

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1570

Short Title: Raise Lexington Occupancy Tax.

(Local)

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Sponsors: Representative McCrary.

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Referred to: Rules, Calendar, and Operations of the House.

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May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF LEXINGTON TO INCREASE ITS ROOM  
OCCUPANCY TAX FROM THREE PERCENT TO SIX PERCENT.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 602 of the 1993 Session Laws (1994) reads as  
rewritten:

"Section 1. Occupancy Tax.

(a) Authorization and Scope.

The Lexington City Council may ~~by resolution, after not less than 10 days' public notice  
and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of not more than  
three percent (3%) of the gross receipts derived from the rental of any room, lodging, or  
similar accommodation furnished by a hotel, motel, inn, or similar place within the city  
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. As provided in  
Chapter 453 of the 1993 Session Laws, if Davidson County is authorized to levy a room  
occupancy tax, the combined room occupancy tax rates for Davidson County and any city  
or town located in that county may not exceed six percent (6%).

(a1) Authorization of Additional Tax.

1        In addition to the tax authorized by subsection (a) of this section, the Lexington City  
2 Council may levy an additional room occupancy tax of up to three percent (3%) of the  
3 gross receipts derived from the rental of accommodations taxable under subsection (a).  
4 The total rate of tax levied under subsections (a) and (a1) of this section, when combined  
5 with the rate of any room occupancy tax that may be levied by Davidson County, may  
6 not exceed six percent (6%). The levy, collection, administration, and repeal of the tax  
7 authorized by this subsection shall be in accordance with the provisions of this section.  
8 The City of Lexington may not levy a tax under this subsection unless it also levies the  
9 tax authorized under subsection (a) of this section.

10        (b) Administration.

11        A tax levied under this section shall be levied, administered, collected, and repealed  
12 as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax  
13 levied under this section.

14        ~~(b) Collection.~~

15        ~~Every operator of a business subject to the tax levied under this section shall, on and~~  
16 ~~after the effective date of the tax, collect the tax. This tax shall be collected as part of the~~  
17 ~~charge for furnishing a taxable accommodation. The tax shall be stated and charged~~  
18 ~~separately from the sales records, and shall be paid by the purchaser to the operator of the~~  
19 ~~business as trustee for and on account of the city. The tax shall be added to the sales~~  
20 ~~price and shall be passed on to the purchaser instead of being borne by the operator of the~~  
21 ~~business. The city shall design, print, and furnish to all appropriate businesses and~~  
22 ~~persons in the city the necessary forms for filing returns and instructions to ensure the full~~  
23 ~~collection of the tax.~~

24        ~~(c) Administration.~~

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

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

34        ~~(d) Penalties.~~

35        ~~A person, firm, corporation, or association who fails or refuses to file the return~~  
36 ~~required by this section is subject to the civil and criminal penalties set by G.S. 105-236~~  
37 ~~for failure to pay or file a return for State sales and use taxes. The Lexington City~~  
38 ~~Council has the same authority to waive the penalties for a room occupancy tax that the~~  
39 ~~Secretary of Revenue has to waive the penalties for State sales and use taxes.~~

40        (e) Use of Tax Revenue.

41        At least two-thirds of the proceeds of a tax levied under this section shall be used only  
42 to promote travel and tourism in the city and any remaining proceeds shall be used only  
43 for tourism-related expenditures.

1 The term 'promote travel and tourism' means to advertise or market an area or  
2 activity, publish and distribute pamphlets and other materials, conduct market research,  
3 host and conduct tours for travel industry representatives and travel writers, or engage in  
4 similar promotional activities that attract tourists or business travelers to the city; the term  
5 includes administrative expenses of the Lexington Tourism Development Authority  
6 incurred in engaging in the listed activities. The term 'tourism-related expenditures'  
7 means expenditures that are designed to increase the use of lodging facilities in the city or  
8 attract tourists or business travelers to the city and the amount retained by the city for its  
9 costs in administering and collecting the tax; the term includes expenditures for the  
10 construction or maintenance of a visitors' center, a convention facility, a museum, or an  
11 historic attraction but does not include other capital expenditures.

12 (f) Lexington Tourism Development Authority.

13 The Lexington City Council shall, by resolution, establish the Lexington Tourism  
14 Development Authority and appoint members to the Authority. A resolution establishing  
15 the Authority shall state the number and qualifications of the members of the Authority,  
16 their terms of office, and their duties.

17 (g) Distribution to Tourism Authority.

18 The City of Lexington shall, on a quarterly basis, remit the net proceeds of the  
19 occupancy tax to the Lexington Tourism Development Authority. As used in this  
20 subsection, 'net proceeds' means gross proceeds less five percent (5%) of the gross  
21 proceeds or the cost to the city of administering and collecting the tax, whichever is  
22 greater. The Lexington Tourism Development Authority shall spend revenue remitted to  
23 it under this section in accordance with the restrictions set in subsection (e) of this  
24 section. The Lexington Tourism Development Authority shall report at the close of the  
25 fiscal year to the city council on its receipts and expenditures for the preceding year in  
26 such detail as the council may require.

27 ~~(h) Effective Date of Levy.~~

28 ~~A tax levied under this section shall become effective on the date specified in the~~  
29 ~~resolution levying the tax. That date must be the first day of a calendar month, however,~~  
30 ~~and may not be earlier than the first day of the second month after the date the resolution~~  
31 ~~is adopted.~~

32 ~~(i) Repeal.~~

33 ~~A tax levied under this section may be repealed by a resolution adopted by the~~  
34 ~~Lexington City Council. Repeal of a tax levied under this section shall become effective~~  
35 ~~on the first day of a month and may not become effective until the end of the fiscal year~~  
36 ~~in which the repeal resolution was adopted. Repeal of a tax levied under this section does~~  
37 ~~not affect a liability for a tax that was attached before the effective date of the repeal, nor~~  
38 ~~does it affect a right to a refund of a tax that accrued before the effective date of the~~  
39 ~~repeal."~~

40 Section 2. G.S. 160A-215 reads as rewritten:

41 "**§ 160A-215. Uniform provisions for room occupancy taxes.**

1 (a) Scope. – This section applies only to municipalities the General Assembly has  
2 authorized to levy room occupancy taxes. For the purpose of this section, the term ‘city’  
3 means a municipality.

4 (b) Levy. – A room occupancy tax may be levied only by resolution, after not less  
5 than 10 days’ public notice and after a public hearing held pursuant thereto. A room  
6 occupancy tax shall become effective on the date specified in the resolution levying the  
7 tax. That date must be the first day of a calendar month, however, and may not be earlier  
8 than the first day of the second month after the date the resolution is adopted.

9 (c) Collection. – Every operator of a business subject to a room occupancy tax  
10 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall  
11 be collected as part of the charge for furnishing a taxable accommodation. The tax shall  
12 be stated and charged separately from the sales records and shall be paid by the purchaser  
13 to the operator of the business as trustee for and on account of the taxing city. The tax  
14 shall be added to the sales price and shall be passed on to the purchaser instead of being  
15 borne by the operator of the business. The taxing city shall design, print, and furnish to  
16 all appropriate businesses and persons in the city the necessary forms for filing returns  
17 and instructions to ensure the full collection of the tax. An operator of a business who  
18 collects a room occupancy tax may deduct from the amount remitted to the taxing city a  
19 discount equal to the discount the State allows the operator for State sales and use tax.

20 (d) Administration. – The taxing city shall administer a room occupancy tax it  
21 levies. A room occupancy tax is due and payable to the city finance officer in monthly  
22 installments on or before the fifteenth day of the month following the month in which the  
23 tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or  
24 before the fifteenth day of each month, prepare and render a return on a form prescribed  
25 by the taxing city. The return shall state the total gross receipts derived in the preceding  
26 month from rentals upon which the tax is levied. A room occupancy tax return filed with  
27 the city finance officer is not a public record and may not be disclosed except in  
28 accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

29 (e) Penalties. – A person, firm, corporation, or association who fails or refuses to  
30 file a room occupancy tax return or pay a room occupancy tax as required by law is  
31 subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a  
32 return for State sales and use taxes. The governing board of the taxing city has the same  
33 authority to waive the penalties for a room occupancy tax that the Secretary of Revenue  
34 has to waive the penalties for State sales and use taxes.

35 (f) Repeal or Reduction. – A room occupancy tax levied by a city may be repealed  
36 or reduced by a resolution adopted by the governing body of the city. Repeal or  
37 reduction of a room occupancy tax shall become effective on the first day of a month and  
38 may not become effective until the end of the fiscal year in which the resolution was  
39 adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax  
40 that was attached before the effective date of the repeal or reduction, nor does it affect a  
41 right to a refund of a tax that accrued before the effective date of the repeal or reduction.

1       (g) This section applies only to the Cities of Goldsboro, Greensboro, Lexington,  
2 Lumberton, Mount Airy, Shelby, and Statesville, to the Towns of Mooresville and St.  
3 Pauls, and to the municipalities in Brunswick County."

4               Section 3. This act is effective when it becomes law.