

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL DRS45260-MCf-127

Short Title: CCRC Sales Tax Modifications.

(Public)

Sponsors: Senators Edwards and Newton (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY FOOD SALES TAX FOR CONTINUING CARE RETIREMENT
3 COMMUNITIES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 105-164.14 is amended by adding a new subsection to read:

6 "(b1) Continuing Care Provider Food Purchases. – The applicable local rate of sales and
7 use tax paid by or on behalf of a provider of continuing care on the purchase of prepared food or
8 other food items is not subject to the refund provisions of subsection (b) of this section, except
9 for the purchases used in feeding residents receiving facility skilled nursing or assisted living
10 services. Resident, provider, and continuing care are defined in G.S. 58-64-1."

11 **SECTION 2.** G.S. 105-164.13B(a)(4) reads as rewritten:

12 "(4) Prepared food, other than (i) bakery items sold without eating utensils by an
13 artisan ~~bakery~~ bakery and (ii) prepared food and other food items used,
14 consumed, or provided by or on behalf of a provider of continuing care, as
15 those terms are defined in G.S. 58-64-1. The term "bakery item" includes
16 bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes,
17 tortes, pies, tarts, muffins, bars, cookies, and tortillas. An artisan bakery is a
18 bakery that meets all of the following requirements:

- 19 a. It derives over eighty percent (80%) of its gross receipts from bakery
20 items.
21 b. Its annual gross receipts, combined with the gross receipts of all
22 related persons, do not exceed one million eight hundred thousand
23 dollars (\$1,800,000). For purposes of this subdivision, the term
24 "related person" means a person described in one of the relationships
25 set forth in section 267(b) or 707(b) of the Code."

26 **SECTION 3.** Chapter 105 of the General Statutes is amended by adding the
27 following new section to read:

28 **§ 105-164.13F. Continuing care providers.**

29 Providers of continuing care are primarily engaged in rendering housing, health care, and
30 other life care services to their residents. Providers are the users or consumers of all items
31 purchased for the provision of service, including the purchase of prepared food, but not including
32 the purchase of alcoholic beverages, as defined in G.S. 105-113.68. The purchase of food items
33 is subject to tax under Subchapter VIII of this Chapter and under Chapter 1096 of the 1967
34 Session Laws. The purchase of all other items is subject to the applicable rate of sales and use
35 tax, unless otherwise exempt. The provision of such items or services by or on behalf of a
36 provider of continuing care shall not be considered a retail sale by the provider or subject to use



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1 tax by the recipient of the item or service, regardless of itemization or whether included as part
2 of a fee or charge imposed by the provider. Resident, provider, and continuing care are defined
3 in G.S. 58-64-1."

4 **SECTION 4.** G.S. 105-164.13 is amended by adding a new subdivision to read:

5 "(74) The (i) entrance, membership, resident, service, and other initial or periodic
6 fees or charges charged by or on behalf of a provider of continuing care,
7 regardless of how the fee or charge is invoiced or paid, and (ii) purchase of
8 prepared food or other food items by or for the benefit of a provider of
9 continuing care to the extent used in feeding residents receiving facility skilled
10 nursing or assisted living services. Resident, provider, and continuing care are
11 defined in G.S. 58-64-1."

12 **SECTION 5.** G.S. 105-164.4D(a) is amended by adding a new subdivision to read:

13 "(7) Any element of the bundled transaction is an item which, if separately
14 charged, would be exempt pursuant to G.S. 105-164.13(74)."

15 **SECTION 6.** Article 9 of Chapter 105 of the General Statutes is amended by adding
16 a new section to read:

17 **§ 105-244.4B. Forgiveness of certain sales tax assessments.**

18 The Department shall take no action to assess or collect from any person any sales and use
19 tax due for a filing period beginning on or after February 1, 2015, and ending prior to July 1,
20 2021, with respect to the retail sale of taxable items or services by or on behalf of a provider of
21 continuing care, except that the Department may assess for sales taxes owed on sales of alcoholic
22 beverages, as defined in G.S. 105-113.68.

23 The Secretary shall reduce an assessment issued on or after February 1, 2015, but prior to
24 July 1, 2021, against a provider of continuing care who requests relief for State and local sales
25 and use taxes, provided such assessment remains appealable or is under appeal at the time the
26 request for relief is made. The Secretary shall reduce the sales and use taxes assessed to zero,
27 except for any portion attributable to sales of alcoholic beverages as defined in G.S. 105-113.68,
28 and waive all penalties that were imposed as part of the assessment. Provider and continuing care
29 are defined in G.S. 58-64-1."

30 **SECTION 7.** Sections 6 and 7 of this act are effective when this act becomes law.
31 The remainder of this act becomes effective July 1, 2021, and applies to sales made on or after
32 that date.