

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-361
SENATE BILL 585

AN ACT TO AUTHORIZE THE CITY OF LUMBERTON TO LEVY AN ADDITIONAL, TEMPORARY ROOM OCCUPANCY TAX, TO MODIFY THE PURPOSES FOR WHICH THE LUMBERTON ROOM OCCUPANCY TAX CAN BE USED, AND TO AUTHORIZE THE CITY OF SHELBY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Part IX of Chapter 908 of the 1983 Session Laws, as amended by Chapter 1028 of the 1983 Session Laws and Chapter 935 of the 1987 Session Laws, as it relates to the City of Lumberton only, is recodified and rewritten as Section 2 of this act.

Section 2. Lumberton Occupancy Tax. (a) Authorization and scope. The Lumberton City Council may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax.

(b) Authorization of additional tax. In addition to the tax authorized by subsection (a) of this section, the Lumberton City Council may levy an additional room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a). The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. The Lumberton City Council may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section. The authorization to levy this tax expires August 1, 2000.

(c) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

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

(d) Distribution and use of first three percent (3%) tax revenue. The City of Lumberton shall, on a quarterly basis, remit the net proceeds of the first three percent

(3%) occupancy tax authorized in subsection (a) of this section to the Lumberton Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Lumberton and shall use the remainder for tourism-related expenditures. Of the funds designated for tourism-related expenditures, the Authority shall remit the first one hundred fifteen thousand dollars (\$115,000) to the Carolina Civic Center Foundation, Inc., for tourism-related expenditures. The Authority may use no more than twenty-three percent (23%) of the funds remitted to it under this subsection for salaries in carrying out these purposes and may use no more than ten percent (10%) of the funds remitted to it under this subsection for other administrative costs in carrying out these purposes.

(e) Distribution and use of additional three percent (3%) tax revenue. The City of Lumberton shall use the net proceeds of the additional tax authorized in subsection (b) of this section for tourism-related expenditures and other public purposes.

(f) The following definitions apply in this section:

- (1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed four percent (4%) of the gross proceeds.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a city by attracting tourists or business travelers to the city. The term includes tourism-related capital expenditures.

Section 3. Lumberton Tourism Development Authority. (a) Appointment and membership. When the Lumberton City Council adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a city Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the members' terms of office and for the filling of vacancies on the Authority.

The Authority shall have eight members appointed by the city council and two ex officio, nonvoting members, as follows:

- (1) Four individuals who own or operate a hotel or motel in the city.
- (2) Four individuals who are currently active in the promotion of travel and tourism in the city.
- (3) The Finance Officer for Lumberton, to serve ex officio.
- (4) A member of the Lumberton City Council, designated by the city council, to serve ex officio.

The Lumberton City Council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings.

(b) Duties. The Authority shall expend the net proceeds of the tax levied under Section 2 of this act for the purposes provided in Section 2 of this act. The Authority shall promote travel, tourism, and conventions in the city, sponsor tourist-related events and activities in the city, and finance tourist-related capital projects in the city.

(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Lumberton City Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the Lumberton City Council may require.

Section 4. Uniform City Occupancy Tax Provisions. (a) Article 9 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-215. Uniform provisions for room occupancy taxes.

(a) Scope. – This section applies only to municipalities the General Assembly has authorized to levy room occupancy taxes. For the purpose of this section, the term 'city' means a municipality.

(b) Levy. – A room occupancy tax may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. A room occupancy tax shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(c) Collection. – Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation. 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 the taxing city. 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 taxing city shall design, print, and furnish to all appropriate businesses and persons in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing city a discount equal to the discount the State allows the operator for State sales and use tax.

(d) Administration. – The taxing city shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the city finance officer in monthly installments on or before the fifteenth 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 fifteenth day of each month, prepare and render a return on a form prescribed by the taxing city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax return filed with the city finance officer 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.

(e) Penalties. – A person, firm, corporation, or association who fails or refuses to file a room occupancy tax return or pay a room occupancy tax as required by law 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 governing board of the taxing city 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.

(f) Repeal or Reduction. – A room occupancy tax levied by a city may be repealed or reduced by a resolution adopted by the governing body of the city. Repeal or reduction of a room occupancy tax 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 resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax that was attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal or reduction."

(b) This section applies only to the Cities of Lumberton and Shelby.

Section 5. Shelby Occupancy Tax. (a) Authorization and scope. The City Council of the City of Shelby may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

(b) Administration. The city may contract with Cleveland County for tax collection services relating to the occupancy tax levied under this section. Such a contract shall be under terms and conditions agreed to by the city and the county and may be modified from time to time. Except as otherwise provided in this section, a tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

(c) Use of tax revenue. The City of Shelby shall use at least two-thirds of the net proceeds of the occupancy tax to promote travel and tourism in the city and shall use the remainder for tourism-related expenditures. The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the city, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the city, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a city by attracting tourists or

business travelers to the city. The term includes tourism-related capital expenditures.

Section 6. Section 2(d) of this act becomes effective August 1, 1997, and applies to taxes that accrue on or after that date. The remainder of this act is effective when this act becomes law. Sections 2(b) and 2(e) of this act are repealed effective August 1, 2000.

In the General Assembly read three times and ratified this the 5th day of August, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives