

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1134
Committee Substitute Favorable 6/12/96

Short Title: Craven Room Tax Changes.

(Local)

Sponsors:

Referred to:

May 15, 1996

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CRAVEN COUNTY TO LEVY AN ADDITIONAL ROOM
OCCUPANCY TAX AND TO REVISE THE EXISTING CRAVEN COUNTY
ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

Section 1. Chapter 980 of the 1983 Session Laws, as amended by Chapter 710
of the 1985 Session Laws, reads as rewritten:

"AN ACT TO ALLOW CRAVEN COUNTY TO LEVY A ROOM OCCUPANCY
AND TOURISM DEVELOPMENT TAX.

"Section 1. Levy of Tax. _ (a) The Board of Commissioners of Craven County may
by resolution, after not less than 10 days' public notice and after a public hearing held
pursuant thereto, 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 Section 1 of 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,

1 motel, inn, tourist camp, or other similar enterprise within the county now subject to the
2 three percent (3%) sales tax imposed by the State under G.S. ~~105-164.4(3)~~—105-
3 164.4(a)(3). This tax is in addition to any local sales tax.

4 "Sec. 2.1. Additional Occupancy Tax. – In addition to the tax authorized by Section 1
5 of this act, the Craven County Board of Commissioners may levy a room occupancy tax
6 of three percent (3%) of the gross receipts derived from the rental of any
7 accommodations taxable under Section 1 of this act. The levy, collection, administration,
8 and repeal of the tax authorized by this section shall be in accordance with the provisions
9 of this act. Craven County may not levy a tax under this section unless it also levies the
10 tax under Section 1 of this act.

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

- 13 (1) religious organizations;
- 14 (2) a business that offers to rent fewer than five units;
- 15 (3) educational organizations; and
- 16 (4) summer camps.

17 "Sec. 4. Administration of Tax. – (a) Returns. – Any tax levied under this act
18 is due and payable to the county in monthly installments on or before the 15th day of the
19 month following the month in which the tax accrues. Every person, firm, corporation, or
20 association liable for the tax shall, on or before the 15th day of each month, prepare and
21 render a return on a form prescribed by Craven County. The return shall state the total
22 gross receipts derived in the preceding month from rentals upon which the tax is levied.
23 An operator of a business who collects the occupancy tax levied under this section may
24 deduct from the amount remitted to the county a discount equal to the discount the State
25 allows the operator for State sales and use tax.

26 The county shall design, print, and furnish to all affected businesses in Craven County
27 the necessary forms for filing returns and instructions to ensure the collection of the tax.
28 A return filed with the county tax collector under this section is not a public record and
29 may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

30 (b) Penalties. – A person, firm, corporation, or association who fails or refuses to
31 file the return or pay the tax required by this section is subject to the civil and criminal
32 penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use
33 taxes. The Craven County Board of Commissioners has the same authority to waive the
34 penalties for a room occupancy tax that the Secretary of Revenue has to waive the
35 penalties for State sales and use taxes. Any person, firm, corporation, or association failing or
36 refusing to file the return required by this act shall pay a penalty of ten dollars (\$10.00) for each
37 day's omission.

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

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

6 "Sec. 5. Collection of Tax. — Every operator of a business subject to the tax levied by
7 this act shall, on and after the effective date of the levy of the tax, collect the three percent
8 (3%) tax. This tax shall be collected as part of the charge for the furnishing of any
9 taxable accommodations. The tax shall be stated and charged separately from the sales
10 records, and shall be paid by the purchaser to the operator of the business as trustee for
11 and on account of Craven County. The tax levied pursuant to this act shall be added to
12 the sales price and shall be passed on to the purchaser instead of being borne by the
13 operator of the business. The county shall design, print, and furnish to all affected businesses
14 in Craven County the necessary forms for filing returns and instructions to ensure the collection
15 of the tax.

16 "Sec. 6. Disposition of Taxes Collected. — (a) Definitions. — Craven County shall remit
17 the net proceeds of the occupancy tax to the Craven County Tourism Development
18 Authority. "Net proceeds" means gross. The following definitions apply in this section:

- 19 (1) Convention or meeting facility. — A facility to be used primarily by
20 individuals who are not residents of Craven County for the purpose of
21 conventions or meetings.
- 22 (2) Net proceeds. — Gross proceeds less the cost to the county of
23 administering and collecting the tax, not to exceed three percent (3%) of
24 the gross proceeds of the tax.
- 25 (3) Promote travel and tourism. — To advertise or market an area or activity,
26 publish and distribute pamphlets and other materials, conduct market
27 research, or engage in similar promotional activities that attract tourists
28 or business travelers to the area; the term includes administrative
29 expenses incurred in engaging in the listed activities.
- 30 (4) Tourism-related expenditures. — Expenditures that are designed to
31 increase the use of lodging facilities in a county or to attract tourists or
32 business travelers to the county. The term includes expenditures to
33 construct, maintain, operate, or market a convention or meeting facility,
34 a visitors' center, or a coliseum, and other expenditures that, in the
35 judgment of the Tourism Development Authority, will facilitate and
36 promote tourism.

37 (a1) Tax Levied Under Section 1. — Craven County shall remit the net proceeds of
38 the occupancy tax levied under Section 1 of this act to the Craven County Tourism
39 Development Authority. The County Tourism Development Authority shall allocate use
40 at least two-thirds of the occupancy tax revenue remitted to it for the following purposes: to
41 promote travel and tourism and shall use the remainder for tourism-related expenditures.

- 1 (1) ~~Direct advertising costs for visitor promotions, conventions, or tourism,~~
2 ~~including outdoor advertising, print media, broadcast media, and~~
3 ~~brochures;~~
4 (2) ~~Marketing and promotions expenses, including test market programs,~~
5 ~~consultant fees, entertainment, housing expenses, travel expenses, and~~
6 ~~registration fees;~~
7 (3) ~~Operating expenses for the Visitor Information Center, including~~
8 ~~postage, telephone, supplies, dues, subscriptions, equipment, rent, and~~
9 ~~overhead allocation;~~
10 (4) ~~Salaries, benefits, and expenses for Visitor Information Center~~
11 ~~personnel; and~~
12 (5) ~~Other expenses that aid and encourage visitor promotions, conventions,~~
13 ~~or tourism.~~

14 ~~Thirty five percent (35%) of the net proceeds in excess of one hundred thousand~~
15 ~~dollars (\$100,000) remitted to the Authority in a calendar year shall be allocated to the~~
16 ~~funding of museums, meeting facilities, civic centers, parking facilities, or other projects~~
17 ~~specifically intended primarily for visitor, tourist, or convention programs, projects, and~~
18 ~~activities.~~

19 (b) Authority May Contract. – The County Tourism Development Authority
20 may contract with appropriate organizations or agencies to assist it in carrying out the
21 ~~above purposes.~~ purposes provided in this section.

22 (c) Tax Levied Under Section 2.1. – Craven County shall credit the net proceeds
23 of the tax levied under Section 2.1 of this act to a separate Room Tax Trust Fund.
24 Monies in the Room Tax Trust Fund may be used only to construct, maintain, operate, or
25 market a convention or meeting facility in Craven County.

26 "Sec. 7. Appointment, Duties of Tourism Development Authority. – (a) When
27 the board of county commissioners adopts a resolution levying a room occupancy tax
28 pursuant to this act, it shall also adopt a resolution creating a County Tourism
29 Development Authority, which shall be a public authority under the Local Government
30 Budget and Fiscal Control Act and shall be composed of the following members:

- 31 (1) One county commissioner appointed by the Board of Commissioners of
32 Craven County;
33 (2) After the first full year of collections under this act, one person
34 appointed by the governing board of each municipality from which,
35 during the previous 12-month period, at least ten percent (10%) of the
36 gross proceeds of the occupancy tax were collected;
37 (3) ~~One person~~ Three persons representing motel operators, appointed by the
38 board of commissioners;
39 (4) One person with demonstrated interest in and support of tourism
40 development, appointed by the New Bern-Craven Chamber of
41 Commerce;
42 (4a) One person with demonstrated interest in and support of tourism
43 development, appointed by the Havelock Chamber of Commerce;

- 1 (5) One person representing Tryon Palace Complex, appointed by the
2 Tryon Palace Commission;
- 3 (6) Two at-large members with a demonstrated interest in conventions and
4 tourism development, appointed by the other members of the Authority;
5 ~~and~~
- 6 (7) The finance officer of Craven County, who shall serve as a nonvoting,
7 ex officio ~~member-member~~; ~~and~~
- 8 (8) The Executive Director of the Authority, who shall serve as a
9 nonvoting, ex officio member.

10 (b) All members of the Authority shall serve without compensation. Vacancies
11 in the Authority shall be filled by the appointing authority of the member creating the
12 vacancy. Members appointed to fill vacancies shall serve for the remainder of the
13 unexpired term for which they are appointed to fill. Members shall serve three-year
14 terms, except the initial members who shall serve the following terms:

- 15 (1) Members appointed pursuant to subdivisions (a)(1) and (a)(2) shall
16 serve a one-year term;
- 17 (2) Members appointed pursuant to subdivisions (a)(3) and (a)(4) shall
18 serve a two-year term; and
- 19 (3) Members appointed pursuant to subdivisions (a)(5) and (a)(6) shall
20 serve a three-year term.

21 (c) A member appointed under subdivision (a)(2) shall serve ~~his~~the full term,
22 regardless of whether, during a 12-month period of his term, the percentage of the gross
23 proceeds of the occupancy tax that are collected from the municipality ~~he~~the member
24 represents is less than ten percent (10%).

25 (d) Members may serve no more than two consecutive three-year terms. The
26 members shall elect a chairman, who shall serve for a term ~~of two years~~established in the
27 bylaws of the Authority. The Authority shall meet at the call of the chairman and shall
28 adopt rules of procedure to govern its meetings. The finance officer for Craven County
29 shall be the ex officio finance officer of the Authority.

30 (e) The Tourism Development Authority shall report at the close of the fiscal year to
31 the board of county commissioners on its receipts and expenditures for the preceding year
32 in such detail as the board may require.

33 "Sec. 8. Repeal of Levy. (a) The board of county commissioners may by
34 resolution repeal the levy of the room occupancy tax in Craven County, authorized in
35 Section 1 of this act, but ~~no~~the repeal of taxes levied under Section 1 of this act shall ~~be~~
36 not become effective until the end of the fiscal year in which the ~~repeal~~resolution was
37 adopted.

38 (a1) The board of county commissioners may by resolution repeal the levy of the
39 room occupancy tax authorized in Section 2.1 of this act, but the repeal of taxes levied
40 under Section 2.1 of this act shall not become effective until the later of June 30, 2018, or
41 the end of the fiscal year in which the resolution was adopted.

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

1 of a tax that accrued prior to the effective date on which a levy is repealed may be denied
2 as a result of the repeal.

3 "Sec. 9. This act is effective upon ratification."

4 Sec. 2. This act is effective upon ratification and applies to taxes collected on
5 or after the effective date of a tax levied under Section 2.1 of Chapter 980 of the 1983
6 Session Laws, as amended by this act.