

GENERAL ASSEMBLY OF NORTH CAROLINA  
1983 SESSION

CHAPTER 908  
HOUSE BILL 426

AN ACT TO AUTHORIZE COUNTIES TO LEVY ONE-HALF PERCENT SALES AND USE TAXES AND TO DESIGNATE HOW PART OF THE REVENUE FROM THESE TAXES SHALL BE USED, TO ALLOW CERTAIN CITIES TO SPEND SALES TAX REVENUE ON HOUSING, AND TO AUTHORIZE VARIOUS TRANSIENT OCCUPANCY TAXES.

The General Assembly of North Carolina enacts:

Part I. Local Sales and Use Taxes.

Section 1. Subchapter VIII of Chapter 105 of the General Statutes is amended by adding two new Articles to read:

"Article 40.

"Supplemental Local Government Sales and Use Taxes.

**"§ 105-480. Short title.**—This Article shall be known as the Supplemental Local Government Sales and Use Tax Act.

**"§ 105-481. Purpose and intent.**—It is the purpose of this Article to afford the counties and cities of this State an opportunity to obtain an added source of revenue with which to meet their growing financial needs, and to reduce their reliance on other revenues, such as the property tax, by providing all counties of the State that are subject to this Article with authority to levy one-half percent (1/2%) sales and use taxes.

**"§ 105-482. Limitations.**—This Article applies only to counties that levy one percent (1%) sales and use taxes under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws and do not levy one-half percent (1/2%) local sales and use taxes under Article 41 of this Chapter.

**"§ 105-483. Levy and collection of additional taxes.**—Any county subject to this Article may levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Article, the adoption, levy, collection, distribution, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to 'this Article' mean Article 40 of Chapter 105. All taxes levied pursuant to this Article shall be collected by the Secretary and may not be collected by a taxing county. The exemption for building materials in G.S. 105-468.1 does not apply to taxes levied under this Article.

**"§ 105-484. Form of ballot.**—(a) The form of the question to be presented on a ballot for a special election concerning the additional taxes authorized by this Article shall be:

'FOR additional one-half percent (1/2%) local sales and use taxes' or 'AGAINST additional one-half percent (1/2%) local sales and use taxes.'

(b) The form of the question to be presented on a ballot for a special election concerning the repeal of any additional taxes levied pursuant to this Article shall be: 'FOR repeal of the additional one-half percent (1/2%) local sales and use taxes' or 'AGAINST repeal of the additional one-half percent (1/2%) local sales and use taxes.'

**"§ 105-485. Retail collection bracket.**—The following bracket applies to collections by retailers in a county that levies additional sales and use taxes under this Article:

- (1) No amount on sales of less than 10c;
- (2) 1c on sales of 10c to 25c;
- (3) 2c on sales of 26c to 53c;
- (4) 3c on sales of 54c to 75c;
- (5) 4c on sales of 76c to 95c;
- (6) 5c on sales of 96c to \$1.22; and
- (7) Sales of over \$1.22 - straight four and one-half percent (4-1/2%) with major fractions governing.

**"§ 105-486. Distribution and use of additional taxes.**—The Secretary shall, on a quarterly basis, distribute the net proceeds of the additional one-half percent (1/2%) sales and use taxes levied under this Article to the taxing counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The amount distributed to a taxing county shall then be divided among the county and its municipalities in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. If any taxes levied under this Article by a county have not been collected in that county for a full quarter because of the levy or repeal of the taxes, the Secretary shall distribute a pro rata share to that county for that quarter based on the number of months the taxes were collected in that county during the quarter.

**"§ 105-487. Use of additional tax revenue by counties and municipalities.**—(a) Except as provided in subsection (c), forty percent (40%) of the revenue received by a county from additional one-half percent (1/2%) sales and use taxes levied under this Article during the first five fiscal years in which the additional taxes are in effect in the county and thirty percent (30%) of the revenue received by a county from these taxes in the second five fiscal years in which the taxes are in effect in the county may be used by the county only for public school capital outlay purposes or to retire any indebtedness incurred by the county for these purposes.

(b) Except as provided in subsection (c), forty percent (40%) of the revenue received by a municipality from additional one-half percent (1/2%) sales and use taxes levied under this Article during the first five fiscal years in which the additional taxes are in effect in the municipality and thirty percent (30%) of the revenue received by a municipality from these taxes in the second five fiscal years in which the taxes are in effect in the municipality may be used by the municipality only for water and sewage capital outlay purposes or to retire any indebtedness incurred by the municipality for these purposes.

(c) The Local Government Commission may, upon petition by a county or municipality, authorize a county or municipality to use part or all its tax revenue, otherwise required by subsection (a) or (b) to be used for public schools or water and sewage capital needs, for any lawful purpose. The petition shall be in the form prescribed by the Local Government Commission and shall demonstrate that the county or municipality can provide for its public school or water and sewage capital needs without restricting the use of part or all of the designated amount of the additional one-half percent (1/2%) sales and use tax revenue for these purposes.

In making its decision, the Local Government Commission may consider information from sources other than the petition. The Commission shall issue a written decision on each petition stating the findings of the Commission concerning the public school or water and sewage capital needs of the petitioning county or municipality and the percentage of revenue otherwise restricted by subsection (a) or (b) that may be used by the petitioning county or municipality for any lawful purpose.

Decisions of the Commission allowing counties or municipalities to use a percentage of their tax revenue that would otherwise be restricted under subsection (a) or (b) for any lawful purpose are final and shall continue in effect until the restrictions imposed by those subsections expire. A county or municipality whose petition is denied, in whole or in part, by the Commission may subsequently submit a new petition to the Commission.

(d) For purposes of determining the number of fiscal years in which one-half percent (1/2%) sales and use taxes levied under this Article have been in effect in a county or municipality, these taxes are considered to be in effect only from the effective date of the levy of these taxes and are considered to be in effect for a full fiscal year during the first year in which these taxes were in effect, regardless of the number of months in that year in which the taxes were actually in effect.

(e) A county or municipality may expend part or all of the revenue restricted for public school or water and sewage capital needs pursuant to subsections (a) and (b) in the fiscal year in which the revenue is received, or the county or municipality may place part or all of this revenue in a capital reserve fund and shall specifically identify this revenue in accordance with Chapter 159 of the General Statutes.

"Article 41.

"Alternative Local Government Sales and Use Taxes.

**"§ 105-488. Short title.**—This Article shall be known as the 'Alternative Local Government Sales and Use Tax Act.'

**"§ 105-489. Limitations.**—This Article applies only to counties that do not levy one percent (1%) sales and use taxes under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws.

**"§ 105-490. Levy and collection of taxes.**—Any county subject to this Article may levy one-half percent (1/2%) local sales and use taxes pursuant to the procedures established in G.S. 105-465 and G.S. 105-466 for the levy of one percent (1%) sales and use taxes authorized by Article 39 of this Chapter. Except as provided in this Article, the provisions of Article 39 of this Chapter apply to any one-half percent (1/2%) local sales and use taxes levied under this Article. In applying the provisions of Article 39 of this Chapter to this Article, references to 'this Article' mean Article 41 of Chapter 105. All

taxes levied pursuant to this Article shall be collected by the Secretary and may not be collected by a taxing county. The exemption for building materials in G.S. 105-468.1 does not apply to taxes levied under this Article.

**"§ 105-491. Form of ballot.**—(a) The form of the question to be presented on a ballot for a special election concerning the taxes authorized by this Article shall be: 'FOR one-half percent (1/2%) local sales and use taxes' or 'AGAINST one-half percent (1/2%) local sales and use taxes.'

(b) The form of the question to be presented on a ballot for a special election concerning the repeal of any taxes levied pursuant to this Article shall be: 'FOR repeal of the one-half percent (1/2%) local sales and use taxes' or 'AGAINST repeal of the one-half percent (1/2%) local sales and use taxes.'

**"§ 105-492. Retail collection bracket.**—The following bracket applies to collections by retailers in a county that levies sales and use taxes under this Article:

- (1) No amount on sales of less than 10c;
- (2) 1c on sales of 10c to 30c;
- (3) 2c on sales of 31c to 65c;
- (4) 3c on sales of 66c to 95c;
- (5) 4c on sales of 96c to \$1.28; and
- (6) Sales of over \$1.28 - straight three and one-half percent (3-1/2%) with major fractions governing.

**"§ 105-493. Distribution and use of taxes.**—The Secretary shall, on a quarterly basis, distribute the net proceeds of any one-half percent (1/2%) sales and use taxes levied under this Article in accordance with G.S. 105-486. For purposes of the distribution under G.S. 105-486, a county that levies one-half percent (1/2%) sales and use taxes under this Article is considered a taxing county under that section. To make the distribution required by G.S. 105-486 and this section, the Secretary shall add the net proceeds of local sales and use taxes levied under Article 40 of this Chapter and under this Article, and shall then distribute this amount to the taxing counties on a per capita basis as provided in G.S. 105-486. The amount distributed to a county that levies one-half percent (1/2%) sales and use taxes under this Article shall be divided among the county and its municipalities on either a per capita or an ad valorem tax basis, as designated by the board of county commissioners in a resolution adopted pursuant to G.S. 105-472. If any taxes levied under this Article by a county have not been collected in that county for a full quarter because of the levy or repeal of the taxes, the Secretary shall distribute a pro rata share to that county for that quarter based on the number of months the taxes were collected in that county during the quarter.

**"§ 105-494. Use of additional tax revenue by counties and municipalities.**—Sales and use tax revenue received by a county or municipality from one-half percent (1/2%) sales and use taxes levied under this Article are subject to the restrictions imposed by G.S. 105-487 on revenue received by counties and municipalities from one-half percent (1/2%) sales and use taxes levied under that Article."

Sec. 2. G.S. 159-6 is amended by adding a new subsection to read:

"(e) In addition to any other fees authorized by this section, the Commission may charge and collect fees for services rendered and expenses incurred in reviewing and

processing petitions of counties or cities concerning use of local sales and use tax revenue in accordance with G.S. 105-487(c)."

#### Part II. Repeal of Authority to Issue Clean Water Bonds.

Sec. 3. (a) Sections 4 and 5 of Chapter 993, Session Laws of 1981 are repealed, and no bonds may be issued under that act.

(b) Section 54 of Chapter 1282, Session Laws of 1981 (Regular Session 1982) is repealed.

#### Part III. Sales Tax Revenue for Housing.

Sec. 4. G.S. 160A-456(e) is rewritten to read:

"(e) A city council of a city with a population of at least seventy-five thousand may expend up to twenty percent (20%) of its annual sales and use tax revenue derived from one-half percent (1/2%) local sales and use taxes levied pursuant to Article 40 or 41 of Chapter 105 of the General Statutes for housing projects undertaken pursuant to Chapter 157 of the General Statutes, except that none of this revenue may be expended for rent subsidies. Otherwise, a city council of any city may not expend State or local tax revenue pursuant to this section for a purpose not expressly authorized by G.S. 160A-209 unless the issue is first submitted to a vote of the people as provided therein. The most recent annual estimates of population certified by the State Budget Officer shall be used to determine the population of a city under this subsection."

#### Part IV. Mecklenburg Occupancy Tax.

Sec. 5. It is the purpose and intent of this Part to provide Mecklenburg County the authority to levy a transient occupancy tax as hereinafter set forth.

Sec. 6. (a) Mecklenburg County is hereby authorized to impose and levy a tax not to exceed three percent (3%) of the gross receipts of any person, firm, corporation or association derived from the rental of any sleeping room or lodging furnished in any hotel, motel, or inn located in Mecklenburg County and subject to the three percent (3%) sales tax levied by the State of North Carolina. The tax shall not apply, however, to any room or rooms, lodging or accommodations supplied to the same person for a period of 90 continuous days or more. The tax shall also not apply to sleeping rooms or lodgings furnished by charitable, educational, benevolent or religious institutions or organizations not operated for profit.

(b) 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. 7. (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 Part 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 Part 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 such return or for paying such 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) hereof, 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, 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. 8. Mecklenburg County shall allocate the net proceeds collected as follows:

(a) Mecklenburg County shall retain from the gross proceeds of the tax collected an amount sufficient to pay its direct costs for administrative and collection expenses. "Net proceeds" shall mean gross proceeds less direct costs for administrative and collection expenses not to exceed three percent (3%).

(b) At least fifty percent (50%) of the first one million dollars (\$1,000,000) of net proceeds from the tax in a fiscal year, at least thirty-five percent (35%) of the second one million dollars (\$1,000,000) of net proceeds from the tax in a fiscal year, and at least twenty-five percent (25%) of the net proceeds in excess of two million dollars (\$2,000,000) from the tax in the fiscal year shall be allocated for activities and programs aiding and encouraging convention and visitor promotion. These amounts shall be transferred by Mecklenburg County to the City of Charlotte for allocation by the City of Charlotte for activities and programs aiding and encouraging convention and visitor promotion, and in so doing, the City of Charlotte shall be acting as agent for Mecklenburg County.

(c) The amount of net proceeds remaining after allocation of the sums for activities and programs aiding and encouraging convention and visitor promotion shall be allocated by Mecklenburg County among itself and each municipality in Mecklenburg County (presently Charlotte, Cornelius, Davidson, Huntersville, Matthews, Mint Hill and Pineville) using the following formula: the ratios of expenditures by the county and each municipality for acquiring, constructing, financing (including debt service), maintaining and operating convention centers, civic centers, performing arts centers, coliseums, auditoriums, and museums (including off-street parking facilities for use in conjunction therewith) and for visitor-related programs and activities including, but not limited to, museums and other art or cultural programs, events, or festivals as such bears to total county and municipal expenditures for such purposes. Such ratios shall be computed annually on the basis of the prior fiscal year's

expenditures. As to the municipalities, the maximum amount payable by Mecklenburg County to each municipality shall be the net proceeds collected from hotels, motels and inns located within the corporate limits of said municipality.

(d) The proceeds distributed and retained pursuant to subsection (c) may be expended by Mecklenburg County and the municipalities only for acquiring, constructing, financing (including debt service), maintaining and operating convention centers, civic centers, performing arts centers, coliseums, auditoriums, and museums (including off-street parking facilities for use in conjunction therewith) and for visitor-related programs and activities including, but not limited to, museums and other art or cultural programs, events, or festivals.

(e) Mecklenburg County shall distribute the amounts due each municipality by the 20th day of the month in which the tax is collected.

Sec. 9. Mecklenburg County and each municipality located within Mecklenburg County are hereby each individually authorized to contract with any person, agency, association or nonprofit corporation to undertake or carry out any of the activities and programs for which the tax proceeds levied by this act may be expended. Any contract entered into pursuant to this section shall contain provisions requiring an annual financial audit of any funds expended and a performance audit of contractual obligations.

#### Part V. Haywood Occupancy Tax.

Sec. 10. Levy of Tax. (a) The Haywood 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 Haywood 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. 11. Occupancy Tax. The county room occupancy and tourism development tax that may be levied under this Part shall be two percent (2%) 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). This 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. 12. Administration of Tax. (a) Any tax levied under this Part 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 Part 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 Part 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 punished by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment not to exceed six months, or both.

Sec. 13. Collection of Tax. Every operator of a business subject to the tax levied pursuant to this Part shall, on and after the effective date of the levy of the tax, collect the two percent (2%) room occupancy 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 Haywood County. It is the intent of this Part that the room occupancy tax levied by Haywood County shall be added to the sales price and that the tax 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. 14. Disposition of Taxes Collected. Haywood 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 Part. "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 State, national, and international advertising and promotion.

Sec. 15. Appointments, Duties of Tourism Development Authority. (a) When the Haywood County Board of Commissioners adopts a resolution levying a room occupancy tax pursuant to this Part, it shall also adopt a resolution creating a County Tourism Development Authority composed of nine voting members appointed as follows:

(1) three tourist-oriented business members appointed by the Board of Directors of the Maggie Valley Chamber of Commerce;

(2) three tourist-oriented business members appointed by the Board of Directors of the Haywood County Chamber of Commerce; and

(3) three tourist-oriented business members at large appointed by the Haywood County Board of Commissioners. Each Chamber's Board of Directors and the Board of County Commissioners shall designate one of its initial appointees to serve a one-year term, one to serve a two-year term, and one to serve a three-year term.

Thereafter, all members shall serve three-year terms. Vacancies shall be filled by the appointing authority of the member who created the vacancy. 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 Haywood 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. 16. Repeal of Levy. (a) The board of county commissioners may by resolution repeal the levy of the room occupancy tax in Haywood County, but no repeal of taxes levied under this Part shall be effective until the end of the fiscal year in which the repeal resolution was adopted.

(b) No liability for any tax levied under this Part 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.

#### Part VI. Buncombe Occupancy Tax.

Sec. 17. Levy of Tax. (a) The Board of Commissioners of Buncombe County 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 board of county 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. 18. Occupancy Tax. The county room occupancy and tourism development tax that may be levied under this Part shall be two percent (2%) 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). This tax is in addition to any local sales tax. This tax does not apply to gross receipts derived by the following entities from accommodations furnished by them:

- (1) religious organizations;
- (2) educational organization;
- (3) any business that offers to rent fewer than five units; and
- (4) summer camps.

Sec. 19. Administration of Tax. (a) Any tax levied under this Part 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 Part 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 Part 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 punished by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment not to exceed six months, or both.

Sec. 20. Collection of Tax. Every operator of a business subject to the tax levied by this Part shall, on and after the effective date of the levy of the tax, collect the two percent (2%) room occupancy 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 Buncombe County. The room occupancy tax levied pursuant to this Part 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 Buncombe County the necessary forms for filing returns and instructions to ensure the full collection of the tax.

Sec. 21. Disposition of Taxes Collected. (a) Buncombe County shall remit the net proceeds of the occupancy tax to the county Tourism Development Authority in Buncombe County. "Net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax.

(b) The Authority may expend any funds distributed to it pursuant to subsection (a) only to further the development of travel, tourism, and conventions in the county through State, national, and international advertising and promotion. The Authority may not use more than ten percent (10%) of the funds distributed to it pursuant to subsection (a) for administrative expenses of the Authority.

Sec. 22. Appointment, Duties of Tourism Development Authority. (a) When the board of county commissioners adopts a resolution levying a room occupancy tax pursuant to this Part, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act and shall be composed of the following nine members:

- (1) a county commissioner appointed by the board of county commissioners, who shall serve as an ex officio, nonvoting member;
- (2) a member of the Asheville City Council appointed by the board of county commissioners, who shall serve as an ex officio, nonvoting member;

- (3) four owners or operators of hotels, motels, or other taxable tourist accommodations, two of which own or operate hotels, motels, or other accommodations with more than 100 rental units, one of whom shall be appointed by the Asheville City Council and one by the board of county commissioners; and two of which own or operate hotels, motels, or other accommodations with 100 or fewer rental units, one of whom shall be appointed by the Asheville City Council and one by the board of county commissioners;
- (4) three individuals involved in the tourist business who have demonstrated an interest in tourist development and do not own or operate hotels, motels, or other taxable tourist accommodations, appointed as follows: one by the Asheville City Council, one by the Asheville Area Chamber of Commerce, and one by the board of county commissioners.

All members of the Authority shall serve without compensation. Vacancies in the Authority shall be filled by the appointing authority of the member creating the vacancy. Members appointed to fill vacancies shall serve for the remainder of the unexpired term for which they are appointed to fill. Members shall serve three-year terms, except the initial members who shall serve the following terms:

- (1) members appointed pursuant to subdivisions (1) and (2) above shall serve one-year terms;
- (2) of the members appointed pursuant to subdivision (3) above, one appointee of the city council and the board of commissioners shall serve a two-year term and one appointee of the city council and the board of commissioners shall serve a three-year term, as designated by the city council and board of county commissioners;
- (3) of the three members appointed pursuant to subdivision (4) above, the appointee of the Asheville City Council shall serve a one-year term, the appointee of the Asheville Area Chamber of Commerce shall serve a two-year term, and the appointee of the board of county commissioners shall serve a three-year term.

Members may serve no more than two consecutive terms. The members shall elect a chairman, who shall serve for a term of two years. The Authority shall meet at the call of the chairman and shall adopt rules of procedure to govern its meetings. The finance officer for Buncombe County shall be the ex officio finance officer of the Authority.

(b) The Tourism Development Authority may contract with any person, firm, or agency to advise and assist it in the promotion of travel, tourism, and conventions and may recommend to the board of county commissioners that county staff be employed for this advice and assistance. Any county staff employed under this Part shall be hired and supervised by the Tourism Development Authority, which shall pay the salaries and expenses of this staff.

(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

expenditures for the preceding quarter and for the year in such detail as the board may require.

Sec. 23. Repeal of Levy. (a) The board of county commissioners may by resolution repeal the levy of the room occupancy tax in Buncombe County, but no repeal of taxes levied under this Part shall be effective until the end of the fiscal year in which the repeal resolution was adopted.

(b) No liability for any tax levied under this Part that attached prior to the date on which a levy is repealed shall be 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 shall be denied as a result of the repeal.

#### Part VII. Forsyth Occupancy Tax.

Sec. 24. Levy of Tax. (a) The Board of Commissioners of Forsyth County 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 board of county 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. 25. Occupancy Tax. The county room occupancy and tourism development tax that may be levied under this Part shall be two percent (2%) 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). This tax is in addition to any local sales tax. This tax does not apply to gross receipts derived by the following entities from accommodations furnished by them:

- (1) religious organizations;
- (2) educational organizations;
- (3) any business that offers to rent fewer than five units; and
- (4) summer camps.

Sec. 26. Administration of Tax. (a) Any tax levied under this Part 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 Part 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 Part 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 punished by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment not to exceed six months, or both.

Sec. 27. Collection of Tax. Every operator of a business subject to the tax levied by this Part shall, on and after the effective date of the levy of the tax, collect the two percent (2%) room occupancy 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 Forsyth County. The room occupancy tax levied pursuant to this Part shall be added to the sales price and shall be passed onto the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses in Forsyth County the necessary forms for filing returns and instructions to ensure the full collection of the tax.

Sec. 28. Disposition of Taxes Collected. (a) Forsyth County shall remit the net proceeds of the occupancy tax to the county Tourism Development Authority in Forsyth County. "Net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax.

(b) The Authority may expend any funds distributed to it pursuant to subsection (a) only to further the development of travel, tourism, and conventions in the county through State, national, and international advertising and promotion. The Authority may not use more than ten percent (10%) of the funds distributed to it pursuant to subsection (a) for administrative expenses of the Authority.

Sec. 29. Appointment, Duties of Tourism Development Authority. (a) When the board of county commissioners adopts a resolution levying a room occupancy tax pursuant to this Part, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act and shall be composed of the following nine members:

- (1) a county commissioner appointed by the board of county commissioners, who shall serve as an ex officio, nonvoting member;
- (2) a member of the Winston-Salem City Council appointed by the board of county commissioners, who shall serve as an ex officio, nonvoting member;
- (3) four owners or operators of hotels, motels, or other taxable tourist accommodations, two of which own or operate hotels, motels, or other accommodations with more than 100 rental units, one of whom shall be appointed by the Winston-Salem City Council and one by the board of county commissioners; and two of which own or operate hotels, motels, or other accommodations with 100 or fewer rental units, one of whom shall be appointed by the Winston-Salem City Council and one by the board of county commissioners;
- (4) three individuals involved in the tourist business who have demonstrated an interest in tourist development and do not own or

operate hotels, motels, or other taxable tourist accommodations, appointed as follows: one by the Winston-Salem City Council, one by the Winston-Salem Area Chamber of Commerce, and one by the board of county commissioners.

