

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Attkisson offered the following:

2
3 **Amendment (with title amendment)**

4 Between lines 434 and 435, insert:

5 Section 10. Subsection (3), paragraph (d) of subsection
6 (5), paragraphs (a) and (d) of subsection (6), and paragraph (c)
7 of subsection (10) of section 125.0104, Florida Statutes, are
8 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
13 that every person who rents, leases, or lets for consideration
14 any living quarters or accommodations in any hotel, apartment
15 hotel, motel, resort motel, apartment, apartment motel,
16 roominghouse, mobile home park, recreational vehicle park, ~~or~~

586461

4/24/2008 12:08 PM

Amendment No.

17 condominium, or timeshare resort for a term of 6 months or less
18 is exercising a privilege which is subject to taxation under
19 this section, unless such person rents, leases, or lets for
20 consideration any living quarters or accommodations which are
21 exempt according to the provisions of chapter 212.

22 (b) As used in this section, the terms "consideration,"
23 "rental," and "rent" 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 that are part of, in, from, or in connection with
27 any hotel, apartment house, roominghouse, timeshare resort,
28 tourist or trailer camp, mobile home park, recreational vehicle
29 park, or condominium. The term "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
34 accommodations regardless of whether such commonly associated
35 services are provided by third parties. The terms
36 "consideration," "rental," and "rent" do not include payments
37 received by an unrelated person for facilitating the booking of
38 reservations for or on behalf of a lessee or licensee at a
39 hotel, apartment house, roominghouse, timeshare resort, tourist
40 or trailer camp, mobile home park, recreational vehicle park, or
41 condominium in this state. The term "unrelated person" means a
42 person who is not in the same affiliated group of corporations
43 pursuant to s. 1504 of the Internal Revenue Code of 1986, as
44 amended.

586461

4/24/2008 12:08 PM

Amendment No.

45 (c) Tax shall be due on the consideration paid for
46 occupancy in the county pursuant to a regulated short-term
47 product as defined in s. 721.05 or occupancy in the county
48 pursuant to a product that would be deemed a regulated short-
49 term product if the agreement to purchase the short-term product
50 were executed in this state. Such tax shall be collected on the
51 last day of occupancy within the county unless the consideration
52 is applied to the purchase of a timeshare estate.

53 Notwithstanding paragraphs (a) and (b), the occupancy of an
54 accommodation of a timeshare resort pursuant to a timeshare
55 plan, a multisite timeshare plan, or an exchange transaction in
56 an exchange program as defined in s. 721.05 by the owner of a
57 timeshare interest or such owner's guest, which guest is not
58 paying monetary consideration to the owner or to a third party
59 for the benefit of the owner, is not a privilege subject to
60 taxation under this section. A membership or transaction fee
61 paid by a timeshare owner that does not provide the timeshare
62 owner with a right to occupy any specific timeshare unit but
63 merely provides the timeshare owner with an opportunity to
64 exchange a timeshare interest through an exchange program is a
65 service charge and is not subject to taxation.

66 (d) Consideration paid for the purchase of a timeshare
67 license in a timeshare plan as defined in s. 721.05 is rent
68 subject to taxation under this section.

69 (e)-~~(b)~~ Subject to the provisions of this section, any
70 county in this state may levy and impose a tourist development
71 tax on the exercise within its boundaries of the taxable
72 privilege described in paragraph (a), except that there shall be
586461

4/24/2008 12:08 PM

Amendment No.

73 no additional levy under this section in any cities or towns
74 presently imposing a municipal resort tax as authorized under
75 chapter 67-930, Laws of Florida, and this section shall not in
76 any way affect the powers and existence of any tourist
77 development authority created pursuant to chapter 67-930, Laws
78 of Florida. No county authorized to levy a convention
79 development tax pursuant to s. 212.0305, or to s. 8 of chapter
80 84-324, Laws of Florida, shall be allowed to levy more than the
81 2-percent tax authorized by this section. A county may elect to
82 levy and impose the tourist development tax in a subcounty
83 special district of the county. However, if a county so elects
84 to levy and impose the tax on a subcounty special district
85 basis, the district shall embrace all or a significant
86 contiguous portion of the county, and the county shall assist
87 the Department of Revenue in identifying the rental units
88 subject to tax in the district.

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

96 (g)~~(d)~~ In addition to any 1-percent or 2-percent tax
97 imposed under paragraph (f) ~~(e)~~, the governing board of the
98 county may levy, impose, and set an additional 1 percent of each
99 dollar above the tax rate set under paragraph (f) ~~(e)~~ by the
100 extraordinary vote of the governing board for the purposes set

586461

4/24/2008 12:08 PM

Amendment No.

101 forth in subsection (5) or by referendum approval by the
102 registered electors within the county or subcounty special
103 district. No county shall levy, impose, and set the tax
104 authorized under this paragraph unless the county has imposed
105 the 1-percent or 2-percent tax authorized under paragraph (f)
106 ~~(e)~~ for a minimum of 3 years prior to the effective date of the
107 levy and imposition of the tax authorized by this paragraph.
108 Revenues raised by the additional tax authorized under this
109 paragraph shall not be used for debt service on or refinancing
110 of existing facilities as specified in subparagraph (5) (a)1.
111 unless approved by a resolution adopted by an extraordinary
112 majority of the total membership of the governing board of the
113 county. If the 1-percent or 2-percent tax authorized in
114 paragraph (f) ~~(e)~~ is levied within a subcounty special taxing
115 district, the additional tax authorized in this paragraph shall
116 only be levied therein. The provisions of paragraphs (4) (a) - (d)
117 shall not apply to the adoption of the additional tax authorized
118 in this paragraph. The effective date of the levy and imposition
119 of the tax authorized under this paragraph shall be the first
120 day of the second month following approval of the ordinance by
121 the governing board or the first day of any subsequent month as
122 may be specified in the ordinance. A certified copy of such
123 ordinance shall be furnished by the county to the Department of
124 Revenue within 10 days after approval of such ordinance.

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

586461

4/24/2008 12:08 PM

Amendment No.

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

134 (j)~~(g)~~ The person receiving the consideration for such
135 rental or lease shall receive, account for, and remit the tax to
136 the Department of Revenue at the time and in the manner provided
137 for persons who collect and remit taxes under s. 212.03. The
138 same duties and privileges imposed by chapter 212 upon dealers
139 in tangible property, respecting the collection and remission of
140 tax; the making of returns; the keeping of books, records, and
141 accounts; and compliance with the rules of the Department of
142 Revenue in the administration of that chapter shall apply to and
143 be binding upon all persons who are subject to the provisions of
144 this section. However, the Department of Revenue may authorize a
145 quarterly return and payment when the tax remitted by the dealer
146 for the preceding quarter did not exceed \$25.

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

154 (l)~~(i)~~ Collections received by the Department of Revenue
155 from the tax, less costs of administration of this section,
156 shall be paid and returned monthly to the county which imposed
586461

4/24/2008 12:08 PM

Amendment No.

157 the tax, for use by the county in accordance with the provisions
158 of this section. They shall be placed in the county tourist
159 development trust fund of the respective county, which shall be
160 established by each county as a condition precedent to receipt
161 of such funds.

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

165 ~~(n)-(k)~~ The Department of Revenue shall adopt ~~promulgate~~
166 ~~such~~ rules and ~~shall~~ prescribe and publish ~~such~~ forms ~~as may be~~
167 necessary to effectuate the purposes of this section. The
168 department may establish audit procedures and assess for
169 delinquent taxes. A person operating transient accommodations
170 shall state the tax separately from the rental charged on the
171 receipt, invoice, or other documentation issued with respect to
172 charges for transient accommodations. A person facilitating the
173 booking of reservations who is unrelated to the person operating
174 the transient accommodations in which the reservation is booked
175 is not required to separately state amounts charged on the
176 receipt, invoice, or other documentation issued by the person
177 facilitating the booking of the reservation. Any amounts
178 specifically collected as a tax are county funds and shall be
179 remitted as tax.

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

586461

4/24/2008 12:08 PM

Amendment No.

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

195 2. Pay the debt service on bonds issued to finance the
196 construction, reconstruction, or renovation of a convention
197 center, and to pay the planning and design costs incurred prior
198 to the issuance of such bonds.

199 3. Pay the operation and maintenance costs of a convention
200 center for a period of up to 10 years. Only counties that have
201 elected to levy the tax for the purposes authorized in
202 subparagraph 2. may use the tax for the purposes enumerated in
203 this subparagraph. Any county that elects to levy the tax for
204 the purposes authorized in subparagraph 2. after July 1, 2000,
205 may use the proceeds of the tax to pay the operation and
206 maintenance costs of a convention center for the life of the
207 bonds.

208 4. Promote and advertise tourism in the State of Florida
209 and nationally and internationally; however, if tax revenues are
210 expended for an activity, service, venue, or event, the
211 activity, service, venue, or event shall have as one of its main

586461

4/24/2008 12:08 PM

Amendment No.

212 purposes the attraction of tourists as evidenced by the
213 promotion of the activity, service, venue, or event to tourists.

214
215 The provision of paragraph (e) ~~(b)~~ which prohibits any county
216 authorized to levy a convention development tax pursuant to s.
217 212.0305 from levying more than the 2-percent tax authorized by
218 this section, and the provisions of paragraphs (4) (a)-(d), shall
219 not apply to the additional tax authorized in this paragraph.

220 The effective date of the levy and imposition of the tax
221 authorized under this paragraph shall be the first day of the
222 second month following approval of the ordinance by the
223 governing board or the first day of any subsequent month as may
224 be specified in the ordinance. A certified copy of such
225 ordinance shall be furnished by the county to the Department of
226 Revenue within 10 days after approval of such ordinance.

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

234 2. A county is considered to be a high tourism impact
235 county after the Department of Revenue has certified to such
236 county that the sales subject to the tax levied pursuant to this
237 section exceeded \$600 million during the previous calendar year,
238 or were at least 18 percent of the county's total taxable sales
239 under chapter 212 where the sales subject to the tax levied

586461

4/24/2008 12:08 PM

Amendment No.

240 pursuant to this section were a minimum of \$200 million, except
241 that no county authorized to levy a convention development tax
242 pursuant to s. 212.0305 shall be considered a high tourism
243 impact county. Once a county qualifies as a high tourism impact
244 county, it shall retain this designation for the period the tax
245 is levied pursuant to this paragraph.

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

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

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

262 a. The construction, reconstruction, or renovation of a
263 facility either publicly owned and operated, or publicly owned
264 and operated by the owner of a professional sports franchise or
265 other lessee with sufficient expertise or financial capability
266 to operate such facility, and to pay the planning and design

586461

4/24/2008 12:08 PM

Amendment No.

267 costs incurred prior to the issuance of such bonds for a new
268 professional sports franchise as defined in s. 288.1162.

269 b. The acquisition, construction, reconstruction, or
270 renovation of a facility either publicly owned and operated, or
271 publicly owned and operated by the owner of a professional
272 sports franchise or other lessee with sufficient expertise or
273 financial capability to operate such facility, and to pay the
274 planning and design costs incurred prior to the issuance of such
275 bonds for a retained spring training franchise.

276 2. Promote and advertise tourism in the State of Florida
277 and nationally and internationally; however, if tax revenues are
278 expended for an activity, service, venue, or event, the
279 activity, service, venue, or event shall have as one of its main
280 purposes the attraction of tourists as evidenced by the
281 promotion of the activity, service, venue, or event to tourists.

282
283 A county that imposes the tax authorized in this paragraph may
284 not expend any ad valorem tax revenues for the acquisition,
285 construction, reconstruction, or renovation of a facility for
286 which tax revenues are used pursuant to subparagraph 1. The
287 provision of paragraph (e) ~~(b)~~ which prohibits any county
288 authorized to levy a convention development tax pursuant to s.
289 212.0305 from levying more than the 2-percent tax authorized by
290 this section shall not apply to the additional tax authorized by
291 this paragraph in counties which levy convention development
292 taxes pursuant to s. 212.0305(4)(a). Subsection (4) does not
293 apply to the adoption of the additional tax authorized in this
294 paragraph. The effective date of the levy and imposition of the

586461

4/24/2008 12:08 PM

Amendment No.

295 tax authorized under this paragraph is the first day of the
296 second month following approval of the ordinance by the board of
297 county commissioners or the first day of any subsequent month
298 specified in the ordinance. A certified copy of such ordinance
299 shall be furnished by the county to the Department of Revenue
300 within 10 days after approval of the ordinance.

301 (5) AUTHORIZED USES OF REVENUE.--

302 (d) Any use of the local option tourist development tax
303 revenues collected pursuant to this section for a purpose not
304 expressly authorized by paragraph (3) (o) ~~(l)~~ or paragraph
305 (3) (q) ~~(n)~~ or paragraph (a), paragraph (b), or paragraph (c) of
306 this subsection is expressly prohibited.

307 (6) REFERENDUM.--

308 (a) No ordinance enacted by any county levying the tax
309 authorized by paragraphs (3) (e) ~~(b)~~ and (f) ~~(e)~~ shall take effect
310 until the ordinance levying and imposing the tax has been
311 approved in a referendum election by a majority of the electors
312 voting in such election in the county or by a majority of the
313 electors voting in the subcounty special tax district affected
314 by the tax.

315 (d) In any case where a referendum levying and imposing
316 the tax has been approved pursuant to this section and 15
317 percent of the electors in the county or 15 percent of the
318 electors in the subcounty special district in which the tax is
319 levied file a petition with the board of county commissioners
320 for a referendum to repeal the tax, the board of county
321 commissioners shall cause an election to be held for the repeal
322 of the tax which election shall be subject only to the

586461

4/24/2008 12:08 PM

Amendment No.

323 outstanding bonds for which the tax has been pledged. However,
324 the repeal of the tax shall not be effective with respect to any
325 portion of taxes initially levied in November 1989, which has
326 been pledged or is being used to support bonds under paragraph
327 (3) (g) ~~(d)~~ or paragraph (3) (o) ~~(l)~~ until the retirement of those
328 bonds.

329 (10) LOCAL ADMINISTRATION OF TAX.--

330 (c) A county adopting an ordinance providing for the
331 collection and administration of the tax on a local basis shall
332 also adopt an ordinance electing either to assume all
333 responsibility for auditing the records and accounts of dealers,
334 and assessing, collecting, and enforcing payments of delinquent
335 taxes, or to delegate such authority to the Department of
336 Revenue. If the county elects to assume such responsibility, it
337 shall be bound by all rules promulgated by the Department of
338 Revenue pursuant to paragraph (3) (n) ~~(k)~~, as well as those rules
339 pertaining to the sales and use tax on transient rentals imposed
340 by s. 212.03. The county may use any power granted in this
341 section to the department to determine the amount of tax,
342 penalties, and interest to be paid by each dealer and to enforce
343 payment of such tax, penalties, and interest. The county may use
344 a certified public accountant licensed in this state in the
345 administration of its statutory duties and responsibilities.
346 Such certified public accountants are bound by the same
347 confidentiality requirements and subject to the same penalties
348 as the county under s. 213.053. If the county delegates such
349 authority to the department, the department shall distribute any
350 collections so received, less costs of administration, to the

586461

4/24/2008 12:08 PM

Amendment No.

351 county. The amount deducted for costs of administration by the
352 department shall be used only for those costs which are solely
353 and directly attributable to auditing, assessing, collecting,
354 processing, and enforcing payments of delinquent taxes
355 authorized in this section. If a county elects to delegate such
356 authority to the department, the department shall audit only
357 those businesses in the county that it audits pursuant to
358 chapter 212.

359 Section 11. The amendments made by this act to section
360 125.0104, Florida Statutes, are intended to be clarifying and
361 remedial in nature and are not a basis for assessments of tax
362 for periods before July 1, 2008, or for refunds of tax for
363 periods before July 1, 2008.

364
365
366
367
368 -----
369 **T I T L E A M E N D M E N T**

370 Remove line 62 and insert:

371 in Florida; amending s. 125.0104, F.S.; revising the list
372 of living quarters or accommodations the rental or lease
373 of which is subject to the tourist development tax;
374 providing definitions; providing for taxation of regulated
375 short-term products; providing that the occupancy of a
376 timeshare resort and membership or transaction fee paid by
377 a timeshare owner are not a privilege subject to taxation;
378 providing that consideration paid for the purchase of a

586461

4/24/2008 12:08 PM

Amendment No.

379 timeshare license in a timeshare plan is rent subject to
380 taxation; authorizing the Department of Revenue to
381 establish audit procedures and to assess for delinquent
382 taxes; requiring the person operating transient
383 accommodations to separately state the tax charged on a
384 receipt or other documentation; providing that persons
385 facilitating the booking of reservations are not required
386 to separately state tax amounts charged; requiring that
387 such amounts be remitted as tax and classified as county
388 funds; specifying that certain provisions of the act are
389 clarifying and remedial in nature and are not a basis for
390 assessments of tax or for refunds of tax for periods
391 before the effective date of the act; providing an
392 effective date.