

ENROLLED
CS/HB 7203

2010 Legislature

1 A bill to be entitled
2 An act relating to community development districts;
3 creating s. 212.0315, F.S.; authorizing certain community
4 development districts to levy a tax on certain
5 transactions; requiring approval by the district board of
6 supervisors and district landowners; providing a procedure
7 to enact the tax; providing for an effective date of the
8 tax; providing for expiration of the tax under certain
9 circumstances; providing definitions; specifying uses of
10 tax proceeds; requiring prior approval by the district
11 board for expenditures of tax proceeds; specifying tax
12 charging and collection requirements; providing for
13 exempting certain transactions; requiring local
14 administration of the tax; requiring adoption of a
15 resolution; specifying requirements for local
16 administration; specifying that the tax constitutes a lien
17 for certain purposes; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Section 212.0315, Florida Statutes, is created
22 to read:

23 212.0315 Optional community development district tax on
24 rental or license fee for use of real property.-

25 (1) A district may levy a tax of up to 1 percent on all
26 transactions occurring in the district that are subject to the
27 state tax imposed under s. 212.031 if the conditions in
28 subsection (2) are met. The tax, if levied, shall be computed as

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29 the applicable rate times the amount of taxable transactions.
 30 The amount of any such levy is not subject to taxation under s.
 31 212.031.

32 (2) (a) The tax must first be approved by at least four
 33 members of the five-member elected board of supervisors of the
 34 district.

35 (b) The tax must then be approved by a vote of at least
 36 two-thirds of the landowners within the district, cast at a
 37 special meeting called solely for the purpose of considering the
 38 levying of the tax authorized by this section.

39 1. The special meeting shall be noticed in the same manner
 40 as is provided for in s. 190.006(2) (a) for the initial election
 41 of supervisors.

42 2. Landowners may cast their vote either in person or by
 43 proxy in writing. Votes cast by proxy must comply with the
 44 requirements for proxy votes set forth in s. 190.006(2) (b).

45 3. Each landowner shall have one vote without regard to
 46 the number of acres owned.

47 (c) The district board shall notify the department within
 48 10 days after approval under this subsection to levy a tax.

49 (3) A tax authorized under this section may take effect on
 50 the first day of any month, but may not take effect until at
 51 least 60 days after approval to levy the tax is obtained
 52 pursuant to subsection (2).

53 (4) If, pursuant to s. 190.006(3) (a)2.d., the district
 54 board determines that the district has qualified electors, the
 55 district's authority to levy a tax under this section shall

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56 expire. The district board shall notify the department within 10
57 days after such a determination is made.

58 (5) As used in this section, the terms:

59 (a) "District" means a community development district
60 established pursuant to s. 190.004 that has no qualified
61 electors.

62 (b) "Landowner" and "qualified elector" have the same
63 meanings as provided in s. 190.003.

64 (6) The proceeds of the tax provided for in this section
65 shall only be used to:

66 (a) Promote and support commercial activity within the
67 district.

68 (b) Promote and support those festivals, special events,
69 and other activities within the district that enhance commercial
70 activity.

71 (c) Provide public services as deemed necessary by the
72 district's board to support commercial activities, including
73 additional public services as deemed necessary by the district's
74 board to support festivals, special events, and other activities
75 that enhance commercial activity within the district. As used in
76 this paragraph, the term "public services" includes, but is not
77 limited to, law enforcement, fire protection, emergency
78 services, and sanitation services, and are limited to the
79 services authorized by chapter 190.

80 (7) All expenditures of the proceeds of the tax provided
81 for in this section must first be approved by the district board
82 of supervisors.

83 (8) The tax authorized under this section shall be charged

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84 by the person receiving the consideration for the lease,
85 license, or rental and shall be collected from the lessee,
86 licensee, or tenant at the time of payment of the consideration
87 for such lease, license, or rental.

88 (9) All transactions that are exempt from the state sales
89 tax imposed under s. 212.031 are exempt from the tax authorized
90 by this section.

91 (10) (a) Any district levying a tax authorized by this
92 section shall locally administer the tax. To the extent such
93 provisions are not manifestly incompatible with the provisions
94 of this section, the same powers, duties, limitations, and
95 privileges imposed by this chapter and chapter 213 apply to the
96 assessment, payment, collection, and administration of the tax
97 imposed by this section.

98 (b) Upon approval of a tax pursuant to subsection (2) and
99 before such tax may become effective, the district board shall
100 adopt a resolution that includes provision for, but need not be
101 limited to:

102 1. The initial collection rate and the first day of
103 imposition of the tax.

104 2. Designation of the district official to whom the tax
105 shall be remitted and that official's powers and duties with
106 respect to such tax revenues. Tax revenues may be used only in
107 accordance with the provisions of this section.

108 3. Requirements respecting the keeping of appropriate
109 books, records, and accounts by those responsible for collecting
110 and administering the tax.

111 4. Provision for payment of a dealer's credit as required

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112 under this chapter.

113 (c) A portion of the tax collected may be retained by the
114 district for costs of administration, but such portion may not
115 exceed 3 percent of collections.

116 (d) A district adopting a tax authorized under this
117 section shall assume all responsibility for administering the
118 tax imposed by this section, including, but not limited to,
119 auditing the records and accounts of dealers and assessing,
120 collecting, and enforcing payments of delinquent taxes. The
121 district shall be bound by the rules of the department. The
122 district shall be bound by the same confidentiality requirements
123 and subject to the same penalties as the department under s.
124 213.053. The district may use any power granted in this chapter
125 to the department to determine the amount of tax, penalties, and
126 interest to be paid by each dealer and to enforce payment of
127 such tax, penalties, and interest. The district may use a
128 certified public accountant licensed in this state in the
129 administration of its statutory duties and responsibilities.
130 Such certified public accountants are bound by the same
131 confidentiality requirements and subject to the same penalties
132 as the district under s. 213.053.

133 (11) The tax imposed by this section shall constitute a
134 lien on the property of the lessee or licensee of any real
135 estate in the same manner as, and shall be collectible as are,
136 liens authorized and imposed by ss. 713.68 and 713.69.

137 Section 2. This act shall take effect July 1, 2010.