

RESORT COMMUNITIES TAX AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill modifies the Resort Communities Tax part.

Highlighted Provisions:

This bill:

- ▶ defines terms;
 - ▶ requires a municipality to file with the State Tax Commission a form containing information regarding lodging capacity within the incorporated boundaries of the municipality;
 - ▶ provides procedures and requirements for a municipality to file the form with the State Tax Commission;
 - ▶ requires the State Tax Commission to provide written notice to a municipality if the municipality has a transient room capacity that is less than 66% of the municipality's permanent census population;
 - ▶ provides procedures and requirements for the State Tax Commission to provide the written notice to a municipality;
 - ▶ provides that a municipality that receives the written notice from the State Tax Commission may not impose a resort communities tax under certain circumstances;
- and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:

AMENDS:

59-12-401 (Superseded 07/01/04), as last amended by Chapter 253, Laws of Utah 2000

59-12-401 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003

59-12-402 (Superseded 07/01/04), as last amended by Chapters 253 and 319, Laws of Utah 2000

59-12-402 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003

ENACTS:

59-12-405, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-12-401 (Superseded 07/01/04)** is amended to read:

59-12-401 (Superseded 07/01/04). Resort communities tax -- Base -- Rate --

Collection fees.

(1) (a) Except as provided in Subsection (1)(b), and in addition to other sales and use taxes, a city or town in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may impose a sales and use tax of up to 1% on the transactions described in Subsection 59-12-103(1).

(b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this section on:

(i) wholesale sales;

(ii) the sale of a single item for which consideration paid is \$2,500 or more;

(iii) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(iv) any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b).

(2) (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the

state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

Section 2. Section **59-12-401 (Effective 07/01/04)** is amended to read:

59-12-401 (Effective 07/01/04). Resort communities tax -- Base -- Rate -- Collection fees.

(1) (a) Except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), and in addition to other sales and use taxes, a city or town in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may impose a sales and use tax of up to 1% on the transactions described in Subsection 59-12-103(1) located within the city or town.

(b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this section on:

(i) the sale of:

(A) a motor vehicle;

(B) an aircraft;

(C) a watercraft;

(D) a modular home;

(E) a manufactured home; or

(F) a mobile home; or

(ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

(2) (a) An amount equal to the total of any costs incurred by the state in connection with

the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

Section 3. Section **59-12-402 (Superseded 07/01/04)** is amended to read:

59-12-402 (Superseded 07/01/04). Additional resort communities sales tax -- Base -- Rate -- Collection fees -- Resolution and voter approval requirements -- Election requirements -- Notice requirements -- Ordinance requirements.

(1) (a) Except as provided in Subsection (1)(b), and subject to the limitations of Subsections (2) through (6), the governing body of a municipality in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may, in addition to the sales tax authorized under Section 59-12-401, impose an additional resort communities sales tax in an amount that is less than or equal to 1/2% on the transactions described in Subsection 59-12-103(1).

(b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not impose a tax under this section on:

- (i) wholesale sales;
- (ii) the sale of a single item for which consideration paid is \$2,500 or more;
- (iii) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and
- (iv) any amounts paid or charged by a vendor that collects a tax under Subsection 59-12-107(1)(b).

(2) (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1)

shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

(3) To impose an additional resort communities sales tax under this section, the governing body of the municipality shall:

(a) pass a resolution approving the tax; and

(b) except as provided in Subsection (6), obtain voter approval for the tax as provided in Subsection (4).

(4) To obtain voter approval for an additional resort communities sales tax under Subsection (3)(b), a municipality shall:

(a) hold the additional resort communities sales tax election during:

(i) a regular general election; or

(ii) a municipal general election; and

(b) publish notice of the election:

(i) 15 days or more before the day on which the election is held; and

(ii) in a newspaper of general circulation in the municipality.

(5) An ordinance approving an additional resort communities sales tax under this section shall provide an effective date for the tax as provided in Section 59-12-403.

(6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality imposed a license fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.

(b) The exception from the voter approval requirements in Subsection (6)(a) does not apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts pursuant to Section 10-1-203.

Section 4. Section **59-12-402 (Effective 07/01/04)** is amended to read:

59-12-402 (Effective 07/01/04). Additional resort communities sales tax -- Base --

Rate -- Collection fees -- Resolution and voter approval requirements -- Election requirements -- Notice requirements -- Ordinance requirements.

(1) (a) Except as provided in Subsections (1)(b) and 59-12-207.1(7)(c), and subject to the limitations of Subsections (2) through (6), the governing body of a municipality in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may, in addition to the sales tax authorized under Section 59-12-401, impose an additional resort communities sales tax in an amount that is less than or equal to 1/2% on the transactions described in Subsection 59-12-103(1) located within the municipality.

(b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not impose a tax under this section on:

(i) the sale of:

(A) a motor vehicle;

(B) an aircraft;

(C) a watercraft;

(D) a modular home;

(E) a manufactured home; or

(F) a mobile home; or

(ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

(2) (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those

cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

(3) To impose an additional resort communities sales tax under this section, the governing body of the municipality shall:

(a) pass a resolution approving the tax; and

(b) except as provided in Subsection (6), obtain voter approval for the tax as provided in Subsection (4).

(4) To obtain voter approval for an additional resort communities sales tax under Subsection (3)(b), a municipality shall:

(a) hold the additional resort communities sales tax election during:

(i) a regular general election; or

(ii) a municipal general election; and

(b) publish notice of the election:

(i) 15 days or more before the day on which the election is held; and

(ii) in a newspaper of general circulation in the municipality.

(5) An ordinance approving an additional resort communities sales tax under this section shall provide an effective date for the tax as provided in Section 59-12-403.

(6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality imposed a license fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.

(b) The exception from the voter approval requirements in Subsection (6)(a) does not apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts pursuant to Section 10-1-203.

Section 5. Section **59-12-405** is enacted to read:

59-12-405. Definitions -- Municipality filing requirements for lodging unit capacity -- Failure to meet eligibility requirements -- Notice to municipality -- Municipality authority to impose tax.

(1) As used in this section:

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- (a) "high-occupancy lodging unit" means each bedroom in a:
 - (i) hostel; or
 - (ii) a unit similar to a hostel as determined by the commission by rule;
- (b) "high-occupancy lodging unit capacity of a municipality" means the product of:
 - (i) the total number of high-occupancy lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3); and
 - (ii) four;
- (c) "recreational lodging unit" means each site in a:
 - (i) campground that:
 - (A) is issued a business license by the municipality in which the campground is located;
 - and
 - (B) provides the following hookups:
 - (I) water;
 - (II) sewer; and
 - (III) electricity; or
 - (ii) recreational vehicle park that provides the following hookups:
 - (A) water;
 - (B) sewer; and
 - (C) electricity; or
- (iii) unit similar to Subsection (1)(c)(i) or (ii) as determined by the commission by rule;
- (d) "recreational lodging unit capacity of a municipality" means the product of:
 - (i) the total number of recreational lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3); and
 - (ii) four;
- (e) "special lodging unit" means a lodging unit:
 - (i) that is a:

(A) high-occupancy lodging unit;

(B) recreational lodging unit; or

(C) standard lodging unit;

(ii) for which the commission finds that in determining the capacity of the lodging unit the lodging unit should be multiplied by a number other than a number described in:

(A) for a high-occupancy lodging unit, Subsection (1)(b)(ii);

(B) for a recreational lodging unit, Subsection (1)(d)(ii); or

(C) for a standard lodging unit, Subsection (1)(i)(ii); and

(iii) for which the municipality in which the lodging unit is located files a written request with the commission for the finding described in Subsection (1)(e)(ii);

(f) "special lodging unit capacity of a municipality" means the sum of the special lodging unit numbers for all of the special lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3);

(g) "special lodging unit number" means the number by which the commission finds that a special lodging unit should be multiplied in determining the capacity of the special lodging unit;

(h) "standard lodging unit" means each bedroom in:

(i) a hotel;

(ii) a motel;

(iii) a bed and breakfast establishment;

(iv) an inn;

(v) a condominium that is:

(A) part of a rental pool; or

(B) regularly rented out for a time period of less than 30 consecutive days;

(vi) a property used as a residence that is:

(A) part of a rental pool; or

(B) regularly rented out for a time period of less than 30 consecutive days; or

(vii) a unit similar to Subsections (1)(h)(i) through (vi) as determined by the commission

by rule;

(i) "standard lodging unit capacity of a municipality" means the product of:

(i) the total number of standard lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3); and

(ii) three; and

(j) "transient room capacity" means the sum of:

(i) the high-occupancy lodging unit capacity of a municipality;

(ii) the recreational lodging unit capacity of a municipality;

(iii) the special lodging unit capacity of a municipality; and

(iv) the standard lodging unit capacity of a municipality.

(2) A municipality that imposes a tax under this part shall provide the commission the following information as provided in this section:

(a) the high-occupancy lodging unit capacity of the municipality;

(b) the recreational lodging unit capacity of the municipality;

(c) the special lodging unit capacity of the municipality; and

(d) the standard lodging unit capacity of the municipality.

(3) A municipality shall file with the commission the information required by Subsection (1):

(a) on a form provided by the commission; and

(b) on or before:

(i) for a municipality that is required by Section 59-12-403 to provide notice to the commission, the day on which the municipality provides the notice required by Section 59-12-403 to the commission; or

(ii) for a municipality that is not required by Section 59-12-403 to provide notice to the commission, July 1 of each year.

(4) If the commission determines that a municipality that files the form described in Subsection (3) has a transient room capacity that is less than 66% of the municipality's permanent

census population, the commission shall notify the municipality in writing:

(a) that the municipality's transient room capacity is less than 66% of the municipality's permanent census population; and

(b) (i) for a municipality that is required by Section 59-12-403 to provide notice to the commission, within 30 days after the day on which the municipality provides the notice to the commission; or

(ii) for a municipality that is not required by Section 59-12-403 to provide notice to the commission, on or before September 1.

(5) (a) For a municipality that does not impose a tax under Section 59-12-401 on the day on which the municipality files the form described in Subsection (3), if the commission provides written notice described in Subsection (4) to the municipality, the municipality may not impose a tax under this part until the municipality meets the requirements of this part to enact the tax.

(b) For a municipality that is not required by Section 59-12-403 to provide notice to the commission, if the commission provides written notice described in Subsection (4) to the municipality for two consecutive calendar years, the municipality may not impose a tax under this part:

(i) beginning on July 1 of the year after the year during which the commission provided written notice described in Subsection (4):

(A) to the municipality; and

(B) for the second consecutive calendar year; and

(ii) until the municipality meets the requirements of this part to enact the tax.

Section 6. Effective date.

This bill takes effect on May 3, 2004, except that the amendments in this bill to Sections 59-12-401 (Effective 07/01/04) and 59-12-402 (Effective 07/01/04) take effect on July 1, 2004.