



400072

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/2/2008	.	
	.	
	.	

1 The Committee on Finance and Tax (Haridopolos) recommended the
 2 following **amendment**:

3
 4 **Senate Amendment (with title amendment)**

5 Between line(s) 94 and 95,
 6 insert:

7 Section 2. Subsection (3) of section 125.0104, Florida
 8 Statutes, is amended to read:

9 125.0104 Tourist development tax; procedure for levying;
 10 authorized uses; referendum; enforcement.--

11 (3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.--

12 (a) It is declared to be the intent of the Legislature that
 13 every person who rents, leases, or lets for consideration any
 14 living quarters or accommodations in any hotel, apartment hotel,
 15 motel, resort motel, apartment, apartment motel, roominghouse,
 16 mobile home park, recreational vehicle park, ~~or~~ condominium, or
 17 timeshare resort for a term of 6 months or less is exercising a

Bill No. SB 2788



400072

18 privilege which is subject to taxation under this section, unless
19 such person rents, leases, or lets for consideration any living
20 quarters or accommodations which are exempt according to the
21 provisions of chapter 212.

22 (b) As used in this section, the terms "consideration,"
23 "rental," and "rents" mean the amount received by a person
24 operating transient accommodations for the use or securing the
25 use of any living quarters or sleeping or housekeeping
26 accommodations in, from, or a part of, or in connection with any
27 hotel, apartment house, roominghouse, timeshare resort, tourist
28 or trailer camp, mobile home park, recreational vehicle park, or
29 condominium. The phrase "person operating transient
30 accommodations" means the person conducting the daily affairs of
31 the physical facilities furnishing transient accommodations who
32 is responsible for providing the services commonly associated
33 with operating the facilities furnishing transient accommodations
34 regardless of whether such commonly associated services are
35 provided by third parties. The terms "consideration" and "rents"
36 do not include payments received by unrelated persons for
37 facilitating the booking of reservations for or on behalf of the
38 lessees or licensees at hotels, apartment houses, roominghouses,
39 timeshare resorts, tourist or trailer camps, mobile home parks,
40 recreational vehicle parks, or condominiums in this state.
41 "Unrelated person" means a person who is not in the same
42 affiliated group of corporations pursuant to s. 1504 of the
43 Internal Revenue Code of 1986, as amended.

44 (c) Tax shall be due on the consideration paid for
45 occupancy in the county pursuant to a regulated short-term
46 product, as defined in chapter 721, or occupancy in the county
47 pursuant to a product that would be deemed a regulated short-term



400072

48 product if the agreement to purchase the short-term right were
49 executed in this state. Such tax shall be collected on the last
50 day of occupancy within the county unless such consideration is
51 applied to the purchase of a timeshare estate. Notwithstanding
52 the provisions of paragraphs (a) and (b), the occupancy of an
53 accommodation of a timeshare resort pursuant to a timeshare plan,
54 a multisite timeshare plan, or an exchange transaction in an
55 exchange program, as defined in chapter 721, by the owner of a
56 timeshare interest or such owner's guest, which guest is not
57 paying monetary consideration to the owner or to a third party
58 for the benefit of the owner, is not a privilege subject to
59 taxation under this section. A membership or transaction fee paid
60 by a timeshare owner which does not provide the timeshare owner
61 with the right to occupy any specific timeshare unit but merely
62 provides the timeshare owner with the opportunity to exchange a
63 timeshare interest through an exchange program is a service
64 charge and not subject to taxation.

65 (d) Consideration paid for the purchase of a timeshare
66 license in a timeshare plan, as defined in chapter 721, is rent
67 subject to taxation under this section.

68 (e) ~~(b)~~ Subject to the provisions of this section, any
69 county in this state may levy and impose a tourist development
70 tax on the exercise within its boundaries of the taxable
71 privilege described in paragraph (a), except that there shall be
72 no additional levy under this section in any cities or towns
73 presently imposing a municipal resort tax as authorized under
74 chapter 67-930, Laws of Florida, and this section shall not in
75 any way affect the powers and existence of any tourist
76 development authority created pursuant to chapter 67-930, Laws of
77 Florida. No county authorized to levy a convention development



400072

78 tax pursuant to s. 212.0305, or to s. 8 of chapter 84-324, Laws
79 of Florida, shall be allowed to levy more than the 2-percent tax
80 authorized by this section. A county may elect to levy and impose
81 the tourist development tax in a subcounty special district of
82 the county. However, if a county so elects to levy and impose the
83 tax on a subcounty special district basis, the district shall
84 embrace all or a significant contiguous portion of the county,
85 and the county shall assist the Department of Revenue in
86 identifying the rental units subject to tax in the district.

87 (f) ~~(e)~~ The tourist development tax shall be levied,
88 imposed, and set by the governing board of the county at a rate
89 of 1 percent or 2 percent of each dollar and major fraction of
90 each dollar of the total consideration charged for such lease or
91 rental. When receipt of consideration is by way of property other
92 than money, the tax shall be levied and imposed on the fair
93 market value of such nonmonetary consideration.

94 (g) ~~(d)~~ In addition to any 1-percent or 2-percent tax
95 imposed under paragraph (f) ~~(e)~~, the governing board of the
96 county may levy, impose, and set an additional 1 percent of each
97 dollar above the tax rate set under paragraph (f) ~~(e)~~ by the
98 extraordinary vote of the governing board for the purposes set
99 forth in subsection (5) or by referendum approval by the
100 registered electors within the county or subcounty special
101 district. No county shall levy, impose, and set the tax
102 authorized under this paragraph unless the county has imposed the
103 1-percent or 2-percent tax authorized under paragraph (f) ~~(e)~~ for
104 a minimum of 3 years prior to the effective date of the levy and
105 imposition of the tax authorized by this paragraph. Revenues
106 raised by the additional tax authorized under this paragraph
107 shall not be used for debt service on or refinancing of existing



400072

108 facilities as specified in subparagraph (5) (a)1. unless approved
109 by a resolution adopted by an extraordinary majority of the total
110 membership of the governing board of the county. If the 1-percent
111 or 2-percent tax authorized in paragraph (f) ~~(e)~~ is levied within
112 a subcounty special taxing district, the additional tax
113 authorized in this paragraph shall only be levied therein. The
114 provisions of paragraphs (4) (a)-(d) shall not apply to the
115 adoption of the additional tax authorized in this paragraph. The
116 effective date of the levy and imposition of the tax authorized
117 under this paragraph shall be the first day of the second month
118 following approval of the ordinance by the governing board or the
119 first day of any subsequent month as may be specified in the
120 ordinance. A certified copy of such ordinance shall be furnished
121 by the county to the Department of Revenue within 10 days after
122 approval of such ordinance.

123 (h) ~~(e)~~ The tourist development tax shall be in addition to
124 any other tax imposed pursuant to chapter 212 and in addition to
125 all other taxes and fees and the consideration for the rental or
126 lease.

127 (i) ~~(f)~~ The tourist development tax shall be charged by the
128 person receiving the consideration for the lease or rental, and
129 it shall be collected from the lessee, tenant, or customer at the
130 time of payment of the consideration for such lease or rental.

131 (j) ~~(g)~~ The person receiving the consideration for such
132 rental or lease shall receive, account for, and remit the tax to
133 the Department of Revenue at the time and in the manner provided
134 for persons who collect and remit taxes under s. 212.03. The same
135 duties and privileges imposed by chapter 212 upon dealers in
136 tangible property, respecting the collection and remission of
137 tax; the making of returns; the keeping of books, records, and



400072

138 accounts; and compliance with the rules of the Department of
139 Revenue in the administration of that chapter shall apply to and
140 be binding upon all persons who are subject to the provisions of
141 this section. However, the Department of Revenue may authorize a
142 quarterly return and payment when the tax remitted by the dealer
143 for the preceding quarter did not exceed \$25.

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

151 (l) ~~(i)~~ Collections received by the Department of Revenue
152 from the tax, less costs of administration of this section, shall
153 be paid and returned monthly to the county which imposed the tax,
154 for use by the county in accordance with the provisions of this
155 section. They shall be placed in the county tourist development
156 trust fund of the respective county, which shall be established
157 by each county as a condition precedent to receipt of such funds.

158 (m) ~~(j)~~ The Department of Revenue may ~~is authorized to~~
159 employ persons and incur other expenses for which funds are
160 appropriated by the Legislature.

161 (n) ~~(k)~~ The Department of Revenue shall adopt ~~promulgate~~
162 ~~such~~ rules and ~~shall~~ prescribe and publish ~~such~~ forms as ~~may be~~
163 necessary to effectuate the purposes of this section. The
164 department may establish audit procedures to assess for
165 delinquent taxes. The person operating transient accommodations
166 shall state the tax separately from the rental charged on the
167 receipt, invoice, or other documentation issued with respect to

Bill No. SB 2788



400072

168 charges for transient accommodations. Persons facilitating the
169 booking of reservations who are unrelated to the person operating
170 the transient accommodations in which the reservation is booked
171 are not required to separately state amounts charged on the
172 receipt, invoice, or other documentation issued by the person
173 facilitating the booking of the reservation. Any amounts
174 specifically collected as a tax are county funds and must be
175 remitted as tax.

176 (o)~~(1)~~ In addition to any other tax which is imposed
177 pursuant to this section, a county may impose up to an additional
178 1-percent tax on the exercise of the privilege described in
179 paragraph (a) by majority vote of the governing board of the
180 county in order to:

181 1. Pay the debt service on bonds issued to finance the
182 construction, reconstruction, or renovation of a professional
183 sports franchise facility, or the acquisition, construction,
184 reconstruction, or renovation of a retained spring training
185 franchise facility, either publicly owned and operated, or
186 publicly owned and operated by the owner of a professional sports
187 franchise or other lessee with sufficient expertise or financial
188 capability to operate such facility, and to pay the planning and
189 design costs incurred prior to the issuance of such bonds.

190 2. Pay the debt service on bonds issued to finance the
191 construction, reconstruction, or renovation of a convention
192 center, and to pay the planning and design costs incurred prior
193 to the issuance of such bonds.

194 3. Pay the operation and maintenance costs of a convention
195 center for a period of up to 10 years. Only counties that have
196 elected to levy the tax for the purposes authorized in
197 subparagraph 2. may use the tax for the purposes enumerated in



400072

198 this subparagraph. Any county that elects to levy the tax for the
199 purposes authorized in subparagraph 2. after July 1, 2000, may
200 use the proceeds of the tax to pay the operation and maintenance
201 costs of a convention center for the life of the bonds.

202 4. Promote and advertise tourism in the State of Florida
203 and nationally and internationally; however, if tax revenues are
204 expended for an activity, service, venue, or event, the activity,
205 service, venue, or event shall have as one of its main purposes
206 the attraction of tourists as evidenced by the promotion of the
207 activity, service, venue, or event to tourists.

208
209 The provision of paragraph (e) ~~(b)~~ which prohibits any county
210 authorized to levy a convention development tax pursuant to s.
211 212.0305 from levying more than the 2-percent tax authorized by
212 this section, and the provisions of paragraphs (4) (a)-(d), shall
213 not apply to the additional tax authorized in this paragraph. The
214 effective date of the levy and imposition of the tax authorized
215 under this paragraph shall be the first day of the second month
216 following approval of the ordinance by the governing board or the
217 first day of any subsequent month as may be specified in the
218 ordinance. A certified copy of such ordinance shall be furnished
219 by the county to the Department of Revenue within 10 days after
220 approval of such ordinance.

221 (p) ~~(m)~~1. In addition to any other tax which is imposed
222 pursuant to this section, a high tourism impact county may impose
223 an additional 1-percent tax on the exercise of the privilege
224 described in paragraph (a) by extraordinary vote of the governing
225 board of the county. The tax revenues received pursuant to this
226 paragraph shall be used for one or more of the authorized uses
227 pursuant to subsection (5).



400072

228 2. A county is considered to be a high tourism impact
229 county after the Department of Revenue has certified to such
230 county that the sales subject to the tax levied pursuant to this
231 section exceeded \$600 million during the previous calendar year,
232 or were at least 18 percent of the county's total taxable sales
233 under chapter 212 where the sales subject to the tax levied
234 pursuant to this section were a minimum of \$200 million, except
235 that no county authorized to levy a convention development tax
236 pursuant to s. 212.0305 shall be considered a high tourism impact
237 county. Once a county qualifies as a high tourism impact county,
238 it shall retain this designation for the period the tax is levied
239 pursuant to this paragraph.

240 3. The provisions of paragraphs (4) (a)-(d) shall not apply
241 to the adoption of the additional tax authorized in this
242 paragraph. The effective date of the levy and imposition of the
243 tax authorized under this paragraph shall be the first day of the
244 second month following approval of the ordinance by the governing
245 board or the first day of any subsequent month as may be
246 specified in the ordinance. A certified copy of such ordinance
247 shall be furnished by the county to the Department of Revenue
248 within 10 days after approval of such ordinance.

249 ~~(q) (n)~~ In addition to any other tax that is imposed under
250 this section, a county that has imposed the tax under paragraph
251 ~~(o) (l)~~ may impose an additional tax that is no greater than 1
252 percent on the exercise of the privilege described in paragraph
253 (a) by a majority plus one vote of the membership of the board of
254 county commissioners in order to:

255 1. Pay the debt service on bonds issued to finance:

256 a. The construction, reconstruction, or renovation of a
257 facility either publicly owned and operated, or publicly owned



400072

258 and operated by the owner of a professional sports franchise or
259 other lessee with sufficient expertise or financial capability to
260 operate such facility, and to pay the planning and design costs
261 incurred prior to the issuance of such bonds for a new
262 professional sports franchise as defined in s. 288.1162.

263 b. The acquisition, construction, reconstruction, or
264 renovation of a facility either publicly owned and operated, or
265 publicly owned and operated by the owner of a professional sports
266 franchise or other lessee with sufficient expertise or financial
267 capability to operate such facility, and to pay the planning and
268 design costs incurred prior to the issuance of such bonds for a
269 retained spring training franchise.

270 2. Promote and advertise tourism in the State of Florida
271 and nationally and internationally; however, if tax revenues are
272 expended for an activity, service, venue, or event, the activity,
273 service, venue, or event shall have as one of its main purposes
274 the attraction of tourists as evidenced by the promotion of the
275 activity, service, venue, or event to tourists.

276

277 A county that imposes the tax authorized in this paragraph may
278 not expend any ad valorem tax revenues for the acquisition,
279 construction, reconstruction, or renovation of a facility for
280 which tax revenues are used pursuant to subparagraph 1. The
281 provision of paragraph (e) ~~(b)~~ which prohibits any county
282 authorized to levy a convention development tax pursuant to s.
283 212.0305 from levying more than the 2-percent tax authorized by
284 this section shall not apply to the additional tax authorized by
285 this paragraph in counties which levy convention development
286 taxes pursuant to s. 212.0305(4)(a). Subsection (4) does not
287 apply to the adoption of the additional tax authorized in this



400072

288 paragraph. The effective date of the levy and imposition of the
 289 tax authorized under this paragraph is the first day of the
 290 second month following approval of the ordinance by the board of
 291 county commissioners or the first day of any subsequent month
 292 specified in the ordinance. A certified copy of such ordinance
 293 shall be furnished by the county to the Department of Revenue
 294 within 10 days after approval of the ordinance.

295 Section 3. The amendments made by this act to s. 125.0104,
 296 Florida Statutes, are intended as clarifying and remedial in
 297 nature and are not a basis for assessments of tax for periods
 298 before July 1, 2008, or for refunds of tax for periods before
 299 July 1, 2008.

300
 301 ===== T I T L E A M E N D M E N T =====

302 And the title is amended as follows:

303 On line(s) 4, after the first semicolon,
 304 insert:

305 amending s. 125.0104, F.S.; revising the list of living
 306 quarters or accommodations that are subject to taxation;
 307 providing definitions; providing for taxation of regulated
 308 short-term products; providing that the occupancy of an
 309 accommodation of a timeshare resort and membership or
 310 transaction fee paid by a timeshare owner are not a
 311 privilege subject to taxation; providing that
 312 consideration paid for the purchase of a timeshare license
 313 in a timeshare plan is rent subject to taxation;
 314 authorizing the Department of Revenue to establish audit
 315 procedures and to access for delinquent taxes; requiring
 316 the person operating transient accommodations to
 317 separately state the tax charged on a receipt or other



400072

318 | documentation; providing that persons facilitating the
319 | booking of reservations are not required to separately
320 | state tax amounts charged; requiring that such amounts be
321 | remitted as tax and classified as county funds; specifying
322 | that certain provisions of the act are clarifying and
323 | remedial in nature and are not a basis for assessments of
324 | tax or for refunds of tax for periods before the effective
325 | date of the act;