no assessment shall be made against the lot for the second water main or sewer for any part of the frontage of"

and by substituting the following:

"no assessment shall be made against the long side of the lot abutting on the intersecting streets for any part of the frontage of such longer side of".

Sec. 2. The Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended, is further amended by deleting from the second sentence of sub-subsection 77(14)(c) the following:

"where there is a water main or sewer already laid on the intersecting street on which the lot abuts and by which the lot is or can be served, no assessment shall be made against the lot for the second water main or sewer for any part of the frontage of"

1 and by substituting the following:

2 "no assessment shall be made against the long side of the lot abutting on the
3 intersecting streets for any part of the frontage of such longer side of".

4 Sec. 3. Sections 1 and 2 of this act do not apply to any corner lot (i) for
5 which an assessment has previously been confirmed against the full length of the longer
6 side of the lot abutting on the intersecting streets for any water mains, storm sewer,
7 sanitary sewer, pumping station, force main or sanitary sewer outfall; or (ii) where the
8 sides of the lot abutting on the intersecting streets are identical in length. As to the
9 exceptions stated in this section, sub-subsection 77(14)(c) of the Charter of the City of
10 Durham shall continue in full force and effect as it existed immediately prior to the
11 effective date of this act.

12 Sec. 4. Subsection (b) of Section 1 of Chapter 296 of the 1991 Session Laws
13 reads as rewritten:

14 "(b) Collection. Every operator of a business subject to the tax levied under this
15 section shall, on and after the effective date of the levy of the tax, collect the tax. This
16 tax shall be collected as part of the charge for furnishing a taxable accommodation. The
17 tax shall be stated and charged separately from the sales records, and shall be paid by
18 the purchaser to the operator of the business as trustee for and on account of the town.
19 The tax shall be added to the sales price and shall be passed on to the purchaser instead
20 of being borne by the operator of the business. The town shall design, print, and furnish
21 to all appropriate businesses and persons in the town the necessary forms for filing
22 returns and instructions to ensure the full collection of the tax. ~~An operator of a business
23 who collects the occupancy tax levied under this section may deduct from the amount remitted
24 to the town a discount of three percent (3%) of the amount collected."~~

25 Sec. 5. Rutherford occupancy tax. (a) Authorization and scope. The
26 Rutherford County Board of Commissioners may by resolution, after not less than ten
27 days' public notice and after a public hearing held pursuant thereto, levy a room
28 occupancy tax not to exceed six percent (6%) of the gross receipts derived from the
29 rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist
30 camp, or similar place within the county that is subject to sales tax imposed by the State
31 under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This
32 tax does not apply to accommodations furnished by nonprofit charitable, educational, or
33 religious organizations.

34 (b) Collection. Every operator of a business subject to the tax levied under this
35 section shall, on and after the effective date of the levy of the tax, collect the tax. This
36 tax shall be collected as part of the charge for furnishing a taxable accommodation. The
37 tax shall be stated and charged separately from the sales records, and shall be paid by
38 the purchaser to the operator of the business as trustee for and on account of the county.
39 The tax shall be added to the sales price and shall be passed on to the purchaser instead
40 of being borne by the operator of the business. The county shall design, print, and
41 furnish to all appropriate businesses and persons in the county the necessary forms for
42 filing returns and instructions to ensure the full collection of the tax.

43 (c) Administration. The county shall administer a tax levied under this section.
44 A tax levied under this section 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 county. The return shall state the total gross receipts derived in the
5 preceding month from rentals upon which the tax is levied.

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

8 (d) Penalties. A person, firm, corporation, or association who fails or refuses to
9 file the return required by this section shall pay a penalty of ten dollars (\$10.00) for
10 each day's omission. In case of failure or refusal to file the return or pay the tax for a
11 period of thirty days after the time required for filing the return or for paying the tax,
12 there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in
13 addition to any other penalty, with an additional tax of five percent (5%) for each
14 additional month or fraction thereof until the tax is paid. The board of commissioners
15 may, for good cause shown, compromise or forgive the additional tax penalties imposed
16 by this subsection.

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

22 (e) Distribution and use of tax revenue. Rutherford County shall, on a
23 quarterly basis, remit the net proceeds of the occupancy tax to the Rutherford Tourism
24 Development Authority. The Authority may spend funds remitted to it under this
25 subsection only to promote travel, tourism, retirement, and conventions in Rutherford
26 County. As used in this subsection, "net proceeds" means gross proceeds less an amount
27 not to exceed ten percent (10%) of the gross proceeds to cover the cost to the county of
28 administering and collecting the tax, as determined by the finance officer.

29 (f) Effective date of levy. A tax levied under this section shall become
30 effective on the date specified in the resolution levying the tax. That date must be the
31 first day of a calendar month, however, and may not be earlier than the first day of the
32 second month after the date the resolution is adopted.

33 (g) Repeal. A tax levied under this section may be repealed by a resolution
34 adopted by the Rutherford County Board of Commissioners. Repeal of a tax levied
35 under this section shall become effective on the first day of a month and may not
36 become effective until the end of the fiscal year in which the repeal resolution was
37 adopted. Repeal of a tax levied under this section does not affect a liability for a tax
38 that was attached before the effective date of the repeal, nor does it affect a right to a
39 refund of a tax that accrued before the effective date of the repeal.

40 Sec. 6. Rutherford Tourism Development Authority. (a) Creation. When the
41 Rutherford County Board of Commissioners adopts a resolution levying a room
42 occupancy tax under Section 5 of this act, it shall also adopt a resolution creating a
43 county Tourism Development Authority, which shall be a public authority under the
44 Local Government Budget and Fiscal Control Act. The board of commissioners shall

1 designate one member of the Authority as chair and shall determine the compensation,
2 if any, to be paid to members of the Authority.

3 The Authority shall meet at the call of the chair and shall adopt rules of
4 procedure to govern its meetings. The Finance Officer for Rutherford County shall be
5 the ex officio finance officer of the Authority. Upon approval of the Authority, the
6 Economic Development Commission may provide administrative and coordinating
7 support to the Authority.

8 (b) Membership; Terms of Office. The membership of the Authority and their
9 terms of office shall be as follows:

10 (1) Three members of the Economic Development Commission, or their
11 designees, appointed by the Board of the Economic Development
12 Commission. These appointees shall serve a term of office equal to
13 the term of office of members of the Economic Development
14 Commission.

15 (2) A County Commissioner, appointed by the Rutherford County Board
16 of Commissioners, to serve as an ex officio, nonvoting member.

17 (3) Three owners or operators of hotels, motels, or other taxable
18 accommodations, one appointed by each chamber of commerce in
19 Rutherford County. The initial terms of each of these appointees shall
20 be determined by the Rutherford County Commissioners as follows:
21 one one-year term; one two-year term; and one three-year term.
22 Thereafter, the appointees shall serve for a term of three years.

23 (4) Three individuals involved in tourist-related businesses who have
24 demonstrated an interest in tourism development and who may or may
25 not own hotels, motels, or other taxable accommodations, appointed as
26 follows: one by each chamber of commerce in Rutherford County.
27 The initial terms of each of these appointees shall be determined by the
28 Rutherford County Commissioners as follows: one one-year term; one
29 two-year term; and one three-year term. Thereafter, the appointees
30 shall serve for a term of three years.

31 In the event any of the chambers of commerce in Rutherford County
32 consolidate, the resulting chamber shall assume the appointing authority of the
33 consolidated chambers.

34 (c) Duties. The Authority shall promote travel, tourism, retirement, and
35 conventions in the county.

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

39 Sec. 7. This act is effective upon ratification.