

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2006-167
SENATE BILL 1431**

AN ACT (1) TO AUTHORIZE THE TOWN OF BURGAW TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX; AND (2) TO CREATE THE WILMINGTON CONVENTION CENTER DISTRICT; TO MODIFY THE DISTRIBUTION OF COUNTY AND CITY OCCUPANCY TAX PROCEEDS DERIVED FROM ACCOMMODATIONS LOCATED IN THE DISTRICT; TO CREATE THE NEW HANOVER COUNTY DISTRICT U; TO AUTHORIZE THE NEW HANOVER COUNTY DISTRICT U TO LEVY A THREE PERCENT OCCUPANCY TAX; AND TO MAKE ADMINISTRATIVE CHANGES TO THE WILMINGTON OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

BURGAW OCCUPANCY TAX

SECTION 1. Occupancy tax. – (a) Authorization and Scope. – The Board of Commissioners of the Town of Burgaw may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). 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.

SECTION 1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 1.(c) Distribution and Use of Tax Revenue. – The Town of Burgaw shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Burgaw Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Burgaw and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct

market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Burgaw Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

SECTION 2. Tourism Development Authority. – (a) Appointment and Membership. – When the Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Burgaw Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members shall be individuals who are currently active in the promotion of travel and tourism in the town. The Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for the Town of Burgaw shall be the ex officio finance officer of the Authority.

SECTION 2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

SECTION 2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the Board of Commissioners may require.

SECTION 3. G.S. 160A-215(g) reads as rewritten:

"(g) This section applies only to Beech Mountain District W, to the Cities of Belmont, Elizabeth City, Eden, Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain, Lexington, Lincolnton, Lumberton, Monroe, Mount Airy, Reidsville, Roanoke Rapids, Shelby, Statesville, Washington, and Wilmington, to the Towns of Beech Mountain, Blowing Rock, Burgaw, Carolina Beach, Carrboro, Franklin, Kure Beach, Jonesville, Mooresville, North Topsail Beach, Selma, Smithfield, St. Pauls, Troutman, West Jefferson, Wilkesboro, and Wrightsville Beach, and to the municipalities in Avery and Brunswick Counties."

NEW HANOVER OCCUPANCY TAX CHANGES

SECTION 4. Section 3 of S.L. 2002-138 reads as rewritten:

"**SECTION 3.** Section 36.1 of Chapter 908 of the 1983 Session Laws is recodified as Section ~~32(b)~~31(b) of Chapter 908 of the 1983 Session Laws."

SECTION 5. Part VIII of Chapter 908 of the 1983 Session Laws, as amended by Chapter 987 of the 1983 Session Laws, Chapters 726 and 971 of the 1985 Session Laws, Chapter 540 of the 1995 Session Laws, S.L. 2002-138, and S.L. 2003-166, reads as rewritten:

"Part VIII. New Hanover Occupancy Tax.

"Sec. 31. Levy of Tax. – (a) Two-Percent Tax. – The New Hanover County Board of Commissioners may levy a room occupancy and tourism development tax of two percent (2%) of the gross receipts derived from the rental of any ~~accommodations room, lodging, or accommodation~~ furnished by a hotel, motel, inn, tourist camp, or similar place within the county that ~~are~~is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, benevolent, or religious ~~organizations~~organizations when furnished in furtherance of their nonprofit purpose.

(b) Additional One-Percent Tax. – In addition to the tax authorized by subsection (a) of this section, the New Hanover County Board of Commissioners may levy a room occupancy and tourism development tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under that subsection. The levy, collection, administration, and repeal of the tax authorized by this subsection, and the use of tax revenue from a tax levied under this subsection, shall be in accordance with Sections 31 through 35 of this Part. New Hanover County may not levy a tax under this subsection unless it also levies a tax under subsection (a) of this section.

"Sec. 32. Definitions. – The following definitions apply in this Part:

- (1) Beach nourishment. – The placement of sand, from other sand sources, on a beach or dune by mechanical means and other associated activities that are in conformity with the North Carolina Coastal Management Program along the shorelines of the Atlantic Ocean of North Carolina and connecting inlets for the purpose of widening the beach to benefit public recreational use and mitigating damage and erosion from storms to inland property. The term includes expenditures for any of the following:
 - a. Costs directly associated with qualifying for projects either contracted through the U.S. Army Corps of Engineers or otherwise permitted by all appropriate federal and State agencies.
 - b. The nonfederal share of the cost required to construct these projects.
 - c. The costs associated with providing enhanced public beach access.
 - d. The costs of associated nonhardening activities such as the planting of vegetation, the building of dunes, and the placement of sand fences.

- (2) Beach towns. – Carolina Beach, Kure Beach, and Wrightsville Beach.
- (3) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (4) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.
- (5) Tourism-related expenditures. – Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in an area by attracting tourists or business travelers to the area. The term includes tourism-related capital expenditures and beach nourishment.

"Sec. 33. Administration of Tax. – A tax levied under this ~~aet-Part~~ shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this ~~aet-Part~~.

"Sec. 34. Establishment of the Cape Fear Coast Convention and Visitors Bureau as a Tourism Development Authority. – (a) Creation. – As soon as practicable before February 1, 2003, the board of commissioners shall adopt a resolution creating the Cape Fear Coast Convention and Visitors Bureau, a tourism development authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The county shall transfer to the Authority upon its creation all the assets of the county's convention and visitors bureau.

(b) Membership. – The Authority shall be composed of the following 15 voting members: five ex officio members or their designees and 10 additional members appointed by the board of commissioners.

- (1) The ex officio members are listed below. Each ex officio member may designate to serve in the member's place an individual who serves on the governing body of the county or municipality that the member represents.
 - a. The chair of the board of county commissioners.
 - b. The mayor of the City of Wilmington.
 - c. The mayors of the beach towns.
- (2) The board of county commissioners shall appoint the members listed below. The resolution creating the Authority must provide for staggered terms for the appointed members.
 - a. The owner or manager of a hotel of 150 rooms or more in the town of Wrightsville Beach. This individual must have experience in promoting travel and tourism.
 - b. The owner or manager of a hotel in the town of Carolina Beach and the owner or manager of a hotel in the town of Kure Beach.

These individuals must have experience in promoting travel and tourism.

- c. The owner or manager of a hotel of 150 rooms or more in the City of Wilmington. This individual must have experience in promoting travel and tourism.
- d. The owner or manager of a hotel of fewer than 150 rooms in the City of Wilmington. This individual must have experience in promoting travel and tourism.
- e. The owner or manager of a bed and breakfast facility. This individual must have experience in promoting travel and tourism.
- f. The owner or manager of a company that manages and rents more than 100 vacation rental properties. This individual must have experience in promoting travel and tourism.
- g. A representative of a tourism attraction in the county who is actively involved in the promotion of travel and tourism in the county.
- h. A representative of the Wilmington Chamber of Commerce who is actively involved in promoting travel and tourism in the county.
- i. The owner or manager of a restaurant business in the county.

(c) Administration. – The board of commissioners shall determine the compensation, if any, to be paid to members of the Authority. The resolution creating the Authority must designate one member of the Authority to serve as the initial chair. The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. During the first quarter of each calendar year beginning in 2004, the Authority must meet to elect a chair from among its members. The Finance Officer for New Hanover County shall be the ex officio finance officer of the Authority.

(d) Duties. – The Authority shall expend the net proceeds of the taxes distributed to it for the purposes provided by law. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

(e) Reports. – The Authority shall report quarterly and at the close of the fiscal year on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require. It shall file these reports with the board of commissioners and with the governing body of each municipality in the county.

"Sec. 34.1. Establishment of the Wilmington Convention Center District. – The area in Wilmington, North Carolina, extending from the Isabel S. Holmes Bridge to the Cape Fear Memorial Bridge with Fourth Street on one side and the Cape Fear River on the other side shall be known as the Wilmington Convention Center District.

"Sec. 35. Disposition of Taxes Collected. –

(a) Except as otherwise provided in subsection (b) of this section, New Hanover County shall distribute the net proceeds of the occupancy taxes levied under Section 31 of this Part-part as provided in this section:subsection:

(1) Proceeds Derived from Accommodations in the Convention Center District. – The net proceeds derived from accommodations located in the Wilmington Convention Center District shall be distributed as follows:

- a. Forty percent (40%) shall be remitted quarterly to the convention center account, established in accordance with S.L. 2002-139, as amended. The proceeds in the account shall be remitted quarterly to and used by the City of Wilmington only in accordance with Section 1(d) of S.L. 2002-139, as amended.
- b. Thirty percent (30%) shall be deposited in a special fund, the cash balance of which shall be deposited at interest or invested in accordance with G.S. 159-30. These funds shall be used only for beach nourishment.
- c. Thirty percent (30%) shall be distributed on a quarterly basis to the Tourism Development Authority. These funds shall be used only to promote travel and tourism throughout New Hanover County. These funds shall not be used to plan, construct, operate, or maintain a civic center, convention center, public auditorium, or like facility.

(2) Proceeds Derived from Accommodations Outside the Convention Center District. – The net proceeds derived from accommodations located outside the Wilmington Convention Center District shall be distributed as follows:

- a. Sixty percent (60%) of the net proceeds shall be deposited in a special fund, the cash balance of which shall be deposited at interest or invested in accordance with G.S. 159-30. These funds shall be used only for beach nourishment.
- b. Forty percent (40%) of the net proceeds shall be distributed on a quarterly basis to the Tourism Development Authority. These funds shall be used only to promote travel and tourism throughout New Hanover County. These funds shall not be used to plan, construct, operate, or maintain a civic center, convention center, public auditorium, or like facility.

(b) If construction has not begun on a public convention center in the Wilmington Convention Center District by July 1, 2008, then the Wilmington Convention Center District is dissolved, and the City of Wilmington must return to the county any funds it received under this section that have not been spent or committed. The county shall use these returned funds and all future tax proceeds derived from occupancy taxes levied under Section 31 of this part as follows:

- (1) Sixty percent (60%) of the net proceeds shall be deposited in a special fund, the cash balance of which shall be deposited at interest or invested in accordance with G.S. 159-30. These funds shall be used only for beach nourishment.

- (2) Forty percent (40%) of the net proceeds shall be distributed on a quarterly basis to the Tourism Development Authority. These funds shall be used only to promote travel and tourism throughout New Hanover County. These funds shall not be used to plan, construct, operate, ~~maintain, or in any way promote or maintain~~ a civic center, convention center, public auditorium, or like facility."

SECTION 6.(a) Section 35 of Part VIII of Chapter 908 of the 1983 Session Laws, as amended by Chapter 987 of the 1983 Session Laws, Chapter 971 of the 1985 Session Laws, Chapter 540 of the 1995 Session Laws, S.L. 2002-138, and Section 5 of this act, reads as rewritten:

"Sec. 35. Disposition of Taxes Collected. –

(a) Except as otherwise provided in subsection (b) of this section, New Hanover County shall distribute the net proceeds of the occupancy taxes levied under Section 31 of this part as provided in this subsection:

- (1) Proceeds Derived from Accommodations in the Convention Center District. – ~~One hundred percent (100%) of the~~The net proceeds derived from accommodations located in the Wilmington Convention Center District shall be ~~distributed as follows:~~

- a. ~~Forty percent (40%) shall be remitted quarterly to the convention center account, established in accordance with S.L. 2002-139, as amended. The proceeds in the account shall be remitted quarterly to and used by the City of Wilmington only in accordance with Section 1(d) of S.L. 2002-139, as amended by this act.~~
- b. ~~Thirty percent (30%) shall be deposited in a special fund, the cash balance of which shall be deposited at interest or invested in accordance with G.S. 159-30. These funds shall be used only for beach nourishment.~~
- c. ~~Thirty percent (30%) shall be distributed on a quarterly basis to the Tourism Development Authority. These funds shall be used only to promote travel and tourism throughout New Hanover County. These funds shall not be used to plan, construct, operate, or maintain a civic center, convention center, public auditorium, or like facility.~~

- (2) Proceeds Derived from Accommodations Outside the Convention Center District. – The net proceeds derived from accommodations located outside the Wilmington Convention Center District shall be distributed as follows:

- a. Sixty percent (60%) of the net proceeds shall be deposited in a special fund, the cash balance of which shall be deposited at interest or invested in accordance with G.S. 159-30. These funds shall be used only for beach nourishment.
- b. Forty percent (40%) of the net proceeds shall be distributed on a quarterly basis to the Tourism Development Authority. These

funds shall be used only to promote travel and tourism throughout New Hanover County. These funds shall not be used to plan, construct, operate, or maintain a civic center, convention center, public auditorium, or like facility.

(b) If construction has not begun on a public convention center in the Wilmington Convention Center District by July 1, 2008, then the Wilmington Convention Center District is dissolved, and the City of Wilmington must return to the county any funds it received under this section that have not been spent or committed. The county shall use these returned funds and all future tax proceeds derived from occupancy taxes levied under Section 31 of this part as follows:

- (1) Sixty percent (60%) of the net proceeds shall be deposited in a special fund, the cash balance of which shall be deposited at interest or invested in accordance with G.S. 159-30. These funds shall be used only for beach nourishment.
- (2) Forty percent (40%) of the net proceeds shall be distributed on a quarterly basis to the Tourism Development Authority. These funds shall be used only to promote travel and tourism throughout New Hanover County. These funds shall not be used to plan, construct, operate, or maintain a civic center, convention center, public auditorium, or like facility."

SECTION 6.(b) This section becomes effective July 1, 2008, and applies to room occupancy and tourism development taxes levied on and after that date.

NEW HANOVER COUNTY DISTRICT U

SECTION 7.(a) New Hanover County District U Created. – New Hanover County District U is created as a taxing district. Its jurisdiction consists of that part of New Hanover County that is located outside of incorporated areas within the county. New Hanover County District U is a body politic and corporate and has the power to carry out the provisions of this section. The New Hanover County Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the county shall serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

SECTION 7.(b) Authorization and Scope. – The governing body of New Hanover County District U may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the district that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales or room occupancy tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious institutions or nonprofit organizations when furnished in furtherance of their nonprofit purpose.

SECTION 7.(c) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155 as if New

Hanover County District U were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 7.(d) Distribution and Use of Tax Revenue. – New Hanover County District U shall deposit one hundred percent (100%) of the net proceeds of the room occupancy and tourism development tax levied under this section into a special fund, the cash balance of which shall be deposited at interest or invested in accordance with G.S. 159-30. These funds shall be used only for beach nourishment. In accordance with the North Carolina Constitution and the United States Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of New Hanover District U. None of the proceeds may be used for beach nourishment in areas within New Hanover County that are outside of the district.

SECTION 7.(e) G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Alleghany, Anson, Brunswick, Buncombe, Cabarrus, Camden, Carteret, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Franklin, Granville, Halifax, Madison, Montgomery, Nash, New Hanover, New Hanover County District U, Pasquotank, Pender, Person, Randolph, Richmond, Rockingham, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, to Watauga County District U, and to the Township of Averagesboro in Harnett County."

WILMINGTON OCCUPANCY TAX CHANGES

SECTION 8. Section 1 of S.L. 2002-139 reads as rewritten:

"SECTION 1. Occupancy tax. – (a) Authorization and Scope. – If New Hanover County has created a Tourism Development Authority pursuant to Part VIII of Chapter 908 of the 1983 Session Laws, as amended, the Wilmington City Council may, by resolution, levy a ~~local~~ room occupancy and tourism development tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). 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.

Before adopting a resolution levying a tax under this section, the Wilmington City Council must hold a public hearing on the question. The City Council must give at least 15 days' public notice of the hearing, including details on the proposed uses of the tax proceeds. After adopting the resolution, the City Council must immediately forward a copy of the resolution to the New Hanover County Board of Commissioners and the county manager. A tax levied under this subsection shall become effective no earlier than February 1, 2003.

"SECTION 1.(b) Administration. – New Hanover County shall collect and administer a tax levied under this section. Except as otherwise provided in this section, a tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

"SECTION 1.(c) Definitions. – The following definitions apply in this section:

- (1) ~~Downtown Wilmington.—The area consisting of the Central Business District, the National Register Historic District, and the area extending to the Holmes Bridge and the Cape Fear River in the city of Wilmington, North Carolina.~~
- (2) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (3) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.
- (4) Tourism Development Authority or Authority. – The Authority created by New Hanover County pursuant to Part VIII of Chapter 908 of the 1983 Session Laws, as amended.
- (5) Wilmington Convention Center District. – The district established pursuant to Section 34.1 of Part VIII of Chapter 908 of the 1983 Session Laws, as amended, and consisting of the area in Wilmington, North Carolina, extending from the Isabel S. Holmes Bridge to the Cape Fear Memorial Bridge with Fourth Street on one side and the Cape Fear River on the other side.

"SECTION 1.(c1) Use of Tax Revenue. – If a tax is levied under this section, New Hanover County shall create a convention center account. The county shall remit quarterly the net proceeds of a room occupancy and tourism development tax levied under this section as follows:

- (1) Proceeds Derived from Accommodations in the Convention Center District. – The net proceeds derived from accommodations located in the Wilmington Convention Center District shall be distributed as follows:
 - a. Forty percent (40%) shall be remitted quarterly to the convention center account, established in accordance with this subsection. The proceeds in the account shall be remitted quarterly to and used by the City of Wilmington only in accordance with subsection (d) of this section.
 - b. Thirty percent (30%) shall be deposited in a special fund, the cash balance of which shall be deposited at interest or invested in accordance with G.S. 159-30. These funds shall be used only for beach nourishment.
 - c. Thirty percent (30%) shall be distributed on a quarterly basis to the Tourism Development Authority. These funds shall be used

only to promote travel and tourism throughout New Hanover County. These funds shall not be used to plan, construct, operate, maintain, or in any way promote a civic center, convention center, public auditorium, or like facility.

- (2) Proceeds Derived from Accommodations Outside the Convention Center District. – One hundred percent (100%) of the net proceeds derived from accommodations located outside the Wilmington Convention Center District shall be distributed to the convention center account.

~~"SECTION 1.(d) Use of Tax Revenue. Funds in Convention Center Account. –If a tax is levied under this section, New Hanover County shall create a convention center account. The county shall remit the net proceeds of a tax levied under this section quarterly to the convention center account. Funds in the convention center account, established under Section 1(c1) of this act, including interest or investment income on the account, may be used only as provided in this subsection:~~

- (1) The county shall hold the funds in the convention center account, including interest or investment income, until one or more of the conditions provided in this subsection have been met. When any of the conditions provided in subdivision (2), (3), or (4) of this subsection has been met, the proceeds shall be used as provided in that subdivision.
- (2) If, at the end of three years after the first levy of a tax under this section, the City of Wilmington has not demonstrated to the satisfaction of a Tourism Development Authority created by the county pursuant to a local act of the General Assembly that all financing and development arrangements for a convention center have been completed, the county shall remit all funds in the convention center account to the Tourism Development Authority. Thereafter, all tax proceeds remitted to the convention center account shall be remitted quarterly to the Tourism Development Authority. The Authority shall use these funds only to promote travel and tourism. For the purpose of this subdivision, completion of financing and development arrangements includes, at a minimum, obtaining financing commitments for construction, entering into contracts for construction and management, and securing the necessary land for the project.
- (3) If, within three years after the first levy of a tax under this section, the City of Wilmington demonstrates to the satisfaction of a Tourism Development Authority created by the county pursuant to a local act of the General Assembly that all financing and development arrangements for a convention center have been completed, the county shall remit all funds in the convention center account to the City of Wilmington. Thereafter, except as provided in subdivision (4) of this subsection, all tax proceeds remitted to the convention center account

shall be remitted quarterly to the City of Wilmington. The City of Wilmington may use the funds only for construction, financing, operation, promotion, and maintenance of the convention center. For the purpose of this subdivision, completion of financing and development arrangements includes, at a minimum, obtaining financing commitments for construction, entering into contracts for construction and management, and securing the necessary land for the project.

- (4) If the condition set out in subdivision (3) of this subsection has been ~~met~~ met, but ~~within four years after the first levy of a tax under this section,~~ the City of Wilmington fails to demonstrate by July 1, 2008, to the satisfaction of the Tourism Development Authority that construction has begun on a convention center in Downtown Wilmington, then the city must return to the county any funds it received under this subsection that have not been spent or committed. The county shall use these funds and any tax proceeds remitted thereafter to the convention center account only to promote travel and tourism in the city. If the county has created a Tourism Development Authority pursuant to a local act of the General Assembly, the county must remit the funds and future tax proceeds to the Tourism Development Authority. The Authority shall use these funds only to promote travel and tourism in the city.

"SECTION 1.(e) Reports. – Each entity responsible for administering and spending the proceeds of a tax levied under this section must each annually publish a detailed, audited report on its receipts and expenditures of the occupancy tax proceeds during the preceding year. The text of the report must be included in the minutes of the entity's governing body and placed on a public web site, and must be made available in hard copy upon request."

SECTION 9.(a) Section 1(c1) of S.L. 2002-139, as amended by Section 8 of this act, reads as rewritten:

"SECTION 1.(c1) Use of Tax Revenue. – If a tax is levied under this section, New Hanover County shall create a convention center account. The county shall remit quarterly one hundred percent (100%) of the net proceeds of a tax levied under this section as follows:

- (1) ~~Proceeds Derived from Accommodations in the Convention Center District.~~ ~~The net proceeds derived from accommodations located in the Wilmington Convention Center District, established in Section 34.1 of this part, shall be distributed as follows:~~

- a. ~~Forty percent (40%) shall be remitted quarterly to the convention center account, established in accordance with this subsection. The proceeds in the account shall be remitted quarterly to and used by the City of Wilmington only in accordance with subsection (d) of this section.~~

- b. ~~Thirty percent (30%) shall be deposited in a special fund, the cash balance of which shall be deposited at interest or invested in accordance with G.S. 159-30. These funds shall be used only for beach nourishment.~~
 - e. ~~Thirty percent (30%) shall be distributed on a quarterly basis to the Tourism Development Authority. These funds shall be used only to promote travel and tourism throughout New Hanover County. These funds shall not be used to plan, construct, operate, maintain, or in any way promote a civic center, convention center, public auditorium, or like facility.~~
- (2) ~~Proceeds Derived from Accommodations Outside the Convention Center District. — One hundred percent (100%) of the net proceeds derived from accommodations located outside the Wilmington Convention Center District shall be distributed to the convention center account."~~

SECTION 9.(b) This section becomes effective July 1, 2008, and applies to room occupancy and tourism development taxes levied on and after that date.

REPORTING REQUIREMENT

SECTION 10. Reporting Requirement. – The New Hanover Tourism Development Authority and the City of Wilmington shall report to the General Assembly by July 1, 2008, and annually thereafter, on the collection and distribution of occupancy tax proceeds, including how the amended distribution formula authorized by this act is working, on the progress of the construction of the convention center, and on any other issues related to the use of occupancy tax proceeds in New Hanover County and the City of Wilmington as the General Assembly deems appropriate.

EFFECTIVE DATE

SECTION 11. Sections 1 through 3 of this act are effective when they become law. Except as otherwise provided, the remainder of this act becomes effective September 1, 2006, and applies to room occupancy and tourism development taxes levied on and after that date.

In the General Assembly read three times and ratified this the 27th day of July, 2006.

s/ Beverly E. Perdue
President of the Senate

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