

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SESSION LAW 2007-337
HOUSE BILL 1013**

AN ACT TO AUTHORIZE HAYWOOD COUNTY TO LEVY AN ADDITIONAL ONE PERCENT OCCUPANCY TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 16.1 of Part V of Chapter 908 of the 1983 Session Laws, as enacted by Chapter 942 of the 1985 Session Laws (Regular Session 1986), is recodified as Section 10.1 of Part V of Chapter 908 of the 1983 Session Laws, as amended.

SECTION 2. Part V of Chapter 908 of the 1983 Session Laws, as amended by Chapter 942 of the 1985 Session Laws (Regular Session 1986), Chapter 48 of the 1987 Session Laws, Chapter 540 of the 1995 Session Laws, and Section 1 of this act, reads as rewritten:

"Part V. Haywood Occupancy Tax.

"Sec. 10. Levy of Tax. Occupancy Tax. (a) Authorization and Scope. – The Haywood 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 and tourism development tax.

(b) Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of a calendar month set by the Haywood County Board of Commissioners in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.

"Sec. 11. Occupancy Tax. The county room occupancy and tourism development tax that may be levied under this Part shall be tax of two percent (2%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar place within the county now subject to the three percent (3%) that is subject to sales tax imposed by the State under G.S. 105-164.4(3).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, benevolent, or religious organizations.

"Sec. 10.1. Additional One Percent (1%) Occupancy Tax. – In addition to the tax authorized by Sections 10 and 11 Section 10 of this Part, the Haywood 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 those sections. that section. The levy, collection, administration, and repeal of the tax authorized by this section, and the use of tax revenue from a tax levied under this section, shall be in accordance with Sections 10 through 16 of this Part. Haywood County may not levy a tax under this section unless it also levies a tax under Sections 10 and 11 Section 10 of this Part.

"Sec. 10.2. Additional One Percent (1%) Occupancy Tax. – In addition to the tax authorized by Sections 10 and 10.1 of this Part, the Haywood 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 Sections 10 and 10.1 of this Part. The levy, collection, administration, and repeal

of the tax authorized by this section and the use of tax revenue from a tax levied under this section shall be in accordance with this Part. Haywood County may not levy a tax under this section unless it also levies the tax authorized under Sections 10 and 10.1 of this Part.

"Sec. 12. Administration. – A tax levied under this Part 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 Part.Administration of Tax.

~~(a) Any tax levied under this Part is due and payable to the county in monthly installments on or before the 15th 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 15th 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.~~

~~(b) Any person, firm, corporation, or association who fails or refuses to file the return required by this Part shall pay a penalty of ten dollars (\$10.00) for each day's omission.~~

~~(c) In case of failure or refusal to file the return or pay the tax for a period of 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 the penalty prescribed in subsection (b), with an additional tax of five percent (5%) for each additional month or fraction thereof until the occupancy tax is paid.~~

~~(d) Any person who willfully attempts in any manner to evade the occupancy tax imposed by this Part or to make a return and 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 punished by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment not to exceed six months, or both.~~

~~"Sec. 13. Collection of Tax. Every operator of a business subject to the tax levied pursuant to this Part shall, on and after the effective date of the levy of the tax, collect the two percent (2%) room occupancy tax.~~

~~This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. 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 Haywood County. It is the intent of this Part that the room occupancy tax levied by Haywood County shall be added to the sales price and that the tax 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 in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~"Sec. 14. Disposition of Taxes Collected. Distribution and Use of the First Three Percent Occupancy Tax. – Haywood County shall shall, on a monthly basis, remit the net proceeds of all revenues received from the room occupancy and tourism development tax levied under Sections 10 and 10.1 of this Part to the county Haywood County Tourism Development Authority. Authority appointed pursuant to this Part. "Net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax. The Authority may expend these funds only to further the development of travel, tourism, and conventions in the county through State, national, and international advertising and promotion. The Authority may use no more than fifteen percent (15%) of these funds for administrative expenses of the Authority. The Authority shall use at least two-thirds of the funds remitted to it under this Part to promote travel and tourism in the county and shall use the remainder for tourism-related expenditures.~~

The following definitions apply in this Part:

- (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 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 a county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

"Sec. 14.1. Distribution and Use of the Additional One Percent Occupancy Tax. – Haywood County shall, on a monthly basis, remit the net proceeds of the room occupancy and tourism development tax levied under Section 10.2 of this Part to the Haywood County Tourism Development Authority. The Authority must segregate the net proceeds received under this section into five separate accounts based on the collection area from which the proceeds were collected. Net proceeds collected under this section from accommodations located in the 28716 zip code area must be credited to the Canton Area Account. Net proceeds collected under this section from accommodations located in the 28721 zip code area must be credited to the Clyde Area Account. Net proceeds collected under this section from accommodations located in 28745 zip code area must be credited to the Lake Junaluska Area Account. Net proceeds collected under this section from accommodations located in the 28751 zip code area must be credited to the Maggie Valley Area Account. Net proceeds collected under this section from accommodations located in the 28785 and the 28786 zip code areas must be credited to the Waynesville Area Account. Based on recommendations from and in consultation with each of the five collection areas, the Authority shall use at least two-thirds of the funds in each account to promote travel and tourism and the remainder for tourist-related expenditures in each of the collection areas.

"Sec. 15. ~~Appointments, Duties of~~ Tourism Development Authority. = (a) Appointment and Membership. – When the Haywood County Board of Commissioners adopts a resolution levying a room occupancy and tourism development tax pursuant to this Part, it shall also adopt a resolution creating a ~~the Haywood County Tourism Development Authority~~ Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide that the Authority is composed of ~~nine voting members appointed as follows:~~ the following 15 members:

- (1) Three members who own or operate hotels, motels, or other accommodations with more than 20 rental units.
- (2) Three members who own or operate hotels, motels, or other accommodations with 20 or fewer rental units.
- (3) ~~Three tourist-oriented business members at large.~~ Two members who own or operate a tourism-related business, including, but not limited to, county attractions, resorts, restaurants, gift shops, and concert venues.
- (4) Four at-large members who are recommended to the Board of Commissioners by the four municipal governments. Each governing body must submit two names to the Board, and the Board must select from the names submitted.
- (5) Three ex officio, nonvoting members as follows:
 - a. A member of the Haywood County Board of Commissioners.
 - b. The Haywood County finance officer.
 - c. The Executive Director of the Haywood County Economic Development Commission.

All members of the Authority shall be appointed by the Haywood County Board of Commissioners. At least one-third of the members must be individuals affiliated with businesses that collect the tax in the county, and at least one-half of the members must be individuals currently active in the promotion of travel and tourism in the county. The Board of Commissioners shall designate ~~three-four~~ of its initial appointees to serve a one-year term, ~~three-four~~ to serve a two-year term, and ~~three-four~~ to serve a three-year term. Thereafter, all members shall serve three-year terms. All members of the Authority serve at the pleasure of the Board of Commissioners and may be removed by the Board at any time. All members of the Authority shall serve without compensation. Vacancies shall be filled by the Board of Commissioners subject to the qualifications established above for the vacating member. Members appointed to fill vacancies shall serve the remainder of the unexpired term for which they are appointed to fill.

(b) The members of the Tourism Development Authority shall elect from its membership a chair. The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The chair shall only vote to break a tie vote. The finance officer of Haywood County shall serve ex officio as accountant for the Authority.

(b1) Duties. – The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in this Part. 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.

(c) Reports. – The Tourism Development Authority shall report quarterly and at the close of the fiscal year to the Board of Commissioners on its receipts and disbursements for the preceding quarter and for the year in such detail as the Board may require.

~~"Sec. 16. Repeal of Levy. (a) The board of county commissioners may by resolution repeal the levy of the room occupancy tax in Haywood County, but no repeal of taxes levied under this Part shall be effective until the end of the fiscal year in which the repeal resolution was adopted.~~

~~(b) No liability for any tax levied under this Part that attached prior to the date on which a levy is repealed is discharged as a result of the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed may be denied as a result of the repeal."~~

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

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

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2007.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives