

1989

## Session Law 89-362

Florida Senate & House of Representatives

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**S 1178 GENERAL BILL/CS/1ST ENG by Finance, Taxation and Claims; Forman (Compare CS/1ST ENG/H 1199, H 13-B, CS/2ND ENG/S 267, 2ND ENG/S 10-B)**  
**Sales Tax/Rentals: limits to certain facilities exemption from transient rentals tax for an entire facility; provides for additional tourist development tax on food, beverages, & alcoholic beverages under certain circumstances; provides for distribution & uses of proceeds; provides penalties. Amends 212.03, 125.0104. Effective Date: 10/01/89.**

04/07/89 SENATE Filed  
04/14/89 SENATE Introduced, referred to Finance, Taxation and Claims -SJ 158  
04/28/89 SENATE Extension of time granted Committee Finance, Taxation and Claims  
05/12/89 SENATE Extension of time granted Committee Finance, Taxation and Claims  
05/19/89 SENATE On Committee agenda—Finance, Taxation and Claims, 05/23/89, 1:00 pm, Room-1C-(309)  
05/23/89 SENATE Comm. Report: CS by Finance, Taxation and Claims, placed on Calendar -SJ 450  
05/25/89 SENATE CS read first time -SJ 455  
06/01/89 SENATE Placed on Special Order Calendar -SJ 686  
06/02/89 SENATE Placed on Special Order Calendar -SJ 972; CS passed as amended; YEAS 29 NAYS 4 -SJ 973  
06/02/89 HOUSE In Messages  
06/03/89 HOUSE Received, placed on Calendar; Read second time; Motion to move to third reading failed; Motion to move to third reading passed; Read third time; CS passed; YEAS 55 NAYS 54 -HJ 1543  
06/03/89 Ordered enrolled -SJ 1406  
06/20/89 Signed by Officers and presented to Governor  
07/06/89 Became Law without Governor's Signature; Chapter No. 89-362; See also: CS/SB 267 (Ch. 89-356) & SB 10-B (Ch. 89-529)

**NOTES:** Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.



REVISED: \_\_\_\_\_

BILL NO. CS/SB 1178

DATE: May 23, 1989

Page 1

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. Boyle 	Beggs 	1. <u>FTC</u>	<u>Fav/CS</u>
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Sales Tax on Transient Rentals

BILL NO. AND SPONSOR:

CS/SB 1178 by  
Finance, Taxation, and Claims  
& Senator Forman

I. SUMMARY:

A. Present Situation:

Section 212.02(10)(f), F.S., defines "trailer camp, mobile home park, or recreational vehicle park" for purposes of defining "lease, lot, or rental" of living quarters or real property.

Section 212.03(1), F.S., taxes transient rentals of hotels, apartment houses, rooming houses, or tourist or trailer camps. Section 212.03(4), F.S., exempts from the tax anyone who enters into a bona fide written lease for longer than 6 months for continuous residence at such a location or anyone who has resided continuously for longer than 6 months at the same location and has paid the transient rentals tax for 6 months at that location. Section 212.03(7)(a) exempts full time college students and military personnel currently on active duty.

Section 212.03(7)(c) exempts the rental of all units of a facility which is intended primarily for rental as a principal or permanent place of residence. The rental of facilities primarily serving transient guests is not exempt. Criteria used in determinations against exempting a facility are: whether it caters primarily to the travelling public, whether less than half its units are rented by tenants for longer than 3 continuous months, and the nature of its advertising. The exemption applies to the whole facility, even if some units might otherwise be considered to be rented to transient guests.

Section 212.08(7) F.S., provides for miscellaneous exemptions from the sales tax on sales of tangible personal property.

B. Effect of Proposed Changes:

The bill restricts the exemption provided under s. 212.03(7)(c) to facilities defined s. 212.02(10)(f), F.S., that is, trailer camps, mobile home parks, or recreational vehicle parks.

It also changes the criteria for determinations by the department of whether such facilities are primarily serving transient guests by declaring that such facilities primarily serve transient guests unless more than half of the total rental units available are occupied by tenants who have a continuous residence in excess of 3 months.

The bill exempts from the sales tax magazines, books, records or tapes, sold through direct solicitation or subscription by students participating in a fund raising program or activity sponsored by , or on behalf of, a sponsoring school at which is taught any grade from kindergarden to twelfth grades, inclusive, when such sales directly benefit the school.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Anyone who rents space at a trailer camp, mobile home park, or recreational vehicle park will not have to pay the transient rentals tax if the facility as a whole meets the criteria for the exemption that is more than half of the spaces are occupied by tenants who have lived there continuously for longer than 3 months.

Anyone who buys magazines, books, records, or tapes from students participation in a school benefit fund raising activity will not have to pay a sales tax on their purchases.

B. Government:

Limiting the full facility exemption from the transient rentals tax to qualifying trailer camps, mobile home parks, or recreational vehicle parks will result in a gain of approximately \$5.3 million in 1989-90 and approximately \$8.8 million in 1990-91. Of those amounts General Revenue will get approximately \$4.8 million in 1989-90 and \$7.9 million in 1990-91. Local governments will get approximately \$500,000 in 1989-90 and \$900,000 in 1990-91.

The exemption on student sales of magazines, books, or tapes to raise money for their school will result in a loss of approximately \$333,000 in 1989-90 and \$500,000 in 1990-91.

III. COMMENTS:

The act takes effect October 1, 1989.

IV. AMENDMENTS:

None.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 1178

The Committee Substitute limits the exemption from the transient rentals tax for entire facilities to only trailer camps, mobile home parks, and recreational vehicle parks.

It exempts magazines, books, records, and tapes sold by students participating in a fund raising activity sponsored by, or on behalf of, an elementary, middle, or high school when the sales directly benefit the school.

Committee on Finance, Taxation and Claims

  
\_\_\_\_\_  
Staff Director

(FILE THREE COPIES WITH THE SECRETARY OF THE SENATE)

STORAGE NAME: s1178-f.com  
DATE: 07/19/89

HOUSE OF REPRESENTATIVES  
COMMITTEE ON COMMERCE  
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/SB 1178  
RELATING TO: Transient Rentals Tax  
SPONSOR(S): Finance Tax and Claims and Sen. Foreman  
EFFECTIVE DATE: October 1, 1989  
DATE BECAME LAW: July 6, 1989  
CHAPTER #: 89-362, Laws of Florida  
COMPANION BILL(S): CS/HB 1199  
OTHER COMMITTEES OF REFERENCE: (1)  
(2)

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I. SUMMARY:

This committee substitute revises provisions of s. 212.03, F.S., relating to exemptions from and collection of transient rental tax. It amends paragraph (c) of subsection (7) which exempts entire facilities that are intended primarily for rental as principal or permanent residences, by exempting only trailer camp, mobile home park, or recreational vehicle park facilities as described in s. 212.02(10)(f), F.S., from the imposition of this tax.

Additionally the CS authorizes the governing boards of certain counties to adopt, by majority vote, one of two options for levying an additional 2% tax on the sale of food, beverages and alcoholic beverages in specified establishments. Definitions are provided and the distribution of the tax revenues is designated according to the levying option adopted by the board.

A. PRESENT SITUATION:

Currently, s. 212.03, F.S., imposes a 6 percent tax for transient rentals on persons who rent, lease, or let sleeping or housekeeping accommodations in a hotel, apartment house, roominghouse, or tourist or trailer camp. The tax does not apply where there is a written lease in excess of 6 months or to a person who continuously resides for more than 6 months. Other exemptions exist for full-time students in postsecondary education and military personnel.

Mobile home parks are in essence already exempted from this statute because s. 723.031, F.S., requires that they offer leases of no less than 1 year to their tenants.

The statute also provides an exemption to rentals used as a principal or permanent residence, but does not exempt facilities which primarily serve transient guests. It then furnishes some guidelines for determining whether the rental is transient: a) whether the rental serves the traveling public; b) whether less than half of the units house renters who have a continuous residency of more than three months; and c), how the facility is advertised, among other unspecified criteria. No distinction exists relating to the number of units.

Section 125.0104, F.S., gives counties in Florida the authority to levy and impose an additional tourist development tax on transient rentals. Those are described as the accommodations in a hotel, motel, apartment, resort, roominghouse, mobile home park, recreational vehicle park, or condominium which are rented, leased, or let for 6 months or less. The tax may be levied countywide or in a subcounty special district, except that no city or town imposing a municipal resort tax may also levy the tourist development tax. In order to levy this tax, an ordinance must be approved by a majority of electors voting in an election in the county or by a majority of the electors voting in the subcounty special tax district affected by the tax. The county under s. 125.0104(3)(d) may levy an additional one percent tourist development tax by an extraordinary vote of the county governing board.

Section 125.0104(5) dictates that the revenues from these taxes may only be used:

- To acquire, construct, extend, enlarge, remodel, repair, improve, operate and promote one or more, publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums within the county or subcounty special taxing district levying the tax. Also to secure or liquidate bonds for this purpose;
- To promote and advertise tourism in the state, nationally and internationally;
- To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county; or
- To finance beach improvement, maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup, or restoration of inland lakes and rivers to which there is public access.

Sixty days before a county can vote on this tax it must adopt a resolution establishing and appointing members to a county tourist development council (TDC). That TDC must then prepare and submit a development plan to be approved by the governing board, before the tax can be enacted. Currently, there are twenty-seven counties in Florida which have elected to levy this tax.

B. EFFECT OF PROPOSED CHANGES:

This committee substitute addresses the exemption provided for the rental used as a principal or permanent residence. Instead of exempting an entire multi-unit facility of any description because at least 51% of the units in the facility are rented to guests who are considered permanent, this CS would exempt only trailer camp, mobile home park, or recreational vehicle park facilities as defined in s. 212.02(10)(f), F.S.

The one charter county (Dade) specified by the CS which presently levies the Local Option Tourist Development tax could, by majority vote of the governing board of the county, levy an additional 2% tax on: Option 1. - food, beverages and alcoholic beverages just served in hotels and motels; or Option 2. - food, beverages and alcoholic beverages served in hotels, motels, and establishments licensed to sell alcoholic beverages. This would be in addition to the tax levied on transient rentals. Establishments with liquor licenses which sell only beer and wine would not be subject to this tax.

If the county has not, as of January 1, 1989, exercised its right to collect its tourist development tax itself and allows the Department of Revenue to administer the collection, it may not adopt this new tax prior to January 1, 1990. This would allow the department enough time to establish a collection procedure for the new tax.

The distribution of the revenues from this new tax are specified for each option as follows:

Option 1. - The entire proceeds would be allocated by the county to a county-wide convention and visitor's bureau for promotion of the county as a tourist destination.

Option 2. - For the first 2 years after the tax is imposed the county would allocate thirty-five percent to revitalize economically blighted areas within the county, twenty percent could be used by the county for any lawful purpose, and forty-five percent would be given to a county-wide convention and visitor's bureau for promotion of the county as a tourist destination. After the first two years, each allocation category would receive an average of the amounts distributed to them the first two years and any excess would be available to the county for any lawful purpose.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

The CS would increase the number of units subject to the transient rentals tax, which would increase the amount of revenues collected and the reporting of this tax to the



Department of Revenue. For the 8 months of FY 1989-90, the changes made by this CS is estimated to increase receipts to the General Revenue Fund by approximately \$5 m.

Dade County is self administered so imposition of an additional tax would not have a fiscal impact on the State Department of Revenue.

2. Recurring or Annualized Continuation Effects:

On an annualized basis, the changes in the statutes would increase receipts to the General Revenue Fund by approximately \$9 m.

3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

For the remaining 8 months of FY 1989, the changes in the CS would increase receipts by local governments by \$.5 m for the transient rentals portion of the bill.

Dade County could receive an estimated \$2.3 m in tax proceeds if they adopt option 1, and \$4 m in proceeds if they adopt option 2.

2. Recurring or Annualized Continuation Effects:

On an annualized basis, the transient rentals tax proceeds would be increased to local governments by \$1.0 m.

Dade County additional tax revenues would be increased by \$3.5 m under option 1, and by \$6 m under option 2.

3. Long Run Effects Other Than Normal Growth:

Same

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

A citizen of any state traveling in Florida or renting accommodations in a facility which is now exempt will have to pay the transient rentals tax, unless they qualify under any of the given exemptions.

Residents and guests in a county which elects to levy the tax on food and beverages would pay an extra 2 cents tax on each item. Since the tax is aimed at hotels, motels, and establishments with liquor licenses it is considered to be mainly a tourist tax. However, it will affect residents who frequent these establishments.

2. Direct Private Sector Benefits:

Those facilities which have not been exempt under current law may see the changes made by this CS to be a more equitable solution to the transient rentals tax, and therefore a benefit to their ability to compete.

The residents of the county levying the new taxes will benefit by expanded programs attracting new tourists, and possibly economic development and neighborhood revitalization.

3. Effects on Competition, Private Enterprise, and Employment Markets:

Those facilities which are now exempt may have additional expenses incurred due to expanded reporting requirements. They may also lose some of the competitive edge they have over the facilities which have been collecting this tax from their guests all along.

Private enterprise and employment markets in areas addressed by neighborhood revitalization would experience growth.

D. FISCAL COMMENTS:

III. LONG RANGE CONSEQUENCES:

This CS will provide extra tax dollars for the state.

The committee substitute is in keeping with the economic development goals of the Comprehensive State Plan in that it supports tourism promotion and economic growth in inner city neighborhoods.

IV. COMMENTS:

STATEMENT OF SUBSTANTIAL CHANGES

The bill as filed continued the exemption if the facility had 10 or fewer units. The distinction based upon the number of units was abandoned by the committee except for recreational vehicle parks.

The section addressing the additional tax on food and beverages was added by the CS.

V. LEGISLATIVE BILL HISTORY

ENACTED BILL:

Senate Bill 1178 was filed by Senator Forman on April 7, 1989. It was referred to the Committee on Finance and Tax on April 14. The bill was reported favorably as a committee substitute on May 23, by Finance and Tax and placed on the Calendar. On June 1, it was placed on the Special Order Calendar. On June 2, 1989, the CS passed the Senate as amended by a vote of 29 to 4 (SJ 00973). The CS was sent to the House in Messages, received on June 3, 1989, and placed on the Calendar. It was passed by the House on that day with a vote of 55 to 54 (HJ 1543). On June 20, the CS was signed by the Officers and sent to the Governor. The CS became chapter law 89-362 on July 6, 1989 without the Governor's signature.

One of the provisions of the CS was included in Senate Bill 10-B of the second Special Session.

DISPOSITION OF COMPANION:

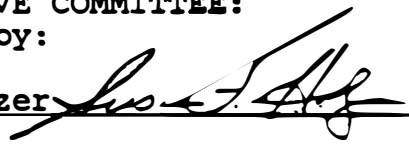
Representative Cosgrove prefiled House Bill 1199 on March 23, 1989. It was referred to the Committees on Commerce, Finance and Tax, and Appropriations on March 24. The Subcommittee on Tourism and Cultural Affairs reported the bill favorably on April 17, with two amendments. The bill was reported favorably as a committee substitute by the full Committee on Commerce on April 26. The Finance and Tax Committee reported the bill favorably on May 17, and the Appropriations Committee reported it favorably with 2 amendments on May 30. It was then placed on the Calendar. On May 31, it was placed on the Special Order Calendar and on June 1, 1989, passed the House with a vote of 64 to 43 (HJ 00995). The CS was sent to the Senate in Messages and died there on June 3, 1989.

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:

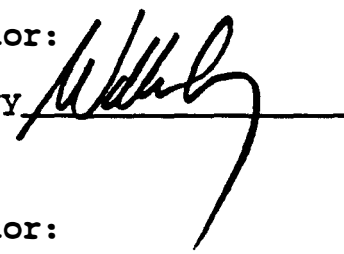
Prepared by:

Susan Holzer



Staff Director:

William Leary



SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Staff Director: