



645818

LEGISLATIVE ACTION

| Senate | . | House |
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Senator Sachs moved the following:

1           **Senate Amendment to Amendment (683960) (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 Between lines 118 and 119

235 insert:

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