

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023**

S

1

**SENATE BILL 902**

Short Title: Durham County Occupancy Tax Modifications. (Local)

Sponsors: Senator Woodard (Primary Sponsor).

Referred to: Rules and Operations of the Senate

May 8, 2024

1 A BILL TO BE ENTITLED  
2 AN ACT TO MODIFY THE DURHAM COUNTY OCCUPANCY TAX.  
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Section 9 of Part III of S.L. 2001-480, as amended by S.L. 2002-36  
5 and Part IV of S.L. 2005-233, reads as rewritten:

6 "**SECTION 9.(a)** Distribution and Use of Tax Revenue. – Durham County shall distribute  
7 and use the net proceeds of the tax collected under this act as provided in this section. As used in  
8 this section, "net proceeds" means gross proceeds less the cost to the county of administering and  
9 collecting the tax, as determined by the finance officer, but not to exceed three percent (3%) of  
10 the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one  
11 percent (1%) of the remaining gross receipts collected each year. For the purpose of calculating  
12 and distributing the threshold in the previous section, net proceeds, all three taxes levied under  
13 Section 6 of this act shall be considered together.

14 Durham County shall distribute the net proceeds of the room occupancy tax as follows:

15 (1) For fiscal year 2024-2025, the net proceeds shall be distributed as follows:

16 a. Of the net proceeds derived from the levy of the first three percent  
17 (3%) of the room occupancy tax, fifty-seven and one-half percent (57  
18 1/2%) shall be retained by Durham County and forty-two and one-half  
19 percent (42 1/2%) shall be distributed to the City of Durham. These  
20 proceeds may be used for any purpose authorized by law.

21 b. The net proceeds derived from the levy of the next two percent (2%)  
22 of the room occupancy tax shall be distributed to the Durham  
23 Convention and Visitors Bureau. At least two-thirds of these funds  
24 shall be used to promote travel and tourism, and the remainder shall  
25 be used for tourism-related expenditures.

26 c. The net proceeds derived from the levy of the remaining one percent  
27 (1%) of the room occupancy tax shall be distributed monthly to the  
28 Durham Convention and Visitors Bureau. The Bureau shall distribute  
29 and use the net proceeds in this sub-subdivision in the following  
30 priority order:

31 1. To the City of Durham, the first one million four hundred  
32 thousand dollars (\$1,400,000) collected annually to finance the  
33 debt service associated with the construction of the Performing  
34 Arts Theater. Funds distributed pursuant to this  
35 sub-sub-subdivision (i) shall be used to finance the debt service  
36 associated with the construction of the Performing Arts





1           c.       The net proceeds derived from the levy of the remaining one percent  
2                   (1%) of the room occupancy tax shall be distributed in accordance with  
3                   sub-subdivision c. of subdivision (1) of this subsection.

4           (4)     For the fiscal year beginning July 1, 2027, and continuing each fiscal year  
5                   thereafter, until April 1, 2034, the net proceeds shall be distributed as follows:

6           a.       The net proceeds derived from the levy of the first five percent (5%)  
7                   of the room occupancy tax shall be distributed to the Durham  
8                   Convention and Visitors Bureau. At least two-thirds of these funds  
9                   shall be used to promote travel and tourism, and the remainder shall  
10                  be used for tourism-related expenditures.

11          b.       The net proceeds derived from the levy of the remaining one percent  
12                   (1%) of the room occupancy tax shall be distributed in accordance with  
13                   sub-subdivision c. of subdivision (1) of this subsection.

14       ~~"SECTION 9.(b) Use of Proceeds From First Three Percent (3%) Tax.—Durham County~~  
15 ~~shall retain fifty-seven and one-half percent (57½%) of the net proceeds collected from the tax~~  
16 ~~levied under Section 6(a) of this act and shall distribute the remaining forty-two and one-half~~  
17 ~~percent (42½%) of the net proceeds collected from the tax levied under Section 6(a) of this act~~  
18 ~~to the City of Durham. Funds retained by the county or distributed to the City of Durham pursuant~~  
19 ~~to this subsection may be used for any purpose authorized by law.~~

20       ~~"SECTION 9.(c) Use of Proceeds From Additional Two Percent (2%) Tax.—Durham~~  
21 ~~County shall, on a monthly basis, remit the net proceeds of the tax levied under Section 6(b) of~~  
22 ~~this act to the Durham Tourism Development Authority created by Section 10 of this act.~~

23       ~~The Authority may use the funds remitted to it under this subsection only to promote travel,~~  
24 ~~tourism, and conventions in Durham County.~~

25       ~~"SECTION 9.(d) Use of Proceeds From Additional One Percent (1%) Tax During First 24~~  
26 ~~Months.—Durham County shall, on a monthly basis, remit the net proceeds of the occupancy tax~~  
27 ~~levied under Section 6(c) of this act to the Durham Tourism Development Authority created by~~  
28 ~~Section 10 of this act. During the first 24 months that the tax is levied under Section 6(c) of this~~  
29 ~~act, the Authority shall distribute and use these net proceeds in the following priority order:~~

30           (1)     ~~To Durham County, up to the first two hundred thousand dollars (\$200,000)~~  
31                   ~~collected to fund the development of a Cultural Arts Master Plan.~~

32           (2)     ~~The Authority shall use the next seven hundred thousand dollars (\$700,000)~~  
33                   ~~collected to promote travel, tourism, and conventions in Durham County.~~

34           (3)     ~~To the City of Durham, the next two hundred forty-eight thousand dollars~~  
35                   ~~(\$248,000) collected. The city shall use these funds for the design and~~  
36                   ~~engineering costs associated with the construction of a Performing Arts~~  
37                   ~~Theater.~~

38           (4)     ~~To Durham County, the next four hundred thousand dollars (\$400,000)~~  
39                   ~~collected for improvements to the Museum of Life and Science. This may~~  
40                   ~~include the financing of debt service.~~

41           (5)     ~~To Durham County, the next five hundred thousand dollars (\$500,000)~~  
42                   ~~collected. These funds shall be credited into an Arts Reserve Fund and used~~  
43                   ~~to implement the Cultural Arts Master Plan developed under subdivision (1)~~  
44                   ~~of this subsection.~~

45           (6)     ~~The Authority shall use any net proceeds collected in excess of two million~~  
46                   ~~forty-eight thousand dollars (\$2,048,000) to promote travel, tourism, and~~  
47                   ~~conventions in Durham County.~~

48       ~~"SECTION 9.(e) Use of Proceeds From Additional One Percent (1%) Tax After First 24~~  
49 ~~Months.—The net proceeds of the tax collected under Section 6(c) of this act after the first 24~~  
50 ~~months that the tax is levied shall be remitted monthly to the Durham Tourism Development~~

1 Authority created by Section 10 of this act. The Authority shall use and distribute these net  
2 proceeds in the following priority order:

- 3 (1) To the City of Durham, the first one million four hundred thousand dollars  
4 (\$1,400,000) collected annually to finance the debt service associated with the  
5 construction of the Performing Arts Theater. Until those funds are distributed  
6 to the City of Durham for that purpose, they shall be held by the Durham  
7 Tourism Development Authority in a capital reserve fund as provided by Part  
8 2 of Article 3 of Chapter 159 of the General Statutes except they may be  
9 expended as provided by the last sentence of Section 7(a) of this act if the tax  
10 is repealed as provided by Section 7(a) of this act. Any interest earned by that  
11 fund shall be credited to the fund.
- 12 (2) Thirty two years after the levy of the tax authorized under Section 6(c) of this  
13 act, instead of the allocation under subdivision (1) of this subsection, the first  
14 one million four hundred thousand dollars (\$1,400,000) collected annually  
15 shall be used by the Authority to promote travel and tourism or for tourism  
16 related expenditures.
- 17 (3) To Durham County, the next five hundred thousand dollars (\$500,000)  
18 collected annually to be used for improvements to the Museum of Life and  
19 Science. This may include the financing of debt service. Any of these funds  
20 that are not needed for this purpose shall be returned to the Authority and used  
21 to promote travel and tourism.
- 22 (4) The Authority shall use any net proceeds in excess of that provided by  
23 subdivisions (1), (2), and (3) of this subsection to promote travel, tourism, and  
24 conventions in Durham County.

25 As used in this subsection, "annually" means the 12-month period beginning after the first 24  
26 months that the tax authorized under Section 6(c) of this act is levied.

27 **"SECTION 9.(f) Definitions.** – For the purpose of this Part:

- 28 (1) "Promote travel and tourism" means to advertise or market an area or activity,  
29 to publish and distribute pamphlets and other materials, to conduct market  
30 research, and to engage in similar promotional activities that attract tourists or  
31 business travelers to the area, and also includes administrative expenses  
32 incurred in engaging in these activities.
- 33 (2) "Promote travel, tourism, and conventions" means to advertise or market an  
34 area or activity, to publish and distribute pamphlets and other materials, to  
35 conduct market research, and to engage in similar promotional activities that  
36 attract tourists, business travelers, or conventioners to the area, and also  
37 includes administrative expenses incurred in engaging in these activities.
- 38 (3) "Tourism related expenditures" are those that, in the judgment of the Durham  
39 Tourism Development Authority, are designed to increase the use of lodging  
40 facilities, meeting facilities, and convention facilities in the county by  
41 attracting tourists or business travelers to the county, and includes capital  
42 expenditures related to that purpose."

43 **SECTION 2.(a)** Parts II and III of S.L. 2001-480, as amended by S.L. 2002-36, Part  
44 IV of S.L. 2005-233, S.L. 2006-98, and Section 1 of this act, are consolidated and rewritten as  
45 Sections 2 and 3 of this act.

46 **SECTION 2.(b) Occupancy Tax.** – Authorization and Scope. – The Durham Board  
47 of Commissioners may levy a room occupancy tax of up to six percent (6%) of the gross receipts  
48 derived from the rental of an accommodation within the county that is subject to sales tax  
49 imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local  
50 sales tax.

1           **SECTION 2.(c)** Administration. – A tax levied under this section shall be levied,  
2 administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in  
3 G.S. 153A-155 apply to a tax levied under this section.

4           **SECTION 2.(d)** Distribution and Use of Tax Revenue. – Durham shall, on a monthly  
5 basis, remit the net proceeds of the occupancy tax to the Durham Convention and Visitors  
6 Bureau. The Bureau shall use at least two-thirds of the funds to promote travel and tourism and  
7 shall use the remainder for tourism-related expenditures in the county.

8           The following definitions apply in this subsection:

- 9           (1) Net proceeds. – Gross proceeds less the cost to the county of administering  
10 and collecting the tax, as determined by the finance officer, not to exceed three  
11 percent (3%) of the first five hundred thousand dollars (\$500,000) of gross  
12 proceeds collected each year and one percent (1%) of the remaining gross  
13 receipts collected each year.
- 14           (2) Promote travel and tourism. – To advertise or market an area or activity,  
15 publish and distribute pamphlets and other materials, conduct market research,  
16 or engage in similar promotional activities that attract tourists or business  
17 travelers to the area. The term includes administrative expenses incurred in  
18 engaging in the listed activities.
- 19           (3) Tourism-related expenditures. – Expenditures that, in the judgment of the  
20 Durham Convention and Visitors Bureau, are designed to increase the use of  
21 accommodations, meeting facilities, or convention facilities in the county or  
22 to attract tourists or business travelers to the county. The term includes  
23 tourism-related capital expenditures.

24           **SECTION 3.** Establishment of the Durham Convention and Visitors Bureau as a  
25 Tourism Development Authority. – (a) Appointment and Membership. – The Durham  
26 Convention and Visitors Bureau, created on January 17, 1989, in an interlocal agreement between  
27 Durham County and the City of Durham shall act as a tourism development authority, which is  
28 a public authority under the Local Government Budget and Fiscal Control Act.

29           The membership of the board of directors of the Durham Convention and Visitors  
30 Bureau shall be as specified in an interlocal cooperation agreement between Durham County and  
31 the City of Durham. The agreement shall provide for the number of members, terms of office,  
32 who shall appoint the membership, and other provisions as may reasonably be necessary. The  
33 interlocal agreement may be amended as provided by its terms. At least one-third of the  
34 membership of the Durham Convention and Visitors Bureau shall be individuals who are  
35 affiliated with businesses that collect the tax in the county, and at least one-half of the  
36 membership shall be individuals who are currently active in the promotion of travel and tourism  
37 in the county. If the interlocal cooperation agreement is terminated, the directors of the Durham  
38 Convention and Visitors Bureau shall continue to serve until the appointment of their successors  
39 pursuant to further action by the City of Durham and the County of Durham or by the General  
40 Assembly.

41           The Durham Convention and Visitors Bureau shall meet at the call of the chair and  
42 shall adopt rules of procedure to govern its meetings.

43           **SECTION 3.(b)** Duties. – The Durham Convention and Visitors Bureau shall expend  
44 the net proceeds of the tax levied under this act for promoting travel and tourism and for  
45 tourism-related expenditures as provided in this act.

46           **SECTION 3.(c)** Reports. – The Durham Convention and Visitors Bureau shall file a  
47 copy of its audit report with the Durham County Board of Commissioners and the Durham City  
48 Council following the close of each fiscal year and in such detail as the Board and Council may  
49 require.

50           **SECTION 4.** Section 1 of this act becomes effective July 1, 2024, and applies to the  
51 distribution and use of occupancy tax proceeds on or after that date. Sections 2 and 3 of this act

1 become effective April 1, 2034, and apply to the distribution and use of occupancy tax proceeds  
2 on or after that date. The remainder of this act is effective when it becomes law. The provisions  
3 of the prior acts consolidated and rewritten in this act that authorize the levy of and provide for  
4 the administration of the tax by the Durham Convention and Visitors Bureau shall continue  
5 without interruption so that all rights and liabilities that have accrued before the effective date of  
6 this act are preserved and may be enforced.