

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H

1

HOUSE BILL 556

Short Title: Raise Lexington Occupancy Tax.

(Local)

Sponsors: Representatives Holliman; and Dockham.

Referred to: Finance.

March 12, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO AUTHORIZE THE CITY OF LEXINGTON TO INCREASE ITS ROOM
3 OCCUPANCY TAX FROM THREE PERCENT TO SIX PERCENT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Section 1 of Chapter 602 of the 1993 Session Laws (1994)
6 reads as rewritten:

7 "Section 1. Occupancy Tax.

8 (a) Authorization and Scope.

9 The Lexington City Council may ~~by resolution, after not less than 10 days' public~~
10 ~~notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of
11 not more than three percent (3%) of the gross receipts derived from the rental of any
12 room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar
13 place within the city that is subject to sales tax imposed by the State under G.S.
14 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not
15 apply to accommodations furnished by nonprofit charitable, educational, or religious
16 organizations. As provided in Chapter 453 of the 1993 Session Laws, if Davidson
17 County is authorized to levy a room occupancy tax, the combined room occupancy tax
18 rates for Davidson County and any city or town located in that county may not exceed
19 six percent (6%).

20 (a1) Authorization of Additional Tax.

21 In addition to the tax authorized by subsection (a) of this section, the Lexington City
22 Council may levy an additional room occupancy tax of up to three percent (3%) of the
23 gross receipts derived from the rental of accommodations taxable under subsection (a).
24 The total rate of tax levied under subsections (a) and (a1) of this section, when
25 combined with the rate of any room occupancy tax that may be levied by Davidson
26 County, may not exceed six percent (6%). The levy, collection, administration, and
27 repeal of the tax authorized by this subsection shall be in accordance with the provisions

1 of this section. The City of Lexington may not levy a tax under this subsection unless it
2 also levies the tax authorized under subsection (a) of this section.

3 (b) Administration.

4 A tax levied under this section shall be levied, administered, collected, and repealed
5 as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax
6 levied under this section.

7 ~~(b) Collection.~~

8 ~~Every operator of a business subject to the tax levied under this section shall, on and~~
9 ~~after the effective date of the tax, collect the tax. This tax shall be collected as part of~~
10 ~~the charge for furnishing a taxable accommodation. The tax shall be stated and charged~~
11 ~~separately from the sales records, and shall be paid by the purchaser to the operator of~~
12 ~~the business as trustee for and on account of the city. The tax shall be added to the sales~~
13 ~~price and shall be passed on to the purchaser instead of being borne by the operator of~~
14 ~~the business. The city shall design, print, and furnish to all appropriate businesses and~~
15 ~~persons in the city the necessary forms for filing returns and instructions to ensure the~~
16 ~~full collection of the tax.~~

17 ~~(c) Administration.~~

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

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

27 ~~(d) Penalties.~~

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

33 ~~(e) Use of Tax Revenue.~~

34 ~~At least two-thirds of the proceeds of a tax levied under this section shall be used~~
35 ~~only to promote travel and tourism in the city and any remaining proceeds shall be used~~
36 ~~only for tourism-related expenditures.~~

37 ~~The term 'promote travel and tourism' means to advertise or market an area or~~
38 ~~activity, publish and distribute pamphlets and other materials, conduct market research,~~
39 ~~host and conduct tours for travel industry representatives and travel writers, or engage in~~
40 ~~similar promotional activities that attract tourists or business travelers to the city; the~~
41 ~~term includes administrative expenses of the Lexington Tourism Development~~
42 ~~Authority incurred in engaging in the listed activities.~~

43 ~~The term 'tourism-related expenditures' means expenditures that in the judgment of~~
44 ~~the Lexington Tourism Authority are designed to increase the use of ~~lodging~~ lodging.~~

1 ~~meeting, and convention~~ facilities in the city ~~or attract~~by attracting tourists or business
2 travelers to the city ~~and the amount retained by the city for its costs in administering and~~
3 ~~collecting the tax; the term includes expenditures for the construction or maintenance of~~
4 ~~a visitors' center, a convention facility, a museum, or an historic attraction but does not~~
5 ~~include other capital expenditures.~~ city.

6 (f) ~~Lexington Tourism Development~~ Authority.

7 The Lexington City Council shall, by resolution, establish the Lexington Tourism
8 ~~Development~~ Authority and ~~appoint members to the Authority.~~ shall require that at least
9 three-fourths of the members of the Authority must be currently active in the promotion
10 of travel and tourism in the city and that at least one-third of the members of the
11 Authority must be affiliated with organizations, such as hotels and motels, that collect
12 the tax. A resolution establishing the Authority shall state the number and qualifications
13 of the members of the Authority, their terms of office, and their duties.

14 (g) ~~Distribution to Tourism~~ Authority.

15 The City of Lexington shall, on a quarterly basis, remit the net proceeds of the
16 occupancy tax to the Lexington Tourism ~~Development~~ Authority. As used in this
17 subsection, 'net proceeds' means gross proceeds less ~~five percent (5%) of the gross~~
18 ~~proceeds or the cost to the city of administering and the city's actual cost of collecting~~
19 ~~the tax, whichever is greater.~~ not to exceed three percent (3%) of the first five hundred
20 thousand dollars (\$500,000) collected each year plus one percent (1%) of the remainder
21 collected each year. The Lexington Tourism ~~Development~~ Authority shall spend
22 revenue remitted to it under this section in accordance with the restrictions set in
23 subsection (e) of this section. The Lexington Tourism ~~Development~~ Authority shall
24 report at the close of the fiscal year to the city council on its receipts and expenditures
25 for the preceding year in such detail as the council may require.

26 ~~(h) Effective Date of Levy.~~

27 ~~A tax levied under this section shall become effective on the date specified in the~~
28 ~~resolution levying the tax. That date must be the first day of a calendar month, however,~~
29 ~~and may not be earlier than the first day of the second month after the date the~~
30 ~~resolution is adopted.~~

31 (i) ~~Repeal.~~

32 ~~A tax levied under this section may be repealed by a resolution adopted by the~~
33 ~~Lexington City Council. Repeal of a tax levied under this section shall become effective~~
34 ~~on the first day of a month and may not become effective until the end of the fiscal year~~
35 ~~in which the repeal resolution was adopted. Repeal of a tax levied under this section~~
36 ~~does not affect a liability for a tax that was attached before the effective date of the~~
37 ~~repeal, nor does it affect a right to a refund of a tax that accrued before the effective date~~
38 ~~of the repeal."~~

39 **SECTION 2.** G.S. 160A-215 reads as rewritten:

40 **"§ 160A-215. Uniform provisions for room occupancy taxes.**

41 (a) Scope. – This section applies only to municipalities the General Assembly
42 has authorized to levy room occupancy taxes. For the purpose of this section, the term
43 "city" means a municipality.

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

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

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

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

33 (f) Repeal or Reduction. – A room occupancy tax levied by a city may be
34 repealed or reduced by a resolution adopted by the governing body of the city. Repeal or
35 reduction of a room occupancy tax shall become effective on the first day of a month
36 and may not become effective until the end of the fiscal year in which the resolution
37 was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for
38 a tax that was attached before the effective date of the repeal or reduction, nor does it
39 affect a right to a refund of a tax that accrued before the effective date of the repeal or
40 reduction.

41 (g) This section applies only to the Cities of Goldsboro, Greensboro, Lexington,
42 Lumberton, Mount Airy, Shelby, and Statesville, to the Towns of Banner Elk,
43 Mooresville, and St. Pauls, and to the municipalities in Brunswick County."

44 **SECTION 3.** This act is effective when it becomes law.