

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-381
HOUSE BILL 698**

**AN ACT TO REPEAL THE CARTERET COUNTY OCCUPANCY TAX LAW AND
TO AUTHORIZE CARTERET COUNTY TO LEVY A NEW OCCUPANCY AND
TOURISM DEVELOPMENT TAX.**

The General Assembly of North Carolina enacts:

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 – Carteret County's authority to levy a tax under Sections 2 through 9 of Chapter 171 of the 1989 Session Laws is repealed effective on the effective date of a tax levied under this act.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 This act does not affect the rights or liabilities of the county, a taxpayer, or another person arising under a law repealed by this act before the effective date of its repeal; nor does it affect the right to any refund or credit of a tax that accrued under the repealed law before the effective date of its repeal.

SECTION 2.(a) Levy. – The Board of Commissioners of Carteret County 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). The tax authorized by this section may not become effective earlier than January 1, 2002. This tax is in addition to any State or local sales tax. This tax does not apply to gross receipts derived by the following entities from accommodations furnished by them:

- (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) Administration of Tax; Penalties. – The tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to the taxes 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 3. Use of proceeds. – (a) Definitions. – The following definitions apply in this section:

- (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 3.(b) Use of First Fifty Percent (50%). – The finance officer of Carteret County shall, on a quarterly basis, remit fifty percent (50%) of the net proceeds of the occupancy tax levied under this act to the Carteret County Tourism Development Authority. After deducting its administrative expenses, the Authority shall use all of the funds remitted to it under this subsection 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.

SECTION 3.(c) Use of Remainder. – Carteret County shall retain the remainder of the net proceeds of the tax levied under this act for use as provided in this subsection.

- (1) Except as provided in subdivisions (2) and (3) of this subsection, Carteret County shall use these funds only for beach nourishment on Bogue Banks. Any idle funds that are not spent for beach nourishment shall be remitted to the Carteret County Tourism Development Authority and shall 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).
- (2) The county shall distribute the following amounts to the municipalities listed below from the proceeds collected between January 1, 2002, and June 30, 2004. The municipalities shall use the amounts distributed below to promote travel and tourism and for tourism-related expenditures 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

- (3) The county shall annually distribute at least the following amounts to the municipalities listed below in the 2002-2003, 2003-2004, 2004-2005, and 2005-2006 fiscal years. The municipalities shall use 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.

SECTION 4.(a) Sections 3(b) and 3(c) of this act read as rewritten:

"SECTION 3.(b) Use of First ~~Fifty Percent (50%)~~ ~~Three Cents (3¢)~~. – The finance officer of Carteret County shall, on a quarterly basis, remit ~~fifty percent (50%)~~ sixty percent (60%) of the net proceeds of the occupancy tax levied under this act to the Carteret County Tourism Development Authority. After deducting its administrative expenses, the Authority shall use all of the funds remitted to it under this subsection 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.

"SECTION 3.(c) Use of Remainder. – Carteret County shall retain the remainder of the net proceeds of the tax levied under this act ~~for use as provided in this subsection.~~

- (1) ~~Except as provided in subdivisions (2) and (3) of this subsection, Carteret County and shall use these funds only for beach nourishment on Bogue Banks. Any idle funds that are not spent for beach nourishment shall be remitted to the Carteret County Tourism Development Authority and shall 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).~~
- (2) ~~The county shall distribute the following amounts to the municipalities listed below from the proceeds collected between January 1, 2002, and June 30, 2004. The municipalities shall use the amounts distributed 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
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TOTAL	\$80,174	\$106,901	\$53,449

- (3) ~~The county shall annually distribute at least the following amounts to the municipalities listed below in the 2002-2003, 2003-2004, 2004-2005, and 2005-2006 fiscal years. The municipalities shall use 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."

SECTION 4.(b) If the conditions in subdivisions (1) and (2) of Section 5 of this act are not met, or the additional occupancy tax authorized by Section 5 is not levied, or the additional occupancy tax authorized by Section 5 sunsets as provided in Section 5, this section becomes effective July 1, 2010. Otherwise, this section does not go into effect.

SECTION 5. Additional occupancy tax. – In addition to the occupancy tax authorized by Section 2 of this act, the Board of Commissioners of Carteret County may 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 Section 2 of this act if 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, 2006; and
- (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, 2007.

The tax authorized by this section may not become effective earlier than July 1, 2006. The county may not levy a tax under this section unless it also levies the tax under Section 2 of this act. The levy, collection, administration, and repeal of the tax authorized by this section shall be in accordance with Section 2 of this act.

If the conditions in subdivisions (1) and (2) of this section have been met and the one-cent (1¢) room occupancy tax described in this section is levied, the county's authority to levy the one-cent (1¢) tax is repealed on the first day of the second month following the date that a cumulative total of ten million dollars (\$10,000,000) in proceeds from this one-cent (1¢) tax has been collected. For purposes of this section, the cumulative total of ten million dollars (\$10,000,000) is calculated beginning on July 1, 2006.

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

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

If construction on the convention center has not begun by July 1, 2007, the county's authority to levy the one-cent (1¢) room occupancy tax described in this section is repealed on September 1, 2007. Any funds collected before the repeal date shall be redistributed to the Tourism Development Authority and used only to promote travel and tourism.

SECTION 6.(a) Section 3(c) of this act reads as rewritten:

"SECTION 3.(c) Use of Remainder. – Carteret County shall retain the remainder of the net proceeds of the tax levied under this act ~~for use as provided in this subsection and shall use these funds as follows:~~

- (1) Except as provided in ~~subdivisions (2) and subdivision (3)~~ of this subsection, Carteret County shall use ~~these funds two and five-tenths cents (2.5¢)~~ of the total tax levied under Sections 2 and 5 of this act only for beach nourishment on Bogue Banks. Any idle funds that are not spent for beach nourishment shall be remitted to the Carteret County Tourism Development Authority and shall 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).

- (2) Any remaining proceeds from the total tax levied under Sections 2 and 5 of this act, up to a maximum of ten million dollars (\$10,000,000), shall be used for the financing of debt service, operating costs, or both associated with the construction of a new convention center in Carteret County. The county shall distribute the following amounts to the municipalities listed below from the proceeds collected between January 1, 2002, and June 30, 2004. The municipalities shall use the amounts distributed below to promote travel and tourism and for tourism related expenditures 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
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Cedar Point	845	1,127	564
Bogue	215	287	143
Peletier	179	239	119
TOTAL	\$80,174	\$106,901	\$53,449

- (3) The county shall annually distribute at least the following amounts to the municipalities listed below in the 2002-2003, 2003-2004, 2004-2005, and 2005-2006 fiscal years. The municipalities shall use 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."

SECTION 6.(b) If the conditions in subdivisions (1) and (2) of Section 5 of this act are met, and the additional occupancy tax authorized by Section 5 is levied, this section becomes effective the later of July 1, 2006, or the effective date of the tax levied under Section 5 of this act. Otherwise, this section does not go into effect.

SECTION 7.(a) Section 3(c) of this act, as amended by Section 6 of this act, reads as rewritten:

"SECTION 3.(c) Use of Remainder. – Carteret County shall retain the remainder of the net proceeds of the tax levied under this act and shall use these funds as follows:

- (1) ~~Except as provided in subdivision (3) of this subsection, Carteret County shall use two Two and five tenths cents (2.5¢)(2¢) of the total tax levied under Sections 2 and 5 of this act shall be used only for beach nourishment on Bogue Banks. Any idle funds that are not spent for beach nourishment shall be remitted to the Carteret County Tourism Development Authority and shall 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).~~
- (2) Any remaining proceeds from the total tax levied under Sections 2 and 5 of this act, up to a maximum of ten million dollars (10,000,000), shall be used for the financing of debt service, operating costs, or both associated with the construction of a new convention center in Carteret County.
- (3) ~~The county shall annually distribute at least the following amounts to the municipalities listed below in the 2002-2003, 2003-2004, 2004-2005, and 2005-2006 fiscal years. The municipalities shall use 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."

SECTION 7.(b) If the conditions in subdivisions (1) and (2) of Section 5 of this act are met, and the additional occupancy tax authorized by Section 5 is levied, Section 7 of this act becomes effective July 1, 2010. Otherwise, this section does not go into effect.

SECTION 8.(a) Carteret County Tourism Development Authority. – The Carteret County Board of Commissioners, upon adopting a resolution levying a room occupancy tax under this act, shall 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 8.(b) The Authority shall consist of nine members and shall 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 shall be individuals who collect the occupancy tax levied under this act. However, notwithstanding the foregoing, the board of county commissioners shall appoint those persons named to serve by their respective organizations.

Three additional Authority members shall 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 8.(c) All members of the Authority shall serve without compensation. The term for each appointment shall be for three years, except that in making the initial appointments, the board of county commissioners shall provide for staggered terms.

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

SECTION 8.(d) The Authority shall select a chair, shall meet at the call of the chair, and shall adopt bylaws and rules of procedure to govern its meetings.

SECTION 8.(e) The Authority shall submit to the board of county commissioners an annual audited financial statement itemizing its receipts and expenditures each year.

SECTION 8.(f) The Authority may contract with any person, firm, or agency to advise, assist, manage, or promote travel and tourism in Carteret County.

SECTION 9.(a) Carteret County Beach Commission. – The Carteret County Board of Commissioners, upon adopting a resolution levying a room occupancy tax under this act, shall adopt a resolution creating the Carteret County Beach Commission, which shall advise the board on strategies for beach nourishment and on the expenditure of room occupancy tax proceeds dedicated to beach nourishment.

SECTION 9.(b) The Beach Commission shall 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 9.(c) All members of the Beach Commission shall serve without compensation. The term for each appointment shall be for three years, except that in making the initial appointments, the board of county commissioners shall provide for staggered terms. Members appointed to fill unexpired terms shall serve for the remainder of the unexpired term.

SECTION 9.(d) The Beach Commission shall select a chair, shall meet at the call of the chair, and shall adopt bylaws and rules of procedure to govern its meetings.

SECTION 9.(e) The Beach Commission may not contract with any person, firm, or agency. The board of commissioners shall 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 10. G.S. 153A-155 reads as rewritten:

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

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

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

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

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

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

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

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

SECTION 11. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of August, 2001.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives