

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 830
Committee Substitute Favorable 5/17/99

Short Title: Transylvania Room Tax Penalties.

(Local)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE PENALTIES FOR THE TRANSYLVANIA COUNTY ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 969 of the 1985 Session Laws, as it applies to Transylvania County, reads as rewritten:

"Section 1. Transylvania Occupancy Tax. (a) Authorization and Scope. The board of commissioners of ~~a county~~ Transylvania County 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 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 county 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 tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

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 A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155.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

1 collect the tax. This tax shall be collected as part of the charge for furnishing a taxable
2 accommodation. The tax shall be stated and charged separately from the sales records, and shall
3 be paid by the purchaser to the operator of the business as trustee for and on account of the
4 county. The tax shall be added to the sales price and shall be passed on to the purchaser instead
5 of being borne by the operator of the business. The county shall design, print, and furnish to all
6 appropriate businesses and persons in the county the necessary forms for filing returns and
7 instructions to ensure the full collection of the tax.

8 (c) Administration. The county shall administer a tax levied under this act. A tax
9 levied under this act is due and payable to the county finance officer in monthly
10 installments on or before the 15th day of the month following the month in which the tax
11 accrues. Every person, firm, corporation, or association liable for the tax shall, on or
12 before the 15th day of each month, prepare and render a return on a form prescribed by
13 the county. The return shall state the total gross receipts derived in the preceding month
14 from rentals upon which the tax is levied.

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

17 (d) Penalties. A person, firm, corporation, or association who fails or refuses to
18 file the return required by this act shall pay a penalty of ten dollars (\$10.00) for each
19 day's omission. In case of failure or refusal to file the return or pay the tax for a period of
20 30 days after the time required for filing the return or for paying the tax, there shall be an
21 additional tax, as a penalty, of five percent (5%) of the tax due for each additional month
22 or fraction thereof until the tax is paid.

23 Any person who willfully attempts in any manner to evade a tax imposed under this
24 act or who willfully fails to pay the tax or make and file a return shall, in addition to all
25 other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a
26 fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months,
27 or both. The board of commissioners may, for good cause shown, compromise or forgive
28 the penalties imposed by this subsection.

29 (e) Use of Tax Revenue. Except as provided in Section 2 of this act for Durham
30 County, a taxing county Transylvania County shall place revenue collected from a tax
31 levied under this act in a special Travel and Tourism Fund. Revenue in this Fund may be
32 used only to promote travel and tourism and for tourism-related expenditures in the
33 county. Transylvania County.

34 The following definitions apply in this subsection:

35 (1) Promote travel and tourism. – To advertise or market an area or activity,
36 publish and distribute pamphlets and other materials, conduct market
37 research, or engage in similar promotional activities that attract tourists
38 or business travelers to the area; the term includes administrative
39 expenses incurred in engaging in these activities.

40 (2) Tourism-related expenditures. – Expenditures that, in the judgment of
41 the governing authority, are designed to increase the use of lodging
42 facilities, meeting facilities, and convention facilities in a county by

1 attracting tourists or business travelers to the county. The term includes
2 tourism-related capital expenditures.

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

7 (g) ~~Repeal. A tax levied under this act may be repealed by a resolution adopted by~~
8 ~~the board of commissioners of the county. Repeal of a tax levied under this act shall~~
9 ~~become effective on the first day of a month and may not become effective until the end~~
10 ~~of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied~~
11 ~~under this act does not affect a liability for a tax that attached before the effective date of~~
12 ~~the repeal, nor does it affect a right to a refund of a tax that accrued before the effective~~
13 ~~date of the repeal."~~

14 Section 2. County Administrative Provisions. Section 3(b) of S.L. 1997-102,
15 as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L.
16 1997-364, Section 6 of S.L. 1997-410, and Section 2 of S.L. 1998-14, reads as rewritten:

17 "(b) This section applies only to Avery, Brunswick, Davie, Madison, Nash, Person,
18 Randolph, ~~and Scotland~~ Scotland, and Transylvania Counties."

19 Section 3. This act becomes effective July 1, 1999, and applies to taxes due on
20 or after that date.