

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

S

3

SENATE BILL 465
Finance Committee Substitute Adopted 3/15/07
House Committee Substitute Favorable 6/4/07

Short Title: Amend Carteret County Occupancy Tax.

(Local)

Sponsors:

Referred to:

March 5, 2007

A BILL TO BE ENTITLED

1
2 AN ACT TO CONSOLIDATE AND REWRITE THE CARTERET COUNTY
3 OCCUPANCY TAX LAW AND TO AMEND THE DEADLINE FOR THE
4 DEVELOPMENT OF A CONVENTION CENTER PLAN FOR CARTERET
5 COUNTY.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Sections 1 through 9 of S.L. 2001-381, as amended by S.L.
8 2005-120 and S.L. 2005-435, are rewritten and recodified as Sections 2 through 4 of
9 this act. This act does not affect the rights or liabilities of the county, a taxpayer, or
10 another person arising under the law rewritten and recodified by this act before the
11 effective date of this act; nor does it affect the right to any refund or credit of a tax that
12 accrued under the law rewritten and recodified by this act before the effective date of
13 this act.

14 **SECTION 2.** Occupancy Tax. – (a) Authorization and Scope. – The Carteret
15 County Board of Commissioners may levy a room occupancy and tourism development
16 tax of five percent (5%) of the gross receipts derived from the rental of any room,
17 lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp,
18 condominium, cottage, campground, rental agency, or other similar place within the
19 county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This
20 tax is in addition to any State or local sales tax. This tax does not apply to
21 accommodations furnished by nonprofit charitable, educational, or religious
22 organizations when furnished in furtherance of their nonprofit purpose.

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

- 1 (1) A development plan for the construction of a convention center has
2 been approved by resolution of the board of county commissioners and
3 the governing board of the municipality where the center is to be
4 located by June 30, 2010.
- 5 (2) There is a signed contract between the appropriate local governments
6 and a private developer that includes financing commitments for
7 construction to begin no later than July 1, 2011.
- 8 (3) The county is levying the room occupancy and tourism development
9 tax authorized under subsection (a) of Section 2 of this act.

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

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

25 **SECTION 2.(d)** Excess Proceeds from Additional Occupancy Tax. –
26 Carteret County must redistribute any excess proceeds from the additional one percent
27 (1%) room occupancy and tourism development tax authorized under subsection (b) of
28 Section 2 of this act to the Tourism Development Authority to be used only to promote
29 travel and tourism. For purposes of this subsection, "excess proceeds" means:

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

34 **SECTION 2.(e)** Administration. – A tax levied under this act must be levied,
35 administered, collected, and repealed as provided in G.S. 153A-155. The penalties
36 provided in G.S. 153A-155 apply to a tax levied under this act.

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

- 38 (1) Beach nourishment. – The placement of sand, from other sand sources,
39 on a beach or dune by mechanical means and other associated
40 activities that are in conformity with the North Carolina Coastal
41 Management Program along the shorelines of the Atlantic Ocean of
42 North Carolina and connecting inlets for the purpose of widening the
43 beach to benefit public recreational use and mitigating damage and

1 erosion from storms to inland property. The term includes
2 expenditures for the following:

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

14 (2) Net proceeds. – Gross proceeds less the cost to the county of
15 administering and collecting the tax, as determined by the finance
16 officer, not to exceed three percent (3%) of the first five hundred
17 thousand dollars (\$500,000) of gross proceeds collected each year and
18 one percent (1%) of the remaining gross receipts collected each year.

19 (3) Promote travel and tourism. – To advertise or market an area or
20 activity, publish and distribute pamphlets and other materials, conduct
21 market research, or engage in similar promotional activities that attract
22 tourists or business travelers to the area; the term includes
23 administrative expenses incurred in engaging in these activities.

24 (4) Tourism-related expenditures. – Expenditures that, in the judgment of
25 the Tourism Development Authority, are designed to increase the use
26 of lodging facilities, meeting facilities, or convention facilities in a
27 county or to attract tourists or business travelers to the county. The
28 term includes tourism-related capital expenditures.

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

- 33 (1) Travel and tourism promotion. – Carteret County must, on a quarterly
34 basis, remit fifty percent (50%) to the Carteret County Tourism
35 Development Authority. Beginning July 1, 2010, if the conditions in
36 subsection (b) of Section 2 of this act are not met, then Carteret
37 County must, on a quarterly basis, remit sixty percent (60%) to the
38 Carteret County Tourism Development Authority. After deducting its
39 administrative expenses, the Authority must use all of the funds
40 remitted to it under this subdivision to promote travel and tourism in
41 Carteret County. Administrative expenses may not exceed ten percent
42 (10%) of the total budget of the Tourism Development Authority and
43 may not include costs associated with the operation of visitor centers.

- 1 (2) Beach nourishment. – Carteret County must retain the remainder to be
2 used only for beach nourishment on Bogue Banks. Any idle funds that
3 are not spent for beach nourishment must be remitted to the Carteret
4 County Tourism Development Authority and must be used only to
5 promote travel and tourism in Carteret County. The county may not
6 accumulate a balance of tax proceeds for beach nourishment in excess
7 of fifteen million dollars (\$15,000,000).

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

- 13 (1) Travel and tourism promotion. – Carteret County must, on a quarterly
14 basis, remit fifty percent (50%) to the Carteret Tourism Development
15 Authority to be used to promote travel and tourism.
16 (2) Beach nourishment. – Carteret County must use thirty-three percent
17 (33%) only for beach nourishment on Bogue Banks. Any idle funds
18 that are not spent for beach nourishment must be remitted to the
19 Carteret County Tourism Development Authority and must be used
20 only to promote travel and tourism in Carteret County. The county
21 may not accumulate a balance of tax proceeds for beach nourishment
22 in excess of fifteen million dollars (\$15,000,000).
23 (3) Convention center financing. – Any remaining proceeds, up to a
24 maximum of ten million dollars (\$10,000,000), must be used for the
25 financing of debt service, operating costs, or both associated with the
26 construction of a new convention center in Carteret County.

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

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

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

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

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

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

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

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

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

16 **SECTION 3.(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 4.(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, must adopt a resolution creating the Carteret County Beach Commission,
21 which must advise the board on strategies for beach nourishment and on the expenditure
22 of room occupancy tax proceeds dedicated to beach nourishment.

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

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

42 **SECTION 4.(e)** The Beach Commission may not contract with any person,
43 firm, or agency. The board of commissioners must be bound by the recommendations of
44 the Beach Commission regarding the expenditure of room occupancy tax proceeds

1 dedicated to beach nourishment. The board of commissioners may in its discretion
2 delegate additional responsibilities to the Beach Commission.
3 **SECTION 5.** This act is effective when it becomes law.