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LEGISLATIVE ACTION

Senate	.	House
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Senator Sachs moved the following:

1 **Senate Amendment to Amendment (805408) (with title**
2 **amendment)**

3
4 Between lines 4 and 5
5 insert:

6 Section 1. Section 125.0108, Florida Statutes, is amended
7 to read:

8 125.0108 Areas of critical state concern; tourist impact
9 tax.—

10 (1) (a) Subject to the provisions of this section, any
11 county creating a land authority pursuant to s. 380.0663(1) is
12 authorized to levy by ordinance, in the area or areas within
13 said county designated as an area of critical state concern



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14 pursuant to chapter 380, a tourist impact tax on the taxable
15 privileges described in paragraph (2) (a) ~~(b)~~; however, if the
16 area or areas of critical state concern are greater than 50
17 percent of the land area of the county, the tax may be levied
18 throughout the entire county. Such tax shall not be effective
19 unless and until land development regulations and a local
20 comprehensive plan that meet the requirements of chapter 380
21 have become effective and such tax is approved by referendum as
22 provided for in subsection (6) ~~(5)~~.

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



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43 trailer camps, mobile home parks, recreational vehicle parks, or
44 condominiums in this state. The term "unrelated persons" means
45 persons who are not related to the person operating transient
46 accommodations or to the owner of such accommodations within the
47 meaning of s. 1504, s. 267(b), or s. 707(b) of the Internal
48 Revenue Code of 1986, as amended.

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

58 (b) 1.2.a. Tax shall be due on the consideration paid for
59 occupancy in the county pursuant to a regulated short-term
60 product, as defined in s. 721.05, or occupancy in the county
61 pursuant to a product that would be deemed a regulated short-
62 term product if the agreement to purchase the short-term right
63 were executed in this state. Such tax shall be collected on the
64 last day of occupancy within the county unless such
65 consideration is applied to the purchase of a timeshare estate.
66 The occupancy of an accommodation of a timeshare resort pursuant
67 to a timeshare plan, a multisite timeshare plan, or an exchange
68 transaction in an exchange program, as defined in s. 721.05, by
69 the owner of a timeshare interest or such owner's guest, which
70 guest is not paying monetary consideration to the owner or to a
71 third party for the benefit of the owner, is not a privilege



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72 subject to taxation under this section. A membership or
73 transaction fee paid by a timeshare owner that does not provide
74 the timeshare owner with the right to occupy any specific
75 timeshare unit but merely provides the timeshare owner with the
76 opportunity to exchange a timeshare interest through an exchange
77 program is a service charge and not subject to taxation under
78 this section.

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

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

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

90 (e) The tourist impact tax shall be in addition to any
91 other tax imposed pursuant to chapter 212 and in addition to all
92 other taxes and fees and the consideration for the taxable
93 privilege.

94 (f) The tourist impact tax shall be charged by the person
95 receiving the consideration for the taxable privilege, and it
96 shall be collected from the lessee, tenant, or customer at the
97 time of payment of the consideration for such taxable privilege.
98 A person operating transient accommodations or the owner of such
99 accommodations shall separately state the tax from the rental
100 charged on the receipt, invoice, or other documentation issued



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101 with respect to charges for transient accommodations. Persons
102 who facilitate the booking of reservations who are unrelated
103 persons with respect to a person who operates transient
104 accommodations with respect to which the reservation is booked
105 are not required to separately state amounts charged on the
106 receipt, invoice, or other documentation except that such
107 persons shall disclose all amounts charged or expected to be
108 charged as taxes on the final receipt, invoice, or other
109 documentation provided to the customer issued by the person
110 facilitating the booking of the reservation. Any amounts
111 specifically collected as tax are county funds and shall be
112 remitted as tax.

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

123 (3) ~~(2)~~ (a) The person receiving the consideration for such
124 taxable privilege and the person doing business within such area
125 or areas of critical state concern or within the entire county,
126 as applicable, shall receive, account for, and remit the tourist
127 impact tax to the Department of Revenue at the time and in the
128 manner provided for persons who collect and remit taxes under
129 chapter 212. The same duties and privileges imposed by chapter



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130 212 upon dealers in tangible property, respecting the collection
131 and remission of tax; the making of returns; the keeping of
132 books, records, and accounts; and compliance with the rules of
133 the Department of Revenue in the administration of that chapter
134 shall apply to and be binding upon all persons who are subject
135 to the provisions of this section. However, the Department of
136 Revenue may authorize a quarterly return and payment when the
137 tax remitted by the dealer for the preceding quarter did not
138 exceed \$25.

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

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

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

153 (e) The Department of Revenue is empowered to promulgate
154 such rules and prescribe and publish such forms as may be
155 necessary to effectuate the purposes of this section. The
156 department is authorized to establish audit procedures and to
157 assess for delinquent taxes.

158 (f) The estimated tax provisions contained in s. 212.11 do



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159 not apply to the administration of any tax levied under this
160 section.

161 ~~(4)~~(3) All tax revenues received pursuant to this section,
162 less administrative costs, shall be distributed as follows:

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

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

172 ~~(5)~~(4)(a) Any person who is taxable hereunder who fails or
173 refuses to charge and collect from the person paying for the
174 taxable privilege the taxes herein provided, either by himself
175 or herself or through agents or employees, is, in addition to
176 being personally liable for the payment of the tax, guilty of a
177 misdemeanor of the second degree, punishable as provided in s.
178 775.082 or s. 775.083.

179 (b) No person shall advertise or hold out to the public in
180 any manner, directly or indirectly, that he or she will absorb
181 all or any part of the tax; that he or she will relieve the
182 person paying for the taxable privilege of the payment of all or
183 any part of the tax; or that the tax will not be added to the
184 consideration for the taxable privilege or that, when added, the
185 tax or any part thereof will be refunded or refused, either
186 directly or indirectly, by any method whatsoever. Any person who
187 willfully violates any provision of this paragraph is guilty of



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188 a misdemeanor of the second degree, punishable as provided in s.
189 775.082 or s. 775.083.

190 (c) The tax authorized to be levied by this section shall
191 constitute a lien on the property of the business, lessee,
192 customer, or tenant in the same manner as, and shall be
193 collectible as are, liens authorized and imposed in ss. 713.67,
194 713.68, and 713.69.

195 (6)~~(5)~~ The tourist impact tax authorized by this section
196 shall take effect only upon express approval by a majority vote
197 of those qualified electors in the area or areas of critical
198 state concern in the county seeking to levy such tax, voting in
199 a referendum to be held by the governing board of such county in
200 conjunction with a general or special election, in accordance
201 with the provisions of law relating to elections currently in
202 force. However, if the area or areas of critical state concern
203 are greater than 50 percent of the land area of the county and
204 the tax is to be imposed throughout the entire county, the tax
205 shall take effect only upon express approval of a majority of
206 the qualified electors of the county voting in such a
207 referendum.

208 (7)~~(6)~~ The effective date of the levy and imposition of the
209 tourist impact tax authorized under this section shall be the
210 first day of the second month following approval of the
211 ordinance by referendum or the first day of any subsequent month
212 as may be specified in the ordinance. A certified copy of the
213 ordinance shall include the time period and the effective date
214 of the tax levy and shall be furnished by the county to the
215 Department of Revenue within 10 days after passing an ordinance
216 levying such tax and again within 10 days after approval by



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217 referendum of such tax. If applicable, the county levying the
218 tax shall provide the Department of Revenue with a list of the
219 businesses in the area of critical state concern where the
220 tourist impact tax is levied by zip code or other means of
221 identification. Notwithstanding the provisions of s. 213.053,
222 the Department of Revenue shall assist the county in compiling
223 such list of businesses. The tourist impact tax, if not repealed
224 sooner pursuant to paragraph (1)(c), shall be repealed 10 years
225 after the date the area of critical state concern designation is
226 removed.

227 (8) If a court of competent jurisdiction finds that an
228 entity or person obligated to collect taxes under this section
229 knowingly and with fraudulent intent failed to remit taxes to
230 the county, the taxes due and owing shall be trebled.

231
232 ===== T I T L E A M E N D M E N T =====

233 And the title is amended as follows:

234 Delete line 118

235 and insert:

236 An act relating to the tax on transient rentals;
237 amending s. 125.0108, F.S.; providing definitions
238 relating to the tourist impact tax; providing
239 requirements for separate statement of the tax;
240 providing an exception; providing for construction;
241 providing that if a court of competent jurisdiction
242 finds that an entity or person obligated to collect
243 taxes under this section knowingly and with fraudulent
244 intent failed to remit taxes to the county, the taxes
245 due and owing shall be trebled;