



476408

LEGISLATIVE ACTION

Senate

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House

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Senator Latvala moved the following:

**Senate Amendment**

Delete lines 114 - 518  
and insert:  
person facilitating the booking of the reservation. A person  
facilitating the booking of a reservation shall separately state  
the fee or charge for the service provided to the customer at  
the time of the booking. Any amounts specifically collected as  
tax are county funds and shall be remitted as tax.

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

125.0108 Areas of critical state concern; tourist impact  
tax.-



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14 (1) (a) Subject to the provisions of this section, any  
15 county creating a land authority pursuant to s. 380.0663(1) is  
16 authorized to levy by ordinance, in the area or areas within  
17 said county designated as an area of critical state concern  
18 pursuant to chapter 380, a tourist impact tax on the taxable  
19 privileges described in paragraph (2) (a) ~~(b)~~; however, if the  
20 area or areas of critical state concern are greater than 50  
21 percent of the land area of the county, the tax may be levied  
22 throughout the entire county. Such tax shall not be effective  
23 unless and until land development regulations and a local  
24 comprehensive plan that meet the requirements of chapter 380  
25 have become effective and such tax is approved by referendum as  
26 provided for in subsection (6) ~~(5)~~.

27 (b) As used in this section, the terms "consideration,"  
28 "rental," and "rents" mean the amount received by a person  
29 operating transient accommodations or the owner of such  
30 accommodations for the use of any living quarters or sleeping or  
31 housekeeping accommodations in, from, or a part of, or in  
32 connection with, any hotel, apartment house, roominghouse,  
33 timeshare resort, tourist or trailer camp, mobile home park,  
34 recreational vehicle park, or condominium. The term "person  
35 operating transient accommodations" means a person conducting  
36 the daily affairs of the physical facilities furnishing  
37 transient accommodations who is responsible for providing any of  
38 the services commonly associated with operating the facilities  
39 furnishing transient accommodations, including providing  
40 physical access to such facilities, regardless of whether such  
41 commonly associated services are provided by unrelated persons.  
42 The terms "consideration," "rental," and "rents" do not include



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43 payments received by unrelated persons from the lessee, tenant,  
44 or customer for facilitating the booking of reservations for or  
45 on behalf of the lessees, tenants, or customers at hotels,  
46 apartment houses, roominghouses, timeshare resorts, tourist or  
47 trailer camps, mobile home parks, recreational vehicle parks, or  
48 condominiums in this state. The term "unrelated persons" means  
49 persons who are not related to the person operating transient  
50 accommodations or to the owner of such accommodations within the  
51 meaning of s. 1504, s. 267(b), or s. 707(b) of the Internal  
52 Revenue Code of 1986, as amended.

53 (2) (a) ~~(b) 1.~~ It is declared to be the intent of the  
54 Legislature that every person who rents, leases, or lets for  
55 consideration any living quarters or accommodations in any  
56 hotel, apartment hotel, motel, resort motel, apartment,  
57 apartment motel, roominghouse, mobile home park, recreational  
58 vehicle park, condominium, or timeshare resort for a term of 6  
59 months or less, unless such establishment is exempt from the tax  
60 imposed by s. 212.03, is exercising a taxable privilege on the  
61 proceeds therefrom under this section.

62 (b) 1.2.a. Tax shall be due on the consideration paid for  
63 occupancy in the county pursuant to a regulated short-term  
64 product, as defined in s. 721.05, or occupancy in the county  
65 pursuant to a product that would be deemed a regulated short-  
66 term product if the agreement to purchase the short-term right  
67 were executed in this state. Such tax shall be collected on the  
68 last day of occupancy within the county unless such  
69 consideration is applied to the purchase of a timeshare estate.  
70 The occupancy of an accommodation of a timeshare resort pursuant  
71 to a timeshare plan, a multisite timeshare plan, or an exchange



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72 transaction in an exchange program, as defined in s. 721.05, by  
73 the owner of a timeshare interest or such owner's guest, which  
74 guest is not paying monetary consideration to the owner or to a  
75 third party for the benefit of the owner, is not a privilege  
76 subject to taxation under this section. A membership or  
77 transaction fee paid by a timeshare owner that does not provide  
78 the timeshare owner with the right to occupy any specific  
79 timeshare unit but merely provides the timeshare owner with the  
80 opportunity to exchange a timeshare interest through an exchange  
81 program is a service charge and not subject to taxation under  
82 this section.

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

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

88 (d) The tourist impact tax shall be levied at the rate of 1  
89 percent of each dollar and major fraction thereof of the total  
90 consideration charged for such taxable privilege. When receipt  
91 of consideration is by way of property other than money, the tax  
92 shall be levied and imposed on the fair market value of such  
93 nonmonetary consideration.

94 (e) The tourist impact tax shall be in addition to any  
95 other tax imposed pursuant to chapter 212 and in addition to all  
96 other taxes and fees and the consideration for the taxable  
97 privilege.

98 (f) The tourist impact tax shall be charged by the person  
99 receiving the consideration for the taxable privilege, and it  
100 shall be collected from the lessee, tenant, or customer at the



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101 time of payment of the consideration for such taxable privilege.  
102 A person operating transient accommodations or the owner of such  
103 accommodations shall separately state the tax from the rental  
104 charged on the receipt, invoice, or other documentation issued  
105 with respect to charges for transient accommodations. Persons  
106 who facilitate the booking of reservations who are unrelated  
107 persons with respect to a person who operates transient  
108 accommodations with respect to which the reservation is booked  
109 are not required to separately state amounts charged on the  
110 receipt, invoice, or other documentation except that such  
111 persons shall disclose all amounts charged or expected to be  
112 charged as taxes on the final receipt, invoice, or other  
113 documentation provided to the customer issued by the person  
114 facilitating the booking of the reservation. A person  
115 facilitating the booking of a reservation shall separately state  
116 the fee or charge for the service provided to the customer at  
117 the time of the booking. Any amounts specifically collected as  
118 tax are county funds and shall be remitted as tax.

119 (g) A county that has levied the tourist impact tax  
120 authorized by this section in an area or areas designated as an  
121 area of critical state concern for at least 20 consecutive years  
122 prior to removal of the designation may continue to levy the  
123 tourist impact tax in accordance with this section for 20 years  
124 following removal of the designation. After expiration of the  
125 20-year period, a county may continue to levy the tourist impact  
126 tax authorized by this section if the county adopts an ordinance  
127 reauthorizing levy of the tax and the continued levy of the tax  
128 is approved by referendum as provided for in subsection (6) ~~(5)~~.

129 (3) ~~(2)~~ (a) The person receiving the consideration for such



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130 taxable privilege and the person doing business within such area  
131 or areas of critical state concern or within the entire county,  
132 as applicable, shall receive, account for, and remit the tourist  
133 impact tax to the Department of Revenue at the time and in the  
134 manner provided for persons who collect and remit taxes under  
135 chapter 212. The same duties and privileges imposed by chapter  
136 212 upon dealers in tangible property, respecting the collection  
137 and remission of tax; the making of returns; the keeping of  
138 books, records, and accounts; and compliance with the rules of  
139 the Department of Revenue in the administration of that chapter  
140 shall apply to and be binding upon all persons who are subject  
141 to the provisions of this section. However, the Department of  
142 Revenue may authorize a quarterly return and payment when the  
143 tax remitted by the dealer for the preceding quarter did not  
144 exceed \$25.

145 (b) The Department of Revenue shall keep records showing  
146 the amount of taxes collected, which records shall also include  
147 records disclosing the amount of taxes collected for and from  
148 each county in which the tax imposed and authorized by this  
149 section is applicable. These records shall be open for  
150 inspection during the regular office hours of the Department of  
151 Revenue, subject to the provisions of s. 213.053.

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

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



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159 (e) The Department of Revenue is empowered to promulgate  
160 such rules and prescribe and publish such forms as may be  
161 necessary to effectuate the purposes of this section. The  
162 department is authorized to establish audit procedures and to  
163 assess for delinquent taxes.

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

167 ~~(4)~~<sup>(3)</sup> All tax revenues received pursuant to this section,  
168 less administrative costs, shall be distributed as follows:

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

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

178 ~~(5)~~<sup>(4)</sup> (a) Any person who is taxable hereunder who fails or  
179 refuses to charge and collect from the person paying for the  
180 taxable privilege the taxes herein provided, either by himself  
181 or herself or through agents or employees, is, in addition to  
182 being personally liable for the payment of the tax, guilty of a  
183 misdemeanor of the second degree, punishable as provided in s.  
184 775.082 or s. 775.083.

185 (b) No person shall advertise or hold out to the public in  
186 any manner, directly or indirectly, that he or she will absorb  
187 all or any part of the tax; that he or she will relieve the



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188 person paying for the taxable privilege of the payment of all or  
189 any part of the tax; or that the tax will not be added to the  
190 consideration for the taxable privilege or that, when added, the  
191 tax or any part thereof will be refunded or refused, either  
192 directly or indirectly, by any method whatsoever. Any person who  
193 willfully violates any provision of this paragraph is guilty of  
194 a misdemeanor of the second degree, punishable as provided in s.  
195 775.082 or s. 775.083.

196 (c) The tax authorized to be levied by this section shall  
197 constitute a lien on the property of the business, lessee,  
198 customer, or tenant in the same manner as, and shall be  
199 collectible as are, liens authorized and imposed in ss. 713.67,  
200 713.68, and 713.69.

201 ~~(6)-(5)~~ The tourist impact tax authorized by this section  
202 shall take effect only upon express approval by a majority vote  
203 of those qualified electors in the area or areas of critical  
204 state concern in the county seeking to levy such tax, voting in  
205 a referendum to be held by the governing board of such county in  
206 conjunction with a general or special election, in accordance  
207 with the provisions of law relating to elections currently in  
208 force. However, if the area or areas of critical state concern  
209 are greater than 50 percent of the land area of the county and  
210 the tax is to be imposed throughout the entire county, the tax  
211 shall take effect only upon express approval of a majority of  
212 the qualified electors of the county voting in such a  
213 referendum.

214 ~~(7)-(6)~~ The effective date of the levy and imposition of the  
215 tourist impact tax authorized under this section shall be the  
216 first day of the second month following approval of the





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217 ordinance by referendum or the first day of any subsequent month  
218 as may be specified in the ordinance. A certified copy of the  
219 ordinance shall include the time period and the effective date  
220 of the tax levy and shall be furnished by the county to the  
221 Department of Revenue within 10 days after passing an ordinance  
222 levying such tax and again within 10 days after approval by  
223 referendum of such tax. If applicable, the county levying the  
224 tax shall provide the Department of Revenue with a list of the  
225 businesses in the area of critical state concern where the  
226 tourist impact tax is levied by zip code or other means of  
227 identification. Notwithstanding the provisions of s. 213.053,  
228 the Department of Revenue shall assist the county in compiling  
229 such list of businesses. The tourist impact tax, if not repealed  
230 sooner pursuant to paragraph (1)(c), shall be repealed 10 years  
231 after the date the area of critical state concern designation is  
232 removed.

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

235 212.03 Transient rentals tax; rate, procedure, enforcement,  
236 exemptions.—

237 (1)

238 (b)1. Tax shall be due on the consideration paid for  
239 occupancy in the county pursuant to a regulated short-term  
240 product, as defined in s. 721.05, or occupancy in the county  
241 pursuant to a product that would be deemed a regulated short-  
242 term product if the agreement to purchase the short-term right  
243 was executed in this state. Such tax shall be collected on the  
244 last day of occupancy within the county unless such  
245 consideration is applied to the purchase of a timeshare estate.



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246 The occupancy of an accommodation of a timeshare resort pursuant  
247 to a timeshare plan, a multisite timeshare plan, or an exchange  
248 transaction in an exchange program, as defined in s. 721.05, by  
249 the owner of a timeshare interest or such owner's guest, which  
250 guest is not paying monetary consideration to the owner or to a  
251 third party for the benefit of the owner, is not a privilege  
252 subject to taxation under this section. A membership or  
253 transaction fee paid by a timeshare owner that does not provide  
254 the timeshare owner with the right to occupy any specific  
255 timeshare unit but merely provides the timeshare owner with the  
256 opportunity to exchange a timeshare interest through an exchange  
257 program is a service charge and not subject to taxation under  
258 this section.

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

262 3. As used in this section, the terms "rent," "rental,"  
263 "rentals," and "rental payments" mean the amount received by a  
264 person operating transient accommodations or the owner of such  
265 accommodations for the use of any living quarters or sleeping or  
266 housekeeping accommodations in, from, or a part of, or in  
267 connection with, any hotel, apartment house, roominghouse,  
268 mobile home park, recreational vehicle park, condominium,  
269 timeshare resort, or tourist or trailer camp. The term "person  
270 operating transient accommodations" means a person conducting  
271 the daily affairs of the physical facilities furnishing  
272 transient accommodations who is responsible for providing any of  
273 the services commonly associated with operating the facilities  
274 furnishing transient accommodations, including providing



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275 physical access to such facilities, regardless of whether such  
276 commonly associated services are provided by unrelated persons.  
277 The terms "rent," "rental," "rentals," and "rental payments" do  
278 not include payments received by unrelated persons from the  
279 lessee, tenant, customer, or licensee for facilitating the  
280 booking of reservations for or on behalf of the lessees,  
281 tenants, customers, or licensees at hotels, apartment houses,  
282 roominghouses, mobile home parks, recreational vehicle parks,  
283 condominiums, timeshare resorts, or tourist or trailer camps in  
284 this state. The term "unrelated persons" means persons who are  
285 not related to the person operating transient accommodations or  
286 to the owner of such accommodations within the meaning of s.  
287 1504, s. 267(b), or s. 707(b) of the Internal Revenue Code of  
288 1986, as amended.

289 (2) The tax provided for in this section ~~herein~~ shall be in  
290 addition to the total amount of the rental, shall be charged by  
291 any the lesser or person operating transient accommodations or  
292 the owner of such accommodations subject to the tax imposed  
293 under this chapter ~~receiving the rent~~ in and by such said rental  
294 arrangement to the lessee or person paying the rental, and shall  
295 be due and payable at the time of the receipt of such rental  
296 payment by the ~~lesser or person operating the transient~~  
297 accommodations or the owner of such accommodations, ~~as defined~~  
298 ~~in this chapter, who receives said rental or payment.~~ The ~~owner,~~  
299 ~~lesser, or person operating the transient accommodations or the~~  
300 owner of such accommodations ~~receiving the rent~~ shall remit the  
301 ~~tax~~ to the department the tax on the amount of the rent received  
302 by the person operating the transient accommodations or the  
303 owner of such accommodations at the times and in the manner



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304 hereinafter provided for dealers to remit taxes under this  
305 chapter. The same duties imposed by this chapter upon dealers in  
306 tangible personal property respecting the collection and  
307 remission of the tax; the making of returns; the keeping of  
308 books, records, and accounts; and the compliance with the rules  
309 and regulations of the department in the administration of this  
310 chapter shall apply to and be binding upon all persons who  
311 manage or operate hotels, apartment houses, roominghouses,  
312 tourist and trailer camps, and the rental of condominium units,  
313 and to all persons who collect or receive such rents on behalf  
314 of such owner or lessor taxable under this chapter. A person  
315 operating transient accommodations or the owner of such  
316 accommodations shall separately state the tax from the rental  
317 charged on the receipt, invoice, or other documentation issued  
318 with respect to charges for transient accommodations. Persons  
319 facilitating the booking of reservations who are unrelated to  
320 the person operating the transient accommodations in which the  
321 reservation is booked are not required to separately state  
322 amounts charged on the receipt, invoice, or other documentation  
323 except that such persons shall disclose all amounts charged or  
324 expected to be charged as taxes on the final receipt, invoice,  
325 or other documentation provided to the customer issued by the  
326 person facilitating the booking of the reservation. A person  
327 facilitating the booking of a reservation shall separately state  
328 the fee or charge for the service provided to the customer at  
329 the time of the booking. Any amounts specifically collected as a  
330 tax are state funds and must be remitted as tax.

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



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333 212.0305 Convention development taxes; intent;  
334 administration; authorization; use of proceeds.—

335 (3) APPLICATION; ADMINISTRATION; PENALTIES.—

336 (a)1. The convention development tax on transient rentals  
337 imposed by the governing body of any county authorized to so  
338 levy shall apply to the amount of any payment made by any person  
339 to rent, lease, or use for a period of 6 months or less any  
340 living quarters or accommodations in a hotel, apartment hotel,  
341 motel, resort motel, apartment, apartment motel, roominghouse,  
342 tourist or trailer camp, mobile home park, recreational vehicle  
343 park, condominium, or timeshare resort. When receipt of  
344 consideration is by way of property other than money, the tax  
345 shall be levied and imposed on the fair market value of such  
346 nonmonetary consideration. Any payment made by a person to rent,  
347 lease, or use any living quarters or accommodations which are  
348 exempt from the tax imposed under s. 212.03 shall likewise be  
349 exempt from any tax imposed under this section.

350 2.~~a~~. Tax shall be due on the consideration paid for  
351 occupancy in the county pursuant to a regulated short-term  
352 product, as defined in s. 721.05, or occupancy in the county  
353 pursuant to a product that would be deemed a regulated short-  
354 term product if the agreement to purchase the short-term right  
355 was executed in this state. Such tax shall be collected on the  
356 last day of occupancy within the county unless such  
357 consideration is applied to the purchase of a timeshare estate.  
358 The occupancy of an accommodation of a timeshare resort pursuant  
359 to a timeshare plan, a multisite timeshare plan, or an exchange  
360 transaction in an exchange program, as defined in s. 721.05, by  
361 the owner of a timeshare interest or such owner's guest, which



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362 guest is not paying monetary consideration to the owner or to a  
363 third party for the benefit of the owner, is not a privilege  
364 subject to taxation under this section. A membership or  
365 transaction fee paid by a timeshare owner that does not provide  
366 the timeshare owner with the right to occupy any specific  
367 timeshare unit but merely provides the timeshare owner with the  
368 opportunity to exchange a timeshare interest through an exchange  
369 program is a service charge and not subject to taxation under  
370 this section.

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

374 4. As used in this section, the terms "consideration,"  
375 "rental," and "rents" mean the amount received by a person  
376 operating transient accommodations or the owner of such  
377 accommodations for the use of any living quarters or sleeping or  
378 housekeeping accommodations in, from, or a part of, or in  
379 connection with, any hotel, apartment house, roominghouse,  
380 timeshare resort, tourist or trailer camp, mobile home park,  
381 recreational vehicle park, or condominium. The term "person  
382 operating transient accommodations" means a person conducting  
383 the daily affairs of the physical facilities furnishing  
384 transient accommodations who is responsible for providing any of  
385 the services commonly associated with operating the facilities  
386 furnishing transient accommodations, including providing  
387 physical access to such facilities, regardless of whether such  
388 commonly associated services are provided by unrelated persons.  
389 The terms "consideration," "rental," and "rents" do not include  
390 payments received by unrelated persons from the lessee, tenant,



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391 or customer for facilitating the booking of reservations for or  
392 on behalf of the lessees, tenants, or customers at hotels,  
393 apartment houses, roominghouses, timeshare resorts, tourist or  
394 trailer camps, mobile home parks, recreational vehicle parks, or  
395 condominiums in this state. The term "unrelated persons" means  
396 persons who are not related to the person operating transient  
397 accommodations or to the owner of such accommodations within the  
398 meaning of s. 1504, s. 267(b), or s. 707(b) of the Internal  
399 Revenue Code of 1986, as amended.

400 (b) The tax shall be charged by the person receiving the  
401 consideration for the lease or rental, and the tax shall be  
402 collected from the lessee, tenant, or customer at the time of  
403 payment of the consideration for such lease or rental. A person  
404 operating transient accommodations or the owner of such  
405 accommodations shall separately state the tax from the rental  
406 charged on the receipt, invoice, or other documentation issued  
407 with respect to charges for transient accommodations. Persons  
408 facilitating the booking of reservations who are unrelated to  
409 the person operating the transient accommodations in which the  
410 reservation is booked are not required to separately state  
411 amounts charged on the receipt, invoice, or other documentation  
412 except that such persons shall disclose all amounts charged or  
413 expected to be charged as taxes on the final receipt, invoice,  
414 or other documentation provided to the customer issued by the  
415 person facilitating the booking of the reservation. A person  
416 facilitating the booking of a reservation shall separately state  
417 the fee or charge for the service provided to the customer at  
418 the time of the booking. Any amounts