

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

SESSION LAW 2001-484
SENATE BILL 348

AN ACT TO AUTHORIZE CUMBERLAND COUNTY TO INCREASE ITS
OCCUPANCY TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES
TO ITS OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 983 of the 1983 Session Laws reads as rewritten:

"Section 1. It is the purpose and intent of this act to provide Cumberland County the authority to levy a transient occupancy tax as hereinafter set forth.

Sec. 2.

(a) Authorization and Scope. – Cumberland County is hereby authorized to impose and levy a tax not to exceed three percent (3%) of the gross receipts of any person, firm, corporation or association derived from the rental of any sleeping room or lodging furnished in any hotel, motel, or inn located in Cumberland County and subject to the ~~three percent (3%) sales tax levied imposed~~ by the State ~~of North Carolina under G.S. 105-164.4(a)(3).~~ This tax is in addition to any State or local sales tax. The tax shall not apply, however, to any room or rooms, lodging or accommodations supplied to the same person for a period of 90 continuous days or more. The tax shall also not apply to sleeping rooms or lodgings furnished by charitable, educational, benevolent or religious institutions or organizations not operated for profit.

(a1) Additional Tax. – In addition to the tax authorized by subsection (a) of this section, the Cumberland County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under that subsection. The tax authorized by this subsection may not be levied earlier than January 1, 2002. The levy, collections, administration, use, and repeal of the tax authorized by this subsection shall be in accordance with this act. Cumberland County may not levy a tax under this subsection unless it also levies a tax under subsection (a) of this section. The rate of tax levied under this subsection may not exceed the applicable maximum provided in the chart below based on the period for which it is in effect:

<u>Period</u>	<u>Maximum</u>
<u>After 1/1/2002</u>	<u>1%</u>
<u>After 1/1/2004</u>	<u>2%</u>
<u>After 1/1/2005</u>	<u>3%</u>

(b) Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155.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 act. Before adopting or amending an ordinance imposing and levying such a tax, the Board of Commissioners shall hold a public hearing on the ordinance or amendment. The Board shall cause notice of the hearing to be published not less than 10 days nor more than 25 days before the date fixed for the hearing.

~~Sec. 3.~~

~~(a) Such tax, if levied, shall be due and payable to the county in monthly installments on or before the 15th of the month next succeeding the month in which the tax accrues. Every person, firm, corporation or association liable for the tax imposed pursuant to this act shall, on or before the 15th day of each month, prepare and render a~~

return on a form prescribed by the county, a true and correct statement showing the total gross receipts derived in the preceding month from rentals upon which the tax is levied. Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of the calendar month set by the board of commissioners in the ordinance levying the tax.

(b) Any person, firm, corporation or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's omission.

(c) Any person, firm, corporation or association who willfully attempts in any manner to evade the occupancy tax, if levied on any person required to pay the occupancy tax, or to make a return and who willfully fails to pay such tax or make and file such return, shall, in addition to the penalties provided by law, be guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment not to exceed six months, or by both such fine and imprisonment.

Sec. 4. Distribution and use of the first three percent (3%). Cumberland County shall allocate the net proceeds collected as follows:

(a) Cumberland County shall retain three percent (3%) of the gross proceeds of the tax collected to compensate it for any administrative or collection expenses incurred in implementing this program. "Net Proceeds" shall mean gross taxes collected less any monies retained by the county for administrative and collection expenses.

(b)(a) Fifty The first fifty percent (50%) of the net proceeds from the tax in a fiscal year of the occupancy tax levied under subsection (a) of Section 2 of this act shall be retained by the county and shall be allocated for the benefit of the Cumberland County Auditorium Commission to help finance major repairs, renovation, rehabilitation, or other capital improvements to its existing facilities and any new additions. These funds may also be utilized by the Commission as approved by the county board of commissioners for financing construction of new convention oriented or multipurpose facilities. These funds will not be used for the acquisition, construction, renovation, or operation of any sleeping room or overnight lodging. These funds shall be budgeted, appropriated, and expended under the auditorium budget through regular county budgeting appropriation and expenditure methods.

(c)(b) Fifty The remaining fifty percent (50%) of the net proceeds from the tax in a fiscal year shall be designated, within the auditorium commission budget of the occupancy tax levied under subsection (a) of Section 2 of this act collected through June 30, 2002, shall, on a quarterly basis, be remitted to the Fayetteville Area Convention and Visitors Bureau specifically for advertising the auditorium and promoting travel and tourism within the County of Cumberland. Beginning on and after July 1, 2002, the remaining fifty percent (50%) of the net proceeds of the occupancy tax levied under subsection (a) of Section 2 of this act shall, on a quarterly basis, be remitted to the Cumberland Tourism Development Authority. The Authority shall use the net proceeds remitted to it under this subsection specifically for advertising the auditorium and promoting travel and tourism within the County of Cumberland. These funds shall be budgeted, appropriated, and expended under the auditorium budget through regular county budgeting, appropriation and expenditure methods, however, 180 days prior to the adoption of the annual county budget, in which this tax is first budgeted, an advisory committee, the constitution of which is described herein below, shall be formed to plan and propose areas and items of expenditure for the funds designated under this subsection.

Sec. 4.1. Distribution and use of additional tax. – Cumberland County shall, on a quarterly basis, remit the net proceeds of the occupancy tax levied under subsection (a1) of Section 2 of this act to the Cumberland Tourism Development Authority. The Authority shall use fifty percent (50%) of these net proceeds to promote travel and tourism in Cumberland County and for tourism-related expenditures in Cumberland County. The remaining fifty percent (50%) shall be distributed to the Arts Council of

Fayetteville/Cumberland County for arts festivals and other arts events that will draw tourists or other business travelers to the area. The Authority and the Arts Council are encouraged to give favorable consideration to tourism-related expenditures of the Seniors Call to Action Team, Inc. (SCAT) and the Martin Luther King, Jr. Committee.

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 these activities.
- (3) Tourism-Related Expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

~~Sec. 5. This advisory committee shall be constituted of: (a) two representatives nominated by hotels and motels within the county which have in excess of 100 rooms subject to this occupancy tax and appointed by the county board of commissioners; (b) two representatives nominated by hotels and motels within the county which have fewer than 100 rooms subject to this occupancy tax and appointed by the county board of commissioners; (c) the chairman of the Travel and Tourism Committee of the Fayetteville Area Chamber of Commerce, in an ex officio capacity; (d) the County Manager of Cumberland County in an ex officio capacity; and (e) the Auditorium Manager of the Cumberland County Memorial Auditorium, in an ex officio capacity. All members to this advisory committee, whether in an appointed or ex officio capacity, shall have equal rights and privileges. This advisory committee will remain intact from term to term to provide information and advice to the Auditorium Commission for the expenditure of these funds on a continuing basis as the need arises.~~

~~The budget process for these funds shall be as follows: Promotion Plan formulated by the advisory committee and submitted, through the Auditorium Manager, as part of the Auditorium's overall budget to the Auditorium Commission for its review and approval, then to the Cumberland County Board of Commissioners, through the County Manager for its review and adoption.~~

(a) Appointment and Membership of Tourism Development Authority. – When the Cumberland County Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it shall adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority including the members' terms of office and for the filling of vacancies on the Authority. The county 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. All members to the Authority, whether in an appointed or ex officio capacity, shall have equal rights and privileges. The Authority shall be composed of the following members:

- (1) Two representatives nominated by hotels and motels within the county which have in excess of 100 rooms subject to this occupancy tax and appointed by the county board of commissioners.
- (2) Two representatives nominated by hotels and motels within the county which have fewer than 100 rooms subject to this occupancy tax and appointed by the county board of commissioners.

(3) The President of the Fayetteville Area Chamber of Commerce, in an ex officio capacity.

(4) The County Manager of Cumberland County, in an ex officio capacity.

(5) One member of the public who is not affiliated with travel and tourism and who reflects the cultural diversity of the county.

(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in 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 county board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Sec. 6. Chapter 360 of the 1965 Session Laws is amended as follows:

(1) by deleting the word "Treasurer" in the third sentence of Section 1(b)(3) of that act and substituting the words "County Manager"; and

(2) by adding a new sentence at the end of Section 3 of that act to read: "Occupancy tax revenues as authorized in AN ACT TO AUTHORIZE AND IMPLEMENT AN OCCUPANCY TAX IN CUMBERLAND COUNTY may be utilized by the Auditorium Commission, as approved by the board of county commissioners, in aiding and encouraging convention and visitor promotion in Cumberland County."

Sec. 7. This act is effective upon ratification."

SECTION 2. G.S. 153A-155(g), as amended by S.L. 2001-162, S.L. 2001-305, S.L. 2001-321, S.L. 2001-381, S.L. 2001-434, S.L. 2001-439, and S.L. 2001-468, reads as rewritten:

"(g) This section applies only to Anson, ~~Avery~~, Brunswick, Buncombe, Cabarrus, Carteret, Craven, Cumberland, Currituck, Dare, Davie, Granville, Madison, Montgomery, Nash, Pender, Person, Randolph, Richmond, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, and to the Township of Averasboro in Harnett County."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of December, 2001.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives