

# GENERAL ASSEMBLY OF NORTH CAROLINA

## SESSION 1991

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### HOUSE BILL 688

Short Title: Martin Occupancy Tax. (Local)

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Sponsors: Representative Rogers.

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Referred to: Finance.

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April 11, 1991

1                   A BILL TO BE ENTITLED

2   AN ACT TO AUTHORIZE MARTIN COUNTY TO LEVY A ROOM OCCUPANCY  
3       AND TRAVEL AND TOURISM TAX.

4   The General Assembly of North Carolina enacts:

5       Section 1. Occupancy Tax. (a) Authorization and scope. The Martin County  
6   Board of Commissioners may by resolution, after not less than 10 days' public notice  
7   and after a public hearing held pursuant thereto, levy a room occupancy tax of up to  
8   three percent (3%) of the gross receipts derived from the rental of any room, lodging, or  
9   similar accommodation furnished by a hotel, motel, inn, tourist camp, or similar place  
10   within the county that is subject to sales tax imposed by the State under G.S. 105-  
11   164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not  
12   apply to accommodations furnished by nonprofit charitable, educational, or religious  
13   organizations, by summer camps, or by businesses that offer to rent no more than five  
14   units.

15       (b) Collection. Every operator of a business subject to the tax levied under this  
16   section shall, on and after the effective date of the levy of the tax, collect the tax. This  
17   tax shall be collected as part of the charge for furnishing a taxable accommodation. The  
18   tax shall be stated and charged separately from the sales records, and shall be paid by  
19   the purchaser to the operator of the business as trustee for and on account of the county.  
20   The tax shall be added to the sales price and shall be passed on to the purchaser instead  
21   of being borne by the operator of the business. The county shall design, print, and  
22   furnish to all appropriate businesses and persons in the county the necessary forms for  
23   filing returns and instructions to ensure the full collection of the tax.

1       (c) Administration. The county shall administer a tax levied under this section.  
2 A tax levied under this section is due and payable to the county finance officer in  
3 monthly installments on or before the fifteenth 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 fifteenth day of each month, prepare and render a return on a  
6 form prescribed by the county. The return shall state the total gross receipts derived in  
7 the preceding month from rentals upon which the tax is levied.

8       A return filed with the county finance officer under this section 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 section shall be subject to and pay a penalty of ten dollars  
12 (\$10.00) for each day's omission. In case of failure or refusal to file the return or pay  
13 the tax for a period of 30 days after the time required for filing the return or for paying  
14 the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due  
15 in addition to any other penalty, with an additional tax of five percent (5%) for each  
16 additional month or fraction thereof until the tax is paid. The board of commissioners  
17 may, for good cause shown, compromise or forgive the additional tax penalties imposed  
18 by this subsection.

19     Any person who willfully attempts in any manner to evade a tax imposed  
20 under this section or who willfully fails to pay the tax or make and file a return shall, in  
21 addition to all other penalties provided by law, be guilty of a misdemeanor and shall be  
22 punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to  
23 exceed six months, or both.

24     (e) Distribution and use of tax revenue. Martin County shall, on a monthly  
25 basis, remit the net proceeds of the occupancy tax to the Martin County Travel and  
26 Tourism Authority. The Authority may spend funds remitted to it under this subsection  
27 only to further the development of travel and tourism and cultural, recreational, and  
28 historic activities in Martin County through advertising and promotion, to sponsor  
29 tourist-oriented events and activities in Martin County, and to finance tourist-related  
30 capital activities and projects in Martin County. As used in this subsection, "net  
31 proceeds" means gross proceeds less the cost to the county of administering and  
32 collecting the tax, which may not exceed three percent (3%) of the gross proceeds.

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

37     (g) Repeal. A tax levied under this section may be repealed by a resolution  
38 adopted by the Martin County Board of Commissioners. Repeal of a tax levied under  
39 this section shall become effective on the first day of a month and may not become  
40 effective until the end of the fiscal year in which the repeal resolution was adopted.  
41 Repeal of a tax levied under this section does not affect a liability for a tax that was  
42 attached before the effective date of the repeal, nor does it affect a right to a refund of a  
43 tax that accrued before the effective date of the repeal.

1 Sec. 2. Martin County Travel and Tourism Authority. (a) Appointment and  
2 membership. When the board of commissioners adopts a resolution levying a room  
3 occupancy tax under this act, it shall also adopt a resolution creating the Martin County  
4 Travel and Tourism Authority, which shall be a public authority under the Local  
5 Government Budget and Fiscal Control Act. The resolution shall provide that the  
6 Authority shall be composed of the following 12 members:

- 7           (1) A Martin County Commissioner appointed by the Martin County  
8           Board of Commissioners.
- 9           (2) Two owners or operators of restaurants, motels, hotels, or other taxable  
10          accommodations in Martin County that have at least five units,  
11          nominated by representatives of this industry, both to be appointed by  
12          the Martin County Board of Commissioners.
- 13          (3) One member selected by the Martin County Chamber of Commerce to  
14          be appointed by the Martin County Board of Commissioners.
- 15          (4) One member appointed by the Martin County Board of  
16          Commissioners selected from the Martin County Economic  
17          Development Commission.
- 18          (5) Five members, one appointed by each member of the Martin County  
19          Board of Commissioners.
- 20          (6) One member appointed by the Martin County Board of  
21          Commissioners selected from the Martin County Historical Society.
- 22          (7) One member appointed by the Martin County Board of  
23          Commissioners selected from the Robersonville Downtown Merchants  
24          Association.

25 The appointees shall be made from throughout the County by the Martin County Board  
26 of Commissioners. All members of the Authority shall serve without compensation.  
27 Vacancies shall be filled in the same manner as original appointments. Members  
28 appointed to fill vacancies shall serve for the remainder of the unexpired term. The  
29 Authority shall elect each year from its membership a Chair. No member may serve as  
30 Chair more than two one-year terms in succession. The Authority shall meet at the call  
31 of the Chair or of any three members and shall adopt rules of procedure to govern its  
32 meetings. The Finance Officer for Martin County shall be the ex officio finance officer  
33 of the Authority.

34       (b) Terms of office. Members of the Authority shall serve three-year terms  
35 except that the Martin County Commissioner appointed pursuant to subdivision (a)(1)  
36 shall be appointed yearly by the chairman of the board of commissioners and initial  
37 appointees shall serve the following terms:

- 38           (1) The Martin County Commissioner appointed pursuant to subdivision  
39           (a)(1): one year.
- 40           (2) One representative of the motel and restaurant industry appointed  
41           pursuant to subdivision (a)(2): one year.
- 42           (3) One representative of the motel and restaurant industry appointed  
43           pursuant to subdivision (a)(2): three years.

- 1                     (4) The representative of the Martin County Chamber of Commerce  
2                     appointed pursuant to subdivision (a)(3): three years.  
3                     (5) The representative of the Martin County Economic Development  
4                     Commission appointed pursuant to subdivision (a)(4): two years.  
5                     (6) Three members appointed by Martin County Commissioners pursuant  
6                     to subdivision (a)(5): one year.  
7                     (7) Two representatives appointed by Martin County Commissioners  
8                     pursuant to subdivision (a)(5): three years.  
9                     (8) The representative of the Martin County Historical Society appointed  
10                    pursuant to subdivision (a)(6): two years.  
11                    (9) The representative of the Robersonville Downtown Merchants  
12                    Association appointed pursuant to subdivision (a)(7): three years.

13                   (c) Limitation on terms. No member of the Authority shall serve more than two  
14 consecutive three-year terms.

15                   (d) Powers and duties. The Authority may contract with any person, firm, or  
16 agency to assist it in carrying out the purposes for which the tax proceeds levied by this  
17 act may be expended. The board of county commissioners may from time to time  
18 determine an appropriate percentage not to exceed five percent (5%) of net proceeds  
19 that may be expended for administrative services.

20                   (e) Reports. The Authority shall report quarterly and at the close of the fiscal  
21 year to the board of commissioners on its receipts and expenditures for the preceding  
22 quarter and for the year in such detail as the board may require.

23                   (f) Notwithstanding the provisions of this act, the board of commissioners  
24 may abolish the Martin County Travel and Tourism Authority and itself function and  
25 carry out the duties of the Authority provided in this act.

26                   Sec. 3. This act is effective upon ratification.