

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1178
Committee Substitute Favorable 5/31/91

Short Title: Caswell Beach/Bald Head Occy Tax.

(Local)

Sponsors:

Referred to:

May 8, 1991

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE TOWN OF CASWELL BEACH AND THE
2 VILLAGE OF BALD HEAD ISLAND TO LEVY A ROOM OCCUPANCY AND
3 TOURISM DEVELOPMENT TAX.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. Caswell Beach Occupancy Tax. (a) Authorization and Scope. The
7 Board of Commissioners of the Town of Caswell Beach may by resolution, after not
8 less than 10 days' public notice and a public hearing held pursuant thereto, levy a room
9 occupancy tax of up to three percent (3%) of the gross receipts derived from the rental
10 of accommodations within the town that are subject to sales tax imposed by the State
11 under G.S. 105-164.4(a)(3) and from the rental of private residences and cottages within
12 the town that are exempt from the sales tax imposed under G.S. 105-164.4(a)(3) solely
13 because they are rented for less than 15 days.

14 (b) Collection. Every operator of a business subject to the tax levied by this
15 act shall, on and after the effective date of the tax, collect the tax. This tax shall be
16 collected as part of the charge for furnishing a taxable accommodation. The tax shall be
17 stated and charged separately from the sales records, and shall be paid by the purchaser
18 to the operator of the business as trustee for and on account of the town. The occupancy
19 tax levied under this act shall be added to the sales price and shall be passed on to the
20 purchaser instead of being borne by the owner of the business. The town shall design,
21 print, and furnish to all appropriate businesses in the town the necessary forms for filing
22 returns and instructions to ensure the full collection of the tax.

1 (c) Administration. The town shall administer the occupancy tax levied under
2 this act. A tax levied under this act is due and payable to the town tax collector in
3 monthly installments on or before the fifteenth day of the month following the month in
4 which the tax accrues. Every person, firm, or corporation liable for the tax shall, on or
5 before the fifteenth day of each month, prepare and render a return on a form prescribed
6 by the town. The return shall state the total gross receipts derived in the preceding
7 month from rentals upon which the tax is levied.

8 A return filed with the town tax collector under this act is not a public record
9 as defined by G.S. 132-1 and may not be disclosed except as required by law.

10 (d) Penalties. A person, firm, corporation, or association who fails or
11 refuses to file the return required by this act shall pay a penalty of ten dollars (\$10.00)
12 for each day's omission. In case of failure or refusal to file the return or pay the tax for
13 a period of 30 days after the time required for filing the return or for paying the tax,
14 there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in
15 addition to any other penalty, with an additional penalty of five percent (5%) for each
16 additional month or fraction thereof until the tax is paid. The board of commissioners
17 may, for good cause shown, compromise or forgive the additional tax penalties imposed
18 by this subsection.

19 Any person who willfully attempts in any manner to evade a tax imposed
20 under this act or who willfully fails to pay the tax or make and file a return shall, in
21 addition to all other penalties provided by law, be guilty of a misdemeanor and shall be
22 punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to
23 exceed six months, or both.

24 (e) Use of Proceeds. The town may use the proceeds of a tax levied under
25 this act only for tourism-related expenditures. As used in this act, the term "tourism-
26 related expenditures" includes the following types of expenditures: criminal justice
27 system, fire protection, public facilities and utilities, health facilities, solid waste and
28 sewage treatment, and the control and repair of waterfront erosion. These funds may
29 not be used for services normally provided by the town on behalf of its citizens unless
30 these services promote tourism and enlarge its economic benefits by enhancing the
31 ability of the town to attract and provide for tourists.

32 (f) Effective Date of Levy. A tax levied under this act shall become effective
33 on the date specified in the resolution levying the tax. That date must be the first day of
34 a calendar month, however, and may not be earlier than the first day of the second
35 month after the date the resolution is adopted.

36 (g) Repeal. The Board of Commissioners of the Town of Caswell Beach
37 may by resolution repeal a tax levied under this act. Repeal of a tax levied under this
38 act shall become effective on the first day of a month and may not become effective
39 until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a
40 tax levied under this act does not affect a liability for a tax that was attached before the
41 effective date of the repeal, nor does it affect a right to a refund of a tax that accrued
42 before the effective date of the repeal.

43 Sec. 2. Bald Head Island Occupancy Tax. (a) Authorization and Scope. The
44 Village Council of the Village of Bald Head Island may by resolution, after not less than

1 10 days' public notice and a public hearing held pursuant thereto, levy a room
2 occupancy tax of up to three percent (3%) of the gross receipts derived from the rental
3 of accommodations within the village that are subject to sales tax imposed by the State
4 under G.S. 105-164.4(a)(3) and from the rental of private residences and cottages within
5 the village that are exempt from the sales tax imposed under G.S. 105-164.4(a)(3) solely
6 because they are rented for less than 15 days.

7 (b) Collection. Every operator of a business subject to the tax levied by this
8 act shall, on and after the effective date of the tax, collect the tax. This tax shall be
9 collected as part of the charge for furnishing a taxable accommodation. The tax shall be
10 stated and charged separately from the sales records, and shall be paid by the purchaser
11 to the operator of the business as trustee for and on account of the village. The
12 occupancy tax levied under this act shall be added to the sales price and shall be passed
13 on to the purchaser instead of being borne by the owner of the business. The village
14 shall design, print, and furnish to all appropriate businesses in the village the necessary
15 forms for filing returns and instructions to ensure the full collection of the tax.

16 (c) Administration. The village shall administer the occupancy tax levied under
17 this act. A tax levied under this act is due and payable to the village finance officer in
18 monthly installments on or before the fifteenth day of the month following the month in
19 which the tax accrues. Every person, firm, or corporation liable for the tax shall, on or
20 before the fifteenth day of each month, prepare and render a return on a form prescribed
21 by the village. The return shall state the total gross receipts derived in the preceding
22 month from rentals upon which the tax is levied.

23 A return filed with the village finance officer under this act is not a public
24 record as defined by G.S. 132-1 and may not be disclosed except as required by law.

25 (d) Penalties. A person, firm, corporation, or association who fails or
26 refuses to file the return required by this act shall pay a penalty of ten dollars (\$10.00)
27 for each day's omission. In case of failure or refusal to file the return or pay the tax for
28 a period of 30 days after the time required for filing the return or for paying the tax,
29 there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in
30 addition to any other penalty, with an additional penalty of five percent (5%) for each
31 additional month or fraction thereof until the tax is paid. The village council may, for
32 good cause shown, compromise or forgive the additional tax penalties imposed by this
33 subsection.

34 Any person who willfully attempts in any manner to evade a tax imposed
35 under this act or who willfully fails to pay the tax or make and file a return shall, in
36 addition to all other penalties provided by law, be guilty of a misdemeanor and shall be
37 punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to
38 exceed six months, or both.

39 (e) Use of Proceeds. The village may use the proceeds of a tax levied
40 under this act only to promote tourism in the village and for tourism-related
41 expenditures. As used in this act, the term "tourism-related expenditures" includes the
42 following types of expenditures: criminal justice system, fire protection, public
43 facilities and utilities, health facilities, solid waste and sewage treatment, and the control
44 and repair of waterfront erosion. These funds may not be used for services normally

1 provided by the village on behalf of its citizens unless these services promote tourism
2 and enlarge its economic benefits by enhancing the ability of the village to attract and
3 provide for tourists.

4 (f) Effective Date of Levy. A tax levied under this act shall become effective
5 on the date specified in the resolution levying the tax. That date must be the first day of
6 a calendar month, however, and may not be earlier than the first day of the second
7 month after the date the resolution is adopted.

8 (g) Repeal. The Village Council of the Village of Bald Head Island may by
9 resolution repeal a tax levied under this act. Repeal of a tax levied under this act shall
10 become effective on the first day of a month and may not become effective until the end
11 of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied
12 under this act does not affect a liability for a tax that was attached before the effective
13 date of the repeal, nor does it affect a right to a refund of a tax that accrued before the
14 effective date of the repeal.

15 Sec. 3. This act is effective upon ratification.