

HB 1467

2011

1                                   A bill to be entitled  
 2           An act relating to convention development taxes; amending  
 3           s. 212.0305, F.S.; making technical and grammatical  
 4           changes; authorizing an increase in the rate of the  
 5           charter county convention development tax; specifying  
 6           permissible uses of the additional revenues; providing an  
 7           effective date.

8  
 9   Be It Enacted by the Legislature of the State of Florida:

10  
 11           Section 1. Subsection (3) and paragraphs (a) and (b) of  
 12           subsection (4) of section 212.0305, Florida Statutes, are  
 13           amended to read:

14           212.0305 Convention development taxes; intent;  
 15           administration; authorization; use of proceeds.—

16           (3) APPLICATION; ADMINISTRATION; PENALTIES.—

17           (a)1. The convention development tax on transient rentals  
 18           imposed by the governing body of any county applies ~~authorized~~  
 19           ~~to so levy shall apply~~ to the amount of any payment made by any  
 20           person to rent, lease, or use for a period of 6 months or less  
 21           any living quarters or accommodations in a hotel, apartment  
 22           hotel, motel, resort motel, apartment, apartment motel,  
 23           roominghouse, tourist or trailer camp, mobile home park,  
 24           recreational vehicle park, condominium, or timeshare resort. If  
 25           ~~when~~ receipt of consideration is by way of property other than  
 26           money, the tax is ~~shall be~~ levied and imposed on the fair market  
 27           value of the ~~such~~ nonmonetary consideration. Any payment made by  
 28           a person to rent, lease, or use any living quarters or

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29 accommodations that ~~which~~ are exempt from the tax imposed under  
 30 s. 212.03 are ~~shall likewise be~~ exempt from any tax imposed  
 31 under this section.

32 2.a. Tax is ~~shall be~~ due on the consideration paid for  
 33 occupancy in the county pursuant to a regulated short-term  
 34 product, as defined in s. 721.05, or occupancy in the county  
 35 pursuant to a product that would be deemed a regulated short-  
 36 term product if the agreement to purchase the short-term right  
 37 was executed in this state. The ~~Such~~ tax shall be collected on  
 38 the last day of occupancy within the county unless such  
 39 consideration is applied to the purchase of a timeshare estate.  
 40 The occupancy of an accommodation of a timeshare resort pursuant  
 41 to a timeshare plan, a multisite timeshare plan, or an exchange  
 42 transaction in an exchange program, as defined in s. 721.05, by  
 43 the owner of a timeshare interest or by a ~~such owner's~~ guest of  
 44 the owner who, ~~which guest~~ is not paying monetary consideration  
 45 ~~to the owner or to a third party~~ for the benefit of the owner,  
 46 is not a privilege subject to taxation under this section. A  
 47 membership or transaction fee paid by a timeshare owner which  
 48 ~~that~~ does not provide the timeshare owner with the right to  
 49 occupy any specific timeshare unit but merely provides the  
 50 timeshare owner with the opportunity to exchange a timeshare  
 51 interest through an exchange program is a service charge and is  
 52 not subject to taxation under this section.

53 b. Consideration paid for the purchase of a timeshare  
 54 license in a timeshare plan, as defined in s. 721.05, is rent  
 55 subject to taxation under this section.

56 (b) The ~~tax shall be charged by the~~ person receiving the

57 | consideration for the lease or rental, and the tax, shall charge  
 58 | the tax and collect the tax ~~be collected~~ from the lessee,  
 59 | tenant, or customer at the time of payment of the consideration  
 60 | for the ~~such~~ lease or rental.

61 | (c) The person receiving the consideration for such rental  
 62 | or lease shall receive, account for, and remit the tax to the  
 63 | department at the time and in the manner provided for persons  
 64 | who collect and remit taxes pursuant to ~~under~~ s. 212.03. The  
 65 | same duties and privileges imposed by this chapter upon dealers  
 66 | in tangible property respecting the collection and remission of  
 67 | tax; the making of returns; the keeping of books, records, and  
 68 | accounts; and compliance with the rules of the department in the  
 69 | administration of this chapter apply to and are binding upon all  
 70 | persons who are subject to ~~the provisions of~~ this section.  
 71 | However, the department may authorize a quarterly return and  
 72 | payment if ~~when~~ the tax remitted by the dealer for the preceding  
 73 | quarter did not exceed \$25.

74 | (d) The department shall keep records showing the amount  
 75 | of taxes collected, including records of ~~which records shall~~  
 76 | ~~disclose~~ the taxes collected from each county in which a local  
 77 | government resort tax is levied. These records are ~~shall be~~  
 78 | subject to ~~the provisions of~~ s. 213.053 and are confidential and  
 79 | exempt from ~~the provisions of~~ s. 119.07(1).

80 | (e) The ~~collections received by the~~ department shall pay  
 81 | and return the collections of the tax ~~from the tax~~, less its  
 82 | costs of administration, ~~shall be paid and returned~~ monthly to  
 83 | the county that ~~which~~ imposed the tax, ~~for use by the county as~~  
 84 | ~~provided in this section.~~ A county shall place the ~~Such~~ receipts

85 from the tax ~~shall be placed~~ in a specific trust fund or funds  
 86 created by the county.

87 (f) The department shall adopt ~~promulgate~~ such rules and  
 88 shall prescribe and publish such forms as may be necessary to  
 89 administer ~~effectuate the purposes of~~ this section. The  
 90 department may ~~is authorized to~~ establish audit procedures and  
 91 ~~to~~ assess for delinquent taxes.

92 (g) The estimated tax provisions contained in s. 212.11 do  
 93 not apply to the administration of any tax levied under this  
 94 section.

95 (h) Any person taxable under this section who, either by  
 96 himself or herself or through the person's agents or employees,  
 97 fails or refuses to charge and collect the taxes provided in  
 98 this section ~~herein provided~~ from the person paying any rental  
 99 or lease is, ~~in addition to being~~ personally liable for the  
 100 payment of the tax and commits, ~~guilty of~~ a misdemeanor of the  
 101 first degree, punishable as provided in s. 775.082 or s.  
 102 775.083.

103 (i) A ~~No~~ person may not ~~shall~~ advertise or hold out to the  
 104 public in any manner, directly or indirectly, that he or she  
 105 will absorb all or any part of the tax; that he or she will  
 106 relieve the person paying the rental of the payment of all or  
 107 any part of the tax; or that the tax will not be added to the  
 108 rental or lease consideration or, if added, that the tax or any  
 109 part of the tax ~~thereof~~ will be refunded or refused, either  
 110 directly or indirectly, by any method ~~whatsoever~~. Any person who  
 111 willfully violates any provision of this paragraph commits ~~is~~  
 112 ~~guilty of~~ a misdemeanor of the first degree, punishable as

113 provided in s. 775.082 or s. 775.083.

114 (j) The tax constitutes ~~shall constitute~~ a lien on the  
 115 property of the lessee, customer, or tenant in the same manner  
 116 as, and is ~~shall be~~ collectible as are, liens authorized and  
 117 imposed by ss. 713.67, 713.68, and 713.69.

118 (k) Any tax levied pursuant to this section is ~~shall be~~ in  
 119 addition to any other tax imposed under ~~pursuant to~~ this chapter  
 120 and is in addition to all other taxes and fees and the  
 121 consideration for the rental or lease.

