

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SESSION LAW 2009-297
HOUSE BILL 564

AN ACT TO MODIFY THE AUTHORIZATION FOR WILSON COUNTY TO LEVY AN OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 484 of the 1987 Session Laws, as amended by Chapter 901 of the 1987 Session Laws, Chapter 912 of the 1988 Session Laws, and Section 21(t) of S.L. 2007-527, reads as rewritten:

"Section 1. Occupancy Tax. (a) Authorization and scope. The Wilson County Board of Commissioners may ~~by resolution, after not less than ten (10) days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or ~~similar~~ accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under ~~G.S. 105-164.4(3);~~ 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, ~~by summer camps, or by businesses that offer to rent no more than five units.~~ organizations when furnished in furtherance of their nonprofit purpose.

(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 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 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 county 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.~~

(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 finance officer in monthly installments on or before the 20th 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 20th 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.~~ shall be levied, administered, collected, and repealed, as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

~~A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

(d) ~~Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall be subject to and 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 thirty (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), imprisonment not to exceed six months, or both.~~

(c1) Definitions. – The following definitions apply in this act:

- (1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, 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 proceeds 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 the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

~~(e) Distribution and use of tax revenue. Wilson County shall, on a ~~monthly~~ quarterly basis, remit the net proceeds of the occupancy tax to the Wilson County Tourism Development Authority. The Authority may spend funds remitted to it under this subsection only to further the development of travel, tourism, and conventions in Wilson County through advertising and promotion, to sponsor tourist oriented events and activities in Wilson County, and to finance tourist related capital projects in Wilson County. As used in this subsection, "net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax, which may not exceed five percent (5%) of the gross proceeds.~~ shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Wilson County and shall use the remainder for tourism-related expenditures.

~~(f) Effective date of levy. A tax levied under this section 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.~~

~~(g) Repeal. A tax levied under this section may be repealed by a resolution adopted by the Wilson 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 was 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. Tourism Development Authority. (a) Appointment and membership. When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Wilson County Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members shall be individuals who are currently active in the promotion of

travel and tourism in the county. The resolution shall provide that the Authority shall be composed of the following ~~seven~~nine members:

- (1) A Wilson County Commissioner appointed by the board of ~~commissioners;~~
commissioners.
- (2) A member of the Wilson City Council appointed by the city ~~council;~~
council.
- (3) Three owners or operators of motels, hotels, or other taxable accommodations in Wilson ~~County that have at least 5 units, County,~~ one of whom shall be appointed by the Wilson City Council, one by the Wilson County Board of Commissioners, and one by the Wilson County Chamber of ~~Commeree; and Commerce.~~
- (4) Two 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 Wilson City Council and one by the Wilson County Board of Commissioners.
- (5) An individual who is interested in the tourism business, has demonstrated an interest in tourism development, and is appointed by the Wilson County Board of Commissioners.
- (6) An individual who is interested in the tourism business, has demonstrated an interest in tourism development, and is appointed by the Wilson City Council.

~~All members of the Authority shall serve without compensation. Vacancies shall be filled in the same manner as original appointments. Members appointed to fill vacancies shall serve for the remainder of the unexpired term. The Authority shall elect each year from its membership a chairman. No member may serve as chairman more than two one-year terms in succession. The Wilson County Board of Commissioners 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 ~~chairman or of any three members~~chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Wilson County shall be the ex officio finance officer of the Authority.

~~(b) Terms of office. Members of the Authority shall serve three year terms except that the initial appointees shall serve the following terms:~~

- ~~(1) Members appointed pursuant to subdivisions (a)(1) and (a)(2) of this section shall serve one-year terms.~~
- ~~(2) Of the members appointed pursuant to subdivision (a)(4) of this section, the appointee of the Wilson City Council shall serve a three-year term and the appointee of the board of commissioners shall serve a two-year term.~~
- ~~(3) Of the members appointed pursuant to subdivision (a)(3) of this section, the appointee of the Wilson City Council shall serve a one-year term, the appointee of the board of commissioners shall serve a three-year term, and the appointee of the Chamber of Commerce shall serve a two-year term.~~

~~(c) Powers and duties. The Authority may contract with any person, firm, or agency to assist it in carrying out the purposes for which the tax proceeds levied by this act may be expended. The board of county commissioners may from time to time determine an appropriate percentage of net proceeds that may be expended for administrative services. Duties. The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.~~

(d) Reports. The 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. 3.** This act is effective upon ratification."

SECTION 3. G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell, Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Franklin, Granville, Halifax, Haywood, Madison, Martin, McDowell, Montgomery, Nash, New Hanover, New Hanover County District U, Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, ~~and Washington~~Washington, and Wilson Counties, to Watauga County District U, to Yadkin County District Y, and to the Township of Averagesboro in Harnett County and the Ocracoke Township Taxing District."

SECTION 4. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 16th day of July, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives