

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1997**

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HOUSE BILL 759\*

Short Title: Chatham Conveyance Tax.

(Local)

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Sponsors: Representatives Insko, Hackney, and Culp.

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Referred to: Local and Regional Government I, if favorable, Finance.

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April 2, 1997

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE CHATHAM COUNTY TO LEVY AN EXCISE TAX ON  
2 INSTRUMENTS CONVEYING REAL PROPERTY IN CHATHAM COUNTY.  
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4 The General Assembly of North Carolina enacts:

5 Section 1. (a) Authorization. The Chatham County Board of Commissioners may, by  
6 resolution, levy an excise tax on instruments conveying certain interests in real property  
7 in Chatham County. The tax imposed may not exceed one dollar (\$1.00) on each one  
8 thousand dollars (\$1,000) or fraction thereof of the total consideration or value,  
9 whichever is greater, of the interest conveyed, including, in the case of a sale, the value of  
10 any lien or encumbrance remaining on the property at the time of the sale. This tax is in  
11 addition to the tax levied by Article 8E of Chapter 105 of the General Statutes.

12 The value of a lease subject to this tax shall be computed on the basis of the  
13 present value of the fixed lease payments and, if the lease payments are based in whole or  
14 in part on the lessee's receipts, the estimated amount of the lessee's receipts. Based upon  
15 the recommendation of the Chatham County Tax Collector, the board of commissioners  
16 shall, at least annually, set the discount rate to be used to determine the present value of  
17 lease payments. This determination shall be conclusive.

18 (b) Scope. A tax levied under this section applies to all instruments  
19 conveying an interest in real property in Chatham County except an instrument:

- 1           (1) Conveying an interest in real property from the United States, the State  
2           of North Carolina, or a political subdivision of the State.
- 3           (2) Recording a lease for a term of 10 years or less, unless:  
4           a. The lease gives the lessee an option to renew the lease for a  
5           period that, when added to the term of the lease, exceeds 10  
6           years;  
7           b. The lease is for substantially the same parties as a lease  
8           previously recorded, and the term of the new lease, when added  
9           to that of the previous lease, exceeds 10 years; or  
10          c. The lease requires or permits the property to be transferred to the  
11          lessee for less than the fair market value of the property.
- 12          (3) Securing indebtedness.
- 13          (4) Recording a transfer in which no consideration was paid or is due the  
14          transferor by the transferee.
- 15          (5) Conveying an interest in real property located in more than one county  
16          if the greater part of the property, with respect to value, lies in a county  
17          other than Chatham County.

18           In addition, this tax does not apply to conveyances of an interest in real  
19          property by operation of law, by will, or by intestacy.

20           (c) Collection. A tax levied under this section is payable by the transferor  
21          of the interest to the Chatham County Tax Collector. This tax must be paid at the tax  
22          collector's office before the instrument conveying the interest is recorded. The tax  
23          collector may require any documentation, including an affidavit of value, the tax collector  
24          considers necessary to establish the accuracy of the tax to be paid. The tax collector shall  
25          stamp or otherwise mark each instrument subject to the tax to indicate that the tax has  
26          been paid. The Chatham County Register of Deeds may not accept for recordation an  
27          instrument subject to a tax levied under this section unless the instrument bears the tax  
28          collector's mark indicating that the tax has been paid.

29           (d) Appeal. A person who is liable for the tax levied under this section who  
30          disputes the amount of tax due shall pay the tax stated by the tax collector to be due, but  
31          may appeal the payment of the tax by filing a written notice of appeal with the tax  
32          collector within 30 days after paying the tax. A notice of appeal shall state the reason for  
33          the appeal and the amount of tax the appellant contends is due. Upon receipt of a notice  
34          of appeal, the tax collector shall forward a copy of the notice of appeal to the clerk of the  
35          board of commissioners, and to the chair of the Land Transfer Tax Appeals Board if the  
36          board has been established.

37           (e) Tax Appeals Board. Appeals may be heard by the board of  
38          commissioners, or the board of commissioners may by resolution provide for appeals to  
39          be heard by a Land Transfer Tax Appeals Board. Should the board of commissioners  
40          elect to hear appeals, the same time limitations set forth for the Tax Appeals Board shall  
41          apply.

1 (f) Membership and Procedure. If the board of commissioners elects to  
2 provide for hearing of appeals by a Land Transfer Tax Appeals Board, the establishment  
3 and proceedings of the Board shall be governed by the following:

4 (1) The Land Transfer Tax Appeals Board shall determine appeals of taxes  
5 imposed under this section. The Board shall consist of five members  
6 appointed by the Chatham County Board of Commissioners. The  
7 county commissioners shall designate a chair of the Board from the  
8 membership of the Board. The expenses of the Board are an  
9 administrative expense and shall be paid from the proceeds of the tax.

10 (2) Members of the Board shall serve staggered four-year terms ending on  
11 June 30. Two members of the initial Board shall be appointed for a  
12 term ending June 30 in the year following the year of their appointment,  
13 and three members of the initial Board shall be appointed for a term  
14 ending June 30 in the third year following the year of their appointment.  
15 Thereafter all appointments, except appointments to fill an unexpired  
16 term, shall be for four years. Members shall serve until their successors  
17 are appointed. Any vacancy shall be filled by the board of  
18 commissioners for the unexpired term.

19 (3) The Land Transfer Tax Appeals Board shall meet at the call of the chair  
20 and shall meet as often as needed to hear appeals. All appeals to the  
21 Board shall be heard by the Board within 45 days after the date the tax  
22 collector receives a notice of appeal. The Board shall issue a written  
23 decision within 20 days after hearing an appeal and shall send a copy of  
24 the decision to the appellant and to the tax collector. If the decision  
25 states that an appellant paid more tax than was due, the tax collector  
26 shall, unless the decision is appealed within 30 days after receipt of  
27 notice of the decision, immediately upon expiration of the 30-day  
28 period, refund to the appellant the amount of the overpayment. The  
29 appellant and the tax collector may appeal the decision of the Board in  
30 an action brought in the district court of the county. An appeal to the  
31 district court shall be heard de novo.

32 (g) Use of Tax Revenue. All proceeds of the tax shall be placed in a special  
33 Capital Reserve Fund in the general fund of the county. Revenue in this fund may be  
34 used by the county only for capital expenditures for the following: courts, jails and  
35 detention facilities, emergency medical services, libraries, recreation, education,  
36 administration, water, sewage, health, and social services.

37 (h) Penalties. Any person who knowingly fails to pay a tax levied under  
38 this section, or who knowingly aids another to fail to pay a tax levied under this section,  
39 or who, to avoid paying part or all of the tax due under this section, knowingly misstates  
40 the total consideration for an interest conveyed shall be guilty of a Class 2 misdemeanor.

41 (i) Taxes Recoverable by Action. If a transferor fails to pay a tax imposed  
42 by this section within 30 days after the tax collector's demand for the tax, the tax may be  
43 recovered by Chatham County in an action brought in the district court of Chatham

1 County. In an action to recover a tax imposed under this section, costs of court shall  
2 include a fee to the county of one hundred dollars (\$100.00) to help defray the expense of  
3 collection.

4 (j) Effective Date and Application. A tax levied under this section shall  
5 become effective on the first day of a month, as designated in the resolution levying the  
6 tax, and may not become effective for at least 30 days after the adoption of the resolution.  
7 A tax levied under this section applies to instruments that are executed on or after the  
8 effective date of the levy, except instruments executed on or after that date that convey an  
9 interest in real property pursuant to a recorded written contract made before the effective  
10 date.

11 (k) Repeal. A tax levied by this section may be repealed by a resolution  
12 adopted by the Chatham County Board of Commissioners. Repeal of a tax levied under  
13 this section shall become effective on the first day of July following adoption of the  
14 resolution and shall apply to instruments recorded on or after the effective date of the  
15 repeal. Repeal of a tax levied under this section does not affect a liability for this tax that  
16 accrued before the effective date of the repeal.

17 Section 2. This act is effective when it becomes law.