

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 810

Short Title: Nash and Edgecombe Room Taxes.

(Local)

Sponsors: Representative Tolson.

Referred to: Ways and Means, if favorable, Finance.

April 7, 1997

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE NASH COUNTY TO LEVY AN ADDITIONAL ROOM
2 OCCUPANCY AND TOURISM DEVELOPMENT TAX AND TO AUTHORIZE
3 EDGECOMBE COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM
4 DEVELOPMENT TAX.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. Nash Occupancy Tax. Section 1 of Chapter 32 of the 1987 Session
8 Laws, as amended by Chapter 545 of the 1993 Session Laws, reads as rewritten:

9 "Section 1. Occupancy tax. (a) Authorization and scope. The Nash County
10 Board of Commissioners may ~~by resolution, after not less than ten (10) days' public notice and~~
11 ~~after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%)
12 of the gross receipts derived from the rental of any room, lodging, or similar
13 accommodation furnished by a hotel, motel, inn, or similar place within the county that is
14 subject to sales tax imposed by the State under G.S. ~~405-164.4(3).~~ 105-164.4(a)(3). This
15 tax is in addition to any State or local sales tax. This tax does not apply to
16 accommodations furnished by nonprofit charitable, educational, or religious
17 organizations.

18 (a1) Authorization of Additional Tax. In addition to the tax authorized by
19 subsection (a) of this section, the Nash County Board of Commissioners may levy an
20 additional room occupancy tax of up to three percent (3%) of the gross receipts derived

1 from the rental of accommodations taxable under subsection (a). The levy, collection,
2 administration, and repeal of the tax authorized by this subsection shall be in accordance
3 with the provisions of this section. Nash County may not levy a tax under this subsection
4 unless it also levies the tax authorized under subsection (a) of this section.

5 (b) Administration. A tax levied under this section shall be levied, administered,
6 collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S.
7 153A-155 apply to a tax levied under this section.

8 ~~Collection. Every operator of a business subject to the tax levied under this act shall, on~~
9 ~~and after the effective date of the levy of the tax, collect the tax. This tax shall be~~
10 ~~collected as part of the charge for furnishing a taxable accommodation. The tax shall be~~
11 ~~stated and charged separately from the sales records, and shall be paid by the purchaser to~~
12 ~~the operator of the business as trustee for and on account of the county. The tax shall be~~
13 ~~added to the sales price and shall be passed on to the purchaser instead of being borne by~~
14 ~~the operator of the business. The county shall design, print, and furnish to all appropriate~~
15 ~~businesses and persons in the county the necessary forms for filing returns and~~
16 ~~instructions to ensure the full collection of the tax. An operator of a business who~~
17 ~~collects the occupancy tax levied under this act may deduct from the amount remitted to~~
18 ~~the county a discount equal to the discount the State allows the operator for collecting~~
19 ~~State sales and use taxes.~~

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

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

29 (d) ~~Penalties. A person, firm, corporation, or association who fails or refuses to~~
30 ~~file the return required by this act is subject to the civil and criminal penalties set by G.S.~~
31 ~~105-236 for failure to pay or file a return for State sales and use taxes. The Board of~~
32 ~~Commissioners has the same authority to waive the penalties for a room occupancy tax~~
33 ~~that the Secretary of Revenue has to waive the penalties for State sales and use taxes.~~

34 (e) ~~Distribution and use of tax revenue. Nash County shall, on a quarterly basis,~~
35 ~~remit the net proceeds of the occupancy tax to the Nash Tourism Development Authority.~~
36 ~~The Authority shall spend at least two-thirds of the funds remitted to it under this~~
37 ~~subsection only to promote travel and tourism in Nash County, and shall spend the~~
38 ~~remainder on tourism-related expenditures. The following definitions apply in this~~
39 ~~subsection:~~

- 40 (1) ~~Net proceeds. – Gross proceeds less the cost to the county of~~
41 ~~administering and collecting the tax, as determined by the finance~~
42 ~~officer, not to exceed seven percent (7%) of the amount collected.~~

1 (2) Promote travel and tourism. – To advertise or market an area or activity,
2 publish and distribute pamphlets and other materials, conduct market
3 research, or engage in similar promotional activities that attract tourists
4 or business travelers to the area; the term includes administrative
5 expenses incurred in engaging in the listed activities.

6 (3) Tourism-related expenditures. – Expenditures that are designed to
7 increase the use of lodging facilities in a county or to attract tourists or
8 business travelers to the county and expenditures incurred by the county
9 in collecting the tax. The term includes expenditures to construct,
10 maintain, operate, or market a convention center and other expenditures
11 that, in the judgment of the Authority, will facilitate and support
12 tourism.

13 ~~(f) Effective date of levy. – A tax levied under this act shall become effective on~~
14 ~~the date specified in the resolution levying the tax. That date must be the first day of a~~
15 ~~calendar month, however, and may not be earlier than the first day of the second month~~
16 ~~after the date the resolution is adopted.~~

17 ~~(g) Repeal. – A tax levied under this act may be repealed by a resolution adopted by~~
18 ~~the Nash County Board of Commissioners. Repeal of a tax levied under this act does not~~
19 ~~affect a liability for a tax that was attached before the effective date of the repeal, nor~~
20 ~~does it affect a right to a refund of a tax that accrued before the effective date of the~~
21 ~~repeal."~~

22 Section 2. County administrative provisions. (a) Article 7 of Chapter 153A of the
23 General Statutes is amended by adding a new section to read:

24 **"§ 153A-155. Uniform provisions for room occupancy taxes.**

25 (a) Scope. – This section applies only to counties the General Assembly has
26 authorized to levy room occupancy taxes.

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

32 (c) Collection. – Every operator of a business subject to a room occupancy tax
33 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall
34 be collected as part of the charge for furnishing a taxable accommodation. The tax shall
35 be stated and charged separately from the sales records, and shall be paid by the
36 purchaser to the operator of the business as trustee for and on account of the taxing
37 county. The tax shall be added to the sales price and shall be passed on to the purchaser
38 instead of being borne by the operator of the business. The taxing county shall design,
39 print, and furnish to all appropriate businesses and persons in the county the necessary
40 forms for filing returns and instructions to ensure the full collection of the tax. An
41 operator of a business who collects a room occupancy tax may deduct from the amount
42 remitted to the taxing county a discount equal to the discount the State allows the
43 operator for State sales and use tax.

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

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

16 (f) Repeal or reduction. – A room occupancy tax levied by a county may be
17 repealed or reduced by a resolution adopted by the governing body of the county. Repeal
18 or reduction of a room occupancy tax shall become effective on the first day of a month
19 and may not become effective until the end of the fiscal year in which the resolution was
20 adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax
21 that was attached before the effective date of the repeal or reduction, nor does it affect a
22 right to a refund of a tax that accrued before the effective date of the repeal or reduction."

23 (b) This section applies only to Nash and Edgecombe Counties.

24 Section 3. Edgecombe Occupancy Tax. (a) Authorization and scope. The
25 Edgecombe County Board of Commissioners may levy a room occupancy tax of up to six
26 percent (6%) of the gross receipts derived from the rental of any room, lodging, or similar
27 accommodation furnished by a hotel, motel, inn, or similar place within the county that is
28 subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in
29 addition to any State or local sales tax. This tax does not apply to accommodations
30 furnished by nonprofit charitable, educational, or religious organizations.

31 (b) Administration. A tax levied under this section shall be levied, administered,
32 collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S.
33 153A-155 apply to a tax levied under this section.

34 (c) Distribution and use of tax revenue. Edgecombe County shall, on a quarterly
35 basis, remit the net proceeds of the occupancy tax to the Edgecombe Tourism
36 Development Authority. The Authority shall spend at least two-thirds of the funds
37 remitted to it under this subsection only to promote travel and tourism in Edgecombe
38 County, and shall spend the remainder on tourism-related expenditures. The following
39 definitions apply in this subsection:

40 (1) Net proceeds. – Gross proceeds less the cost to the county of
41 administering and collecting the tax, as determined by the finance
42 officer, not to exceed seven percent (7%) of the amount collected.

- 1 (2) Promote travel and tourism. – To advertise or market an area or activity,
2 publish and distribute pamphlets and other materials, conduct market
3 research, or engage in similar promotional activities that attract tourists
4 or business travelers to the area; the term includes administrative
5 expenses incurred in engaging in the listed activities.
- 6 (3) Tourism-related expenditures. – Expenditures that are designed to
7 increase the use of lodging facilities in a county or to attract tourists or
8 business travelers to the county and expenditures incurred by the county
9 in collecting the tax. The term includes expenditures to construct,
10 maintain, operate, or market a convention center and other expenditures
11 that, in the judgment of the Authority, will facilitate and support
12 tourism.

13 Section 4. Edgecombe Tourism Development Authority. (a) Appointment and
14 membership. When the Board of Commissioners of Edgecombe County adopts a
15 resolution levying a room occupancy tax under this act, it shall also adopt a resolution
16 creating a county Tourism Development Authority, which shall be a public authority
17 under the Local Government Budget and Fiscal Control Act. The resolution shall provide
18 for the membership of the Authority including the members' qualifications and terms of
19 office, and for the filling of vacancies on the Authority. The board of commissioners
20 shall designate one member of the Authority as chair and shall determine the
21 compensation, if any, to be paid to members of the Authority.

22 The Authority shall meet at the call of the chair and shall adopt rules of
23 procedure to govern its meetings. The Finance Officer for Edgecombe County shall be
24 the ex officio finance officer of the Authority.

25 (b) Duties. The Authority shall expend the net proceeds of the tax levied under
26 this act for the purposes provided in Section 3 of this act. The Authority shall promote
27 travel, tourism, and conventions in the county, sponsor tourist-related events and
28 activities in the county, and finance tourist-related capital projects in the county.

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

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