122 (l) The department shall administer the taxes levied under  
 123 this section ~~herein~~ as increases in the rate of the tax  
 124 authorized in s. 125.0104. The department shall collect and  
 125 enforce ~~the provisions of~~ this section and s. 125.0104 in  
 126 conjunction with each other in those counties authorized to levy  
 127 the taxes authorized in this section ~~herein~~. The department  
 128 shall distribute the proceeds received from the taxes levied  
 129 under ~~pursuant to~~ this section and s. 125.0104 in proportion to  
 130 the rates of the taxes authorized to the appropriate trust funds  
 131 as provided by law. If the department receives an ~~In the event~~  
 132 ~~of~~ underpayment of the total amount due by a taxpayer pursuant  
 133 to this section and s. 125.0104, the department must ~~shall~~  
 134 distribute the amount received in proportion to the rates of the  
 135 taxes authorized to the appropriate trust funds as provided by  
 136 law and the penalties and interest due on both of the ~~said~~ taxes  
 137 apply ~~shall be applicable~~.

138 (4) AUTHORIZATION TO LEVY; USE OF PROCEEDS; OTHER  
 139 REQUIREMENTS.—

140 (a) *Consolidated government levy for convention*

141 *development.*—

142 1. Each county that operates under a government  
 143 consolidated with that of one or more municipalities in the  
 144 county may impose, pursuant to an ordinance enacted by the  
 145 governing body of the county, a levy on the exercise within its  
 146 boundaries of the taxable privilege of leasing or letting  
 147 transient rental accommodations described in subsection (3) at  
 148 the rate of 2 percent of each dollar and major fraction of each  
 149 dollar of the total consideration charged for the privilege  
 150 ~~therefor~~. The proceeds of this levy shall be known as the  
 151 consolidated county convention development tax.

152 2. The county shall furnish to the department, within 10  
 153 days after approval of the ordinance imposing the levy, a copy  
 154 of the ordinance. The effective date of imposition of the levy  
 155 must be the first day of any month that is at least 60 days  
 156 after enactment of the ordinance.

157 3. All consolidated county convention development moneys,  
 158 including any interest accrued on the moneys ~~thereon~~, received  
 159 by a county imposing the levy ~~may~~ must be used only as follows  
 160 ~~in any of the following manners, although the utilization~~  
 161 ~~authorized in sub-subparagraph a. shall apply only to~~  
 162 ~~municipalities with a population of 10,000 or more:~~

163 a. To promote and advertise tourism by a municipality  
 164 having a population of 10,000 or more;

165 b. To extend, enlarge, and improve existing publicly owned  
 166 convention centers in the county;

167 c. To construct a multipurpose  
 168 convention/coliseum/exhibition center or the maximum components

169 of a multipurpose center ~~thereof~~ as funds permit in the county;  
 170 and

171 d. To acquire, construct, extend, enlarge, remodel,  
 172 repair, improve, or maintain one or more convention centers,  
 173 stadiums, exhibition halls, arenas, coliseums, or auditoriums.

174 4. For the purposes of completion of any project under  
 175 this paragraph, tax revenues and interest accrued may be used:

176 a. As collateral, pledged, or hypothecated for projects  
 177 authorized by this paragraph, including bonds issued in  
 178 connection with a project ~~therewith~~; or

179 b. As a pledge or capital contribution in conjunction with  
 180 a partnership, joint venture, or other business arrangement  
 181 between the county and one or more business entities for  
 182 projects authorized by this paragraph.

183 5.a. The county may designate or appoint an authority to  
 184 administer and disburse such proceeds and any other related  
 185 source of revenue. However, the annual budget of the authority  
 186 must be ~~is~~ subject to approval of the governing body of the  
 187 county.

188 b. Except as otherwise provided by law, one-half of the  
 189 proceeds of the tax which are collected within a municipality  
 190 the government of which is not consolidated with that of the  
 191 county must, at the request of the governing body of the  
 192 municipality, be remitted to the municipality. The revenue  
 193 remitted to a municipality under this sub-subparagraph may be  
 194 used by the municipality only for the purposes and in the manner  
 195 authorized in this paragraph, but the municipality may enter  
 196 into an interlocal agreement with the county or with any other

197 municipality in the county to use the ~~such~~ revenue to jointly  
 198 finance any project authorized by this paragraph. This sub-  
 199 subparagraph does not apply to the distribution to the county of  
 200 any convention development tax revenues necessary to repay the  
 201 principal of or the interest on any bonds issued under sub-  
 202 subparagraph 4.a. before May 29, 1984. Notwithstanding this sub-  
 203 subparagraph, if the governing body of such a municipality  
 204 adopts a resolution stating that the municipality is unable to  
 205 use such revenue for any purpose authorized in this paragraph,  
 206 the municipality may use the revenue to acquire and develop  
 207 municipal parks, lifeguard stations, or athletic fields.

208 6. The consolidated county convention development tax is  
 209 ~~shall be~~ in addition to any other levy imposed under this  
 210 section.

211 7. Revenues collected and returned to the county must be  
 212 deposited in a convention development trust fund, which must be  
 213 established by the county as a condition precedent to receipt of  
 214 such funds.

215 (b) *Charter county levy for convention development.*—

216 1. Each county, as defined in s. 125.011(1), may impose,  
 217 under an ordinance enacted by the governing body of the county,  
 218 a levy on the exercise within its boundaries of the taxable  
 219 privilege of leasing or letting transient rental accommodations  
 220 described in subsection (3) at the rate of 3 percent or 4  
 221 percent of the total consideration charged for the privilege  
 222 ~~therefor~~. The proceeds of this levy shall be known as the  
 223 charter county convention development tax.

224 2. All charter county convention development moneys,



225 including any interest accrued thereon, received by a county  
 226 imposing the levy shall be used as follows:

227 a. One-half of the proceeds of a 4 percent levy or two-  
 228 thirds of the proceeds of a 3 percent levy shall be used to  
 229 extend, enlarge, expand, and improve the largest existing  
 230 publicly owned convention center in the county.

231 b. One-fourth of the proceeds of 4 percent levy or one-  
 232 third of the proceeds of a 3 percent levy shall be used to  
 233 construct a new multipurpose convention/coliseum/exhibition  
 234 center/stadium or the maximum components thereof as funds permit  
 235 in the most populous municipality in the county.

236 c. One-fourth of the proceeds of a 4 percent levy shall be  
 237 used solely to extend, enlarge, remodel, repair, improve, plan  
 238 for, operate, manage, or maintain the largest existing publicly  
 239 owned convention center in the county, including the pledge of  
 240 the proceeds as security for the payment of bonds or other  
 241 obligations issued in connection with such convention center  
 242 projects. Notwithstanding sub-subparagraph f., these proceeds  
 243 may not be used to pay debt service or other obligations on  
 244 bonds payable from the proceeds that must be used for the  
 245 purposes in sub-subparagraphs a. and b.

246 ~~d.e.~~ After the completion of any project under sub-  
 247 subparagraph a., the tax revenues and interest accrued under  
 248 sub-subparagraph a. may be used to acquire, construct, extend,  
 249 enlarge, remodel, repair, improve, expand, plan for, operate,  
 250 manage, or maintain one or more nonprofit publicly owned or  
 251 operated convention centers, stadiums, exhibition halls, arenas,  
 252 coliseums, auditoriums, or golf courses, and may be used to

253 acquire and construct an intercity light rail transportation  
 254 system as described in the Light Rail Transit System Status  
 255 Report to the Legislature dated April 1988. The transit system  
 256 ~~must, which shall provide a means to~~ transport persons to and  
 257 from the largest existing publicly owned convention center in  
 258 the county and the hotels north of the convention center and to  
 259 and from the downtown area of the most populous municipality in  
 260 the county as determined by the county.

261 ~~e.d.~~ After completion of any project under sub-  
 262 subparagraph b., the tax revenues and interest accrued under  
 263 sub-subparagraph b. may be used, as determined by the county, to  
 264 operate an authority created pursuant to subparagraph 4. or to  
 265 acquire, construct, extend, enlarge, remodel, repair, improve,  
 266 operate, or maintain one or more convention centers, stadiums,  
 267 exhibition halls, arenas, coliseums, auditoriums, golf courses,  
 268 or related buildings and parking facilities in the most populous  
 269 municipality in the county.

270 ~~f.e.~~ For the purposes of completion of any project  
 271 pursuant to this paragraph, tax revenues and interest accrued  
 272 may be used:

273 (I) As collateral, pledged, or hypothecated for projects  
 274 authorized by this paragraph, including bonds issued in  
 275 connection with a project ~~therewith~~; or

276 (II) As a pledge or capital contribution in conjunction  
 277 with a partnership, joint venture, or other business arrangement  
 278 between a municipality and one or more business entities for  
 279 projects authorized by this paragraph.

280 3. The governing body of each municipality in which a

281 municipal tourist tax is levied may adopt a resolution  
 282 prohibiting imposition of the charter county convention  
 283 development levy within the ~~such~~ municipality. If the governing  
 284 body adopts such a resolution, the convention development levy  
 285 shall be imposed by the county in all other areas of the county  
 286 except the ~~such~~ municipality. Revenues from a charter county  
 287 convention development levy ~~No funds collected pursuant to this~~  
 288 ~~paragraph~~ may not be expended in a municipality that ~~which~~ has  
 289 prohibited the imposition of the tax ~~adopted such a resolution.~~

290 4.a. Before the county enacts an ordinance imposing or  
 291 increasing the levy, the county shall notify the governing body  
 292 of each municipality in which projects are to be developed  
 293 pursuant to sub-subparagraph 2.a., sub-subparagraph 2.b., sub-  
 294 subparagraph 2.c., ~~or~~ sub-subparagraph 2.d., or sub-subparagraph  
 295 2.e. As a condition precedent to receiving funding, the  
 296 governing bodies of the ~~such~~ municipalities shall designate or  
 297 appoint an authority having ~~that shall have the~~ sole power to:

298 (I) Approve the concept, location, program, and design of  
 299 the facilities or improvements to be built in accordance with  
 300 this paragraph and to administer and disburse such proceeds and  
 301 any other related source of revenue.

302 (II) Appoint and dismiss the authority's executive  
 303 director, general counsel, and any other consultants retained by  
 304 the authority. The governing body may ~~shall have the right to~~  
 305 approve or disapprove the initial appointment of the authority's  
 306 executive director and general counsel.

307 b. The members of each such authority shall be appointed  
 308 by the governing body of the municipality to terms ~~serve for a~~

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309 ~~term of at least not less than 1 year and shall be appointed by~~  
310 ~~the governing body of such municipality.~~ The annual budget of  
311 ~~the such~~ authority ~~is shall be~~ subject to the approval of the  
312 governing body of the municipality. If the governing body does  
313 not approve the budget, the authority shall use as the  
314 authority's budget the ~~previous fiscal year~~ budget from the  
315 previous fiscal year.

316 c. The authority, by resolution to be adopted from time to  
317 time, may invest and reinvest the proceeds from the convention  
318 development tax and any other revenues generated by the  
319 authority in the same manner that the municipality in which the  
320 authority is located may invest surplus funds.

321 5. The charter county convention development levy ~~is shall~~  
322 ~~be~~ in addition to any other levy imposed pursuant to this  
323 section.

324 6. A certified copy of the ordinance imposing the levy  
325 shall be furnished by the county to the department within 10  
326 days after approval of such ordinance. The effective date of  
327 imposition of the levy ~~is shall be~~ the first day of any month at  
328 least 60 days after enactment of the ordinance.

329 7. Revenues collected pursuant to this paragraph must  
330 ~~shall~~ be deposited in a convention development trust fund, which  
331 shall be established by the county as a condition precedent to  
332 receipt of the such funds.

333 Section 2. This act shall take effect July 1, 2011.