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LEGISLATIVE ACTION

Senate

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House

Senator Latvala moved the following:

Senate Amendment

Delete lines 93 - 488

and insert:

Revenue Code of 1986, as amended. The terms "consideration,"
"rental," and "rents" include payments received by unrelated
persons from the lessee, tenant, or customer for facilitating
the booking of reservations for or on behalf of the lessees,
tenants, or customers at hotels, apartment houses,
roominghouses, timeshare resorts, tourist or trailer camps,
mobile home parks, recreational vehicle parks, or condominiums
in this state. The term "unrelated persons" means persons who
are not related to the person operating transient accommodations



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14 or to the owner of such accommodations within the meaning of s.
15 1504, s. 267(b), or s. 707(b) of the Internal Revenue Code of
16 1986, as amended.

17 (f) The tourist development tax shall be charged by the
18 person receiving the consideration for the lease or rental, and
19 it shall be collected from the lessee, tenant, or customer at
20 the time of payment of the consideration for such lease or
21 rental. A person operating transient accommodations or the owner
22 of such accommodations shall separately state the tax from the
23 consideration charged on the receipt, invoice, or other
24 documentation issued with respect to charges for transient
25 accommodations. Persons who facilitate the booking of
26 reservations who are unrelated persons with respect to a person
27 who operates transient accommodations with respect to which the
28 reservation is booked are not required to separately state
29 amounts charged on the receipt, invoice, or other documentation
30 except that such persons shall disclose all amounts charged or
31 expected to be charged as taxes on the final receipt, invoice,
32 or other documentation provided to the customer issued by the
33 person facilitating the booking of the reservation. Any amounts
34 specifically collected as tax are county funds and shall be
35 remitted as tax.

36 Section 2. Section 125.0108, Florida Statutes, is amended
37 to read:

38 125.0108 Areas of critical state concern; tourist impact
39 tax.—

40 (1)(a) Subject to the provisions of this section, any
41 county creating a land authority pursuant to s. 380.0663(1) is
42 authorized to levy by ordinance, in the area or areas within



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43 said county designated as an area of critical state concern
44 pursuant to chapter 380, a tourist impact tax on the taxable
45 privileges described in paragraph (2) (a) ~~(b)~~; however, if the
46 area or areas of critical state concern are greater than 50
47 percent of the land area of the county, the tax may be levied
48 throughout the entire county. Such tax shall not be effective
49 unless and until land development regulations and a local
50 comprehensive plan that meet the requirements of chapter 380
51 have become effective and such tax is approved by referendum as
52 provided for in subsection (6) ~~(5)~~.

53 (b) As used in this section, the terms "consideration,"
54 "rental," and "rents" mean the amount received by a person
55 operating transient accommodations or the owner of such
56 accommodations for the use of any living quarters or sleeping or
57 housekeeping accommodations in, from, or a part of, or in
58 connection with, any hotel, apartment house, roominghouse,
59 timeshare resort, tourist or trailer camp, mobile home park,
60 recreational vehicle park, or condominium. The term "person
61 operating transient accommodations" means a person conducting
62 the daily affairs of the physical facilities furnishing
63 transient accommodations who is responsible for providing any of
64 the services commonly associated with operating the facilities
65 furnishing transient accommodations, including providing
66 physical access to such facilities, regardless of whether such
67 commonly associated services are provided by unrelated persons.
68 The terms "consideration," "rental," and "rents" include
69 payments received by unrelated persons from the lessee, tenant,
70 or customer for facilitating the booking of reservations for or
71 on behalf of the lessees, tenants, or customers at hotels,



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72 apartment houses, roominghouses, timeshare resorts, tourist or
73 trailer camps, mobile home parks, recreational vehicle parks, or
74 condominiums in this state. The term "unrelated persons" means
75 persons who are not related to the person operating transient
76 accommodations or to the owner of such accommodations within the
77 meaning of s. 1504, s. 267(b), or s. 707(b) of the Internal
78 Revenue Code of 1986, as amended.

79 (2) (a) ~~(b) 1.~~ It is declared to be the intent of the
80 Legislature that every person who rents, leases, or lets for
81 consideration any living quarters or accommodations in any
82 hotel, apartment hotel, motel, resort motel, apartment,
83 apartment motel, roominghouse, mobile home park, recreational
84 vehicle park, condominium, or timeshare resort for a term of 6
85 months or less, unless such establishment is exempt from the tax
86 imposed by s. 212.03, is exercising a taxable privilege on the
87 proceeds therefrom under this section.

88 (b) 1.2. ~~a.~~ Tax shall be due on the consideration paid for
89 occupancy in the county pursuant to a regulated short-term
90 product, as defined in s. 721.05, or occupancy in the county
91 pursuant to a product that would be deemed a regulated short-
92 term product if the agreement to purchase the short-term right
93 were executed in this state. Such tax shall be collected on the
94 last day of occupancy within the county unless such
95 consideration is applied to the purchase of a timeshare estate.
96 The occupancy of an accommodation of a timeshare resort pursuant
97 to a timeshare plan, a multisite timeshare plan, or an exchange
98 transaction in an exchange program, as defined in s. 721.05, by
99 the owner of a timeshare interest or such owner's guest, which
100 guest is not paying monetary consideration to the owner or to a



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101 third party for the benefit of the owner, is not a privilege
102 subject to taxation under this section. A membership or
103 transaction fee paid by a timeshare owner that does not provide
104 the timeshare owner with the right to occupy any specific
105 timeshare unit but merely provides the timeshare owner with the
106 opportunity to exchange a timeshare interest through an exchange
107 program is a service charge and not subject to taxation under
108 this section.

109 ~~2.b.~~ Consideration paid for the purchase of a timeshare
110 license in a timeshare plan, as defined in s. 721.05, is rent
111 subject to taxation under this section.

112 (c) The governing board of the county may, by passage of a
113 resolution by four-fifths vote, repeal such tax.

114 (d) The tourist impact tax shall be levied at the rate of 1
115 percent of each dollar and major fraction thereof of the total
116 consideration charged for such taxable privilege. When receipt
117 of consideration is by way of property other than money, the tax
118 shall be levied and imposed on the fair market value of such
119 nonmonetary consideration.

120 (e) The tourist impact tax shall be in addition to any
121 other tax imposed pursuant to chapter 212 and in addition to all
122 other taxes and fees and the consideration for the taxable
123 privilege.

124 (f) The tourist impact tax shall be charged by the person
125 receiving the consideration for the taxable privilege, and it
126 shall be collected from the lessee, tenant, or customer at the
127 time of payment of the consideration for such taxable privilege.
128 A person operating transient accommodations or the owner of such
129 accommodations shall separately state the tax from the rental



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130 charged on the receipt, invoice, or other documentation issued
131 with respect to charges for transient accommodations. Persons
132 who facilitate the booking of reservations who are unrelated
133 persons with respect to a person who operates transient
134 accommodations with respect to which the reservation is booked
135 are not required to separately state amounts charged on the
136 receipt, invoice, or other documentation except that such
137 persons shall disclose all amounts charged or expected to be
138 charged as taxes on the final receipt, invoice, or other
139 documentation provided to the customer issued by the person
140 facilitating the booking of the reservation. Any amounts
141 specifically collected as tax are county funds and shall be
142 remitted as tax.

143 (g) A county that has levied the tourist impact tax
144 authorized by this section in an area or areas designated as an
145 area of critical state concern for at least 20 consecutive years
146 prior to removal of the designation may continue to levy the
147 tourist impact tax in accordance with this section for 20 years
148 following removal of the designation. After expiration of the
149 20-year period, a county may continue to levy the tourist impact
150 tax authorized by this section if the county adopts an ordinance
151 reauthorizing levy of the tax and the continued levy of the tax
152 is approved by referendum as provided for in subsection (6) ~~(5)~~.

153 ~~(3)~~ ~~(2)~~ (a) The person receiving the consideration for such
154 taxable privilege and the person doing business within such area
155 or areas of critical state concern or within the entire county,
156 as applicable, shall receive, account for, and remit the tourist
157 impact tax to the Department of Revenue at the time and in the
158 manner provided for persons who collect and remit taxes under



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159 chapter 212. The same duties and privileges imposed by chapter
160 212 upon dealers in tangible property, respecting the collection
161 and remission of tax; the making of returns; the keeping of
162 books, records, and accounts; and compliance with the rules of
163 the Department of Revenue in the administration of that chapter
164 shall apply to and be binding upon all persons who are subject
165 to the provisions of this section. However, the Department of
166 Revenue may authorize a quarterly return and payment when the
167 tax remitted by the dealer for the preceding quarter did not
168 exceed \$25.

169 (b) The Department of Revenue shall keep records showing
170 the amount of taxes collected, which records shall also include
171 records disclosing the amount of taxes collected for and from
172 each county in which the tax imposed and authorized by this
173 section is applicable. These records shall be open for
174 inspection during the regular office hours of the Department of
175 Revenue, subject to the provisions of s. 213.053.

176 (c) Collections received by the Department of Revenue from
177 the tax, less costs of administration of this section, shall be
178 paid and returned monthly to the county and the land authority
179 in accordance with the provisions of subsection (4) ~~(3)~~.

180 (d) The Department of Revenue is authorized to employ
181 persons and incur other expenses for which funds are
182 appropriated by the Legislature.

183 (e) The Department of Revenue is empowered to promulgate
184 such rules and prescribe and publish such forms as may be
185 necessary to effectuate the purposes of this section. The
186 department is authorized to establish audit procedures and to
187 assess for delinquent taxes.



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188 (f) The estimated tax provisions contained in s. 212.11 do
189 not apply to the administration of any tax levied under this
190 section.

191 ~~(4)~~⁽³⁾ All tax revenues received pursuant to this section,
192 less administrative costs, shall be distributed as follows:

193 (a) Fifty percent shall be transferred to the land
194 authority to be used to purchase property in the area of
195 critical state concern for which the revenue is generated. An
196 amount not to exceed 5 percent may be used for administration
197 and other costs incident to such purchases.

198 (b) Fifty percent shall be distributed to the governing
199 body of the county where the revenue was generated. Such
200 proceeds shall be used to offset the loss of ad valorem taxes
201 due to acquisitions provided for by this act.

202 ~~(5)~~⁽⁴⁾(a) Any person who is taxable hereunder who fails or
203 refuses to charge and collect from the person paying for the
204 taxable privilege the taxes herein provided, either by himself
205 or herself or through agents or employees, is, in addition to
206 being personally liable for the payment of the tax, guilty of a
207 misdemeanor of the second degree, punishable as provided in s.
208 775.082 or s. 775.083.

209 (b) No person shall advertise or hold out to the public in
210 any manner, directly or indirectly, that he or she will absorb
211 all or any part of the tax; that he or she will relieve the
212 person paying for the taxable privilege of the payment of all or
213 any part of the tax; or that the tax will not be added to the
214 consideration for the taxable privilege or that, when added, the
215 tax or any part thereof will be refunded or refused, either
216 directly or indirectly, by any method whatsoever. Any person who



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217 willfully violates any provision of this paragraph is guilty of
218 a misdemeanor of the second degree, punishable as provided in s.
219 775.082 or s. 775.083.

220 (c) The tax authorized to be levied by this section shall
221 constitute a lien on the property of the business, lessee,
222 customer, or tenant in the same manner as, and shall be
223 collectible as are, liens authorized and imposed in ss. 713.67,
224 713.68, and 713.69.

225 (6)~~(5)~~ The tourist impact tax authorized by this section
226 shall take effect only upon express approval by a majority vote
227 of those qualified electors in the area or areas of critical
228 state concern in the county seeking to levy such tax, voting in
229 a referendum to be held by the governing board of such county in
230 conjunction with a general or special election, in accordance
231 with the provisions of law relating to elections currently in
232 force. However, if the area or areas of critical state concern
233 are greater than 50 percent of the land area of the county and
234 the tax is to be imposed throughout the entire county, the tax
235 shall take effect only upon express approval of a majority of
236 the qualified electors of the county voting in such a
237 referendum.

238 (7)~~(6)~~ The effective date of the levy and imposition of the
239 tourist impact tax authorized under this section shall be the
240 first day of the second month following approval of the
241 ordinance by referendum or the first day of any subsequent month
242 as may be specified in the ordinance. A certified copy of the
243 ordinance shall include the time period and the effective date
244 of the tax levy and shall be furnished by the county to the
245 Department of Revenue within 10 days after passing an ordinance



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246 levying such tax and again within 10 days after approval by
247 referendum of such tax. If applicable, the county levying the
248 tax shall provide the Department of Revenue with a list of the
249 businesses in the area of critical state concern where the
250 tourist impact tax is levied by zip code or other means of
251 identification. Notwithstanding the provisions of s. 213.053,
252 the Department of Revenue shall assist the county in compiling
253 such list of businesses. The tourist impact tax, if not repealed
254 sooner pursuant to paragraph (1)(c), shall be repealed 10 years
255 after the date the area of critical state concern designation is
256 removed.

257 Section 3. Paragraph (b) of subsection (1) and subsection
258 (2) of section 212.03, Florida Statutes, are amended to read:

259 212.03 Transient rentals tax; rate, procedure, enforcement,
260 exemptions.—

261 (1)

262 (b)1. Tax shall be due on the consideration paid for
263 occupancy in the county pursuant to a regulated short-term
264 product, as defined in s. 721.05, or occupancy in the county
265 pursuant to a product that would be deemed a regulated short-
266 term product if the agreement to purchase the short-term right
267 was executed in this state. Such tax shall be collected on the
268 last day of occupancy within the county unless such
269 consideration is applied to the purchase of a timeshare estate.
270 The occupancy of an accommodation of a timeshare resort pursuant
271 to a timeshare plan, a multisite timeshare plan, or an exchange
272 transaction in an exchange program, as defined in s. 721.05, by
273 the owner of a timeshare interest or such owner's guest, which
274 guest is not paying monetary consideration to the owner or to a



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275 third party for the benefit of the owner, is not a privilege
276 subject to taxation under this section. A membership or
277 transaction fee paid by a timeshare owner that does not provide
278 the timeshare owner with the right to occupy any specific
279 timeshare unit but merely provides the timeshare owner with the
280 opportunity to exchange a timeshare interest through an exchange
281 program is a service charge and not subject to taxation under
282 this section.

283 2. Consideration paid for the purchase of a timeshare
284 license in a timeshare plan, as defined in s. 721.05, is rent
285 subject to taxation under this section.

286 3. As used in this section, the terms "rent," "rental,"
287 "rentals," and "rental payments" mean the amount received by a
288 person operating transient accommodations or the owner of such
289 accommodations for the use of any living quarters or sleeping or
290 housekeeping accommodations in, from, or a part of, or in
291 connection with, any hotel, apartment house, roominghouse,
292 mobile home park, recreational vehicle park, condominium,
293 timeshare resort, or tourist or trailer camp. The term "person
294 operating transient accommodations" means a person conducting
295 the daily affairs of the physical facilities furnishing
296 transient accommodations who is responsible for providing any of
297 the services commonly associated with operating the facilities
298 furnishing transient accommodations, including providing
299 physical access to such facilities, regardless of whether such
300 commonly associated services are provided by unrelated persons.
301 The terms "rent," "rental," "rentals," and "rental payments"
302 include payments received by unrelated persons from the lessee,
303 tenant, customer, or licensee for facilitating the booking of



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304 reservations for or on behalf of the lessees, tenants,
305 customers, or licensees at hotels, apartment houses,
306 roominghouses, mobile home parks, recreational vehicle parks,
307 condominiums, timeshare resorts, or tourist or trailer camps in
308 this state. The term "unrelated persons" means persons who are
309 not related to the person operating transient accommodations or
310 to the owner of such accommodations within the meaning of s.
311 1504, s. 267(b), or s. 707(b) of the Internal Revenue Code of
312 1986, as amended.

313 (2) The tax provided for in this section ~~herein~~ shall be in
314 addition to the total amount of the rental, shall be charged by
315 any the lessor or person operating transient accommodations or
316 the owner of such accommodations subject to the tax imposed
317 under this chapter ~~receiving the rent~~ in and by such said rental
318 arrangement to the lessee or person paying the rental, and shall
319 be due and payable at the time of the receipt of such rental
320 payment by the ~~lessor or person operating the transient~~
321 accommodations or the owner of such accommodations, ~~as defined~~
322 ~~in this chapter, who receives said rental or payment.~~ The ~~owner,~~
323 ~~lessor, or person operating the transient accommodations or the~~
324 owner of such accommodations ~~receiving the rent~~ shall remit the
325 ~~tax~~ to the department the tax on the amount of the rent received
326 by the person operating the transient accommodations or the
327 owner of such accommodations at the times and in the manner
328 hereinafter provided for dealers to remit taxes under this
329 chapter. The same duties imposed by this chapter upon dealers in
330 tangible personal property respecting the collection and
331 remission of the tax; the making of returns; the keeping of
332 books, records, and accounts; and the compliance with the rules



333 and regulations of the department in the administration of this
334 chapter shall apply to and be binding upon all persons who
335 manage or operate hotels, apartment houses, roominghouses,
336 tourist and trailer camps, and the rental of condominium units,
337 and to all persons who collect or receive such rents on behalf
338 of such owner or lessor taxable under this chapter. A person
339 operating transient accommodations or the owner of such
340 accommodations shall separately state the tax from the rental
341 charged on the receipt, invoice, or other documentation issued
342 with respect to charges for transient accommodations. Persons
343 facilitating the booking of reservations who are unrelated to
344 the person operating the transient accommodations in which the
345 reservation is booked are not required to separately state
346 amounts charged on the receipt, invoice, or other documentation
347 except that such persons shall disclose all amounts charged or
348 expected to be charged as taxes on the final receipt, invoice,
349 or other documentation provided to the customer issued by the
350 person facilitating the booking of the reservation. Any amounts
351 specifically collected as a tax are state funds and must be
352 remitted as tax.

353 Section 4. Paragraphs (a) and (b) of subsection (3) of
354 section 212.0305, Florida Statutes, are amended to read:

355 212.0305 Convention development taxes; intent;
356 administration; authorization; use of proceeds.-

357 (3) APPLICATION; ADMINISTRATION; PENALTIES.-

358 (a)1. The convention development tax on transient rentals
359 imposed by the governing body of any county authorized to so
360 levy shall apply to the amount of any payment made by any person
361 to rent, lease, or use for a period of 6 months or less any



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362 living quarters or accommodations in a hotel, apartment hotel,
363 motel, resort motel, apartment, apartment motel, roominghouse,
364 tourist or trailer camp, mobile home park, recreational vehicle
365 park, condominium, or timeshare resort. When receipt of
366 consideration is by way of property other than money, the tax
367 shall be levied and imposed on the fair market value of such
368 nonmonetary consideration. Any payment made by a person to rent,
369 lease, or use any living quarters or accommodations which are
370 exempt from the tax imposed under s. 212.03 shall likewise be
371 exempt from any tax imposed under this section.

372 2.~~a~~ Tax shall be due on the consideration paid for
373 occupancy in the county pursuant to a regulated short-term
374 product, as defined in s. 721.05, or occupancy in the county
375 pursuant to a product that would be deemed a regulated short-
376 term product if the agreement to purchase the short-term right
377 was executed in this state. Such tax shall be collected on the
378 last day of occupancy within the county unless such
379 consideration is applied to the purchase of a timeshare estate.
380 The occupancy of an accommodation of a timeshare resort pursuant
381 to a timeshare plan, a multisite timeshare plan, or an exchange
382 transaction in an exchange program, as defined in s. 721.05, by
383 the owner of a timeshare interest or such owner's guest, which
384 guest is not paying monetary consideration to the owner or to a
385 third party for the benefit of the owner, is not a privilege
386 subject to taxation under this section. A membership or
387 transaction fee paid by a timeshare owner that does not provide
388 the timeshare owner with the right to occupy any specific
389 timeshare unit but merely provides the timeshare owner with the
390 opportunity to exchange a timeshare interest through an exchange



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391 program is a service charge and not subject to taxation under
392 this section.

393 ~~3.b.~~ Consideration paid for the purchase of a timeshare
394 license in a timeshare plan, as defined in s. 721.05, is rent
395 subject to taxation under this section.

396 4. As used in this section, the terms "consideration,"
397 "rental," and "rents" mean the amount received by a person
398 operating transient accommodations or the owner of such
399 accommodations for the use of any living quarters or sleeping or
400 housekeeping accommodations in, from, or a part of, or in
401 connection with, any hotel, apartment house, roominghouse,
402 timeshare resort, tourist or trailer camp, mobile home park,
403 recreational vehicle park, or condominium. The term "person
404 operating transient accommodations" means a person conducting
405 the daily affairs of the physical facilities furnishing
406 transient accommodations who is responsible for providing any of
407 the services commonly associated with operating the facilities
408 furnishing transient accommodations, including providing
409 physical access to such facilities, regardless of whether such
410 commonly associated services are provided by unrelated persons.
411 The terms "consideration," "rental," and "rents" include