

ORDINANCE 25-____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 102, ARTICLE III OF THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA, AMENDING SECTIONS 102-118, 102-119(8), AND 102-124 TO REPLACE REFERENCE TO THE COUNTY TAX COLLECTOR WITH THE COUNTY CLERK OF THE CIRCUIT COURT FOR TOURIST DEVELOPMENT TAX COLLECTION PURPOSES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE OF ORDINANCES; PROVIDING AN EFFECTIVE DATE OF OCTOBER 1, 2025.

WHEREAS, under Section 125.0104, Florida Statutes, Brevard County has the responsibility and authority to provide for the collection of a tourist development tax in all areas of incorporated and unincorporated Brevard County; and

WHEREAS, Section 125.0104, Florida Statutes, authorizes the County to adopt an ordinance for the local collection and administration of the tourist development tax; and

WHEREAS, Chapter 102, Article III of the Brevard County Code of Ordinances prescribes the manner in which the tourist development tax will be levied and collected in Brevard County; and

WHEREAS, the County seeks to delegate the authority to collect, administer, enforce and remit the tourist development tax to the Brevard County Clerk of the Circuit Court on behalf of the County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Underline indicates additions.

~~Strikethrough indicates deletions.~~

Section 1. Recitals. The foregoing recitals are deemed true and correct and are hereby adopted and incorporated herein by this reference.

Section 2. Section 102-118. – *Collection; remittance; records kept; payment to county; rules*, is hereby amended to read as follows:

The tax levied and imposed by this article shall be received, collected, accounted for, remitted, administered and disbursed in the manner provided in the act and F.S. ch. 212.

(1) 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 of such lease or rental.

(2) The person receiving the consideration for such rental or lease (hereinafter referred to as the dealer) for any period subsequent to October 1, 1992, shall receive, account for, and remit the tax to the ~~county tax collector (tax collector)~~. Brevard County Clerk of the Circuit Court (Clerk).

(3) 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.).

(4) The ~~tax collector~~ Clerk shall be responsible for the collection of the tax from the dealer and administration of the tax, the ~~tax collector~~ Clerk shall keep appropriate records of such remittances.

(5) 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, shall apply to and be binding upon all persons who are subject to the provisions of this section; provided, however, that the ~~tax collector~~ Clerk 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.

(6) The ~~tax collector~~ Clerk shall promulgate such rules, and prescribe and publish such forms as may be necessary to effectuate the purpose of this section.

(7) The ~~tax collector~~ Clerk shall perform the enforcement and audit functions associated with the collection and remission of this tax, including, without limitation, the following:

a. For the purpose of enforcing the collection of the tax levied by this section, the ~~tax collector~~ Clerk 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 collect, report or pay a tax under this section, in order to determine whether they are collecting the tax or otherwise complying with this section.

b. Each dealer shall secure, maintain and keep for a period of three years a complete record of rooms or other lodging, leased or rented by the dealer, together with gross receipts from such sales, leases, and other pertinent records and papers as may be required by the ~~tax collector~~ Clerk for the reasonable administration of this section; and all such records which are located or maintained in this county shall be open for examination by the ~~tax collector~~ Clerk, at all reasonable hours, at such dealer's place of business located in the county. Any dealer which maintains such books and records at a point outside this county must make such books and records available, upon reasonable notice, for

examination by the ~~tax collector~~ Clerk at a place of business within the county. If any dealer fails to make available any books and records for examination at a place of business within the county, and if the ~~tax collector~~ Clerk determines that examination of such records is necessary or appropriate to the performance of the ~~tax collector's~~ Clerk's duties hereunder, then all travel and maintenance expenses necessarily incurred in making such examination shall be paid by the dealer. The ~~tax collector~~ Clerk or authorized representative shall have the right, power, and authority to make such transcripts or copies of such records and papers thereof during such times as they may desire.

c. In addition to any other powers hereunder, the ~~tax collector~~ Clerk is empowered, when any tax becomes delinquent or is otherwise in jeopardy under this section, 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 dealer in the same manner as a recorded judgment. The ~~tax collector~~ Clerk may issue a tax execution to enforce the collection of taxes imposed by this section and deliver it to the sheriff. The sheriff 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 ~~tax collector~~ Clerk may also have a writ of garnishment issued 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 the tax due. Upon payment of the execution, warrant, judgment, or garnishment, the ~~tax collector~~ Clerk shall satisfy the lien of records within 30 days.

d. The ~~tax collector~~ Clerk shall be authorized to utilize all available remedies, as are provided by state law, to enforce the provisions of subsection (7)a. and b. above.

(8) Tax revenues collected hereunder may be used only in accordance with the provisions of F.S. § 125.0104. All taxes collected under this section shall be deposited by the Clerk ~~tax collector~~ in the county tourist development trust fund.

(9) ~~Starting on~~ From October 1, 1992, through September 30, ~~2025~~ 1994, the tax collector shall be entitled to retain three percent of collection for the costs of administration and auditing of the tourist development tax. Starting on October 1, ~~1994~~ 2025, and at all times thereafter, the ~~tax collector~~ Clerk shall biannually adjust the percentage of the tax retained to reflect the actual cost of administering the local collection program, however, such retainage shall not exceed the three-percent cap as specified in F.S. § 125.0104(10)(b)5.

(10) The taxes imposed by this section shall become county funds at the moment of collection and shall for each month be due to the ~~tax collector~~ Clerk on the first day of the succeeding month and be delinquent on the 21st day of such month.

(11) The ~~tax collector~~ Clerk assumes all responsibility for auditing the records and accounts of dealers and assessing, collecting and enforcing payment of delinquent tourist development taxes. The ~~tax collector~~ Clerk adopts any and all powers and authority granted to the state in F.S. § 125.0104 and F.S. ch. 212, and as further incorporated therein, to determine the amount of the tax, penalties and interest to be paid by each dealer and to enforce payment of such tax penalties, and interest by, but not limited to, distress warrants, writ of garnishments and criminal penalties as provided in F.S. ch. 212.

(12) In accordance with F.S. § 125.0104(8)(a), any dealer who is taxable hereunder who fails or refuses to charge and collect the tax from the person paying any rental or lease, either by himself or through his agents or employees, is, in addition to being personally liable for the payment of the tax, guilty of a misdemeanor of the first degree, punishable as provided in F.S. § 775.082 or F.S. § 775.083.

(13) In accordance with F.S. § 125.0104(8)(b), 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, 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 provision of this subsection is guilty of a misdemeanor of the first degree, punishable as provided in F.S. § 775.082 or 775.083.

(14) As compensation for the keeping of prescribed records and the proper accounting and remitting of taxes, a dealer shall be allowed a dealer's credit in accordance with the provisions of F.S. § 212.12(1).

Section 3. Subsection 8 of Section 102-119 – *Budget Plan*, is hereby amended to read as follows:

(8) The clerk to the board of county commissioners is hereby directed to establish a county tourist development trust fund. All collections received ~~by the tax collector~~ from the tax imposed and levied by this article shall be placed in such trust fund. Collections through September 30, 2025, shall be made by the tax collector, and the Clerk shall make collections starting October 1, 2025.

Section 4. Section 102-124. – *Account Required*, is hereby amended to read as follows:

No person shall offer for rent or rent living quarters or operate a vacation rental without first applying for and receiving a tourist development tax account from the appropriate County office ~~county tax collector's office~~ for the purpose of paying the tourist development tax due from that property owner in accordance with sections 102-117 and 102-118.

Section 5. Conflicting Provisions. In the case of a direct conflict between any provisions of this ordinance and a portion or provision of any other appropriate federal, state, or county law, rule, code, or regulation, the more restrictive shall apply.

Section 6. Severability. If any provisions of this ordinance or the application thereof to any person or circumstance is held to be invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

Section 7. Inclusion in Code. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made part of the Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article", or other such appropriate word or phrase in order to accomplish such intentions.

Section 8. Effective Date. A certified copy of this ordinance shall be filed with the office of the Secretary of State, State of Florida within ten (10) days of enactment. This Ordinance shall take effect upon adoption and filing, as required by law. The Clerk shall take over responsibilities under the County's tourist development tax from the Tax Collector starting October 1, 2025.

DONE, ORDERED, AND ADOPTED in regular session this ____ day of 2025.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Rachel M. Sadoff, Clerk

Rob Feltner, Chairman

As approved by the Board on _____