

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SESSION LAW 2007-112
SENATE BILL 465**

AN ACT TO CONSOLIDATE AND REWRITE THE CARTERET COUNTY
OCCUPANCY TAX LAW AND TO AMEND THE DEADLINE FOR THE
DEVELOPMENT OF A CONVENTION CENTER PLAN FOR CARTERET
COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Sections 1 through 9 of S.L. 2001-381, as amended by S.L. 2005-120 and S.L. 2005-435, are rewritten and recodified as Sections 2 through 4 of this act. This act does not affect the rights or liabilities of the county, a taxpayer, or another person arising under the law rewritten and recodified by this act before the effective date of this act; nor does it affect the right to any refund or credit of a tax that accrued under the law rewritten and recodified by this act before the effective date of this act.

SECTION 2. Occupancy Tax. – (a) Authorization and Scope. – The Carteret County Board of Commissioners may levy a room occupancy and tourism development tax of five percent (5%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, condominium, cottage, campground, rental agency, or other similar place within the county 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 the following:

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

SECTION 2.(b) Additional Occupancy Tax. – In addition to the room occupancy and tourism development tax authorized by subsection (a) of Section 2 of this act, the Carteret County Board of Commissioners may, no earlier than July 1, 2010, levy an additional room occupancy and tourism development tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of Section 2 of this act only if all of the following conditions have been met:

- (1) A development plan for the construction of a convention center has been approved by resolution of the board of county commissioners and the governing board of the municipality where the center is to be located by June 30, 2010.

- (2) There is a signed contract between the appropriate local governments and a private developer that includes financing commitments for construction to begin no later than July 1, 2011.
- (3) The county is levying the room occupancy and tourism development tax authorized under subsection (a) of Section 2 of this act.

SECTION 2.(c) Repeal of Additional Occupancy Tax. – Carteret County's authority to levy the additional one percent (1%) room occupancy and tourism development tax under subsection (b) of Section 2 of this act is repealed as provided in this section if either of the following events occur:

- (1) A cumulative total of ten million dollars (\$10,000,000) in proceeds from the additional one percent (1%) room occupancy and tourism development tax is collected, calculated beginning on July 1, 2010. The repeal under this subdivision is effective on the first day of the second month following the date that the cumulative total of ten million dollars (\$10,000,000) is collected.
- (2) Construction on the convention center has not begun by July 1, 2011. The repeal under this subdivision is effective September 1, 2011. Any funds collected before the repeal date must be redistributed to the Tourism Development Authority and used only to promote travel and tourism.

SECTION 2.(d) Excess Proceeds from Additional Occupancy Tax. – Carteret County must redistribute any excess proceeds from the additional one percent (1%) room occupancy and tourism development tax authorized under subsection (b) of Section 2 of this act to the Tourism Development Authority to be used only to promote travel and tourism. For purposes of this subsection, "excess proceeds" means:

- (1) Any proceeds in excess of ten million dollars (\$10,000,000) collected prior to the repeal date of the additional tax.
- (2) Any proceeds collected but not spent in excess of the actual cost of the convention center.

SECTION 2.(e) Administration. – A tax levied under this act must be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this act. The Carteret County Tax Collector must establish procedures to periodically audit the businesses subject to the tax levied under this act in order to ensure compliance with this act.

SECTION 2.(f) Definitions. – The following definitions apply in this act:

- (1) Beach nourishment. – 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 shorelines of the Atlantic Ocean of North Carolina 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.
- (2) Net proceeds. – Gross proceeds less the cost to the county 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.
 - (3) 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.
 - (4) 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 county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 2.(g) Use and Distribution of five percent (5%) Occupancy Tax Revenue. – If Carteret County levies only the room occupancy and tourism development tax authorized by subsection (a) of Section 2 of this act, the net proceeds of the tax must be distributed as follows:

- (1) Travel and tourism promotion. – Carteret County must, on a quarterly basis, remit fifty percent (50%) to the Carteret County Tourism Development Authority. Beginning July 1, 2010, if the conditions in subsection (b) of Section 2 of this act are not met, then Carteret County must, on a quarterly basis, remit sixty percent (60%) to the Carteret County Tourism Development Authority. After deducting its administrative expenses, the Authority must use all of the funds remitted to it under this subdivision to promote travel and tourism in Carteret County. Administrative expenses may not exceed ten percent (10%) of the total budget of the Tourism Development Authority and may not include costs associated with the operation of visitor centers.
- (2) Beach nourishment. – Carteret County must retain the remainder to be used only for beach nourishment on Bogue Banks. Any idle funds that are not spent for beach nourishment must be remitted to the Carteret

County Tourism Development Authority and must be used only to promote travel and tourism in Carteret County. The county may not accumulate a balance of tax proceeds for beach nourishment in excess of fifteen million dollars (\$15,000,000).

SECTION 2.(h) Use and Distribution of six percent (6%) Occupancy Tax Revenue. – If the conditions in subsection (b) of Section 2 of this act are met and Carteret County levies the room occupancy tax at a rate of six percent (6%) as authorized by subsections (a) and (b) of Section 2 of this act, the net proceeds must be distributed as follows:

- (1) Travel and tourism promotion. – Carteret County must, on a quarterly basis, remit fifty percent (50%) to the Carteret Tourism Development Authority to be used to promote travel and tourism.
- (2) Beach nourishment. – Carteret County must use thirty-three percent (33%) only for beach nourishment on Bogue Banks. Any idle funds that are not spent for beach nourishment must be remitted to the Carteret County Tourism Development Authority and must be used only to promote travel and tourism in Carteret County. The county may not accumulate a balance of tax proceeds for beach nourishment in excess of fifteen million dollars (\$15,000,000).
- (3) Convention center financing. – Any remaining proceeds, up to a maximum of ten million dollars (\$10,000,000), must be used for the financing of debt service, operating costs, or both associated with the construction of a new convention center in Carteret County.

SECTION 3.(a) Carteret County Tourism Development Authority. – The Carteret County Board of Commissioners, upon adopting a resolution levying a room occupancy tax under this act, must adopt a resolution creating the Carteret County Tourism Development Authority for the purpose of managing the promotion and development of tourism in Carteret County.

SECTION 3.(b) The Authority must consist of nine members and must be appointed by the board of county commissioners by the selection of two members from each list of nominees submitted by the following organizations:

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

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

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

SECTION 3.(c) All members of the Authority must serve without compensation. The term for each appointment must be for three years, except that in making the initial appointments, the board of county commissioners must provide for staggered terms.

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

SECTION 3.(d) The Authority must select a chair, must meet at the call of the chair, and must adopt bylaws and rules of procedure to govern its meetings.

SECTION 3.(e) The Authority must submit to the board of county commissioners an annual audited financial statement itemizing its receipts and expenditures each year.

SECTION 3.(f) The Authority may contract with any person, firm, or agency to advise, assist, manage, or promote travel and tourism in Carteret County.

SECTION 4.(a) Carteret County Beach Commission. – The Carteret County Board of Commissioners, upon adopting a resolution levying a room occupancy tax under this act, must adopt a resolution creating the Carteret County Beach Commission, which must advise the board on strategies for beach nourishment and on the expenditure of room occupancy tax proceeds dedicated to beach nourishment.

SECTION 4.(b) The Beach Commission must consist of 11 members appointed by the board of county commissioners according to the following formula:

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

SECTION 4.(c) All members of the Beach Commission must serve without compensation. The term for each appointment must be for three years, except that in making the initial appointments, the board of county commissioners must provide for staggered terms. Members appointed to fill unexpired terms must serve for the remainder of the unexpired term.

SECTION 4.(d) The Beach Commission must select a chair, must meet at the call of the chair, and must adopt bylaws and rules of procedure to govern its meetings.

SECTION 4.(e) The Beach Commission may not contract with any person, firm, or agency. The board of commissioners must be bound by the recommendations of the Beach Commission regarding the expenditure of room occupancy tax proceeds dedicated to beach nourishment. The board of commissioners may in its discretion delegate additional responsibilities to the Beach Commission.

SECTION 5. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 27th day of
June, 2007.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives