

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

S

3

**SENATE BILL 1431  
House Committee Substitute Favorable 7/13/06  
Third Edition Engrossed 7/18/06**

Short Title: Burgaw/New Hanover/Wilmington Occupancy Tax. (Local)

---

Sponsors:

---

Referred to:

---

May 17, 2006

A BILL TO BE ENTITLED

1  
2 AN ACT (1) TO AUTHORIZE THE TOWN OF BURGAW TO LEVY A ROOM  
3 OCCUPANCY AND TOURISM DEVELOPMENT TAX; AND (2) TO CREATE  
4 THE WILMINGTON CONVENTION CENTER DISTRICT; TO MODIFY THE  
5 DISTRIBUTION OF COUNTY AND CITY OCCUPANCY TAX PROCEEDS  
6 DERIVED FROM ACCOMMODATIONS LOCATED IN THE DISTRICT; TO  
7 CREATE THE NEW HANOVER COUNTY DISTRICT U; TO AUTHORIZE THE  
8 NEW HANOVER COUNTY DISTRICT U TO LEVY A THREE PERCENT  
9 OCCUPANCY TAX; AND TO MAKE ADMINISTRATIVE CHANGES TO THE  
10 WILMINGTON OCCUPANCY TAX; AND (3) TO AUTHORIZE CASWELL  
11 COUNTY AND THE TOWN OF YANCEYVILLE TO LEVY A ROOM  
12 OCCUPANCY AND TOURISM DEVELOPMENT TAX.

13 The General Assembly of North Carolina enacts:

14 **BURGAW OCCUPANCY TAX**

15 **SECTION 1.** Occupancy tax. – (a) Authorization and Scope. – The Board  
16 of Commissioners of the Town of Burgaw may levy a room occupancy tax of up to  
17 three percent (3%) of the gross receipts derived from the rental of any room, lodging, or  
18 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within  
19 the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).  
20 This tax is in addition to any State or local sales tax. This tax does not apply to  
21 accommodations furnished by nonprofit charitable, educational, or religious  
22 organizations when furnished in furtherance of their nonprofit purpose.

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24 levied, administered, collected, and repealed as provided in G.S. 160A-215.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

26 **SECTION 1.(c)** Distribution and Use of Tax Revenue. – The Town of  
27 Burgaw shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the  
28 Burgaw Tourism Development Authority. The Authority shall use at least two-thirds of

1 the funds remitted to it under this subsection to promote travel and tourism in Burgaw  
2 and shall use the remainder for tourism-related expenditures.

3 The following definitions apply in this subsection:

- 4 (1) Net proceeds. – Gross proceeds less the cost to the town of  
5 administering and collecting the tax, as determined by the finance  
6 officer, not to exceed three percent (3%) of the first five hundred  
7 thousand dollars (\$500,000) of gross proceeds collected each year and  
8 one percent (1%) of the remaining gross receipts collected each year.
- 9 (2) Promote travel and tourism. – To advertise or market an area or  
10 activity, publish and distribute pamphlets and other materials, conduct  
11 market research, or engage in similar promotional activities that attract  
12 tourists or business travelers to the area; the term includes  
13 administrative expenses incurred in engaging in the listed activities.
- 14 (3) Tourism-related expenditures. – Expenditures that, in the judgment of  
15 the Burgaw Tourism Development Authority, are designed to increase  
16 the use of lodging facilities, meeting facilities, or convention facilities  
17 in a town or to attract tourists or business travelers to the town. The  
18 term includes tourism-related capital expenditures.

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

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

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

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

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

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

9 **NEW HANOVER OCCUPANCY TAX CHANGES**

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

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

13       **SECTION 5.** Part VIII of Chapter 908 of the 1983 Session Laws, as  
14 amended by Chapter 987 of the 1983 Session Laws, Chapters 726 and 971 of the 1985  
15 Session Laws, Chapter 540 of the 1995 Session Laws, S.L. 2002-138, and S.L.  
16 2003-166, reads as rewritten:

17               "Part VIII. New Hanover Occupancy Tax.

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

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

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

36       (1) Beach nourishment. – The placement of sand, from other sand sources,  
37 on a beach or dune by mechanical means and other associated  
38 activities that are in conformity with the North Carolina Coastal  
39 Management Program along the shorelines of the Atlantic Ocean of  
40 North Carolina and connecting inlets for the purpose of widening the  
41 beach to benefit public recreational use and mitigating damage and  
42 erosion from storms to inland property. The term includes  
43 expenditures for any of the following:

- 1 a. Costs directly associated with qualifying for projects either
- 2 contracted through the U.S. Army Corps of Engineers or
- 3 otherwise permitted by all appropriate federal and State
- 4 agencies.
- 5 b. The nonfederal share of the cost required to construct these
- 6 projects.
- 7 c. The costs associated with providing enhanced public beach
- 8 access.
- 9 d. The costs of associated nonhardening activities such as the
- 10 planting of vegetation, the building of dunes, and the placement
- 11 of sand fences.
- 12 (2) Beach towns. – Carolina Beach, Kure Beach, and Wrightsville Beach.
- 13 (3) Net proceeds. – Gross proceeds less the cost to the county of
- 14 administering and collecting the tax, as determined by the finance
- 15 officer, not to exceed three percent (3%) of the first five hundred
- 16 thousand dollars (\$500,000) of gross proceeds collected each year and
- 17 one percent (1%) of the remaining gross receipts collected each year.
- 18 (4) Promote travel and tourism. – To advertise or market an area or
- 19 activity, publish and distribute pamphlets and other materials, conduct
- 20 market research, or engage in similar promotional activities that attract
- 21 tourists or business travelers to the area; the term includes
- 22 administrative expenses incurred in engaging in the listed activities.
- 23 (5) Tourism-related expenditures. – Expenditures that, in the judgment of
- 24 the Authority, are designed to increase the use of lodging facilities,
- 25 meeting facilities, and convention facilities in an area by attracting
- 26 tourists or business travelers to the area. The term includes
- 27 tourism-related capital expenditures and beach nourishment.
- 28 "Sec. 33. Administration of Tax. – A tax levied under this ~~aet~~Part shall be levied,
- 29 administered, collected, and repealed as provided in G.S. 153A-155. The penalties
- 30 provided in G.S. 153A-155 apply to a tax levied under this ~~aet~~Part.
- 31 "Sec. 34. Establishment of the Cape Fear Coast Convention and Visitors Bureau as a
- 32 Tourism Development Authority. – (a) Creation. – As soon as practicable before
- 33 February 1, 2003, the board of commissioners shall adopt a resolution creating the Cape
- 34 Fear Coast Convention and Visitors Bureau, a tourism development authority, which
- 35 shall be a public authority under the Local Government Budget and Fiscal Control Act.
- 36 The county shall transfer to the Authority upon its creation all the assets of the county's
- 37 convention and visitors bureau.
- 38 (b) Membership. – The Authority shall be composed of the following 15 voting
- 39 members: five ex officio members or their designees and 10 additional members
- 40 appointed by the board of commissioners.
- 41 (1) The ex officio members are listed below. Each ex officio member may
- 42 designate to serve in the member's place an individual who serves on
- 43 the governing body of the county or municipality that the member
- 44 represents.

- 1 a. The chair of the board of county commissioners.
- 2 b. The mayor of the City of Wilmington.
- 3 c. The mayors of the beach towns.
- 4 (2) The board of county commissioners shall appoint the members listed
- 5 below. The resolution creating the Authority must provide for
- 6 staggered terms for the appointed members.
- 7 a. The owner or manager of a hotel of 150 rooms or more in the
- 8 town of Wrightsville Beach. This individual must have
- 9 experience in promoting travel and tourism.
- 10 b. The owner or manager of a hotel in the town of Carolina Beach
- 11 and the owner or manager of a hotel in the town of Kure Beach.
- 12 These individuals must have experience in promoting travel and
- 13 tourism.
- 14 c. The owner or manager of a hotel of 150 rooms or more in the
- 15 City of Wilmington. This individual must have experience in
- 16 promoting travel and tourism.
- 17 d. The owner or manager of a hotel of fewer than 150 rooms in the
- 18 City of Wilmington. This individual must have experience in
- 19 promoting travel and tourism.
- 20 e. The owner or manager of a bed and breakfast facility. This
- 21 individual must have experience in promoting travel and
- 22 tourism.
- 23 f. The owner or manager of a company that manages and rents
- 24 more than 100 vacation rental properties. This individual must
- 25 have experience in promoting travel and tourism.
- 26 g. A representative of a tourism attraction in the county who is
- 27 actively involved in the promotion of travel and tourism in the
- 28 county.
- 29 h. A representative of the Wilmington Chamber of Commerce
- 30 who is actively involved in promoting travel and tourism in the
- 31 county.
- 32 i. The owner or manager of a restaurant business in the county.
- 33 (c) Administration. – The board of commissioners shall determine the
- 34 compensation, if any, to be paid to members of the Authority. The resolution creating
- 35 the Authority must designate one member of the Authority to serve as the initial chair.
- 36 The Authority shall meet at the call of the chair and shall adopt rules of procedure to
- 37 govern its meetings. During the first quarter of each calendar year beginning in 2004,
- 38 the Authority must meet to elect a chair from among its members. The Finance Officer
- 39 for New Hanover County shall be the ex officio finance officer of the Authority.
- 40 (d) Duties. – The Authority shall expend the net proceeds of the taxes distributed
- 41 to it for the purposes provided by law. The Authority shall promote travel, tourism, and
- 42 conventions in the county, sponsor tourist-related events and activities in the county,
- 43 and finance tourist-related capital projects in the county.

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

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

9 "Sec. 35. Disposition of Taxes Collected. –

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

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

17 a. Forty percent (40%) shall be remitted quarterly to the  
18 convention center account, established in accordance with S.L.  
19 2002-139, as amended by this act. The proceeds in the account  
20 shall be remitted quarterly to and used by the City of  
21 Wilmington only in accordance with Section 1(d) of S.L.  
22 2002-139, as amended.

23 b. Thirty percent (30%) shall be deposited in a special fund, the  
24 cash balance of which shall be deposited at interest or invested  
25 in accordance with G.S. 159-30. These funds shall be used only  
26 for beach nourishment.

27 c. Thirty percent (30%) shall be distributed on a quarterly basis to  
28 the Tourism Development Authority. These funds shall be used  
29 only to promote travel and tourism throughout New Hanover  
30 County. These funds shall not be used to plan, construct,  
31 operate, or maintain a civic center, convention center, public  
32 auditorium, or like facility.

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

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

41 b. Forty percent (40%) of the net proceeds shall be distributed on a  
42 quarterly basis to the Tourism Development Authority. These  
43 funds shall be used only to promote travel and tourism  
44 throughout New Hanover County. These funds shall not be used

1 to plan, construct, operate, or maintain a civic center,  
2 convention center, public auditorium, or like facility.

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

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

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

23 "Sec. 35. Disposition of Taxes Collected. –

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

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

- 31 a. ~~Forty percent (40%) shall be~~remitted quarterly to the  
32 convention center account, established in accordance with S.L.  
33 2002-139, as amended by this act. The proceeds in the account  
34 shall be remitted quarterly to and used by the City of  
35 Wilmington only in accordance with Section 1(d) of S.L.  
36 2002-139, as amended by this act.
- 37 b. ~~Thirty percent (30%) shall be deposited in a special fund, the~~  
38 ~~cash balance of which shall be deposited at interest or invested~~  
39 ~~in accordance with G.S. 159-30. These funds shall be used only~~  
40 ~~for beach nourishment.~~
- 41 e. ~~Thirty percent (30%) shall be distributed on a quarterly basis to~~  
42 ~~the Tourism Development Authority. These funds shall be used~~  
43 ~~only to promote travel and tourism throughout New Hanover~~  
44 ~~County. These funds shall not be used to plan, construct,~~

1                   ~~operate, or maintain a civic center, convention center, public~~  
2                   ~~auditorium, or like facility.~~

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

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

11          b.     Forty percent (40%) of the net proceeds shall be distributed on a  
12          quarterly basis to the Tourism Development Authority. These  
13          funds shall be used only to promote travel and tourism  
14          throughout New Hanover County. These funds shall not be used  
15          to plan, construct, operate, or maintain a civic center,  
16          convention center, public auditorium, or like facility.

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

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

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

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

#### 35 **NEW HANOVER COUNTY DISTRICT U**

36               **SECTION 7.(a)** New Hanover County District U Created. – New Hanover  
37               County District U is created as a taxing district. Its jurisdiction consists of that part of  
38               New Hanover County that is located outside of incorporated areas within the county.  
39               New Hanover County District U is a body politic and corporate and has the power to  
40               carry out the provisions of this section. The New Hanover County Board of  
41               Commissioners shall serve ex officio as the governing body of the district, and the  
42               officers of the county shall serve as the officers of the governing body of the district. A  
43               simple majority of the governing body constitutes a quorum, and approval by a majority



1 of those present is sufficient to determine any matter before the governing body, if a  
2 quorum is present.

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

11         **SECTION 7.(c)** Administration. – A tax levied under this section shall be  
12 levied, administered, collected, and repealed as provided in G.S. 153A-155 as if New  
13 Hanover County District U were a county. The penalties provided in G.S. 153A-155  
14 apply to a tax levied under this section.

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

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

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

## 32 **WILMINGTON OCCUPANCY TAX CHANGES**

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

34         **"SECTION 1.** Occupancy tax. – (a) Authorization and Scope. – If New Hanover  
35 County has created a Tourism Development Authority pursuant to Part VIII of Chapter  
36 908 of the 1983 Session Laws, as amended, the Wilmington City Council may, by  
37 resolution, levy a ~~local~~room occupancy and tourism development tax of three percent  
38 (3%) of the gross receipts derived from the rental of any room, lodging, or  
39 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within  
40 the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).  
41 This tax is in addition to any State or local sales tax. This tax does not apply to  
42 accommodations furnished by nonprofit charitable, educational, or religious  
43 organizations when furnished in furtherance of their nonprofit purpose.

1 Before adopting a resolution levying a tax under this section, the Wilmington City  
2 Council must hold a public hearing on the question. The City Council must give at least  
3 15 days' public notice of the hearing, including details on the proposed uses of the tax  
4 proceeds. After adopting the resolution, the City Council must immediately forward a  
5 copy of the resolution to the New Hanover County Board of Commissioners and the  
6 county manager. A tax levied under this subsection shall become effective no earlier  
7 than February 1, 2003.

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

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

- 15 (1) ~~Downtown Wilmington.—The area consisting of the Central Business~~  
16 ~~District, the National Register Historic District, and the area extending~~  
17 ~~to the Holmes Bridge and the Cape Fear River in the city of~~  
18 ~~Wilmington, North Carolina.~~
- 19 (2) Net proceeds. – Gross proceeds less the cost to the county of  
20 administering and collecting the tax, as determined by the finance  
21 officer, not to exceed three percent (3%) of the first five hundred  
22 thousand dollars (\$500,000) of gross proceeds collected each year and  
23 one percent (1%) of the remaining gross receipts collected each year.
- 24 (3) Promote travel and tourism. – To advertise or market an area or  
25 activity, publish and distribute pamphlets and other materials, conduct  
26 market research, or engage in similar promotional activities that attract  
27 tourists or business travelers to the area; the term includes  
28 administrative expenses incurred in engaging in the listed activities.
- 29 (4) Tourism Development Authority or Authority. – The Authority created  
30 by New Hanover County pursuant to Part VIII of Chapter 908 of the  
31 1983 Session Laws, as amended.
- 32 (5) Wilmington Convention Center District. – The district established  
33 pursuant to Section 34.1 of Part VIII of Chapter 908 of the 1983  
34 Session Laws, as amended, and consisting of the area in Wilmington,  
35 North Carolina, extending from the Isabel S. Holmes Bridge to the  
36 Cape Fear Memorial Bridge with Fourth Street on one side and the  
37 Cape Fear River on the other side.

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

- 42 (1) Proceeds Derived from Accommodations in the Convention Center  
43 District. – The net proceeds derived from accommodations located in

1           the Wilmington Convention Center District shall be distributed as  
2           follows:

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

8           b.     Thirty percent (30%) shall be deposited in a special fund, the  
9           cash balance of which shall be deposited at interest or invested  
10          in accordance with G.S. 159-30. These funds shall be used only  
11          for beach nourishment.

12          c.     Thirty percent (30%) shall be distributed on a quarterly basis to  
13          the Tourism Development Authority. These funds shall be used  
14          only to promote travel and tourism throughout New Hanover  
15          County. These funds shall not be used to plan, construct,  
16          operate, maintain, or in any way promote a civic center,  
17          convention center, public auditorium, or like facility.

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

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

29               (1)   The county shall hold the funds in the convention center account,  
30               including interest or investment income, until one or more of the  
31               conditions provided in this subsection have been met. When any of the  
32               conditions provided in subdivision (2), (3), or (4) of this subsection  
33               has been met, the proceeds shall be used as provided in that  
34               subdivision.

35               (2)   If, at the end of three years after the first levy of a tax under this  
36               section, the City of Wilmington has not demonstrated to the  
37               satisfaction of a Tourism Development Authority created by the  
38               county pursuant to a local act of the General Assembly that all  
39               financing and development arrangements for a convention center have  
40               been completed, the county shall remit all funds in the convention  
41               center account to the Tourism Development Authority. Thereafter, all  
42               tax proceeds remitted to the convention center account shall be  
43               remitted quarterly to the Tourism Development Authority. The  
44               Authority shall use these funds only to promote travel and tourism. For

1 the purpose of this subdivision, completion of financing and  
2 development arrangements includes, at a minimum, obtaining  
3 financing commitments for construction, entering into contracts for  
4 construction and management, and securing the necessary land for the  
5 project.

6 (3) If, within three years after the first levy of a tax under this section, the  
7 City of Wilmington demonstrates to the satisfaction of a Tourism  
8 Development Authority created by the county pursuant to a local act of  
9 the General Assembly that all financing and development  
10 arrangements for a convention center have been completed, the county  
11 shall remit all funds in the convention center account to the City of  
12 Wilmington. Thereafter, except as provided in subdivision (4) of this  
13 subsection, all tax proceeds remitted to the convention center account  
14 shall be remitted quarterly to the City of Wilmington. The City of  
15 Wilmington may use the funds only for construction, financing,  
16 operation, promotion, and maintenance of the convention center. For  
17 the purpose of this subdivision, completion of financing and  
18 development arrangements includes, at a minimum, obtaining  
19 financing commitments for construction, entering into contracts for  
20 construction and management, and securing the necessary land for the  
21 project.

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

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

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

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

5           (1) ~~Proceeds Derived from Accommodations in the Convention Center~~  
6 ~~District.—The net proceeds derived from accommodations located in~~  
7 ~~the Wilmington Convention Center District, established in Section~~  
8 ~~34.1 of this part, shall be distributed as follows:~~

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

14           b. ~~Thirty percent (30%) shall be deposited in a special fund, the~~  
15 ~~cash balance of which shall be deposited at interest or invested~~  
16 ~~in accordance with G.S. 159-30. These funds shall be used only~~  
17 ~~for beach nourishment.~~

18           c. ~~Thirty percent (30%) shall be distributed on a quarterly basis to~~  
19 ~~the Tourism Development Authority. These funds shall be used~~  
20 ~~only to promote travel and tourism throughout New Hanover~~  
21 ~~County. These funds shall not be used to plan, construct,~~  
22 ~~operate, maintain, or in any way promote a civic center,~~  
23 ~~convention center, public auditorium, or like facility.~~

24           (2) ~~Proceeds Derived from Accommodations Outside the Convention~~  
25 ~~Center District.—One hundred percent (100%) of the net proceeds~~  
26 ~~derived from accommodations located outside the Wilmington~~  
27 ~~Convention Center District shall be distributed to the convention~~  
28 ~~center account."~~

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

### 31 **REPORTING REQUIREMENT**

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

### 39 **CASWELL COUNTY OCCUPANCY TAX.**

40       **SECTION 11.1.** Occupancy Tax. – (a) Authorization and Scope. – The  
41 Caswell County Board of Commissioners may levy a room occupancy tax of up to three  
42 percent (3%) of the gross receipts derived from the rental of any room, lodging, or  
43 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within  
44 the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).

1 This tax is in addition to any State or local sales tax. This tax does not apply to  
2 accommodations furnished by nonprofit charitable, educational, or religious  
3 organizations when furnished in furtherance of their nonprofit purpose.

4 **SECTION 11.1.(b)** Administration. – A tax levied under this section shall  
5 be levied, administered, collected, and repealed as provided in G.S. 153A-155. The  
6 penalties provided in G.S. 153A-155 apply to a tax levied under this section.

7 **SECTION 11.1.(c)** Distribution and Use of Tax Revenue. – Caswell County  
8 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Caswell  
9 County Tourism Development Authority. The Authority shall use at least two-thirds of  
10 the funds remitted to it under this subsection to promote travel and tourism in Caswell  
11 County and shall use the remainder for tourism-related expenditures.

12 The following definitions apply in this subsection:

13 (1) Net proceeds. – Gross proceeds less the cost to the county of  
14 administering and collecting the tax, as determined by the finance  
15 officer, not to exceed three percent (3%) of the first five hundred  
16 thousand dollars (\$500,000) of gross proceeds collected each year and  
17 one percent (1%) of the remaining gross receipts collected each year.

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

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

28 **SECTION 11.2.** Caswell County Tourism Development Authority. – (a)  
29 Appointment and Membership. – When the Caswell County Board of Commissioners  
30 adopts a resolution levying a room occupancy tax under Section 11.1 of this act, it shall  
31 also adopt a resolution creating a county Tourism Development Authority, which shall  
32 be a public authority under the Local Government Budget and Fiscal Control Act. The  
33 resolution shall provide for the membership of the Authority, including the members'  
34 terms of office, and for the filling of vacancies on the Authority. At least one-third of  
35 the members must be individuals who are affiliated with businesses that collect the tax  
36 in the county, and at least one-half of the members must be individuals who are  
37 currently active in the promotion of travel and tourism in the county. The board of  
38 commissioners shall designate one member of the Authority as chair and shall  
39 determine the compensation, if any, to be paid to members of the Authority.

40 The Authority shall meet at the call of the chair and shall adopt rules of  
41 procedure to govern its meetings. The Finance Officer for Caswell County shall be the  
42 ex officio finance officer of the Authority.

43 **SECTION 11.2.(b)** Duties. – The Authority shall expend the net proceeds of  
44 the tax levied under this part for the purposes provided in this part. The Authority shall

1 promote travel, tourism, and conventions in the county, sponsor tourist-related events  
2 and activities in the county, and finance tourist-related capital projects in the county.

3 **SECTION 11.2.(c) Reports.** – The Authority shall report quarterly and at the  
4 close of the fiscal year to the Caswell County Board of Commissioners on its receipts  
5 and expenditures for the preceding quarter and for the year in such detail as the board  
6 may require.

7 **YANCEYVILLE OCCUPANCY TAX.**

8 **SECTION 12.1. Occupancy Tax.** – (a) Authorization and Scope. – The  
9 Yanceyville Town Council may levy a room occupancy tax of up to three percent (3%)  
10 of the gross receipts derived from the rental of any room, lodging, or accommodation  
11 furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is  
12 subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in  
13 addition to any State or local sales tax. This tax does not apply to accommodations  
14 furnished by nonprofit charitable, educational, or religious organizations when  
15 furnished in furtherance of their nonprofit purpose.

16 **SECTION 12.1.(b) Administration.** – A tax levied under this section shall  
17 be levied, administered, collected, and repealed as provided in G.S. 160A-215. The  
18 penalties provided in G.S. 160A-215 apply to a tax levied under this section.

19 **SECTION 12.1.(c) Distribution and Use of Tax Revenue.** – The Town of  
20 Yanceyville shall, on a quarterly basis, remit the net proceeds of the occupancy tax to  
21 the Yanceyville Tourism Development Authority. The Authority shall use at least  
22 two-thirds of the funds remitted to it under this subsection to promote travel and tourism  
23 in Yanceyville and shall use the remainder for tourism-related expenditures.

24 The following definitions apply in this subsection:

- 25 (1) Net proceeds. – Gross proceeds less the cost to the town of  
26 administering and collecting the tax, as determined by the finance  
27 officer, not to exceed three percent (3%) of the first five hundred  
28 thousand dollars (\$500,000) of gross proceeds collected each year and  
29 one percent (1%) of the remaining gross receipts collected each year.
- 30 (2) Promote travel and tourism. – To advertise or market an area or  
31 activity, publish and distribute pamphlets and other materials, conduct  
32 market research, or engage in similar promotional activities that attract  
33 tourists or business travelers to the area. The term includes  
34 administrative expenses incurred in engaging in the listed activities.
- 35 (3) Tourism-related expenditures. – Expenditures that, in the judgment of  
36 the Tourism Development Authority, are designed to increase the use  
37 of lodging facilities, meeting facilities, or convention facilities in a  
38 town or to attract tourists or business travelers to the town. The term  
39 includes tourism-related capital expenditures.

40 **SECTION 12.2. Yanceyville Tourism Development Authority.** – (a)  
41 Appointment and Membership. – When the Yanceyville Town Council adopts a  
42 resolution levying a room occupancy tax under Section 12.1 of this act, it shall also  
43 adopt a resolution creating a town Tourism Development Authority, which shall be a  
44 public authority under the Local Government Budget and Fiscal Control Act. The

1 resolution shall provide for the membership of the Authority, including the members'  
2 terms of office, and for the filling of vacancies on the Authority. At least one-third of  
3 the members must be individuals who are affiliated with businesses that collect the tax  
4 in the town, and at least one-half of the members must be individuals who are currently  
5 active in the promotion of travel and tourism in the town. The town council shall  
6 designate one member of the Authority as chair and shall determine the compensation,  
7 if any, to be paid to members of the Authority.

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

11 **SECTION 12.2.(b) Duties.** – The Authority shall expend the net proceeds of  
12 the tax levied under this part for the purposes provided in this part. The Authority shall  
13 promote travel, tourism, and conventions in the town, sponsor tourist-related events and  
14 activities in the town, and finance tourist-related capital projects in the town.

15 **SECTION 12.2.(c) Reports.** – The Authority shall report quarterly and at the  
16 close of the fiscal year to the Yanceyville Town Council on its receipts and expenditures  
17 for the preceding quarter and for the year in such detail as the town council may require.

18 **SECTION 13.** G.S. 153A-155(g) reads as rewritten:

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

25 **EFFECTIVE DATE**

26 **SECTION 14.** Sections 1 through 3 of this act are effective when they  
27 become law. Except as otherwise provided, the remainder of this act becomes effective  
28 September 1, 2006, and applies to room occupancy and tourism development taxes  
29 levied on and after that date.