

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 602
HOUSE BILL 1508

AN ACT TO AUTHORIZE THE CITY OF LEXINGTON TO LEVY A ROOM
OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Occupancy Tax.

(a) Authorization and Scope.

The Lexington City Council 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 more than three percent (3%) 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 city 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. As provided in Chapter 453 of the 1993 Session Laws, if Davidson County is authorized to levy a room occupancy tax, the combined room occupancy tax rates for Davidson County and any city or town located in that county may not exceed six percent (6%).

(b) Collection.

Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the tax, 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 from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the city. 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 city shall design, print, and furnish to all appropriate businesses and persons in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax.

(c) Administration.

The city shall administer a tax levied under this section. A tax levied under this section is due and payable to the city finance officer 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 city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

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

(d) Penalties.

A person, firm, corporation, or association who fails or refuses to file the return required by this section is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The Lexington City Council has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(e) Use of Tax Revenue.

At least two-thirds of the proceeds of a tax levied under this section shall be used only to promote travel and tourism in the city and any remaining proceeds shall be used only for tourism-related expenditures.

The term "promote travel and tourism" means to advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, host and conduct tours for travel industry representatives and travel writers, or engage in similar promotional activities that attract tourists or business travelers to the city; the term includes administrative expenses of the Lexington Tourism Development Authority incurred in engaging in the listed activities. The term "tourism-related expenditures" means expenditures that are designed to increase the use of lodging facilities in the city or attract tourists or business travelers to the city and the amount retained by the city for its costs in administering and collecting the tax; the term includes expenditures for the construction or maintenance of a visitors' center, a convention facility, a museum, or an historic attraction but does not include other capital expenditures.

(f) Lexington Tourism Development Authority.

The Lexington City Council shall, by resolution, establish the Lexington Tourism Development Authority and appoint members to the Authority. A resolution establishing the Authority shall state the number and qualifications of the members of the Authority, their terms of office, and their duties.

(g) Distribution to Tourism Authority.

The City of Lexington shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Lexington Tourism Development Authority. As used in this subsection, "net proceeds" means gross proceeds less five percent (5%) of the gross proceeds or the cost to the city of administering and collecting the tax, whichever is greater. The Lexington Tourism Development Authority shall spend revenue remitted to it under this section in accordance with the restrictions set in subsection (e) of this section. The Lexington Tourism Development Authority shall report at the close of the fiscal year to the city council on its receipts and expenditures for the preceding year in such detail as the council may require.

(h) Effective Date of Levy.

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

(i) Repeal.

A tax levied under this section may be repealed by a resolution adopted by the Lexington City Council. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of July, 1994.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives