

GUIDELINES FOR OCCUPANCY TAX UNIFORM PROVISIONS

Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably.

Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by the House Finance subcommittee in 1993. Based upon this work, the House Finance Committee looks for the inclusion of the following uniform provisions in the occupancy tax bills it considers:

- ◆ **Rate** – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
- ◆ **Use** – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related purposes.
- ◆ **Definitions** The terms “net proceeds”, “promote travel and tourism”, and “tourism-related expenditures” are defined terms:
 - **Net proceeds** – Gross proceeds less the costs to the city/county of administering and collecting the tax, as determined by the finance officer, not to exceed 3% of the first \$500,000 of gross proceeds collected each year and 1% of the remaining gross receipts collected each year.
 - **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.
 - **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 city/county. The term includes tourism-related capital expenditures.
- ◆ **Administration** – The net revenues must be administered by a local tourism promotion agency, typically referred to as a “Tourism Development Authority,” that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ¾ of the members must be currently active in the promotion of travel and tourism in the taxing district and 1/3 of the members must be affiliated with organizations that collect the tax.
- ◆ **Costs of Collection** – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first \$500,000 collected each year plus 1% of the remainder collected each year.

- ◆ **Beach Nourishment** – During the 2001 Regular Session, the Occupancy Tax Subcommittee of the House Finance Committee considered several bills authorizing the use occupancy tax proceeds for beach nourishment. Although "beach nourishment" was not among the uses contained in the uniform guidelines, the subcommittee nevertheless concluded that beach nourishment was an acceptable expansion of the occupancy tax use provisions. In doing so, the subcommittee drafted a uniform definition of beach nourishment for use in occupancy tax legislation. The subcommittee defined beach nourishment as:

The placement of sand, from other sand sources, on a beach or dune by mechanical means and other associated activities that are in conformity with the North Carolina Coastal Management Program along the North Carolina shorelines and connecting inlets for the purpose of widening the beach to benefit public recreational use and mitigating damage and erosion from storms to inland property. The term includes expenditures for the following:

- a. Costs directly associated with qualifying for projects either contracted through the U.S. Army Corps of Engineers or otherwise permitted by all appropriate federal and State agencies;
- b. The nonfederal share of the cost required to construct these projects;
- c. The costs associated with providing enhanced public beach access; and
- d. The costs of associated nonhardening activities such as the planting of vegetation, the building of dunes, and the placement of sand fences.