

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 721
HOUSE BILL 1135

AN ACT TO REPEAL THE STATUTE THAT NAMED "NEW ROAD" IN CRAVEN COUNTY, TO AUTHORIZE CRAVEN COUNTY TO LEVY AN ADDITIONAL ROOM OCCUPANCY TAX, AND TO REVISE THE EXISTING CRAVEN COUNTY ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

Section 1. Chapter 378 of the 1991 Session Laws is repealed.

Sec. 2. Chapter 980 of the 1983 Session Laws, as amended by Chapter 710 of the 1985 Session Laws, reads as rewritten:

"AN ACT TO ALLOW CRAVEN COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

"Section 1. Levy of Tax. —(a) The Board of Commissioners of Craven 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. 2. —Rate of Tax. The room occupancy and tourism development tax that may be levied under Section 1 of this act shall be three percent (3%) 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 enterprise within the county now subject to the three percent (3%) sales tax imposed by the State under G.S. ~~105-164.4(3)~~. 105-164.4(a)(3). This tax is in addition to any local sales tax.

"Sec. 2.1. Additional Occupancy Tax. — In addition to the tax authorized by Section 1 of this act, the Craven County Board of Commissioners may levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any accommodations taxable under Section 1 of this act. The levy, collection, administration, and repeal of the tax authorized by this section shall be in accordance with the provisions of this act. Craven County may not levy a tax under this section unless it also levies the tax under Section 1 of this act.

"Sec. 3. —Exemptions. The tax authorized by this act does not apply to gross receipts derived by the following entities from accommodations furnished by them:

- (1) religious organizations;
- (2) a business that offers to rent fewer than five units;
- (3) educational organizations; and

(4) summer camps.

"Sec. 4. Administration of Tax. —(a) Returns. — 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 Craven County. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. An operator of a business who collects the occupancy tax levied under this act may deduct from the amount remitted to the county a discount equal to the discount the State allows the operator for State sales and use tax.

The county shall design, print, and furnish to all affected businesses in Craven County the necessary forms for filing returns and instructions to ensure the collection of the tax. A return filed with the county tax collector under this act is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

(b) Penalties. — A person, firm, corporation, or association who fails or refuses to file the return or pay the tax required by this act is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The Craven County Board of Commissioners has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes. Any person, firm, corporation, or association failing or refusing 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 tax imposed by this act or to make a return 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), imprisonment not to exceed six months, or both.

"Sec. 5. Collection of Tax. — Every operator of a business subject to the tax levied by this act shall, on and after the effective date of the levy of the tax, collect the ~~three percent (3%)~~ 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 Craven County. The tax levied pursuant to 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 affected businesses in Craven County the necessary forms for filing returns and instructions to ensure the collection of the tax.

~~"Sec. 6. Disposition of Taxes Collected. – (a) 'Net Proceeds' Defined. – Craven County shall remit the net proceeds of the occupancy tax to the Craven County Tourism Development Authority. "Net~~ As used in this act, the term 'net proceeds' means gross proceeds less the cost to the county of administering and collecting the tax, not to exceed three percent (3%) of the gross proceeds of the tax.

(a1) Tax Levied Under Section 1. – Craven County shall remit the net proceeds of the occupancy tax levied under Section 1 of this act to the Craven County Tourism Development Authority. The County Tourism Development Authority shall allocate the occupancy tax revenue remitted to it for the following purposes:

- (1) Direct advertising costs for visitor promotions, conventions, or tourism, including outdoor advertising, print media, broadcast media, and brochures;
- (2) Marketing and promotions expenses, including test market programs, consultant fees, entertainment, housing expenses, travel expenses, and registration fees;
- (3) Operating expenses for the Visitor Information Center, including postage, telephone, supplies, dues, subscriptions, equipment, rent, and overhead allocation;
- (4) Salaries, benefits, and expenses for Visitor Information Center personnel; and
- (5) Other expenses that aid and encourage visitor promotions, conventions, or tourism.

~~Thirty-five~~ Effective until June 30, 2013, thirty-five percent (35%) of the net proceeds in excess of one hundred thousand dollars (\$100,000) remitted to the Authority in a calendar pursuant to this subsection in a fiscal year shall be allocated to the funding of museums, meeting facilities, civic centers, parking facilities, or other projects specifically intended primarily for visitor, tourist, or convention programs, projects, and activities. Room Tax Trust Fund created pursuant to subsection (c) of this section.

(b) Authority May Contract. – The County Tourism Development Authority may contract with appropriate organizations or agencies to assist it in carrying out the above purposes. purposes provided in this section.

(c) Tax Levied Under Section 2.1. – Craven County shall credit the net proceeds of the tax levied under Section 2.1 of this act to a separate Room Tax Trust Fund. Monies in the Room Tax Trust Fund may be used only to construct, maintain, operate, or market a convention or meeting facility in New Bern and a tourist center in Havelock. Any monies distributed to the City of New Bern or the City of Havelock from the Room Tax Trust Fund shall be maintained in and disbursed from a separate trust fund within the respective city's organizational chart of accounts.

"Sec. 7. Appointment, Duties of Tourism Development Authority. – (a) When the board of county commissioners adopts a resolution levying a room occupancy tax pursuant to this act, 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 members:

- (1) One county commissioner appointed by the Board of Commissioners of Craven County;
- (2) After the first full year of collections under this act, one person appointed by the governing board of each municipality from which, during the previous 12-month period, at least ten percent (10%) of the gross proceeds of the occupancy tax were collected;
- (3) One person representing motel operators, appointed by the board of commissioners;
- (4) One person with demonstrated interest in and support of tourism development, appointed by the New Bern-Craven Chamber of Commerce;
- (4a) One person with demonstrated interest in and support of tourism development, appointed by the Havelock Chamber of Commerce;
- (5) One person representing Tryon Palace Complex, appointed by the Tryon Palace Commission;
- (6) Two at-large members with a demonstrated interest in conventions and tourism development, appointed by the other members of the Authority; ~~and~~
- (7) The finance officer of Craven County, who shall serve as a nonvoting, ex officio ~~member-member~~; ~~and~~
- (8) The Executive Director of the Authority, who shall serve as a nonvoting, ex officio member.

(b) 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 (a)(1) and (a)(2) shall serve a one-year term;
- (2) Members appointed pursuant to subdivisions (a)(3) and (a)(4) shall serve a two-year term; and
- (3) Members appointed pursuant to subdivisions (a)(5) and (a)(6) shall serve a three-year term.

(c) A member appointed under subdivision (a)(2) shall serve his full term, regardless whether, during a 12-month period of his term, the percentage of the gross proceeds of the occupancy tax that are collected from the municipality he represents is less than ten percent (10%).

(d) Members may serve no more than two consecutive three-year terms. The members shall elect a chairman, who shall serve for a term ~~of two years~~. established in the bylaws of the Authority. The Authority shall meet at the call of the chairman and shall adopt rules of procedure to govern its meetings. The finance officer for Craven County shall be the ex officio finance officer of the Authority.

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

"Sec. 8. Repeal of Levy. —(a) The board of county commissioners may by resolution repeal the levy of the room occupancy tax ~~in Craven County, authorized in Section 1 of this act,~~ but ~~no~~ the repeal of taxes levied under Section 1 of this act shall ~~be~~ not become effective until the end of the fiscal year in which the ~~repeal~~-resolution was adopted.

(a1) The board of county commissioners may by resolution repeal the levy of the room occupancy tax authorized in Section 2.1 of this act, but the repeal of taxes levied under Section 2.1 of this act shall not become effective until the later of June 30, 2018, or the end of the fiscal year in which the 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. 9. This act is effective upon ratification."

Sec. 3. This act is effective upon ratification. Section 2 of this act applies to taxes collected on or after the effective date of a tax levied under Section 2.1 of Chapter 980 of the 1983 Session Laws, as amended by Section 2 of this act.

In the General Assembly read three times and ratified this the 21st day of June, 1996.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives