

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1269
Committee Substitute Favorable 8/30/05
Third Edition Engrossed 8/30/05
Senate Finance Committee Substitute Adopted 7/6/06

Short Title: Chowan Occupancy Tax Changes.

(Local)

Sponsors:

Referred to:

April 19, 2005

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CHOWAN COUNTY TO LEVY AN ADDITIONAL
TWO PERCENT ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX
AND TO MAKE OTHER ADMINISTRATIVE CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 174 of the 1989 Session Laws reads as rewritten:

"Section 1. Occupancy tax. ~~– (a) Authorization and scope.~~ Scope. – The
Chowan 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 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(3).~~ 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.~~ organizations when furnished in furtherance of
their nonprofit purpose.

(a1) Authorization of Additional Tax. – In addition to the tax authorized by
subsection (a) of this section, the Chowan County Board of Commissioners may levy an
additional room occupancy tax of up to two percent (2%) of the gross receipts derived
from the rental of accommodations taxable under subsection (a) of this section. The
levy, collection, administration, and repeal of the tax authorized by this subsection must
be in accordance with the provisions of this section. Chowan County may not levy a tax
under this subsection unless it also levies the tax authorized under subsection (a) of this
section.

~~(b) Collection. Every operator of a business subject to the tax levied under this~~
~~section shall, on and after the effective date of the levy of the tax, collect the tax. This~~
~~tax shall be collected as part of the charge for furnishing a taxable accommodation. The~~

1 tax shall be stated and charged separately from the sales records, and shall be paid by
2 the purchaser to the operator of the business as trustee for and on account of the county.
3 The tax shall be added to the sales price and shall be passed on to the purchaser instead
4 of being borne by the operator of the business. The county shall design, print, and
5 furnish to all appropriate businesses and persons in the county the necessary forms for
6 filing returns and instructions to ensure the full collection of the tax. An operator of a
7 business who collects the occupancy tax levied under this section may deduct from the
8 amount remitted to the county a discount of three percent (3%) of the amount collected.

9 (c) Administration. The county shall administer a tax levied under this section. A
10 tax levied under this section is due and payable to the county finance officer in monthly
11 installments on or before the 15th day of the month following the month in which the
12 tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or
13 before the 15th day of each month, prepare and render a return on a form prescribed by
14 the county. The return shall state the total gross receipts derived in the preceding month
15 from rentals upon which the tax is levied.

16 A return filed with the county finance officer under this section is not a public record
17 as defined by G.S. 132-1 and may not be disclosed except as required by law. A tax
18 levied under this section shall be levied, administered, collected, and repealed as
19 provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax
20 levied in this section.

21 (d) Penalties. A person, firm, corporation, or association who fails or refuses to
22 file the return required by this section shall pay a penalty of ten dollars (\$10.00) for
23 each day's omission. In case of failure or refusal to file the return or pay the tax for a
24 period of 30 days after the time required for filing the return or for paying the tax, there
25 shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to
26 any other penalty, with an additional tax of five percent (5%) for each additional month
27 or fraction thereof until the tax is paid. The board of commissioners may, for good
28 cause shown, compromise or forgive the penalties imposed by this subsection.

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

34 (e) ~~Distribution and use of tax revenue.~~Use of Tax Revenue. – Chowan County
35 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Chowan
36 Tourism Development Authority. ~~The Authority may spend funds remitted to it under~~
37 ~~this subsection only to promote travel and tourism in Chowan County, to sponsor~~
38 ~~tourist oriented events and activities in Chowan County, and to finance tourist related~~
39 ~~capital projects in Chowan County. As used in this subsection, "net proceeds" means~~
40 ~~gross~~ The Authority shall use at least two-thirds of the funds remitted to it under this
41 section to promote travel and tourism in Chowan County and the remainder for
42 tourism-related expenditures.

43 The following definitions apply in this act:

- 1 (1) Net proceeds. – Gross proceeds less the cost to the county of
2 administering and collecting the tax, as determined by the finance
3 officer, not to exceed three percent (3%) of the first five
4 hundred thousand dollars (\$500,000) of gross proceeds collected each
5 year and one percent (1%) of the remaining gross receipts collected
6 each year.
- 7 (2) Promote travel and tourism. – To advertise or market an area or
8 activity, publish and distribute pamphlets and other materials, conduct
9 market research, or engage in similar promotional activities that attract
10 tourists or business travelers to the area. The term includes
11 administrative expenses incurred in engaging in these activities.
- 12 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
13 the Authority, are designed to increase the use of lodging facilities,
14 meeting facilities, and convention facilities in a county by attracting
15 tourists or business travelers to the county. The term includes
16 tourism-related capital expenditures.

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

21 ~~(g) Repeal. A tax levied under this section may be repealed by a resolution~~
22 ~~adopted by the Chowan County Board of Commissioners. Repeal of a tax levied under~~
23 ~~this section shall become effective on the first day of a month and may not become~~
24 ~~effective until the end of the fiscal year in which the repeal resolution was adopted.~~
25 ~~Repeal of a tax levied under this section does not affect a liability for a tax that was~~
26 ~~attached before the effective date of the repeal, nor does it affect a right to a refund of a~~
27 ~~tax that accrued before the effective date of the repeal.~~

28 "Sec. 2. Tourism Development Authority. = (a) Appointment and
29 ~~membership.~~Membership. – When the board of commissioners adopts a resolution
30 levying a room occupancy tax under this act, it shall also adopt a resolution creating a
31 county Tourism Development Authority, which shall be a public authority under the
32 Local Government Budget and Fiscal Control Act. The resolution shall provide for the
33 membership of the Authority including the members' qualifications and terms of office,
34 and for the filling of vacancies on the Authority. At least one-third of the members must
35 be individuals affiliated with businesses that collect the tax in the county and at least
36 one-half must be individuals currently active in the promotion of travel and tourism in
37 the county. The board of commissioners shall designate one member of the Authority as
38 chair and shall determine the compensation, if any, to be paid to members of the
39 Authority.

40 The Authority shall meet at the call of the chair and shall adopt rules of procedure to
41 govern its meetings. The county shall serve as the fiscal agent of the Authority. The
42 Finance Officer for Chowan County shall be the ex officio finance officer of the
43 Authority.

1 (b) Duties. – The Authority shall expend the net proceeds of the tax levied under
2 this act for the purposes provided in Section 1 of this act. The Authority shall promote
3 travel, tourism, and conventions in the county, sponsor tourist-related events and
4 activities in the county, and finance tourist-related capital projects in the county.

5 (c) Reports. – The Authority shall report quarterly and at the close of the fiscal
6 year to the board of commissioners on its receipts and expenditures for the preceding
7 quarter and for the year in such detail as the board may require.

8 "Sec. 3. This act is effective upon ratification."

9 **SECTION 2.** G.S. 153A-155(g) reads as rewritten:

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

16 **SECTION 3.** This act is effective when it becomes law.