

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE DRH80027-LYx-26 (2/5)

Short Title: Avery County Occupancy Tax.

(Local)

Sponsors: Representative Frye.

Referred to:

A BILL TO BE ENTITLED

1
2 AN ACT TO AUTHORIZE AVERY COUNTY TO LEVY AN OCCUPANCY TAX
3 IN A TAX DISTRICT COMPRISING THE UNINCORPORATED AREAS OF
4 THE COUNTY.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Avery County District U Created. – Avery County District U
7 is created as a taxing district. Its jurisdiction consists of that part of Avery County that
8 is located outside of incorporated areas within the county. Avery County District U is a
9 body politic and corporate and has the power to carry out the provisions of this act. The
10 Avery County Board of Commissioners shall serve ex officio as the governing body of
11 the district, and the officers of the county shall serve as the officers of the governing
12 body of the district. A simple majority of the governing body constitutes a quorum, and
13 approval by a majority of those present is sufficient to determine any matter before the
14 governing body, if a quorum is present.

15 **SECTION 2.** Authorization and Scope. – The governing body of Avery
16 County District U may levy a room occupancy tax of up to six percent (6%) of the gross
17 receipts derived from the rental of any room, lodging, or accommodation furnished by a
18 hotel, motel, inn, tourist camp, or similar place within the district that is subject to sales
19 tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State
20 or local sales or room occupancy tax. This tax does not apply to accommodations
21 furnished by charitable, educational, or religious institutions or nonprofit organizations
22 when furnished in furtherance of their nonprofit purpose.

23 **SECTION 3.** Administration. – A tax levied under this act shall be levied,
24 administered, collected, and repealed as provided in G.S. 153A-155 as if Avery County
25 District U were a county. The penalties provided in G.S. 153A-155 apply to a tax
26 levied under this act.

1 **SECTION 4.** Distribution and Use of Tax Revenue. – Avery County District
2 U shall, on a quarterly basis, distribute the net proceeds of the occupancy tax to the
3 Avery County District U Tourism Development Authority created pursuant to Section 5
4 of this act. The Authority shall use at least two-thirds of the proceeds distributed to it to
5 promote travel and tourism in the district and shall use the remainder for tourism-related
6 expenditures in the district. In accordance with the North Carolina Constitution and the
7 United States Constitution, the tax proceeds may be used only for the direct benefit of
8 the jurisdiction of Avery County District U. None of the proceeds may be used to
9 promote travel or tourism in areas within Avery County that are outside of the district or
10 for tourism-related expenditures in the county that are outside of the district.

11 The following definitions apply in this act:

- 12 (1) Net proceeds. – Gross proceeds less the cost to the district of
13 administering and collecting the tax, as determined by the finance
14 officer, not to exceed three percent (3%) of the first five hundred
15 thousand dollars (\$500,000) of gross proceeds collected each year and
16 one percent (1%) of the remaining gross receipts collected each year.
- 17 (2) Promote travel and tourism. – To advertise or market an area or
18 activity, publish and distribute pamphlets and other materials, conduct
19 market research, or engage in similar promotional activities that attract
20 tourists or business travelers to the area; the term includes
21 administrative expenses incurred in engaging in the listed activities.
- 22 (3) Tourism-related expenditures. – Expenditures that are designed to
23 increase the use of lodging facilities in the district or to attract tourists
24 or business travelers to the district. The term includes expenditures to
25 construct, maintain, operate, or market a convention center and other
26 expenditures that, in the judgment of the entity making the
27 expenditure, will facilitate and support tourism.

28 **SECTION 5.(a)** Avery County District U Tourism Development Authority. –
29 Appointment and membership. – The board of commissioners of Avery County shall
30 adopt a resolution creating the Avery County District U Tourism Development
31 Authority, which shall be a public authority under the Local Government Budget and
32 Fiscal Control Act. The resolution shall provide for the membership of the Authority,
33 including the members' terms of office, and for the filling of vacancies on the Authority.
34 At least one-third of the members must be individuals who are affiliated with businesses
35 that collect the tax in the district, and at least three-fourths of the members must be
36 individuals who are currently active in the promotion of travel and tourism in the
37 district. The board of commissioners shall designate one member of the Authority as
38 chair and shall determine the compensation, if any, to be paid to members of the
39 Authority.

40 The Authority shall meet at the call of the chair and shall adopt rules of
41 procedure to govern its meetings. The Finance Officer for Avery County shall be the ex
42 officio finance officer of the Authority.

43 **SECTION 5.(b)** Duties. – The Authority shall expend the net proceeds of
44 the tax levied under this act for the purposes provided in Section 4 of this act. The

1 Authority shall promote travel and tourism in the district and make tourism-related
2 expenditures in the district.

3 **SECTION 5.(c)** Reports. – The Authority shall report quarterly and at the
4 close of the fiscal year to the Avery County Board of Commissioners on its receipts and
5 expenditures for the preceding quarter and for the year in such detail as the board may
6 require.

7 **SECTION 6.** G.S. 153A-155(g) reads as rewritten:

8 "(g) This section applies only to Anson, Brunswick, Buncombe, Cabarrus,
9 Carteret, Craven, Cumberland, Currituck, Dare, Davie, Durham, Granville, Madison,
10 Montgomery, Nash, New Hanover, Pender, Person, Randolph, Richmond, Rowan,
11 Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, to Avery
12 County District U, and to the Township of Averagesboro in Harnett County."

13 **SECTION 7.** This act is effective when it becomes law.