PROPERTY TAX BULLETIN

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LOCAL TAXES AND TAX COLLECTION

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Property tax reform—specifically, providing relief to residential homeowners from escalating property taxes—was the impetus behind a dozen bills introduced in 2007, including proposals ranging from amending the state constitution to cap the increase in assessed value of permanent residences in a reappraisal year to deferral of all taxes on the residences of qualifying elderly or disabled individuals. Other proposals included mandated four-year reappraisals of property, freezing the appraised values of residences owned by elderly North Carolinians, and raising the income eligibility limit for the homestead exclusion to $50,000. The General Assembly ratified two of the less drastic homestead relief bills, enacting modest increases in the income eligibility limit and exclusion amount under the existing homestead exclusion program along with a property tax circuit breaker benefit permitting qualifying elderly and disabled homeowners to defer a portion of the taxes assessed on their residences.

In other significant legislation, the 2007 appropriations act reduces the Article 44 one-half cent local option sales tax, changes the distribution method for that tax as well as for the Article 42 one-half cent local option sales tax, and, in 2009, repeals the Article 44 tax altogether. The act authorizes counties to levy a local land transfer tax of up to 0.4 percent or an additional local sales and use tax of 0.25 percent. Either tax is contingent upon voter approval in a referendum.

The General Assembly returned to the 2005 legislation that created a combined system for registration and taxation of motor vehicles, to become effective in 2010. Legislators removed a political hurdle that threatened implementation of the system by enacting a bill permitting automobile dealers to obtain limited registrations for vehicles sold without requiring the dealers to collect property taxes at the time of sale.

Property Tax Relief for the Elderly and Disabled

Providing tax relief for residential homeowners is not a new idea. Indeed, the North Carolina Constitution was amended more than seventy years ago (in 1936) to permit the General Assembly to exempt from taxation up to $1,000 in property held by and used as the residence of the owner. Since 1972 low-income elderly and disabled property owners have received property tax relief from the General Assembly's classification of homestead property as eligible for a partial exclusion from property taxation. Current G.S. 105-277.1 excludes from taxation the greater of $20,000 or 50 percent of the appraised value of a qualifying individual's residence. The income

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eligibility limit was set at $18,000 in 2002 and is adjusted each year based on the Social Security cost-of-living index. For the 2007–08 tax year, the income eligibility limit, measured by 2006 income, was $20,500.

S.L. 2007-497 (H 1499) amends the property tax homestead exclusion by increasing the amount excluded from taxation beginning in the 2008-09 tax year to the greater of 50 percent of the value of the residence or $25,000. Section 1.2 of S.L. 2007-497 authorizes the Revenue Laws Study Committee to study whether to index the minimum excluded appraised value limit ($25,000) to allow for an annual adjustment of the limit and, if so, which index to use.

The act also increases the income eligibility limit for qualifying homeowners to a base limit of $25,000, which likewise will be adjusted each year based on the Social Security cost-of-living index. The income eligibility limit changes are effective for the 2008–09 tax year; however, the statute's language creates some confusion about the income limit in the first year of the provision's application. Amended G.S. 105-277.1(a2) provides that "[u]ntil July 1, 2008," the income eligibility limit is $25,000, and then it states that for taxable years "beginning on or after July 1, 2008, the income eligibility limit is the amount for the preceding year, adjusted using the cost of living index." The statement that the $25,000 limit applies only ***until*** July 1, 2008, combined with the provision for an adjustment from the "amount for the preceding year" could be interpreted to mean that an adjustment will be made to the $25,000 base income limit in the very first year the new provisions apply: 2008. It seems unlikely, however, that this was the General Assembly's intent, given that it was empowered to set the statutory threshold at the desired income level for the first year of the statute's application, and did so in 2002 when it established $18,000 as the base income limit. Moreover, according to this interpretation, $25,000 would never in fact be the base income eligibility amount since it would immediately be adjusted. It seems more likely that the General Assembly intended for the limit to be $25,000 in 2007 income for a taxpayer to qualify for the homestead exclusion during the 2008–09 tax year.

S.L. 2007-497 also amends the definition of income to eliminate the reference to adjusted gross income as defined by the Internal Revenue Code. For purposes of the homestead exclusion for the 2008–09 tax year, *income* is defined as "[a]ll monies received from every source other than gifts or inheritances received from a spouse, lineal ancestor, or lineal descendant." For married applicants residing with their spouses, as before, the income of both spouses must be included. The amended definition of income captures all income and prevents a taxpayer from reducing his or her income by net business or other losses subtracted from income on a federal income tax return to arrive at an adjusted gross income figure.

In addition, S.L. 2007-497 creates a circuit breaker benefit by allowing qualifying elderly and disabled homeowners beginning in 2009–10 to defer a portion of the property taxes assessed on their residences. Qualifying owners are North Carolina residents who (1) are at least 65 years old or are totally and permanently disabled, (2) have occupied their property as a permanent residence for at least five years, and (3) have an annual income of no more than 150 percent of the income eligibility limit set for the homestead exclusion. Based on a $25,000 homestead exclusion income eligibility limit, the income limit for the circuit breaker benefit is $37,500. A qualifying owner with gross income under the eligibility limit for the homestead exclusion may defer taxes on his or her permanent residence to the extent those taxes exceed 4 percent of his or her gross income. A qualifying owner who has an annual income of 100 to 150 percent of the income eligibility limit may defer taxes on his or her permanent residence that exceed 5 percent of his or her gross income. When a permanent residence is owned by two or more people who are not married, all of the owners must qualify for the homestead circuit breaker and must elect to defer taxes under its provisions. Though S.L. 2007-497 does not directly address the issue of property owned by spouses as tenants by the entireties, its specific reference to the qualification requirements for other forms of multiple ownership indicates that either spouse may qualify for and be entitled to the full circuit breaker benefit, just as either spouse may qualify for and receive the entire homestead exclusion.

Some owners may qualify for both the homestead exclusion and the new property tax circuit breaker benefit. An individual owner may elect the benefit he or she desires; however, when property is owned by two or more persons other than husband and wife, each person must qualify for both types of relief and each must elect the property tax circuit breaker in order for that benefit to be allowed instead of the homestead exclusion.

If a property owner elects the homestead circuit breaker benefit, the difference between the taxes due under the circuit breaker and the taxes that otherwise would have been payable are a lien on the real property. Three previous years of deferred taxes are carried forward in the records of the taxing unit. Interest accrues on the deferred amounts as if they

had been payable when the taxes originally became due. By September 1 of each year, the tax assessor must notify a property owner whose property is in the circuit breaker program of the accumulated sum of deferred taxes and interest.

Deferred taxes are payable within nine months after a disqualifying event, which occurs when the owner transfers the residence (other than certain transfers made as part of a divorce proceeding), dies, or ceases to use the property as his or her permanent residence. The tax for the fiscal year that opens in the calendar year in which deferred taxes become due is computed as if the property were not eligible for the benefit.

The homestead circuit breaker allows for interruptions in qualification that do not trigger an obligation to pay deferred taxes. If the owner does not qualify for the circuit breaker for reasons other than a disqualifying event, then deferred taxes are carried forward until a disqualifying event occurs. If the owner later requalifies for tax deferral, the taxing unit must disregard the years during which there was an interruption for purposes of determining the three fiscal years for which deferred taxes should be assessed.

As with homestead applications, the deadline for filing for the homestead circuit breaker is June 1 preceding the fiscal tax year for which relief is claimed. Conforming amendments to G.S. 105-282.1(a)(2) provide for submission of a single application for the circuit breaker benefit. Amended G.S. 105-309(f) requires assessors to inform taxpayers of the homestead circuit breaker provisions along with the homestead exclusion in an information sheet distributed with an abstract or on the abstract itself.

The Side Effects of Medicaid Relief: Reduction, Repeal, and Amended Distribution of Existing Local Option Sales Taxes and Authorization for Land Transfer and Additional Sales Tax

Provisions of S.L. 2007-323, the 2007 appropriations act, provide long-awaited Medicaid relief to counties. In exchange for the state's assumption of county's Medicaid burden, counties' authority to levy certain local option sales taxes is reduced and, ultimately, eliminated. Section 31.16.3 of S.L. 2007-323 reduces the Article 44 third one-half cent local option sales tax to one-quarter cent, effective October 1, 2008, and repeals the tax in its entirety on October 1, 2009. The act also provides for distribution of the entire net proceeds of the Article 44 local option sales tax to counties based on the actual collection of the tax in those counties, termed "a point of origin" basis. The new distribution method is effective October 1, 2008. Current G.S. 105-520 distributes half of the Article 44 tax based on point of origin and the other half on a per capita basis.

The act also provides for corresponding increases in the state sales tax rate to accompany the reduction of the Article 44 tax in 2008 and its repeal in 2009. The state sales tax will increase by one-quarter cent on October 1, 2008, and another one-quarter cent on October 1, 2009.

The act likewise provides for the distribution of net proceeds of the Article 42 one-half cent local option sales tax to counties based on the county in which the taxes were collected beginning October 1, 2009. Article 42 taxes currently are apportioned to counties on a per capita basis pursuant to G.S. 105-501(a).

Land Transfer Tax

The 2007 appropriations act also created a new revenue source for counties, authorizing the levy of one of two local option taxes: a land transfer tax of up to 0.4 percent or an additional sales tax of 0.25 percent (or one-quarter cent). A majority of voters voting in a countywide advisory referendum must approve a proposed local option tax before it may be levied by a county board of commissioners.

New Subchapter X, Article 60, of G.S. Chapter 105 comprises the County Land Transfer Tax Act. New G.S. 105-601(b) permits a board of county commissioners to direct the county board of elections to conduct an advisory referendum on whether to levy a local land transfer tax in the county. The ballot question submitted to the voters may authorize the levy of a real property transfer tax at a rate not to exceed the amount set forth in the ballot, which may not exceed 0.4 percent. If the majority of those voting in the referendum vote in favor of the tax, the board of county commissioners may, by resolution and after 10 days' public notice, levy a transfer tax in increments of 0.1 percent up to the maximum rate approved in the ballot measure. Thus, if the voters approved a 0.4 percent rate, the board of county commissioners could adopt a rate of 0.1, 0.2, 0.3, or 0.4 percent. New G.S. 105-602(b) provides that a county land transfer tax becomes effective on the first day of a calendar month set in the resolution levying the tax, which may not be earlier than the first day of

the second calendar month after the resolution is adopted. Thus, if voters approve a county land transfer tax in November 2007, which is levied by the board of commissioners later that same month, the tax may not become effective until January 1, 2008, at the earliest.

A local land transfer tax applies to transfers of interests in real property located within the county but not to transfers that are exempt from the statewide excise tax levied by Article 8E of G.S. Chapter 105. Conveyances by a governmental unit or an instrumentality of a governmental unit are exempt from the excise tax as are transfers (1) by operation of law; (2) by lease for a term of years; (3) made by or pursuant to the provisions of a will; (4) by intestacy; (5) by gift; (6) for which no consideration is due or paid by the transferee to the transferor; (7) by merger, conversion, or consolidation; or (8) by an instrument securing indebtedness. However, transfers subject to the excise tax are not necessarily subject to the local option land transfer tax. The excise tax specifically applies to timber deeds and contracts for the sale of standing timber "as if those deeds and contracts conveyed an interest in real property" (G.S. 105-228.30), notwithstanding the state supreme court's holding in Fordham v. Eason, 351 N.C. 151, 155, 521 S.E.2d 701, 704 (1999), that timber is personal property when subject to a sales contract. Given that new G.S. 105-602 does not expressly incorporate the timber deed and contracts language from the excise tax statutes, local land transfer taxes apparently apply only to transfers of interests in real property and not to contracts for the sale of timber. If timber deeds, like contracts for the sale of timber, also are considered to transfer only an interest in personal property, an issue that the North Carolina courts have not specifically addressed, then the county land transfer tax likewise does not apply to timber deeds.[1]

If property located in two or more counties is transferred, the transfer is subject to the land transfer tax of the county in which the greater part of the property, with respect to value, lies. The tax applies to the consideration or value, whichever is greater, of the interest conveyed, including the value of any lien or encumbrance attached to the property at the time of conveyance.

As with the excise tax, the county land transfer tax is payable by the transferor pursuant to new G.S. 105-603. Other administrative provisions of the excise tax codified in G.S. 105-228.32 through 105-228.37 also apply to local transfer taxes. Thus, a person who presents an instrument for registration must report to the register of deeds the amount of excise and county land transfer taxes due. Before recording the instrument, the register must collect the tax and mark the instrument to indicate that taxes in a specified amount have been paid. This amount must be shown separately from the excise tax amount. The county may seek to recover unpaid taxes and the taxpayer may request a refund of an overpayment by utilizing the procedures set forth in the excise tax statutes. Counties may use the proceeds of a county land transfer tax for any lawful purpose.

One-Quarter Cent County Sales and Use Tax

Section 31.17(b) of the 2007 appropriations act adds new Article 46 to Subchapter VIII of Chapter 105 of the General Statutes, titled the One-Quarter Cent (¼¢) County Sales and Use Tax. New G.S. 105-536 makes new Article 46 applicable only to counties that have levied the first one-cent sales and use tax under Article 39 of G.S. Chapter 105 or under Chapter 1096 of the 1967 Session Laws, the first one-half cent local sales and use tax under Article 40, and the second one-half cent local sales and use tax under Article 42. The board of county commissioners in a county that has levied the first two cents of local sales and use taxes may direct the county board of elections to conduct an advisory referendum on whether to levy an additional one-quarter cent sales and use tax in the county. If the majority of those voting approve the tax, the board of county commissioners may by resolution and after 10 days' public notice levy the additional sales and use tax. If approved by the voters and levied by the board, the new one-quarter cent tax may become effective during the 2008 calendar year on the first day of any calendar quarter as long as the county provides the Secretary of Revenue at least 60 days' advance notice of the new tax levy.

The collection, administration, and repeal of the one-quarter cent tax are governed by Article 39. Unlike other local option sales taxes, the additional one-quarter cent tax does not apply to the sales price of food that is exempt from state sales tax pursuant to G.S. 105-164.13B. And, unlike previously authorized local option sales taxes, no portion of the proceeds from the one-quarter cent tax will be distributed to

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1. See DAVID M. LAWRENCE, LOCAL GOVERNMENT PROPERTY TRANSACTIONS IN NORTH CAROLINA, 161–67 (2d ed. 2000) (reasoning that the real-property character of standing timber conveyed by timber deed is not altered by *Fordham*).

municipalities within a county. New G.S. 105-537(d) provides that a one-quarter cent sales tax may not be in effect in a county at the same time as a county land transfer tax levied under new Article 60 of G.S. Chapter 105. While a county may only levy one of the two optional taxes, it may conduct an advisory referendum on both, or only one, of its local tax options.

Integrated Property Tax and Motor Vehicle Registration

S.L. 2007-471 (H 1688) amends G.S. 20-179.1 to allow automobile dealers to register and obtain license plates for newly sold vehicles without collecting property taxes at the time of sale. New G.S. 20-79.1A provides for the issuance of limited registration plates, a new type of license plate bearing a clear and visible marker denoting its temporary status, to dealers and others who submit an application for title and registration fees to the Division of Motor Vehicles (DMV). Limited registrations expire on the last day of the second month following the date on which the registration was applied for. New G.S. 105-330.5(a2) provides that limited registrations become valid for the remainder of the year upon payment of county and municipal taxes and fees and requires the Property Tax Division of the Department of Revenue to include this information in its notice to the vehicle's new owner. A dealer or any other person may opt to pay property taxes at the time the application for title is submitted and registration fees are paid and thereby obtain an annual rather than a limited registration.

S.L. 2007-471 also amends G.S. 105-330.1(b) by removing vehicles registered under the International Registration Plan (IRP) from the category of "classified motor vehicles." The IRP is a registration reciprocity agreement among forty-eight states, the District of Columbia, and provinces of Canada providing for payment of registration fees for fleet vehicles on the basis of total distance operated in all jurisdictions.[2] This change divorces the taxation of IRP vehicles from the process of registering these vehicles. Thus, taxpayers must list IRP vehicles with the county in which they are subject to taxation during the period for listing other taxable personal property (generally, the month of January).

The aforementioned provisions of S.L. 2007-471 are effective July 1, 2010, or when DMV and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first.

Effective August 29, 2007, S.L. 2007-471 also amends G.S. 105-330.10 to vest the Office of State Budget and Management, rather than the Association of County Commissioners, with authority over funds in the Combined Motor Vehicle and Registration Account. Funds may not be transferred until the Department of Transportation and the Association of County Commissioners agree on a project plan for the integrated system. Other amendments credit the Combined Motor Vehicle and Registration Account with interest generated by the funds in that account. G.S. 105-330.10, as amended, provides for any funds remaining in the account after creation of the integrated system to be distributed to local governments on a pro rata basis. Each jurisdiction's pro rata share is based on the first month's interest collected by the jurisdiction and paid into the account. Finally, the act amends G.S. 105-330.10, effective January 1, 2010, to provide that the interest collected on unpaid registration fees pursuant to G.S. 105-330.4 will be transferred monthly to the North Carolina Highway Fund to be used for technology improvements within DMV.

Property Tax Exemptions/Special Tax Treatment

Farms for Aquatic Species

S.L. 2007-497 amends the definition in G.S. 105-277.3 of agricultural land entitled to taxation at present-use, rather than market, value to include agricultural land used as farms for aquatic species, as defined in G.S. 106-758. The amendments are effective for the 2008–09 tax year. An aquatic species farm tract must meet the existing income requirements for all agricultural land (gross income averaging $1,000 for the three years prior to qualification) and must consist of five acres in actual production or must produce at least 20,000 pounds of aquatic species for commercial sale annually, regardless of acreage.

2. International Registration Plan© (IRP) with Official Commentary, (July 1, 2006), at 3, 83–84, *available at* www.irponline.org/irp/DocumentDisplay.aspx?id={4A507479-F628-420A-AEA8-F185BF156D32}; *see also* 19A NCAC 3E .0401 (providing that apportionable vehicles used or intended for use in two or more jurisdictions that allocate or proportionally register vehicles must be registered in accordance with the provisions of the IRP).

Leased School Facilities

S.L. 2007-477 (H 63) enacts new G.S. 105-275(43), effective for the 2007–08 tax year, classifying and excluding from taxation real and tangible personal property subject to a capital lease pursuant to G.S. 115C-531. (G.S. 115C-531 permits local boards of education to enter into capital leases of real or personal property for use as school buildings or facilities.)

Working Waterfront Property

S.L. 2007-485 (S 646) enacts new G.S. 105-277.14 classifying working waterfront property and land necessary for convenient use of the property as eligible for taxation at its present-use, rather than market, value. The new classification is effective for the 2009–10 tax year. Working waterfront property must have produced an average gross income for the past three years of at least $1,000 and may consist of (1) a pier that extends into coastal fishing waters and that can be accessed only by those who pay a fee or (2) real property that is adjacent to coastal fishing waters and that is primarily used for a commercial fishing operation or fish processing, including adjacent land being improved and used for one of these purposes.

As with other property eligible for present-use value taxation, the difference between the taxes due on working waterfront property taxed on the basis of its present use and the taxes that would be due if those taxes were based on market value is a lien on the property. The difference is carried forward as deferred taxes. Taxes for the fiscal year that opens in the calendar year in which the property is disqualified from the present-use program are assessed based on market value, and deferred taxes for the three previous fiscal years are due with interest calculated from the date those taxes originally would have been due but for their deferred status.

The owner of working waterfront property must file an application for taxation at present-use value during the regular listing period of the year for which the benefit is first claimed or within thirty days of a notice of a change in the property's valuation. Once the application has been approved, the property remains in the present-use program. There is no requirement that a new application be filed until the property is transferred or becomes ineligible for classification as working waterfront property.

Study

S.L. 2007-497 authorizes the Revenue Laws Study Committee to study ways to address the inability of landowners to pay escalating property taxes while maintaining "nondevelopmental uses" of the property. The study may review (1) implementing tax benefits for donating perpetual easements on property to ensure that the property is not developed, (2) extending present-use value benefits to property used for wildlife conservation, and (3) other ways to reduce property taxes to preserve farmland and other undeveloped property. The committee may report its findings along with recommendations or legislative proposals to the 2008 session of the General Assembly.

Property Tax Commission Members and Terms

The Property Tax Commission, each of its members, and any Department of Revenue employee so authorized by the commission may, in connection with the decision of any pending appeal, subpoena witnesses and documents for examination if there is reason to believe that information provided by these witnesses or contained in the documents is pertinent to the decision of any appeal. There is no requirement that the witness or the person in possession of the documents be a party to the appeal. S.L. 2007-251 (S 1432) amends G.S. 105-290, the provision of the Machinery Act granting this subpoena power, to establish a procedure for challenging this subpoena. New G.S. 105-290(d)(3) permits the commission or one of its members to quash a subpoena upon request and after a hearing if the commission finds that the subpoena requires the production of evidence that is not relevant to an issue before the commission, the subpoena fails to describe with sufficient particularity the evidence to be produced, or the subpoena is subject to being quashed for any other reason sufficient in law. New G.S. 105-290(d1) requires a hearing on a motion to quash a subpoena at least ten days before the hearing for which the subpoena was issued and provides for judicial review of a denial of a motion to quash a subpoena in the superior court of Wake County or of the county where the person subject to the subpoena resides.

S.L. 2007-308 (H 1555) amends G.S. 105-288(a) to provide for four fiscal-year terms for all members of the property tax commission, effective for all appointments made after July 1, 2007. Formerly the term of the commission member appointed upon

recommendation of the Speaker of the House of Representatives was two years, while other members served four-year terms, two of which expired on June 30 of each odd-numbered year.

Payment of Back Taxes before Deed Recordation

S.L. 2007-221 (H 464) amends G.S. 161-31(b) to authorize Burke, Caswell, Greene, Jones, and Wayne counties to require payment of delinquent property taxes before registers in those counties record deeds conveying property.

Transylvania County Tax Collector

S.L. 2007-16 (S 231) repeals Section 4 of Chapter 399 of the Public–Local Laws of 1941, which provided for the election of the Transylvania County tax collector. The act provides for the appointment of the Transylvania County tax collector by the county board of commissioners pursuant to G.S. 105-349.

Local Occupancy Taxes

Section 21 of S.L. 2007-527 (S 540) amends local acts enacted from 1983 through 1995 authorizing various cities and counties to levy room occupancy taxes to provide that occupancy tax returns and taxes are due on the twentieth day of each month rather than the fifteenth. This deadline comports with the deadline for filing and paying sales taxes. The new filing and payment deadlines are effective January 1, 2008.

Section 23 of S.L. 2007-527 corrects a statutory reference to G.S. 153A-155(g) in S.L. 2006-128 (authorizing Ocracoke Township to levy an occupancy tax).

Burke County

S.L. 2007-265 (H 78) amends Chapter 422 of the 1989 Session Laws, as amended by Chapter 143 of the 1995 Session Laws, to permit Burke County to levy an occupancy tax of 3 percent in addition to the 3 percent previously authorized and to make the uniform administrative provisions of G.S. 153A-155 applicable to Burke County. The 2007 act requires the creation of the Burke County Tourism Development Authority, prescribes the administrative procedures for appointing members to the authority, and allows the county thirty days (which expired August 27, 2007) to ensure that the membership of the authority complies with the act. The authority must expend two-thirds of the net proceeds from the first 3 percent of the tax to promote travel and tourism in Burke County and the remaining one-third for tourism-related expenditures in the county. The authority must divide the remaining net proceeds into three separate accounts: 45 percent to the Morganton account, 30 percent to the Burke County account, and 25 percent to the Valdese account. The authority must use at least two-thirds of the funds in each account to promote travel and tourism in each of the designated areas and the remainder for tourism-related expenditures in the designated area. The 2007 act defines "net proceeds" to limit the percentage of gross proceeds that may be deducted for the costs of administering and collecting the tax and clarifies that the tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations only when those accommodations are furnished in furtherance of the organization's nonprofit purpose.

Carteret County

S.L. 2007-112 (S 465) rewrites the Carteret County occupancy tax. The primary changes postpone until July 1, 2010, the county's authorization to levy an occupancy tax of 1 percent in addition to the 5 percent previously authorized. The additional tax may be levied only if a development plan for the construction of a convention center has been approved by June 30, 2010, and there is a signed contract between the appropriate local governments and a private developer that includes financing commitments for construction of the center. (The additional 1 percent tax had previously been authorized to begin no earlier than July 1, 2008, and was to be repealed on September 1, 2009, if construction on the convention center had not begun by July 1, 2009.) The county's authority to levy the additional 1 percent tax is repealed if a total of $10 million in proceeds from the additional tax is collected or if construction on the convention center has not begun by July 1, 2011. If the county levies a 6 percent occupancy tax, the county must remit 50 percent of tax proceeds quarterly to the Carteret County Tourism Development Authority to be used to promote travel and tourism. The county must use 33 percent of the proceeds for beach nourishment on Bogue Banks. The remaining proceeds, up to a

maximum of $10 million, must be used to finance debt service and operating costs for a new convention center in the county. Different distribution rules apply if the occupancy tax rate remains at 5 percent.

Caswell County

S.L. 2007-224 (S 442) authorizes Caswell County to levy an occupancy tax of up to 3 percent pursuant to the uniform administrative provisions of G.S. 153A-155. The act requires the board of commissioners, upon adopting a resolution levying an occupancy tax, to create the Caswell County Tourism Development Authority and sets forth requirements governing authority membership. The county must remit the net proceeds of the occupancy tax to the authority quarterly, which must use at least two-thirds of the proceeds to promote travel and tourism in the county and the remainder for tourism-related expenditures.

Chatham County

S.L. 2007-318 (S 282) amends Chapter 642 of the 1993 Session Laws to permit Chatham County to levy an occupancy tax of 3 percent in addition to the 3 percent previously authorized and to make the uniform administrative provisions of G.S. 153A-155 apply to Chatham County. The 2007 act requires creation of the Chatham County Tourism Development Authority and prescribes the administrative procedures for appointing members to the authority. The 2007 act redefines "net proceeds" to reduce the percentage of gross proceeds the county may deduct for the costs of administering and collecting the tax.

Granville County

S.L. 2007-331 (S 384) amends the Granville County occupancy tax, effective October 1, 2007, to permit the county to levy an occupancy tax of 1 percent in addition to the 3 percent previously authorized. The 2007 act redefines "net proceeds" to reduce the percentage of gross proceeds the county may deduct for the costs of administering and collecting the tax and requires the Granville County Tourism Development Authority to expend at least two-thirds of the first 3 percent of funds for tourism-related expenditures and the remainder of that 3 percent to promote travel and tourism. The authority must use at least two thirds of the new 1 percent tax to promote travel and tourism and the remainder for tourism expenditures. The act requires a different allocation of net proceeds beginning October 1, 2019.

Haywood County

S.L. 2007-337 (H 1013) amends the Haywood County occupancy tax to permit the county to levy an occupancy tax of 1 percent in addition to the 3 percent previously authorized and to make the uniform administrative provisions of G.S. 153A-155 apply to Haywood County. The 2007 act redefines "net proceeds" to reduce the percentage of gross proceeds the county may deduct for the costs of administering and collecting the tax. The amendments alter the membership composition and terms of the Haywood County Tourism Development Authority. The 2007 act requires the authority to divide proceeds from the additional 1 percent tax into five separate accounts based on the zip codes of the areas from which the proceeds were collected. Based on recommendations from and in consultation with each collection area, the authority must use at least two-thirds of the funds to promote travel and tourism and the remainder for tourism-related expenditures in each of the five collection areas.

McDowell County

S.L. 2007-315 (S 18) amends Chapter 892 of the 1985 Session Laws to permit McDowell County to levy an occupancy tax of up to 2 percent in addition to the 3 percent previously authorized and to make the uniform administrative provisions of G.S. 153A-155 apply to McDowell County. The 2007 amendments require the McDowell Tourism Development Authority to use at least two-thirds of the net proceeds of the tax to promote travel and tourism in the county and the remainder for tourism-related expenditures. In addition, the amendments alter the composition of the authority and allow the county thirty days (which expired August 29, 2007) to ensure that the membership of the authority complies with the act. The act also requires that the authority expend the net proceeds of the tax, redefines "net proceeds" to limit the percentage of gross proceeds the county may deduct for the costs of administering and collecting the tax, and clarifies that the tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations only when those accommodations are furnished in furtherance of the organization's nonprofit purpose.

Northampton County

S.L. 2007-223 (H 792) authorizes Northampton County to levy a room occupancy tax of up to 6 percent and incorporates the uniform administrative provisions of G.S. 153A-155. The act requires the board of commissioners, upon adopting a resolution levying a room occupancy tax, to create the Northampton County Tourism Development Authority and sets forth requirements governing authority membership. The county must remit the net proceeds of the tax to the authority quarterly, which must use at least two-thirds of the proceeds to promote travel and tourism in the county and the remainder for tourism-related expenditures.

Perquimans County

S.L. 2007-19 (S 496) authorizes Perquimans County to levy a room occupancy tax of up to 6 percent pursuant to the uniform administrative provisions of G.S. 153A-155. The act requires the board of commissioners, upon adopting a resolution levying a room occupancy tax, to create the Perquimans County Tourism Development Authority and sets forth requirements governing authority membership. The county must remit the net proceeds of the occupancy tax to the authority quarterly, which must use at least two-thirds of the proceeds to promote travel and tourism in the county and the remainder for tourism-related expenditures.

Swain County

S.L. 2007-23 (S 336) amends Chapter 923 of the 1985 Session Laws to permit Swain County to levy an occupancy tax of 1 percent in addition to the 3 percent previously authorized and to make the uniform administrative provisions of G.S. 153A-155 apply to Swain County. The 2007 amendments require the Swain Tourism Development Authority to use at least two-thirds of the net proceeds of the tax to promote travel and tourism in the county and the remainder for tourism-related expenditures. In addition, the amendments alter the composition of the Swain Tourism Development Authority and allow Swain County thirty days (which expired May 25, 2007) to ensure that authority membership complies with the act. The 2007 act requires that the authority expend the net proceeds of the tax, redefines "net proceeds" to limit the percentage of gross proceeds the county may deduct for the costs of administering and collecting the tax, and clarifies that the tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations only when those accommodations are furnished in furtherance of the organization's nonprofit purpose.

Yadkin County

S.L. 2007-340 (H 1027) creates Yadkin County District Y as a taxing district, defines its jurisdiction as that part of Yadkin County located outside of incorporated areas, and authorizes it to levy an occupancy tax of up to 6 percent, pursuant to the uniform administrative provisions of G.S. 153A-155. The act also requires the Yadkin County board of commissioners to create the Yadkin County District Y Tourism Development Authority and sets forth requirements governing authority membership. Yadkin County District Y must remit the net proceeds of the tax to the authority quarterly, which must use at least two-thirds of the proceeds to promote travel and tourism in the district and the remainder for tourism-related expenditures in the district.

City of Lumberton

S.L. 2007-332 (S 489) amends the City of Lumberton occupancy tax to alter the composition of the Lumberton Tourism Development Authority and allows the city thirty days (which expired September 1, 2007) to ensure that authority membership complies with the act. The 2007 act redefines "net proceeds" to reduce the percentage of gross proceeds the city may deduct for the costs of administering and collecting the tax and clarifies that the tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations only when those accommodations are furnished in furtherance of the organization's nonprofit purpose.

Town of Dallas

S.L. 2007-317 (S 154) authorizes the Town of Dallas to levy an occupancy tax of up to 3 percent pursuant to the uniform administrative provisions of G.S. 160A-215. The act requires the board of aldermen, upon adopting a resolution levying a room occupancy tax, to create the Dallas Tourism Development Authority and sets forth requirements governing authority membership. The town must quarterly remit the net proceeds of the occupancy tax

to the authority, which must use at least two-thirds of the proceeds to promote travel and tourism in the town and the remainder for tourism-related expenditures.

Town of Jonesville

S.L. 2007-340 amends S.L. 2002-95 to permit Jonesville to levy an additional occupancy tax of up to 3 percent in addition to the 3 percent previously authorized.

Town of Yadkinville

S.L. 2007-340 authorizes the Town of Yadkinville to levy an occupancy tax of up to 6 percent and incorporates the uniform administrative provisions of G.S. 160A-215. The act requires the board of commissioners, upon adopting a resolution levying a room occupancy tax, to create the Yadkinville Tourism Development Authority and sets forth requirements governing authority membership. The town must remit the net proceeds of the tax to the authority quarterly, which must use at least two-thirds of the proceeds to promote travel and tourism in the town and the remainder for tourism related expenditures.

Town of Yanceyville

S.L. 2007-224, as amended by Section 42 of S.L. 2007-527, authorizes the Town of Yanceyville to levy an occupancy tax of up to 3 percent pursuant to the uniform administrative provisions of G.S. 160A-215. The act requires the Yanceyville Town Council, upon adopting a resolution levying an occupancy tax, to create the Yanceyville Tourism Development Authority and sets forth requirements governing authority membership. The town must remit the net proceeds of the tax to the authority quarterly, which must use at least two-thirds of the proceeds to promote travel and tourism in the town and the remainder for tourism-related expenditures.

Local Legislation

Municipal Vehicle Taxes

S.L. 2007-109 (H 1112) amends G.S. 20-97(a) as it applies to the Town of Matthews under S.L. 1985-1009, S.L. 1991-209, and S.L. 1993-345 to permit the town to charge an annual municipal vehicle tax of up to $30 per vehicle beginning in the 2007–08 tax year. The town may use the tax proceeds for road and sidewalk construction, maintenance, and repair or for public mass transit systems and mass transit–related activities.

S.L. 2007-73 (H 568) amends G.S. 20-97(a) to permit the towns of Garner, Holly Springs, Rolesville, and Knightdale to charge an annual municipal vehicle tax of up to $15 (was, $5) beginning in the 2007–08 tax year and to use proceeds from any levy above $5 exclusively for transportation-related purposes, including sidewalks.

S.L. 2007-108 (H 885) amends G.S. 20-97(a) to permit the towns of Apex and Morrisville to charge an annual municipal vehicle tax of up to $15 (was, $5) beginning in the 2007–08 tax year and to use proceeds from any levy above $5 exclusively for transportation-related purposes, including sidewalks.

Boundary between Gaston and Lincoln Counties

S.L. 2007-9 (S 193) permits Gaston and Lincoln counties to establish in accordance with G.S. 153A-18 the boundary line between the two counties as provided in a 1963 survey. In recognition that the counties' tax maps for more than forty years have departed from the boundary lines reflected in the survey, the act authorizes the counties to "respect to the extent practicable the line as it has been observed in practice, provided that the line does not make any territory in one county noncontiguous to the remainder of the county." The act permits the counties to continue to apportion parcels between the two counties that have been divided in some proportion between the counties in the past.

Technical Corrections

S.L. 2007-527 makes technical amendments to G.S. 105-275(41) by clarifying that objects of art held by the North Carolina State Art Society Incorporated are exempt from taxation (previously the word "State" was omitted).

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