

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 577
SENATE BILL 585

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

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

"(b) Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy 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 records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the town. 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 town shall design, print, and furnish to all appropriate businesses and persons in the town the necessary forms for filing returns and instructions to ensure the full collection of the tax. ~~An operator of a business who collects the occupancy tax levied under this section may deduct from the amount remitted to the town a discount of three percent (3%) of the amount collected.~~"

Sec. 5. Rutherford occupancy tax. (a) Authorization and scope. The Rutherford County Board of Commissioners may by resolution, after not less than ten days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax not to exceed six percent (6%) 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 county 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.

(b) Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy 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 records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the 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 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.

(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

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

(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars (\$10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of thirty days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the

tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid. The board of commissioners may, for good cause shown, compromise or forgive the additional tax penalties imposed by this subsection.

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

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

(f) Effective date of levy. A tax levied under this section 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.

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

Sec. 6. Rutherford Tourism Development Authority. (a) Creation. When the Rutherford County Board of Commissioners adopts a resolution levying a room occupancy tax under Section 5 of this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

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

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

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

the term of office of members of the Economic Development Commission.

- (2) A County Commissioner, appointed by the Rutherford County Board of Commissioners, to serve as an ex officio, nonvoting member.
- (3) Three owners or operators of hotels, motels, or other taxable accommodations, one appointed by each chamber of commerce in Rutherford County. The initial terms of each of these appointees shall be determined by the Rutherford County Commissioners as follows: one one-year term; one two-year term; and one three-year term. Thereafter, the appointees shall serve for a term of three years.
- (4) Three individuals involved in tourist-related businesses who have demonstrated an interest in tourism development and who may or may not own hotels, motels, or other taxable accommodations, appointed as follows: one by each chamber of commerce in Rutherford County. The initial terms of each of these appointees shall be determined by the Rutherford County Commissioners as follows: one one-year term; one two-year term; and one three-year term. Thereafter, the appointees shall serve for a term of three years.

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

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

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

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 8th day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives