

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

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**HOUSE BILL 1707**

Short Title: Beach Towns Room Tax.

(Local)

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Sponsors: Representative McComas.

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Referred to: Finance.

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June 13, 2002

A BILL TO BE ENTITLED

1  
2 AN ACT TO AUTHORIZE THE TOWNS OF CAROLINA BEACH, KURE BEACH,  
3 AND WRIGHTSVILLE BEACH TO LEVY A ROOM OCCUPANCY AND  
4 TOURISM DEVELOPMENT TAX, IF APPROVED BY THE VOTERS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** This act applies only to the towns of Carolina Beach, Kure  
7 Beach, and Wrightsville Beach.

8 **SECTION 2.** Occupancy tax. – (a) Referendum. – The governing body of  
9 a town may direct the county board of elections to conduct an advisory referendum on  
10 the question of whether to levy a local occupancy tax in the town as provided in this act.  
11 The election shall be held on a date jointly agreed upon by the governing body and the  
12 board of elections and shall be held in accordance with the procedures of G.S. 163-287.  
13 The form of the question to be presented on a ballot for a special election concerning the  
14 levy of the tax authorized by this act shall be:

15  FOR  AGAINST

16 A local occupancy tax of up to three percent (3%), in addition to the current local sales  
17 and occupancy taxes.'

18 **SECTION 2.(b)** Authorization and Scope. – If the majority of those voting  
19 in a referendum held pursuant to this act vote for the levy of the tax within a town, the  
20 governing body of the town may, by resolution, levy a local occupancy tax of up to  
21 three percent (3%) of the gross receipts derived from the rental of any room, lodging, or  
22 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within  
23 the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).  
24 This tax is in addition to any State or local sales tax. This tax does not apply to  
25 accommodations furnished by nonprofit charitable, educational, or religious  
26 organizations when furnished in furtherance of their nonprofit purpose.

27 During the first year a tax levied under this section is in effect, the tax rate  
28 may not exceed one percent (1%). During the second year a tax levied under this section

1 is in effect, the tax rate may not exceed two percent (2%). Thereafter, the maximum tax  
2 rate is three percent (3%).

3 **SECTION 2.(c)** Administration. – A tax levied under this section shall be  
4 levied, administered, collected, and repealed as provided in G.S. 160A-215. The  
5 penalties provided in G.S. 160A-215 apply to a tax levied under this section.

6 **SECTION 2.(d)** Distribution and Use of Tax Revenue. – The taxing town  
7 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the town's  
8 Tourism Development Authority. The Authority shall use at least two-thirds of the  
9 funds remitted to it under this subsection to promote travel and tourism in the town and  
10 shall use the remainder for tourism-related expenditures.

11 The following definitions apply in this subsection:

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

27 **SECTION 3.** Tourism Development Authority. – (a) Appointment and  
28 Membership. – When the governing body of a town adopts a resolution levying a room  
29 occupancy tax under this act, it shall also adopt a resolution creating a town Tourism  
30 Development Authority, which shall be a public authority under the Local Government  
31 Budget and Fiscal Control Act. The resolution shall provide for the membership of the  
32 Authority, including the members' terms of office, and for the filling of vacancies on the  
33 Authority. At least one-third of the members must be individuals who are affiliated with  
34 businesses that collect the tax in the town and at least three-fourths of the members must  
35 be individuals who are currently active in the promotion of travel and tourism in the  
36 town. The governing body shall designate one member of the Authority as chair and  
37 shall determine the compensation, if any, to be paid to members of the Authority.

38 The Authority shall meet at the call of the chair and shall adopt rules of  
39 procedure to govern its meetings. The Finance Officer for the taxing town shall be the  
40 ex officio finance officer of the Authority.

41 **SECTION 3.(b)** Duties. – The Authority shall expend the net proceeds of the  
42 tax levied under this act for the purposes provided in Section 2 of this act. The  
43 Authority shall promote travel, tourism, and conventions in the town, sponsor

1 tourist-related events and activities in the town, and finance tourist-related capital  
2 projects in the town.

3           **SECTION 3.(c) Reports.** – The Authority shall report quarterly and at the  
4 close of the fiscal year to the governing body of the taxing town on its receipts and  
5 expenditures for the preceding quarter and for the year in such detail as the governing  
6 body may require.

7           **SECTION 4.** Town administrative provisions. – G.S. 160A-215 reads as  
8 rewritten:

9       **"§ 160A-215. Uniform provisions for room occupancy taxes.**

10       (a)    **Scope.** – This section applies only to municipalities the General Assembly  
11 has authorized to levy room occupancy taxes. For the purpose of this section, the term  
12 "city" means a municipality.

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

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

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

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

1 (f) Repeal or Reduction. – A room occupancy tax levied by a city may be  
2 repealed or reduced by a resolution adopted by the governing body of the city. Repeal or  
3 reduction of a room occupancy tax shall become effective on the first day of a month  
4 and may not become effective until the end of the fiscal year in which the resolution  
5 was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for  
6 a tax that was attached before the effective date of the repeal or reduction, nor does it  
7 affect a right to a refund of a tax that accrued before the effective date of the repeal or  
8 reduction.

9 (g) This section applies only to Beech Mountain District W, to the Cities of  
10 Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain, Lexington, Lincolnton,  
11 Lumberton, Monroe, Mount Airy, Shelby, Statesville, and Washington, to the Towns of  
12 Beech Mountain, Carolina Beach, Carrboro, Kure Beach, Mooresville, North Topsail  
13 Beach, Selma, Smithfield, St. Pauls, ~~and Wilkesboro~~, Wilkesboro, and Wrightsville  
14 Beach, and to the municipalities in Avery and Brunswick Counties."

15 **SECTION 5.** This act is effective when it becomes law.