

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**SENATE BILL 339
Finance Committee Substitute Adopted 5/12/05
House Committee Substitute Favorable 7/28/05**

Short Title: Omnibus Occupancy Taxes-III.

(Local)

Sponsors:

Referred to:

March 3, 2005

A BILL TO BE ENTITLED

1 AN ACT AUTHORIZING THE TOWNS OF AHOSKIE AND ELKIN TO LEVY
2 ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAXES, CREATING
3 A TAXING DISTRICT IN OCRACOKE TOWNSHIP FOR THE PURPOSES OF
4 AUTHORIZING THE LEVY OF A ROOM OCCUPANCY AND TOURISM
5 DEVELOPMENT TAX, AMENDING THE ROOM OCCUPANCY AND
6 TOURISM DEVELOPMENT TAXES FOR THE COUNTIES OF CHOWAN AND
7 MARTIN, AND REENACTING THE OCCUPANCY TAX AMENDMENTS IN
8 CARTERET COUNTY.
9

10 The General Assembly of North Carolina enacts:

11 **PART I. TOWN OF AHOSKIE OCCUPANCY TAX.**

12 **SECTION 1.1.** Occupancy Tax. – (a) Authorization and Scope. – The
13 Ahoskie Town Council may levy a room occupancy tax of up to three percent (3%) of
14 the gross receipts derived from the rental of any room, lodging, or accommodation
15 furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is
16 subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in
17 addition to any State or local sales tax. This tax does not apply to accommodations
18 furnished by nonprofit charitable, educational, or religious organizations when
19 furnished in furtherance of their nonprofit purpose.

20 **SECTION 1.1.(b)** Administration. – A tax levied under this Part shall be
21 levied, administered, collected, and repealed as provided in G.S. 160A-215. The
22 penalties provided in G.S. 160A-215 apply to a tax levied under this section.

23 **SECTION 1.1.(c)** Distribution and Use of Tax Revenue. – The Town of
24 Ahoskie shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the
25 Town of Ahoskie Tourism Development Authority. The Authority shall use at least
26 two-thirds of the funds remitted to it under this subsection to promote travel and tourism
27 in the town and shall use the remainder for tourism-related expenditures.

28 The following definitions apply in this Part:

- 1 (1) Net proceeds. – Gross proceeds less the cost to the town of
2 administering and collecting the tax, as determined by the finance
3 officer, not to exceed three percent (3%) of the first five hundred
4 thousand dollars (\$500,000) of gross proceeds collected each year and
5 one percent (1%) of the remaining gross receipts collected each year.
- 6 (2) Promote travel and tourism. – To advertise or market an area or
7 activity, publish and distribute pamphlets and other materials, conduct
8 market research, or engage in similar promotional activities that attract
9 tourists or business travelers to the area. The term includes
10 administrative expenses incurred in engaging in the listed activities.
- 11 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
12 the Tourism Development Authority, are designed to increase the use
13 of lodging facilities, meeting facilities, or convention facilities in a
14 town or to attract tourists or business travelers to the town. The term
15 includes tourism-related capital expenditures.

16 **SECTION 1.2.** Town of Ahoskie Tourism Development Authority. – (a)
17 Appointment and Membership. – When the Ahoskie Town Council adopts a resolution
18 levying a room occupancy tax under this act, it shall also adopt a resolution creating a
19 town Tourism Development Authority, which shall be a public authority under the
20 Local Government Budget and Fiscal Control Act. The resolution shall provide for the
21 membership of the Authority, including the members' terms of office, and for the filling
22 of vacancies on the Authority. At least one-third of the members must be individuals
23 affiliated with businesses that collect the tax in the town, and at least one-half of the
24 members must be individuals currently active in the promotion of travel and tourism in
25 the town. The town council shall designate one member of the Authority as chair and
26 shall determine the compensation, if any, to be paid to members of the Authority.

27 The Authority shall meet at the call of the chair and shall adopt rules of
28 procedure to govern its meetings. The Finance Officer for the Town of Ahoskie shall be
29 the ex officio finance officer of the Authority.

