

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 564
Committee Substitute Favorable 5/20/09

Short Title: Wilson County Occupancy Tax Modification.

(Local)

Sponsors:

Referred to:

March 12, 2009

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE AUTHORIZATION FOR WILSON COUNTY TO LEVY AN OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 912 of the 1988 Session Laws is repealed.

SECTION 2. Chapter 484 of the 1988 Session Laws, as amended by Chapter 901 of the 1987 Session Laws and Section 21(t) of S.L. 2007-527, reads as rewritten:

"**Section 1.** Occupancy Tax. (a) Authorization and scope. The Wilson County Board of Commissioners may ~~by resolution, after not less than ten (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(3),~~ 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, by summer camps, or by businesses that offer to rent no more than five units.~~ organizations when furnished in furtherance of their nonprofit purpose.

(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 the purchaser to the operator of the business as trustee for and on account of the county. The tax 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 and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

(c) ~~Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the 20th 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 20th 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.~~ shall be levied, administered, collected, and repealed, as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

~~A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~



1 (d) Penalties. A person, firm, corporation, or association who fails or refuses to file the
2 return required by this section shall be subject to and pay a penalty of ten dollars (\$10.00) for
3 each day's omission. In case of failure or refusal to file the return or pay the tax for a period of
4 thirty (30) days after the time required for filing the return or for paying the tax, there shall be
5 an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other
6 penalty, with an additional tax of five percent (5%) for each additional month or fraction
7 thereof until the tax is paid.

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

12 (c1) Definitions. – The following definitions apply in this act:

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

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

23 (3) Tourism-related expenditures. – Expenditures that, in the judgment of the
24 Tourism Development Authority, are designed to increase the use of lodging
25 facilities, meeting facilities, or convention facilities in the county or to
26 attract tourists or business travelers to the county. The term includes
27 tourism-related capital expenditures.

28 (e) Distribution and use of tax revenue. Wilson County shall, on a ~~monthly~~ quarterly
29 basis, remit the net proceeds of the occupancy tax to the Wilson County Tourism Development
30 Authority. The Authority ~~may spend funds remitted to it under this subsection only to further~~
31 ~~the development of travel, tourism, and conventions in Wilson County through advertising and~~
32 ~~promotion, to sponsor tourist oriented events and activities in Wilson County, and to finance~~
33 ~~tourist related capital projects in Wilson County. As used in this subsection, "net proceeds"~~
34 ~~means gross proceeds less the cost to the county of administering and collecting the tax, which~~
35 ~~may not exceed five percent (5%) of the gross proceeds; shall use at least two-thirds of the~~
36 ~~funds remitted to it under this subsection to promote travel and tourism in Wilson County and~~
37 ~~shall use the remainder for tourism-related expenditures.~~

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

42 (g) Repeal. A tax levied under this section may be repealed by a resolution adopted by
43 the Wilson County Board of Commissioners. Repeal of a tax levied under this section shall
44 become effective on the first day of a month and may not become effective until the end of the
45 fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section
46 does not affect a liability for a tax that was attached before the effective date of the repeal, nor
47 does it affect a right to a refund of a tax that accrued before the effective date of the repeal.

48 "Sec. 2. Tourism Development Authority. (a) Appointment and membership. When the
49 board of commissioners adopts a resolution levying a room occupancy tax under this act, it
50 shall also adopt a resolution creating the Wilson County Tourism Development Authority,
51 which shall be a public authority under the Local Government Budget and Fiscal Control Act.

1 The resolution shall provide for the membership of the Authority, including the members' terms
2 of office, and for the filling of vacancies on the Authority. At least one-third of the members
3 shall be individuals who are affiliated with businesses that collect the tax in the county, and at
4 least one-half of the members shall be individuals who are currently active in the promotion of
5 travel and tourism in the county. The resolution shall provide that the Authority shall be
6 composed of the following ~~seven~~nine members:

- 7 (1) A Wilson County Commissioner appointed by the board of ~~commissioners;~~
8 commissioners.
- 9 (2) A member of the Wilson City Council appointed by the city ~~council;~~
10 council.
- 11 (3) Three owners or operators of motels, hotels, or other taxable
12 accommodations in Wilson County that have at least 5 units, ~~County,~~ one of
13 whom shall be appointed by the Wilson City Council, one by the Wilson
14 County Board of Commissioners, and one by the Wilson County Chamber of
15 ~~Commeree;~~ and Commerce.
- 16 (4) Two individuals involved in the tourist business who have demonstrated an
17 interest in tourist development and do not own or operate hotels, motels, or
18 other taxable tourist accommodations, appointed as follows: one by the
19 Wilson City Council and one by the Wilson County Board of
20 Commissioners.
- 21 (5) An individual who is interested in the tourism business, has demonstrated an
22 interest in tourism development, and is appointed by the Wilson County
23 Board of Commissioners.
- 24 (6) An individual who is interested in the tourism business, has demonstrated an
25 interest in tourism development, and is appointed by the Wilson City
26 Council.

27 All members of the Authority shall serve without compensation. Vacancies shall be filled in the
28 same manner as original appointments. Members appointed to fill vacancies shall serve for the
29 remainder of the unexpired term. The Authority shall elect each year from its membership a
30 chairman. No member may serve as chairman more than two one year terms in succession. The
31 Wilson County Board of Commissioners shall designate one member of the Authority as chair
32 and shall determine the compensation, if any, to be paid to members of the Authority.

33 The Authority shall meet at the call of the ~~chairman or of any three members~~chair and shall
34 adopt rules of procedure to govern its meetings. The Finance Officer for Wilson County shall
35 be the ex officio finance officer of the Authority.

36 (b) Terms of office. Members of the Authority shall serve three year terms except that
37 the initial appointees shall serve the following terms:

- 38 (1) Members appointed pursuant to subdivisions (a)(1) and (a)(2) of this section
39 shall serve one year terms.
- 40 (2) Of the members appointed pursuant to subdivision (a)(4) of this section, the
41 appointee of the Wilson City Council shall serve a three year term and the
42 appointee of the board of commissioners shall serve a two year term.
- 43 (3) Of the members appointed pursuant to subdivision (a)(3) of this section, the
44 appointee of the Wilson City Council shall serve a one year term, the
45 appointee of the board of commissioners shall serve a three year term, and
46 the appointee of the Chamber of Commerce shall serve a two year term.

47 (c) Powers and duties. The Authority may contract with any person, firm, or agency to
48 assist it in carrying out the purposes for which the tax proceeds levied by this act may be
49 expended. The board of county commissioners may from time to time determine an appropriate
50 percentage of net proceeds that may be expended for administrative services. Duties. The
51 Authority shall expend the net proceeds of the tax levied under this act for the purposes

1 provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions
2 in the county, sponsor tourist-related events and activities in the county, and finance
3 tourist-related capital projects in the county.

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

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

8 **SECTION 3.** G.S. 153A-155(g) reads as rewritten:

9 "(g) This section applies only to Alleghany, Anson, Brunswick, Buncombe, Burke,
10 Cabarrus, Camden, Carteret, Caswell, Chatham, Cherokee, Chowan, Clay, Craven,
11 Cumberland, Currituck, Dare, Davie, Duplin, Durham, Franklin, Granville, Halifax, Haywood,
12 Madison, Martin, McDowell, Montgomery, Nash, New Hanover, New Hanover County District
13 U, Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham,
14 Rowan, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, ~~and~~
15 ~~Washington~~ Washington, and Wilson Counties, to Watauga County District U, to Yadkin
16 County District Y, and to the Township of Averagesboro in Harnett County and the Ocracoke
17 Township Taxing District."

18 **SECTION 4.** This act is effective when it becomes law.