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LEGISLATIVE ACTION

Senate

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House

Senator Latvala moved the following:

Senate Amendment

Delete lines 111 - 515
and insert:
reservation. A person facilitating the booking of a reservation shall separately state the fee or charge for the service provided to the customer at the time of the booking. Any amounts specifically collected as tax are county funds and shall be remitted as tax.

Section 2. Section 125.0108, Florida Statutes, is amended to read:

125.0108 Areas of critical state concern; tourist impact tax.-



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14 (1) (a) Subject to the provisions of this section, any
15 county creating a land authority pursuant to s. 380.0663(1) is
16 authorized to levy by ordinance, in the area or areas within
17 said county designated as an area of critical state concern
18 pursuant to chapter 380, a tourist impact tax on the taxable
19 privileges described in paragraph (2) (a) ~~(b)~~; however, if the
20 area or areas of critical state concern are greater than 50
21 percent of the land area of the county, the tax may be levied
22 throughout the entire county. Such tax shall not be effective
23 unless and until land development regulations and a local
24 comprehensive plan that meet the requirements of chapter 380
25 have become effective and such tax is approved by referendum as
26 provided for in subsection (6) ~~(5)~~.

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



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43 payments received by unrelated persons from the lessee, tenant,
44 or customer for facilitating the booking of reservations for or
45 on behalf of the lessees, tenants, or customers at hotels,
46 apartment houses, roominghouses, timeshare resorts, tourist or
47 trailer camps, mobile home parks, recreational vehicle parks, or
48 condominiums in this state. The term "unrelated persons" means
49 persons who are not related to the person operating transient
50 accommodations or to the owner of such accommodations within the
51 meaning of s. 1504, s. 267(b), or s. 707(b) of the Internal
52 Revenue Code of 1986, as amended.

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

62 (b) 1.2.a. Tax shall be due on the consideration paid for
63 occupancy in the county pursuant to a regulated short-term
64 product, as defined in s. 721.05, or occupancy in the county
65 pursuant to a product that would be deemed a regulated short-
66 term product if the agreement to purchase the short-term right
67 were executed in this state. Such tax shall be collected on the
68 last day of occupancy within the county unless such
69 consideration is applied to the purchase of a timeshare estate.
70 The occupancy of an accommodation of a timeshare resort pursuant
71 to a timeshare plan, a multisite timeshare plan, or an exchange



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72 transaction in an exchange program, as defined in s. 721.05, by
73 the owner of a timeshare interest or such owner's guest, which
74 guest is not paying monetary consideration to the owner or to a
75 third party for the benefit of the owner, is not a privilege
76 subject to taxation under this section. A membership or
77 transaction fee paid by a timeshare owner that does not provide
78 the timeshare owner with the right to occupy any specific
79 timeshare unit but merely provides the timeshare owner with the
80 opportunity to exchange a timeshare interest through an exchange
81 program is a service charge and not subject to taxation under
82 this section.

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

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

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

94 (e) The tourist impact tax shall be in addition to any
95 other tax imposed pursuant to chapter 212 and in addition to all
96 other taxes and fees and the consideration for the taxable
97 privilege.

98 (f) The tourist impact tax shall be charged by the person
99 receiving the consideration for the taxable privilege, and it
100 shall be collected from the lessee, tenant, or customer at the



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101 time of payment of the consideration for such taxable privilege.
102 A person operating transient accommodations or the owner of such
103 accommodations shall separately state the tax from the rental
104 charged on the receipt, invoice, or other documentation issued
105 with respect to charges for transient accommodations. Persons
106 who facilitate the booking of reservations who are unrelated
107 persons with respect to a person who operates transient
108 accommodations with respect to which the reservation is booked
109 are not required to separately state amounts charged on the
110 receipt, invoice, or other documentation except that such
111 persons shall disclose all amounts charged or expected to be
112 charged as taxes on the final receipt, invoice, or other
113 documentation provided to the customer issued by the person
114 facilitating the booking of the reservation. A person
115 facilitating the booking of a reservation shall separately state
116 the fee or charge for the service provided to the customer at
117 the time of the booking. Any amounts specifically collected as
118 tax are county funds and shall be remitted as tax.

119 (g) A county that has levied the tourist impact tax
120 authorized by this section in an area or areas designated as an
121 area of critical state concern for at least 20 consecutive years
122 prior to removal of the designation may continue to levy the
123 tourist impact tax in accordance with this section for 20 years
124 following removal of the designation. After expiration of the
125 20-year period, a county may continue to levy the tourist impact
126 tax authorized by this section if the county adopts an ordinance
127 reauthorizing levy of the tax and the continued levy of the tax
128 is approved by referendum as provided for in subsection (6) ~~(5)~~.

129 ~~(3)~~ ~~(2)~~ (a) The person receiving the consideration for such



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130 taxable privilege and the person doing business within such area
131 or areas of critical state concern or within the entire county,
132 as applicable, shall receive, account for, and remit the tourist
133 impact tax to the Department of Revenue at the time and in the
134 manner provided for persons who collect and remit taxes under
135 chapter 212. The same duties and privileges imposed by chapter
136 212 upon dealers in tangible property, respecting the collection
137 and remission of tax; the making of returns; the keeping of
138 books, records, and accounts; and compliance with the rules of
139 the Department of Revenue in the administration of that chapter
140 shall apply to and be binding upon all persons who are subject
141 to the provisions of this section. However, the Department of
142 Revenue may authorize a quarterly return and payment when the
143 tax remitted by the dealer for the preceding quarter did not
144 exceed \$25.

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

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

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



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159 (e) The Department of Revenue is empowered to promulgate
160 such rules and prescribe and publish such forms as may be
161 necessary to effectuate the purposes of this section. The
162 department is authorized to establish audit procedures and to
163 assess for delinquent taxes.

164 (f) The estimated tax provisions contained in s. 212.11 do
165 not apply to the administration of any tax levied under this
166 section.

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

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

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

178 ~~(5)~~⁽⁴⁾ (a) Any person who is taxable hereunder who fails or
179 refuses to charge and collect from the person paying for the
180 taxable privilege the taxes herein provided, either by himself
181 or herself or through agents or employees, is, in addition to
182 being personally liable for the payment of the tax, guilty of a
183 misdemeanor of the second degree, punishable as provided in s.
184 775.082 or s. 775.083.

185 (b) No person shall advertise or hold out to the public in
186 any manner, directly or indirectly, that he or she will absorb
187 all or any part of the tax; that he or she will relieve the



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188 person paying for the taxable privilege of the payment of all or
189 any part of the tax; or that the tax will not be added to the
190 consideration for the taxable privilege or that, when added, the
191 tax or any part thereof will be refunded or refused, either
192 directly or indirectly, by any method whatsoever. Any person who
193 willfully violates any provision of this paragraph is guilty of
194 a misdemeanor of the second degree, punishable as provided in s.
195 775.082 or s. 775.083.

196 (c) The tax authorized to be levied by this section shall
197 constitute a lien on the property of the business, lessee,
198 customer, or tenant in the same manner as, and shall be
199 collectible as are, liens authorized and imposed in ss. 713.67,
200 713.68, and 713.69.

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

214 ~~(7)-(6)~~ The effective date of the levy and imposition of the
215 tourist impact tax authorized under this section shall be the
216 first day of the second month following approval of the



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217 ordinance by referendum or the first day of any subsequent month
218 as may be specified in the ordinance. A certified copy of the
219 ordinance shall include the time period and the effective date
220 of the tax levy and shall be furnished by the county to the
221 Department of Revenue within 10 days after passing an ordinance
222 levying such tax and again within 10 days after approval by
223 referendum of such tax. If applicable, the county levying the
224 tax shall provide the Department of Revenue with a list of the
225 businesses in the area of critical state concern where the
226 tourist impact tax is levied by zip code or other means of
227 identification. Notwithstanding the provisions of s. 213.053,
228 the Department of Revenue shall assist the county in compiling
229 such list of businesses. The tourist impact tax, if not repealed
230 sooner pursuant to paragraph (1)(c), shall be repealed 10 years
231 after the date the area of critical state concern designation is
232 removed.

233 Section 3. Paragraph (b) of subsection (1) and subsection
234 (2) of section 212.03, Florida Statutes, are amended to read:

235 212.03 Transient rentals tax; rate, procedure, enforcement,
236 exemptions.—

237 (1)

238 (b)1. Tax shall be due on the consideration paid for
239 occupancy in the county pursuant to a regulated short-term
240 product, as defined in s. 721.05, or occupancy in the county
241 pursuant to a product that would be deemed a regulated short-
242 term product if the agreement to purchase the short-term right
243 was executed in this state. Such tax shall be collected on the
244 last day of occupancy within the county unless such
245 consideration is applied to the purchase of a timeshare estate.



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246 The occupancy of an accommodation of a timeshare resort pursuant
247 to a timeshare plan, a multisite timeshare plan, or an exchange
248 transaction in an exchange program, as defined in s. 721.05, by
249 the owner of a timeshare interest or such owner's guest, which
250 guest is not paying monetary consideration to the owner or to a
251 third party for the benefit of the owner, is not a privilege
252 subject to taxation under this section. A membership or
253 transaction fee paid by a timeshare owner that does not provide
254 the timeshare owner with the right to occupy any specific
255 timeshare unit but merely provides the timeshare owner with the
256 opportunity to exchange a timeshare interest through an exchange
257 program is a service charge and not subject to taxation under
258 this section.

259 2. Consideration paid for the purchase of a timeshare
260 license in a timeshare plan, as defined in s. 721.05, is rent
261 subject to taxation under this section.

262 3. As used in this section, the terms "rent," "rental,"
263 "rentals," and "rental payments" mean the amount received by a
264 person operating transient accommodations or the owner of such
265 accommodations for the use of any living quarters or sleeping or
266 housekeeping accommodations in, from, or a part of, or in
267 connection with, any hotel, apartment house, roominghouse,
268 mobile home park, recreational vehicle park, condominium,
269 timeshare resort, or tourist or trailer camp. The term "person
270 operating transient accommodations" means a person conducting
271 the daily affairs of the physical facilities furnishing
272 transient accommodations who is responsible for providing any of
273 the services commonly associated with operating the facilities
274 furnishing transient accommodations, including providing



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275 physical access to such facilities, regardless of whether such
276 commonly associated services are provided by unrelated persons.
277 The terms "rent," "rental," "rentals," and "rental payments" do
278 not include payments received by unrelated persons from the
279 lessee, tenant, customer, or licensee for facilitating the
280 booking of reservations for or on behalf of the lessees,
281 tenants, customers, or licensees at hotels, apartment houses,
282 roominghouses, mobile home parks, recreational vehicle parks,
283 condominiums, timeshare resorts, or tourist or trailer camps in
284 this state. The term "unrelated persons" means persons who are
285 not related to the person operating transient accommodations or
286 to the owner of such accommodations within the meaning of s.
287 1504, s. 267(b), or s. 707(b) of the Internal Revenue Code of
288 1986, as amended.

289 (2) The tax provided for in this section ~~herein~~ shall be in
290 addition to the total amount of the rental, shall be charged by
291 any the lessor or person operating transient accommodations or
292 the owner of such accommodations subject to the tax imposed
293 under this chapter ~~receiving the rent~~ in and by such said rental
294 arrangement to the lessee or person paying the rental, and shall
295 be due and payable at the time of the receipt of such rental
296 payment by the ~~lessor or person operating the transient~~
297 accommodations or the owner of such accommodations, ~~as defined~~
298 ~~in this chapter, who receives said rental or payment.~~ The ~~owner,~~
299 ~~lessor, or person operating the transient accommodations or the~~
300 owner of such accommodations ~~receiving the rent~~ shall remit the
301 ~~tax~~ to the department the tax on the amount of the rent received
302 by the person operating the transient accommodations or the
303 owner of such accommodations at the times and in the manner



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304 hereinafter provided for dealers to remit taxes under this
305 chapter. The same duties imposed by this chapter upon dealers in
306 tangible personal property respecting the collection and
307 remission of the tax; the making of returns; the keeping of
308 books, records, and accounts; and the compliance with the rules
309 and regulations of the department in the administration of this
310 chapter shall apply to and be binding upon all persons who
311 manage or operate hotels, apartment houses, roominghouses,
312 tourist and trailer camps, and the rental of condominium units,
313 and to all persons who collect or receive such rents on behalf
314 of such owner or lessor taxable under this chapter. A person
315 operating transient accommodations or the owner of such
316 accommodations shall separately state the tax from the rental
317 charged on the receipt, invoice, or other documentation issued
318 with respect to charges for transient accommodations. Persons
319 facilitating the booking of reservations who are unrelated to
320 the person operating the transient accommodations in which the
321 reservation is booked are not required to separately state
322 amounts charged on the receipt, invoice, or other documentation
323 except that such persons shall disclose all amounts charged or
324 expected to be charged as taxes on the final receipt, invoice,
325 or other documentation provided to the customer issued by the
326 person facilitating the booking of the reservation. A person
327 facilitating the booking of a reservation shall separately state
328 the fee or charge for the service provided to the customer at
329 the time of the booking. Any amounts specifically collected as a
330 tax are state funds and must be remitted as tax.

331 Section 4. Paragraphs (a) and (b) of subsection (3) of
332 section 212.0305, Florida Statutes, are amended to read:



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333 212.0305 Convention development taxes; intent;
334 administration; authorization; use of proceeds.—

335 (3) APPLICATION; ADMINISTRATION; PENALTIES.—

336 (a)1. The convention development tax on transient rentals
337 imposed by the governing body of any county authorized to so
338 levy shall apply to the amount of any payment made by any person
339 to rent, lease, or use for a period of 6 months or less any
340 living quarters or accommodations in a hotel, apartment hotel,
341 motel, resort motel, apartment, apartment motel, roominghouse,
342 tourist or trailer camp, mobile home park, recreational vehicle
343 park, condominium, or timeshare resort. When receipt of
344 consideration is by way of property other than money, the tax
345 shall be levied and imposed on the fair market value of such
346 nonmonetary consideration. Any payment made by a person to rent,
347 lease, or use any living quarters or accommodations which are
348 exempt from the tax imposed under s. 212.03 shall likewise be
349 exempt from any tax imposed under this section.

350 2.~~a~~. Tax shall be due on the consideration paid for
351 occupancy in the county pursuant to a regulated short-term
352 product, as defined in s. 721.05, or occupancy in the county
353 pursuant to a product that would be deemed a regulated short-
354 term product if the agreement to purchase the short-term right
355 was executed in this state. Such tax shall be collected on the
356 last day of occupancy within the county unless such
357 consideration is applied to the purchase of a timeshare estate.
358 The occupancy of an accommodation of a timeshare resort pursuant
359 to a timeshare plan, a multisite timeshare plan, or an exchange
360 transaction in an exchange program, as defined in s. 721.05, by
361 the owner of a timeshare interest or such owner's guest, which



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362 guest is not paying monetary consideration to the owner or to a
363 third party for the benefit of the owner, is not a privilege
364 subject to taxation under this section. A membership or
365 transaction fee paid by a timeshare owner that does not provide
366 the timeshare owner with the right to occupy any specific
367 timeshare unit but merely provides the timeshare owner with the
368 opportunity to exchange a timeshare interest through an exchange
369 program is a service charge and not subject to taxation under
370 this section.

371 ~~3.b.~~ Consideration paid for the purchase of a timeshare
372 license in a timeshare plan, as defined in s. 721.05, is rent
373 subject to taxation under this section.

374 4. As used in this section, the terms "consideration,"
375 "rental," and "rents" mean the amount received by a person
376 operating transient accommodations or the owner of such
377 accommodations for the use of any living quarters or sleeping or
378 housekeeping accommodations in, from, or a part of, or in
379 connection with, any hotel, apartment house, roominghouse,
380 timeshare resort, tourist or trailer camp, mobile home park,
381 recreational vehicle park, or condominium. The term "person
382 operating transient accommodations" means a person conducting
383 the daily affairs of the physical facilities furnishing
384 transient accommodations who is responsible for providing any of
385 the services commonly associated with operating the facilities
386 furnishing transient accommodations, including providing
387 physical access to such facilities, regardless of whether such
388 commonly associated services are provided by unrelated persons.
389 The terms "consideration," "rental," and "rents" do not include
390 payments received by unrelated persons from the lessee, tenant,



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391 or customer for facilitating the booking of reservations for or
392 on behalf of the lessees, tenants, or customers at hotels,
393 apartment houses, roominghouses, timeshare resorts, tourist or
394 trailer camps, mobile home parks, recreational vehicle parks, or
395 condominiums in this state. The term "unrelated persons" means
396 persons who are not related to the person operating transient
397 accommodations or to the owner of such accommodations within the
398 meaning of s. 1504, s. 267(b), or s. 707(b) of the Internal
399 Revenue Code of 1986, as amended.

400 (b) The tax shall be charged by the person receiving the
401 consideration for the lease or rental, and the tax shall be
402 collected from the lessee, tenant, or customer at the time of
403 payment of the consideration for such lease or rental. A person
404 operating transient accommodations or the owner of such
405 accommodations shall separately state the tax from the rental
406 charged on the receipt, invoice, or other documentation issued
407 with respect to charges for transient accommodations. Persons
408 facilitating the booking of reservations who are unrelated to
409 the person operating the transient accommodations in which the
410 reservation is booked are not required to separately state
411 amounts charged on the receipt, invoice, or other documentation
412 except that such persons shall disclose all amounts charged or
413 expected to be charged as taxes on the final receipt, invoice,
414 or other documentation provided to the customer issued by the
415 person facilitating the booking of the reservation. A person
416 facilitating the booking of a reservation shall separately state
417 the fee or charge for the service provided to the customer at
418 the time of the booking. Any amounts