

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 397

Short Title: Yancey County Occupancy Tax Increase. (Local)

Sponsors: Representative Pless.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Local Government, if favorable, Finance, if favorable, Rules, Calendar, and Operations of the House

March 25, 2021

A BILL TO BE ENTITLED

AN ACT TO CONFORM AND INCREASE THE YANCEY COUNTY OCCUPANCY TAX AUTHORIZATION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 140 of the 1987 Session Laws, as amended by Section 21(l) of S.L. 2007-527, reads as rewritten:

"Section 1. Occupancy Tax. (a) ~~Authorization and Scope.~~ Scope. – The Yancey County Board of Commissioners ~~may, by resolution, after not less than 10 days' public notice and a public hearing pursuant thereto, may~~ levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or ~~similar~~ accommodation furnished by a hotel, motel, inn, tourist camp, or similar place ~~of business~~ within the county that is subject to sales tax imposed by the State ~~or local sales tax laws. This tax does not apply to accommodations furnished by educational, religious, or summer camp organizations under G.S. 105-164.4(a)(3).~~ This tax is in addition to any State or local sales or room occupancy tax.

(a1) Authorization of Additional Tax. – In addition to the tax authorized by subsection (a) of this section, the Yancey County Board of Commissioners may levy an additional room occupancy tax of up to three percent (3%) 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. The governing body of a county may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

(b) ~~Collection.~~ Every operator of a business subject to the tax levied under this act shall, ~~on and after the effective date of the levy of the tax, collect the tax as part of the charge for furnishing a taxable accommodation. 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 the county. The tax shall be added to the sales price and shall be passed on to the purchaser. The county shall design, print, and furnish to all appropriate businesses the necessary forms for filing returns with instructions to ensure the full and proper collection of the tax.~~

(c) ~~Administration.~~ The county shall administer the tax levied under this act. The tax shall be due and payable to the county in monthly installments on or before the 20th day of the month following the month in which the tax is collected. Every person, firm, corporation, or association liable for the tax shall, on or before the 20th day of each month, prepare and submit a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals subject to the tax. A return filed with the county finance officer



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1 under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as
2 required by law. Administration. – A tax levied under this section shall be levied, administered,
3 collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155
4 apply to a tax levied under this section.

5 (d) Penalties. Any person, firm, corporation, or association subject to this tax who fails
6 or refuses to file the required return shall pay a penalty of ten dollars (\$10.00) for each day's
7 failure to file. In case of failure or refusal to file the return or to pay the tax due for a period of
8 30 days after the time required for filing the return or for paying the tax, there shall be an
9 additional tax, as a penalty, of five percent (5%) of the tax due for each additional month or
10 fraction thereof until the tax due has been paid.

11 Any person, firm, corporation, or association that willfully attempts in any manner to evade
12 the tax imposed by this act or who willfully fails to pay the tax or make and file a proper return
13 shall be guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000)
14 and/or imprisonment not to exceed six months, in addition to any other penalties provided by
15 law. The Board of Commissioners may, however, for good cause shown, compromise or forgive
16 the penalties imposed by this subsection.

17 (e) Distribution and Use of Revenue. The Tax Revenue. – Yancey County Board of
18 Commissioners shall, on a quarterly basis, remit the net proceeds of the tax to the Yancey County
19 Chamber of Commerce (hereinafter referred to as the Chamber), which shall administer the funds
20 through its Tourism and Travel Development Committee. The Chamber may spend the funds
21 remitted to it for the following purposes only:

- 22 (1) Direct advertising for visitor promotions, conventions, travel, and tourism in
23 Yancey County, including outdoor advertising, print media, broadcast media,
24 and brochures;
- 25 (2) Marketing and promotions expenses, including test market programs,
26 consultant fees, entertainment, housing expenses, travel expenses, and
27 registration fees; and
- 28 (3) Other expenses that aid and encourage visitor promotions, conventions, travel,
29 and tourism in Yancey County.

30 Tourism Development Authority. The Authority shall use at least two-thirds of the proceeds to
31 promote travel and tourism and shall use the remainder for tourism-related expenditures in the
32 county. In accordance with the North Carolina Constitution and the United States Constitution,
33 the tax proceeds may be used only for the direct benefit of the county.

34 The following definitions apply in this subsection:

- 35 (1) Net proceeds. – Gross proceeds less the cost to the county of administering
36 and collecting the tax, as determined by the finance officer, not to exceed three
37 percent (3%) of the first five hundred thousand dollars (\$500,000) of gross
38 proceeds collected each year and one percent (1%) of the remaining gross
39 receipts collected each year.
- 40 (2) Promote travel and tourism. – To advertise or market an area or activity,
41 publish and distribute pamphlets and other materials, conduct market research,
42 or engage in similar promotional activities that attract tourists or business
43 travelers to the area. The term includes administrative expenses incurred in
44 engaging in the listed activities.
- 45 (3) Tourism-related expenditures. – Expenditures that, in the judgment of the
46 Authority, are designed to increase the use of lodging facilities, meeting
47 facilities, or convention facilities in the county or to attract tourists or business
48 travelers to the district. The term includes tourism-related capital
49 expenditures.

1 (f) ~~Effective Date of Levy. A tax levied under this act shall become effective on the date~~
2 ~~specified in the resolution levying the tax, which date shall be the first day of the second calendar~~
3 ~~month after the date the resolution is adopted.~~

4 (g) ~~Repeal. A tax levied under this act may be repealed by resolution of the Yancey~~
5 ~~County Board of Commissioners. Repeal of the tax levied under this act shall become effective~~
6 ~~on the first day of any designated month after the end of the county's fiscal year during which the~~
7 ~~repeal resolution is adopted. Repeal of a tax levied under this act shall not affect liability for taxes~~
8 ~~that attached before the effective date of repeal, nor does it affect rights of refund that accrued~~
9 ~~before the effective date of the repeal or any other rights or liabilities incurred prior to the~~
10 ~~effective date of the repeal.~~

11 **Sec. 2.** ~~Tourism and Travel Development Committee of the Yancey County Chamber of~~
12 ~~Commerce. (a) Authorization. A Yancey County Tourism Development Authority. – When the~~
13 ~~Yancey County Board of Commissioners adopts a resolution levying a room occupancy tax under~~
14 ~~this act shall also authorize the Board of Directors of the Yancey County Chamber of Commerce,~~
15 ~~through its Tourism and Travel Development Committee, to act as trustee for and on account of~~
16 ~~the county as provided herein. The Chamber Board shall approve all expenditures under this act~~
17 ~~as trustee for the county. act, it shall also adopt a resolution creating the Yancey County Tourism~~
18 ~~Development Authority, which shall be a public authority under the Local Government Budget~~
19 ~~and Fiscal Control Act. The resolution shall provide for the membership of the Authority,~~
20 ~~including the members' terms of office, and for the filling of vacancies on the Authority. At least~~
21 ~~one-third of the members must be individuals who are affiliated with businesses that collect the~~
22 ~~tax in the district and at least one-half of the members must be individuals who are currently~~
23 ~~active in the promotion of travel and tourism in the district. The governing body shall designate~~
24 ~~one member of the Authority as chair and shall determine the compensation, if any, to be paid to~~
25 ~~members of the Authority.~~

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

29 (b) ~~Administration. The Chamber shall administer the funds on recommendation of its~~
30 ~~Tourism and Travel Development Committee as constituted under the corporate bylaws of the~~
31 ~~Chamber, and including counsel of two ex officio members of the Committee to be appointed by~~
32 ~~the Yancey County Board of Commissioners.~~

33 (c) ~~Duties. Recommendations of this Committee and expenditures by the Chamber~~
34 ~~through its Board of Directors shall be consistent with the intent of this act to promote and~~
35 ~~encourage travel and tourism in Yancey County. The Chamber may contract with any agency,~~
36 ~~firm, or person to advise or assist in such promotion, and funds received under this act may be~~
37 ~~used for that purpose. Duties. – The Authority shall expend the net proceeds of the tax levied~~
38 ~~under this Act for the purposes provided in this Act. The Authority shall promote travel and~~
39 ~~tourism in the district and make tourism-related expenditures in the district.~~

40 (d) ~~Accountability. The Chamber shall report at the close of the fiscal year to the Board~~
41 ~~of County Commissioners on its receipts and expenditures for the preceding year in such detail~~
42 ~~as the board may require. Reports. – The Authority shall report quarterly and at the close of the~~
43 ~~fiscal year to the Yancey County Board of Commissioners on its receipts and expenditures for~~
44 ~~the preceding quarter and for the year in such detail as the board may require.~~

45 (e) ~~Review of Levy. The county shall periodically conduct a review of this levy and of~~
46 ~~the disbursement of funds as provided herein.~~

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48 **SECTION 2.** G.S. 153A-155(g) reads as rewritten:

49 "(g) Applicability. – Subsection (c) of this section applies to all counties and county
50 districts that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of
51 a local act, subsection (c) supersedes that provision. The remainder of this section applies only

1 to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell,
2 Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin,
3 Durham, Edgecombe, Forsyth, Franklin, Graham, Granville, Halifax, Haywood, Henderson,
4 Jackson, Madison, Martin, McDowell, Montgomery, Moore, Nash, New Hanover, Northampton,
5 Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan,
6 Rutherford, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, Washington,
7 Wayne, ~~and Wilson~~ Wilson, and Yancey Counties, to Harnett County District H, New Hanover
8 County District U, Surry County District S, Watauga County District U, Wilkes County District
9 K, Yadkin County District Y, and the Township of Averasboro in Harnett County and the
10 Ocracoke Township Taxing District."

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