

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 647
HOUSE BILL 893

AN ACT TO AUTHORIZE JOHNSTON COUNTY TO LEVY A ROOM
OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Levy of Tax. (a) The Board of Commissioners of Johnston County may by resolution, after not less than 10 days' public notice levy a room occupancy and tourism development tax.

(b) Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of a calendar month set by the board of county commissioners in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.

Sec. 2. Rate of Tax. The room occupancy and tourism development tax that may be levied under this act shall be three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, or other similar enterprise within the county now subject to sales tax imposed by the State under G.S. 105-164.4(3). This tax is in addition to any local sales tax.

Sec. 3. Exemptions. The tax authorized by this act does not apply to gross receipts derived by the following entities from accommodations furnished by them:

- (1) religious organizations;
- (2) a business that offers to rent to fewer than five units;
- (3) educational organizations;
- (4) summer camps;
- (5) campgrounds; and
- (6) rooming or boarding houses.

Sec. 4. Administration of Tax. (a) Any tax levied under this act is due and payable to the county in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by Johnston County. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

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

(c) In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due, in addition to the penalty prescribed in subsection (b), with an additional tax of five percent (5%) for each additional month or fraction thereof until the occupancy tax is paid.

(d) Any person who willfully attempts in any manner to evade the tax imposed by this act or to make a return or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both.

Sec. 5. Collection of Tax. Every operator of a business subject to the tax levied by this act shall, on and after the effective date of the levy of the tax, collect the three percent (3%) tax. This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of Johnston County. The tax levied pursuant to this act shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all affected businesses in Johnston County the necessary forms for filing returns and instructions to ensure the collection of the tax.

An operator of a business who collects the occupancy tax levied under this section and submits the proceeds of the tax to the county on time, may deduct from the amount remitted to the county a discount of three percent (3%) of the amount collected.

Sec. 6. Disposition of Taxes Collected. (a) For the first two years in which a tax is levied under this act, Johnston County may, in the discretion of the County Commissioners, remit up to fifty percent (50%) of the net proceeds to the Johnston Technical College Auditorium Fund. Johnston County shall remit the remainder of the net proceeds of the occupancy tax to the Johnston County Tourism Authority. During the remaining years in which a tax is levied under this act, Johnston County shall remit the entire net proceeds of the occupancy tax to the Johnston County Tourism Authority. "Net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax, not to exceed five percent (5%) of the gross proceeds of the tax.

(b) The Johnston County Tourism Authority may remit proceeds of the tax from each affected establishment to the following organizations in the towns from which the occupancy tax was collected. Boundaries will be established as follows:

- (1) Proceeds of the tax from affected establishments located in Beulah and Micro townships may be remitted by the Johnston County Tourism Authority to the Kenly Chamber of Commerce.
- (2) Proceeds of the tax from affected establishments located in Smithfield, Selma, Wilson's Mills, and Pine Level townships may be remitted by the Johnston County Tourism Authority to the Greater Smithfield-Selma Area Chamber of Commerce.

- (3) Proceeds of the tax from affected establishments located in Ingrams township may be remitted by the Johnston County Tourism Authority to the Four Oaks Chamber of Commerce.
 - (4) Proceeds of the tax from affected establishments located in Banner and Elevation townships may be remitted by the Johnston County Tourism Authority to the Benson Chamber of Commerce.
 - (5) Proceeds of the tax from affected establishments located in Clayton and Cleveland townships may be remitted by the Johnston County Tourism Authority to the Clayton Chamber of Commerce.
 - (6) If and when establishments affected by this act are located in Boon Hill, Bentonville, Meadow, Pleasant Grove, Wilders, and O'Neals townships, the Johnston County Tourism Authority shall have the authority to determine what organization in Johnston County shall receive the proceeds of the tax.
- (c) The Johnston County Tourism Authority may retain up to one percent (1%) of the net proceeds allocated to it by Johnston County to cover administrative costs.
- (d) The organizations receiving allocations of the occupancy tax revenue remitted to it by the Johnston County Tourism Authority shall use the revenue for the following purposes:
- (1) Direct advertising costs for visitor promotions, conventions, or tourism, including outdoor advertising, print media, broadcast media, and brochures;
 - (2) Marketing and promotions expenses, including test market programs, consultant fees, entertainment, housing expenses, travel expenses, and registration fees;
 - (3) Operating expenses for tourist-oriented events;
 - (4) Administrative expenses;
 - (5) Tourist-related capital projects in Johnston County;
 - (6) Other expenses that aid and encourage visitor promotions, conventions or tourism; and
 - (7) Any additional administrative costs incurred by the county.
- (e) The organizations receiving allocations of the occupancy tax revenue remitted to them by the Johnston County Tourism Authority may contract with appropriate organizations or agencies to assist them in carrying out the above purposes.

Sec. 7. Appointment. Duties of the Johnston County Tourism Authority. (a) When the Board of County Commissioners adopts a resolution levying a room occupancy tax pursuant to this act, it shall also adopt a resolution creating the Johnston County Tourism Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act and shall be composed of the following members:

- (1) One representative to be appointed by the Benson Chamber of Commerce;

- (2) One representative to be appointed by the Clayton Chamber of Commerce;
- (3) One representative to be appointed by the Four Oaks Chamber of Commerce;
- (4) One representative to be appointed by the Kenly Chamber of Commerce;
- (5) One representative to be appointed by the Greater Smithfield-Selma Area Chamber of Commerce;
- (6) One owner or operator of a hotel, motel, or other taxable tourist accommodation, to be appointed by the County Commissioners;
- (7) Four individuals involved in the tourist business who have demonstrated an interest in tourist development and do not own or operate a hotel, motel, or other taxable tourist accommodation, to be appointed by the County Commissioners;
- (8) The finance officer of Johnston County, who shall serve as treasurer, will be a nonvoting, ex officio member.

(b) All members of the Authority shall serve without compensation.

Vacancies on the Authority shall be filled by the appointing organization of the member creating the vacancy. Members appointed to fill vacancies shall serve for the remainder of the unexpired term for which they are appointed to fill. Members shall serve three-year terms, except the initial members who shall serve the following terms:

- (1) Members appointed pursuant to subdivisions (a)(1) - (1)(5) shall serve a one-year term;
- (2) Members appointed pursuant to subdivision (a)(6) shall serve a two-year term;
- (3) Members appointed pursuant to subdivision (a)(7) shall serve a three-year term.

(c) Members may serve no more than two consecutive three-year terms. The members shall elect a chairman, who shall serve for a term of two years. The Authority shall meet at the call of the chairman and shall adopt rules of procedure to govern its meetings.

(d) The Johnston County Tourism Authority shall have the responsibility to ensure that all organizations receiving allocations of the occupancy tax are utilizing the revenues pursuant to Section 6(d) of this act. Each organization receiving allocations from the occupancy tax shall report its uses of the tax revenue, including financial reports, to the Authority.

(e) The Johnston County Tourism Authority shall report at the close of each fiscal year to the Board of County Commissioners on receipts and expenditures of the occupancy tax revenues for the year in such detail as the Board may require. The Authority's fiscal year shall be the same as that of the county.

(f) The Authority shall meet at the call of the chairman and shall adopt rules of procedure to govern its meetings. The Authority shall meet at least quarterly.

Sec. 8. Repeal of Levy. (a) The Board of County Commissioners may by resolution repeal the levy of the room occupancy tax in Johnston County, but no repeal

of taxes levied under this act shall be effective until the end of the fiscal year in which the repeal resolution was adopted.

(b) No liability for any tax levied under this act that attached prior to the date on which a levy is repealed is discharged as a result of the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed may be denied as a result of the repeal.

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 20th day of July, 1987.