

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 1055
HOUSE BILL 1572

AN ACT AUTHORIZING CHEROKEE COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Levy of Tax.

(a) The Cherokee 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 and tourism development tax.

(b) Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of a calendar month set by the Cherokee County Board of Commissioners in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.

Sec. 2. Occupancy Tax.

(a) The county room occupancy and tourism development tax that may be levied under this act shall be a percentage of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar place within the county now subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(3). During the first year in which a tax levied under this act is in effect, the tax shall be three percent (3%) of the gross receipts derived from the rental of taxable accommodations in the county. Thereafter, the rate of tax shall continue to be three percent (3%) unless the Cherokee County Board of Commissioners, by resolution, adopts a rate of less than three percent (3%). A change in the occupancy tax rate adopted by the board of commissioners becomes effective the first day of the second succeeding calendar month following the date of adoption of the resolution. The Cherokee County Board of Commissioners may not change the occupancy tax rate more than once a year.

(b) The occupancy tax is in addition to any local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, benevolent, or religious organizations.

Sec. 3. Administration of Tax.

(a) Any tax levied under this act is due and payable to the county in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form

prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

(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) In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to the penalty prescribed in subsection (b), with an additional tax of five percent (5%) for each additional month or fraction thereof until the occupancy tax is paid.

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

Sec. 4. Collection of Tax. Every operator of a business subject to the tax levied pursuant to this act shall collect the tax on and after the effective date of the levy of the tax.

This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of Cherokee County. The room occupancy tax levied under this act shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.

Sec. 5. Disposition of Taxes Collected. Cherokee County shall remit the net proceeds of all revenues received from the room occupancy tax to the County Tourism Development Authority appointed pursuant to this act. "Net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax. The Authority may expend these funds only to further the development of travel, tourism, and conventions in the county through advertising and promotion.

Sec. 6. Appointment, Duties of Tourism Development Authority.

(a) When the Cherokee County Board of Commissioners adopts a resolution levying a room occupancy tax, it shall also adopt a resolution creating a County Tourism Development Authority composed of the director of the Cherokee County Chamber of Commerce and the following four members appointed by the Cherokee County Board of Commissioners:

- (1) an owner of a hotel, motel, or other accommodations subject to the tax levied by this act;
- (2) a member of the board of county commissioners;
- (3) a town commissioner or the mayor of the Town of Murphy; and
- (4) a town alderman or the mayor of the Town of Andrews.

The director of the Cherokee County Chamber of Commerce shall serve as an ex officio member of the Authority. The members appointed by the board of county commissioners shall serve three- year terms, except the initial appointees. Of the initial appointees, the board of commissioners shall designate one to serve a one-year term, two a two-year term, and one a three-year term. Vacancies created by an appointed member shall be filled by the board of commissioners. Members appointed to fill vacancies shall serve the remainder of the unexpired term for which they are appointed to fill.

(b) The members of the Tourism Development Authority shall elect from its membership a chairman. The Authority shall meet at the call of the chairman and shall adopt rules of procedure to govern its meetings. The finance officer of Cherokee County shall serve ex officio as accountant for the Authority.

(c) The Tourism Development Authority shall report quarterly and at the close of the fiscal year to the board of county commissioners on its receipts and disbursements for the preceding quarter and for the year in such detail as the board may require.

Sec. 7. Repeal of Levy.

(a) The board of county commissioners may by resolution repeal the levy of the room occupancy tax in Cherokee County, but no repeal of taxes levied under this act is effective until the end of the fiscal year in which the repeal resolution was adopted.

(b) No liability for any tax levied under this act that attached prior to the date on which a levy is repealed is discharged as a result of the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed may be denied as a result of the repeal.

Sec. 8. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1984.