

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

**S**

**D**

**SENATE DRS85174-SV-6A (03/03)**

Short Title: Accommodations and Occupancy Tax Changes. (Public)

Sponsors: Senator Hartsell.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO SIMPLIFY THE REPORTING AND REMITTANCE REQUIREMENTS FOR  
3 SALES TAX ON ACCOMMODATIONS AND LOCAL OCCUPANCY TAX.

4 The General Assembly of North Carolina enacts:

5 **PART I. SIMPLIFY REPORTING AND REMITTANCE REQUIREMENTS FOR**  
6 **SMALL FACILITATORS**

7 **SECTION 1.1.** G.S. 105-164.4(a)(3) reads as rewritten:

8 "(3) A tax at the general rate applies to the gross receipts derived from the rental  
9 of an accommodation. The tax does not apply to a private residence or  
10 cottage that is rented for fewer than 15 days in a calendar year or to an  
11 accommodation rented to the same person for a period of 90 or more  
12 continuous days.

13 Gross receipts derived from the rental of an accommodation include the  
14 sales price of the rental of the accommodation. The sales price of the rental  
15 of an accommodation is determined as if the rental were a rental of tangible  
16 personal property. The sales price of the rental of an accommodation  
17 marketed by a facilitator includes charges designated as facilitation fees and  
18 any other charges necessary to complete the rental.

19 A person who provides an accommodation that is offered for rent is  
20 considered a retailer under this Article. A facilitator must report to the  
21 retailer with whom it has a contract the sales price a consumer pays to the  
22 facilitator for an accommodation rental marketed by the facilitator. A retailer  
23 must notify a facilitator when an accommodation rental marketed by the  
24 facilitator is completed and, ~~within three business days of receiving the~~  
25 ~~notice, the time agreed upon by the retailer and the facilitator,~~ the facilitator  
26 must send the retailer the portion of the sales price the facilitator owes the  
27 retailer and the tax due on the sales price. A facilitator that does not send the  
28 retailer the tax due on the sales price is liable for the amount of tax the  
29 facilitator fails to send. A facilitator is not liable for tax sent to a retailer but  
30 not remitted by the retailer to the Secretary. Tax payments received by a  
31 retailer from a facilitator are held in trust by the retailer for remittance to the  
32 Secretary. A retailer that receives a tax payment from a facilitator must remit  
33 the amount received to the Secretary. A retailer is not liable for tax due but  
34 not received from a facilitator. The requirements imposed by this  
35 subdivision on a retailer and a facilitator are considered terms of the contract



1 between the retailer and the facilitator. A facilitator that elects under  
2 G.S. 105-164.16A to remit tax to the Secretary instead of to the retailer is  
3 not subject to the requirements imposed by this subdivision to report and to  
4 pay tax to the retailer.

5 A person who, by written contract, agrees to be the rental agent for the  
6 provider of an accommodation is considered a retailer under this Article and  
7 is liable for the tax imposed by this subdivision. The liability of a rental  
8 agent for the tax imposed by this subdivision relieves the provider of the  
9 accommodation from liability. A rental agent includes a real estate broker, as  
10 defined in G.S. 93A-2.

11 The following definitions apply in this subdivision:

- 12 a. Accommodation. – A hotel room, a motel room, a residence, a  
13 cottage, or a similar lodging facility for occupancy by an individual.  
14 b. Facilitator. – A person who is not a rental agent and who contracts  
15 with a provider of an accommodation to market the accommodation  
16 and to accept payment from the consumer for the accommodation."

17 **SECTION 1.2.** Article 5 of Chapter 105 of the General Statutes is amended by  
18 adding the following new section to read:

19 **"§ 105-164.16A. Election by small facilitator to pay tax on accommodation rentals**  
20 **directly to Secretary.**

21 (a) Definitions. – The definitions in G.S. 105-164.4(a)(3) and the following definitions  
22 apply in this section:

23 (1) Local occupancy tax. – A tax imposed on the rental of an accommodation by  
24 the governing board of a taxing district pursuant to a local act.

25 (2) Small facilitator. – A facilitator whose cumulative gross receipts for the  
26 preceding calendar year, when combined with the cumulative gross receipts  
27 of all related persons, as defined in G.S. 105-163.010, do not exceed five  
28 million dollars (\$5,000,000).

29 (3) Taxing district. – A county, city, or other taxing district authorized to levy a  
30 local occupancy tax pursuant to a local act.

31 (b) Election. – A small facilitator that is required by G.S. 105-164.4(a)(3) to pay tax to  
32 a retailer on a portion of the sales price of an accommodation rental marketed by the facilitator  
33 may elect to pay the tax to the Secretary instead of to the retailer. To make this election, a small  
34 facilitator must file an application with the Secretary. The application must be on a form  
35 provided by the Secretary and contain the information required by the Secretary. The Secretary  
36 must use gross receipts for the calendar year preceding the year in which an election  
37 application is filed to determine if the facilitator is a small facilitator.

38 Once granted, an election is effective until it is rescinded by the small facilitator or revoked  
39 by the Secretary. The Secretary may revoke the election if the small facilitator fails to comply  
40 with this section. If an election is rescinded or revoked, the small facilitator must comply with  
41 G.S. 105-164.4(a)(3).

42 (c) Scope and Effect. – An election under this section applies to sales tax and to local  
43 occupancy tax. A small facilitator that makes the election allowed by this section agrees to  
44 report and to remit to the Secretary the sales tax and local occupancy tax due on charges by the  
45 facilitator that are part of the sales price of the accommodation rental, and the small facilitator  
46 is liable for these taxes to the same extent as if the small facilitator were a retailer. An election  
47 under this section by a small facilitator relieves a retailer for whom the small facilitator markets  
48 an accommodation of the obligation to collect sales tax and local occupancy tax from the small  
49 facilitator and remit it to the Secretary.

1       (d) Notice. – A small facilitator that makes an election under this section must, within  
2 30 business days, notify a retailer for whom the facilitator markets an accommodation when  
3 any of the following occurs:

4           (1) The Secretary grants the small facilitator's election application.

5           (2) The Secretary revokes the small facilitator's election.

6           (3) The small facilitator rescinds the election.

7       (e) Payment and Distribution. – The Secretary must provide a form for use by a small  
8 facilitator that makes the election allowed by this section to report and to pay the tax due. The  
9 Secretary must, in accordance with Subchapter VIII of this Chapter, distribute to counties and  
10 cities the local sales tax remitted by small facilitators. The Secretary must, on a quarterly basis,  
11 distribute to the taxing districts the local occupancy tax paid by small facilitators. The Secretary  
12 may deduct and retain from the amount of local occupancy tax distributed the same percentage  
13 the Secretary deducts and retains from local sales and use tax as the cost of collection. To the  
14 extent this subsection conflicts with any provision of a local act, this subsection supersedes that  
15 provision."

16       **SECTION 1.3.** G.S. 160A-215 reads as rewritten:

17 **"§ 160A-215. Uniform provisions for ~~room~~-local occupancy taxes.**

18       (a) Scope. – This section applies only to municipalities the General Assembly has  
19 authorized to levy ~~room~~-local occupancy taxes. For the purpose of this section, the term "city"  
20 means a municipality.

21       (b) Levy. – A ~~room~~-local occupancy tax may be levied only by resolution, after not less  
22 than 10 days' public notice and after a public hearing held pursuant thereto. A ~~room~~-local  
23 occupancy tax ~~shall become~~-becomes effective on the date specified in the resolution levying  
24 the tax. That date must be either January 1 or July 1 ~~the first day of a calendar month, however,~~  
25 ~~and may not be earlier than the first day of the second month and the date may not be earlier~~  
26 than 45 days after the date the resolution is adopted. Upon adoption of a resolution levying the  
27 tax, the governing board of the municipality must immediately deliver a certified copy of the  
28 resolution to the Secretary of Revenue.

29       (c) Collection. – A retailer who is required to remit to the Department of Revenue the  
30 State sales tax imposed by G.S. 105-164.4(a)(3) on accommodations is required to remit a  
31 ~~room~~-local occupancy tax to the taxing city on and after the effective date of the levy of the  
32 ~~room~~-local occupancy tax. The ~~room~~-local occupancy tax applies to the same gross receipts as  
33 the State sales tax on accommodations and is calculated in the same manner as that tax. A  
34 rental agent or a facilitator, as defined in G.S. 105-164.4(a)(3), has the same responsibility and  
35 liability under the ~~room~~-local occupancy tax as the rental agent or facilitator has under the State  
36 sales tax on accommodations.

37       If a taxable accommodation is furnished as part of a package, the bundled transaction  
38 provisions in G.S. 105-164.4D apply in determining the sales price of the taxable  
39 accommodation. If those provisions do not address the type of package offered, the person  
40 offering the package may determine an allocated price for each item in the package based on a  
41 reasonable allocation of revenue that is supported by the person's business records kept in the  
42 ordinary course of business and calculate tax on the allocated price of the taxable  
43 accommodation.

44       A retailer must separately state the ~~room~~-local occupancy tax. ~~Room-Local~~ occupancy taxes  
45 paid to a retailer are held in trust for and on account of the taxing city.

46       The taxing city ~~shall~~-must design and furnish to all appropriate businesses and persons in  
47 the city the necessary forms for filing returns and instructions to ensure the full collection of the  
48 tax. An operator of a business who collects a ~~room~~-local occupancy tax may deduct from the  
49 amount remitted to the taxing city a discount equal to the discount the State allows the retailer  
50 for State sales and use tax.

1 (d) Administration. – The taxing city ~~shall~~must administer a ~~room~~local occupancy tax  
2 it levies. A ~~room~~local occupancy tax is due and payable to the city finance officer in monthly  
3 installments on or before the 20th day of the month following the month in which the tax  
4 accrues. Every person, firm, corporation, or association liable for the tax ~~shall~~must, on or  
5 before the 20th day of each month, prepare and render a return on a form prescribed by the  
6 taxing city. The return ~~shall~~must state the total gross receipts derived in the preceding month  
7 from rentals upon which the tax is levied. A ~~room~~local occupancy tax return filed with the city  
8 finance officer is not a public record and may not be disclosed except in accordance with  
9 G.S. 153A-148.1 or G.S. 160A-208.1.

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

16 (f) Repeal or Reduction. – A ~~room~~local occupancy tax levied by a city may be  
17 repealed or reduced by a resolution adopted by the governing body of the city. Repeal or  
18 reduction of a ~~room~~local occupancy tax ~~shall~~must become effective on January 1 or July 1, the  
19 first day of a month and may not become effective until the end of the fiscal year in which and  
20 may become effective no earlier than 45 days after the date the resolution was adopted. Repeal  
21 or reduction of a ~~room~~local occupancy tax does not affect a liability for a tax that was attached  
22 before the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax  
23 that accrued before the effective date of the repeal or reduction. Upon adoption of a resolution  
24 repealing or reducing the tax, the governing board of the municipality must immediately deliver  
25 a certified copy of the resolution to the Secretary of Revenue.

26 (f1) Use. – The proceeds of a ~~room~~local occupancy tax shall not be used for  
27 development or construction of a hotel or another transient lodging facility.

28 (g) Applicability. – Subsection (c) of this section applies to all cities that levy ~~an~~a local  
29 occupancy tax. To the extent subsection (c) conflicts with any provision of a local act,  
30 subsection (c) supersedes that provision. The remainder of this section applies only to Beech  
31 Mountain District W, to the Cities of Belmont, Conover, Eden, Elizabeth City, Gastonia,  
32 Goldsboro, Greensboro, Hickory, High Point, Jacksonville, Kings Mountain, Lenoir,  
33 Lexington, Lincolnton, Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Reidsville,  
34 Roanoke Rapids, Salisbury, Shelby, Statesville, Washington, and Wilmington, to the Towns of  
35 Ahoskie, Beech Mountain, Benson, Bermuda Run, Blowing Rock, Boiling Springs, Boone,  
36 Burgaw, Carolina Beach, Carrboro, Cooleemee, Cramerton, Dallas, Dobson, Elkin, Franklin,  
37 Jonesville, Kenly, Kure Beach, Leland, McAdenville, Mocksville, Mooresville, Murfreesboro,  
38 North Topsail Beach, Pembroke, Pilot Mountain, Ranlo, Selma, Smithfield, St. Pauls,  
39 Troutman, Tryon, West Jefferson, Wilkesboro, Wrightsville Beach, Yadkinville, and  
40 Yanceyville, and to the municipalities in Avery and Brunswick Counties."

41 **SECTION 1.4.** G.S. 153A-155 reads as rewritten:

42 "**§ 153A-155. Uniform provisions for ~~room~~local occupancy taxes.**

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

45 (b) Levy. – A ~~room~~local occupancy tax may be levied only by resolution, after not less  
46 than 10 days' public notice and after a public hearing held pursuant thereto. A ~~room~~local  
47 occupancy tax ~~shall become~~becomes effective on the date specified in the resolution levying  
48 the tax. That date must be either January 1 or July 1, the first day of a calendar month, however,  
49 and may not be earlier than the first day of the second month and the date may not be earlier  
50 than 45 days after the date the resolution is adopted. Upon adoption of a resolution levying the

1 tax, the governing board of the county must immediately deliver a certified copy of the  
2 resolution to the Secretary of Revenue.

3 (c) Collection. – A retailer who is required to remit to the Department of Revenue the  
4 State sales tax imposed by G.S. 105-164.4(a)(3) on accommodations is required to remit a  
5 ~~room-local~~ occupancy tax to the taxing county on and after the effective date of the levy of the  
6 ~~room-local~~ occupancy tax. The ~~room-local~~ occupancy tax applies to the same gross receipts as  
7 the State sales tax on accommodations and is calculated in the same manner as that tax. A  
8 rental agent or a facilitator, as defined in G.S. 105-164.4(a)(3), has the same responsibility and  
9 liability under the ~~room-local~~ occupancy tax as the rental agent or facilitator has under the State  
10 sales tax on accommodations.

11 If a taxable accommodation is furnished as part of a package, the bundled transaction  
12 provisions in G.S. 105-164.4D apply in determining the sales price of the taxable  
13 accommodation. If those provisions do not address the type of package offered, the person  
14 offering the package may determine an allocated price for each item in the package based on a  
15 reasonable allocation of revenue that is supported by the person's business records kept in the  
16 ordinary course of business and calculate tax on the allocated price of the taxable  
17 accommodation.

18 A retailer must separately state the ~~room-local~~ occupancy tax. Room-Local occupancy taxes  
19 paid to a retailer are held in trust for and on account of the taxing county.

20 The taxing county ~~shall~~must design and furnish to all appropriate businesses and persons in  
21 the county the necessary forms for filing returns and instructions to ensure the full collection of  
22 the tax. A retailer who collects a ~~room-local~~ occupancy tax may deduct from the amount  
23 remitted to the taxing county a discount equal to the discount the State allows the retailer for  
24 State sales and use tax.

25 (d) Administration. – The taxing county ~~shall~~must administer a ~~room-local~~ occupancy  
26 tax it levies. A ~~room-local~~ occupancy tax is due and payable to the county finance officer in  
27 monthly installments on or before the 20th day of the month following the month in which the  
28 tax accrues. Every person, firm, corporation, or association liable for the tax ~~shall~~must, on or  
29 before the 20th day of each month, prepare and render a return on a form prescribed by the  
30 taxing county. The return ~~shall~~must state the total gross receipts derived in the preceding  
31 month from rentals upon which the tax is levied. A ~~room-local~~ occupancy tax return filed with  
32 the county finance officer is not a public record and may not be disclosed except in accordance  
33 with G.S. 153A-148.1 or G.S. 160A-208.1.

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

40 (f) Repeal or Reduction. – A ~~room-local~~ occupancy tax levied by a county may be  
41 repealed or reduced by a resolution adopted by the governing body of the county. Repeal or  
42 reduction of a ~~room-local~~ occupancy tax ~~shall~~must become effective on January 1 or July 1~~the~~  
43 ~~first day of a month and may not become effective until the end of the fiscal year in which and~~  
44 may become effective no earlier than 45 days after the date the resolution was adopted. Repeal  
45 or reduction of a ~~room-local~~ occupancy tax does not affect a liability for a tax that was attached  
46 before the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax  
47 that accrued before the effective date of the repeal or reduction. Upon adoption of a resolution  
48 repealing or reducing the tax, the governing board of the county must immediately deliver a  
49 certified copy of the resolution to the Secretary of Revenue.

50 (f1) Use. – The proceeds of a ~~room-local~~ occupancy tax shall not be used for  
51 development or construction of a hotel or another transient lodging facility.

(g) Applicability. – Subsection (c) of this section applies to all counties and county districts that levy ~~an~~ a local occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this section applies only to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell, Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Forsyth, Franklin, Granville, Halifax, Haywood, Madison, Martin, McDowell, Montgomery, Nash, New Hanover, New Hanover County District U, Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, Washington, and Wilson Counties, to Surry County District S, to Watauga County District U, to Wilkes County District K, to Yadkin County District Y, and to the Township of Averagesboro in Harnett County and the Ocracoke Township Taxing District."

**SECTION 1.5.** This Part becomes effective October 1, 2011.

## **PART II. SIMPLIFY COLLECTION AND ADMINISTRATION OF LOCAL OCCUPANCY TAX**

**SECTION 2.1.** The title of Subchapter VIII of Chapter 105 of the General Statutes reads as rewritten:

**~~"SUBCHAPTER VIII. LOCAL GOVERNMENT SALES AND USE TAX STATE-ADMINISTERED LOCAL TAXES."~~**

**SECTION 2.2.** Subchapter VIII of Chapter 105 of the General Statutes is amended by adding the following new Article to read:

"Article 49.

"Local Occupancy Taxes.

### **"§ 105-490. Definitions.**

The definitions in Article 5 of this Chapter and the following definitions apply in this Article:

- (1) Local occupancy tax. – A tax imposed on the rental of an accommodation by the governing board of a local taxing district pursuant to a local act.
- (2) Net proceeds. – The gross proceeds of the local occupancy tax collected in each taxing district, less taxes refunded, the cost to the State of collecting and administering the tax, and other deductions that may be charged to the taxing district. The State's cost is the same percentage the Secretary deducts and retains from local sales and use tax as the cost of collection.
- (3) Taxing district. – A county, city, or other taxing district authorized to levy a local occupancy tax pursuant to a local act.

### **"§ 105-491. Secretary to collect and administer local occupancy taxes.**

A local occupancy tax on a rental accommodation is payable to the Secretary at the time and in the manner as the sales tax on that accommodation. A facilitator that is required by G.S. 105-164.4(a)(3) to pay tax to a retailer on a portion of the sales price of an accommodation rental marketed by the facilitator may elect to pay the tax to the Secretary instead of to the retailer in accordance with G.S. 105-164.16A. The Secretary must distribute the net proceeds of the local occupancy tax to the taxing districts in which the tax was collected. The governing board of a taxing district must distribute and use the net proceeds in accordance with the local act authorizing the distribution and use of the local occupancy tax.

### **"§ 105-492. Local occupancy tax database.**

The Secretary must develop a database that describes the boundaries of each taxing district and the local occupancy tax rate applicable to each of the taxing districts. A person who relies on the information provided in the database is not liable for underpayments of tax attributable to erroneous information provided by the Secretary in the database."

1           **SECTION 2.3.** G.S. 105-164.16A, as enacted by Section 1.2 of this act, reads as  
2 rewritten:

3 "**§ 105-164.16A. Election by ~~small~~ facilitator to pay tax on accommodation rentals**  
4 **directly to Secretary.**

5       (a) Definitions. – The definitions in G.S. 105-164.4(a)(3) and G.S. 105-490 ~~the~~  
6 ~~following definitions apply in this section:section.~~

7           (1) ~~Local occupancy tax. — A tax imposed on the rental of an accommodation by~~  
8 ~~the governing board of a local taxing district pursuant to a local act.~~

9           (2) ~~Small facilitator. — A facilitator whose cumulative gross receipts for the~~  
10 ~~preceding calendar year, when combined with the gross receipts of all~~  
11 ~~related persons, as defined in G.S. 105-163.010, do not exceed five million~~  
12 ~~dollars (\$5,000,000).~~

13           (3) ~~Taxing district. — A county, city, or other taxing district authorized to levy a~~  
14 ~~local occupancy tax pursuant to a local act.~~

15       (b) Election. – A ~~small~~ facilitator that is required by G.S. 105-164.4(a)(3) to pay tax to  
16 a retailer on a portion of the sales price of an accommodation rental marketed by the facilitator  
17 may elect to pay the tax to the Secretary instead of to the retailer. To make this election, a ~~small~~  
18 facilitator must file an application with the Secretary. The application must be on a form  
19 provided by the Secretary and contain the information required by the Secretary. The Secretary  
20 must use gross receipts for the calendar year preceding the year in which an election  
21 application is filed to determine if the facilitator is a ~~small~~ facilitator.

22       Once granted, an election is effective until it is rescinded by the ~~small~~ facilitator or revoked  
23 by the Secretary. The Secretary may revoke the election if the ~~small~~ facilitator fails to comply  
24 with this section. If an election is rescinded or revoked, the ~~small~~ facilitator must comply with  
25 G.S. 105-164.4(a)(3).

26       (c) Scope and Effect. – An election under this section applies to sales tax and to local  
27 occupancy tax. A ~~small~~ facilitator that makes the election allowed by this section agrees to  
28 report and to remit to the Secretary the sales tax and local occupancy tax due on charges by the  
29 facilitator that are part of the sales price of the accommodation rental, and the ~~small~~ facilitator  
30 is liable for these taxes to the same extent as if the ~~small~~ facilitator were a retailer. An election  
31 under this section by a ~~small~~ facilitator relieves a retailer for whom the ~~small~~ facilitator markets  
32 an accommodation of the obligation to collect sales tax and local occupancy tax from the ~~small~~  
33 facilitator and remit it to the Secretary.

34       (d) Notice. – A ~~small~~ facilitator that makes an election under this section must, within  
35 30 business days, notify a retailer for whom the facilitator markets an accommodation when  
36 any of the following occurs:

37           (1) The Secretary grants the ~~small~~ facilitator's election application.

38           (2) The Secretary revokes the ~~small~~ facilitator's election.

39           (3) The ~~small~~ facilitator rescinds the election.

40       (e) Payment and Distribution. – The Secretary must provide a form for use by a ~~small~~  
41 facilitator that makes the election allowed by this section to report and to pay the tax due. The  
42 Secretary must, in accordance with Subchapter VIII of this Chapter, distribute to counties and  
43 cities the local sales tax remitted by ~~small~~ facilitators. The Secretary must, on a quarterly basis,  
44 distribute to the taxing districts the local occupancy tax paid by ~~small~~ facilitators. The Secretary  
45 may deduct and retain from the amount of local occupancy tax distributed the same percentage  
46 the Secretary deducts and retains from local sales and use tax as the cost of collection. To the  
47 extent this subsection conflicts with any provision of a local act, this subsection supersedes that  
48 provision."

49       **SECTION 2.4.** G.S. 105-228.90(b)(7) reads as rewritten:

50       "(7) Tax. – A tax levied or collected under Subchapter I, V, or VIII of this  
51 Chapter, the primary forest product assessment levied under Article 12 of

Chapter 113A of the General Statutes, or an inspection tax levied under Article 3 of Chapter 119 of the General Statutes. Unless the context clearly requires otherwise, the term "tax" includes penalties and interest as well as the principal amount."

**SECTION 2.5.** G.S. 160A-215, as amended by Section 1.3 of this act, reads as rewritten:

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

...

(c) Collection. – A retailer who is required to remit to the Department of Revenue the State sales tax imposed by G.S. 105-164.4(a)(3) on accommodations is required to remit a local occupancy tax to the ~~taxing city~~ Department of Revenue on and after the effective date of the levy of the local occupancy tax. The local occupancy tax applies to the same gross receipts as the State sales tax on accommodations and is calculated in the same manner as that tax. A rental agent or a facilitator, as defined in G.S. 105-164.4(a)(3), has the same responsibility and liability under the local occupancy tax as the rental agent or facilitator has under the State sales tax on accommodations.

If a taxable accommodation is furnished as part of a package, the bundled transaction provisions in G.S. 105-164.4D apply in determining the sales price of the taxable accommodation. If those provisions do not address the type of package offered, the person offering the package may determine an allocated price for each item in the package based on a reasonable allocation of revenue that is supported by the person's business records kept in the ordinary course of business and calculate tax on the allocated price of the taxable accommodation.

A retailer must separately state the local occupancy tax. Local occupancy taxes paid to a retailer are held in trust for and on account of the taxing city.

~~The taxing city must design and furnish to all appropriate businesses and persons in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a local occupancy tax may deduct from the amount remitted to the taxing city a discount equal to the discount the State allows the retailer for State sales and use tax.~~

(d) Administration. – ~~The taxing city must administer a local occupancy tax it levies. A local occupancy tax is due and payable to the city finance officer in monthly installments on or before the 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax must, on or before the 20th day of each month, prepare and render a return on a form prescribed by the taxing city. The return must state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A local occupancy tax return filed with the city 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. The Department of Revenue must administer a local occupancy tax levied by a city in accordance with Article 49 of Chapter 105 of the General Statutes.~~

(e) Penalties. – A person, firm, corporation, or association who fails or refuses to file a local occupancy tax return or pay a local 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 city has the same authority to waive the penalties for a local occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.~~

...

(g) Applicability. – ~~Subsection (e)~~ Subsections (c) and (d) of this section applies apply to all cities that levy a local occupancy tax. To the extent subsection (c) or subsection (d) of this section conflicts with any provision of a local act, subsection (c) or subsection (d) of this section supersedes that provision. provision, respectively. The remainder of this section applies



1 only to Beech Mountain District W, to the Cities of Belmont, Conover, Eden, Elizabeth City,  
2 Gastonia, Goldsboro, Greensboro, Hickory, High Point, Jacksonville, Kings Mountain, Lenoir,  
3 Lexington, Lincolnton, Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Reidsville,  
4 Roanoke Rapids, Salisbury, Shelby, Statesville, Washington, and Wilmington, to the Towns of  
5 Ahoskie, Beech Mountain, Benson, Bermuda Run, Blowing Rock, Boiling Springs, Boone,  
6 Burgaw, Carolina Beach, Carrboro, Cooleemee, Cramerton, Dallas, Dobson, Elkin, Franklin,  
7 Jonesville, Kenly, Kure Beach, Leland, McAdenville, Mocksville, Mooresville, Murfreesboro,  
8 North Topsail Beach, Pembroke, Pilot Mountain, Ranlo, Selma, Smithfield, St. Pauls,  
9 Troutman, Tryon, West Jefferson, Wilkesboro, Wrightsville Beach, Yadkinville, and  
10 Yanceyville, and to the municipalities in Avery and Brunswick Counties."

11 **SECTION 2.6.** G.S. 153A-155, as amended by Section 1.4 of this act, reads as  
12 rewritten:

13 "**§ 153A-155. Uniform provisions for local occupancy taxes.**

14 ...

15 (c) Collection. – A retailer who is required to remit to the Department of Revenue the  
16 State sales tax imposed by G.S. 105-164.4(a)(3) on accommodations is required to remit a local  
17 occupancy tax to the ~~taxing county~~ Department of Revenue on and after the effective date of  
18 the levy of the local occupancy tax. The local occupancy tax applies to the same gross receipts  
19 as the State sales tax on accommodations and is calculated in the same manner as that tax. A  
20 rental agent or a facilitator, as defined in G.S. 105-164.4(a)(3), has the same responsibility and  
21 liability under the local occupancy tax as the rental agent or facilitator has under the State sales  
22 tax on accommodations.

23 If a taxable accommodation is furnished as part of a package, the bundled transaction  
24 provisions in G.S. 105-164.4D apply in determining the sales price of the taxable  
25 accommodation. If those provisions do not address the type of package offered, the person  
26 offering the package may determine an allocated price for each item in the package based on a  
27 reasonable allocation of revenue that is supported by the person's business records kept in the  
28 ordinary course of business and calculate tax on the allocated price of the taxable  
29 accommodation.

30 A retailer must separately state the local occupancy tax. Local occupancy taxes paid to a  
31 retailer are held in trust for and on account of the taxing county.

32 ~~The taxing county must design and furnish to all appropriate businesses and persons in the~~  
33 ~~county the necessary forms for filing returns and instructions to ensure the full collection of the~~  
34 ~~tax. A retailer who collects a local occupancy tax may deduct from the amount remitted to the~~  
35 ~~taxing county a discount equal to the discount the State allows the retailer for State sales and~~  
36 ~~use tax.~~

37 (d) Administration. – ~~The taxing county must administer a local occupancy tax it levies.~~  
38 ~~A local occupancy tax is due and payable to the county finance officer in monthly installments~~  
39 ~~on or before the 20th day of the month following the month in which the tax accrues. Every~~  
40 ~~person, firm, corporation, or association liable for the tax must, on or before the 20th day of~~  
41 ~~each month, prepare and render a return on a form prescribed by the taxing county. The return~~  
42 ~~must state the total gross receipts derived in the preceding month from rentals upon which the~~  
43 ~~tax is levied. A local occupancy tax return filed with the county finance officer is not a public~~  
44 ~~record and may not be disclosed except in accordance with G.S. 153A-148.1 or~~  
45 ~~G.S. 160A-208.1. The Department of Revenue must administer a room occupancy tax levied by~~  
46 a city in accordance with Article 49 of Chapter 105 of the General Statutes.

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

1 penalties for a local occupancy tax that the Secretary of Revenue has to waive the penalties for  
2 State sales and use taxes.

3 ...

4 (g) Applicability. – ~~Subsection (e)~~ Subsections (c) and (d) of this section ~~applies~~ apply  
5 to all cities that levy a local occupancy tax. To the extent subsection (c) or subsection (d) of this  
6 section conflicts with any provision of a local act, subsection (c) or subsection (d) of this  
7 section supersedes that ~~provision~~ provision, respectively. The remainder of this section applies  
8 only to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret,  
9 Caswell, Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie,  
10 Duplin, Durham, Forsyth, Franklin, Granville, Halifax, Haywood, Madison, Martin,  
11 McDowell, Montgomery, Nash, New Hanover, New Hanover County District U, Northampton,  
12 Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan,  
13 Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, Washington, and Wilson  
14 Counties, to Surry County District S, to Watauga County District U, to Wilkes County District  
15 K, to Yadkin County District Y, and to the Township of Averagesboro in Harnett County and the  
16 Ocracoke Township Taxing District."

17 **SECTION 2.7.** Within 60 days of the effective date of this Part, each taxing  
18 district, as defined in G.S. 105-164.16A and enacted by Section 1.2 of this act, that levies a  
19 local occupancy tax on the effective date of this Part must send to the Secretary of Revenue a  
20 copy of the resolution authorizing the levy of the local occupancy tax.

21 **SECTION 2.8.** This Part becomes effective January 1, 2013, and applies to local  
22 occupancy taxes remitted on or after that date.

23 **SECTION 3.** This act is effective as provided herein.