NORTH CAROLINA GENERAL ASSEMBLY
1967 SESSION

CHAPTER 1096
HOUSE BILL 1249

AN ACT ENABLING MECKLENBURG COUNTY TO HOLD A SPECIAL ELECTION FOR THE PURPOSE OF CONSIDERING WHETHER THE COUNTY SHALL OR SHALL NOT IMPOSE AND LEVY A SALES AND USE TAX OF ONE PER CENT UPON THE SALE, USE AND OTHER TAXABLE TRANSACTIONS UPON WHICH THE STATE NOW IMPOSES A THREE PER CENT SALES AND USE TAX.

The General Assembly of North Carolina do enact:

Section 1. Purpose and Intent. It is the purpose of this Act to provide Mecklenburg County and its municipalities with an added source of revenue and to assist them in meeting their growing financial needs by providing that said county may by special election adopt and levy a one per cent (l%) sales and use tax as hereinafter provided.

Sec. 2. County Election as to Adoption of Local Sales and Use Tax. The Board of Elections of Mecklenburg County, upon the written request of the Mecklenburg Board of County Commissioners, or upon receipt of a petition signed by qualified voters of the county equal in number to at least fifteen per cent (15%) of the total number of votes cast in the county, at the last preceding election for the office of Governor, shall call a special election for the purpose of submitting to the voters of the county the question of whether a one per cent (1%) sales and use tax as hereinafter provided will be levied:

"The special election shall be held under the same rules and regulations applicable to the election of members of the General Assembly. A new registration of voters is not required and all qualified voters who are properly registered prior to the registration for the special election, as well as those voters who register for the special election, shall be entitled to vote at said election. The Mecklenburg County Board of Elections shall give at least 20 days' public notice prior to the opening of the registration books for the special election, and the registration books shall remain open for the same period of time before the special election as is required by law for a regular election.

"The Mecklenburg County Board of Elections shall prepare ballots for the special election which shall contain the words, 'FOR the one per cent (1%) local sales and use tax', and the words, 'AGAINST the one per cent (1%) local sales and use tax', with appropriate squares so that each voter may designate by his cross (X) mark his preference.

"The Mecklenburg County Board of Elections shall fix the date of the special election; provided, however, that the special election shall not be held on the day of any biennial election for county officers, nor within 60 days thereof, nor within three years from the date of the last preceding special election under this division, at which the local sales and use tax was approved."

Sec. 3. Effective Date of Tax after Special Election Authorizing Levy. In the event a majority of those voting in a special election held under this division shall approve the levy of the local sales and use tax, the tax shall be imposed on the first day of the month following the expiration of 90 days from the date of the election. Upon receipt of a certified statement from the Mecklenburg County Board of Elections of the results of a special election approving the tax in Mecklenburg County, the Commissioner of Revenue shall proceed as authorized in this division to administer the tax in said county.

Sec. 4. Sales Tax Imposed; Limited to Items on Which the State Now Imposes a Three Per Cent (3%) Sales Tax. The sales tax which may be imposed under this division after the holding of a special election is limited to a tax at the rate of one per cent (1%) of: (1) the sale price of those articles of tangible personal property now subject to the three per cent (3%) sales tax imposed by the State under G. S. 105-164.4(l); (2) the gross receipts derived from the lease or rental of tangible personal property where the lease or rental of such property is an established business now subject to the three per cent (3%) sales tax imposed by the State under G. S. 105-164.4(2); (3) the gross receipts derived from the rental of any room or lodging furnished by any hotel, motel, inn, tourist camp or other similar public accommodations now subject to the three per cent (3%) sales tax imposed by the State under G. S. 105-164.4(3); and (4) the gross receipts derived from services rendered by laundries, dry cleaners, cleaning plants and similar type businesses now subject to the three per cent (3%) sales tax imposed by the State under G. S. 105-164.4(4).

"The exemptions and exclusions contained in G. S. 105-164.13 shall apply with equal force and like manner to the local sales tax authorized to be imposed and levied under this division. The county shall have no authority, with respect to the local sales and use tax, imposed under this division, to change, alter, add or delete any exemptions or exclusions contained under G. S. 105-164.13.

"The local sales tax authorized to be imposed and levied under the provisions of this division shall be applicable to such retail sales, leases, rentals, rendering of services, furnishing of lodging or accommodations and other taxable transactions which are made, furnished or rendered by retailers whose place of business is located within the taxing county. The tax imposed shall apply to the furnishing of rooms, lodging or other accommodations within the county which are rented to transients. Provided, however, no tax shall be imposed where the personal property sold is delivered by the retailer or his agent to the purchaser at a point outside this State. No tax shall be imposed where the tangible personal property sold is delivered to the purchaser at a point outside this State or Mecklenburg County. The maximum amount of additional tax imposed by this Act on one sale shall be ten dollars ($10.00)."

Sec. 5. Use Tax Imposed; Limited to Items upon Which the State Now Imposes a Use Tax Under G. S. 105-164.6. The use tax which Mecklenburg County may impose under this division after the holding of a special election shall be an excise tax to be imposed at the rate of one per cent (1%) of the cost price of each item or article of tangible personal property when the same is purchased to be used, consumed or stored in the taxing county, and such use tax may be imposed only on that tangible personal property upon which the State now imposes a use tax under the provisions of G. S. 105-164.6. Every retailer engaged in business in this State and required to collect the use tax levied by G. S. 105-164.6 shall also collect the one per cent (1%) use tax authorized by this Act to be levied, upon all sales of tangible personal property for use, consumption, or storage in Mecklenburg County, the same to be collected concurrently with the State's use tax; provided, that the use tax contemplated by this Act shall be levied against the purchaser, but liability for such use tax shall be extinguished upon payment of the use tax to the retailer.

"Where a retail sales or use tax has been paid with respect to said tangible personal property in another taxing jurisdiction outside the State of North Carolina by the purchaser thereof, for storage, use or consumption in Mecklenburg County, said tax paid by the purchaser shall be credited against the tax imposed by this division. If the amount of tax paid to another taxing jurisdiction outside the State of North Carolina or County of Mecklenburg is less than the amount of tax imposed by this division, the purchaser shall pay to the Commissioner an amount sufficient to make the tax paid to the other taxing jurisdiction and this State, and Mecklenburg County, equal to the amount imposed by this Act. The Commissioner of Revenue may require such proof of payment of tax to another state as he deems to be necessary and proper. The maximum amount of additional tax imposed by this Act on one sale shall be ten dollars ($10.00)."

Sec. 6. Collection and Administration of Local Sales and Use Tax; Authorization to Promulgate Rules and Regulations. The North Carolina Commissioner of Revenue shall collect the local sales and use tax imposed by Mecklenburg County pursuant to the provisions of this division and shall be charged with the duty of administering the local sales and use tax authorized to be imposed by this division. In addition to the present statutory provisions authorizing the Commissioner of Revenue to adopt and promulgate rules and regulations pertaining to the administration and collection of taxes under this Article, the Commissioner of Revenue is empowered to promulgate such additional rules and regulations as are necessary and proper for the implementation of this division.

Sec. 7. Retail Bracket System; Application to Local Sales and Use Tax. For the convenience of the retailer in collecting the State sales tax due at the rate of three per cent (3%) and the county sales tax due at the rate of one per cent (1%), and to facilitate the administration of this Article, every retailer engaged in or continuing in business in any county wherein the tax imposed and levied herein shall be applicable, is required by this division to add to the sales price and collect from the purchaser on all taxable sales an amount equal to the following:

No amount on sales of less than 10¢

1¢ on sales of 10¢ to 29¢

2¢ on sales of 30¢ to 59¢
3¢ on sales of 60¢ to 84¢
4¢ on sales of 85¢ to $1.12
Sales over $1.12 – straight four per cent (4%) with major fractions governing.

The maximum amount of additional tax imposed by this Act on one sale shall be ten dollars ($10.00).

"The use of the bracket system, set out above, shall not relieve the retailer from the duty and liability of collecting and remitting to the Commissioner of Revenue an amount equal to the tax imposed by the State under Article 5 of Chapter 105 of the North Carolina General Statutes and the tax authorized to be imposed by the taxing counties under this division."

Sec. 8. Retailer to Collect Sales Tax. Every retailer whose place of business is in Mecklenburg County shall on and after the levy of the tax herein authorized collect the one per cent (1%) local sales tax provided by this Act.

"The tax to be collected under this division shall be collected as a part of the sales price of the item of tangible personal property sold, the cost price of the item of tangible personal property used, or as a part of the charge for the rendering of any services, renting or leasing of tangible personal property, or the furnishing of any accommodation taxable hereunder. The tax shall be stated and charged separately from the sales price or cost price and shall be shown separately on the retailer's sales record and shall be paid by the purchaser to the retailer as trustee for and on account of the State or county wherein the tax is imposed. It is the intent and purpose of this Article that the local sales and use tax herein authorized to be imposed and levied by Mecklenburg County shall be added to the sales price and that the tax shall be passed on to the purchaser instead of being borne by the retailer. The Commissioner of Revenue shall design, print and furnish to all retailers the necessary forms for filing returns and instructions to insure the full collection from retailers, and the Commissioner may adapt the present form used for the reporting and collecting of the State sales and use tax to this purpose.

Sec. 9. Disposition and Distribution of Taxes Collected; County and Municipalities to Share with Tax Districts. The Commissioner of Revenue shall, on a quarterly basis distribute to Mecklenburg County and municipalities within Mecklenburg County the net proceeds of the tax collected under this division. This amount shall be divided between the county and all municipalities therein in proportion to the total amount of ad valorem taxes levied by each during the fiscal year preceding such distribution. In computing the amount of tax proceeds to be distributed to Mecklenburg County and its municipalities, the amount of any ad valorem taxes levied but not substantially collected shall be ignored. In computing "net proceeds", the Commissioner of Revenue shall determine the cost of collection of said tax and cost of collection of said tax shall be retained by the State before distribution of net proceeds.

Sec. 10. Definitions; Application of Other Provisions of Article 5 of Chapter 105 of the General Statutes of North Carolina; Construction of this Division; Penalties. The definitions set forth in G. S. 105-164.3 shall apply to this division insofar as such definitions are not inconsistent with the provisions of this division, and all other present provisions of Article 5 as the same relate to the State Sales and Use Tax Act shall be

applicable to this division unless such provisions are inconsistent with the provisions of this division. In construing and interpreting the provisions of this division, the Commissioner of Revenue may uniformly apply the administrative interpretations which have heretofore been made by the Department of Revenue as to the State Sales and Use Tax Act. It is the intention of this division that the provisions of this division and the provisions of the State Sales and Use Tax Act, insofar as it is practicable, shall be harmonized.

"The penalty provisions now applicable to the enforcement of the State Sales and Use Tax Act shall be applicable in like manner to the tax authorized to be levied and collected under this division."

If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 11. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 12. This Act shall be in full force and effect upon its ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1967.