

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 350*
Committee Substitute Favorable 3/16/05
Senate Finance Committee Substitute Adopted 7/7/06

Short Title: Martin County Occupancy Tax Changes.

(Local)

Sponsors:

Referred to:

February 23, 2005

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

SECTION 1. S.L. 1991-80 reads as rewritten:

"Section 1. Occupancy Tax. = (a) Authorization and ~~scope.~~Scope. = The Martin 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 up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar 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, when furnished in furtherance of their nonprofit purpose, by summer camps, or by businesses that offer to rent no more than five units.

(a1) Authorization of Additional Tax. – In addition to the tax authorized by subsection (a) of this section, the Martin County Board of Commissioners may levy an additional room occupancy tax of up to three percent (3%) 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. Martin 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 tax shall be stated and charged separately from the sales records, and shall be paid by~~

1 the purchaser to the operator of the business as trustee for and on account of the county.
2 The tax shall be added to the sales price and shall be passed on to the purchaser instead
3 of being borne by the operator of the business. The county shall design, print, and
4 furnish to all appropriate businesses and persons in the county the necessary forms for
5 filing returns and instructions to ensure the full collection of the tax.

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

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

18 (d) Penalties. A person, firm, corporation, or association who fails or refuses to
19 file the return required by this section shall be subject to and pay a penalty of ten dollars
20 (\$10.00) for each day's omission. In case of failure or refusal to file the return or pay the
21 tax for a period of 30 days after the time required for filing the return or for paying the
22 tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in
23 addition to any other penalty, with an additional tax of five percent (5%) for each
24 additional month or fraction thereof until the tax is paid. The board of commissioners
25 may, for good cause shown, compromise or forgive the additional tax penalties imposed
26 by this subsection.

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

32 (e) Use of tax revenue. Tax Revenue. – Martin County shall,
33 on a monthly/quarterly basis, remit the net proceeds of the occupancy tax to the Martin
34 County Travel and Tourism Development Authority. The Authority may spend funds
35 remitted to it under this subsection only to further the development of travel and tourism
36 and cultural, recreational, and historic activities in Martin County through advertising
37 and promotion, to sponsor tourist-oriented events and activities in Martin County, and to
38 finance tourist-related capital activities and projects in Martin County. As used in this
39 subsection, "net proceeds" means gross. The Authority shall use at least two-thirds of the
40 funds remitted to it under this subsection to promote travel and tourism in Martin
41 County and shall use the remainder for tourism-related expenditures.

42 The following definitions apply in this act:

- 43 (1) Net proceeds. – Gross proceeds less the cost to the county of
44 administering and collecting the tax, which may tax, as determined by

1 the finance officer, not to exceed three percent (3%) of the first five
2 hundred thousand dollars (\$500,000) of gross proceeds~~proceeds~~
3 collected each year and one percent (1%) of the remaining gross
4 receipts collected each year.

5 (2) Promote travel and tourism. – To advertise or market an area or
6 activity, publish and distribute pamphlets and other materials, conduct
7 market research, or engage in similar promotional activities that attract
8 tourists or business travelers to the area. The term includes
9 administrative expenses incurred in engaging in the listed activities.

10 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
11 the Tourism Development Authority, are designed to increase the use
12 of lodging facilities, meeting facilities, or convention facilities in a
13 county or to attract tourists or business travelers to the county. The
14 term includes tourism-related capital expenditures.

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

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

26 "Sec. 2. Martin County ~~Travel and Tourism~~ Development Authority. = (a)
27 Appointment and ~~membership~~ Membership. – When the board of commissioners
28 adopts a resolution levying a room occupancy tax under this act, it shall also adopt a
29 resolution creating the Martin County ~~Travel and Tourism~~ Development Authority,
30 which shall be a public authority under the Local Government Budget and Fiscal
31 Control Act. The resolution shall provide that the Authority shall be composed of the
32 following 12 members:

33 (1) A Martin County Commissioner appointed by the Martin County
34 Board of Commissioners.

35 (2) Two owners or operators of restaurants, motels, hotels, or other taxable
36 accommodations in Martin County that have at least five units,
37 nominated by representatives of this industry, both to be appointed by
38 the Martin County Board of Commissioners.

39 (3) One member selected by the Martin County Chamber of Commerce to
40 be appointed by the Martin County Board of Commissioners.

41 (4) One member appointed by the Martin County Board of
42 Commissioners selected from the Martin County Economic
43 Development Commission.

- 1 (5) Five members, one appointed by each member of the Martin County
2 Board of Commissioners.
- 3 (6) One member appointed by the Martin County Board of
4 Commissioners selected from the Martin County Historical Society.
- 5 (7) One member appointed by the Martin County Board of
6 Commissioners selected from the Robersonville Downtown Merchants
7 Association.

8 The appointees shall be made from throughout the County by the Martin County
9 Board of Commissioners. At least one-third of the members must be individuals
10 affiliated with businesses that collect the tax in the county and at least one-half of the
11 members must be individuals currently active in the promotion of travel and tourism in
12 the county. All members of the Authority shall serve without compensation. Vacancies
13 shall be filled in the same manner as original appointments. Members appointed to fill
14 vacancies shall serve for the remainder of the unexpired term. The Authority shall elect
15 each year from its membership a Chair. No member may serve as Chair more than two
16 one-year terms in succession. The Authority shall meet at the call of the Chair or of any
17 three members and shall adopt rules of procedure to govern its meetings. The Finance
18 Officer for Martin County shall be the ex officio finance officer of the Authority.

19 (b) Terms of office. = Members of the Authority shall serve three-year terms
20 except that the Martin County Commissioner appointed pursuant to subdivision (a)(1)
21 shall be appointed yearly by the chairman of the board of commissioners and initial
22 appointees shall serve the following terms:

- 23 (1) The Martin County Commissioner appointed pursuant to subdivision
24 (a)(1): one year.
- 25 (2) One representative of the motel and restaurant industry appointed
26 pursuant to subdivision (a)(2): one year.
- 27 (3) One representative of the motel and restaurant industry appointed
28 pursuant to subdivision (a)(2): three years.
- 29 (4) The representative of the Martin County Chamber of Commerce
30 appointed pursuant to subdivision (a)(3): three years.
- 31 (5) The representative of the Martin County Economic Development
32 Commission appointed pursuant to subdivision (a)(4): two years.
- 33 (6) Three members appointed by Martin County Commissioners pursuant
34 to subdivision (a)(5): one year.
- 35 (7) Two representatives appointed by Martin County Commissioners
36 pursuant to subdivision (a)(5): three years.
- 37 (8) The representative of the Martin County Historical Society appointed
38 pursuant to subdivision (a)(6): two years.
- 39 (9) The representative of the Robersonville Downtown Merchants
40 Association appointed pursuant to subdivision (a)(7): three years.

41 (c) Limitation on terms. = No member of the Authority shall serve more than two
42 consecutive three-year terms.

43 (d) ~~Powers and duties. The Authority may contract with any person, firm, or~~
44 ~~agency to assist it in carrying out the purposes for which the tax proceeds levied by this~~

1 ~~act may be expended.~~Duties. – The Authority shall expend the net proceeds of the tax
2 levied under this act for the purposes provided in 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. The
5 board of county commissioners may from time to time determine an appropriate
6 percentage not to exceed five percent (5%) of net proceeds that may be expended for
7 administrative services.

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

11 (f) ~~Notwithstanding the provisions of this act, the board of commissioners may~~
12 ~~abolish the Martin County Travel and Tourism Authority and itself function and carry~~
13 ~~out the duties of the Authority provided in this act.~~

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

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

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

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