

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

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**SENATE BILL 348  
Finance Committee Substitute Adopted 8/29/01**

Short Title: Increase Cumberland Occupancy Tax.

(Local)

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Sponsors:

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Referred to:

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March 6, 2001

A BILL TO BE ENTITLED

1  
2 AN ACT TO AUTHORIZE CUMBERLAND COUNTY TO INCREASE ITS  
3 OCCUPANCY TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES  
4 TO ITS OCCUPANCY TAX.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Chapter 983 of the 1983 Session Laws reads as rewritten:

7 "Section 1. It is the purpose and intent of this act to provide Cumberland County the  
8 authority to levy a transient occupancy tax as hereinafter set forth.

9 Sec. 2.

10 (a) Authorization and scope. – Cumberland County is hereby authorized to impose  
11 and levy a tax not to exceed three percent (3%) of the gross receipts of any person, firm,  
12 corporation or association derived from the rental of any sleeping room or lodging  
13 furnished in any hotel, motel, or inn located in Cumberland County and subject to the  
14 ~~three percent (3%) sales tax levied imposed by the State of North Carolina.~~ under G.S.  
15 105-164.4(a)(3). This tax is in addition to any State or local sales tax. The tax shall not  
16 apply, however, to any room or rooms, lodging or accommodations supplied to the same  
17 person for a period of 90 continuous days or more. The tax shall also not apply to  
18 sleeping rooms or lodgings furnished by charitable, educational, benevolent or religious  
19 institutions or organizations not operated for profit.

20 (a1) Additional Tax. – In addition to the tax authorized by subsection (a) of this  
21 section, the Cumberland County Board of Commissioners may levy a room occupancy  
22 tax of up to three percent (3%) of the gross receipts derived from the rental of  
23 accommodations taxable under that subsection. The tax authorized by this subsection  
24 may not be levied earlier than January 1, 2002. The levy, collections, administration,  
25 use, and repeal of the tax authorized by this subsection shall be in accordance with this  
26 act. Cumberland County may not levy a tax under this subsection unless it also levies a  
27 tax under subsection (a) of this section. The rate of tax levied under this subsection may  
28 not exceed the applicable maximum provided in the chart below based on the period for  
29 which it is in effect:

<u>Period</u>	<u>Maximum</u>
<u>After 1/1/2002</u>	<u>1%</u>
<u>After 1/1/2004</u>	<u>2%</u>
<u>After 1/1/2005</u>	<u>3%</u>

(b) Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this act. ~~Before adopting or amending an ordinance imposing and levying such a tax, the Board of Commissioners shall hold a public hearing on the ordinance or amendment. The Board shall cause notice of the hearing to be published not less than 10 days nor more than 25 days before the date fixed for the hearing.~~

~~Sec. 3.~~

~~(a) Such tax, if levied, shall be due and payable to the county in monthly installments on or before the 15th of the month next succeeding the month in which the tax accrues. Every person, firm, corporation or association liable for the tax imposed pursuant to this act shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county, a true and correct statement showing the total gross receipts derived in the preceding month from rentals upon which the tax is levied. Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of the calendar month set by the board of commissioners in the ordinance levying the tax.~~

~~(b) Any person, firm, corporation or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's omission.~~

~~(c) Any person, firm, corporation or association who willfully attempts in any manner to evade the occupancy tax, if levied on any person required to pay the occupancy tax, or to make a return and who willfully fails to pay such tax or make and file such return, shall, in addition to the penalties provided by law, be guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment not to exceed six months, or by both such fine and imprisonment.~~

Sec. 4. Distribution and Use of the First Three Cents (3¢). – Cumberland County shall allocate the net proceeds of the occupancy tax ~~collected~~ levied under subsection (a) of Section 2 of this act as follows:

(a) Cumberland County shall retain three percent (3%) of the gross proceeds of the total tax collected under this act to compensate it for any administrative or collection expenses incurred in implementing this program. "Net Proceeds" shall mean gross taxes collected less any monies retained by the county for administrative and collection expenses.

(b) Fifty percent (50%) of the net proceeds from the tax in a fiscal year shall be allocated for the benefit of the Cumberland County Auditorium Commission to help finance major repairs, renovation, rehabilitation, or other capital improvements to its existing facilities and any new additions. These funds may also be utilized by the

1 Commission as approved by the county board of commissioners for financing  
2 construction of new convention oriented or multipurpose facilities. These funds will not  
3 be used for the acquisition, construction, renovation, or operation of any sleeping room  
4 or overnight lodging. These funds shall be budgeted, appropriated, and expended under  
5 the auditorium budget through regular county budgeting appropriation and expenditure  
6 methods.

7 (c) Fifty percent (50%) of net proceeds from the tax in a fiscal year shall be  
8 designated, within the auditorium commission budget specifically for advertising the  
9 auditorium and promoting travel and tourism within the County of Cumberland. These  
10 funds shall be budgeted, appropriated, and expended under the auditorium budget  
11 through regular county budgeting, appropriation and expenditure methods, however,  
12 180 days prior to the adoption of the annual county budget, in which this tax is first  
13 budgeted, an advisory committee, the constitution of which is described herein below,  
14 shall be formed to plan and propose areas and items of expenditure for the funds  
15 designated under this subsection.

16 Sec. 4.1. Distribution and Use of Additional Tax. – Cumberland County shall  
17 allocate the net proceeds of the occupancy tax levied under subsection (a1) of Section 2  
18 of this act as follows:

19 (a) Fifty percent (50%) of the net proceeds shall be distributed to the Fayetteville  
20 Area Convention and Visitors Bureau.

21 (b) Fifty percent (50%) of the net proceeds shall be distributed to the Arts  
22 Council of Fayetteville/Cumberland County.

23 Sec. 5. ~~This~~The advisory committee referred to in Section 4 shall be constituted of:  
24 (a) two representatives nominated by hotels and motels within the county which have in  
25 excess of 100 rooms subject to this occupancy tax and appointed by the county board of  
26 commissioners; (b) two representatives nominated by hotels and motels within the  
27 county which have fewer than 100 rooms subject to this occupancy tax and appointed  
28 by the county board of commissioners; (c) the chairman of the Travel and Tourism  
29 Committee of the Fayetteville Area Chamber of Commerce, in an ex officio capacity;  
30 (d) the County Manager of Cumberland County in an ex officio capacity; and (e) the  
31 Auditorium Manager of the Cumberland County Memorial Auditorium, in an ex officio  
32 capacity. All members to this advisory committee, whether in an appointed or ex officio  
33 capacity, shall have equal rights and privileges. This advisory committee will remain  
34 intact from term-to-term to provide information and advice to the Auditorium  
35 Commission for the expenditure of these funds on a continuing basis as the need arises.

36 The budget process for these funds shall be as follows: Promotion Plan formulated  
37 by the advisory committee and submitted, through the Auditorium Manager, as part of  
38 the Auditorium's overall budget to the Auditorium Commission for its review and  
39 approval, then to the Cumberland County Board of Commissioners, through the County  
40 Manager for its review and adoption.

41 Sec. 6. Chapter 360 of the 1965 Session Laws is amended as follows:

42 (1) by deleting the word "Treasurer" in the third sentence of Section 1(b)(3) of  
43 that act and substituting the words "County Manager"; and

1 (2) by adding a new sentence at the end of Section 3 of that act to read:  
2 "Occupancy tax revenues as authorized in AN ACT TO AUTHORIZE AND  
3 IMPLEMENT AN OCCUPANCY TAX IN CUMBERLAND COUNTY may be  
4 utilized by the Auditorium Commission, as approved by the board of county  
5 commissioners, in aiding and encouraging convention and visitor promotion in  
6 Cumberland County."

7 Sec. 7. This act is effective upon ratification."

8 **SECTION 2.** G.S. 153A-155 reads as rewritten:

9 **"§ 153A-155. Uniform provisions for room occupancy taxes.**

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

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

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

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

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

1 (f) Repeal or Reduction. – A room occupancy tax levied by a county may be  
2 repealed or reduced by a resolution adopted by the governing body of the county.  
3 Repeal or reduction of a room occupancy tax shall become effective on the first day of a  
4 month and may not become effective until the end of the fiscal year in which the  
5 resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a  
6 liability for a tax that was attached before the effective date of the repeal or reduction,  
7 nor does it affect a right to a refund of a tax that accrued before the effective date of the  
8 repeal or reduction.

9 (g) This section applies only to Avery, Brunswick, Craven, Cumberland,  
10 Currituck, Davie, Granville, Madison, Nash, Person, Randolph, Scotland, and  
11 Transylvania Counties."

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