

R5 AB AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, REPEALING ORDINANCE NO. 2023-4567, BY AMENDING CHAPTER 102 OF THE MIAMI BEACH CITY CODE, ENTITLED "TAXATION," BY AMENDING ARTICLE V, ENTITLED "LOCAL BUSINESS TAX," BY REPEALING SECTION 102-388 THEREOF, ENTITLED "LEVY, COLLECTION AND ADMINISTRATION OF 1% LOCAL OPTION FOOD AND BEVERAGE TAX (HOMELESS AND DOMESTIC VIOLENCE TAX)," THEREBY STRIKING FROM THE CITY CODE ALL PROVISIONS AUTHORIZING MIAMI-DADE COUNTY TO LEVY, COLLECT, AND ADMINISTER THE 1% LOCAL OPTION FOOD AND BEVERAGE TAX (ALSO KNOWN AS THE "HOMELESS AND DOMESTIC VIOLENCE TAX") WITHIN THE MUNICIPAL LIMITS OF THE CITY OF MIAMI BEACH, AS PROVIDED IN SECTION 212.0306 OF THE FLORIDA STATUTES; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

Applicable Area:



COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: City Attorney Ricardo J. Dopico

DATE: October 30, 2024 First Reading

TITLE: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, REPEALING ORDINANCE NO. 2023-4567, BY AMENDING CHAPTER 102 OF THE MIAMI BEACH CITY CODE, ENTITLED "TAXATION," BY AMENDING ARTICLE V, ENTITLED "LOCAL BUSINESS TAX," BY REPEALING SECTION 102-388 THEREOF, ENTITLED "LEVY, COLLECTION AND ADMINISTRATION OF 1% LOCAL OPTION FOOD AND BEVERAGE TAX (HOMELESS AND DOMESTIC VIOLENCE TAX)," THEREBY STRIKING FROM THE CITY CODE ALL PROVISIONS AUTHORIZING MIAMI-DADE COUNTY TO LEVY, COLLECT, AND ADMINISTER THE 1% LOCAL OPTION FOOD AND BEVERAGE TAX (ALSO KNOWN AS THE "HOMELESS AND DOMESTIC VIOLENCE TAX") WITHIN THE MUNICIPAL LIMITS OF THE CITY OF MIAMI BEACH, AS PROVIDED IN SECTION 212.0306 OF THE FLORIDA STATUTES; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

BACKGROUND/HISTORY

The above Ordinance has been placed on the City Commission meeting agenda at the request of Commissioner David Suarez.

Section 212.0306(1)(b) of the Florida Statutes authorizes Miami-Dade County (the "County") to levy a 1% local option food and beverage tax, also known as the Homeless and Domestic Violence Tax (or the "1% Tax"), with the proceeds thereof dedicated for homeless services and the construction and operation of domestic violence centers. Pursuant to Section 212.0306, Fla. Stat., and Section 29-51 of the Miami- Dade County Code, the 1% Tax applies to all food and beverage sales generated by establishments with gross annual revenues of \$400,000 or more that are licensed by the State of Florida to sell alcoholic beverages for consumption on the premises, except for hotels and motels.

The 1% Tax is collected throughout the County, with the exception of the three municipalities authorized to impose their own municipal resort tax, namely, the City of Miami Beach (the "City"), the Town of Surfside, and Bal Harbour Village, each of which are exempt from the 1% Tax pursuant to Section 212.0306(2)(d), Fla. Stat.

In Miami-Dade County, 85% of the 1% Tax benefits the Miami-Dade County Homeless Trust, the governing body which oversees the use of the portion of the Tax dedicated to homeless services and programs, and the remaining 15% of the 1% Tax receipts is administered by the County's Domestic Violence Oversight Board for the construction and operation of domestic violence centers.

On February 20, 2019, the Miami-Dade County Board of County Commissioners adopted Resolution No. R-214-19, urging the Florida Legislature to amend Section 212.0306 and expand the 1% Tax to include sales in the City of Miami Beach, in order to provide additional funding to

provide shelter and related services to those experiencing homelessness and those fleeing domestic violence.

On November 2, 2021, 53.45% of the voters voting in the City of Miami Beach Special Election approved a nonbinding straw ballot measure, which called for the City Commission to adopt a Resolution urging the Florida Legislature to amend Section 212.0306 of the Florida Statutes, to allow for the collection of the 1% Tax in the City of Miami Beach.

On December 8, 2021, the Mayor and City Commission adopted Resolution No. 2021-31952, urging the Florida Legislature to amend Section 212.0306 of the Florida Statutes to allow for the collection of the 1% Tax within the City of Miami Beach.

On May 25, 2023, Governor Ron DeSantis signed into law House Bill 7063 (HB 7063), which includes a provision authorizing the 1% Tax to be imposed within the municipal limits of the City of Miami Beach, subject to certain requirements.

As amended, Section 212.0306(2)(d), Florida Statutes, now provides that “the tax authorized by paragraph (1)(b) may be levied in” a city or town which collects its own municipal resort tax “if the governing authority of the city or town adopts an ordinance that is subsequently approved by a majority of the electors in such city or town voting in a referendum held at a general election as defined in s. 97.021.”

ANALYSIS

On July 26, 2023, the Mayor and City Commission adopted Ordinance No. 2023-4567, which created Section 102-388 of the City Code, entitled “Levy, collection and administration of 1% local option food and beverage tax (Homeless and Domestic Violence tax),” to authorize Miami-Dade County to levy, collect, and administer the 1% Tax in Miami Beach, as provided in Section 212.0306, Florida Statutes, subject to the approval of the City’s voters in a general election (as defined in Section 97.021, Florida Statutes).

On July 26, 2023, the Mayor and City Commission also adopted Resolution No. 2023-32719, calling for a November 5, 2024 City of Miami Beach Special Election, for the purpose of submitting to the electorate of the City of Miami Beach a question asking whether the 1% Tax should be levied in Miami Beach.

The attached Ordinance repeals Section 102-388 of the City Code, entitled “Levy, collection and administration of 1% local option food and beverage tax (Homeless and Domestic Violence tax),” in its entirety. A companion item, which is also sponsored by Commissioner David Suarez, has been placed on the October 30, 2024 City Commission meeting agenda to repeal the ballot question that will be submitted to the voters on the November 5, 2024 ballot. These two items will terminate any affirmative steps toward the levy of the 1% Tax in the City of Miami Beach.

If the City Commission adopts this Ordinance at First Reading, a Second Reading/Public Hearing will be scheduled.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate? Yes
(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

FINANCIAL INFORMATION

CONCLUSION

Applicable Area

Citywide

<u>Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?</u>	<u>Is this item related to a G.O. Bond Project?</u>
Yes	No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

City Attorney

Sponsor(s)

Commissioner David Suarez

Co-sponsor(s)

Condensed Title

1st Rdg, Repeal Homeless and Domestic Violence 1% Tax. (Suarez) CA

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, REPEALING ORDINANCE NO. 2023-4567, BY AMENDING CHAPTER 102 OF THE MIAMI BEACH CITY CODE, ENTITLED "TAXATION," BY AMENDING ARTICLE V, ENTITLED "LOCAL BUSINESS TAX," BY REPEALING SECTION 102-388 THEREOF, ENTITLED "LEVY, COLLECTION AND ADMINISTRATION OF 1% LOCAL OPTION FOOD AND BEVERAGE TAX (HOMELESS AND DOMESTIC VIOLENCE TAX)," THEREBY STRIKING FROM THE CITY CODE ALL PROVISIONS AUTHORIZING MIAMI-DADE COUNTY TO LEVY, COLLECT, AND ADMINISTER THE 1% LOCAL OPTION FOOD AND BEVERAGE TAX (ALSO KNOWN AS THE "HOMELESS AND DOMESTIC VIOLENCE TAX") WITHIN THE MUNICIPAL LIMITS OF THE CITY OF MIAMI BEACH, AS PROVIDED IN SECTION 212.0306 OF THE FLORIDA STATUTES; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Section 212.0306(1)(b) of the Florida Statutes authorizes Miami-Dade County (the "County") to levy a 1% local option food and beverage tax, also known as the Homeless and Domestic Violence Tax (or the "1% Tax"), with the proceeds thereof dedicated for homeless services and the construction and operation of domestic violence centers; and

WHEREAS, pursuant to Section 212.0306, Fla. Stat., and Section 29-51 of the Miami-Dade County Code, the 1% Tax applies to all food and beverage sales generated by establishments with gross annual revenues of \$400,000 or more that are licensed by the State of Florida to sell alcoholic beverages for consumption on the premises, except for hotels and motels; and

WHEREAS, the 1% Tax is collected throughout the County, with the exception of the three municipalities authorized to impose their own municipal resort tax, namely, the City of Miami Beach (the "City"), the Town of Surfside, and Bal Harbour Village, each of which are exempt from the 1% Tax pursuant to Section 212.0306(2)(d), Fla. Stat.; and

WHEREAS, 85% of the 1% Tax benefits the Miami-Dade County Homeless Trust, the governing body which oversees the use of the portion of the Tax dedicated to homeless services and programs, and the remaining 15% of the 1% Tax receipts is administered by the County's Domestic Violence Oversight Board for the construction and operation of domestic violence centers; and

WHEREAS, on February 20, 2019, the Miami-Dade County Board of County Commissioners adopted Resolution No. R-214-19, urging the Florida Legislature to amend Section 212.0306 and expand the 1% Tax to include sales in the City of Miami Beach, in order to provide additional funding to provide shelter and related services to those experiencing homelessness and those fleeing domestic violence; and

WHEREAS, on November 2, 2021, 53.45% of the voters voting in the City of Miami Beach Special Election approved a nonbinding straw ballot measure, which called for the City Commission to adopt a Resolution urging the Florida Legislature to amend Section 212.0306 of the Florida Statutes, to allow for the collection of the 1% Tax in the City of Miami Beach; and

WHEREAS, on December 8, 2021, the Mayor and City Commission adopted Resolution No. 2021-31952, urging the Florida Legislature to amend Section 212.0306 of the Florida Statutes to allow for the collection of the 1% Tax within the City of Miami Beach; and

WHEREAS, on May 25, 2023, Governor Ron DeSantis signed into law House Bill 7063 (HB 7063), which includes a provision authorizing the 1% Tax to be imposed within the municipal limits of the City of Miami Beach, subject to certain requirements; and

WHEREAS, as amended, Section 212.0306(2)(d), Florida Statutes, now provides that “the tax authorized by paragraph (1)(b) may be levied in” a city or town which collects its own municipal resort tax “if the governing authority of the city or town adopts an ordinance that is subsequently approved by a majority of the electors in such city or town voting in a referendum held at a general election as defined in s. 97.021”; and

WHEREAS, on July 26, 2023, the Mayor and City Commission adopted Ordinance No. 2023-4567, which created Section 102-388 of the City Code, entitled “Levy, collection and administration of 1% local option food and beverage tax (Homeless and Domestic Violence tax),” to authorize Miami-Dade County to levy, collect, and administer the 1% Tax in Miami Beach, as provided in Section 212.0306, Florida Statutes, subject to the approval of the City’s voters in a general election (as defined in Section 97.021, Florida Statutes); and

WHEREAS, on July 26, 2023, the Mayor and City Commission also adopted Resolution No. 2023-32719, calling for a November 5, 2024 City of Miami Beach Special Election, for the purpose of submitting to the electorate of the City of Miami Beach a question asking whether the 1% Tax should be levied in Miami Beach; and

WHEREAS, since the adoption of Ordinance No. 2023-4567 and Resolution No. 2023-32719, the Mayor and City Commission have decided to reevaluate the proposed 1% Tax in light of the City’s efforts to address homelessness in Miami Beach, the additional cost of the 1% Tax to the City’s residents and visitors, and uncertainty concerning whether proceeds generated from the 1% Tax in Miami Beach will in fact be dedicated to services for individuals experiencing homelessness in Miami Beach or victims of domestic violence in Miami Beach; and

WHEREAS, the Mayor and City Commission now desire to repeal Ordinance No. 2023-4567 in its entirety, and terminate any affirmative steps toward the levy of the 1% Tax in the City of Miami Beach.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA.

SECTION 1. Chapter 102, entitled “Taxation,” Article V, entitled “Local Business Tax,” Section 102-388, entitled “Levy, collection and administration of 1% local option food and beverage tax (homeless and domestic violence tax),” is hereby amended as follows:

CHAPTER 102 TAXATION

* * *

ARTICLE V. LOCAL BUSINESS TAX

* * *

~~Sec. 102-388. Levy, collection and administration of 1% local option food and beverage tax (homeless and domestic violence tax).~~

- (a) ~~The City of Miami Beach authorizes Miami Dade County to levy, collect and administer the one percent local option food and beverage tax (also known as the "homeless and domestic violence tax"), within the municipal limits of Miami Beach, as provided in F.S. § 212.0306, as the same may be amended from time to time.~~
- (b) ~~The homeless and domestic violence tax shall be imposed at the rate of one percent on each whole and major fraction of each dollar charged every person for the purchase of food, beverages or alcoholic beverages in establishments that are licensed by the State of Florida to sell alcoholic beverages for consumption on the premises, except hotels and motels, in the same manner, and subject to the same provisions as otherwise applicable throughout Miami Dade County, Florida, in accordance with the Miami Dade County Code of Ordinances, as the same may be amended from time to time.~~
- (c) ~~This section 102-388 of the city Code shall be subject to voter referendum approval in accordance with F.S. 212.0306(1)(d), as same may be amended from time to time. If the requisite voter referendum approval is obtained, the imposition of the foregoing tax shall be further subject to approval by the Miami Dade County Board of County Commissioners, the taxing authority authorized to levy, collect and administer the tax.~~

SECTION 2. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same are hereby repealed.

SECTION 3. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 4. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.


PASSED AND ADOPTED this _____ day of _____, 2024.

Steven Meiner, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION



City Attorney NK

10/21/2024
Date

(Sponsored by Commissioner David Suarez)