

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1997

SESSION LAW 1998-112  
HOUSE BILL 1568

AN ACT TO AUTHORIZE THE TOWN OF ST. PAULS TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX AND TO AUTHORIZE THE CITY OF STATESVILLE TO LEVY AN ADDITIONAL ROOM OCCUPANCY TAX TO FUND TOURISM PROMOTION AND OPERATING EXPENSES OF A CIVIC CENTER.

The General Assembly of North Carolina enacts:

Section 1. St. Pauls occupancy tax. (a) Authorization and scope. The board of commissioners of the Town of St. Pauls may levy a room occupancy tax of up to one percent (1%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town 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 when furnished in furtherance of their nonprofit purpose.

(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

(c) Distribution and use of tax revenue. The Town of St. Pauls shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the St. Pauls Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in St. Pauls and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed one percent (1%) of 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 Tourism Development Authority are designed to increase the use

of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Section 2. St. Pauls Tourism Development Authority. (a) Appointment and membership. When the board of commissioners of the Town of St. Pauls adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a town 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. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. 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 the Town of St. Pauls shall be the ex officio finance officer of the Authority.

(b) Duties. The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

(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 of commissioners may require.

Section 3. Part V of Chapter 570 of the 1985 Session Laws, as amended by Chapter 930 of the 1985 Session Laws, reads as rewritten:

"Part V. Statesville Occupancy Tax.

Sec. 16. Authorization and Scope. – The city council of the City of Statesville may, if the Board of Commissioners of Iredell County has adopted a resolution under Section 15 of this act, ~~by resolution~~ levy a tax on of up to three percent (3%) of the gross receipts from the rental of accommodations within the corporate limits of the city, not to exceed three percent (3%). ~~city that are subject to the sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax applies to the rental of accommodations subject to sales tax under G.S. 105-164.4(3).~~

Sec. 16.1. Additional Tax. – In addition to the tax authorized by Section 16 of this Part, the city council of the City of Statesville may levy an additional room occupancy tax of up to two percent (2%) of the gross receipts derived from the rental of accommodations taxable under Section 16. The levy, collection, administration, and repeal of the tax authorized by this section shall be in accordance with the provisions of this Part. The City of Statesville may not levy a tax under this section unless it also levies the tax authorized under Section 16 of this Part.

Sec. 17. Definition of Collector. – As used in this Part, 'collector' means the Iredell County Tax Collector if the City of Statesville and Iredell County have so provided by contract, otherwise it means the city finance officer and/or city clerk, as may be designated by resolution of the city council.

Sec. 18. Collector to Collect Tax. – The collector shall collect and administer the occupancy tax levied by the city pursuant to this Part. The city council may adopt rules as needed by the collector to implement this Part.

Sec. 19. Administration. – ~~A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section. Every owner of a business subject to the tax levied by this Part shall, on and after the first day of the calendar month set by the governing body in the resolution levying the tax, collect the occupancy tax provided by this Part. 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 owner of the business as trustee for and on account of the city. The occupancy tax levied under this Part shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the owner of the business. The city tax collector shall design, print, and furnish to all appropriate businesses in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. Every person liable for the tax imposed pursuant to this Part shall, on or before the 15th day of each month, prepare and submit a return on the prescribed form stating the total gross receipts derived during the preceding month from rentals upon which the tax is levied. The tax shall be due and payable to the tax collector on a monthly basis.~~

~~Any person who fails or refuses to file the return required by this Part shall pay a penalty of ten dollars (\$10.00) for each day's omission. In addition, any person who refuses 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 shall pay a penalty of five percent (5%) of the tax due. An additional penalty of five percent (5%) shall be imposed for each additional month or fraction thereof in which the occupancy tax is not paid.~~

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

Sec. 20. Use of Proceeds. – The collector shall remit the proceeds of this tax the taxes levied under this Part to the city on a monthly basis. The city shall allocate the net proceeds of the three percent (3%) tax levied under Section 16 ~~The funds received by the city pursuant to this Part shall be allocated to a special fund and used only use them only for operation construction, operation, and maintenance of a civic center, for payment of interest or retiring principal on debt related to a civic center, or for promotion of travel and tourism. The city shall remit one-half of the net proceeds of the two percent (2%) tax levied under Section 16.1 to the Statesville Tourism Development Authority to be used to promote travel and tourism in the City of Statesville. The city~~

shall use the remaining net proceeds of the two percent (2%) tax levied under Section 16.1 for operation and maintenance of a civic center and for payment of interest or retiring principal on debt related to a civic center.

The following definitions apply in this section:

- (1) Net proceeds. – Gross proceeds less the cost to the city 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.

Sec. 21. Collection Powers. – The collector may collect any unpaid taxes levied under this Part through the use of attachment and garnishment proceedings as provided in G.S. 105-368 for collection of property taxes. The collector has the same enforcement powers concerning the tax imposed under this Part as does the Secretary of Revenue in enforcing the State sales tax under G.S. 105-164.30.

~~Sec. 22. The city council may by resolution repeal the levy of the occupancy tax authorized by this Part. No liability for any tax levied under this Part that attached prior to the date on which a levy is repealed is discharged by the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed shall be denied as a result of the repeal.~~

~~Sec. 23. The definitions set forth in G.S. 105-164.3 apply to this Part insofar as those definitions are not inconsistent with this Part.~~

Sec. 24. Civic Center Authority. – Before levying a tax under Section 16 of this Part, the City of Statesville shall either establish a civic center authority, adopt a resolution that the city intends to pursue and develop goals involving a civic center and travel and tourism in the City of Statesville, or by resolution provide that a civic center shall be administered as or by a department of the city. If an authority is established, it shall have the number of members set forth in the resolution establishing it, which members shall be appointed by the Mayor. The city council may grant to the Authority any or all of the powers provided by Section 3 of Chapter 329, Session Laws of 1971.

Sec. 24.1. Statesville Tourism Development Authority. – (a) Appointment and Membership. When the Statesville City Council adopts a resolution levying a room occupancy tax under Section 16.1 of this Part, it shall also adopt a resolution creating a city 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. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the city and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the city. The Statesville City Council 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 the City of Statesville shall be the ex officio finance officer of the Authority.

(b) Duties. The Authority shall expend the funds remitted to it under this Part for the purposes provided in Section 20 of this Part. The Authority shall promote travel, tourism, and conventions in the city and sponsor tourist-related events and activities in the city.

(c) Budget; Reports. The Authority may not expend any funds except pursuant to a budget that has been approved by the Statesville City Council. The Authority shall submit its proposed budgets to the Statesville City Council for review and shall report quarterly and at the close of the fiscal year to the Statesville City Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the city council may require."

Section 4. City administrative provisions. – Section 3 of S.L. 1997-410, as amended by Section 2 of S.L. 1997-447, reads as rewritten:

"Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted by S.L. 1997-361 and S.L. 1997-364, applies to the Cities of Goldsboro, Lumberton, Mount Airy, ~~and~~ Shelby, and Statesville, to the Town of St. Pauls and to the municipalities in Brunswick County."

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of August, 1998.

s/ Marc Basnight  
President Pro Tempore of the Senate

s/ Harold J. Brubaker  
Speaker of the House of Representatives