

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-102
HOUSE BILL 603

AN ACT TO AUTHORIZE MADISON COUNTY TO LEVY A ROOM
OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Occupancy tax. (a) Referendum. The Madison County Board of Commissioners may direct the county board of elections to conduct an advisory referendum on the question of whether a room occupancy tax of up to three percent (3%) will be levied in accordance with this act. The election shall be held on a date jointly agreed upon by the two boards and shall be held in accordance with the procedures of G.S. 163-287.

The form of the question to be presented on a ballot for a special election concerning the levy of the tax authorized by this act shall be:

FOR AGAINST

Tax on rental of lodging at hotels, motels, and similar businesses, at a maximum rate of three percent (3%), to be used to promote travel and tourism and for tourism-related expenditures.

(b) Authorization and scope. If a majority of those voting in a referendum held pursuant to this act vote for the levy of the tax, the Madison County Board of Commissioners may by resolution levy a room occupancy tax as provided in this act. In addition, if the county has not held a referendum, or if five years have passed since the tax was defeated at a referendum, the Madison County Board of Commissioners may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax as provided in this act. The tax authorized by this act may be levied at a rate of up to three percent (3%) and shall apply to the gross receipts derived from the rental of any room, lodging, or 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(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 or to a business that offers to rent fewer than five units.

(c) Administration. Except as otherwise provided in this section, a tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155.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.

(d) Distribution and use of tax revenue. Madison County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Madison County Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Madison County and shall use the remainder for tourism-related expenditures. The administrative expenses of the Authority may not exceed fifteen percent (15%) of the funds remitted to it under this subsection.

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, not to exceed five percent (5%) of the gross proceeds.
- (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. The term includes expenditures to construct, maintain, operate, or market a convention or meeting facility, a visitors' center, or a coliseum and other expenditures that, in the judgment of the Authority, will facilitate and promote tourism.

Section 2. Tourism Development Authority. (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 Authority shall be composed of three ex officio voting members as provided in subdivision (1) of this subsection and eight members appointed by the board of commissioners as provided in subdivisions (2) through (5) of this subsection. In order to be appointed to the Authority, an individual must have demonstrated a commitment to promoting tourism in Madison County. The members of the Authority shall be:

- (1) The mayors of the Towns of Hot Springs, Mars Hill, and Marshall, to serve ex officio. Each mayor may designate another resident of the mayor's town to serve in his or her place.
- (2) Three residents of Madison County, one each recommended by the mayors of the Towns of Hot Springs, Mars Hill, and Marshall, respectively.
- (3) Two residents of Madison County selected by the Madison County Board of Commissioners.
- (4) The Chair of the Madison County Chamber of Commerce or an individual recommended by the Chair of the Madison County Chamber of Commerce.

- (5) Two residents of Madison County recommended by the Madison County Chamber of Commerce.

Members shall serve for a term of two years and shall serve without compensation. The resolution creating the Authority shall provide for the filling of vacancies on the Authority. The board of commissioners shall designate one member of the Authority as chair. The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer of Madison County shall be the ex officio finance officer of the Authority.

(b) Duties. The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

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

Section 3. County administrative provisions. (a) Article 7 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-155. Uniform provisions for room occupancy taxes.

(a) Scope. – This section applies only to counties the General Assembly has authorized to levy room occupancy taxes.

(b) Levy. – A room occupancy tax may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. A room occupancy tax 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.

(c) Collection. – Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The 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 taxing 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 taxing 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 a room occupancy tax may deduct from the amount remitted to the taxing county a discount equal to the discount the State allows the operator for State sales and use tax.

(d) Administration. – The taxing county shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the county finance officer 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 taxing county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax

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

(e) Penalties. – A person, firm, corporation, or association who fails or refuses to file a room occupancy tax return or pay a room occupancy tax as required by law 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 governing board of the taxing county 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.

(f) Repeal or Reduction. – A room occupancy tax levied by a county may be repealed or reduced by a resolution adopted by the governing body of the county. Repeal or reduction of a room occupancy tax 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 resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax that was attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal or reduction."

(b) This section applies only to Madison County.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of May, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives