

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

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**SENATE BILL 659**

Short Title: Chatham Impact Tax.

(Local)

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Sponsors: Senators Kinnaird and Lee.

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Referred to: Finance.

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March 22, 2001

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CHATHAM COUNTY TO LEVY AN IMPACT TAX.

The General Assembly of North Carolina enacts:

**SECTION 1.** Definitions. – The following definitions apply in this act:

(1) Commercial building enclosed floor space. – All enclosed floor space used for any purpose except:

- a. Dwelling units and accessory structures to dwelling units.
- b. Recreational facilities constructed as part of a residential development and used primarily by residents of the development.
- c. Buildings owned by the United States, the State of North Carolina, any county, or any municipal corporation.
- d. Buildings owned and operated by nonprofit entities for noncommercial and nonresidential purposes.
- e. Schools or day care centers.

(2) Dwelling unit. – An enclosure containing sleeping, kitchen, and bathroom facilities designed for and used or held ready for use as a permanent residence by one family.

(3) Land development. –

a. Land development includes any of the following:

1. Construction of any dwelling unit, other than one excluded under sub-subdivision b. of this subdivision, for which a building permit was issued or should have been issued after the effective date of an ordinance adopted under this act.

2. Construction of any commercial building enclosed floor space for which a building permit was issued or should

- 1 have been issued after the effective date of an ordinance  
2 adopted under this act.
- 3 3. Conversion of a building that adds one or more new  
4 dwelling units or that creates new commercial building  
5 enclosed floor space.
- 6 4. The initial location of a manufactured home or other  
7 dwelling or commercial structure within Chatham  
8 County.
- 9 b. For purposes of determining the impact of land development for  
10 this act, land development does not include:
- 11 1. Construction of an addition to a dwelling unit.  
12 2. The relocation within Chatham County of any structure  
13 located within the county on the effective date of an  
14 ordinance adopted pursuant to this act or any structure  
15 with respect to which an impact tax pursuant to this act  
16 has been paid.
- 17 3. Within the county, the reconstruction or replacement of  
18 one dwelling unit by another or the replacement or  
19 reconstruction of commercial building enclosed floor  
20 space that was in existence on the effective date of an  
21 ordinance adopted pursuant to this act or of any such  
22 floor space with respect to which an impact tax adopted  
23 pursuant to this act has been paid.
- 24 (4) Net proceeds. – The gross proceeds of the tax less the cost to the  
25 county of collecting and administering the tax.
- 26 (5) Person. – An individual, a partnership, a corporation, or another legal  
27 entity.
- 28 (6) Person responsible for the impact of land development. – The owner of  
29 any dwelling unit or commercial building enclosed floor space on the  
30 date an occupancy permit is issued for the dwelling unit or commercial  
31 floor space or, if no occupancy permit is issued, the date the dwelling  
32 unit or commercial floor space is occupied.

33 **SECTION 2.** The Chatham County School Capital Impact Tax. – Except as  
34 provided in Section 6 of this act, Chatham County may adopt an ordinance levying a tax  
35 on the impact of land development within the county and provide for the administration,  
36 enforcement, and collection of the tax.

37 **SECTION 3.** Use of Tax Proceeds. – The purpose of the tax authorized by  
38 this act is to generate funds to partially offset the cost of constructing new school capital  
39 facilities or replacing, expanding, or improving existing school capital facilities  
40 necessitated in part by new growth within Chatham County. Accordingly, the net  
41 proceeds generated by the tax authorized by this act shall be deposited by Chatham  
42 County in its capital reserve improvements fund or funds established under Part 2 of  
43 Article 3 of Chapter 159 of the General Statutes and may be expended, to the extent

1 otherwise authorized by law, only for capital improvements projects related to public  
2 schools.

3 **SECTION 4.** Liability; Administration. – An ordinance adopted pursuant to  
4 this act shall provide that:

5 (1) A person responsible for the impact of land development shall pay an  
6 impact tax for each square foot of dwelling space and commercial  
7 building enclosed floor space for which an occupancy permit is issued  
8 or, if no occupancy permit is issued, for each square foot of dwelling  
9 space in an occupied dwelling and for each square foot of occupied  
10 enclosed floor space in a commercial building.

11 (2) The tax shall be due on or before the date an occupancy permit is  
12 initially issued for the dwelling unit or commercial building enclosed  
13 floor space in question or, if no occupancy permit is issued, the date  
14 the dwelling unit or commercial floor space is initially occupied.  
15 However, no tax due shall be considered delinquent until 60 days after  
16 the tax becomes due. There shall be added to delinquent taxes interest  
17 at the legal rate.

18 (3) Taxes authorized by this act may be collected pursuant to G.S.  
19 153A-147 or G.S. 160A-207. In addition, taxes authorized by this act  
20 may be recovered in a civil action in the nature of debt including an  
21 award of reasonable attorneys' fees as part of costs.

22 **SECTION 5.** Rates. – Chatham County shall establish annually at the time  
23 of the adoption of its annual budget the tax rate to be levied per square foot of dwelling  
24 space and per square foot of commercial building enclosed floor space for the ensuing  
25 fiscal year. Different tax rates may be established for different types of dwelling units  
26 and different types of commercial building enclosed floor space.

27 **SECTION 6.** Effect on Other Local Acts. – Chatham County may not adopt  
28 an ordinance pursuant to this act if any ordinance pertaining to a system of impact fees  
29 to provide for capital improvements to public schools within Chatham County, adopted  
30 pursuant to Sections 4 through 12.1 of Chapter 460 of the 1987 Session Laws, is in  
31 effect. Chatham County may repeal all or part of an ordinance pertaining to a system of  
32 impact fees to provide for capital improvements to public schools within Chatham  
33 County, adopted pursuant to Sections 4 through 12.1 of Chapter 460 of the 1987 Session  
34 Laws. With respect to an ordinance pertaining to a system of impact fees to provide for  
35 capital improvements to public schools within Chatham County, Chatham County may  
36 not adopt an ordinance pursuant to Sections 4 through 12.1 of Chapter 460 of the 1987  
37 Session Laws while an ordinance adopted pursuant to this act is in effect.

38 **SECTION 7.** Disclosure Requirements. – Whenever the sale of real property  
39 located in Chatham County involves new construction, the seller shall prepare and sign,  
40 and the buyer shall receive and sign, a disclosure statement. The disclosure statement  
41 shall either be included in a contract for sale or contained in a separate document  
42 executed prior to the execution of a sales contract. This disclosure statement shall fully  
43 and completely disclose that the owner of the property at the time an occupancy permit  
44 is issued for the new construction or, if no occupancy permit is issued, the date the new

1 construction is occupied, may be subject to a tax levied by the county on the impact of  
2 land development. If a seller fails to make this disclosure and the buyer suffers injury  
3 as a result of the seller's failure to disclose, the seller is liable to the buyer to the extent  
4 of the buyer's injury.

5 **SECTION 8.** This act is effective when it becomes law.