

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 665

Short Title: Modify Currituck Room Tax.

(Local)

Sponsors: Representative Owens.

Referred to: Finance.

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE CURRITUCK COUNTY ROOM OCCUPANCY AND
TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 209 of the 1987 Session Laws, as amended by Chapter 155 of the 1991 Session Laws, reads as rewritten:

"Section 1. Occupancy tax. (a) Authorization and scope. The Currituck County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3), or from the rental of a campsite within the county. This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

(a1) Additional occupancy tax. In addition to the tax authorized by subsection (a) of this section, the Currituck County Board of Commissioners may levy a room occupancy tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under subsection (a). The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions

1 of this act. Currituck County may not levy a tax under this subsection unless it also
2 levies the tax under subsection (a).

3 (b) A tax levied under this act shall be levied, administered, collected, and
4 repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 do not
5 apply to a tax levied under this section.

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

15 (e) ~~Administration. The county shall administer a tax levied under this section. A~~
16 ~~tax levied under this section is due and payable to the county tax collector in monthly~~
17 ~~installments on or before the 15th day of the month following the month in which the tax~~
18 ~~accrues. Every person, firm, corporation, or association liable for the tax shall, on or~~
19 ~~before the 15th day of each month, prepare and render a return on a form prescribed by~~
20 ~~the county. The return shall state the total gross receipts derived in the preceding month~~
21 ~~from rentals upon which the tax is levied. A return filed with the county tax collector~~
22 ~~under this section is not a public record as defined by G.S. 132-1 and may not be~~
23 ~~disclosed except as required by law.~~

24 (d) Penalties. Except as otherwise provided by law, the following penalties apply:

25 (1) Failure to File. – A person, firm, corporation, or association who fails or
26 refuses to file the return required by this section shall pay is liable for a
27 penalty of ten dollars (\$10.00) for each day's omission. This penalty
28 does not apply, however, if the return is filed within 10 business days
29 after its due date or if no tax is due with the return. The penalty begins
30 with the 11th business day after the return's due date and may not
31 exceed twenty-five percent (25%) of the tax due with the return.

32 (2) Failure to Collect Tax or Pay Tax When Due. – In case of failure or
33 refusal to file the return or to collect the tax or to pay the tax for a period of
34 30 days after the time required for filing the return or for paying the tax, by
35 the end of the calendar month in which it is due, there shall be an
36 additional tax, as a penalty, of five percent (5%) two percent (2%) of the
37 tax due in addition to any other penalty, with an additional tax of five
38 percent (5%) for each additional month or fraction thereof until the tax is paid.
39 penalty. If the tax remains unpaid on the first day of the second
40 calendar month after it is due, there shall be an additional tax, as a
41 penalty, of two percent (2%) of the tax for each calendar month or
42 fraction thereof until the tax is paid.

- 1 (3) Willful Failure to Collect or Pay Over Tax. – The penalties of G.S. 105-
2 236(8) for willful failure to collect or pay over tax apply to the tax
3 levied in this section.
- 4 (4) Penalty for Bad Checks. – The penalties of G.S. 105-236(1) for bad
5 checks apply to the tax levied in this section.
- 6 (5) Criminal Penalties. – Any person who willfully attempts in any manner
7 to evade a tax imposed under this section or who willfully fails to pay
8 the tax or make and file a return shall, in addition to all other penalties
9 provided by law, be guilty of a misdemeanor and shall be punishable by
10 a fine not to exceed one thousand dollars (\$1,000), imprisonment not to
11 exceed six months, or both.
- 12 (6) Postmark. – The provisions of G.S. 105-360(d) apply for the purpose
13 computing penalties under this section.
- 14 (7) Forgiveness. – The Board of Commissioners may, for good cause
15 shown, compromise or forgive the tax penalties imposed by this
16 subsection.

17 (e) Use of tax revenue. Currituck County shall use at least seventy-five percent
18 (75%) of the net proceeds of the tax levied under subsection (a) of this section only for
19 tourist related purposes, including construction and maintenance of public facilities and
20 buildings, garbage, refuse, and solid waste collection and disposal, police protection, and
21 emergency services. The remainder of the net proceeds of the tax levied under
22 subsection (a) shall be deposited in the Currituck County General Fund and may be used
23 for any lawful purpose. Currituck County may use the net proceeds of the tax levied
24 under subsection (a1) of this section, to the extent that they are needed, for capital costs,
25 operation, and maintenance of the Currituck Wildlife Museum. Whatever is not needed
26 for the capital costs, operation, and maintenance of the Currituck Wildlife Museum shall
27 be used for tourist-related purposes. As used in this subsection, 'net proceeds' means
28 gross proceeds less the cost to the county of administering and collecting the tax, as
29 determined by the finance officer.

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

34 ~~(g) Repeal. A tax levied under this section may be repealed by a resolution~~
35 ~~adopted by the Currituck County Board of Commissioners. Repeal of a tax levied under~~
36 ~~this section shall become effective on the first day of a month and may not become~~
37 ~~effective until the end of the fiscal year in which the repeal resolution was adopted.~~
38 ~~Repeal of a tax levied under this section does not affect a liability for a tax that was~~
39 ~~attached before the effective date of the repeal, nor does it affect a right to a refund of a~~
40 ~~tax that accrued before the effective date of the repeal."~~

41 Section 2. County Administrative Provisions. Section 3(b) of S.L. 1997-102,
42 as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, Section 3 of S.L.
43 1997-364, Section 6 of S.L. 1997-410, and Section 2 of S.L. 1998-14, reads as rewritten:

- 1 "(b) This section applies only to Avery, Brunswick, Currituck, Davie, Madison,
2 Nash, Person, Randolph, and Scotland Counties."
3 Section 3. This act is effective when it becomes law.