

By Senator Bennett

21-00928B-11

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1 A bill to be entitled
 2 An act relating to convention development taxes;
 3 amending s. 212.0305, F.S.; making technical and
 4 grammatical changes; authorizing an increase in the
 5 rate of the charter county convention development tax;
 6 specifying permissible uses of the additional
 7 revenues; providing an 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
 29 accommodations that ~~which~~ are exempt from the tax imposed under

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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,

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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 of
75 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

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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

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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 ~~the~~ 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

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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, repair,
172 improve, or maintain one or more convention centers, stadiums,
173 exhibition halls, arenas, coliseums, or auditoriums.

174 4. For the purposes of completion of any project under this

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175 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

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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

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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 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-subparagraph

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

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

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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 by
308 the governing body of the municipality to terms ~~serve for a term~~
309 of at least ~~not less than~~ 1 year and ~~shall be appointed by the~~
310 ~~governing body of such municipality.~~ The annual budget of the
311 ~~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

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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 ~~shall~~
330 be deposited in a convention development trust fund, which shall
331 be established by the county as a condition precedent to receipt
332 of the ~~such~~ funds.

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