ARTICLE II. - TOURIST DEVELOPMENT TAX

Footnotes:
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Sec. 114-31. - Penalty.

In addition to those penalties provided under F.S. § 125.0104(8), any person convicted of violating any provision of this article, for each such conviction, shall be punishable as provided in section 1-7.

(Ord. No. 78-2, § 5, 1-19-78; Ord. No. 89-54, § III, 12-7-89)

Sec. 114-32. - Levy; collection and administration.

(a) There is hereby levied and imposed a tourist development tax in the county, at the rate of three percent of each whole and major fraction of each dollar of the total rental charged every person who rents, leases or lets for consideration any living quarters or accommodations in any hotel, apartment motel, motel, resort motel, apartment, apartment motel, roaming house, mobile home park, recreational vehicle park, or condominium for a term of six months or less. When receipt of consideration is by way of property other than money, the tax shall be levied and imposed on the fair market value of such nonmonetary considerations.

(b) The tourist development tax shall be in addition to any other tax imposed pursuant to F.S. ch. 212, and in addition to all other taxes, fees and the considerations for the rental or lease.

(c) The tourist development tax shall be charged by the person receiving the consideration for the lease or rental; and it shall be collected from the lessee, tenant or customer at the time of payment of the consideration for such lease or rental.

(d) Initial collection of the tax shall continue to be made in the same manner as the tax imposed under F.S. ch. 212, pt. I (F.S. § 212.01 et seq.).

(e) The director of the department of finance (referred to in this article as the finance director) shall be responsible for the collection and administration of the tax. The person receiving the consideration for such rental or lease shall receive, account for and remit the tax to the county finance department. The finance director shall keep appropriate records of said funds. The same duties and privileges imposed by F.S. ch. 212 upon dealers in tangible property, respecting the collection and remission of tax; the making of returns; the keeping of books, records and accounts; and the payment of a dealer’s credit in the administration of said chapter shall apply to and be binding upon all persons who are subject to the provisions of this article; provided, however, the director of finance may authorize a quarterly return and payment when the tax remitted by the person receiving the consideration for such rental or lease for the preceding quarter did not exceed $25.00.

(f) The finance director may prescribe and publish the forms necessary to effectuate this article.

(g) The finance director shall perform the enforcement and audit functions associated with the collection and remission of this tax, including, without limitation, the following:

(1) For the purpose of enforcing the collection of the tax levied by this article, the finance director is hereby specifically authorized and empowered to examine at all reasonable hours the books, records and other documents of all dealers or other persons charged with the duty to report or pay a tax under this article, in order to determine whether they are collecting the tax or otherwise complying with this article. In the event said dealer refuses to permit such
examination of its books, records or other documents by the finance director as provided in this subsection, the dealer is guilty of a violation of this article, punishable as provided in section 114-31. The county shall have the right to proceed in circuit court to seek a mandatory injunction or other appropriate remedy to enforce its right against the offender, as granted by this section, to require an examination of the books and records of such dealer.

(2) Each dealer, as defined in F.S. ch. 212, pt. I (F.S. § 212.01 et seq.), shall secure, maintain and keep for a period of three years a complete record of rooms or other lodging leased or rented by said dealer, together with gross receipts from such sales, and other pertinent records and papers as may be required by the finance director for the reasonable administration of this article; and all such records which are located or maintained in this state shall be open for inspection by the finance director at all reasonable hours at such dealer's place of business located in the county. Any dealer who maintains such books and records at a point outside this county must make such books and records available for inspection by the finance director. Any dealer subject to the provisions of this article who violates this subsection is guilty of a violation of this article, punishable as provided in section 114-31.

(h) The finance director shall send written notification, at least 30 days prior to the date an audit is scheduled to begin an audit, informing the taxpayer of the audit. The finance director is not required to give 30 days’ prior notification of a forthcoming audit in any instance in which the taxpayer requests an emergency audit.

(i) Such written notification shall contain:

1. The approximate date on which the auditor is scheduled to begin the audit.
2. A reminder that all of the records, receipts, invoices and related documentation of the taxpayer must be made available to the auditor.
3. Any other requests or suggestions the finance director may deem necessary.

(j) Only records, receipts, invoices and related documentation which are available to the auditor when such audit begins shall be deemed acceptable for the purposes of conducting such audit.

(k) All taxes collected under this article shall be remitted to the county. In addition to criminal sanctions, the finance director is empowered, and it shall be his duty, when any tax becomes delinquent or is otherwise in jeopardy under this article, to issue a warrant for the full amount of the tax due or estimated to be due, with the interest, penalties and cost of collection, directed to all and singular the sheriffs of the state, and shall record the warrant in the public records of the county; and thereupon the amount of the warrant shall become a lien on any real or personal property of the taxpayer in the same manner as a recorded judgment. The finance director may issue a tax execution to enforce the collection of taxes imposed by this article and deliver it to the sheriff/director of public safety. The sheriff/director of public safety shall thereupon proceed in the same manner as prescribed by law for executions and shall be entitled to the same fees for his services in executing the warrant to be collected. The finance director may also have a writ of garnishment to subject any indebtedness due to the delinquent dealer by a third person in any goods, money, chattels or effects of the delinquent dealer in the hands, possession or control of the third person in the manner provided by law for the payment of tax due. Upon payment of the execution, warrant, judgment or garnishment, the department of finance shall satisfy the lien of record within 30 days.

(l) Tax revenues may be used only in accordance with the provisions of F.S. § 125.0104 and this article.

(m) The county shall retain for administrative costs an amount calculated by the finance department to be its cost of collection, but not exceeding three percent.

(n) Regulations necessary to enforce the provisions of this article may be adopted by resolution of the county council. Unless and until such regulations are adopted, each regulation of the department of revenue respecting the collection of the tax which is the subject of this article shall apply except to the extent inconsistent with this article or with any resolution adopted pursuant to this article.
Sec. 114-33. - Use of revenues.

The tax revenues received pursuant to this article shall be expended to:

1. Pay the debt service on bonds issued to finance the construction, reconstruction or renovation of the Ocean Center and to pay the planning and design costs incurred prior to the issuance of such bonds.
2. Pay the operation and maintenance costs of the Ocean Center.
3. Pay any other cost authorized for the two percent tax levied pursuant to F.S. § 125.0104(3)(c), and/or any other cost authorized for the additional one percent tax levied pursuant to F.S. § 125.0104(3)(l), as may be hereafter amended.

Sec. 114-34. - Pledge of revenues for securing bonds.

All or any portion of the revenues raised by the tax levied by this article may be pledged by the county council to secure and liquidate revenue bonds issued by the county for the acquisition, construction, extension, enlargement, remodelling, repair, improvement, maintenance, operation or promotion of one or more publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums or auditoriums within the boundaries of the county, which projects are set forth within this article or may be hereafter adopted by appropriate amendment to this article as one of the uses to be made of the tourist development tax levied by this article.

Sec. 114-35. - Tourist development council.

(a) Established; membership. There is hereby established, pursuant to the provisions of F.S. § 125.0104, an advisory council to be known as the Volusia County Tourist Development Council (TDC). The county council shall appoint Volusia County electors as members of the TDC as follows:

   a. The county chair or a member of the county council designated by the county chair for a four-year term, the initial term ending March 31, 2005. The member shall serve on the TDC only so long as the member holds the office of county chair or county council member appointed by the county chair.
   b. An elected official of the most populous municipality of the county for a four-year term, the initial term ending March 31, 2002. The member shall serve on the TDC only so long as the member holds elective municipal office.
   c. An elected official of a municipality within the county for a four-year term, the initial term ending March 31, 2004. The member shall serve on the TDC only so long as the member holds elective municipal office.

2. Group II. Tourism representatives.
   a. An owner or operator of a motel, hotel, recreational vehicle park or other tourist accommodation for a four-year term, the initial term ending March 31, 2005.
b. An owner or operator of a motel, hotel, recreational vehicle park or other tourist accommodation for a four-year term, the initial term ending March 31, 2003.

c. An owner or operator of a motel, hotel, recreational vehicle park or other tourist accommodation for a four-year term, the initial term ending March 31, 2002.

d. A person involved in the tourist industry and who has demonstrated an interest in tourist development who may or may not be an owner or operator of a motel, hotel, recreational vehicle park or other tourist accommodation for a four-year term, the initial term ending March 31, 2004.

e. A person involved in the tourist industry and who has demonstrated an interest in tourist development who is not an owner or operator of a motel, hotel, recreational vehicle park or other tourist accommodation for a four-year term, the initial term ending March 31, 2005.

f. A person involved in the tourist industry and who has demonstrated an interest in tourist development who is not an owner or operator of a motel, hotel, recreational vehicle park or other tourist accommodation for a four-year term, the initial term ending March 31, 2003.

Group II members shall serve on the TDC only so long as they maintain positions in the tourist industry required by the qualifications for their Group II TDC seats. Vacancies shall be filled as in the manner provided for initial appointment, except that a member appointed to fill a vacancy during a term shall serve only the remaining unexpired term. Members may be removed with or without cause upon a majority vote of the county council, in which event there shall be deemed to be a vacancy. The failure of a member to attend two meetings during any year ending on December 31, regardless of the reason, automatically creates a vacancy immediately following the second absence.

(3) **Chair.** The chair of the TDC shall be the county chair or a member of the county council designated by the county chair.

(4) The TDC shall meet at least quarterly.

(5) Beginning March 31, 2007, a member of the TDC shall be eligible for reappointment regardless of the member's prior length of service on the TDC.

(b) **General duties.** From time to time, the TDC shall make recommendations to the county council for the effective operation of the special projects or of the uses of the tourist development tax revenue raised by the tax levied by this article, and may perform such other duties or functions as hereafter may be prescribed by ordinance or resolution.

(c) **Review of expenditures.** The TDC shall continuously review all expenditures of revenues from the tourist development trust fund and shall receive, at least quarterly, expenditure reports from the finance department. Expenditures which the TDC believes to be unauthorized shall be reported to the county council and the Florida Department of Revenue. The county council and the FDOR shall review the findings of the TDC and take appropriate administrative or judicial action to ensure compliance with F.S. § 125.0104.

Except as amended herein, the provisions of the Code of Ordinances of the County of Volusia remain in full force and effect.

(Ord. No. 78-2, § 3, 1-19-78; Ord. No. 79-17, § 1, 3-1-79; Ord. No. 01-09, § 1, 5-3-01; Ord. No. 2007-26, § 1, 5-3-07; Ord. No. 2011-28, § 1, 10-20-11)

**Cross reference**— Boards, commissions, councils and authorities, § 2-421 et seq.

Sec. 114-36. - Advertising of absorption of tax prohibited.
No person shall advertise or hold out to the public in any manner, directly or indirectly, that he will absorb all or any part of the tax levied by this article; or that he will relieve the person paying the rental of the payment of all or any part of the tax; or that the tax will not be added to the rental or lease consideration; or, when added, that it or any part thereof will be refunded or refused, either directly or indirectly, by any method whatsoever. Any person who willfully violates any provisions of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. §§ 775.082, 775.083 and 775.084.

(Ord. No. 78-2, § 6, 1-19-78)

Sec. 114-37. - Tax to constitute lien.

The tax levied by this article shall constitute a lien on the property of the lessee, customer or tenant in the same manner as, and shall be collectible as are, liens authorized and imposed in F.S. §§ 713.67, 713.68 and 713.69.

(Ord. No. 78-2, § 7, 1-19-78)

Sec. 114-38. - Reserved.

Editor's note—Ord. No. 2003-07, § 1, adopted April 24, 2003, repealed § 114-38, which pertained to effective date. See the Code Comparative Table.

Sec. 114-39. - Election for repeal of article.

Upon petition of 15 percent or more of the electors in the county, the county council shall cause an election to be held for the repeal of this article and the tourist development tax levied subject, only to any outstanding revenue bonds for which the tax has been pledged.

(Ord. No. 78-2, § 9, 1-19-78)

Secs. 114-40—114-60. - Reserved.