GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 39
SENATE BILL 148

AN ACT TO REPEAL THE SUNSET OF THE GUILFORD OCCUPANCY TAX AND TO MODIFY PROVISIONS REGARDING USE OF THE PROCEEDS OF THE TAX.

The General Assembly of North Carolina enacts:

Section 1. Chapter 988 of the 1983 Session Laws (1984 Session) reads as rewritten:

"CHAPTER 988

AN ACT TO ALLOW GUILFORD COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

"Section 1. Levy of Tax. (a) The Board of Commissioners of Guilford County 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.

(b) 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 board of county commissioners 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.

"Sec. 2. Occupancy Tax. The county room 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 furnished by any hotel, motel, inn, tourist camp, or other similar place within the county now subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any local sales tax.

"Sec. 3. Exemptions. The tax authorized by this act does not apply to gross receipts derived by the following entities from accommodations furnished by them:

(1) religious organizations;
(2) a business that offers to rent fewer than five units;
(3) educational organizations;
(4) summer camps; and
(5) charitable, benevolent, and other nonprofit organizations.

"Sec. 4. Administration of Tax. (a) Any tax levied under this act is due and payable to the county 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.

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

(c) In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due, in addition to the penalty prescribed in subsection (b), with an additional tax of five percent (5%) for each additional month or fraction thereof until the occupancy tax is paid.

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

"Sec. 5. Collection of Tax. Every operator of a business subject to the tax levied by 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 the furnishing of 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 Guilford County. The room occupancy tax levied pursuant to this act 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 in Guilford County the necessary forms for filing returns and instructions to ensure the full collection of the tax.

"Sec. 6. Disposition of Taxes Collected. (a) Guilford County shall remit seventy percent (70%) of the net proceeds of the occupancy tax to the Greensboro/Guilford County Tourism Development Authority and shall remit the remaining thirty percent (30%) of the net proceeds of the occupancy tax to the City of High Point. 'Net proceeds' means gross proceeds less the cost to the county of administering and collecting the tax, not to exceed five percent (5%) of the gross proceeds of the tax.

(b) ~~The Greensboro/Guilford County Tourism Development Authority and the City of High Point shall each allocate eighty- five percent (85%) of their shares of the net proceeds of the occupancy tax in a fiscal year for activities and programs promoting and encouraging travel and tourism. The Greensboro/Guilford County Tourism Development Authority and the City of High Point shall each allocate the remaining fifteen percent (15%) of their shares of the occupancy tax proceeds in a fiscal year for specific tourist-related events or activities, such as arts or cultural events, or for promoting, improving, constructing, financing, or acquiring facilities or attractions that enhance the development of tourism.~~

The Greensboro/Guilford County Tourism Development Authority shall allocate eighty percent (80%) of its share of the net proceeds of the occupancy tax in a fiscal year for activities and programs promoting and encouraging travel and tourism. Of the remaining twenty percent (20%), the Authority shall allocate one hundred seventy thousand dollars ($170,000) each year for specific tourist-related events or activities, such as arts or cultural events, or for promoting, improving, constructing, financing, or

acquiring facilities or attractions that enhance the development of tourism. Administrative costs of these grants shall be included in the one hundred seventy thousand dollars ($170,000), but such costs shall not exceed fifteen percent (15%). By joint agreement of the Greensboro City Council, the County Commissioners, and the Authority, the responsibility of this grant funding program may be reassigned to one of the other boards. Policy for distribution of these funds shall be set by the responsible board, but consideration should be given to the broad spectrum of programs and activities of all citizens in Greensboro and Guilford County. The remaining portion of the twenty percent (20%) shall go to the City of Greensboro for convention and tourism capital improvements. Approval of expenditures from the capital fund shall be a joint decision by the Greensboro City Council, the County Commissioners, and the Authority.

The City of High Point shall allocate eighty-five percent (85%) of its share of the net proceeds of the occupancy tax in a fiscal year for activities and programs promoting and encouraging travel and tourism. The City of High Point shall allocate the remaining fifteen percent (15%) of its share of the occupancy tax proceeds in a fiscal year for specific tourist-related events or activities, such as arts or cultural events, or for promoting, improving, constructing, financing, or acquiring facilities or attractions that enhance the development of tourism.

(c) The county shall distribute the amounts due the Greensboro/Guilford County Tourism Development Authority and the City of High Point by the last day of the month in which the tax is collected.

"Sec. 7. Appointment, Duties of Greensboro/Guilford County Tourism Development Authority. (a) When the board of county commissioners adopts a resolution levying a room occupancy tax pursuant to this act, it shall also adopt a resolution creating a Greensboro/Guilford County Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act and shall be composed of the following ~~nine~~ thirteen members:

(1) a county commissioner appointed by the board of county ~~commissioners;~~ commissioners.

(2) a member of the Greensboro City Council appointed by the ~~board of county commissioners;~~ Greensboro City Council.

(3) ~~three~~ four owners or operators of hotels, motels, or other taxable accommodations in Guilford County, other than in High Point, two of which own or operate hotels, motels, or other taxable accommodations with more than 200 rental units, one of whom shall be appointed by the Greensboro City Council and one by the board of county commissioners; ~~and~~ one of which owns or operates hotels, motels, or other taxable accommodations with 200 or fewer rental units appointed by the board of county commissioners; and one of which owns or operates hotels, motels, or other taxable accommodations without meeting facilities appointed by the Greensboro City Council.

(4) one individual who has demonstrated an interest in convention and tourism development, is a member of the Greater Greensboro Chamber

of Commerce, and does not own or operate hotels, motels, or other taxable tourist accommodations, appointed by the Greensboro Chamber of ~~Commerce;~~ Commerce.

(5) one individual who has demonstrated an interest in the arts and its related fields and does not own or operate hotels, motels, or other taxable tourist accommodations, appointed by the Greensboro ~~Arts Council;~~ City Council after receiving recommendations from the Greensboro United Arts Council.

(6) one individual who has demonstrated an interest in convention and tourism development, is a member of the Guilford County Restaurant Association, and does not own or operate hotels, motels, or other taxable tourism accommodations, appointed by the Greensboro City Council after receiving recommendations from the Guilford County Restaurant Association.

(7) two at-large individuals who have demonstrated an interest in tourism development and do not own or operate hotels, motels, or other tourist accommodations, appointed by the Board of County Commissioners. Members appointed to fill the at-large designation shall serve a full term and have all voting rights and privileges.

~~(6)~~ (8) the manager of the Greensboro/Guilford County Convention and Visitors Bureau, who shall serve as a non-voting, ex officio member; and

~~(7)~~ (9) the finance officer of Guilford County, who shall serve as a non-voting, ex officio member.

(b) All members of the Authority shall serve without compensation. Vacancies in the Authority shall be filled by the appointing authority of the member creating the vacancy. Members appointed to fill vacancies shall serve for the remainder of the unexpired term for which they are appointed to fill. Members shall serve three-year terms, except the initial members of the following designations, who shall serve the following terms:

(1) Members appointed pursuant to subdivisions (a)(1) and (a)(2) above shall serve a one-year term;

(2) Of the members appointed pursuant to subdivision (a)(3) above, the appointee of the Greensboro City Council who owns or operates accommodations with more than 200 rental units shall serve a three-year ~~term,~~ term; the appointee of the Greensboro City Council who owns or operates accommodations with no meeting facilities shall serve an initial term which expires September 30, 1989; and one appointee of the board of commissioners shall serve a three-year term and one a two-year term, as designated by the board of county commissioners;

(3) The member appointed pursuant to subdivision (a)(4) above shall serve a three-year term; ~~and~~

(4) The member appointed pursuant to subdivision (a)(5) above shall serve a two-year ~~term.~~ term; and

(5) The member appointed pursuant to subdivision (a)(6) shall serve an initial term which expires September 30, 1991.

Members may serve no more than two consecutive three-year terms. The members shall elect a chairman, who shall serve for a term of two years. The Authority shall meet at the call of the chairman and shall adopt rules of procedure to govern its meetings. The finance officer for Guilford County shall be the ex officio finance officer of the Authority.

"Sec. 7.1. Appointment of High Point Convention and Visitors Board. When the board of county commissioners adopts a resolution levying a room occupancy tax pursuant to this act, the City of High Point shall create a High Point Convention and Visitors Board which shall be composed of a minimum of the following 12 members:

(1) One member of the Guilford County Board of Commissioners appointed by the board of county commissioners.

(2) One member of the High Point City Council appointed by the city council.

(3) Two owners or operators of hotels, motels, or other taxable tourist accommodations in the local metropolitan area, one of whom owns or operates hotels, motels, or other accommodations with more than 100 rental units, and one of whom owns or operates hotels, motels, or other accommodations with 100 or fewer rental units, both appointed by the board of county commissioners.

(4) One individual who has demonstrated an interest in tourism development and does not own or operate hotels, motels, or other accommodations, and is a Board member of the High Point Chamber of Commerce, appointed by the Chamber of Commerce.

(5) One individual involved in the local restaurant or food service business who has demonstrated an interest in tourism development, and does not own or operate hotels, motels, or other tourist accommodations, appointed by the High Point Chamber of Commerce.

(6) One individual involved in the cultural arts or tourist attraction business who has demonstrated an interest in tourism development and does not own or operate hotels, motels, or other tourist accommodations, appointed by the High Point Chamber of Commerce.

(7) One at-large individual who has demonstrated an interest in tourism development and does not own or operate hotels, motels, or other tourist accommodations, appointed by the High Point Chamber of Commerce.

(8) Two at-large individuals who have demonstrated an interest in tourism development and do not own or operate hotels, motels, or other tourist accommodations, appointed by the Board of Commissioners.

(9) One individual who has demonstrated an interest in tourism development and is a representative of a High Point public

convention/trade show center, appointed by the Chamber of Commerce.

(10) The Executive Director of the High Point Convention and Visitors Bureau, who shall be a non-voting, ex-officio member.

Members appointed to fill the at-large designations shall serve a full term, and have all voting rights and privileges.

"Sec. 8. Contracts Authorized. (a) The City of High Point may contract with the High Point Chamber of Commerce, Convention and Visitors Bureau, or another nonprofit organization to assist it in carrying out the purposes for which the tax proceeds levied by this act may be expended.

(b) The Greensboro/Guilford County Tourism Development Authority may contract with any person, firm, or agency to assist it in carrying out the purposes for which the tax proceeds levied by this act may be expended.

(c) The Greensboro/Guilford County Tourism Development Authority and the City of High Point shall each report quarterly and at the close of the fiscal year to the board of county commissioners on their receipts and expenditures for the preceding quarter and for the year in such detail as the board may require. The Greensboro/Guilford County Tourism Development Authority shall submit its annual budget to the Board of County Commissioners for approval prior to adoption by the Authority. This action shall not be construed to incorporate the Authority's Budget into the annual Operating Budget of Guilford County. The Authority shall furnish its annual audit to the Greensboro City Council and the Guilford County Board of Commissioners.

"Sec. 9. Repeal of Levy. (a) The board of county commissioners may by resolution repeal the levy of the room occupancy tax in Guilford County, 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.

(b) No liability for any tax levied under this act that attached prior to the date on which a levy is repealed is 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 may be denied as a result of the repeal.

"Sec. 10. This act is effective upon ratification. ~~ratification and is repealed effective July 1, 1989.~~"

Sec. 2. This act shall become effective June 31, 1989.

In the General Assembly read three times and ratified this the 4th day of April, 1989.