30 **SECTION 1.2.(b)** Duties. – The Authority shall expend the net proceeds of
31 the tax levied under this Part for the purposes provided in this Part. The Authority shall
32 promote travel, tourism, and conventions in the town, sponsor tourist-related events and
33 activities in the town, and finance tourist-related capital projects in the town.

34 **SECTION 1.2.(c)** Reports. – The Authority shall report quarterly and at the
35 close of the fiscal year to the Ahoskie Town Council on its receipts and expenditures for
36 the preceding quarter and for the year in such detail as the town council may require.

37
38 **PART II. ELKIN OCCUPANCY TAX.**

39 **SECTION 2.1.** Occupancy Tax. – (a) Authorization and Scope. – The Elkin
40 Town Council may levy a room occupancy tax of up to six percent (6%) of the gross
41 receipts derived from the rental of any room, lodging, or accommodation furnished by a
42 hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales
43 tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State
44 or local sales tax. This tax does not apply to accommodations furnished by nonprofit

1 charitable, educational, or religious organizations when furnished in furtherance of their
2 nonprofit purpose.

3 **SECTION 2.1.(b)** Administration. – A tax levied under this Part shall be
4 levied, administered, collected, and repealed as provided in G.S. 160A-215. The
5 penalties provided in G.S. 160A-215 apply to a tax levied under this section.

6 **SECTION 2.1.(c)** Distribution and Use of Tax Revenue. – The Town of
7 Elkin shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Elkin
8 Tourism Development Authority. The Authority shall use at least two-thirds of the
9 funds remitted to it under this subsection to promote travel and tourism in Elkin and
10 shall use the remainder for tourism-related expenditures.

11 The following definitions apply in this Part:

- 12 (1) Net proceeds. – Gross proceeds less the cost to the town of
13 administering and collecting the tax, as determined by the finance
14 officer, not to exceed three percent (3%) of the first five hundred
15 thousand dollars (\$500,000) of gross proceeds collected each year and
16 one percent (1%) of the remaining gross receipts collected each year.
- 17 (2) Promote travel and tourism. – To advertise or market an area or
18 activity, publish and distribute pamphlets and other materials, conduct
19 market research, or engage in similar promotional activities that attract
20 tourists or business travelers to the area. The term includes
21 administrative expenses incurred in engaging in the listed activities.
- 22 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
23 the Tourism Development Authority, are designed to increase the use
24 of lodging facilities, meeting facilities, or convention facilities in a
25 town or to attract tourists or business travelers to the town. The term
26 includes tourism-related capital expenditures.

27 **SECTION 2.2.** Elkin Tourism Development Authority. – (a) Appointment
28 and Membership. – When the Elkin Town Council adopts a resolution levying a room
29 occupancy tax under this act, it shall also adopt a resolution creating a town Tourism
30 Development Authority, which shall be a public authority under the Local Government
31 Budget and Fiscal Control Act. The resolution shall provide for the membership of the
32 Authority, including the members' terms of office, and for the filling of vacancies on the
33 Authority. At least one-third of the members must be individuals affiliated with
34 businesses that collect the tax in the town, and at least one-half of the members must be
35 individuals currently active in the promotion of travel and tourism in the town. The
36 town council shall designate one member of the Authority as chair and shall determine
37 the compensation, if any, to be paid to members of the Authority.

38 The Authority shall meet at the call of the chair and shall adopt rules of
39 procedure to govern its meetings. The Finance Officer for Elkin shall be the ex officio
40 finance officer of the Authority.

41 **SECTION 2.2.(b)** Duties. – The Authority shall expend the net proceeds of
42 the tax levied under this Part for the purposes provided in this Part. The Authority shall
43 promote travel, tourism, and conventions in the town, sponsor tourist-related events and
44 activities in the town, and finance tourist-related capital projects in the town.

1 **SECTION 2.2.(c)** Reports. – The Authority shall report quarterly and at the
2 close of the fiscal year to the Elkin Town Council on its receipts and expenditures for
3 the preceding quarter and for the year in such detail as the town council may require.
4

5 **PART III. OCRACOKE OCCUPANCY TAX.**

6 **SECTION 3.1.** Occupancy Tax. – The Ocracoke Township Taxing District
7 is created. It is coterminous with Ocracoke Township in Hyde County. The Ocracoke
8 Township Taxing District is a body politic and corporate and has the power to carry out
9 the provisions of this Part. The Hyde County Board of Commissioners shall serve ex
10 officio as the governing body of the district, and the officers of the county shall serve as
11 the officers of the governing body of the district. A simple majority of the governing
12 body constitutes a quorum, and approval by a majority of those present is sufficient to
13 determine any matter before the governing body, if a quorum is present.

14 **SECTION 3.2.(a)** Authorization and Scope. – The governing body of
15 Ocracoke Township Taxing District may levy a room occupancy tax of up to two
16 percent (2%) of the gross receipts derived from the rental of any room, lodging, or
17 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within
18 the district that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).
19 This tax is in addition to any State or local sales or room occupancy tax. This tax does
20 not apply to accommodations furnished by nonprofit charitable, educational, or religious
21 organizations.

22 **SECTION 3.2.(b)** Administration. – A tax levied under this Part shall be
23 levied, administered, collected, and repealed as provided in G.S. 153A-155, as if it were
24 a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this act.

25 **SECTION 3.2.(c)** Distribution and Use of Tax Revenue. – Ocracoke
26 Township Taxing District shall, on a quarterly basis, distribute the net proceeds of the
27 occupancy tax to the Ocracoke Township Tourism Development Authority created
28 pursuant to Section 3.3 of this act. The Authority shall use at least two-thirds of the
29 proceeds distributed to it to promote travel and tourism in the district and shall use the
30 remainder for tourism-related expenditures in the district. In accordance with the North
31 Carolina Constitution and the United States Constitution, the tax proceeds may be used
32 only for the direct benefit of Ocracoke Township. None of the proceeds may be used to
33 promote travel or tourism in areas within Hyde County that are outside of the district or
34 for tourism-related expenditures in the county that are outside of the district.

35 The following definitions apply in this Part:

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

1 tourists or business travelers to the area. The term includes
2 administrative expenses incurred in engaging in the listed activities.

- 3 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
4 the Tourism Development Authority, are designed to increase the use
5 of lodging facilities, meeting facilities, or convention facilities in a
6 district or to attract tourists or business travelers to the district. The
7 term includes tourism-related capital expenditures.

8 **SECTION 3.3.(a)** Ocracoke Township Tourism Development Authority. –
9 Appointment and Membership. – The Board of Commissioners of Hyde County shall
10 adopt a resolution creating the Ocracoke Township Tourism Development Authority,
11 which shall be a public authority under the Local Government Budget and Fiscal
12 Control Act. The Tourism Development Authority shall have five members in addition
13 to the Finance Officer. The resolution shall provide for the membership of the
14 Authority, including the members' terms of office, and for the filling of vacancies on the
15 Authority. At least one-third of the members must be individuals affiliated with
16 businesses that collect the tax in the district, and at least one-half of the members must
17 be individuals currently active in the promotion of travel and tourism in the district. The
18 Board of Commissioners shall designate one member of the Authority as chair and shall
19 determine the compensation, if any, to be paid to members of the Authority.

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

23 **SECTION 3.3.(b)** Duties. – The Authority shall expend the net proceeds of
24 the tax levied under this Part for the purposes provided in Section 3.2 of this Part. The
25 Authority shall promote travel and tourism in the district and make tourism-related
26 expenditures in the district.

27 **SECTION 3.3.(c)** Reports. – The Authority shall report quarterly and at the
28 close of the fiscal year to the Hyde County Board of Commissioners on its receipts and
29 expenditures for the preceding quarter and for the year in such detail as the board may
30 require.

31 **PART IV. CHOWAN OCCUPANCY TAX.**

32 **SECTION 4.** S.L. 1989-174 reads as rewritten:

33 **"Section 1.** ~~Occupancy tax.~~ Tax. – (a) ~~Authorization and scope.~~ Scope. – The
34 Chowan County Board of Commissioners may ~~by resolution, after not less than 10 days'~~
35 ~~public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy
36 tax of three percent (3%) of the gross receipts derived from the rental of any room,
37 lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar
38 place within the county that is subject to sales tax imposed by the State under
39 ~~G.S. 105-164.4(3).~~ G.S. 105-164.4(a)(3). This tax is in addition to any State or local
40 sales tax. This tax does not apply to accommodations furnished by nonprofit charitable,
41 educational, or religious ~~organizations.~~ organizations when furnished in furtherance of
42 their nonprofit purpose.
43

1 (a1) Authorization of Additional Tax. – In addition to the tax authorized by
2 subsection (a) of this section, the Chowan County Board of Commissioners may levy an
3 additional room occupancy tax of up to two percent (2%) of the gross receipts derived
4 from the rental of accommodations taxable under subsection (a) of this section. The
5 levy, collection, administration, and repeal of the tax authorized by this subsection must
6 be in accordance with the provisions of this section. Chowan County may not levy a tax
7 under this subsection unless it also levies the tax authorized under subsection (a) of this
8 section.

9 ~~(b) Collection. Every operator of a business subject to the tax levied under this~~
10 ~~section shall, on and after the effective date of the levy of the tax, collect the tax. This~~
11 ~~tax shall be collected as part of the charge for furnishing a taxable accommodation. The~~
12 ~~tax shall be stated and charged separately from the sales records, and shall be paid by~~
13 ~~the purchaser to the operator of the business as trustee for and on account of the county.~~
14 ~~The tax shall be added to the sales price and shall be passed on to the purchaser instead~~
15 ~~of being borne by the operator of the business. The county shall design, print, and~~
16 ~~furnish to all appropriate businesses and persons in the county the necessary forms for~~
17 ~~filing returns and instructions to ensure the full collection of the tax. An operator of a~~
18 ~~business who collects the occupancy tax levied under this section may deduct from the~~
19 ~~amount remitted to the county a discount of three percent (3%) of the amount collected.~~

20 ~~(c) Administration. The county shall administer a tax levied under this section. A~~
21 ~~tax levied under this section 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~~
23 ~~tax 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 section is not a public record~~
28 ~~as defined by G.S. 132-1 and may not be disclosed except as required by law. A tax~~
29 ~~levied under this section shall be levied, administered, collected, and repealed as~~
30 ~~provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax~~
31 ~~levied in this section.~~

32 ~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to~~
33 ~~file the return required by this section shall pay a penalty of ten dollars (\$10.00) for~~
34 ~~each day's omission. In case of failure or refusal to file the return or pay the tax for a~~
35 ~~period of 30 days after the time required for filing the return or for paying the tax, there~~
36 ~~shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to~~
37 ~~any other penalty, with an additional tax of five percent (5%) for each additional month~~
38 ~~or fraction thereof until the tax is paid. The board of commissioners may, for good~~
39 ~~cause shown, compromise or forgive the penalties imposed by this subsection.~~

40 ~~Any person who willfully attempts in any manner to evade a tax imposed under this~~
41 ~~section or who willfully fails to pay the tax or make and file a return shall, in addition to~~
42 ~~all other penalties provided by law, be guilty of a misdemeanor and shall be punishable~~
43 ~~by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six~~
44 ~~months, or both.~~

1 (e) ~~Distribution and use of tax revenue.~~Use of Tax Revenue. – Chowan County
2 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Chowan
3 Tourism Development Authority. ~~The Authority may spend funds remitted to it under~~
4 ~~this subsection only to promote travel and tourism in Chowan County, to sponsor~~
5 ~~tourist-oriented events and activities in Chowan County, and to finance tourist-related~~
6 ~~capital projects in Chowan County. As used in this subsection, "net proceeds" means~~
7 ~~gross~~ The Authority shall use at least two-thirds of the funds remitted to it under this
8 section to promote travel and tourism in Chowan County and the remainder for
9 tourism-related expenditures.

10 The following definitions apply in this Part:

11 (1) Net proceeds. – Gross proceeds less the cost to the county of
12 administering and collecting the tax, as determined by the finance
13 ~~officer.~~officer, not to exceed three percent (3%) of the first five
14 hundred thousand dollars (\$500,000) of gross proceeds collected each
15 year and one percent (1%) of the remaining gross receipts collected
16 each year.

17 (2) Promote travel and tourism. – To advertise or market an area or
18 activity, publish and distribute pamphlets and other materials, conduct
19 market research, or engage in similar promotional activities that attract
20 tourists or business travelers to the area. The term includes
21 administrative expenses incurred in engaging in these activities.

22 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
23 the Authority, are designed to increase the use of lodging facilities,
24 meeting facilities, and convention facilities in a county by attracting
25 tourists or business travelers to the county. The term includes
26 tourism-related capital expenditures.

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

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

38 "Sec. 2. Tourism Development Authority. – (a) Appointment and
39 ~~membership.~~Membership. – When the board of commissioners adopts a resolution
40 levying a room occupancy tax under this act, it shall also adopt a resolution creating a
41 county Tourism Development Authority, which shall be a public authority under the
42 Local Government Budget and Fiscal Control Act. ~~The resolution shall provide for the~~
43 ~~membership of the Authority including the members' qualifications and terms of office,~~
44 ~~and for the filling of vacancies on the Authority.~~At least one-third of the members must

1 be individuals affiliated with businesses that collect the tax in the county and at least
2 one-half must be individuals currently active in the promotion of travel and tourism in
3 the county. The board of commissioners shall designate one member of the Authority as
4 chair and shall determine the compensation, if any, to be paid to members of the
5 Authority.

6 The Authority shall meet at the call of the chair and shall adopt rules of procedure to
7 govern its meetings. The county shall serve as the fiscal agent of the Authority. The
8 Finance Officer for Chowan County shall be the ex officio finance officer of the
9 Authority.

10 (b) Duties. – The Authority shall expend the net proceeds of the tax levied under
11 this act for the purposes provided in Section 1 of this act. The Authority shall promote
12 travel, tourism, and conventions in the county, sponsor tourism-related events and
13 activities in the county, and finance tourism-related capital projects in the county.

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

17 "Sec. 3. This act is effective upon ratification."
18

19 **PART V. MARTIN OCCUPANCY TAX.**

20 **SECTION 5.** S.L. 1991-80 reads as rewritten:

21 "Section 1. Occupancy Tax. – (a) Authorization and ~~scope.~~ Scope. – The Martin
22 County Board of Commissioners may ~~by resolution, after not less than 10 days' public~~
23 ~~notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of up
24 to three percent (3%) of the gross receipts derived from the rental of any room, lodging,
25 or similar accommodation furnished by a hotel, motel, inn, tourist camp, or similar
26 place within the county that is subject to sales tax imposed by the State under
27 G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does
28 not apply to accommodations furnished by nonprofit charitable, educational, or religious
29 organizations, when furnished in furtherance of their nonprofit purpose, by summer
30 camps, or by businesses that offer to rent no more than five units.

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

39 (b) ~~Collection.~~ ~~Every operator of a business subject to the tax levied under this~~
40 ~~section shall, on and after the effective date of the levy of the tax, collect the tax. This~~
41 ~~tax shall be collected as part of the charge for furnishing a taxable accommodation. The~~
42 ~~tax shall be stated and charged separately from the sales records, and shall be paid by~~
43 ~~the purchaser to the operator of the business as trustee for and on account of the county.~~
44 ~~The tax shall be added to the sales price and shall be passed on to the purchaser instead~~

1 of being borne by the operator of the business. The county shall design, print, and
2 furnish to all appropriate businesses and persons in the county the necessary forms for
3 filing returns and instructions to ensure the full collection of the tax.

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

11 A return filed with the county finance officer under this section is not a public record
12 as defined by G.S. 132-1 and may not be disclosed except as required by law. A tax
13 levied under this section shall be levied, administered, collected, and repealed as
14 provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax
15 levied under this section.

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

25 Any person who willfully attempts in any manner to evade a tax imposed under this
26 section or who willfully fails to pay the tax or make and file a return shall, in addition to
27 all other penalties provided by law, be guilty of a misdemeanor and shall be punishable
28 by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six
29 months, or both.

30 (e) ~~Distribution and use~~Use of tax revenue.Tax Revenue. – Martin County shall,
31 on a ~~monthly~~quarterly basis, remit the net proceeds of the occupancy tax to the Martin
32 County Travel and Tourism Authority. ~~The Authority may spend funds remitted to it~~
33 ~~under this subsection only to further the development of travel and tourism and cultural,~~
34 ~~recreational, and historic activities in Martin County through advertising and promotion,~~
35 ~~to sponsor tourist oriented events and activities in Martin County, and to finance~~
36 ~~tourist related capital activities and projects in Martin County. As used in this~~
37 ~~subsection, "net proceeds" means gross~~ The Authority shall use at least two-thirds of the
38 funds remitted to it under this subsection to promote travel and tourism in Martin
39 County and shall use the remainder for tourism-related expenditures.

40 The following definitions apply in this Part:

- 41 (1) Net proceeds. – Gross proceeds less the cost to the county of
42 administering and collecting the tax, which may tax, as determined by
43 the finance officer, not to exceed three percent (3%) of the first five
44 hundred thousand dollars (\$500,000) of gross proceeds.

1 collected each year and one percent (1%) of the remaining gross
2 receipts collected each year.

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

8 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
9 the Tourism Development Authority, are designed to increase the use
10 of lodging facilities, meeting facilities, or convention facilities in a
11 county or to attract tourists or business travelers to the county. The
12 term includes tourism-related capital expenditures.

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

17 ~~(g) Repeal. A tax levied under this section may be repealed by a resolution~~
18 ~~adopted by the Martin County Board of Commissioners. Repeal of a tax levied under~~
19 ~~this section shall become effective on the first day of a month and may not become~~
20 ~~effective until the end of the fiscal year in which the repeal resolution was adopted.~~
21 ~~Repeal of a tax levied under this section does not affect a liability for a tax that was~~
22 ~~attached before the effective date of the repeal, nor does it affect a right to a refund of a~~
23 ~~tax that accrued before the effective date of the repeal.~~

24 "Sec. 2. Martin County ~~Travel and Tourism~~ Development Authority. = (a)
25 Appointment and membership. ~~Membership.~~ – When the board of commissioners
26 adopts a resolution levying a room occupancy tax under this act, it shall also adopt a
27 resolution creating the Martin County ~~Travel and Tourism~~ Development Authority,
28 which shall be a public authority under the Local Government Budget and Fiscal
29 Control Act. The resolution shall provide that the Authority shall be composed of the
30 following 12 members:

31 (1) A Martin County Commissioner appointed by the Martin County
32 Board of Commissioners.

33 (2) Two owners or operators of restaurants, motels, hotels, or other taxable
34 accommodations in Martin County that have at least five units,
35 nominated by representatives of this industry, both to be appointed by
36 the Martin County Board of Commissioners.

37 (3) One member selected by the Martin County Chamber of Commerce to
38 be appointed by the Martin County Board of Commissioners.

39 (4) One member appointed by the Martin County Board of
40 Commissioners selected from the Martin County Economic
41 Development Commission.

42 (5) Five members, one appointed by each member of the Martin County
43 Board of Commissioners.

- 1 (6) One member appointed by the Martin County Board of
2 Commissioners selected from the Martin County Historical Society.
- 3 (7) One member appointed by the Martin County Board of
4 Commissioners selected from the Robersonville Downtown Merchants
5 Association.

6 The appointees shall be made from throughout the County by the Martin County
7 Board of Commissioners. At least one-third of the members must be individuals
8 affiliated with businesses that collect the tax in the county and at least one-half of the
9 members must be individuals currently active in the promotion of travel and tourism in
10 the county. All members of the Authority shall serve without compensation. Vacancies
11 shall be filled in the same manner as original appointments. Members appointed to fill
12 vacancies shall serve for the remainder of the unexpired term. The Authority shall elect
13 each year from its membership a Chair. No member may serve as Chair more than two
14 one-year terms in succession. The Authority shall meet at the call of the Chair or of any
15 three members and shall adopt rules of procedure to govern its meetings. The Finance
16 Officer for Martin County shall be the ex officio finance officer of the Authority.

17 (b) Terms of office. = Members of the Authority shall serve three-year terms
18 except that the Martin County Commissioner appointed pursuant to subdivision (a)(1)
19 shall be appointed yearly by the chairman of the board of commissioners and initial
20 appointees shall serve the following terms:

- 21 (1) The Martin County Commissioner appointed pursuant to subdivision
22 (a)(1): one year.
- 23 (2) One representative of the motel and restaurant industry appointed
24 pursuant to subdivision (a)(2): one year.
- 25 (3) One representative of the motel and restaurant industry appointed
26 pursuant to subdivision (a)(2): three years.
- 27 (4) The representative of the Martin County Chamber of Commerce
28 appointed pursuant to subdivision (a)(3): three years.
- 29 (5) The representative of the Martin County Economic Development
30 Commission appointed pursuant to subdivision (a)(4): two years.
- 31 (6) Three members appointed by Martin County Commissioners pursuant
32 to subdivision (a)(5): one year.
- 33 (7) Two representatives appointed by Martin County Commissioners
34 pursuant to subdivision (a)(5): three years.
- 35 (8) The representative of the Martin County Historical Society appointed
36 pursuant to subdivision (a)(6): two years.
- 37 (9) The representative of the Robersonville Downtown Merchants
38 Association appointed pursuant to subdivision (a)(7): three years.

39 (c) Limitation on terms. = No member of the Authority shall serve more than two
40 consecutive three-year terms.

41 ~~(d) Powers and duties. The Authority may contract with any person, firm, or~~
42 ~~agency to assist it in carrying out the purposes for which the tax proceeds levied by this~~
43 ~~act may be expended.~~ Duties. – The Authority shall expend the net proceeds of the tax
44 levied under this act for the purposes provided in this act. The Authority shall promote

1 travel, tourism, and conventions in the county, sponsor tourist-related events and
2 activities in the county, and finance tourist-related capital projects in the county. The
3 board of county commissioners may from time to time determine an appropriate
4 percentage not to exceed five percent (5%) of net proceeds that may be expended for
5 administrative services.

6 (e) Reports. – The Authority shall report quarterly and at the close of the fiscal
7 year to the board of commissioners on its receipts and expenditures for the preceding
8 quarter and for the year in such detail as the board may require.

9 ~~(f) Notwithstanding the provisions of this act, the board of commissioners may~~
10 ~~abolish the Martin County Travel and Tourism Authority and itself function and carry~~
11 ~~out the duties of the Authority provided in this act.~~

12 "Sec. 3. This act is effective upon ratification."
13

14 **PART VI. UNIFORM PROVISIONS.**

15 **SECTION 6.1.** G.S. 153A-155(g) reads as rewritten:

16 "(g) This section applies only to Alleghany, Anson, Brunswick, Buncombe,
17 Cabarrus, Camden, Carteret, Chowan, Craven, Cumberland, Currituck, Dare, Davie,
18 Duplin, Durham, Granville, Halifax, Madison, Martin, Montgomery, Nash, New
19 Hanover, Pasquotank, Pender, Person, Randolph, Richmond, Rowan, Scotland, Stanly,
20 Transylvania, Tyrrell, Vance, and Washington Counties, to Watauga County District U,
21 and to the Township of Averasboro in Harnett ~~County~~County and the Ocracoke
22 Township Taxing District."

23 **SECTION 6.2.** G.S. 160A-215(g) reads as rewritten:

24 "(g) This section applies only to Beech Mountain District W, to the Cities of
25 Elizabeth City, Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain,
26 Lexington, Lincolnton, Lumberton, Monroe, Mount Airy, Roanoke Rapids, Shelby,
27 Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain,
28 Blowing Rock, Carolina Beach, Carrboro, Elkin, Franklin, Kure Beach, Jonesville,
29 Mooresville, North Topsail Beach, Selma, Smithfield, St. Pauls, West Jefferson,
30 Wilkesboro, and Wrightsville Beach, and to the municipalities in Avery and Brunswick
31 Counties."
32

33 **PART VII. CARTERET OCCUPANCY TAX.**

34 **SECTION 7.** S.L. 2005-120 is reenacted.
35

36 **PART VIII. EFFECTIVE DATES.**

37 **SECTION 8.** This act is effective when it becomes law. Chowan and Martin
38 counties must ensure that the membership of the Tourism Development Authorities are
39 in compliance with the requirements of this act on or before January 1, 2006.