

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

H

4

**HOUSE BILL 685
Committee Substitute Favorable 7/18/01
Senate Finance Committee Substitute Adopted 8/7/01
Fourth Edition Engrossed 8/13/01**

Short Title: Occupancy Tax for Certain Counties.

(Local)

Sponsors:

Referred to:

March 19, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO AUTHORIZE ANSON, MONTGOMERY, AND STANLY COUNTIES
3 TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX, TO
4 CHANGE THE PURPOSES FOR WHICH BEECH MOUNTAIN CAN USE ITS
5 OCCUPANCY TAX, TO MAKE ADMINISTRATIVE CHANGES TO THE
6 BEECH MOUNTAIN OCCUPANCY TAX, TO CREATE AN OCCUPANCY
7 TAX DISTRICT IN BEECH MOUNTAIN, AND TO AUTHORIZE THE BEECH
8 MOUNTAIN TAX DISTRICT TO LEVY AN OCCUPANCY TAX.

9 The General Assembly of North Carolina enacts:

PART I. COUNTY ADMINISTRATIVE PROVISIONS

10 **SECTION 1.** G.S. 153A-155 reads as rewritten:

11 **"§ 153A-155. Uniform provisions for room occupancy taxes.**

12 (a) Scope. – This section applies only to counties the General Assembly has
13 authorized to levy room occupancy taxes.

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

19 (c) Collection. – Every operator of a business subject to a room occupancy tax
20 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall
21 be collected as part of the charge for furnishing a taxable accommodation. The tax shall
22 be stated and charged separately from the sales records and shall be paid by the
23 purchaser to the operator of the business as trustee for and on account of the taxing
24 county. The tax shall be added to the sales price and shall be passed on to the purchaser
25 instead of being borne by the operator of the business. The taxing county shall design,
26 print, and furnish to all appropriate businesses and persons in the county the necessary
27

1 forms for filing returns and instructions to ensure the full collection of the tax. An
2 operator of a business who collects a room occupancy tax may deduct from the amount
3 remitted to the taxing county a discount equal to the discount the State allows the
4 operator for State sales and use tax.

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

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

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

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

31 PART II. ANSON COUNTY

32 **SECTION 2.** Anson Occupancy Tax. (a) Authorization and Scope. The
33 Anson County Board of Commissioners may levy a room occupancy tax of up to three
34 percent (3%) of the gross receipts derived from the rental of any room, lodging, or
35 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within
36 the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).
37 This tax is in addition to any State or local sales tax. This tax does not apply to
38 accommodations furnished by nonprofit charitable, educational, or religious
39 organizations when furnished in furtherance of their nonprofit purpose.

40 **SECTION 2.(b)** Administration. A tax levied under this section shall be
41 levied, administered, collected, and repealed as provided in G.S. 153A-155. The
42 penalties provided in G.S. 153A-155 apply to a tax levied under this section.

1 **SECTION 2.(c)** Distribution and Use of Tax Revenue. Anson County shall,
2 on a quarterly basis, remit the net proceeds of the occupancy tax to the Anson Tourism
3 Development Authority. The Authority shall use at least two-thirds of the funds
4 remitted to it under this subsection to promote travel and tourism in Anson County and
5 shall use the remainder for tourism-related expenditures.

6 The following definitions apply in this subsection:

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

22 **SECTION 3.** Anson Tourism Development Authority. (a) Appointment
23 and Membership. When the board of commissioners adopts a resolution levying a room
24 occupancy tax under this Part, it shall also adopt a resolution creating a county Tourism
25 Development Authority, which shall be a public authority under the Local Government
26 Budget and Fiscal Control Act. The resolution shall provide for the membership of the
27 Authority, including the members' terms of office, and for the filling of vacancies on the
28 Authority. At least one-third of the members must be individuals who are affiliated
29 with businesses that collect the tax in the county, and at least three-fourths of the
30 members must be individuals who are currently active in the promotion of travel and
31 tourism in the county. The board of commissioners shall designate one member of the
32 Authority as chair and shall determine the compensation, if any, to be paid to members
33 of the Authority.

34 The Authority shall meet at the call of the chair and shall adopt rules of
35 procedure to govern its meetings. The Finance Officer for Anson County shall be the ex
36 officio finance officer of the Authority.

37 **SECTION 3.(b)** Duties. The Authority shall expend the net proceeds of the
38 tax levied under this Part for the purposes provided in this Part. The Authority shall
39 promote travel, tourism, and conventions in the county, sponsor tourist-related events
40 and activities in the county, and finance tourist-related capital projects in the county.

1 **SECTION 3.(c)** Reports. The Authority shall report quarterly and at the
2 close of the fiscal year to the board of commissioners on its receipts and expenditures
3 for the preceding quarter and for the year in such detail as the board may require.

4 **PART III. MONTGOMERY COUNTY**

5 **SECTION 4.** Montgomery Occupancy Tax. (a) Authorization and Scope.
6 The Montgomery County Board of Commissioners may levy a room occupancy tax of
7 up to three percent (3%) of the gross receipts derived from the rental of any room,
8 lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar
9 place within the county that is subject to sales tax imposed by the State under G.S.
10 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not
11 apply to accommodations furnished by nonprofit charitable, educational, or religious
12 organizations when furnished in furtherance of their nonprofit purpose.

13 **SECTION 4.(b)** Administration. A tax levied under this section shall be
14 levied, administered, collected, and repealed as provided in G.S. 153A-155. The
15 penalties provided in G.S. 153A-155 apply to a tax levied under this section.

16 **SECTION 4.(c)** Distribution and Use of Tax Revenue. Montgomery County
17 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the
18 Montgomery Tourism Development Authority. The Authority shall use at least
19 two-thirds of the funds remitted to it under this subsection to promote travel and tourism
20 in Montgomery County and shall use the remainder for tourism-related expenditures.

21 The following definitions apply in this subsection:

- 22 (1) Net proceeds. – Gross proceeds less the cost to the county of
23 administering and collecting the tax, as determined by the finance
24 officer, not to exceed three percent (3%) of the first five hundred
25 thousand dollars (\$500,000) of gross proceeds collected each year and
26 one percent (1%) of the remaining gross receipts collected each year.
- 27 (2) Promote travel and tourism. – To advertise or market an area or
28 activity, publish and distribute pamphlets and other materials, conduct
29 market research, or engage in similar promotional activities that attract
30 tourists or business travelers to the area; the term includes
31 administrative expenses incurred in engaging in these activities.
- 32 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
33 the Authority, are designed to increase the use of lodging facilities,
34 meeting facilities, and convention facilities in a county by attracting
35 tourists or business travelers to the county. The term includes
36 tourism-related capital expenditures.

37 **SECTION 5.** Montgomery Tourism Development Authority. (a)
38 Appointment and Membership. When the board of commissioners adopts a resolution
39 levying a room occupancy tax under this Part, it shall also adopt a resolution creating a
40 county Tourism Development Authority, which shall be a public authority under the
41 Local Government Budget and Fiscal Control Act. The resolution shall provide for the
42 membership of the Authority, including the members' terms of office, and for the filling

1 of vacancies on the Authority. At least one-third of the members must be individuals
2 who are affiliated with businesses that collect the tax in the county, and at least
3 three-fourths of the members must be individuals who are currently active in the
4 promotion of travel and tourism in the county. The board of commissioners shall
5 designate one member of the Authority as chair and shall determine the compensation,
6 if any, to be paid to members of the Authority.

7 The Authority shall meet at the call of the chair and shall adopt rules of
8 procedure to govern its meetings. The Finance Officer for Montgomery County shall be
9 the ex officio finance officer of the Authority.

10 **SECTION 5.(b) Duties.** The Authority shall expend the net proceeds of the
11 tax levied under this Part for the purposes provided in this Part. The Authority shall
12 promote travel, tourism, and conventions in the county, sponsor tourist-related events
13 and activities in the county, and finance tourist-related capital projects in the county.

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

17 **PART IV. STANLY COUNTY**

18 **SECTION 6. Stanly Occupancy Tax. (a) Authorization and Scope.** The
19 Stanly County Board of Commissioners may levy a room occupancy tax of up to six
20 percent (6%) of the gross receipts derived from the rental of any room, lodging, or
21 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within
22 the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).
23 This tax is in addition to any State or local sales tax. This tax does not apply to
24 accommodations furnished by nonprofit charitable, educational, or religious
25 organizations when furnished in furtherance of their nonprofit purpose.

26 **SECTION 6.(b) Administration.** A tax levied under this section shall be
27 levied, administered, collected, and repealed as provided in G.S. 153A-155. The
28 penalties provided in G.S. 153A-155 apply to a tax levied under this section.

29 **SECTION 6.(c) Distribution and Use of Tax Revenue.** Stanly County shall,
30 on a quarterly basis, remit to the City of Albemarle five-sixths of the gross proceeds of
31 the occupancy tax derived from accommodations in the City of Albemarle. The City of
32 Albemarle shall remit to the Stanly County Tourism Development Authority forty
33 percent (40%) of the proceeds it receives under this subsection. The City of Albemarle
34 shall use the remainder of the proceeds only for tourism-related expenditures.

35 Stanly County shall remit to each municipality in the county other than the
36 City of Albemarle the net proceeds of the occupancy tax derived from accommodations
37 in that municipality. Each of these municipalities shall remit to the Stanly County
38 Tourism Development Authority each year the greater of one dollar (\$1.00) per capita
39 of the municipality's population or one-half of the amount remitted to the municipality
40 under this subsection. The municipalities shall use the remaining funds received under
41 this subsection only for tourism-related expenditures in the county.

1 The county shall remit to the Stanly County Tourism Development Authority
2 the greater of twenty-five thousand dollars (\$25,000) a year or one-half of the remaining
3 net proceeds of the occupancy tax.

4 The Authority shall use the funds remitted to it under this subsection only to
5 promote travel and tourism in Stanly County.

6 Stanly County shall use the remainder of the net proceeds only for
7 tourism-related expenditures in the county.

8 **SECTION 6.(d)** Definitions. The following definitions apply in this section:

9 (1) Net proceeds. – Gross proceeds less the cost to the county of
10 administering and collecting the tax, as determined by the finance
11 officer, not to exceed an amount equal to three percent (3%) of the first
12 five hundred thousand dollars (\$500,000) of gross proceeds collected
13 each year and one percent (1%) of the remaining gross receipts
14 collected each year.

15 (2) Promote travel and tourism. – To advertise or market an area or
16 activity, publish and distribute pamphlets and other materials, conduct
17 market research, or engage in similar promotional activities that attract
18 tourists or business travelers to the area; the term includes
19 administrative expenses incurred in engaging in these activities.

20 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
21 the entity making the expenditure, are designed to increase the use of
22 lodging facilities, meeting facilities, and convention facilities in a
23 county by attracting tourists or business travelers to the county. The
24 term includes tourism-related capital expenditures.

25 **SECTION 6.(e)** Effect on Local Act. Chapter 915 of the 1991 Session Laws
26 is repealed effective on the effective date of a tax levied under this Part by Stanly
27 County.

28 **SECTION 7.** Stanly County Tourism Development Authority. As used in
29 this Part, the term "Stanly County Tourism Development Authority" means a nonprofit
30 corporation established for the purpose of promoting travel, tourism, and conventions in
31 the county, sponsoring tourist-related events and activities in the county, and financing
32 tourist-related capital projects in the county. The county and municipalities shall remit
33 funds to the Authority under this Part only pursuant to a contract that requires the
34 Authority to expend the funds to promote travel and tourism in Stanly County. The
35 contract must also require the Authority to report quarterly and at the close of the fiscal
36 year to the board of commissioners and annually to each municipality in the county on
37 its receipts and expenditures for the preceding quarter and for the year in such detail as
38 the board may require.

39 **PART V. BEECH MOUNTAIN**

40 **SECTION 8.** Chapter 376 of the 1987 Session Laws reads as rewritten:

41 "AN ACT TO AUTHORIZE THE TOWN OF BEECH MOUNTAIN TO LEVY A
42 ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

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

8 ~~The occupancy and tourism development tax that may be levied under this act shall~~
9 ~~be tax of three percent (3%) of the gross receipts derived from the rental of any room,~~
10 ~~lodging, or similar accommodation in the Town of Beech Mountain that is subject to~~
11 ~~sales tax imposed by the State under G.S. 105-164.4(3), 105-164.4(a)(3). This tax is in~~
12 ~~addition to any State or local sales tax. The tax shall tax or room occupancy tax. The tax~~
13 ~~does not apply to any room, lodging, or accommodations supplied to the same person~~
14 ~~for a period of 90 continuous days or more. The tax shall also not apply to sleeping~~
15 ~~rooms or lodgings furnished by charitable, educational, or religious institutions or non-~~
16 ~~profit nonprofit organizations.~~

17 ~~"Sec. 2. Administration of Tax. — (a) A tax levied under this act shall be levied,~~
18 ~~administered, collected, and repealed as provided in G.S. 160A-215. The penalties~~
19 ~~provided in G.S. 160A-215 apply to a tax levied under this act. The Town of Beech~~
20 ~~Mountain shall administer a tax levied under this act. A tax levied under this act is due~~
21 ~~and payable to the Town in monthly installments on or before the 15th day of the month~~
22 ~~following the month in which the tax accrues. Every person, firm, corporation, and~~
23 ~~association liable for the tax shall, on or before the 15th day of each month, prepare and~~
24 ~~render a return on a form prescribed by the Town. The return shall state the total gross~~
25 ~~receipts derived in the preceding month from rentals upon which the tax is levied. A~~
26 ~~return filed with the Town under this act is not a public record as defined by G.S. 132-1~~
27 ~~and may not be disclosed except as required by law.~~

28 ~~(b) Any person, firm, corporation, or association who fails or refuses to file the~~
29 ~~return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's~~
30 ~~omission.~~

31 ~~In case of failure or refusal to file the return or pay the tax for a period of 30 days or~~
32 ~~more after the time required for filing the return or for paying the tax, there shall be an~~
33 ~~additional tax, as a penalty, of five percent (5%) of the total tax due, for each additional~~
34 ~~month or fraction thereof until the occupancy tax is paid.~~

35 ~~Any person who willfully attempts in any manner to evade the occupancy tax levied~~
36 ~~under this act or to make a return and who willfully fails to pay the tax or make and file~~
37 ~~a return shall, in addition to all other penalties provided by law, be guilty of a~~
38 ~~misdemeanor and shall be punished by a fine not to exceed one thousand dollars~~
39 ~~(\$1,000) or by imprisonment not to exceed six months, or both. The Town Council may,~~
40 ~~for good cause shown, compromise or forgive the penalties imposed by this subsection.~~

41 ~~(c) All persons, firms, corporations, and associations who rent either their own~~
42 ~~dwelling or dwellings or rooms for other persons are required to submit to the Town~~

1 town a list of all rental properties. This list shall include the owner's name, current
2 address, and location of rental property. The list shall be submitted semi-annually on or
3 before November 30 and May 30.

4 Failure to file ~~said~~ this listing shall subject the person, firm, corporation or
5 association to a civil penalty.

6 "~~Sec. 3. Collection of Tax. (a) Every operator of a business and every individual~~
7 ~~renting his or her own property subject to the tax levied pursuant to this act shall, on and~~
8 ~~after the effective date of the levy of the tax, collect the three percent (3%) room~~
9 ~~occupancy tax.~~

10 ~~This tax shall be collected as part of the charge for the furnishing of any taxable~~
11 ~~accommodations. The tax shall be stated and charged separately from the sales records,~~
12 ~~and shall be paid by the purchaser to the operator of the business as trustee for and on~~
13 ~~account of the Town of Beech Mountain. It is the intent of this act that the room~~
14 ~~occupancy tax levied by the Town of Beech Mountain shall be added to the sales price~~
15 ~~and that the tax shall be passed on to the purchaser instead of being borne by the~~
16 ~~operator of the business. The Town shall design, print, and furnish to all appropriate~~
17 ~~businesses in the Town, the necessary forms for filing returns and instructions to ensure~~
18 ~~the full collection of the tax.~~

19 (b) ~~Collection of the tax shall be the responsibility of the Beech Mountain Tax~~
20 ~~Administrator. In his/her discretion, the Tax Administrator may proceed against an~~
21 ~~operator whose occupancy tax is delinquent, employing all remedies for collection of~~
22 ~~tax as set out in G.S. 105 367, 105 368, 105 374, and 105 375. The Tax Administrator~~
23 ~~may audit occupancy tax reports as he/she deems necessary, utilizing information~~
24 ~~available to him/her in property tax matters.~~

25 "~~Sec. 4. Discount for Payment of Taxes When Due. Every operator who pays the~~
26 ~~occupancy tax imposed by this Article shall be entitled to deduct from the amount of the~~
27 ~~tax for which he is liable and which he actually pays a discount of three percent (3%).~~
28 ~~Provided, however, the Tax Administrator may deny a taxpayer the benefits of this~~
29 ~~section for failure to pay the full tax when due as well as in cases of fraud, evasion, or~~
30 ~~failure to keep accurate and clear records as herein required. Provided, further, that in~~
31 ~~order to receive the discount the taxpayer must deduct the three percent (3%) at the time~~
32 ~~of making his monthly remittance of tax to the Town.~~

33 "~~Sec. 5. Disposition of Taxes Collected. Distribution and Use of Tax Revenue. – The~~
34 ~~Town of Beech Mountain shall retain from the gross proceeds of the tax collected an~~
35 ~~amount sufficient to pay its direct costs for administrative and collection expenses. "Net~~
36 ~~proceeds" shall mean gross proceeds less the direct costs for administrative and~~
37 ~~collection expenses not to exceed three percent (3%) of the amount collected. The net~~
38 ~~proceeds shall be distributed to the Town Council. The Town Council may expend the~~
39 ~~funds distributed to it pursuant to this section only to further the development of travel,~~
40 ~~tourism, conventions, and convention facilities in the Town. shall, on a quarterly basis,~~
41 ~~remit the net proceeds of the occupancy tax to the Beech Mountain Tourism~~
42 ~~Development Authority. The Beech Mountain Tourism Development Authority shall~~

1 segregate the funds received under this act into two separate accounts based on the
2 county from which the proceeds were collected. Net proceeds collected under this act
3 from accommodations located in Watauga County shall be credited to a Watauga
4 Proceeds Account, and net proceeds collected under this act from accommodations
5 located in Avery County shall be credited to an Avery Proceeds Account. The Beech
6 Mountain Tourism Development Authority shall segregate the tax proceeds it receives
7 from Beech Mountain District W into a third separate account, the District W Account.

8 The Beech Mountain Tourism Development Authority shall use at least two-thirds
9 of the funds in the Avery Proceeds Account to promote travel and tourism in Beech
10 Mountain and shall use the remainder for tourism-related expenditures.

11 For the first seven years that funds are remitted to the Beech Mountain Tourism
12 Development Authority under this section, the Authority shall use at least one-third of
13 the funds in the Watauga Proceeds Account to promote travel and tourism in Beech
14 Mountain and shall use the remainder for tourism-related expenditures. For funds
15 remitted to it thereafter, the Beech Mountain Tourism Development Authority shall use
16 at least two-thirds of the funds in the Watauga Proceeds Account to promote travel and
17 tourism in Beech Mountain and shall use the remainder for tourism-related
18 expenditures.

19 For the first seven years that funds are remitted to the Beech Mountain Tourism
20 Development Authority from Beech Mountain District W, the Authority shall use at
21 least one-third of the funds in the District W Account to promote travel and tourism in
22 Beech Mountain District W and shall use the remainder for tourism-related expenditures
23 for the direct benefit of Beech Mountain District W. For funds remitted to it thereafter,
24 the Beech Mountain Tourism Development Authority shall use at least two-thirds of the
25 funds in the District W Account to promote travel and tourism in Beech Mountain
26 District W and shall use the remainder for tourism-related expenditures for the direct
27 benefit of Beech Mountain District W.

28 The following definitions apply in this section:

- 29 (1) Net proceeds. – Gross proceeds less the cost to the town of
30 administering and collecting the tax, as determined by the finance
31 officer, not to exceed three percent (3%) of the first five hundred
32 thousand dollars (\$500,000) of gross proceeds collected each year and
33 one percent (1%) of the remaining gross receipts collected each year.
- 34 (2) Promote travel and tourism. – To advertise or market an area or
35 activity, publish and distribute pamphlets and other materials, conduct
36 market research, or engage in similar promotional activities that attract
37 tourists or business travelers to the area. The term includes
38 administrative expenses incurred in engaging in the listed activities.
- 39 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
40 the Tourism Development Authority, are designed to increase the use
41 of lodging facilities, meeting facilities, or convention facilities in a

1 town or to attract tourists or business travelers to the town. The term
2 includes tourism-related capital expenditures.

3 "Sec. 5.1. Beech Mountain Tourism Development Authority. – When the Beech
4 Mountain Town Council adopts a resolution levying a room occupancy tax under this
5 act, it shall also adopt a resolution creating a Beech Mountain Tourism Development
6 Authority, which shall be a public authority under the Local Government Budget and
7 Fiscal Control Act. The resolution shall provide for the membership of the Authority,
8 including the members' terms of office, and for the filling of vacancies on the Authority.
9 At least one-third of the members must be individuals who are affiliated with businesses
10 that collect the tax in the town, and at least three-fourths of the members must be
11 individuals who are currently active in the promotion of travel and tourism in the town.
12 The membership of the Authority must include proportional representation for residents
13 of Beech Mountain District W. The town council shall designate one member of the
14 Authority as chair and shall determine the compensation, if any, to be paid to members
15 of the Authority.

16 The Authority shall meet at the call of the chair and shall adopt rules of procedure to
17 govern its meetings. The Finance Officer for Beech Mountain shall be the ex officio
18 finance officer of the Authority.

19 "Sec. 5.2. Duties. – The Authority shall expend the net proceeds of the tax
20 distributed to it under this act and the tax proceeds distributed to it by Beech Mountain
21 District W for the purposes provided in this act. The Authority shall promote travel,
22 tourism, and conventions in the town, sponsor tourist-related events and activities in the
23 town, and finance tourist-related capital projects in the town.

24 "Sec. 5.3. Reports. – The Authority shall report quarterly and at the close of the
25 fiscal year to the Beech Mountain Town Council on its receipts and expenditures for the
26 preceding quarter and for the year in such detail as the town council may require.

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

34 "Sec. 7. This act is effective upon ratification."

35 **PART VI. CITY ADMINISTRATIVE PROVISIONS**

36 **SECTION 9. G.S. 160A-215 reads as rewritten:**

37 **"§ 160A-215. Uniform provisions for room occupancy taxes.**

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

41 (b) **Levy.** – A room occupancy tax may be levied only by resolution, after not
42 less than 10 days' public notice and after a public hearing held pursuant thereto. A room

1 occupancy tax shall become effective on the date specified in the resolution levying the
2 tax. That date must be the first day of a calendar month, however, and may not be
3 earlier than the first day of the second month after the date the resolution is adopted.

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

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

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

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

39 (g) This section applies only to Beech Mountain District W, to the Cities of
40 Goldsboro, Greensboro, Lumberton, Mount Airy, Shelby, and Statesville, to the Towns
41 of Banner Elk, Beech Mountain, Mooresville, and St. Pauls, and to the municipalities in
42 Brunswick County."

PART VII. BEECH MOUNTAIN DISTRICT W

SECTION 10.(a) District W Created. – Beech Mountain District W is created as a taxing district. Its jurisdiction consists of that part of the Town of Beech Mountain that is located in Watauga County. Beech Mountain District W is a body politic and corporate and has the power to carry out the provisions of this section. The Beech Mountain Town Council shall serve, ex officio, as the governing body of the district, and the officers of the town council shall serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

SECTION 10.(b) Authorization and Scope. – The governing body of Beech Mountain District W 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 district 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 or room occupancy tax. This tax does not apply to accommodations furnished by charitable, educational, or religious institutions or nonprofit organizations when furnished in furtherance of their nonprofit purpose.

SECTION 10.(c) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215 as if Beech Mountain District W were a town. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

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 district a list of all rental properties. This list must include the owner's name, current address, and location of rental property. The list must be submitted semiannually on or before November 30 and May 30. Failure to file this list subjects the person, firm, corporation, or association to a civil penalty.

SECTION 10.(d) Distribution and Use of Tax Revenue. – Beech Mountain District W shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Beech Mountain Tourism Development Authority created in Chapter 376 of the 1987 Session Laws, as amended. The Beech Mountain Tourism Development Authority shall use the tax proceeds remitted to it under this act for the purposes provided in Chapter 376 of the 1987 Session Laws, as amended. In accordance with the North Carolina Constitution and the United States Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of Beech Mountain District W.

For the purposes of this section, 'net proceeds' means gross proceeds less the cost to the district 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.

PART VIII. EFFECTIVE DATE

1 **SECTION 11.** This act is effective when it becomes law.