

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 270

Short Title: Shelby Occupancy Tax.

(Local)

Sponsors: Senators Davis and Hoyle.

Referred to: Finance

February 27, 1995

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF SHELBY TO LEVY A ROOM
OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Occupancy tax.

(a) **Authorization and scope.** The City Council of the City of Shelby may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, 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.

(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 city. 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 city shall design, print, and furnish to all

1 appropriate businesses and persons in the city the necessary forms for filing returns and
2 instructions to ensure the full collection of the tax. An operator of a business who
3 collects the occupancy tax levied under this section may deduct from the amount remitted
4 to the city a discount equal to the discount the State allows the operator for State sales
5 and use tax.

6 The city may contract with Cleveland County for tax collection services
7 relating to the occupancy tax levied under this section. Such a contract shall be under
8 terms and conditions agreed to by the city and the county and may be modified from time
9 to time. The collection of the tax shall otherwise be as provided in this section.

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

17 A return filed with the city under this section is not a public record and may
18 not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

19 (d) **Penalties.** A person, firm, corporation, or association who fails or refuses to
20 file the return or pay the tax required by this section is subject to the civil and criminal
21 penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use
22 taxes. The Shelby City Council has the same authority to waive the penalties for a room
23 occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and
24 use taxes.

25 (e) **Use of tax revenue.** The City of Shelby may use the net proceeds of the
26 occupancy tax only for tourism and economic development for the city. The following
27 definitions apply in this subsection:

28 (1) Net proceeds. – Gross proceeds less the cost to the city of administering
29 and collecting the tax, as determined by the city, not to exceed seven
30 percent (7%) of the gross proceeds.

31 (2) Tourism and economic development. – Services and other expenditures
32 that will enhance tourism or economic development in the city,
33 including law enforcement, fire protection, public utilities, recreation,
34 public works, advertising, marketing, and promotional activities.

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

39 (g) **Repeal.** A tax levied under this section may be repealed by a resolution
40 adopted by the Shelby City Council. Repeal of a tax levied under this section shall
41 become effective on the first day of a month and may not become effective until the end
42 of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied
43 under this section does not affect a liability for a tax that was attached before the effective

- 1 date of the repeal, nor does it affect a right to a refund of a tax that accrued before the
- 2 effective date of the repeal.
- 3 Sec. 2. This act is effective upon ratification.