

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 558

Short Title: Lincolnton Occupancy Tax.

(Local)

Sponsors: Senator Hoyle.

Referred to: Finance.

March 21, 2001

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF LINCOLNTON 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
Lincolnton City Council may levy a room occupancy tax of up to 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 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 when
furnished in furtherance of their nonprofit purpose.

SECTION 1.(b) Administration. – A tax levied under this section shall be
levied, administered, collected, and repealed as provided in G.S. 160A–215. The
penalties provided in G.S. 160A–215 apply to a tax levied under this section.

SECTION 1.(c) Distribution and Use of Tax Revenue. – Lincolnton shall,
on a quarterly basis, remit the net proceeds of the occupancy tax to the Lincolnton
Tourism Development Authority. The Authority shall use at least two-thirds of the
funds remitted to it under this subsection to promote travel and tourism in Lincolnton
and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the city 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

1 market research, or engage in similar promotional activities that attract
2 tourists or business travelers to the area; the term includes
3 administrative expenses incurred in engaging in the listed activities.

- 4 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
5 the Tourism Development Authority, are designed to increase the use
6 of lodging facilities, meeting facilities, or convention facilities in a city
7 or to attract tourists or business travelers to the city. The term includes
8 tourism-related capital expenditures.

9 **SECTION 2.** Lincolnton Tourism Development Authority. (a) Appointment
10 and Membership. – When the Lincolnton City Council adopts a resolution levying a
11 room occupancy tax under this act, it shall also adopt a resolution creating a city
12 Tourism Development Authority, which shall be a public authority under the Local
13 Government Budget and Fiscal Control Act. The resolution shall provide for the
14 membership of the Authority, including the members' terms of office, and for the filling
15 of vacancies on the Authority. At least one-third of the members must be individuals
16 who are affiliated with businesses that collect the tax in the city and at least three-
17 fourths of the members must be individuals who are currently active in the promotion of
18 travel and tourism in the city. The city council shall designate one member of the
19 Authority as chair and shall determine the compensation, if any, to be paid to members
20 of the Authority.

21 The Authority shall meet at the call of the chair and shall adopt rules of
22 procedure to govern its meetings. The Finance Officer for Lincolnton shall be the ex
23 officio finance officer of the Authority.

24 **SECTION 2.(b)** Duties. – The Authority shall expend the net proceeds of
25 the tax levied under this act for the purposes provided in Section 1 of this act. The
26 Authority shall promote travel, tourism, and conventions in the city, sponsor tourist-
27 related events and activities in the city, and finance tourist-related capital projects in the
28 city.

29 **SECTION 2.(c)** Reports. – The Authority shall report quarterly and at the
30 close of the fiscal year to the Lincolnton City Council on its receipts and expenditures
31 for the preceding quarter and for the year in such detail as the city council may require.

32 **SECTION 3.** City administrative provisions. – G.S. 160A-215 reads as
33 rewritten:

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

35 (a) Scope. – This section applies only to municipalities the General Assembly
36 has 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
39 less 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
42 earlier than the first day of the second month after the date the resolution is adopted.

43 (c) Collection. – Every operator of a business subject to a room occupancy tax
44 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall

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

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

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

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

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

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