

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 2000-103
HOUSE BILL 1748

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:

PART I. GRANVILLE COUNTY OCCUPANCY TAX REVISIONS

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

(b) Administration.

A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under 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 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 county. 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 county shall design, print, and furnish to all~~

~~appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(c) Administration.~~

~~The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county 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 county. 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 county 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 board of commissioners 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) Distribution and Use of Tax Revenue.~~

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

The following definitions apply in this subsection:

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

~~the county or to attract tourists or business travelers to the county and expenditures by the county to administer and collect the tax; it county. The term includes expenditures for the construction or maintenance of a convention or meeting facility to be used primarily by individuals who are not residents of the county and for the construction or maintenance of a coliseum or a visitors' center, but does not include other tourism-related capital expenditures.~~

~~(f) 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.~~

~~(g) Repeal.~~

~~A tax levied under this section may be repealed by a resolution adopted by the Granville County Board of Commissioners. 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. 1.1. Granville Tourism Development Authority.

(a) Appointment and Membership.

The Board of County Commissioners shall adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The Authority shall be composed of five members who shall serve for staggered three-year terms. The members shall be appointed as follows: three appointed by the Granville County Board of Commissioners, one appointed by the Oxford City Council, and one appointed by the Creedmoor City Council. One of the three members appointed by the Granville County Board of Commissioners must be an owner or manager of a Granville County hotel or motel. The remaining members must be individuals who are currently active in the promotion of travel and tourism in the county. Vacancies shall be filled in the same manner as original appointments, and members appointed to fill vacancies shall serve for the remainder of the unexpired term. The resolution shall determine the compensation, if any, to be paid to the members of the Authority.

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

(b) Duties.

The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in this act. The Authority shall promote travel, tourism, and

conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

(c) Reports.

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

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

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

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

"(a) Authorization and Scope.

The Granville County Board of Commissioners may levy a room occupancy tax of ~~three percent (3%)~~ five percent (5%) 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 organizations. The combined occupancy tax rates for Granville County and any city or town that is located in Granville County and is authorized to levy a room occupancy tax may not exceed six percent (6%)."

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

"(e) Distribution and Use of Tax Revenue.

The county shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Granville County Tourism Development Authority. The Authority ~~may~~ shall use ~~up to at least two-thirds~~ of the funds remitted to it under this subsection ~~for the following tourism-related expenditures designed to attract tourists and business travelers from outside the county into the county: (i) developing facilities for fishing tournaments, skiing tournaments, and boating events; (ii) constructing facilities for festivals; (iii) constructing tournament grade multi purpose athletic facilities; and (iv) financing other similar capital expenditures. The Authority shall use the remaining net proceeds to promote travel and tourism in Granville County.~~ County 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 county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the gross proceeds.

- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the county. The term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures."

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

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

PART II. BANNER ELK OCCUPANCY TAX REVISIONS

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

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

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

"Sec. 2. Administration of Tax. (a) 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. The Town of Banner Elk shall administer a tax levied under this act. A tax levied under this act is due and payable to the town in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, and 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 town. 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 county town under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.

(b) ~~Any person, firm, corporation, or association who fails or refuses to file the return required by this act 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 town 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.

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

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

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

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

~~"Sec. 5. Disposition of Taxes Collected. Distribution and Use of Tax Revenue. The Town Council shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Banner Elk Tourism Development Authority. The Authority shall use at least one-third of the funds remitted to it under this section to promote travel and tourism in Banner Elk and shall use the remainder for tourism-related expenditures.~~

~~The following definitions apply in this section:~~

- ~~(1) Net proceeds. – Gross proceeds less the cost to the town 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 ~~The town council shall use at least two-thirds of the room occupancy tax proceeds to promote travel and tourism and shall use the remainder of the proceeds 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, or engage in or sponsor similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities. The term 'tourism-related expenditures' means expenditures that~~
- (3) Tourism-related expenditures. – Expenditures that, in the judgement of the Authority, are designed to increase the use of lodging facilities facilities, recreational facilities, and business establishments in the town or to attract tourists or business travelers to the town and expenditures incurred by the town in collecting the tax. The term includes expenditures to construct, maintain, operate, or market a convention or meeting facility, a visitors' center, or a coliseum and other expenditures that, in the judgment of the town council, will facilitate and support tourism. town. The term includes tourism-related capital expenditures and expenditures required to make the downtown tourist area and nearby green areas more accessible, attractive, and usable to pedestrian tourists, in accordance with the master plan approved by the Town Council.

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

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

"Sec. 7. Tourism Development Authority. (a) Appointment and membership. The Town of Banner Elk shall adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The Authority shall be composed of five members who shall serve for staggered three-year terms. The members shall be appointed by the mayor and approved by the Town Council. Two of the members must be an owner or manager of a Banner Elk hotel, motel, or bed and breakfast and one of the other members must be a representative for Lees-McRae College. The remaining two members must be individuals who are currently active in the promotion of travel and tourism in the town.

Vacancies shall be filled in the same manner as the original appointments, and members appointed to fill vacancies shall serve for the remainder of the unexpired term. The Banner Elk Town Council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Banner Elk shall be the ex officio, nonvoting finance officer of the Authority.

(b) Duties. The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 5 of this act. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the Banner Elk Town Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require."

Section 7. To achieve the staggered terms required on the Banner Elk Tourism Development Authority, as provided in Section 6 of this act, the initial terms of the members of the Authority shall be as follows: The initial term of one of the two at-large members shall be one year and the initial term of one of the two members that is an owner or manager of a Banner Elk hotel, motel, or bed and breakfast shall be two years. The remaining initial members shall serve terms of three years each. Thereafter, all terms shall be three years.

Section 8. Effective October 1, 2010, Section 5 of Chapter 318 of the 1989 Session Laws, as amended by Chapter 428 of the 1993 Session Laws and Section 6 of this act, reads as rewritten:

"Sec. 5. Distribution and use of tax revenue. The town council shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Banner Elk Tourism Development Authority. The Authority shall use at least ~~one-third~~ two-thirds of the funds remitted to it under this section to promote travel and tourism in Banner Elk 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 town 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 market research, or engage in or sponsor similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgement of the Authority, are designed to increase the use of lodging facilities, recreational facilities, and business establishments in the town or to attract tourists or business travelers to the town. The term includes

tourism-related capital ~~expenditures and expenditures required to make the downtown tourist area and nearby green areas more accessible, attractive, and usable to pedestrian tourists, in accordance with the master plan approved by the town council.~~ expenditures."

Section 9. G.S. 160A-215(g) reads as rewritten:

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

PART III. EFFECTIVE DATES

Section 10.(a) Part I: Granville Occupancy Tax Revisions. Sections 1 through 5 of this act apply only to Granville County. Sections 1, 2, and 5 of this act become effective October 1, 2000, and apply to taxes collected on or after that date. Sections 3 and 4 of this act become effective October 1, 2007, and apply to taxes paid on or after that date.

Section 10.(b) Part II: Banner Elk Occupancy Tax Revisions. Sections 6 through 9 of this act apply only to the Town of Banner Elk. Sections 6, 7, and 9 of this act become effective October 1, 2000, and apply to taxes collected on or after that date. Section 8 of this act becomes effective October 1, 2010, and applies to taxes collected on or after that date.

Section 10.(c) The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of July, 2000.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives