

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**HOUSE BILL 945
Committee Substitute Favorable 6/2/05
Senate Finance Committee Substitute Favorable 8/9/05**

Short Title: Omnibus Occ. Taxes.

(Local)

Sponsors:

Referred to:

March 29, 2005

A BILL TO BE ENTITLED

1
2 AN ACT TO AUTHORIZE THE LEVY OF ROOM OCCUPANCY AND TOURISM
3 DEVELOPMENT TAXES IN THE TOWNS OF BENSON, BOILING SPRINGS,
4 AND KENLY, TO AMEND THE OCCUPANCY TAXES IN CLAY COUNTY,
5 HALIFAX, SELMA, AND SMITHFIELD AND TO AUTHORIZE THE TOWN
6 OF CLAYTON TO HOLD AN ADVISORY REFERENDUM ON ELECTING
7 SOME MEMBERS OF ITS TOWN COUNCIL BY DISTRICT AND SOME AT
8 LARGE.

9 The General Assembly of North Carolina enacts:

10
11 **PART I. BENSON OCCUPANCY TAX.**

12 **SECTION 1.1.** Occupancy Tax. – (a) Authorization and Scope. – The Town
13 of Benson may levy a room occupancy tax of up to two percent (2%) of the gross
14 receipts derived from the rental of any room, lodging, or accommodation furnished by a
15 hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales
16 tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State
17 or local sales tax. This tax does not apply to accommodations furnished by nonprofit
18 charitable, educational, or religious organizations when furnished in furtherance of their
19 nonprofit purpose.

20 **SECTION 1.1.(b)** Administration. – A tax levied under this section shall be
21 levied, administered, collected, and repealed as provided in G.S. 160A-215. The
22 penalties provided in G.S. 160A-215 apply to a tax levied under this section.

23 **SECTION 1.1.(c)** Distribution and Use of Tax Revenue. – The Town of
24 Benson shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the
25 Johnston County Tourism Authority created in Chapter 647 of the 1987 Session Laws.
26 The Johnston County Tourism Authority shall use at least two-thirds of the funds
27 remitted to it under this subsection to promote travel and tourism in Benson and shall
28 use the remainder for tourism-related expenditures in Benson. In accordance with the

1 North Carolina Constitution and the United States Constitution, the tax proceeds may be
2 used only for the direct benefit of Benson. None of the proceeds may be used to
3 promote travel or tourism in areas within Johnston County that are outside of Benson or
4 for tourism-related expenditures in the county that are outside of Benson. The net
5 proceeds of the occupancy tax levied under this Part shall supplement rather than
6 supplant any proceeds being used in the Town of Benson derived from the occupancy
7 tax levied by Johnston County pursuant to Chapter 647 of the 1987 Session Laws.

8 The following definitions apply in this subsection:

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

24 25 **PART II. BOILING SPRINGS OCCUPANCY TAX.**

26 **SECTION 2.1.** Occupancy Tax. – (a) Authorization and Scope. – The
27 Boiling Springs Town Council may levy a room occupancy tax of up to three percent
28 (3%) of the gross receipts derived from the rental of any room, lodging, or
29 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within
30 the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).
31 This tax is in addition to any State or local sales tax. This tax does not apply to
32 accommodations furnished by nonprofit charitable, educational, or religious
33 organizations when furnished in furtherance of their nonprofit purpose.

34 **SECTION 2.1.(b)** Administration. – A tax levied under this section shall be
35 levied, administered, collected, and repealed as provided in G.S. 160A-215. The
36 penalties provided in G.S. 160A-215 apply to a tax levied under this section.

37 **SECTION 2.1.(c)** Distribution and Use of Tax Revenue. – The Town of
38 Boiling Springs shall, on a quarterly basis, remit the net proceeds of the occupancy tax
39 to the Boiling Springs Tourism Development Authority. The Authority shall use at least
40 two-thirds of the funds remitted to it under this subsection to promote travel and tourism
41 in Boiling Springs and shall use the remainder for tourism-related expenditures.

42 The following definitions apply in this subsection:

- 43 (1) Net proceeds. – Gross proceeds less the cost to the town of
44 administering and collecting the tax, as determined by the finance

1 officer, not to exceed three percent (3%) of the first five hundred
2 thousand dollars (\$500,000) of gross proceeds collected each year and
3 one percent (1%) of the remaining gross receipts collected each year.

4 (2) Promote travel and tourism. – To advertise or market an area or
5 activity, publish and distribute pamphlets and other materials, conduct
6 market research, or engage in similar promotional activities that attract
7 tourists or business travelers to the area. The term includes
8 administrative expenses incurred in engaging in the listed activities.

9 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
10 the Tourism Development Authority, are designed to increase the use
11 of lodging facilities, meeting facilities, or convention facilities in a
12 town or to attract tourists or business travelers to the town. The term
13 includes tourism-related capital expenditures.

14 **SECTION 2.2.** Boiling Springs Tourism Development Authority. – (a)
15 Appointment and Membership. – When the Boiling Springs Town Council adopts a
16 resolution levying a room occupancy tax under this act, it shall also adopt a resolution
17 creating a town Tourism Development Authority, which shall be a public authority
18 under the Local Government Budget and Fiscal Control Act. The resolution shall
19 provide for the membership of the Authority, including the members' terms of office,
20 and for the filling of vacancies on the Authority. At least one-third of the members must
21 be individuals who are affiliated with businesses that collect the tax in the town, and at
22 least one-half of the members must be individuals who are currently active in the
23 promotion of travel and tourism in the town. The town council shall designate one
24 member of the Authority as chair and shall determine the compensation, if any, to be
25 paid to members of the Authority.

26 The Authority shall meet at the call of the chair and shall adopt rules of
27 procedure to govern its meetings. The Finance Officer for Boiling Springs shall be the
28 ex officio finance officer of the Authority.

29 **SECTION 2.2.(b)** Duties. – The Authority shall expend the net proceeds of
30 the tax levied under this act for the purposes provided in this act. The Authority shall
31 promote travel, tourism, and conventions in the town, sponsor tourist-related events and
32 activities in the town, and finance tourist-related capital projects in the town.

33 **SECTION 2.2.(c)** Reports. – The Authority shall report quarterly and at the
34 close of the fiscal year to the Boiling Springs Town Council on its receipts and
35 expenditures for the preceding quarter and for the year in such detail as the town council
36 may require.

37 38 **PART III. KENLY OCCUPANCY TAX.**

39 **SECTION 3.1.** Occupancy Tax. – (a) Authorization and Scope. – The Town
40 of Kenly may levy a room occupancy tax of up to two percent (2%) of the gross receipts
41 derived from the rental of any room, lodging, or accommodation furnished by a hotel,
42 motel, inn, tourist camp, or similar place within the town that is subject to sales tax
43 imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or
44 local sales tax. This tax does not apply to accommodations furnished by nonprofit

1 charitable, educational, or religious organizations when furnished in furtherance of their
2 nonprofit purpose.

3 **SECTION 3.1.(b)** Administration. – A tax levied under this section shall be
4 levied, administered, collected, and repealed as provided in G.S. 160A-215. The
5 penalties provided in G.S. 160A-215 apply to a tax levied under this section.

6 **SECTION 3.1.(c)** Distribution and Use of Tax Revenue. – The Town of
7 Kenly shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the
8 Johnston County Tourism Authority created in Chapter 647 of the 1987 Session Laws.
9 The Johnston County Tourism Authority shall use at least two-thirds of the funds
10 remitted to it under this subsection to promote travel and tourism in Kenly and shall use
11 the remainder for tourism-related expenditures in Kenly. In accordance with the North
12 Carolina Constitution and the United States Constitution, the tax proceeds may be used
13 only for the direct benefit of Kenly. None of the proceeds may be used to promote
14 travel or tourism in areas within Johnston County that are outside of the district or for
15 tourism-related expenditures in the county that are outside of Kenly. The net proceeds
16 of the occupancy tax levied under this Part shall supplement rather than supplant any
17 proceeds being used in the Town of Kenly derived from the occupancy tax levied by
18 Johnston County pursuant to Chapter 647 of the 1987 Session Laws.

19 The following definitions apply in this subsection:

- 20 (1) Net proceeds. – Gross proceeds less the cost to the town of
21 administering and collecting the tax, as determined by the finance
22 officer, not to exceed three percent (3%) of the first five hundred
23 thousand dollars (\$500,000) of gross proceeds collected each year and
24 one percent (1%) of the remaining gross receipts collected each year.
- 25 (2) Promote travel and tourism. – To advertise or market an area or
26 activity, publish and distribute pamphlets and other materials, conduct
27 market research, or engage in similar promotional activities that attract
28 tourists or business travelers to the area. The term includes
29 administrative expenses incurred in engaging in these activities.
- 30 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
31 the Tourism Authority, are designed to increase the use of lodging
32 facilities, meeting facilities, and convention facilities in a town by
33 attracting tourists or business travelers to the town. The term includes
34 tourism-related capital expenditures.

35 **PART IV. HALIFAX COUNTY OCCUPANCY TAX.**

36 **SECTION 4.** Chapter 377 of the 1987 Session Laws, as amended by S.L.
37 2005-46, reads as rewritten:

38 "**Section 1.** ~~Occupancy tax.~~ Occupancy Tax. – (a) ~~Authorization and scope.~~ Scope. – The Halifax
39 County Board of Commissioners may levy a room occupancy tax of three percent (3%)
40 of the gross receipts derived from the rental of any room, lodging, or similar
41 accommodation furnished by a hotel, motel, inn, or similar place within the county that
42 is subject to sales tax imposed by the State under G.S 105-164.4(a)(3). This tax is in
43

1 addition to any State or local sales tax. This tax does not apply to accommodations
2 furnished by nonprofit charitable, educational, or religious organizations.

3 (a1) Authorization of ~~additional tax.~~Additional Tax. – In addition to the tax
4 authorized by subsection (a) of this section, the Halifax County Board of
5 Commissioners may levy an additional room occupancy tax of up to two percent (2%)
6 of the gross receipts derived from the rental of accommodations taxable under
7 subsection (a) of this section. The levy, collection, administration, and repeal of the tax
8 authorized by this subsection ~~must~~shall be in accordance with the provisions of this
9 section. Halifax County may not levy a tax under this subsection unless it also levies the
10 tax authorized under subsection (a) of this section.

11 (b) Administration. – A tax levied under this section ~~must~~shall be levied,
12 administered, collected, and repealed as provided in G.S. 153A-155. The penalties
13 provided in G.S. 153A-155 apply to a tax levied under this section.

14 (c) Distribution and ~~use~~Use of ~~tax revenue.~~Tax Revenue. – Halifax County
15 ~~must, shall,~~ on a quarterly basis, remit the net proceeds of the occupancy tax to the
16 Halifax County Tourism Development Authority. The Authority ~~must~~shall use at least
17 two-thirds of the funds remitted to it under this subsection to promote travel and tourism
18 in Halifax County and ~~must~~shall use the remainder for tourism-related expenditures.

19 The following definitions apply to this subsection:

- 20 (1) Net proceeds. – Gross proceeds less the cost to the county of
21 administering and collecting the tax, as determined by the finance
22 officer, not to exceed three percent (3%) of the first five hundred
23 thousand dollars (\$500,000) of the gross proceeds collected each year
24 and one percent (1%) of the remaining gross receipts collected each
25 year.
- 26 (2) Promote travel and tourism. – To advertise or market an area or
27 activity, publish and distribute pamphlets and other materials, conduct
28 market research, or engage in similar promotional activities that attract
29 tourists or business travelers to the area; the term includes
30 administrative expenses incurred in engaging in the listed activities.
- 31 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
32 the Tourism Development Authority, are designed to increase the use
33 of lodging facilities, meeting facilities, or convention facilities in the
34 county by attracting tourists or business travelers to the county. The
35 term includes tourism-related capital expenditures.

36 "**Sec. 2.** Tourism Development Authority. = (a) Appointment and
37 ~~membership.~~Membership. – When the Halifax County Board of Commissioners adopts
38 a resolution levying a room occupancy tax under this act, it ~~must~~shall also adopt a
39 resolution creating a county Tourism Development Authority, which shall be a public
40 authority under the Local Government Budget and Fiscal Control Act. The resolution
41 ~~must~~shall provide for the membership of the Authority including the members'
42 qualifications and terms of office, and for the filling of vacancies on the Authority. At
43 least one-fifth of the members must be individuals who are affiliated with businesses
44 that collect the tax in the county, and at least ~~three-fourths~~one-half of the members must

1 be individuals who are currently active in the promotion of travel and tourism in the
2 county. ~~The Authority must designate one member as chair and one member as~~
3 ~~treasurer.~~ The board of commissioners shall designate one member of the Authority as
4 chair and shall determine the compensation, if any, to be paid to members of the
5 Authority.

6 The Authority ~~must~~shall meet at the call of the chair and ~~must~~shall adopt rules of
7 procedure to govern its meetings. The Finance Officer for Halifax County shall be the
8 ex officio finance officer of the Authority.

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

13 (c) Reports. – The Authority ~~must~~shall report quarterly and at the close of the
14 fiscal year to the Halifax County Board of ~~County~~ Commissioners on its receipts and
15 expenditures for the preceding quarter and for the year in such detail as the Board may
16 require.

17 "Sec. 3. This act is effective upon ratification."
18

19 PART V. SELMA OCCUPANCY TAX.

20 SECTION 5. Part X of S.L. 2001-439 reads as rewritten:

21 "SECTION 10.1. Occupancy ~~tax.~~Tax. – (a) Authorization and Scope. – The Selma
22 Town Council of the Town of Selma may levy a room occupancy tax of one percent
23 (1%) of the gross receipts derived from the rental of any room, lodging, or
24 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within
25 the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).
26 This tax is in addition to any State or local sales tax. This tax does not apply to
27 accommodations furnished by nonprofit charitable, educational, or religious
28 organizations when furnished in furtherance of their nonprofit purpose.

29 (a1) Authorization of Additional Tax. – In addition to the tax authorized by
30 subsection (a) of this section, the Selma Town Council may levy an additional room
31 occupancy tax of up to one percent (1%) of the gross receipts derived from the rental of
32 accommodations taxable under subsection (a) of this section. The levy, collection,
33 administration, and repeal of the tax authorized by this subsection must be in
34 accordance with the provisions of this section. The Selma Town Council may not levy a
35 tax under this subsection unless it also levies the tax authorized under subsection (a) of
36 this section.

37 "SECTION 10.1.(b) Administration. – A tax levied under this section shall be
38 levied, administered, collected, and repealed as provided in G.S. 160A-215. The
39 penalties provided in G.S. 160A-215 apply to a tax levied under this section.

40 "SECTION 10.1.(c) Distribution and Use of Tax Revenue. – The Town of Selma
41 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Johnston
42 County Tourism Authority created in Chapter 647 of the 1987 Session Laws. The
43 Johnston County Tourism Authority shall use at least two-thirds of the funds remitted to
44 it under this subsection to promote travel and tourism in Selma and shall use the

1 remainder for tourism-related expenditures in Selma. In accordance with the North
2 Carolina Constitution and the United States Constitution, the tax proceeds may be used
3 only for the direct benefit of Selma. None of the proceeds may be used to promote
4 travel or tourism in areas within Johnston County that are outside of Selma or for
5 tourism-related expenditures in the county that are outside of Selma. The net proceeds
6 of the occupancy tax levied under this Part shall supplement rather than supplant any
7 proceeds being used in the Town of Selma derived from the occupancy tax levied by
8 Johnston County pursuant to Chapter 647 of the 1987 Session Laws.

9 The following definitions apply in this subsection:

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

25 ~~"SECTION 10.2. A tax levied under this Part expires five years after the effective~~
26 ~~date of its levy. The town's authority to levy a tax under this Part expires five years after~~
27 ~~the effective date of its levy of a tax under this Part. The expiration of a tax pursuant to~~
28 ~~this Part does not affect the rights or liabilities of the town, a taxpayer, or another person~~
29 ~~arising under the expired tax before the effective date of its expiration; nor does it affect~~
30 ~~the right to any refund or credit of a tax that would otherwise have been available under~~
31 ~~the expired tax before the effective date of its expiration."~~
32

33 PART VI. SMITHFIELD OCCUPANCY TAX.

34 SECTION 6. Part XI of S.L. 2001-439 reads as rewritten:

35 "SECTION 11.1. Occupancy ~~tax.~~ Tax. – (a) Authorization and Scope. – The
36 Smithfield Town Council of the Town of Smithfield may levy a room occupancy tax of
37 one percent (1%) of the gross receipts derived from the rental of any room, lodging, or
38 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within
39 the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).
40 This tax is in addition to any State or local sales tax. This tax does not apply to
41 accommodations furnished by nonprofit charitable, educational, or religious
42 organizations when furnished in furtherance of their nonprofit purpose.

43 (a1) Authorization of Additional Tax. – In addition to the tax authorized by
44 subsection (a) of this section, the Smithfield Town Council may levy an additional room

1 occupancy tax of up to one percent (1%) of the gross receipts derived from the rental of
2 accommodations taxable under subsection (a) of this section. The levy, collection,
3 administration, and repeal of the tax authorized by this subsection must be in
4 accordance with the provisions of this section. The Smithfield Town Council may not
5 levy a tax under this subsection unless it also levies the tax authorized under subsection
6 (a) of this section.

7 "SECTION 11.1.(b) Administration. – A tax levied under this section shall be
8 levied, administered, collected, and repealed as provided in G.S. 160A-215. The
9 penalties provided in G.S. 160A-215 apply to a tax levied under this section.

10 "SECTION 11.1.(c) Distribution and Use of Tax Revenue. – The Town of
11 Smithfield shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the
12 Johnston County Tourism Authority created in Chapter 647 of the 1987 Session Laws.
13 The Johnston County Tourism Authority shall use at least two-thirds of the funds
14 remitted to it under this subsection to promote travel and tourism in Smithfield and shall
15 use the remainder for tourism-related expenditures in Smithfield. In accordance with the
16 North Carolina Constitution and the United States Constitution, the tax proceeds may be
17 used only for the direct benefit of Smithfield. None of the proceeds may be used to
18 promote travel or tourism in areas within Johnston County that are outside of Smithfield
19 or for tourism-related expenditures in the county that are outside of Smithfield. The net
20 proceeds of the occupancy tax levied under this Part shall supplement rather than
21 supplant any proceeds being used in the Town of Smithfield derived from the
22 occupancy tax levied by Johnston County pursuant to Chapter 647 of the 1987 Session
23 Laws.

24 The following definitions apply in this subsection:

- 25 (1) Net proceeds. – Gross proceeds less the cost to the town of
26 administering and collecting the tax, as determined by the finance
27 officer, not to exceed three percent (3%) of the first five hundred
28 thousand dollars (\$500,000) of gross proceeds collected each year and
29 one percent (1%) of the remaining gross receipts collected each year.
- 30 (2) Promote travel and tourism. – To advertise or market an area or
31 activity, publish and distribute pamphlets and other materials, conduct
32 market research, or engage in similar promotional activities that attract
33 tourists or business travelers to the area. The term includes
34 administrative expenses incurred in engaging in these activities.
- 35 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
36 the Tourism Authority, are designed to increase the use of lodging
37 facilities, meeting facilities, and convention facilities in a town by
38 attracting tourists or business travelers to the town. The term includes
39 tourism-related capital expenditures.

40 ~~"SECTION 11.2. A tax levied under this Part expires five years after the effective~~
41 ~~date of its levy. The town's authority to levy a tax under this Part expires five years after~~
42 ~~the effective date of its levy of a tax under this Part. The expiration of a tax pursuant to~~
43 ~~this Part does not affect the rights or liabilities of the town, a taxpayer, or another person~~
44 ~~arising under the expired tax before the effective date of its expiration; nor does it affect~~

1 the right to any refund or credit of a tax that would otherwise have been available under
2 the expired tax before the effective date of its expiration."
3

4 **PART VII. CLAY COUNTY OCCUPANCY TAX.**

5 **SECTION 7.1.** Chapter 969 of the 1985 Session Laws, as amended by
6 Chapter 195 of the 1987 Session Laws, reads as rewritten:

7 "**Section 1.** Occupancy Tax. (a) Authorization and Scope. = The board of
8 commissioners of a county may by resolution, after not less than 10 days' public notice
9 and after a public hearing held pursuant thereto, levy a room occupancy tax of three
10 percent (3%) of the gross receipts derived from the rental of any room, lodging, or
11 similar accommodation furnished by a hotel, motel, inn, or similar place within the
12 county that is subject to sales tax imposed by the State under G.S. 105-164.4(3). G.S.
13 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not
14 apply to accommodations furnished by nonprofit charitable, educational, or religious
15 organizations organizations when furnished in furtherance of their nonprofit purpose.

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

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

32 A return filed with the county finance officer under this act 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.~~ A person, firm, corporation, or association who fails or refuses to file
35 the return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's
36 omission. In case of failure or refusal to file the return or pay the tax for a period of 30
37 days after the time required for filing the return or for paying the tax, there shall be an
38 additional tax, as a penalty, of five percent (5%) of the tax due for each additional
39 month or fraction thereof until the tax is paid.

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

1 ~~or forgive the penalties imposed by this subsection.~~ A tax levied under this act shall be
2 levied, administered, collected, and repealed as provided in G.S. 153A-155. The
3 penalties provided in G.S. 153A-155 apply to a tax levied under this act.

4 (e) Distribution and Use of Tax Revenue. – Except as provided in Section 2 of this
5 act for Durham County, a taxing county shall place the net proceeds of a tax levied
6 under this act in a special Travel and Tourism Fund. Revenue in this Fund may be used
7 only to promote travel and tourism in the county. As used in this subsection, "net
8 proceeds" means gross proceeds less the cost to the county of administering and
9 collecting the tax, as determined by the finance officer. County, the distributing authority
10 shall distribute and use the net proceeds of the occupancy tax levied under this section
11 in accordance with this subsection. The distributing authority shall be the taxing county,
12 unless a Tourism Development Authority is required to be established under Section 1.1
13 of this act. If a Tourism Development Authority is established, then the Tourism
14 Development Authority shall be the distributing authority. The distributing authority
15 shall use at least two-thirds of the funds remitted to it under this subsection to promote
16 travel and tourism in the county and shall use the remainder for tourism-related
17 expenditures.

18 The following definitions apply in this subsection:

- 19 (1) Net proceeds. – Gross proceeds less the cost to the county of
20 administering and collecting the tax, as determined by the finance
21 officer, not to exceed three percent (3%) of the first five hundred
22 thousand dollars (\$500,000) of gross proceeds collected each year and
23 one percent (1%) of the remaining gross receipts collected each year.
- 24 (2) Promote travel and tourism. – To advertise or market an area or
25 activity, publish and distribute pamphlets and other materials, conduct
26 market research, or engage in similar promotional activities that attract
27 tourists or business travelers to the area. The term includes
28 administrative expenses incurred in engaging in the listed activities.
- 29 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
30 the distributing authority, are designed to increase the use of lodging
31 facilities, meeting facilities, or convention facilities in a county or to
32 attract tourists or business travelers to the county. The term includes
33 tourism-related capital expenditures.

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

38 (g) ~~Repeal.~~ A tax levied under this act may be repealed by a resolution adopted by
39 ~~the board of commissioners of the county. Repeal of a tax levied under this act shall~~
40 ~~become effective on the first day of a month and may not become effective until the end~~
41 ~~of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied~~
42 ~~under this act does not affect a liability for a tax that attached before the effective date~~
43 ~~of the repeal, nor does it affect a right to a refund of a tax that accrued before the~~
44 ~~effective date of the repeal.~~

1 "Sec. 1.1. County Tourism Development Authority. – (a) Appointment and
2 Membership. – When the annual net proceeds of the occupancy tax levied under Section
3 1 of this act exceed one hundred fifty thousand dollars (\$150,000), the county Board of
4 Commissioners shall adopt a resolution creating a county Tourism Development
5 Authority, which shall be a public authority under the Local Government Budget and
6 Fiscal Control Act. The resolution shall provide for the membership of the Authority,
7 including the members' terms of office, and for the filling of vacancies on the Authority.
8 At least one-third of the members must be individuals who are affiliated with businesses
9 that collect the tax in the county, and at least one-half of the members must be
10 individuals who are currently active in the promotion of travel and tourism in the
11 county. The board of commissioners shall designate one member of the Authority as
12 chair and shall determine the compensation, if any, to be paid to members of the
13 Authority.

14 The Authority shall meet at the call of the chair and shall adopt rules of procedure to
15 govern its meetings. The Finance Officer for the county shall be the ex officio finance
16 officer of the Authority.

17 (b) Duties. – If the board of commissioners establishes a Tourism Development
18 Authority as provided in subsection (a) of this section, then the Authority shall expend
19 the net proceeds of the tax levied under this act for the purposes provided in this act.
20 The Authority shall promote travel, tourism, and conventions in the county, sponsor
21 tourist-related events and activities in the county, and finance tourist-related capital
22 projects in the county.

23 (c) Reports. – If the board of commissioners establishes a Tourism Development
24 Authority as provided in subsection (a) of this section, then the Authority shall report
25 quarterly and at the close of the fiscal year to the county board of commissioners on its
26 receipts and expenditures for the preceding quarter and for the year in such detail as the
27 board may require.

28 "Sec. 2. Use and Distribution of Tax Revenue in Durham County. Durham County
29 shall retain fifty-seven and one-half percent (57-1/2%) of the revenue collected from a
30 tax levied under this act and shall distribute the remaining forty-two and one-half
31 percent (42-1/2%) of the revenue to the City of Durham. Funds retained by the county
32 or distributed to the City of Durham may be used for any purpose authorized by law,
33 except that at least twenty-five percent (25%) of the funds so retained or distributed
34 must be used for promotion of travel and tourism.

35 **Sec. 3.** This act applies only to the following counties: Graham, Clay, Jackson,
36 Durham, Macon, Polk, and Transylvania.

37 **Sec. 4.** This act is effective upon ratification."

38 **SECTION 7.2.** Section 3 of Chapter 118 of the 1987 Session Laws reads as
39 rewritten:

40 "Sec. 3. This act applies only to the following counties: ~~Clay~~, Graham, Jackson, and
41 Macon."

42 **SECTION 7.3.** This part applies only to Clay County.

43
44 **PART VIII. UNIFORM PROVISIONS.**

