

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 604
HOUSE BILL 767

AN ACT TO AUTHORIZE THE TOWN OF WAKE FOREST TO LEVY A ROOM
OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Occupancy tax. (a) Authorization and scope. If the Wake County Board of Commissioners has not levied the tax authorized by Section 1 of Chapter 850 of the 1986 Session Laws or has levied the tax at a rate of less than three percent (3%), the Wake Forest Board of Commissioners may, by ordinance, levy a room occupancy tax at a rate that does not exceed three percent (3%) when combined with the Wake County occupancy tax, if any. Before adopting an ordinance to levy a room occupancy tax, the Wake Forest Board of Commissioners must hold a public hearing on the proposed tax and must give at least 10 days' public notice of the hearing. The room occupancy tax shall apply to the gross receipts from the rental of any place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any State or local sales or occupancy tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(b) Collection. Every operator of a business subject to the tax levied under this act 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 town. 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 town shall design, print, and furnish to all appropriate businesses and persons in the town the necessary forms for filing returns and instructions to ensure the full collection of the tax.

(c) Administration. The town shall administer a tax levied under this act. A tax levied under this act is due and payable to the Wake Forest tax collector 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 town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A return filed with the tax collector under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.

The tax collector may collect any unpaid taxes levied under this act through the use of attachment and garnishment proceedings as provided in G.S. 105-368 for collection of property taxes. The tax collector has the same enforcement powers concerning the tax imposed by this act as does the Secretary of Revenue in enforcing the State sales tax under G.S. 105-164.30.

(d) Penalties. A 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. 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 any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid.

Any person who willfully attempts in any manner to evade a tax imposed under this act or 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. The board of commissioners may, for good cause shown, compromise or forgive the penalties imposed by this subsection.

(e) Distribution and use of tax revenue. The tax collector shall remit the proceeds of this tax to the town on a monthly basis. The town shall use the proceeds only to promote tourism and economic development in Wake Forest.

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

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

Sec. 2. Effect of county tax on previously levied town tax. If the Wake Forest Board of Commissioners levies an occupancy tax under Section 1 of this act, and the Wake County Board of Commissioners subsequently adopts a resolution levying an occupancy tax in Wake County, the occupancy tax levied by Wake Forest shall be repealed as of the effective date of the county levy if the county tax is at the rate of three percent (3%), and shall be reduced by the amount that the combined county and town tax rates exceed three percent (3%) if the county tax is at a rate of less than three percent (3%).

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 11th day of July, 1989.