

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 843  
Committee Substitute Favorable 4/5/05

Short Title: Duplin Occupancy Tax.

(Local)

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Sponsors:

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Referred to:

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March 22, 2005

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE DUPLIN COUNTY TO LEVY AN ADDITIONAL  
ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 377 of the 1987 Session Laws reads as rewritten:

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

(a1) Authorization of additional tax. In addition to the tax authorized by subsection (a) of this section, the Duplin County Board of Commissioners may levy an additional room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection must be in accordance with the provisions of this section. Duplin County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

(a2) Administration. A tax levied under this section must be levied, administered, collected, and repealed as provided in G.S. 153A-155.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 section.

~~(b) Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by~~

1 the purchaser to the operator of the business as trustee for and on account of the county.  
2 The tax shall be added to the sales price and shall be passed on to the purchaser instead  
3 of being borne by the operator of the business. The county shall design, print, and  
4 furnish to all appropriate businesses and persons in the county the necessary forms for  
5 filing returns and instructions to ensure the full collection of the tax.

6 (e) Administration. The county shall administer a tax levied under this section. A  
7 tax levied under this section is due and payable to the county finance officer in monthly  
8 installments on or before the 15th day of the month following the month in which the  
9 tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or  
10 before the 15th day of each month, prepare and render a return on a form prescribed by  
11 the county. The return shall state the total gross receipts derived in the preceding month  
12 from rentals upon which the tax is levied.

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

15 (d) Penalties. A person, firm, corporation, or association who fails or refuses to  
16 file the return required by this section shall pay a penalty of ten dollars (\$10.00) for  
17 each day's omission. In case of failure or refusal to file the return or pay the tax for a  
18 period of thirty 30 days after the time required for filing the return or for paying the tax,  
19 there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in  
20 addition to any other penalty, with an additional tax of five percent (5%) for each  
21 additional month or fraction thereof until the tax is paid.

22 Any person who willfully attempts in any manner to evade a tax imposed under this  
23 section or who willfully fails to pay the tax or make and file a return shall, in addition to  
24 all other penalties provided by law, be guilty of a misdemeanor and shall be punishable  
25 by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six  
26 months, or both. The board of commissioners may, for good cause shown, compromise  
27 or forgive the penalties imposed by this subsection.

28 (e) Distribution and Use of tax revenue. Except as otherwise provided in this  
29 act, Duplin County may shall use the net proceeds of a tax levied under this section in  
30 accordance with this subsection. only It shall use at least two-thirds of the funds to  
31 promote travel and tourism in Duplin County and shall use the remainder for  
32 tourism-related expenditures.

33 The following definitions apply in this subsection:

- 34 (1) Net proceeds. – Gross proceeds less the cost to the county of  
35 administering and collecting the tax, as determined by the finance  
36 officer, not to exceed three percent (3%) of the first five hundred  
37 thousand dollars (\$500,000) of the gross proceeds collected each year  
38 and one percent (1%) of the remaining gross receipts collected each  
39 year.
- 40 (2) Promote travel and tourism. – To advertise or market an area or  
41 activity, publish and distribute pamphlets and other materials, conduct  
42 market research, or engage in similar promotional activities that attract  
43 tourists or business travelers to the area; the term includes  
44 administrative expenses incurred in engaging in the listed activities.

1           (3) Tourism-related expenditures. – Expenditures that, in the judgment of  
2           the Board of Commissioners, are designed to increase the use of  
3           lodging facilities, meeting facilities, or convention facilities in the  
4           county by attracting tourists or business travelers to the county. The  
5           term includes tourism-related capital expenditures.

6           ~~(f) Effective date of levy. A tax levied under this section shall become effective~~  
7           ~~on the date specified in the resolution levying the tax. That date must be the first day of~~  
8           ~~a calendar month, however, and may not be earlier than the first day of the second~~  
9           ~~month after the date the resolution is adopted.~~

10          ~~(g) Repeal. A tax levied under this section may be repealed by a resolution~~  
11          ~~adopted by the Duplin County Board of Commissioners. Repeal of a tax levied under~~  
12          ~~this section shall become effective on the first day of a month and may not become~~  
13          ~~effective until the end of the fiscal year in which the repeal resolution was adopted.~~  
14          ~~Repeal of a tax levied under this section does not affect a liability for a tax that was~~  
15          ~~attached before the effective date of the repeal, nor does it affect a right to a refund of a~~  
16          ~~tax that accrued before the effective date of the repeal.~~

17          "Section 1.1. Duplin County Tourism Development Authority. (a) Appointment  
18          and Membership. When the annual net proceeds of the occupancy tax exceed two  
19          hundred thousand dollars (\$200,000), the Duplin County Board of Commissioners shall  
20          adopt a resolution creating a county Tourism Development Authority, which shall be a  
21          public authority under the Local Government Budget and Fiscal Control Act. The  
22          resolution shall provide for the membership of the Authority, including the members'  
23          terms of office, and for the filing of vacancies on the Authority. At least one-third of the  
24          members must be individuals who are affiliated with businesses that collect the tax in  
25          the county, and at least three-fourths of the members must be individuals who are  
26          currently active in the promotion of travel and tourism in the county. The board of  
27          commissioners shall designate one member of the Authority as chair and shall  
28          determine the compensation, if any, to be paid to the members of the Authority.

29          The Authority shall meet at the call of the chair and shall adopt rules of procedure to  
30          govern its meetings. The Finance Officer for Duplin County shall be the ex officio  
31          finance officer of the Authority.

32          "Section 1.2. Duties. If the board of commissioners establishes a Tourism  
33          Development Authority as provided in Section 1.1 of this act, then Duplin County shall,  
34          on a quarterly basis, remit the net proceeds of the tax to the Tourism Development  
35          Authority. The Authority shall expend the net proceeds of the tax levied under this act  
36          for the purposes provided in Section 1 of this act.

37          "Section 1.3. Reports. If the board of commissioners establishes a Tourism  
38          Development Authority as provided in Section 1.1 of this act, then the Authority shall  
39          report quarterly and at the close of the fiscal year to the Duplin County Board of  
40          Commissioners on its receipts and expenditures for the preceding quarter and for the  
41          year in such detail as the board may require."

42                 SECTION 2. G.S. 153A-155(g) reads as rewritten:

43                 "§ 153A-155. Uniform provisions for room occupancy taxes.

1       (g) This section applies only to Alleghany, Anson, Brunswick, Buncombe,  
2 Cabarrus, Camden, Carteret, Craven, Cumberland, Currituck, Dare, Davie, Duplin,  
3 Durham, Granville, Madison, Montgomery, Nash, New Hanover, Pender, Person,  
4 Randolph, Richmond, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and  
5 Washington Counties, and to the Township of Averagesboro in Harnett County."

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