

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 734

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

Sponsors: Senator Hartsell.

Referred to: Finance.

April 20, 2011

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
36 between the retailer and the facilitator. A facilitator that elects under
37 G.S. 105-164.16A to remit tax to the Secretary instead of to the retailer is



1 not subject to the requirements imposed by this subdivision to report and to
2 pay tax to the retailer.

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

9 The following definitions apply in this subdivision:

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

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

17 **"§ 105-164.16A. Election by small facilitator to pay tax on accommodation rentals**
18 **directly to Secretary.**

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

- 21 (1) Local occupancy tax. – A tax imposed on the rental of an accommodation by
22 the governing board of a taxing district pursuant to a local act.
23 (2) Small facilitator. – A facilitator whose cumulative gross receipts for the
24 preceding calendar year, when combined with the cumulative gross receipts
25 of all related persons, as defined in G.S. 105-163.010, do not exceed five
26 million dollars (\$5,000,000).
27 (3) Taxing district. – A county, city, or other taxing district authorized to levy a
28 local occupancy tax pursuant to a local act.

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

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

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

48 (d) Notice. – A small facilitator that makes an election under this section must, within
49 30 business days, notify a retailer for whom the facilitator markets an accommodation when
50 any of the following occurs:

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

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

2 (3) The small facilitator rescinds the election.

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

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

13 "**§ 160A-215. Uniform provisions for ~~room~~-local occupancy taxes.**

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

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

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

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

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

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

47 (d) Administration. – The taxing city ~~shall~~ must administer a ~~room~~-local occupancy tax
48 it levies. A ~~room~~-local occupancy tax is due and payable to the city finance officer in monthly
49 installments on or before the 20th day of the month following the month in which the tax
50 accrues. Every person, firm, corporation, or association liable for the tax ~~shall~~ must, on or
51 before the 20th day of each month, prepare and render a return on a form prescribed by the

1 taxing city. The return ~~shall~~must state the total gross receipts derived in the preceding month
2 from rentals upon which the tax is levied. A ~~room-local~~ occupancy tax return filed with the city
3 finance officer is not a public record and may not be disclosed except in accordance with
4 G.S. 153A-148.1 or G.S. 160A-208.1.

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

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

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

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

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

37 "**§ 153A-155. Uniform provisions for ~~room-local~~ occupancy taxes.**

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

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

48 (c) Collection. – A retailer who is required to remit to the Department of Revenue the
49 State sales tax imposed by G.S. 105-164.4(a)(3) on accommodations is required to remit a
50 ~~room-local~~ occupancy tax to the taxing county on and after the effective date of the levy of the
51 ~~room-local~~ occupancy tax. The ~~room-local~~ occupancy tax applies to the same gross receipts as

1 the State sales tax on accommodations and is calculated in the same manner as that tax. A
2 rental agent or a facilitator, as defined in G.S. 105-164.4(a)(3), has the same responsibility and
3 liability under the ~~room-local~~ occupancy tax as the rental agent or facilitator has under the State
4 sales tax on accommodations.

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

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

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

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

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

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

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

46 (g) Applicability. – Subsection (c) of this section applies to all counties and county
47 districts that levy ~~an~~ a local occupancy tax. To the extent subsection (c) conflicts with any
48 provision of a local act, subsection (c) supersedes that provision. The remainder of this section
49 applies only to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret,
50 Caswell, Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie,
51 Duplin, Durham, Forsyth, Franklin, Granville, Halifax, Haywood, Madison, Martin,

1 McDowell, Montgomery, Nash, New Hanover, New Hanover County District U, Northampton,
2 Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan,
3 Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, Washington, and Wilson
4 Counties, to Surry County District S, to Watauga County District U, to Wilkes County District
5 K, to Yadkin County District Y, and to the Township of Averagesboro in Harnett County and the
6 Ocracoke Township Taxing District."

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

8
9 **PART II. SIMPLIFY COLLECTION AND ADMINISTRATION OF LOCAL**
10 **OCCUPANCY TAX**

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

13 ~~"SUBCHAPTER VIII. LOCAL GOVERNMENT SALES AND USE~~
14 ~~TAX, STATE-ADMINISTERED LOCAL TAXES."~~

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

17 "Article 49.

18 "Local Occupancy Taxes.

19 **"§ 105-490. Definitions.**

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

- 22 (1) Local occupancy tax. – A tax imposed on the rental of an accommodation by
23 the governing board of a local taxing district pursuant to a local act.
24 (2) Net proceeds. – The gross proceeds of the local occupancy tax collected in
25 each taxing district, less taxes refunded, the cost to the State of collecting
26 and administering the tax, and other deductions that may be charged to the
27 taxing district. The State's cost is the same percentage the Secretary deducts
28 and retains from local sales and use tax as the cost of collection.
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 **"§ 105-491. Secretary to collect and administer local occupancy taxes.**

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

40 **"§ 105-492. Local occupancy tax database.**

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

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

47 **"§ 105-164.16A. Election by ~~small~~ facilitator to pay tax on accommodation rentals**
48 **directly to Secretary.**

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

- 1 (1) ~~Local occupancy tax.~~— A tax imposed on the rental of an accommodation by
2 the governing board of a local taxing district pursuant to a local act.
- 3 (2) ~~Small facilitator.~~— A facilitator whose cumulative gross receipts for the
4 preceding calendar year, when combined with the gross receipts of all
5 related persons, as defined in G.S. 105-163.010, do not exceed five million
6 dollars (\$5,000,000).
- 7 (3) ~~Taxing district.~~— A county, city, or other taxing district authorized to levy a
8 local occupancy tax pursuant to a local act.

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

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

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

28 (d) Notice. – A ~~small-facilitator~~ that makes an election under this section must, within
29 30 business days, notify a retailer for whom the facilitator markets an accommodation when
30 any of the following occurs:

- 31 (1) The Secretary grants the ~~small-facilitator's~~ election application.
32 (2) The Secretary revokes the ~~small-facilitator's~~ election.
33 (3) The ~~small-facilitator~~ rescinds the election.

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

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

44 "(7) Tax. – A tax levied or collected under Subchapter I, V, or VIII of this
45 Chapter, the primary forest product assessment levied under Article 12 of
46 Chapter 113A of the General Statutes, or an inspection tax levied under
47 Article 3 of Chapter 119 of the General Statutes. Unless the context clearly
48 requires otherwise, the term "tax" includes penalties and interest as well as
49 the principal amount."

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

1 **"§ 160A-215. Uniform provisions for local occupancy taxes.**

2 ...
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 local
5 occupancy tax to the ~~taxing city~~ Department of Revenue on and after the effective date of the
6 levy of the local occupancy tax. The 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 local occupancy tax as the rental agent or facilitator has under the State sales
10 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 local occupancy tax. Local occupancy taxes paid to a
19 retailer are held in trust for and on account of the taxing city.

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

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

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

41 ...
42 (g) Applicability. – ~~Subsection (e)~~ Subsections (c) and (d) of this section ~~applies~~ apply
43 to all cities that levy a local occupancy tax. To the extent subsection (c) or subsection (d) of this
44 section conflicts with any provision of a local act, subsection (c) or subsection (d) of this
45 section supersedes that provision, provision, respectively. The remainder of this section applies
46 only to Beech Mountain District W, to the Cities of Belmont, Conover, Eden, Elizabeth City,
47 Gastonia, Goldsboro, Greensboro, Hickory, High Point, Jacksonville, Kings Mountain, Lenoir,
48 Lexington, Lincolnton, Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Reidsville,
49 Roanoke Rapids, Salisbury, Shelby, Statesville, Washington, and Wilmington, to the Towns of
50 Ahoskie, Beech Mountain, Benson, Bermuda Run, Blowing Rock, Boiling Springs, Boone,
51 Burgaw, Carolina Beach, Carrboro, Cooleemee, Cramerton, Dallas, Dobson, Elkin, Franklin,

1 Jonesville, Kenly, Kure Beach, Leland, McAdenville, Mocksville, Mooresville, Murfreesboro,
2 North Topsail Beach, Pembroke, Pilot Mountain, Ranlo, Selma, Smithfield, St. Pauls,
3 Troutman, Tryon, West Jefferson, Wilkesboro, Wrightsville Beach, Yadkinville, and
4 Yanceyville, and to the municipalities in Avery and Brunswick Counties."

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

7 "**§ 153A-155. Uniform provisions for local occupancy taxes.**

8 ...

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

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

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

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

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

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

47 ...

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

1 only to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret,
2 Caswell, Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie,
3 Duplin, Durham, Forsyth, Franklin, Granville, Halifax, Haywood, Madison, Martin,
4 McDowell, Montgomery, Nash, New Hanover, New Hanover County District U, Northampton,
5 Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan,
6 Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, Washington, and Wilson
7 Counties, to Surry County District S, to Watauga County District U, to Wilkes County District
8 K, to Yadkin County District Y, and to the Township of Averagesboro in Harnett County and the
9 Ocracoke Township Taxing District."

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

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

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