

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 617
HOUSE BILL 2012

AN ACT TO AUTHORIZE THE VILLAGE OF BALD HEAD ISLAND TO INCREASE ITS ROOM OCCUPANCY TAX FROM THREE PERCENT TO SIX PERCENT, TO MODIFY THE EXISTING BALD HEAD ISLAND ROOM OCCUPANCY TAX, AND TO ALLOW COLUMBUS COUNTY TO CREATE FIRE PROTECTION DISTRICTS IN WHICH FIRE PROTECTION IS FUNDED BY FEES RATHER THAN TAXES.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 664 of the 1991 Session Laws reads as rewritten:

"Sec. 2. Bald Head Island Occupancy Tax. (a) Authorization and Scope. The Village Council of the Village of Bald Head Island may by resolution, after not less than 10 days' public notice and a public hearing held pursuant thereto, levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations within the village that are subject to sales tax imposed by the State under G.S. 105-164.4(a)(3) and from the rental of private residences and cottages within the village that are exempt from the sales tax imposed under G.S. 105-164.4(a)(3) solely because they are rented for less than 15 days.

(a1) Authorization of Additional Tax. In addition to the tax authorized by subsection (a) of this section, the Village Council of the Village of Bald Head Island may, by resolution, after not less than 10 days' public notice and a public hearing held pursuant thereto, levy an additional room occupancy tax of up to three percent (3%) 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 Village of Bald Head Island may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

(a2) Maximum Rate. If Brunswick County is authorized to levy a room occupancy tax, the combined room occupancy tax rates for Brunswick County and any city or town located in that county may not exceed six percent (6%).

(b) Collection. Every operator of a business subject to the tax levied by this act shall, on and after the effective date 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 purchaser to the operator of the business as trustee for and on account of the village. The occupancy tax levied under this act shall be added to the sales price and shall be passed

on to the purchaser instead of being borne by the owner of the business. The village shall design, print, and furnish to all appropriate businesses in the village the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects the occupancy tax levied under this section may deduct from the amount remitted to the village a discount equal to the discount the State allows the operator for State sales and use tax.

(c) Administration. The village shall administer the occupancy tax levied under this act. A tax levied under this act is due and payable to the village finance officer in monthly installments on or before the fifteenth day of the month following the month in which the tax accrues. Every person, firm, or corporation liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return on a form prescribed by the village. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the village finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.

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

~~Any person who willfully attempts in any manner to evade a tax imposed under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both.~~ is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The Village Council of Bald Head Island has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(e) Use of Proceeds. The village may use the proceeds of a tax levied under this act only to promote tourism in the village and for tourism-related expenditures. As used in this act, the term 'tourism-related expenditures' includes the following types of expenditures: criminal justice system, fire protection, public facilities and utilities, health facilities, solid waste and sewage treatment, and the control and repair of waterfront erosion. These funds may not be used for services normally provided by the village on behalf of its citizens unless these services promote tourism and enlarge its economic benefits by enhancing the ability of the village to attract and provide for tourists.

(f) Effective Date of Levy. A tax levied under this act shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a

calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(g) ~~Repeal.~~ Repeal and Reduction. The Village Council of the Village of Bald Head Island may by resolution repeal or reduce a tax levied under this act. Repeal or reduction of a tax levied under this act shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal or reduction resolution was adopted. Repeal or reduction of a tax levied under this act does not affect a liability for a tax that was attached before the effective date of the ~~repeal,~~ repeal or reduction, nor does it affect a right to a refund of a tax that accrued before the effective date of the ~~repeal.~~ repeal or reduction."

Sec. 2. Section 2 of Chapter 883 of the 1991 Session Laws reads as rewritten:

"Sec. 2. This act applies to Columbus and Union County ~~County~~ Counties only."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of July, 1994.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives