

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Attkisson offered the following:

2
3 **Amendment (with title amendment)**

4 Between lines 434 and 435, insert:

5 Section 10. Section 212.03, Florida Statutes, is amended to
6 read:

7 212.03 Transient rentals tax; rate, procedure,
8 enforcement, exemptions.--

9 (1) It is hereby declared to be the legislative intent
10 that every person is exercising a taxable privilege who engages
11 in the business of renting, leasing, letting, or granting a
12 license to use any living quarters or sleeping or housekeeping
13 accommodations that are part of, in, from, or a part of, or in
14 connection with any hotel, apartment house, roominghouse, ~~or~~
15 tourist or trailer camp, mobile home park, recreational vehicle
16 park, condominium, or timeshare resort. However, any person who

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17 rents, leases, lets, or grants a license to others to use,
18 occupy, or enter upon any living quarters or sleeping or
19 housekeeping accommodations in apartment houses, roominghouses,
20 tourist ~~camp~~, or trailer camps, mobile home parks, recreational
21 vehicle parks, condominiums, or timeshare resorts, and who
22 exclusively enters into a bona fide written agreement for
23 continuous residence for longer than 6 months in duration at
24 such property is not exercising a taxable privilege. For the
25 exercise of such taxable privilege, a tax is hereby levied in an
26 amount equal to 6 percent of and on the total rental charged for
27 such living quarters or sleeping or housekeeping accommodations
28 by the person charging or collecting the rental. Such tax shall
29 apply to hotels, apartment houses, roominghouses, ~~or~~ tourist or
30 trailer camps, mobile home parks, recreational vehicle parks,
31 condominiums, or timeshare resorts whether or not these
32 facilities have ~~there is in connection with any of the same any~~
33 dining rooms, cafes, or other places where meals or lunches are
34 sold or served to guests.

35 (2) As used in this section, the terms "rent," "rental,"
36 and "rental payment" mean the amount received by a person
37 operating transient accommodations for the use or securing of
38 any living quarters or sleeping or housekeeping accommodations
39 that are part of, in, from, or in connection with any hotel,
40 apartment house, roominghouse, mobile home park, recreational
41 vehicle park, condominium, timeshare resort, or tourist or
42 trailer camp. The term "person operating transient
43 accommodations" means the person conducting the daily affairs of
44 the physical facilities furnishing transient accommodations who

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45 is responsible for providing the services commonly associated
46 with operating the facilities furnishing transient
47 accommodations regardless of whether such commonly associated
48 services are provided by third parties. The terms
49 "consideration," "rental," and "rent" do not include payments
50 received by an unrelated person for facilitating the booking of
51 reservations for or on behalf of a lessee or licensee at a
52 hotel, apartment house, roominghouse, mobile home park,
53 recreational vehicle park, condominium, timeshare resort, or
54 tourist or trailer camp in this state. The term "unrelated
55 person" means a person who is not in the same affiliated group
56 of corporations pursuant to s. 1504 of the Internal Revenue Code
57 of 1986, as amended.

58 (3) Tax shall be due on the consideration paid for
59 occupancy in this state pursuant to a regulated short-term
60 product as defined in s. 721.05 or occupancy in this state
61 pursuant to a product that would be deemed a regulated short-
62 term product if the agreement to purchase the short-term product
63 were executed in this state. Such tax shall be collected on the
64 last day of occupancy within the state unless the consideration
65 is applied to the purchase of a timeshare estate.

66 Notwithstanding subsections (1) and (2), the occupancy of an
67 accommodation of a timeshare resort pursuant to a timeshare
68 plan, a multisite timeshare plan, or an exchange transaction in
69 an exchange program as defined in s. 721.05 by the owner of a
70 timeshare interest or such owner's guest, which guest is not
71 paying monetary consideration to the owner or to a third party
72 for the benefit of the owner, is not a privilege subject to

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73 taxation under this section. A membership or transaction fee
74 paid by a timeshare owner that does not provide the timeshare
75 owner with a right to occupy any specific timeshare unit but
76 merely provides the timeshare owner with an opportunity to
77 exchange a timeshare interest through an exchange program is a
78 service charge and is not subject to taxation.

79 (4) Consideration paid for the purchase of a timeshare
80 license in a timeshare plan as defined in s. 721.05 is rent
81 subject to taxation under this section.

82 (5)-(2) The tax provided for herein shall be in addition to
83 the total amount of the rental, shall be charged by the lesser
84 or person operating transient accommodations subject to the tax
85 under this chapter receiving the rent in and by said rental
86 arrangement to the lessee or person paying the rental, and shall
87 be due and payable at the time of the receipt of such rental
88 payment by the lesser or person operating transient
89 accommodations, as defined in this chapter, who receives said
90 rental or payment. The owner, lesser, or person operating
91 transient accommodations receiving the rent shall remit the tax
92 to the department on the amount of rent received at the times
93 and in the manner hereinafter provided for dealers to remit
94 taxes under this chapter. The same duties imposed by this
95 chapter upon dealers in tangible personal property respecting
96 the collection and remission of the tax; the making of returns;
97 the keeping of books, records, and accounts; and the compliance
98 with the rules and regulations of the department in the
99 administration of this chapter shall apply to and be binding
100 upon all persons who manage or operate hotels, apartment houses,

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101 roominghouses, tourist and trailer camps, and the rental of
102 condominium units, and to all persons who collect or receive
103 such rents on behalf of such owner or lessor taxable under this
104 chapter. The person operating transient accommodations shall
105 state the tax separately from the rental charged on the receipt,
106 invoice, or other documentation issued with respect to charges
107 for transient accommodations. A person facilitating the booking
108 of reservations who is unrelated to the person operating the
109 transient accommodations in which the reservation is booked is
110 not required to separately state amounts charged on the receipt,
111 invoice, or other documentation issued by the person
112 facilitating the booking of the reservation. Any amounts
113 specifically collected as a tax are state funds and must be
114 remitted as tax.

115 ~~(6)(3)~~ When rentals are received by way of property,
116 goods, wares, merchandise, services, or other things of value,
117 the tax shall be at the rate of 6 percent of the value of the
118 property, goods, wares, merchandise, services, or other things
119 of value.

120 ~~(7)(4)~~ The tax levied by this section shall not apply to,
121 be imposed upon, or collected from any person who shall have
122 entered into a bona fide written lease for longer than 6 months
123 in duration for continuous residence at any one hotel, apartment
124 house, roominghouse, tourist or trailer camp, or condominium, or
125 to any person who shall reside continuously longer than 6 months
126 at any one hotel, apartment house, roominghouse, tourist or
127 trailer camp, or condominium and shall have paid the tax levied
128 by this section for 6 months of residence in any one hotel,

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129 roominghouse, apartment house, tourist or trailer camp, or
130 condominium. Notwithstanding other provisions of this chapter,
131 no tax shall be imposed upon rooms provided guests when there is
132 no consideration involved between the guest and the public
133 lodging establishment. Further, any person who, on the effective
134 date of this act, has resided continuously for 6 months at any
135 one hotel, apartment house, roominghouse, tourist or trailer
136 camp, or condominium, or, if less than 6 months, has paid the
137 tax imposed herein until he or she shall have resided
138 continuously for 6 months, shall thereafter be exempt, so long
139 as such person shall continuously reside at such location. The
140 Department of Revenue shall have the power to reform the rental
141 contract for the purposes of this chapter if the rental payments
142 are collected in other than equal daily, weekly, or monthly
143 amounts so as to reflect the actual consideration to be paid in
144 the future for the right of occupancy during the first 6 months.

145 (8)~~(5)~~ The tax imposed by this section shall constitute a
146 lien on the property of the lessee or rentee of any sleeping
147 accommodations in the same manner as and shall be collectible as
148 are liens authorized and imposed by ss. 713.68 and 713.69.

149 (9)~~(6)~~ It is the legislative intent that every person is
150 engaging in a taxable privilege who leases or rents parking or
151 storage spaces for motor vehicles in parking lots or garages,
152 who leases or rents docking or storage spaces for boats in boat
153 docks or marinas, or who leases or rents tie-down or storage
154 space for aircraft at airports. For the exercise of this
155 privilege, a tax is hereby levied at the rate of 6 percent on
156 the total rental charged.

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157 (10)~~(7)~~(a) Full-time students enrolled in an institution
158 offering postsecondary education and military personnel
159 currently on active duty who reside in the facilities described
160 in subsection (1) shall be exempt from the tax imposed by this
161 section. The department shall be empowered to determine what
162 shall be deemed acceptable proof of full-time enrollment. The
163 exemption contained in this subsection shall apply irrespective
164 of any other provisions of this section. The tax levied by this
165 section shall not apply to or be imposed upon or collected on
166 the basis of rentals to any person who resides in any building
167 or group of buildings intended primarily for lease or rent to
168 persons as their permanent or principal place of residence.

169 (b) It is the intent of the Legislature that this
170 subsection provide tax relief for persons who rent living
171 accommodations rather than own their homes, while still
172 providing a tax on the rental of lodging facilities that
173 primarily serve transient guests.

174 (c) The rental of facilities, as defined in s.
175 212.02(10)(f), which are intended primarily for rental as a
176 principal or permanent place of residence is exempt from the tax
177 imposed by this chapter. The rental of such facilities that
178 primarily serve transient guests is not exempt by this
179 subsection. In the application of this law, or in making any
180 determination against the exemption, the department shall
181 consider the facility as primarily serving transient guests
182 unless the facility owner makes a verified declaration on a form
183 prescribed by the department that more than half of the total
184 rental units available are occupied by tenants who have a

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185 continuous residence in excess of 3 months. The owner of a
186 facility declared to be exempt by this paragraph must make a
187 determination of the taxable status of the facility at the end
188 of the owner's accounting year using any consecutive 3-month
189 period at least one month of which is in the accounting year.
190 The owner must use a selected consecutive 3-month period during
191 each annual redetermination. In the event that an exempt
192 facility no longer qualifies for exemption by this paragraph,
193 the owner must notify the department on a form prescribed by the
194 department by the 20th day of the first month of the owner's
195 next succeeding accounting year that the facility no longer
196 qualifies for such exemption. The tax levied by this section
197 shall apply to the rental of facilities that no longer qualify
198 for exemption under this paragraph beginning the first day of
199 the owner's next succeeding accounting year. The provisions of
200 this paragraph do not apply to mobile home lots regulated under
201 chapter 723.

202 (d) The rental of living accommodations in migrant labor
203 camps is not taxable under this section. "Migrant labor camps"
204 are defined as one or more buildings or structures, tents,
205 trailers, or vehicles, or any portion thereof, together with the
206 land appertaining thereto, established, operated, or used as
207 living quarters for seasonal, temporary, or migrant workers.

208 Section 11. The amendments made by this act to section
209 212.03, Florida Statutes, are intended to be clarifying and
210 remedial in nature and are not a basis for assessments of tax
211 for periods before July 1, 2008, or for refunds of tax for
212 periods before July 1, 2008.

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T I T L E A M E N D M E N T

Remove line 62 and insert:
in Florida; amending s. 212.03, F.S.; revising the list of
living quarters or sleeping or housekeeping accommodations
that are subject to the transient rentals tax; providing
definitions; providing for taxation of regulated short-
term products; providing that the occupancy of an
accommodation of a timeshare resort and membership or
transaction fee paid by a timeshare owner is not a
privilege subject to taxation; providing that
consideration paid for the purchase of a timeshare license
in a timeshare plan is rent subject to taxation; requiring
the person operating transient accommodations to
separately state the tax charged on a receipt or other
documentation; providing that persons facilitating the
booking of reservations are not required to separately
state tax amounts charged; requiring that such amounts be
remitted as tax and classified as county funds; specifying
that certain provisions of the act are clarifying and
remedial in nature and are not a basis for assessments of
tax or for refunds of tax for periods before the effective
date of the act; providing an effective date.