

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 611*

Short Title: Cabarrus Occupancy Tax.

(Local)

Sponsors: Senator Johnson of Cabarrus.

Referred to: Finance.

March 23, 1989

A BILL TO BE ENTITLED

AN ACT AUTHORIZING CABARRUS COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX AND ESTABLISHING A CABARRUS COUNTY TOURISM AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. **Occupancy Tax Levy.** (a) Authorization and Scope. The Cabarrus County Board of Commissioners may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax of not less than three percent (3%) nor more than five percent (5%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(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.

(b) Collection. On and after the effective date of the levy of the tax, every operator of a business subject to the tax levied under this act shall 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 trustees 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.

1 (c) Administration. The county shall administer a tax levied under this act. A
2 tax levied under this act is due and payable to the Cabarrus County Finance Officer in
3 monthly installments on or before the 15th day of the month following the month in
4 which the tax accrues. Every person, firm, corporation, or association liable for the tax
5 shall, on or before the 15th day of each month, prepare and render a return on a form
6 prescribed by the county. The return shall state the total gross receipts derived in the
7 county in the preceding month from rentals upon which the tax is levied.

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

10 (d) Penalties. A person, firm, corporation, or association who fails or refuses to
11 file the return required by this act shall pay a penalty of fifty dollars (\$50.00) for each
12 day's omission. In case of failure or refusal to file the return or pay the tax for a period
13 of 30 days after the time required for filing the return or for paying the tax, there shall
14 be an additional tax, as a penalty, of five percent (5%) of the tax due for each additional
15 month or fraction thereof until the tax is paid.

16 Any person who willfully attempts in any manner to evade a tax imposed
17 under this act or who willfully fails to pay the tax or make and file a return shall, in
18 addition to all other penalties provided by law, be guilty of a misdemeanor and shall be
19 punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to
20 exceed six months, or both. The board of commissioners may, for good cause shown,
21 compromise or forgive the penalties imposed by this subsection.

22 (e) Use and Disposition of Revenue. Except as otherwise provided in
23 Section 2(c)(2) of this act, Cabarrus County shall remit one hundred percent (100%) of
24 the net proceeds of the occupancy tax to the Cabarrus County Tourism Authority
25 established under Section 2 of this act. As used in this act, "net proceeds" means gross
26 proceeds less the direct cost to the county of administering and collecting the tax, not to
27 exceed five percent (5%) of the amount collected.

28 The Authority shall allocate all of the net proceeds of the occupancy tax in a
29 fiscal year, together with all other revenues, if any, received by the Authority from
30 whatever source, the receipt of which by the Authority is hereby authorized, for the
31 development of tourism, support services, tourist-related events, and any other
32 appropriate activities for providing tourism-related facilities or attractions in the county.

33 The Cabarrus County Finance Officer shall distribute the amounts due the
34 Authority at least monthly.

35 (f) Effective Date of Levy. A tax levied under this act shall become effective
36 on the date specified in the resolution levying the tax. That date must be the first day of
37 a calendar month, however, and may not be earlier than the first day of the second
38 month after the date the resolution is adopted.

39 (g) Repeal. A tax levied under this act may be repealed by a resolution
40 adopted by the Cabarrus County Board of Commissioners. Repeal of a tax levied under
41 this act shall become effective on the first day of a month and may not become effective
42 until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a
43 tax levied under this act does not affect a liability for a tax that attached before the

1 effective date of the repeal, nor does it affect a right to a refund of a tax that accrued
2 before the effective date of the repeal.

3 **Sec. 2. Establishment, Appointment, and Duties of Cabarrus County Tourism**

4 **Authority.** (a) Establishment and Membership. When the Cabarrus County Board
5 of Commissioners adopts a resolution levying a room occupancy tax pursuant to this
6 act, it shall establish and create the Cabarrus County Tourism Authority composed of
7 nine members, with seats on the Authority numbered one through nine, all of whom
8 shall be appointed by the board, selected as follows:

9 (1) Seats 1, 4, and 7 shall be selected by the board at large and shall
10 include, but not be limited to, at least one member of the board and/or
11 the Cabarrus County Manager;

12 (2) Seats 2, 5, and 8 shall be appointed by the board from a list of at least
13 three persons submitted by the Concord-Cabarrus Chamber of
14 Commerce; and

15 (3) Seats 3, 6, and 9 shall be appointed by the board from a list of at least
16 three persons submitted to the board by the Kannapolis Chamber of
17 Commerce.

18 (b) Terms of Office. Except as otherwise provided in the schedule set forth
19 below, the term of office of each member of the Authority shall be three years. The
20 terms shall be staggered so that after the initial members of the Authority are appointed,
21 three members are appointed each year, implemented as follows:

22 (1) Seats 1, 2, and 3 shall be appointed initially for one year, and
23 thereafter for three years;

24 (2) Seats 4, 5, and 6 shall be appointed initially for two years, and
25 thereafter for three years; and

26 (3) Seats 7, 8, and 9 shall be appointed initially for three years, and
27 thereafter for three years.

28 (c) Powers and Duties of the Authority. In addition to any other powers and
29 duties of the Authority otherwise conferred by law, the Authority may contract with any
30 person, firm, corporation, or agency to assist it in the promotion of travel and tourism
31 and to carry out the purposes identified in Section 1(e) of this act.

32 On or before April 1 of each year after the levy of the tax authorized in this
33 act, the Authority shall prepare an annual budget based upon anticipated revenues and
34 shall submit the budget to the Cabarrus County Manager for processing and approval
35 through the regular budget procedure of the County. The Authority shall make
36 quarterly reports to the board detailing its revenues, expenditures, and activities. The
37 County may audit the Authority's financial records upon reasonable notice to the
38 Authority. At the end of each fiscal year, any funds of the Authority not expended,
39 obligated, or reserved, as approved by the board, shall be remitted to Cabarrus County
40 for its use.

41 **Sec. 3. Effective Date.** This act is effective upon ratification.