

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

H

2

**HOUSE BILL 698
Committee Substitute Favorable 7/19/01**

Short Title: Carteret Occupancy Tax Changes.

(Local)

Sponsors:

Referred to:

March 20, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO REPEAL THE CARTERET COUNTY OCCUPANCY TAX LAW AND
3 TO AUTHORIZE CARTERET COUNTY TO LEVY A NEW OCCUPANCY AND
4 TOURISM DEVELOPMENT TAX.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Transition. – Carteret County's authority to levy a tax under
7 Sections 2 through 9 of Chapter 171 of the 1989 Session Laws is repealed effective on
8 the effective date of a tax levied under this act. Repeal of a tax levied under this act
9 does not revive Carteret County's authority to levy a tax under Sections 2 through 9 of
10 Chapter 171 of the 1989 Session Laws. This act does not affect the rights or liabilities of
11 the county, a taxpayer, or another person arising under a law repealed by this act before
12 the effective date of its repeal; nor does it affect the right to any refund or credit of a tax
13 that accrued under the repealed law before the effective date of its repeal.

14 **SECTION 2.(a)** Levy. – The Board of Commissioners of Carteret County
15 may levy a room occupancy and tourism development tax of six percent (6%) of the
16 gross receipts derived from the rental of any room, lodging, or similar accommodation
17 furnished by any hotel, motel, inn, tourist camp, condominium, cottage, campground,
18 rental agency, or other similar place within the county that is subject to sales tax
19 imposed by the State under G.S. 105-164.4(a)(3). The tax authorized by this section
20 may not become effective earlier than January 1, 2002. This tax is in addition to any
21 State or local sales tax. This tax does not apply to gross receipts derived by the
22 following entities from accommodations furnished by them:

- 23 (1) Religious organizations.
24 (2) Educational organizations.
25 (3) Any business that offers to rent fewer than five units.
26 (4) Summer camps.
27 (5) Charitable, benevolent, and other nonprofit organizations.

28 **SECTION 2.(b)** Administration of Tax; Penalties. – The tax levied under
29 this act shall be levied, administered, collected, and repealed as provided in G.S.

1 153A-155. The penalties provided in G.S. 153A-155 apply to the taxes levied under this
2 act. The Carteret County Tax Collector must establish procedures to periodically audit
3 the businesses subject to the tax levied under this act in order to ensure compliance with
4 this act.

5 **SECTION 3.** Use of Proceeds. – (a) Definitions. – The following definitions
6 apply in this section:

- 7 (1) Beach nourishment. – The placement of sand, from other sand sources,
8 the planting of vegetation, and the building of structures that are in
9 conformity with the North Carolina Coastal Management Program,
10 such as sand fences and dunes, on beaches along the Atlantic Ocean of
11 North Carolina for the purpose of widening the beach to benefit public
12 recreational use and mitigating damage and erosion from storms to
13 inland property. The term includes expenditures for the following:
- 14 a. Costs directly associated with qualifying for projects either
15 contracted through the U.S. Army Corps of Engineers or
16 otherwise permitted by all appropriate federal and state
17 agencies;
 - 18 b. The nonfederal share of the cost required to construct these
19 projects; and
 - 20 c. The costs associated with providing enhanced public beach
21 access.
- 22 (2) Net proceeds. – Gross proceeds less the cost to the city of
23 administering and collecting the tax, as determined by the finance
24 officer, not to exceed three percent (3%) of the first five hundred
25 thousand dollars (\$500,000) of gross proceeds collected each year and
26 one percent (1%) of the remaining gross receipts collected each year.
- 27 (3) Promote travel and tourism. – To advertise or market an area or
28 activity, publish and distribute pamphlets and other materials, conduct
29 market research, or engage in similar promotional activities that attract
30 tourists or business travelers to the area; the term includes
31 administrative expenses incurred in engaging in these activities.
- 32 (4) Tourism-related expenditures. – Expenditures that, in the judgment of
33 the Tourism Development Authority, are designed to increase the use
34 of lodging facilities, meeting facilities, or convention facilities in a city
35 or to attract tourists or business travelers to the city. The term includes
36 tourism-related capital expenditures.

37 **SECTION 3.(b)** First Three Cents (3¢). – The finance officer of Carteret
38 County shall, on a quarterly basis, remit the net proceeds of the occupancy tax levied
39 under Section 2 of this act to the Carteret County Tourism Development Authority.
40 After deducting its administrative expenses, the Authority shall use at least two-thirds of
41 the funds remitted to it under this subsection to promote travel and tourism in Carteret
42 County and shall use the remainder for tourism-related expenditures. Administrative

1 expenses may not exceed ten percent (10%) of the total budget of the Tourism
 2 Development Authority and may not include costs associated with the operation of
 3 visitor centers.

4 **SECTION 3.(c)** Use of Second Three Cents (3¢) Until June 30, 2006. –
 5 Carteret County shall retain the proceeds of the remaining three cents (3¢) of the
 6 six-cent (6¢) tax levied under Section 2 of this act for use as provided in this subsection.

7 (1) Except as provided in subdivisions (2) and (3) of this subsection,
 8 Carteret County shall use these funds only for beach nourishment on
 9 Bogue Banks. Any idle funds that are not spent for the purposes
 10 provided in this subdivision shall be remitted to the Carteret County
 11 Tourism Development Authority and shall be used only to promote
 12 travel and tourism in Carteret County. The county may not accumulate
 13 a balance of tax proceeds for beach nourishment in excess of fifteen
 14 million dollars (\$15,000,000). Any idle funds in excess of this amount
 15 that are not spent for the purposes provided in this subdivision shall be
 16 remitted to the Carteret County Tourism Development Authority and
 17 used only to promote travel and tourism in Carteret County.

18 (2) The county shall distribute the following amounts to the municipalities
 19 listed below from the proceeds collected between January 1, 2002, and
 20 June 30, 2004. The municipalities shall use the amounts distributed
 21 below to promote travel and tourism in those municipalities.

Municipality	FY 2001-2002	FY 2002-2003	FY 2003-2004
Morehead City	\$47,613	\$63,484	\$31,742
Beaufort	16,821	22,429	11,214
Newport	8,607	11,476	5,738
Cape Carteret	5,894	7,859	3,929
Cedar Point	845	1,127	564
Bogue	215	287	143
Peletier	179	239	119
TOTAL	\$80,174	\$106,901	\$53,449

31 (3) The county shall annually distribute at least the following amounts to
 32 the municipalities listed below in the 2002-2003, 2003-2004,
 33 2004-2005, and 2005-2006 fiscal years. The municipalities shall use
 34 the amounts distributed below for beach nourishment.

Unit	Annual Amount
Pine Knoll Shores	\$225,000
Atlantic Beach	100,000
Indian Beach	108,000
Emerald Isle	540,000
Salter Path	<u>27,000</u>
TOTAL	\$1,000,000

41 **SECTION 4.** Section 3.(c) of this act reads as rewritten:
 42

1 "SECTION 3.(c) Use of Second Three Cents (3¢). — ~~(3¢) Until June 30, 2006.~~
 2 Carteret County shall retain the proceeds of the remaining three cents (3¢) of the
 3 six-cent (6¢) tax levied under Section 2 of this act for use as provided in this subsection.

4 (1) Except as provided in ~~subdivisions (2) and (3)~~ subdivision (4) of this
 5 subsection, Carteret County shall use these funds only for beach
 6 nourishment on Bogue Banks. Any idle funds that are not spent for the
 7 purposes provided in this subdivision shall be remitted to the Carteret
 8 County Tourism Development Authority and shall be used only to
 9 promote travel and tourism in Carteret County.

10 (2) ~~The county shall distribute the following amounts to the municipalities~~
 11 ~~listed below from the proceeds collected between January 1, 2002, and~~
 12 ~~June 30, 2004. The municipalities shall use the amounts distributed~~
 13 ~~below to promote travel and tourism in those municipalities.~~

Municipality	FY 2001-2002	FY 2002-2003	FY 2003-2004
Morehead City	\$47,613	\$63,484	\$31,742
Beaufort	16,821	22,429	11,214
Newport	8,607	11,476	5,738
Cape Carteret	5,894	7,859	3,929
Cedar Point	845	1,127	564
Bogue	215	287	143
Peletier	179	239	119
TOTAL	\$80,174	\$106,901	\$53,449

23 (3) ~~The county shall annually distribute at least the following amounts to~~
 24 ~~the municipalities listed below in the 2002-2003, 2003-2004,~~
 25 ~~2004-2005, and 2005-2006 fiscal years. The municipalities shall use~~
 26 ~~the amounts distributed below for beach nourishment.~~

Unit	Annual Amount
Pine Knoll Shores	\$225,000
Atlantic Beach	100,000
Indian Beach	108,000
Emerald Isle	540,000
Salter Path	27,000
TOTAL	\$1,000,000

34 (4) Carteret County may use the proceeds from one cent (1¢) of the three
 35 cents (3¢) described in this section, up to a maximum of ten million
 36 dollars (\$10,000,000), for the financing of debt service, operating
 37 costs, or both associated with the construction of a new convention
 38 center in Carteret County if the following conditions have been met:

39 a. A development plan has been approved by resolution of the
 40 board of county commissioners and the governing board of the
 41 municipality where the center is to be located by June 30, 2006;
 42 and

1 b. There is a signed contract between the appropriate local
2 governments and a private developer that includes financing
3 commitments for construction to begin no later than July 1,
4 2007.

5 If these conditions have not been met, the county's authority to levy the one-cent
6 (1¢) room occupancy tax described in this subsection is repealed, effective July 1, 2006.

7 If these conditions have been met and the one-cent (1¢) room occupancy tax
8 described in this subdivision continues beyond July 1, 2006, the county's authority to
9 levy the one-cent (1¢) tax is repealed on the first day of the second month following the
10 date that a cumulative total of ten million dollars (\$10,000,000) in proceeds from this
11 one-cent (1¢) tax has been collected. For purposes of this subsection, the cumulative
12 total of ten million dollars (\$10,000,000) is calculated beginning on July 1, 2006.

13 If construction on the convention center has not begun by July 1, 2007, the county's
14 authority to levy the one-cent (1¢) room occupancy tax described in this subsection is
15 repealed on the first day of the second month following July 1, 2007. Any funds
16 collected before the repeal date shall be redistributed to the Tourism Development
17 Authority to promote travel and tourism.

18 Surplus proceeds from the one-cent (1¢) room occupancy tax described in this
19 subsection beyond the ten million dollars (\$10,000,000) cumulative total that are
20 collected before the repeal date shall be redistributed to the Tourism Development
21 Authority and used to promote travel and tourism.

22 If the actual cost of the convention center is less than ten million dollars
23 (\$10,000,000), any proceeds from the one-cent (1¢) occupancy tax collected but not
24 spent shall be redistributed to the Tourism Development Authority and used to promote
25 travel and tourism."

26 **SECTION 5.(a)** Carteret County Tourism Development Authority. – The
27 Carteret County Board of Commissioners upon adopting a resolution levying a room
28 occupancy tax under this act shall adopt a resolution creating the Carteret County
29 Tourism Development Authority for the purpose of managing the promotion and
30 development of tourism in Carteret County.

31 **SECTION 5.(b)** The Authority shall consist of nine members and shall be
32 appointed by the board of county commissioners by the selection of two members from
33 each list of nominees submitted by the following organizations:

- 34 (1) Carteret County Chamber of Commerce.
- 35 (2) Crystal Coast Hotel/Motel Association, doing business as Crystal
36 Coast Hospitality Association.
- 37 (3) Carteret County Board of Realtors.

38 The nominees submitted by the Chamber of Commerce, the Hotel/Motel
39 Association, and the Board of Realtors shall be individuals who collect the occupancy
40 tax levied under this act. However, notwithstanding the foregoing, the board of county
41 commissioners shall appoint those persons named to serve by their respective
42 organizations.

1 Three additional Authority members shall be directly appointed by the board
2 of county commissioners. One of these appointments must be a county commissioner,
3 one must be a mayor of a Carteret County municipality.

4 **SECTION 5.(c)** All members of the Authority shall serve without
5 compensation. The term for each appointment shall be for three years, except that in
6 making the initial appointments, the board of county commissioners shall provide for
7 staggered terms.

8 No member shall serve more than two consecutive three-year terms.
9 Members appointed to fill unexpired terms shall serve for the remainder of the
10 unexpired terms they are appointed to fill.

11 **SECTION 5.(d)** The Authority shall select a chair, shall meet at the call of
12 the chair, and shall adopt bylaws and rules of procedure to govern its meetings.

13 **SECTION 5.(e)** The Authority shall submit to the board of county
14 commissioners an annual audited financial statement itemizing its receipts and
15 expenditures each year.

16 **SECTION 5.(f)** The Authority may contract with any person, firm, or
17 agency to advise, assist, manage, or promote travel and tourism in Carteret County.

18 **SECTION 6.(a)** Carteret County Beach Commission. – The Carteret County
19 Board of Commissioners, upon adopting a resolution levying a room occupancy tax
20 under this act, shall adopt a resolution creating the Carteret County Beach Commission,
21 which shall advise the board on strategies for beach nourishment and on the expenditure
22 of room occupancy tax proceeds dedicated to beach nourishment.

23 **SECTION 6.(b)** The Beach Commission shall consist of 11 members
24 appointed by the board of county commissioners according to the following formula:

- 25 (1) Two individuals who reside within the town limits of Atlantic Beach.
- 26 (2) Two individuals who reside within the town limits of Pine Knoll
27 Shores.
- 28 (3) Two individuals who reside within the town limits of Emerald Isle.
- 29 (4) One individual who resides within the town limits of Indian Beach.
- 30 (5) One individual who resides on Bogue Banks.
- 31 (6) One individual who resides anywhere in Carteret County.
- 32 (7) A member of the board of county commissioners.
- 33 (8) A member of the Carteret County Tourism Development Authority.

34 **SECTION 6.(c)** All members of the Beach Commission shall serve without
35 compensation. The term for each appointment shall be for three years, except that in
36 making the initial appointments, the board of county commissioners shall provide for
37 staggered terms. Members appointed to fill unexpired terms shall serve for the
38 remainder of the unexpired term.

39 **SECTION 6.(d)** The Beach Commission shall select a chair, shall meet at
40 the call of the chair, and shall adopt bylaws and rules of procedure to govern its
41 meetings.

1 **SECTION 6.(e)** The Beach Commission may not contract with any person,
2 firm, or agency. The board of commissioners shall be bound by the recommendations of
3 the Beach Commission. The board of commissioners may in its discretion delegate
4 additional responsibilities to the Beach Commission.

5 **SECTION 7.** G.S. 153A-155 reads as rewritten:

6 "**§ 153A-155. Uniform provisions for room occupancy taxes.**

7 (a) Scope. – This section applies only to counties the General Assembly has
8 authorized to levy room occupancy taxes.

9 (b) Levy. – A room occupancy tax may be levied only by resolution, after not
10 less than 10 days' public notice and after a public hearing held pursuant thereto. A room
11 occupancy tax shall become effective on the date specified in the resolution levying the
12 tax. That date must be the first day of a calendar month, however, and may not be
13 earlier than the first day of the second month after the date the resolution is adopted.

14 (c) Collection. – Every operator of a business subject to a room occupancy tax
15 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall
16 be collected as part of the charge for furnishing a taxable accommodation. The tax shall
17 be stated and charged separately from the sales records and shall be paid by the
18 purchaser to the operator of the business as trustee for and on account of the taxing
19 county. The tax shall be added to the sales price and shall be passed on to the purchaser
20 instead of being borne by the operator of the business. The taxing county shall design,
21 print, and furnish to all appropriate businesses and persons in the county the necessary
22 forms for filing returns and instructions to ensure the full collection of the tax. An
23 operator of a business who collects a room occupancy tax may deduct from the amount
24 remitted to the taxing county a discount equal to the discount the State allows the
25 operator for State sales and use tax.

26 (d) Administration. – The taxing county shall administer a room occupancy tax it
27 levies. A room occupancy tax is due and payable to the county finance officer in
28 monthly installments on or before the 15th day of the month following the month in
29 which the tax accrues. Every person, firm, corporation, or association liable for the tax
30 shall, on or before the 15th day of each month, prepare and render a return on a form
31 prescribed by the taxing county. The return shall state the total gross receipts derived in
32 the preceding month from rentals upon which the tax is levied. A room occupancy tax
33 return filed with the county finance officer is not a public record and may not be
34 disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

35 (e) Penalties. – A person, firm, corporation, or association who fails or refuses to
36 file a room occupancy tax return or pay a room occupancy tax as required by law is
37 subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a
38 return for State sales and use taxes. The governing board of the taxing county has the
39 same authority to waive the penalties for a room occupancy tax that the Secretary of
40 Revenue has to waive the penalties for State sales and use taxes.

41 (f) Repeal or Reduction. – A room occupancy tax levied by a county may be
42 repealed or reduced by a resolution adopted by the governing body of the county.

1 Repeal or reduction of a room occupancy tax shall become effective on the first day of a
2 month and may not become effective until the end of the fiscal year in which the
3 resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a
4 liability for a tax that was attached before the effective date of the repeal or reduction,
5 nor does it affect a right to a refund of a tax that accrued before the effective date of the
6 repeal or reduction.

7 (g) This section applies only to Avery, Brunswick, Carteret, Craven, Currituck,
8 Davie, Granville, Madison, Nash, Person, Randolph, Scotland, and Transylvania
9 Counties."

10 **SECTION 8.** Section 4 becomes effective July 1, 2006. The remainder of
11 this act is effective when it becomes law.