

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 706  
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Short Title: Various Occupancy Tax Changes.

(Local)

Sponsors:

Referred to:

March 30, 1995

1 A BILL TO BE ENTITLED  
2 AN ACT AUTHORIZING COLUMBUS COUNTY TO LEVY A ROOM  
3 OCCUPANCY TAX SUBJECT TO APPROVAL BY THE VOTERS, MODIFYING  
4 THE METHOD OF APPOINTMENT OF MEMBERS AND OFFICERS TO  
5 CERTAIN LOCAL TOURISM DEVELOPMENT BOARDS, AND MODIFYING  
6 THE ALLOCATION OF THE PROCEEDS OF THE NEW HANOVER  
7 OCCUPANCY TAX.

8 The General Assembly of North Carolina enacts:

9 PART I.  
10 AUTHORIZATION FOR COLUMBUS COUNTY  
11 ROOM OCCUPANCY TAX

12 Section 1. Occupancy Tax. (a) Authorization and scope. The Columbus  
13 County Board of Commissioners may direct the county board of elections to conduct an  
14 advisory referendum on the question of whether a three percent (3%) room occupancy tax  
15 shall be levied in the county. The election shall be held on a date jointly agreed upon by  
16 the two boards and shall be held in accordance with the procedures of G.S. 163-287. The

1 form of the question to be presented in a special election concerning the levy of the room  
2 occupancy tax shall be:

3 " [ ] FOR [ ] AGAINST

4 Levy of a three percent (3%) county room occupancy tax."

5 If the majority of those voting in a referendum held pursuant to this section  
6 vote for the levy of the tax, the Columbus County Board of Commissioners may by  
7 resolution, after not less than 10 days' public notice and after a public hearing held  
8 pursuant thereto, levy a room occupancy tax of up to three percent (3%) of the gross  
9 receipts derived from the rental of any room, lodging, or accommodation furnished by a  
10 hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales  
11 tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State  
12 or local sales tax. This tax does not apply to accommodations furnished by nonprofit  
13 charitable, educational, or religious organizations.

14 (b) **Collection.** Every operator of a business subject to the tax levied under this  
15 section shall, on and after the effective date of the levy of the tax, collect the tax. This  
16 tax shall be collected as part of the charge for furnishing a taxable accommodation. The  
17 tax shall be stated and charged separately from the sales records, and shall be paid by the  
18 purchaser to the operator of the business as trustee for and on account of the county. The  
19 tax shall be added to the sales price and shall be passed on to the purchaser instead of  
20 being borne by the operator of the business. The county shall design, print, and furnish to  
21 all appropriate businesses and persons in the county the necessary forms for filing returns  
22 and instructions to ensure the full collection of the tax. An operator of a business who  
23 collects the occupancy tax levied under this section may deduct from the amount remitted  
24 to the county a discount equal to the discount the State allows the operator for State sales  
25 and use tax.

26 (c) **Administration.** The county shall administer a tax levied under this section.  
27 A tax levied under this section is due and payable to the county finance officer in  
28 monthly installments on or before the 15th day of the month following the month in  
29 which the tax accrues. Every person, firm, corporation, or association liable for the tax  
30 shall, on or before the 15th day of each month, prepare and render a return on a form  
31 prescribed by the county. The return shall state the total gross receipts derived in the  
32 preceding month from rentals upon which the tax is levied.

33 A return filed with the county finance officer under this section is not a public  
34 record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S.  
35 160A-208.1.

36 (d) **Penalties.** A person, firm, corporation, or association who fails or refuses to  
37 file the return or pay the tax required by this section is subject to the civil and criminal  
38 penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use  
39 taxes. The Columbus County Board of Commissioners has the same authority to waive  
40 the penalties for a room occupancy tax that the Secretary of Revenue has to waive the  
41 penalties for State sales and use taxes.

42 (e) **Distribution and use of tax revenue.** Columbus County shall, on a  
43 quarterly basis, remit the net proceeds of the occupancy tax to the Columbus County

1 Tourism Board. The Board shall use the funds remitted to it under this subsection to  
2 promote travel and tourism in Columbus County and for tourism-related expenditures.

3 The following definitions apply in this subsection:

4 (1) Net proceeds. – Gross proceeds less the cost to the county of  
5 administering and collecting the tax, as determined by the finance  
6 officer, not to exceed seven percent (7%) of the gross proceeds.

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

12 (3) Tourism-related expenditures. – Expenditures that are designed to  
13 increase the use of lodging facilities in a county or to attract tourists or  
14 business travelers to the county. The term includes expenditures to  
15 construct, maintain, operate, or market a convention or meeting facility,  
16 a visitors' center, or a coliseum and other expenditures that, in the  
17 judgment of the Authority, will facilitate and promote tourism.

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

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

29 Sec. 2. Tourism Board. (a) **Appointment.** When the board of commissioners  
30 adopts a resolution levying a room occupancy tax under this act, if it has not already  
31 created a county Tourism Board under Chapter 706 of the 1993 Session Laws, it shall  
32 adopt a resolution creating that Board, which shall be a public authority under the Local  
33 Government Budget and Fiscal Control Act. The resolution shall provide for the  
34 membership of the Board including the members' qualifications and terms of office, and  
35 for the filling of vacancies on the Board. The board of commissioners may designate one  
36 member of the Board as chair and shall determine the compensation, if any, to be paid to  
37 members of the Board.

38 The Board shall meet at the call of the chair and shall adopt rules of procedure  
39 to govern its meetings. The Finance Officer for Columbus County shall be the ex officio  
40 finance officer of the Board.

41 (b) **Duties.** The Board shall expend the net proceeds of the tax levied under this  
42 act for the purposes provided in this Part. The Board shall promote travel, tourism, and

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

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

6 Sec. 3. This Part is repealed effective July 28, 1995, if the 1995 General  
7 Assembly, 1995 Regular Session, enacts Senate Bill 364 authorizing Columbus County  
8 to levy a room occupancy tax.

## 9 PART II.

### 10 HAYWOOD COUNTY TOURISM DEVELOPMENT AUTHORITY

11 Sec. 4. Section 15 of Chapter 908 of the 1983 Session Laws reads as rewritten:  
12 "Sec. 15. Appointments, Duties of Tourism Development Authority. (a) When  
13 the Haywood County Board of Commissioners adopts a resolution levying a room  
14 occupancy tax pursuant to this Part, it shall also adopt a resolution creating a County  
15 Tourism Development Authority composed of nine voting members appointed as  
16 follows:

- 17 (1) ~~three tourist-oriented business members appointed by the Board of~~  
18 ~~Directors of the Maggie Valley Chamber of Commerce; Three members~~  
19 ~~who own or operate hotels, motels, or other accommodations with more~~  
20 ~~than 20 rental units.~~  
21 (2) ~~three tourist-oriented business members appointed by the Board of~~  
22 ~~Directors of the Haywood County Chamber of Commerce; and Three~~  
23 ~~members who own or operate hotels, motels, or other accommodations~~  
24 ~~with 20 or fewer rental units.~~  
25 (3) ~~three Three tourist-oriented business members at large appointed by the~~  
26 ~~Haywood County Board of Commissioners. Each Chamber's Board of~~  
27 ~~Directors and the large.~~

28 All members of the Authority shall be appointed by the Haywood County Board of  
29 Commissioners. The Board of County Commissioners-Commissioners shall designate  
30 ~~one-three~~ of its initial appointees to serve a one-year term, ~~one-three~~ to serve a two-year  
31 term, and ~~one-three~~ to serve a three-year term. Thereafter, all members shall serve three-  
32 year terms. Vacancies shall be filled by the appointing authority of the member who created  
33 ~~the vacancy.~~ Board of Commissioners subject to the qualifications established above for  
34 the vacating member. Members appointed to fill vacancies shall serve the remainder of  
35 the unexpired term for which they are appointed to fill.

36 (b) The members of the Tourism Development Authority shall elect from its  
37 membership a ~~chairman~~-chair. The Authority shall meet at the call of the ~~chairman~~-chair  
38 and shall adopt rules of procedure to govern its meetings. The finance officer of  
39 Haywood County shall serve ex officio as accountant for the Authority.

40 (c) The Tourism Development Authority shall report quarterly and at the close  
41 of the fiscal year to the ~~board of county commissioners~~ Board of Commissioners on its  
42 receipts and disbursements for the preceding quarter and for the year in such detail as the  
43 Board may require."

**PART III.****NEW HANOVER OCCUPANCY TAX USE**

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3 Sec. 5. Section 35 of Chapter 908 of the 1983 Session Laws, as amended by  
4 Chapter 987 of the 1983 Session Laws and Chapter 971 of the 1985 Session Laws, reads  
5 as rewritten:

6 "Sec. 35. Disposition of Taxes Collected. (a) New Hanover County shall  
7 distribute the net proceeds of the occupancy tax as follows:

8 (1) ~~Seventy five percent (75%)~~ Sixty percent (60%) of the net proceeds shall  
9 be deposited in a special fund, the cash balance of which shall be  
10 deposited at interest or invested in accordance with G.S. 159-30; and

11 (2) ~~Twenty five percent (25%)~~ Forty percent (40%) of the net proceeds shall  
12 be distributed on a quarterly basis to the county and its municipalities in  
13 accordance with the method by which the one percent (1%) local sales  
14 and use taxes levied in the county pursuant to Article 39 of Chapter 105  
15 of the General Statutes are distributed.

16 'Net proceeds' means gross proceeds less the cost to the county of administering and  
17 collecting the tax.

18 Unless a change in the use of occupancy tax revenue is authorized pursuant to  
19 subsection (b), the revenue deposited in a special fund in accordance with subdivision (1)  
20 shall be used by the county to control beach erosion, and the revenue distributed between  
21 the county and its municipalities in accordance with subdivision (2) shall be used to  
22 promote travel and tourism. No revenue distributed under subdivision (2), however, may  
23 be used to plan, construct, operate, maintain, or in any way promote a civic center,  
24 convention center, public auditorium, or like facility.

25 (b) The purposes for which revenue from the room occupancy tax may be used by  
26 the county and its municipalities may be changed only by resolution of the New Hanover  
27 Board of County Commissioners after being approved by a majority of the votes cast in  
28 an election held in New Hanover County on the question of how revenue from the room  
29 occupancy tax should be used. The ballot presented to the qualified voters of the county  
30 in an election concerning the use of revenue from the room occupancy tax shall state all  
31 the proposed uses of this revenue and the percentage of the revenue to be used for each  
32 purpose. Any change in use of revenue from the room occupancy tax made by the county  
33 commissioners after voter approval may likewise be changed only by resolution of the  
34 county commissioners after being approved by the voters in another election.

35 The question of how revenue from the room occupancy tax should be spent may be  
36 submitted to the qualified voters of the county only ~~in~~ at the time of a statewide general  
37 election. All elections under this section shall be conducted in accordance with the laws  
38 then governing elections in this State."

**PART IV.****GREENSBORO/HIGH POINT TOURISM DEVELOPMENT OFFICERS**

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40  
41 Sec. 6. Section 7(b) of Chapter 988 of the 1983 Session Laws (Reg. Sess.  
42 1984), as amended by Chapter 39 of the 1989 Session Laws, reads as rewritten:

"(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; 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;

(4) The member appointed pursuant to subdivision (a)(5) above shall serve a two-year 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~~, chair, who shall serve for a term of two years. A member of the Authority who is a member of the Guilford County Board of Commissioners or the Greensboro City Council may not serve as the chair or as any other officer of the Authority or as the chair or as any other officer of a committee of the Authority. The Authority shall meet at the call of the ~~chairman~~ chair 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. Section 7.1 of Chapter 988 of the 1983 Session Laws (Reg. Sess. 1984), as amended by Chapter 39 of the 1989 Session Laws, is amended by designating the language in that section as subsection (a) and adding a new subsection to read:

"(b) A member of the High Point Convention and Visitors Board who is a member of the Guilford County Board of Commissioners or the High Point City Council may not serve as the chair or as any other officer of the Board or as the chair or as any other officer of a committee of the Board."

#### **PART V.**

#### **EFFECTIVE DATE**

Sec. 8. Section 5 of this act is effective upon ratification and applies to taxes levied on or after that date. The remainder of this act is effective upon ratification.