

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1748
Committee Substitute Favorable 6/22/00
Senate Finance Committee Substitute Adopted 6/30/00

Short Title: Granville/Banner Elk Tax Use.

(Local)

Sponsors:

Referred to:

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE PURPOSES FOR WHICH THE GRANVILLE COUNTY OCCUPANCY TAX CAN BE USED FOR A LIMITED PERIOD OF TIME, TO ESTABLISH A TOURISM DEVELOPMENT AUTHORITY, TO MAKE TECHNICAL CHANGES, TO CHANGE THE PURPOSES FOR WHICH THE BANNER ELK OCCUPANCY TAX MAY BE USED, AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 454 of the 1993 Session Laws reads as rewritten:

"Section 1. Occupancy tax.

(a) Authorization and Scope.

The Granville 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 ~~five percent (5%)~~ three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county 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

1 organizations. The combined occupancy tax rates for Granville County and any city or
2 town that is located in Granville County and is authorized to levy a room occupancy tax
3 may not exceed six percent (6%).

4 (b) Administration.

5 A tax levied under this section shall be levied, administered, collected, and repealed
6 as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax
7 levied under this section.

8 ~~(b) Collection.~~

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

18 ~~(c) Administration.~~

19 ~~The county shall administer a tax levied under this section. A tax levied under this~~
20 ~~section is due and payable to the county finance officer in monthly installments on or~~
21 ~~before the 15th day of the month following the month in which the tax accrues. Every~~
22 ~~person, firm, corporation, or association liable for the tax shall, on or before the 15th day~~
23 ~~of each month, prepare and render a return on a form prescribed by the county. The~~
24 ~~return shall state the total gross receipts derived in the preceding month from rentals upon~~
25 ~~which the tax is levied.~~

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

28 ~~(d) Penalties.~~

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

34 (e) Distribution and Use of Tax Revenue.

35 ~~Granville County shall use at least two-thirds of the proceeds of the tax revenue to~~
36 ~~promote travel and tourism and shall use the remaining tax proceeds for tourism-related~~
37 ~~expenditures. The term "promote travel and tourism" means to—~~The county shall, on a
38 quarterly basis, remit the net proceeds of the occupancy tax to the Granville County
39 Tourism Development Authority. The Authority may use up to two-thirds of the funds
40 remitted to it under this subsection for the following tourism-related expenditures
41 designed to attract tourists and business travelers from outside the county into the county:

42 (i) developing facilities for fishing tournaments, skiing tournaments, and boating
43 events; (ii) constructing facilities for festivals; (iii) constructing tournament grade

1 multipurpose athletic facilities; and (iv) financing other similar capital expenditures. The
2 Authority shall use the remaining net proceeds to promote travel and tourism in Granville
3 County.

4 The following definitions apply in this subsection:

5 (1) Net proceeds. – Gross proceeds less the cost to the county of
6 administering and collecting the tax, as determined by the finance
7 officer, not to exceed three percent (3%) of the gross proceeds.

8 (2) Promote travel and tourism. – To advertise or market an area or activity,
9 publish and distribute pamphlets and other materials, conduct market
10 research, or engage in similar promotional activities that attract tourists
11 or business travelers to the ~~county; the county.~~ The term includes
12 administrative expenses incurred in engaging in the listed activities. The
13 term "tourism-related expenditures" means expenditures that

14 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
15 the Authority, are designed to increase the use of lodging facilities in the
16 county or to attract tourists or business travelers to the ~~county and~~
17 ~~expenditures by the county to administer and collect the tax; it county.~~ The
18 term includes expenditures for the construction or maintenance of a
19 convention or meeting facility to be used primarily by individuals who are not
20 residents of the county and for the construction or maintenance of a coliseum
21 or a visitors' center, but does not include other tourism-related capital
22 expenditures.

23 (f) Effective Date of Levy.

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

28 (g) Repeal.

29 ~~A tax levied under this section may be repealed by a resolution adopted by the~~
30 ~~Granville County Board of Commissioners. Repeal of a tax levied under this section~~
31 ~~shall become effective on the first day of a month and may not become effective until the~~
32 ~~end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied~~
33 ~~under this section does not affect a liability for a tax that was attached before the effective~~
34 ~~date of the repeal, nor does it affect a right to a refund of a tax that accrued before the~~
35 ~~effective date of the repeal.~~

36 Sec. 1.1. Granville Tourism Development Authority.

37 (a) Appointment and Membership.

38 The Board of County Commissioners shall adopt a resolution creating a county
39 Tourism Development Authority, which shall be a public authority under the Local
40 Government Budget and Fiscal Control Act. The Authority shall be composed of five
41 members who shall serve for staggered three-year terms. The members shall be
42 appointed as follows: three appointed by the Granville County Board of Commissioners,
43 one appointed by the Oxford City Council, and one appointed by the Creedmoor City

1 Council. One of the three members appointed by the Granville County Board of
2 Commissioners must be an owner or manager of a Granville County hotel or motel. The
3 remaining members must be individuals who are currently active in the promotion of
4 travel and tourism in the county. Vacancies shall be filled in the same manner as original
5 appointments, and members appointed to fill vacancies shall serve for the remainder of
6 the unexpired term. The resolution shall determine the compensation, if any, to be paid
7 to the members of the Authority.

8 At the first meeting of each calendar year, the membership of the Authority shall elect
9 one member to serve as chair until the first meeting of the following year. The Authority
10 shall meet at the call of the chair and shall adopt rules of procedure to govern its
11 meetings. The Finance Officer for Granville County shall be the ex officio finance
12 officer of the Authority.

13 (b) Duties.

14 The Authority shall expend the net proceeds of the tax levied under this act for the
15 purposes provided in this act. The Authority shall promote travel, tourism, and
16 conventions in the county, sponsor tourist-related events and activities in the county, and
17 finance tourist-related capital projects in the county.

18 (c) Reports.

19 The Authority shall report quarterly and at the close of the fiscal year to the Granville
20 County Board of Commissioners on its receipts and expenditures for the preceding
21 quarter and for the year in such detail as the board may require.

22 Sec. 2. This act is effective upon ratification."

23 Section 2. To achieve the staggered terms required on the Granville County
24 Tourism Development Authority, as provided in Section 1 of this act, the initial terms of
25 the members of the Authority shall be as follows: The initial term of the member who is
26 an owner or manager of a hotel or motel shall be three years. The Granville County
27 Board of Commissioners must designate one of its remaining appointees to serve an
28 initial term of two years and the other to serve an initial term of one year. The remaining
29 initial members shall serve terms of three years each. Thereafter, all terms shall be three
30 years.

31 Section 3. Section 1(a) of Chapter 454 of the 1993 Session Laws, as amended
32 by Section 1 of this act, reads as rewritten:

33 "(a) Authorization and Scope.

34 The Granville County Board of Commissioners may levy a room occupancy tax of
35 ~~three percent (3%)~~ five percent (5%) of the gross receipts derived from the rental of any
36 room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or
37 similar place within the county that is subject to sales tax imposed by the State under G.S.
38 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not
39 apply to accommodations furnished by nonprofit charitable, educational, or religious
40 organizations. The combined occupancy tax rates for Granville County and any city or
41 town that is located in Granville County and is authorized to levy a room occupancy tax
42 may not exceed six percent (6%)."

1 Section 4. Section 1(e) of Chapter 454 of the 1993 Session Laws, as amended
2 by Section 1 of this act, reads as rewritten:

3 "(e) Distribution and Use of Tax Revenue.

4 The county shall, on a quarterly basis, remit the net proceeds of the occupancy tax to
5 the Granville County Tourism Development Authority. The Authority ~~may shall use up to~~
6 at least two-thirds of the funds remitted to it under this subsection ~~for the following~~
7 ~~tourism-related expenditures designed to attract tourists and business travelers from outside the~~
8 ~~county into the county: (i) developing facilities for fishing tournaments, skiing tournaments,~~
9 ~~and boating events; (ii) constructing facilities for festivals; (iii) constructing tournament grade~~
10 ~~multi-purpose athletic facilities; and (iv) financing other similar capital expenditures. The~~
11 ~~Authority shall use the remaining net proceeds to promote travel and tourism in Granville~~
12 County. County and shall use the remainder for tourism-related expenditures.

13 The following definitions apply in this subsection:

- 14 (1) Net proceeds. – Gross proceeds less the cost to the county of
15 administering and collecting the tax, as determined by the finance
16 officer, not to exceed three percent (3%) of the gross proceeds.
- 17 (2) Promote travel and tourism. – To advertise or market an area or activity,
18 publish and distribute pamphlets and other materials, conduct market
19 research, or engage in similar promotional activities that attract tourists
20 or business travelers to the county. The term includes administrative
21 expenses incurred in engaging in the listed activities.
- 22 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
23 the Authority, are designed to increase the use of lodging facilities in the
24 county or to attract tourists or business travelers to the county. The term
25 includes tourism-related capital expenditures."

26 Section 5. G.S. 153A-155(g) reads as rewritten:

27 "(g) This section applies only to Avery, Brunswick, Craven, Currituck, Davie,
28 Granville, Madison, Nash, Person, Randolph, Scotland, and Transylvania Counties."

29 Section 6. Sections 1 through 6 of Chapter 318 of the 1989 Session Laws, as
30 amended by Chapter 428 of the 1993 Session Laws, read as rewritten:

31 "**Section 1.** Occupancy Tax. The Town Council of Banner Elk ~~may by resolution,~~
32 ~~after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~
33 ~~levy a room occupancy and tourism development tax. Collection of the tax and liability~~
34 ~~therefor shall begin and continue only on and after the first day of a calendar month set~~
35 ~~by the Town Council of Banner Elk in the resolution levying the tax, which in no case~~
36 ~~may be earlier than the first day of the second succeeding calendar month after the date of~~
37 ~~adoption of the resolution.~~

38 The occupancy and tourism development tax that may be levied under this act shall be
39 three percent (3%) of the gross receipts derived from the rental of any room, lodging, or
40 similar accommodation in the Town of Banner Elk that is subject to sales tax imposed by
41 the State under G.S. ~~105-164.4(3).~~ 105-164.4(a)(3). This tax is in addition to any State or
42 local sales tax. The tax shall not apply to any room, lodging, or accommodation supplied
43 to the same person for a period of 90 continuous days or more or to sleeping rooms or

1 lodging furnished by charitable, educational, or religious institutions or by nonprofit
2 organizations.

3 **"Sec. 2.** Administration of Tax. (a) A tax levied under this section shall be levied,
4 administered, collected, and repealed as provided in G.S. 160A-215. The penalties
5 provided in G.S. 160A-215 apply to a tax levied under this section. The Town of Banner
6 Elk shall administer a tax levied under this act. A tax levied under this act is due and payable to
7 the town in monthly installments on or before the 15th day of the month following the month in
8 which the tax accrues. Every person, firm, corporation, and association liable for the tax shall,
9 on or before the 15th day of each month prepare and render a return on a form prescribed by the
10 town. The return shall state the total gross receipts derived in the preceding month from rentals
11 upon which the tax is levied. A return filed with the county town under this act is not a public
12 record as defined by G.S. 132-1 and may not be disclosed except as required by law.

13 (b) ~~Any person, firm, corporation, or association who fails or refuses to file the~~
14 ~~return required by this act is subject to the civil and criminal penalties set by G.S. 105-~~
15 ~~236 for failure to pay or file a return for State sales and use taxes. The town council has~~
16 ~~the same authority to waive the penalties for a room occupancy tax that the Secretary of~~
17 ~~Revenue has to waive the penalties for State sales and use taxes.~~

18 (c) All persons, firms, corporations, and associations who rent either their own
19 dwelling or dwellings or rooms for other persons are required to submit to the town a list
20 of all rented properties. This list shall include the owner's name and current address and
21 the location of the rental property. The list shall be submitted semi-annually on or before
22 November 30 and May 30. Failure to file this listing shall subject the person, firm,
23 corporation, or association to a civil penalty of fifty dollars (\$50.00).

24 **"Sec. 3.** Collection of Tax. (a) ~~Every operator of a business and every~~
25 ~~individual renting his or her own property subject to the tax levied pursuant to this act~~
26 ~~shall on and after the effective date of the levy of the tax, collect the three percent (3%)~~
27 ~~room occupancy tax. This tax shall be collected as part of the charge for furnishing any~~
28 ~~taxable accommodations. The tax shall be stated and charged separately from the sales~~
29 ~~records and shall be paid by the purchaser to the operator of the business as trustee for~~
30 ~~and on account of the Town of Banner Elk. It is the intent of this act that the room~~
31 ~~occupancy tax levied by the Town of Banner Elk shall be added to the sales price and that~~
32 ~~the tax shall be passed on to the purchaser instead of being borne by the operator of the~~
33 ~~business. The town shall design, print, and furnish to all appropriate businesses in the~~
34 ~~town the necessary forms for filing returns and instructions to ensure the full collection of~~
35 ~~the tax.~~

36 (b) Collection of the tax shall be the responsibility of the Banner Elk Tax
37 Administrator. In his or her discretion, the tax administrator may proceed against an
38 operator whose occupancy tax is delinquent employing all remedies for collection of tax
39 as set out in G.S. 105-367, 105-368, 105-374, and 105-375. In employing the remedies
40 under those statutes, the tax levied under this act shall be treated as a property tax on
41 personal property. The Tax Administrator may audit occupancy tax reports as he or she
42 deems necessary utilizing information available to him or her in property tax matters.

1 ~~"Sec. 4. Discount for Payment of Taxes When Due. Every operator who pays the~~
2 ~~occupancy tax imposed by this act may deduct from the amount of the tax for which he is~~
3 ~~liable and which he actually pays a discount equal to the discount the State allows the~~
4 ~~operator for collecting State sales and use taxes. Provided, however, the tax~~
5 ~~administrator may deny a taxpayer the benefit of this section for failure to pay the full tax~~
6 ~~when due as well as in cases of fraud, evasion, or failure to keep accurate and clear~~
7 ~~records as required. Provided, further, that in order to receive any discount allowed the~~
8 ~~taxpayer must deduct the discount at the time of making the monthly remittance of tax to~~
9 ~~the town.~~

10 "Sec. 5. Disposition of Taxes Collected. The town council shall use at least ~~two-thirds~~
11 one-third of the room occupancy tax proceeds to promote travel and tourism and shall use
12 the remainder of the proceeds only for tourism-related expenditures. The term 'promote
13 travel and tourism' means to advertise or market an area or activity, publish and distribute
14 pamphlets and other materials, conduct market research, or engage in or sponsor similar
15 promotional activities that attract tourists or business travelers to the area; the term
16 includes administrative expenses incurred in engaging in the listed activities. The term
17 'tourism-related expenditures' means expenditures that are designed to increase the use of
18 lodging facilities, recreational facilities, and business establishments in the town
19 or to attract tourists or business travelers to the ~~town~~ town, and expenditures incurred by
20 the town in collecting the tax. The term includes expenditures to construct, maintain,
21 operate, or market a convention or meeting facility, a visitors' center, ~~or a coliseum~~ a
22 coliseum, sidewalks, or public parking areas, and other expenditures that, in the judgment
23 of the town council, will facilitate and support tourism.

24 The town may retain its costs of collecting the tax, not to exceed seven percent (7%)
25 of the amount collected.

26 ~~"Sec. 6. Repeal of Levy. The Banner Elk Town Council may by resolution repeal the~~
27 ~~levy of the room occupancy tax in Banner Elk, but no repeal of taxes levied under this act~~
28 ~~shall be effective until the end of the fiscal year in which the repeal resolution was~~
29 ~~adopted. No liability for a tax levied under this act that attached prior to the date on~~
30 ~~which a levy is repealed shall be discharged as a result of the repeal, and no right to a~~
31 ~~refund of a tax that accrued prior to the effective date on which a levy is repealed shall be~~
32 ~~denied as a result of the repeal."~~

33 Section 7. G.S. 160A-215 reads as rewritten:

34 "**§ 160A-215. Uniform provisions for room occupancy taxes.**

35 (a) Scope. – This section applies only to municipalities the General Assembly has
36 authorized to levy room occupancy taxes. For the purpose of this section, the term
37 "city" means a municipality.

38 (b) Levy. – A room occupancy tax may be levied only by resolution, after not less
39 than 10 days' public notice and after a public hearing held pursuant thereto. A room
40 occupancy tax shall become effective on the date specified in the resolution levying the
41 tax. That date must be the first day of a calendar month, however, and may not be earlier
42 than the first day of the second month after the date the resolution is adopted.

1 (c) Collection. – Every operator of a business subject to a room occupancy tax
2 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall
3 be collected as part of the charge for furnishing a taxable accommodation. The tax shall
4 be stated and charged separately from the sales records and shall be paid by the purchaser
5 to the operator of the business as trustee for and on account of the taxing city. The tax
6 shall be added to the sales price and shall be passed on to the purchaser instead of being
7 borne by the operator of the business. The taxing city shall design, print, and furnish to
8 all appropriate businesses and persons in the city the necessary forms for filing returns
9 and instructions to ensure the full collection of the tax. An operator of a business who
10 collects a room occupancy tax may deduct from the amount remitted to the taxing city a
11 discount equal to the discount the State allows the operator for State sales and use tax.

12 (d) Administration. – The taxing city shall administer a room occupancy tax it
13 levies. A room occupancy tax is due and payable to the city finance officer in monthly
14 installments on or before the fifteenth day of the month following the month in which the
15 tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or
16 before the fifteenth day of each month, prepare and render a return on a form prescribed
17 by the taxing city. The return shall state the total gross receipts derived in the preceding
18 month from rentals upon which the tax is levied. A room occupancy tax return filed with
19 the city finance officer is not a public record and may not be disclosed except in
20 accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

21 (e) Penalties. – A person, firm, corporation, or association who fails or refuses to
22 file a room occupancy tax return or pay a room occupancy tax as required by law is
23 subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a
24 return for State sales and use taxes. The governing board of the taxing city has the same
25 authority to waive the penalties for a room occupancy tax that the Secretary of Revenue
26 has to waive the penalties for State sales and use taxes.

27 (f) Repeal or Reduction. – A room occupancy tax levied by a city may be repealed
28 or reduced by a resolution adopted by the governing body of the city. Repeal or
29 reduction of a room occupancy tax shall become effective on the first day of a month and
30 may not become effective until the end of the fiscal year in which the resolution was
31 adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax
32 that was attached before the effective date of the repeal or reduction, nor does it affect a
33 right to a refund of a tax that accrued before the effective date of the repeal or reduction.

34 (g) This section applies only to the Cities of Goldsboro, Greensboro, Lumberton,
35 Mount Airy, Shelby, and Statesville, to the Towns of ~~Mooresville~~ Banner Elk,
36 Mooresville, and St. Pauls, and to the municipalities in Brunswick County."

37 Section 8. Sections 3 and 4 of this act become effective October 1, 2007, and
38 apply to taxes collected on or after that date. Section 6 of this act becomes effective on
39 the first day of the first month after it becomes law and applies to taxes collected on or
40 after that date. Section 7 of this act is effective when it becomes law. The remainder of
41 this act becomes effective October 1, 2000, and applies to taxes collected on or after that
42 date.