

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 850
HOUSE BILL 606

AN ACT TO AUTHORIZE WAKE COUNTY AND THE CITY OF RALEIGH TO
LEVY OCCUPANCY TAXES.

The General Assembly of North Carolina enacts:

Section 1. Wake occupancy tax. (a) Authorization and Scope. The Wake County Board of Commissioners may, by resolution, levy a room occupancy tax of no more than three percent (3%) of the gross receipts derived from the rental in Wake County of any room, lodging, or similar accommodation subject to sales tax under G.S. 105-164.4(3).

This tax does not apply to accommodations furnished by nonprofit charitable, educational, benevolent, or religious organizations when furnished in furtherance of their nonprofit purpose. This tax is in addition to any State or local sales tax.

(b) Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately on the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of Wake County. The tax 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 Wake County Tax Collector shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.

An operator of a business who collects the occupancy tax levied under this section may deduct from the amount remitted by him to the county a discount of one percent (1%) of the amount collected as reimbursement for the expenses incurred in collecting the tax.

(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county tax collector 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 and sales upon which the tax is levied.

(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars (\$10.00) for each day's omission. 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 any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid.

Any person who willfully attempts in any manner to evade a tax imposed under this section or 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) and imprisonment not to exceed six months.

(e) Use and Distribution of Tax Revenue. Wake County shall distribute the net proceeds of the occupancy tax as follows:

(1) The first one million dollars (\$1,000,000) of net proceeds from the tax in each fiscal year shall be transferred by the county to the Convention and Visitor Bureau established pursuant to this act for use by the Bureau for activities and programs aiding and encouraging convention and visitor promotion.

(2) The remaining net proceeds shall be distributed, on a quarterly basis, between the county and the incorporated towns and cities located in the county in proportion to the amount of occupancy tax revenue collected from each during the quarter for which the distribution is being made. Amounts retained by the county or distributed to a town or city under this subdivision may be used only to acquire, construct, finance, service debt for, maintain, and operate convention centers, civic centers, performing arts centers, coliseums, auditoriums, and museums; provide off-street parking facilities for use in conjunction with these facilities; and to fund visitor-related programs and activities, including cultural programs, events, or festivals, and convention and visitor programs and activities of the Convention and Visitor Bureau.

The county, or a town or city that receives revenue under this subsection may contract with a nonprofit organization to undertake or carry out the activities and programs for which the revenue may be expended. All contracts entered into with nonprofit organizations shall require an annual financial audit of any funds expended and a performance audit of contractual obligations.

As used in this subsection, "net proceeds" means gross proceeds less the direct cost to the county of administering and collecting the tax, not to exceed three percent (3%) of the amount collected.

(f) Bureau Established. When the board of county commissioners adopts a resolution levying an occupancy tax, the City of Raleigh shall take immediate action to adopt an ordinance establishing the Raleigh Convention and Visitor Bureau. The Bureau shall be governed by a Board of Directors consisting of 11 members appointed by the Raleigh City Council as follows:

(1) Six owners or operators of hotels, motels, or other taxable accommodations, one of whom shall be selected by the board of county commissioners from a list of at least 10 nominees furnished by the Raleigh Hotel and Motel Association, Incorporated, and five of whom shall be selected by the Raleigh City Council from the same list

of nominees furnished by the Raleigh Hotel and Motel Association to the county commissioners.

- (2) Two individuals who are directly involved in a tourist or convention-related business but do not own or operate a hotel, motel, or other taxable accommodation, selected by the Raleigh City Council.
- (3) A resident of Raleigh, selected by the Raleigh City Council, and a resident of Wake County but not of Raleigh, selected by the board of county commissioners, neither of whom is directly involved in a tourist or convention-related business or owns or operates a hotel, motel, or other taxable accommodation.
- (4) One individual who is a member of the Greater Raleigh Chamber of Commerce, selected by the Chairman of the Board of Directors of the Greater Raleigh Chamber of Commerce.

Members shall be appointed by the City of Raleigh and shall serve according to the ordinances and regulations of the city concerning service on city boards and commissions.

(g) Powers and Duties of Bureau. The Raleigh Convention and Visitor Bureau may contract with any person, firm, or agency to advise and assist it in the promotion of travel, tourism, and conventions. The Bureau shall prepare an annual budget based on anticipated revenues and shall submit the budget to the Raleigh City Manager for processing and approval through the regular budget procedure of the city. The Bureau shall make quarterly reports to the Raleigh City Council detailing its revenues, expenditures, and activities. The city may audit the Bureau's financial records upon reasonable notice to the Bureau. At the end of each fiscal year, any funds of the Bureau not expended, or obligated or reserved as approved by the Raleigh City Council, shall be remitted to the City of Raleigh for use in accordance with subdivision (e) (2).

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

Sec. 2. Raleigh occupancy tax. (a) Authorization; Scope; Administration. If the Wake County Board of Commissioners has not levied the tax authorized by Section 1 of this act or has levied the tax at a rate of less than three percent (3%), the Raleigh City Council may, by ordinance, levy a room occupancy tax at a rate that does not exceed three percent (3%) when combined with the Wake County occupancy tax rate, if any.

This tax shall apply to the same accommodations that are taxable under Section 1 of this act and shall be collected and administered in the same manner as the tax authorized by that section, unless this section specifies otherwise. In applying the provisions of Section 1 to a tax levied by the Raleigh City Council under this section, however, all references in Section 1 to Wake County or an official of Wake County

shall be construed to mean the City of Raleigh and the city counterpart to the county official. Accordingly, the Raleigh Tax Collector shall collect an occupancy tax levied by the city.

(b) Distribution of Revenue. The net proceeds of a tax levied under this section shall be distributed as follows:

- (1) The first one million dollars (\$1,000,000) of net proceeds from the tax in each fiscal year shall be transferred by the city to the Convention and Visitor Bureau established pursuant to this act for use by the Bureau for activities and programs aiding and encouraging convention and visitor promotion.
- (2) The remaining net proceeds shall be retained by the city and used only to acquire, construct, finance, service debt for, maintain, and operate convention centers, civic centers, performing arts centers, coliseums, auditoriums, and museums; provide off-street parking facilities for use in conjunction with these facilities; and to fund visitor-related programs and activities, including cultural programs, events, or festivals, and convention and visitor programs and activities of the Convention and Visitor Bureau.

(c) Bureau Membership. If Wake County has not levied an occupancy tax under Section 1, the City of Raleigh's resolution levying the occupancy tax shall establish the Raleigh Convention and Visitor Bureau. The membership, selection, and appointment of the Board of Directors of the Raleigh Convention and Visitor Bureau shall be the same as stated in subsection (f) of Section 1, except that the membership shall be reduced by two by deleting the two members selected by the board of county commissioners. To replace these members, the Raleigh City Council may add two at-large members to the Board of Directors of the Bureau.

Sec. 3. Effect of county tax on previously levied city tax. If the City of Raleigh levies an occupancy tax under Section 2 of this act, and the Wake County Board of Commissioners subsequently adopts a resolution levying an occupancy tax in Wake County under Section 1 of this act, the occupancy tax levied by the City of Raleigh shall be repealed as of the effective date of the county levy if the county levies an occupancy tax at the rate of three percent (3%), and shall be reduced by the amount that the combined county and city occupancy tax rates exceed three percent (3%) if the county rate is less than three percent (3%), and the Convention and Visitor Bureau membership shall be increased or changed to conform to Section 1(f) from and after the effective date of the county levy.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.