

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FTC 10-07 Community Development Districts

SPONSOR(S): Finance & Tax Council

TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	<u>Finance & Tax Council</u>	<u></u>	<u>Aldridge</u>	<u>Langston</u>
1)	<u></u>	<u></u>	<u></u>	<u></u>
2)	<u></u>	<u></u>	<u></u>	<u></u>
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SUMMARY ANALYSIS

Community Development Districts (CDDs) are local units of special-purpose government created pursuant to Chapter 190, F.S., with certain limited governmental powers, including the power to levy assessments or taxes and issue bonds. Although CDDs generally have the power to levy ad valorem taxes, CDDs without “qualified electors” may not.

The bill would allow CDDs without qualified electors to levy a tax of up to one percent on all commercial rental transactions occurring in the district that are subject to sales tax under s. 212.031, F.S. Approval to levy such a tax would require both the approval of 4 out of 5 of the elected members of the board of supervisors of the CDD and approval by at least 2/3ds of the landowners within the CDD.

The bill provides that the proceeds of the tax may only be used to promote and support commercial activity within the district, including those festivals, special events, and other activities within the district that enhance commercial activity.

The bill requires approval of the CDD’s board of supervisors prior to expenditure of the proceeds of the tax. The bill provides that if the CDD determines that the CDD has qualified electors, its authority to levy the tax authorized by this bill expires. The bill requires local administration of the tax.

The Revenue Estimating Conference has not yet estimated the revenue impact of this bill.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

CURRENT SITUATION

Community Development Districts (CDDs) are local units of special-purpose government created pursuant to Chapter 190, F.S., that are empowered to exercise limited powers to facilitate the delivery of urban community development services in concert with private developers. Among the powers granted to CDDs are the power to levy assessments or taxes, issue bonds, and collect user fees and charges.¹

There are currently 576 CDDs in the state.² Although CDDs generally have the power to levy ad valorem taxes, CDDs without "qualified electors"³ may not⁴.

PROPOSED CHANGES

The bill would allow CDDs without qualified electors to levy a tax of up to one percent on all commercial real estate rental transactions occurring in the district that are subject to sales tax under s. 212.031, F.S. Approval to levy such a tax would require both the approval of 4 out of 5 of the elected members of the board of supervisors of the CDD and approval by at least 2/3ds of the landowners within the CDD. The landowner vote is to be noticed in the same manner as noticing for the initial election of supervisors. Each landowner will have one vote without regard to the number of acres owned.

The bill provides that the proceeds of the tax must be used to:

- Promote and support commercial activity within the district;
- Promote and support those festivals, special events, and other activities within the district that enhance commercial activity; and

¹ Section 190.011(9), F.S.

² Department of Community Affairs, http://www.floridaspecialdistricts.org/OfficialList/funct_sa.cfm (last visited 3/22/10)

³ Defined in s. 190.003(17), F.S., as any person at least 18 years of age who is a citizen of the United States, a legal resident of Florida and of the district, and who registers to vote with the supervisor of elections in the county in which the district land is located.

⁴ See s. 190.011(13), F.S., and Art. VII, Section 9 (b) of the Florida Constitution

- Provide public services as deemed necessary by the district's board to support commercial activities, including additional public services as deemed necessary by the district's board to support festivals, special events, and other activities that enhance commercial activity within the district. For the purposes of this subsection, "public services" includes but are not limited to law enforcement, fire protection, emergency services, and sanitation services.

The bill requires approval of the CDD's board of supervisors prior to expenditure of the proceeds of the tax. The bill provides that if the CDD determines that the CDD has qualified electors, its authority to levy the tax authorized by this bill expires.

The bill requires local administration of the tax. Prior to the tax becoming effective, the district board is required to adopt a resolution that includes provisions for, but is not limited to:

- Initial collection of the tax to be made in the same manner as the tax imposed under Chapter 212 (Sales and Use Tax).
- Designation of the district official to whom the tax shall be remitted, and that official's powers and duties with respect thereto.
- Requirements respecting the keeping of appropriate books, records, and accounts by those responsible for collecting and administering the tax.
- Provision for payment of a dealer's credit as required under Chapter 212.
- A portion of the tax collected may be retained by the district for costs of administration, but such portion shall not exceed 3 percent of collections.

The district must assume all responsibility for auditing, assessing, collecting and enforcing payments of delinquent taxes. The district will also be bound by Department of Revenue rules pertaining to the sales tax as it applies to rental of real property (s. 212.031, F.S.). Confidentiality requirements will also apply.

Similar to other taxes, the tax imposed by the CDD will constitute a lien on the property of the lessee or licensee of real property in the same manner as liens authorized by ss. 7713.68 and 713.69 (relating to personal property of the lessee)

B. SECTION DIRECTORY:

Section 1. Creates s. 212.0315, F.S., authorizing CDDs without electors to levy a local option tax on specific transactions.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.
2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: The Revenue Estimating Conference has not yet estimated the revenue impact of this bill.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Businesses within a CDD that levies the tax will pay more in taxes, but will also receive business promotion and public services that are focused on expanding commercial activity in the district.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES