

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1668

Short Title: Modify Southport Occupancy Tax.

(Local)

Sponsors: Representative Redwine.

Referred to: Finance.

June 13, 2002

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE SOUTHPORT OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 639 of the 1989 Session Laws reads as rewritten:

"Section 1. Occupancy tax. (a) Authorization and scope. – The Southport Board of Aldermen may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of no more than three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the City of Southport that is subject to sales tax imposed by the State under G.S. ~~105-164.4(3)~~ 105-164.4(a)(3) and on the rental of all private residences and cottages, regardless of whether the residence or cottage is rented for less than 15 days. 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.

(a1) Authorization of additional tax. – In addition to the tax authorized by subsection (a) of this section, the Southport Board of Aldermen may levy an additional room occupancy tax of up to two percent (2%) of the gross receipts derived from the rental of accommodations taxable under subsection (a). The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. The City of Southport may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

(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 – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215.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.

~~Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the~~

1 purchaser to the operator of the business as trustee for and on account of the city. The
2 tax shall be added to the sales price and shall be passed on to the purchaser instead of
3 being borne by the operator of the business. The city shall design, print, and furnish to
4 all appropriate businesses and persons in the city the necessary forms for filing returns
5 and instructions to ensure the full collection of the tax.

6 (e) Administration. The city shall administer a tax levied under this section. A
7 tax levied under this section is due and payable to the Southport tax collector in monthly
8 installments on or before the 15th day of the month following the month in which the
9 tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or
10 before the 15th day of each month, prepare and render a return on a form prescribed by
11 the city. The return shall state the total gross receipts derived in the preceding month
12 from rentals upon which the tax is levied. A return filed with the tax collector under this
13 section is not a public record as defined by G.S. 132-1 and may not be disclosed except
14 as required by law.

15 The tax collector may collect any unpaid taxes levied under this act through the use
16 of attachment and garnishment proceedings as provided in G.S. 105-368 for collection
17 of property taxes. The tax collector has the same enforcement powers concerning the tax
18 imposed by this act as does the Secretary of Revenue in enforcing the State sales tax
19 under G.S. 105-164.30.

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

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

34 (e) Distribution and use of tax revenue. — The tax collector shall remit the
35 proceeds of this tax to the city on a monthly basis. The funds received by the city
36 pursuant to this act shall be used to promote tourism and economic development, for
37 waterfront development, and for other public purposes. The City of Southport shall, on a
38 quarterly basis, remit the net proceeds of the occupancy tax to the Southport Tourism
39 Development Authority. The Authority shall use at least two-thirds of the funds
40 remitted to it under this subsection to promote travel and tourism in Southport and shall
41 use the remainder for tourism-related expenditures.

42 The following definitions apply in this subsection:

- 43 (1) Net proceeds. — Gross proceeds less the cost to the city of
44 administering and collecting the tax, as determined by the finance

1 officer, not to exceed three percent (3%) of the first five hundred
2 thousand dollars (\$500,000) of gross proceeds collected each year and
3 one percent (1%) of the remaining gross receipts collected each year.

4 (2) Promote travel and tourism. – To advertise or market an area or
5 activity, publish and distribute pamphlets and other materials, conduct
6 market research, or engage in similar promotional activities that attract
7 tourists or business travelers to the area. The term includes
8 administrative expenses incurred in engaging in the listed activities.

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

14 ~~(f) Effective date of levy. A tax levied under this section shall become effective~~
15 ~~on the date specified in the resolution levying the tax. That date must be the first day of~~
16 ~~a calendar month, however, and may not be earlier than two weeks after the date the~~
17 ~~resolution is adopted.~~

18 ~~(g) Repeal. A tax levied under this section may be repealed by a resolution~~
19 ~~adopted by the Southport Board of Aldermen. Repeal of a tax levied under this section~~
20 ~~shall become effective on the first day of a month and may not become effective until~~
21 ~~the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax~~
22 ~~levied under this section does not affect a liability for a tax that was attached before the~~
23 ~~effective date of the repeal, nor does it affect a right to a refund of a tax that accrued~~
24 ~~before the effective date of the repeal."~~

25 **SECTION 2.** Chapter 639 of the 1989 Session Laws is amended by adding a
26 new section to read:

27 "**Sec. 1.2.** Southport Tourism Development Authority. – When the Southport Board
28 of Aldermen adopts a resolution levying a room occupancy tax under this act, it shall
29 also adopt a resolution creating a city Tourism Development Authority, which shall be a
30 public authority under the Local Government Budget and Fiscal Control Act. The
31 resolution shall provide for the membership of the Authority, including the members'
32 terms of office, and for the filling of vacancies on the Authority. At least one-third of
33 the members must be individuals who are affiliated with businesses that collect the tax
34 in the city, and at least three-fourths of the members must be individuals who are
35 currently active in the promotion of travel and tourism in the city. The Board of
36 Aldermen shall designate one member of the Authority as chair and shall determine the
37 compensation, if any, to be paid to members of the Authority.

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

41 "**Sec. 1.3.** Duties. – The Authority shall expend the net proceeds of the tax levied
42 under this act for the purposes provided in this act. The Authority shall promote travel,
43 tourism, and conventions in the city, sponsor tourist-related events and activities in the
44 city, and finance tourist-related capital projects in the city.

1 "**Sec. 1.4.** Reports. – The Authority shall report quarterly and at the close of the
2 fiscal year to the Southport Board of Aldermen on its receipts and expenditures for the
3 preceding quarter and for the year in such detail as the board may require."

4 **SECTION 3.** This act is effective when it becomes law.