

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2010-78
SENATE BILL 1298**

AN ACT TO AUTHORIZE THE TOWN OF PEMBROKE TO LEVY A THREE PERCENT ROOM OCCUPANCY TAX; TO AUTHORIZE CERTAIN TOWNS IN DAVIE COUNTY TO LEVY A THREE PERCENT ROOM OCCUPANCY TAX; TO AUTHORIZE MONTGOMERY AND ANSON COUNTIES TO EACH LEVY AN ADDITIONAL THREE PERCENT ROOM OCCUPANCY TAX; TO AUTHORIZE DARE COUNTY TO LEVY AN ADDITIONAL ONE PERCENT OCCUPANCY TAX; AND TO CREATE A SPECIAL TAXING DISTRICT MADE UP OF THE UNINCORPORATED AREAS OF WILKES COUNTY AND TO AUTHORIZE THE SPECIAL TAXING DISTRICT IN WILKES COUNTY TO LEVY UP TO A SIX PERCENT ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

TOWN OF PEMBROKE OCCUPANCY TAX

SECTION 1. Occupancy tax. – (a) Authorization and Scope. – The Town Council of the Town of Pembroke 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 town 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.

SECTION 1.(b) 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 – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215.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.

SECTION 1.(c) Distribution and Use of Tax Revenue. – The Town of Pembroke shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Pembroke 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 the Town of Pembroke and shall use the remainder for tourism-related expenditures.

The following definitions apply in this section:

- (1) Net proceeds. – Gross proceeds less the cost to the town 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 Pembroke Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

SECTION 1.(d) Tourism Development Authority. – Appointment and Membership. – When the Town Council adopts a resolution levying a room occupancy tax under this section, it shall also adopt a resolution creating the Pembroke 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 town, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the town. The Town 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. The finance officer for the Town of Pembroke shall be the ex officio finance officer of the Authority.

SECTION 1.(e) Duties. – The Authority shall expend the net proceeds of the tax levied under this section for the purposes provided in subsection (c) of this section. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

SECTION 1.(f) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Pembroke Town Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the Town Council may require.

MOCKSVILLE OCCUPANCY TAX

SECTION 2. Occupancy tax. – (a) Authorization and Scope. – The Board of Commissioners of the Town of Mocksville 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 town 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.

SECTION 2.(b) 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.

SECTION 2.(c) Distribution and Use of Tax Revenue. – The Town of Mocksville shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Mocksville 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 the Town of Mocksville and shall use the remainder for tourism-related expenditures.

The following definitions apply in this section:

- (1) Net proceeds. – Gross proceeds less the cost to the town 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 Mocksville Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

SECTION 2.(d) Tourism Development Authority. – Appointment and Membership. – When the Board of Commissioners adopts a resolution levying a room occupancy tax under this section, it shall also adopt a resolution creating the Mocksville 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 town, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the town. The 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 chair and shall adopt rules of procedure to govern its meetings. The finance officer for the Town of Mocksville shall be the ex officio finance officer of the Authority.

SECTION 2.(e) Duties. – The Authority shall expend the net proceeds of the tax levied under this section for the purposes provided in subsection (c) of this section. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

SECTION 2.(f) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Board of Commissioners of the Town of Mocksville on its receipts and expenditures for the preceding quarter and for the year in such detail as the Board of Commissioners may require.

BERMUDA RUN OCCUPANCY TAX

SECTION 3. Occupancy tax. – (a) Authorization and Scope. – The Bermuda Run Town 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 town 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.

SECTION 3.(b) 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.

SECTION 3.(c) Distribution and Use of Tax Revenue. – The Town of Bermuda Run shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Bermuda Run 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 the Town of Bermuda Run and shall use the remainder for tourism-related expenditures.

The following definitions apply in this section:

- (1) Net proceeds. – Gross proceeds less the cost to the town 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 Bermuda Run Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

SECTION 3.(d) Tourism Development Authority. – Appointment and Membership. – When the Town Council adopts a resolution levying a room occupancy tax under this section, it shall also adopt a resolution creating the Bermuda Run 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 town, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the town. The Town 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. The finance officer for the Town of Bermuda Run shall be the ex officio finance officer of the Authority.

SECTION 3.(e) Duties. – The Authority shall expend the net proceeds of the tax levied under this section for the purposes provided in subsection (c) of this section. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

SECTION 3.(f) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Bermuda Run Town Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the Town Council may require.

COOLEEMEE OCCUPANCY TAX

SECTION 4. Occupancy tax. – (a) Authorization and Scope. – The Board of Commissioners of the Town of Cooleemee 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 town 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.

SECTION 4.(b) 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.

SECTION 4.(c) Distribution and Use of Tax Revenue. – The Town of Cooleemee shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Cooleemee

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 the Town of Cooleemee and shall use the remainder for tourism-related expenditures.

The following definitions apply in this section:

- (1) Net proceeds. – Gross proceeds less the cost to the town 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 Cooleemee Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

SECTION 4.(d) Tourism Development Authority. – Appointment and Membership. – When the Board of Commissioners adopts a resolution levying a room occupancy tax under this section, it shall also adopt a resolution creating the Cooleemee 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 town, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the town. The 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 chair and shall adopt rules of procedure to govern its meetings. The finance officer for the Town of Cooleemee shall be the ex officio finance officer of the Authority.

SECTION 4.(e) Duties. – The Authority shall expend the net proceeds of the tax levied under this section for the purposes provided in subsection (c) of this section. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

SECTION 4.(f) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Cooleemee Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the Board of Commissioners may require.

MONTGOMERY COUNTY OCCUPANCY TAX

SECTION 5. Section 4 of S.L. 2001-434 is amended by adding a new subsection to read:

"(a1) Authorization of Additional Tax. – In addition to the tax authorized by subsection (a) of this section, the Montgomery County Board of Commissioners 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) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with

the provisions of this section. Montgomery County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section."

ANSON COUNTY OCCUPANCY TAX

SECTION 6. Section 2 of S.L. 2001-434 is amended by adding a new subsection to read:

"(a1) Authorization of Additional Tax. – In addition to the tax authorized by subsection (a) of this section, the Anson County Board of Commissioners 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) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. Anson County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section."

DARE COUNTY OCCUPANCY TAX

SECTION 7. Chapter 449 of the 1985 Session Laws, as amended by Chapters 177 and 906 of the 1991 Session Laws and Part VII of S.L. 2001-439, is amended by adding a new section to read:

"Sec. 3.2. Second Supplemental Occupancy Tax. – In addition to the taxes authorized by Sections 1, 3, and 3.1 of this act, the Dare County Board of Commissioners may levy a room occupancy and tourism development tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under Section 1 of this act. The county may not levy a tax under this section unless it also levies the taxes under Sections 1, 3, and 3.1 of this act. The levy, collection, administration, and repeal of the tax authorized by this section shall be in accordance with Section 1 of this act. The county shall use the net proceeds of the tax levied under this section for beach nourishment."

WILKES COUNTY OCCUPANCY TAX

SECTION 8. Wilkes County District K Created. – Wilkes County District K is created as a taxing district. Its jurisdiction consists of that part of Wilkes County that is located outside of the incorporated areas within the County. Wilkes County District K is a body politic and corporate and has the power to carry out the provisions of this act. The Wilkes County Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the County shall serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

SECTION 9. Occupancy Tax. – (a) Authorization and Scope. – The governing body of Wilkes County District K may levy a room occupancy tax of up to six percent (6%) 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 district 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.

SECTION 9.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155 as if Wilkes County District K were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 9.(c) Definitions. – The following definitions apply in this section:

- (1) Net proceeds. – Gross proceeds less the cost to the district 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 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 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 district or to attract tourists or business travelers to the district. The term includes tourism-related capital expenditures.

SECTION 9.(d) Distribution and Use of Tax Revenue. – Wilkes County District K shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Wilkes County District K Tourism Development Authority. The Authority shall use at least two-thirds of the proceeds remitted to it to promote travel and tourism in Wilkes County District K and shall use the remainder for tourism-related expenditures. In accordance with the North Carolina Constitution and the United States Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of Wilkes County District K. None of the proceeds may be used to promote travel or tourism in areas within Wilkes County that are outside of the district or for tourism-related expenditures in the County that are outside of the district.

SECTION 9.(e) Wilkes County District K Tourism Development Authority. – Appointment and Membership. – When the governing body of the district adopts a resolution levying a room occupancy tax under this section, it shall also adopt a resolution creating the Wilkes County District K 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 must be individuals affiliated with businesses that collect the tax in the district, and at least one-half of the members must be individuals currently active in the promotion of travel and tourism in the district. The 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 chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Wilkes County shall be the ex officio finance officer of the Authority.

SECTION 9.(f) Duties. – The Authority shall expend the net proceeds of the tax levied under this section for the purposes provided in subsection (d) of this section. The Authority shall promote travel, tourism, and conventions in the district, sponsor tourist-related events and activities in the district, and finance tourist-related capital projects in the district.

SECTION 9.(g) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the governing body of the district on its receipts and expenditures for the preceding quarter and for the year in such detail as the governing body of the district may require.

UNIFORM ADMINISTRATIVE PROVISIONS

SECTION 10. 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, Forsyth, 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, Washington, and Wilson Counties, to Surry County District S, to Watauga County District U, to Wilkes County District K, to Yadkin County District Y, and to the Township of Averasboro in Harnett County and the Ocracoke Township Taxing District."

SECTION 11. G.S. 160A-215(g) reads as rewritten:

"(g) This section applies only to Beech Mountain District W, to the Cities of Belmont, Conover, Eden, Elizabeth City, Gastonia, Goldsboro, Greensboro, Hickory, High Point, Jacksonville, Kings Mountain, Lenoir, Lexington, Lincolnton, Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Reidsville, Roanoke Rapids, Salisbury, Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain, Benson, Bermuda Run, Blowing Rock, Boiling Springs, Boone, Burgaw, Carolina Beach, Carrboro, Cooleemee, Cramerton, Dallas, Dobson, Elkin, Franklin, Jonesville, Kenly, Kure Beach, Leland, McAdenville, Mocksville, Mooresville, North Topsail Beach, Pembroke, Pilot Mountain, Ranlo, Selma, Smithfield, St. Pauls, Troutman, Tryon, West Jefferson, Wilkesboro, Wrightsville Beach, Yadkinville, and Yanceyville, and to the municipalities in Avery and Brunswick Counties."

EFFECTIVE DATE

SECTION 12. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of July, 2010.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives