

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

**SESSION LAW 2013-61
HOUSE BILL 545**

AN ACT TO MODIFY THE HENDERSON COUNTY OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Sections 5 and 6 of Chapter 172 of the 1987 Session Laws, as amended by Chapter 55 of the 1991 Session Laws, Section 21(p) of S.L. 2007-527, and S.L. 2012-144, read as rewritten:

"**Sec. 5.** Occupancy Tax. (a) Authorization and Scope. – The Board of Commissioners of Henderson County may levy a room occupancy and tourism development tax of no less than three percent (3%) nor more than five percent (5%) 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(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.

(a1) Authorization of Additional Tax. – In addition to the tax authorized by subsection (a) of this section, the Board of Commissioners of Henderson County may levy a room occupancy and tourism development tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. Henderson County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

(b) Repealed.

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 – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155.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

(d) Repealed.

(e) Use of Tax Revenue. – The county shall, on a quarterly basis, remit the net proceeds of the room occupancy and tourism development tax levied under this act to the Henderson County Tourism Development Authority. The Authority shall use ~~the net proceeds as follows:~~

(1) ~~First five percent (5%).—At at least two-thirds of the net proceeds of the room occupancy tax levied under subsection (a) of this section shall be used this act to promote travel and tourism in Henderson County and shall use the remainder shall be used for tourism-related expenditures.~~

(2) ~~Additional one percent (1%).—The net proceeds of the additional one percent room occupancy tax levied under subsection (a1) of this section shall be used for the maintenance, operation, renovation, and promotion of The Vagabond School of the Drama, Inc., including the Mainstage and the Playhouse Downtown locations.~~

(e1) Definitions. – The following definitions apply in this act:

(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 three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(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, in the judgment of the entity responsible for expending the net proceeds of the tax, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

"Sec. 6. Henderson County 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 the Henderson County Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution adopted by the Board of Commissioners shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. However, no member shall serve on the Authority for more than five consecutive years. The Committee shall consist of nine voting members as follows:

- (1) Three members who are registered to vote in Henderson County, appointed by the Henderson County Board of Commissioners.
- (2) Three members who are registered to vote in Henderson County, appointed by the Hendersonville City Council.
- (3) One member who is registered to vote in Henderson County, appointed by the Fletcher Town Council.
- (4) One member who is registered to vote in Henderson County, appointed by the Flat Rock Village Council.
- (5) One member appointed by the Henderson County Board of Commissioners upon a recommendation of the Henderson County Chamber of Commerce.

Of these members, at least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the county.

The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority. The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The finance officer for Henderson 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 subsections (a) and (a1) of Section 5 of this act for the purposes provided in Section 5 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. The Vagabond School of the Drama, Inc., shall separately identify in its financial statements expenditures of funds that it receives pursuant to this act. The Vagabond School of the Drama, Inc., shall report annually by October 1 to the Authority expenditures of the funds received during the Authority's fiscal year pursuant to this act in such detail as required by the Authority or the Authority's Finance Officer."

SECTION 2. Section 2(b) of S.L. 2012-144 reads as rewritten:

"SECTION 2.(b) This section is effective when it becomes law, and the board of county commissioners shall adopt a resolution establishing the Henderson County Tourism Development Authority and make the changes to the membership as required by this section on or before September 1, 2012."

SECTION 3. Section 3 of S.L. 2012-144 is repealed.

SECTION 4. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 4th day of June, 2013.

s/ Daniel J. Forest
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives