

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 545
SENATE BILL 710

AN ACT TO MODIFY THE NASH COUNTY ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

Section 1. Section 1(b) of Chapter 32 of the 1987 Session Laws reads as rewritten:

"(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 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. An operator of a business who collects the occupancy tax levied under this act may deduct from the amount remitted to the county a discount of three percent (3%) of the amount collected. equal to the discount the State allows the operator for collecting State sales and use taxes."

Sec. 2. Section 1(d) of Chapter 32 of the 1987 Session Laws reads as rewritten:

"(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 thirty (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 the occupancy tax levied 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.~~ is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The Board of Commissioners has the same authority to waive the

penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes."

Sec. 3. Section 1(e) of Chapter 32 of the 1987 Session Laws reads as rewritten:

"(e) Distribution and use of tax revenue. Nash County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Nash Tourism Development Authority. The Authority ~~may~~ shall spend at least two-thirds of the funds remitted to it under this subsection only to promote travel and tourism in Nash County, ~~to sponsor tourist-oriented events and activities in Nash County, and to finance tourist-related capital projects in Nash County, such as the construction of a civic center and utilities within Nash County.~~ As used in this subsection, 'net proceeds' means gross and shall spend the remainder on tourism-related expenditures. The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer. officer, not to exceed seven percent (7%) of the amount collected.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that are designed to increase the use of lodging facilities in a county or to attract tourists or business travelers to the county and expenditures incurred by the county in collecting the tax. The term includes expenditures to construct, maintain, operate, or market a convention center and other expenditures that, in the judgment of the Authority, will facilitate and support tourism."

Sec. 4. Section 2(a) of Chapter 32 of the 1987 Session Laws reads as rewritten:

"(a) Appointment and membership. When the Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the ~~Authority including the members' qualifications and terms of office,~~ Authority, the terms of office of the members, and for the filling of vacancies on the Authority. The members of the Authority shall be citizens of Nash County. If the authority has an even number of members, then at least one-half of the members shall have experience in the promotion of travel and tourism. If the Authority has an odd number of members, then at least one less than one-half of the members shall have experience in the promotion of travel and tourism. The Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair or upon a written request signed by at least one-third of its members and shall adopt rules of procedure to govern its meetings. The Finance Officer for Nash County shall be the ex officio finance officer of the Authority."

Sec. 5. The Nash Tourism Development Authority has the sole power to determine if an expenditure of occupancy tax proceeds collected before August 1, 1993, is for a purpose stated in subsection 1(e) of Chapter 32 of the 1987 Session Laws.

Sec. 6. Section 5 of this act is effective upon ratification. The remaining sections of this act become effective August 1, 1993.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

Marc Basnight
President Pro Tempore of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives