

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 765

Short Title: Goldsboro Room Tax Use.

(Local)

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Sponsors: Representatives Braswell; Baddour and Russell (Cosponsors).

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Referred to: Local and Regional Government I, if favorable, Finance

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April 2, 1997

A BILL TO BE ENTITLED

1 AN ACT TO MODIFY THE PURPOSES FOR WHICH THE GOLDSBORO ROOM  
2 OCCUPANCY TAX MAY BE USED AND TO MAKE TECHNICAL AND  
3 CONFORMING CHANGES.  
4

5 The General Assembly of North Carolina enacts:

6 Section 1. Sections 2 through 9 of Chapter 555 of the 1991 Session Laws read  
7 as rewritten:

8 "Sec. 2. Levy of Tax. The City of Goldsboro may ~~by resolution, after not less than~~  
9 ~~10 days public notice and after a public hearing held pursuant thereto,~~ levy a room  
10 occupancy and tourism development tax. ~~Collection of the tax, and liability, therefore,~~  
11 ~~shall begin and continue only on and after the first day of a calendar month set in the~~  
12 ~~resolution levying the tax, which in no case may be earlier than the first day of the second~~  
13 ~~succeeding calendar month after the date of adoption of the resolution.~~

14 ~~Sec. 3. Rate; Scope.~~ The room occupancy and tourism development tax that may be  
15 levied under this act shall not be less than three percent (3%) nor more than five percent  
16 (5%) of the gross receipts derived from the rental of any room, lodging, or similar  
17 accommodation furnished by any hotel, motel, inn, tourist camp, or other similar place  
18 within the levying unit now subject to the three percent (3%) sales tax imposed by the  
19 State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax.

1       Sec. 4. 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. 5. Administration of Tax. A tax levied under this section shall be levied,  
9 administered, collected, and repealed as provided in G.S. 160A-215, except that the  
10 return is due on the 25th day of the month rather than the 15th day of the month. The  
11 penalties provided in G.S. 160A-215 apply to a tax levied under this section. (a) ~~A tax~~  
12 ~~levied under this act is due and payable to the city in monthly installments on or before the~~  
13 ~~twenty-fifth day of the month following the month in which the tax accrues. Every person, firm,~~  
14 ~~corporation, or association liable for the tax shall, on or before the twenty-fifth day of each~~  
15 ~~month, prepare and render a return on a form prescribed by the city. The return shall state the~~  
16 ~~total gross receipts derived in the preceding month from rentals upon which the tax is levied. A~~  
17 ~~return filed under this section is not a public record as defined by G.S. 132-1 and may not be~~  
18 ~~disclosed except as required by law.~~

19       (b) ~~Any person, firm, corporation, or association who fails or refuses to file the~~  
20 ~~return required by this act shall pay a penalty of fifty dollars (\$50.00) for each day's~~  
21 ~~omission as provided under G.S. 160A-175.~~

22       (c) ~~Any person who willfully attempts in any manner to evade the occupancy tax~~  
23 ~~imposed by this act or to make a return or who willfully fails to pay the tax or make and~~  
24 ~~file a return shall, in addition to all other penalties provided by law, be guilty of a~~  
25 ~~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. 6. 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 tax, collect the tax. The tax shall be~~  
29 ~~collected as part of the charge for the furnishing of any taxable accommodations. The tax~~  
30 ~~shall be stated and charged separately from the sales records, and shall be paid by the~~  
31 ~~purchaser to the operator of the business as trustee for and on account of the governing~~  
32 ~~bodies. The room occupancy tax levied pursuant to this act shall be added to the sales~~  
33 ~~price and shall be passed on to the purchaser instead of being borne by the operator of the~~  
34 ~~business. The city shall design, print, and furnish to all appropriate businesses in the city~~  
35 ~~the necessary forms for filing returns and instructions to ensure the full collection of the~~  
36 ~~tax.~~

37       Sec. 7. Disposition of Taxes Collected. (a) Feasibility Study. After levying a tax  
38 under this act, the City of Goldsboro shall place the net proceeds of the tax in a special  
39 fund. 'Net proceeds' means gross proceeds less the cost to the city of collecting and  
40 administering the tax. When sufficient proceeds have been accumulated in the special  
41 fund, the city council shall create a citizens' advisory committee to conduct a study of the  
42 feasibility of the construction of a civic center in Goldsboro. The citizens' advisory  
43 committee shall be composed of either five or seven members, as determined by the city

1 council. If the committee is composed of five members, three shall be appointed by the  
2 city council and two shall be appointed by the Chamber of Commerce of Wayne County.  
3 If the committee is composed of seven members, four shall be appointed by the city  
4 council and three shall be appointed by the Chamber of Commerce of Wayne County.  
5 The city shall remit twenty percent (20%) of the net proceeds of the tax levied under this  
6 act to the Goldsboro Tourism Council created in Section 8 of this act. The Council shall  
7 use the proceeds to develop tourism, support services, and tourist-related events, and for  
8 any other appropriate activities to provide tourism-related facilities and attractions. The  
9 citizens' advisory committee shall use the remainder of the net proceeds of the tax levied  
10 under this act for a study of the feasibility of the construction of a civic center in  
11 Goldsboro.

12 (b) If Civic Center Feasible. If the Goldsboro City Council determines that the  
13 results of the feasibility study indicate that a civic center would be a viable alternative for  
14 the city, the proceeds of the tax levied under this act shall thereafter be used as provided  
15 in this subsection. The citizens' advisory committee created pursuant to subsection (a) of  
16 this section shall continue to serve in an advisory capacity to the Goldsboro City Council.  
17 The city shall ~~use~~ remit no more than twenty percent (20%) of the net proceeds of the tax  
18 levied under this act to the Goldsboro Tourism Council created in Section 8 of this act.  
19 The Council shall use the proceeds to develop tourism, support services, and tourist-  
20 related events, and for any other appropriate activities to provide tourism-related facilities  
21 and attractions. ~~for development of tourism, support services, and tourist related events and~~  
22 ~~attractions.~~—The city shall use the remainder of the net proceeds for improving, leasing,  
23 constructing, financing, operating, or acquiring facilities and properties as needed to  
24 provide for a civic center facility for Goldsboro. The city may contract with any person,  
25 firm, or agency to assist it in carrying out the purposes provided in this subsection.

26 (c) If Civic Center Not Feasible at Present. If the Goldsboro City Council  
27 determines that the results of the feasibility study indicate that a civic center would not be  
28 a viable alternative for the city at present or without the participation of other  
29 governmental, educational, or nonprofit entities, then the city may, on a monthly basis,  
30 remit up to fifty percent (50%) of the net proceeds of the tax to the Goldsboro Tourism  
31 Council created in Section 8 of this act. The Council shall use the proceeds to develop  
32 tourism, support services, and tourist-related events, and for any other appropriate  
33 activities to provide tourism-related facilities and attractions. The remaining net proceeds  
34 of the tax shall be invested in a special interest bearing fund and held by the city for  
35 improving, leasing, constructing, financing, operating, or acquiring facilities and  
36 properties, either by the city or in conjunction with other governmental, educational, or  
37 nonprofit entities. Thereafter, if the Goldsboro City Council determines that a civic  
38 center would be a viable alternative for the city, then a citizens' advisory committee shall  
39 be again created, if it has been disbanded, pursuant to subsection (a) of this section, and  
40 the provisions of subsection (b) of this section shall apply. Further, the citizens' advisory  
41 committee may conduct additional feasibility studies as it deems necessary. If the  
42 Goldsboro City Council later determines that a civic center would not be a viable  
43 alternative for the city, then the provisions of subsection (d) of this section shall apply.

1 (d) If Civic Center Not Feasible. If the Goldsboro City Council determines that  
2 the results of the feasibility study indicate that a civic center would not be a viable  
3 alternative for the city, the proceeds of the tax levied under this act shall thereafter be  
4 used as provided in this subsection. The citizens' advisory committee created pursuant to  
5 subsection (a) of this section shall be disbanded. The city shall, on a monthly basis, remit  
6 the net proceeds of the tax to the Goldsboro Tourism Council created in Section 8 of this  
7 act. The Council shall use the proceeds to develop tourism, support services, and tourist-  
8 related events, and for any other appropriate activities to provide tourism-related facilities  
9 and attractions.

10 Sec. 8. Goldsboro Tourism Council. (a) ~~If the~~ The Goldsboro City Council  
11 ~~determines that the results of the feasibility study indicate that a civic center would not be~~  
12 ~~a viable alternative for the city, as provided in Section 7,~~ it shall adopt a resolution  
13 creating a Goldsboro Tourism Council. The membership of the Goldsboro Tourism  
14 Council shall be appointed by the Goldsboro City Council as follows:

- 15 (1) Three owners or operators of hotels, motels, or other taxable  
16 accommodations in the City of Goldsboro.
- 17 (2) Three individuals who have demonstrated an interest in conventions and  
18 tourism development in the Goldsboro area, and who do not own or  
19 operate hotels, motels, or other taxable tourism accommodations.
- 20 (3) Three ex officio members: the city manager, the executive vice-  
21 president of the Chamber of Commerce of Wayne County, and the  
22 mayor of the City of Goldsboro.

23 (b) All members of the Council shall serve without compensation. Travel  
24 expenses, as approved in the annual budget, may be provided by the Goldsboro Tourism  
25 Council. Vacancies in the Council shall be filled in the same manner as the original  
26 appointments. Members appointed to fill vacancies shall serve for the remainder of the  
27 unexpired term for which they are appointed to fill. Members shall serve three-year  
28 terms which will be staggered as provided by the city council; members may serve no  
29 more than two consecutive three-year terms. The members shall elect a chairperson and  
30 treasurer, who shall serve for a term of two years. The Council shall meet at the call of  
31 the chairperson and shall adopt rules of procedure to govern its meeting as provided by  
32 Robert's Rules of Order.

33 (c) The Goldsboro Tourism Council may contract with any person, firm, or agency  
34 to assist it in carrying out the purposes provided in this act. The Council shall prepare an  
35 annual budget and shall report quarterly and at the close of the fiscal year to the  
36 Goldsboro City Council on its receipts and expenditures for the preceding quarter and  
37 year in such detail as the city may require. An audit will be conducted as part of the  
38 city's audit contract.

39 ~~Sec. 9. Repeal. A tax levied under this section may be repealed by a resolution~~  
40 ~~adopted by the Goldsboro 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 Section 2. (a) Article 9 of Chapter 160A of the General Statutes is amended by  
4 adding a new section to read:

5 **"§ 160A-215. Uniform provisions for room occupancy taxes.**

6 (a) Scope. – This section applies only to municipalities the General Assembly has  
7 authorized to levy room occupancy taxes. For the purpose of this section, the term ‘city’  
8 means a municipality.

9 (b) Levy. – A room occupancy tax may be levied only by resolution, after not less  
10 than 10 days' public notice and after a public hearing held pursuant thereto. A room  
11 occupancy tax shall become effective on the date specified in the resolution levying the  
12 tax. That date must be the first day of a calendar month, however, and may not be earlier  
13 than the first day of the second month after the date the resolution is adopted.

14 (c) Collection. – Every operator of a business subject to a room occupancy tax  
15 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall  
16 be collected as part of the charge for furnishing a taxable accommodation. The tax shall  
17 be stated and charged separately from the sales records and shall be paid by the purchaser  
18 to the operator of the business as trustee for and on account of the taxing city. The tax  
19 shall be added to the sales price and shall be passed on to the purchaser instead of being  
20 borne by the operator of the business. The taxing city shall design, print, and furnish to  
21 all appropriate businesses and persons in the city the necessary forms for filing returns  
22 and instructions to ensure the full collection of the tax. An operator of a business who  
23 collects a room occupancy tax may deduct from the amount remitted to the taxing city a  
24 discount equal to the discount the State allows the operator for State sales and use tax.

25 (d) Administration. – The taxing city shall administer a room occupancy tax it  
26 levies. A room occupancy tax is due and payable to the city finance officer in monthly  
27 installments on or before the 15th day of the month following the month in which the tax  
28 accrues. Every person, firm, corporation, or association liable for the tax shall, on or  
29 before the 15th day of each month, prepare and render a return on a form prescribed by  
30 the taxing city. The return shall state the total gross receipts derived in the preceding  
31 month from rentals upon which the tax is levied. A room occupancy tax return filed with  
32 the city finance officer is not a public record and may not be disclosed except in  
33 accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

34 (e) Penalties. – A person, firm, corporation, or association who fails or refuses to  
35 file a room occupancy tax return or pay a room occupancy tax as required by law is  
36 subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a  
37 return for State sales and use taxes. The governing board of the taxing city has the same  
38 authority to waive the penalties for a room occupancy tax that the Secretary of Revenue  
39 has to waive the penalties for State sales and use taxes.

40 (f) Repeal or Reduction. – A room occupancy tax levied by a city may be repealed  
41 or reduced by a resolution adopted by the governing body of the city. Repeal or  
42 reduction of a room occupancy tax shall become effective on the first day of a month and  
43 may not become effective until the end of the fiscal year in which the resolution was

1 adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax  
2 that was attached before the effective date of the repeal or reduction, nor does it affect a  
3 right to a refund of a tax that accrued before the effective date of the repeal or reduction."

4 (b) This section applies only to the City of Goldsboro.

5 Section 3. This act is effective when it becomes law.