All members of the Authority shall serve without compensation. Vacancies in the Authority shall be filled by the appointing authority of the member creating the vacancy. Members appointed to fill vacancies shall serve for the remainder of the unexpired term for which they are appointed to fill. Members shall serve three-year terms, except the initial members who shall serve the following terms:

- (1) members appointed pursuant to subdivisions (1) and (2) above shall serve one-year terms;
- (2) of the members appointed pursuant to subdivision (3) above, one appointee of the city council and the board of commissioners shall serve a two-year term and one appointee of the city council and the board of commissioners shall serve a three-year term, as designated by the city council and board of county commissioners;
- (3) of the three members appointed pursuant to subdivision (4) above, the appointee of the Winston-Salem City Council shall serve a one-year term, the appointee of the Winston-Salem Area Chamber of Commerce shall serve a two-year term, and the appointee of the board of county commissioners shall serve a three-year term.

Members may serve no more than two consecutive terms. The members shall elect a chairman, who shall serve for a term of two years. The Authority shall meet at the call of the chairman and shall adopt rules of procedure to govern its meetings. The finance officer for Forsyth County shall be the ex officio finance officer of the Authority.

(b) The Tourism Development Authority may contract with any person, firm, or agency to advise and assist it in the promotion of travel, tourism, and conventions and may recommend to the board of county commissioners that county staff be employed for this advice and assistance. Any county staff employed under this Part shall be hired and supervised by the Tourism Development Authority, which shall pay the salaries and expenses of this staff.

(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 expenditures for the preceding quarter and for the year in such detail as the board may require.

Sec. 30. Repeal of Levy. (a) The board of county commissioners may by resolution repeal the levy of the room occupancy tax in Forsyth County, but no repeal of taxes levied under this Part shall be effective until the end of the fiscal year in which the repeal resolution was adopted.

(b) No liability for any tax levied under this Part that attached prior to the date on which a levy is repealed shall be 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 shall be denied as a result of the repeal.

## Part VIII. New Hanover Occupancy Tax.

Sec. 31. Levy of Tax. (a) The New Hanover 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.

(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 New Hanover 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. 32. Occupancy Tax. The county room occupancy tax that may be levied under this Part shall be two percent (2%) 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 that is subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(3). This 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. 33. Administration of Tax. (a) Any tax levied under this Part 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 Part 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 Part 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 punished by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment not to exceed six months, or both.

Sec. 34. Collection of Tax. Every operator of a business subject to the tax levied by this Part shall, on and after the effective date of the levy of the tax, collect the two percent (2%) room occupancy tax provided by this Part.

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 New Hanover County. It is the intent of this Part that the room occupancy tax levied by New Hanover County shall be added to the sales price and that the tax 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. 35. Disposition of Taxes Collected. (a) New Hanover County shall, on a quarterly basis, distribute the net proceeds of the occupancy tax to the county and its municipalities in accordance with the method by which the one percent (1%) local sales and use taxes levied in the county pursuant to Article 39 of Chapter 105 of the General Statutes are distributed. "Net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax.

(b) All revenue received by New Hanover County or its municipalities from the room occupancy tax shall be used as follows:

- (1) eighty percent (80%) of the revenue shall be used to control beach erosion; and
- (2) twenty percent (20%) of the revenue shall be used to promote travel and tourism, except that none of this revenue may be used to plan, construct, operate, maintain, or in any way promote a civic center, convention center, public auditorium, or like facility.

The purposes for which revenue from the room occupancy tax may be used by the county and its municipalities may be changed only by resolution of the New Hanover Board of County Commissioners after being approved by a majority of the votes cast in an election held in New Hanover County on the question of how revenue from the room occupancy tax should be used. The ballot presented to the qualified voters of the county in an election concerning the use of revenue from the room occupancy tax shall state all the proposed uses of this revenue and the percentage of the revenue to be used for each purpose. Any change in use of revenue from the room occupancy tax made by the county commissioners after voter approval may likewise be changed only by resolution of the county commissioners after being approved by the voters in another election.

The question of how revenue from the room occupancy tax should be spent may be submitted to the qualified voters of the county only in a statewide general election. All elections under this section shall be conducted in accordance with the laws then governing elections in this State.

Sec. 36. Repeal of Levy. (a) The board of commissioners may by resolution repeal the levy of the room occupancy tax in New Hanover County, but no repeal of taxes levied under this Part shall be effective until the end of the fiscal year in which the repeal resolution was adopted.

(b) No liability for any tax levied under this Part 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.

#### Part IX. City Occupancy Taxes.

Sec. 37. The governing body of a city may by resolution levy a tax on the gross receipts from the rental of accommodations within the corporate limits of the city, not to exceed three percent (3%). This tax applies to the rental of accommodations subject to sales tax under G.S. 105-164.4(3) and to the rental of all private residences and cottages, regardless whether the residence or cottage is rented for less than 15 days.

Sec. 38. The city tax collector shall collect and administer the occupancy tax levied by the governing body of the city pursuant to this Part. The governing body of the city may adopt rules as needed by the tax collector to implement this Part.

Sec. 39. Every owner of a business subject to the tax levied by this Part shall, on and after the first day of the calendar month set by the governing body in the resolution levying the tax, collect the occupancy tax provided by this Part. 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 owner of the business as trustee for and on account of the city. The occupancy tax levied under this Part shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the owner of the business. The city tax collector shall design, print, and furnish to all appropriate businesses in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. Every person liable for the tax imposed pursuant to this Part shall, on or before the 15th day of each month, prepare and submit a return on the prescribed form stating the total gross receipts derived during the preceding month from rentals upon which the tax is levied. The tax shall be due and payable to the tax collector on a monthly basis.

Any person who fails or refuses to file the return required by this Part shall pay a penalty of ten dollars (\$10.00) for each day's omission. In addition, any person who refuses 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 shall pay a penalty of five percent (5%) of the tax due. An additional penalty of five percent (5%) shall be imposed for each additional month or fraction thereof in which the occupancy tax is not paid.

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

Sec. 40. The tax collector shall remit the proceeds of this tax to the city on a monthly basis. The funds received by the city pursuant to this Part shall be allocated to a special fund and used only for tourism-related expenditures. As used in this act, the term "tourism-related expenditures" includes the following types of expenditures: criminal justice system, fire protection, public facilities and utilities, health facilities, solid waste and sewage treatment, and the control and repair of water front erosion. These funds may not be used for services normally provided by the city on behalf of its citizens unless these services promote tourism and enlarge its economic benefits by enhancing the ability of the city to attract and provide for tourists.

Sec. 41. The city tax collector may collect any unpaid taxes levied under this Part through the use of attachment and garnishment proceedings as provided in G.S. 105-368 for collection of property taxes. The city tax collector has the same enforcement powers concerning the tax imposed by this act as does the Secretary of Revenue in enforcing the State sales tax under G.S. 105-164.30.

Sec. 42. The governing body of a city may by resolution repeal the levy of the occupancy tax authorized by this Part. No liability for any tax levied under this Part

that attached prior to the date on which a levy is repealed is discharged by the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed shall be denied as a result of the repeal.

Sec. 43. The definitions set forth in G.S. 105-164.3 apply to this Part insofar as those definitions are not inconsistent with this Part.

Sec. 44. This Part applies only to the Town of Ocean Isle Beach, the Town of Topsail Beach, and Surf City.

#### Part X. Effective Dates.

Sec. 45. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.