

By Senator Haridopolos

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1 A bill to be entitled
 2 An act relating to timeshare resort taxation; amending
 3 ss. 125.0104, 125.0108, 212.03, and 212.0305, F.S.;
 4 revising application of provisions imposing certain
 5 taxes upon consideration paid for occupancy of certain
 6 timeshare resort products; providing application and
 7 construction; providing an effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

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 11 Section 1. Paragraph (a) of subsection (3) of section
 12 125.0104, Florida Statutes, is amended to read:

13 125.0104 Tourist development tax; procedure for levying;
 14 authorized uses; referendum; enforcement.-

15 (3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.-

16 (a)1. It is declared to be the intent of the Legislature
 17 that every person who rents, leases, or lets for consideration
 18 any living quarters or accommodations in any hotel, apartment
 19 hotel, motel, resort motel, apartment, apartment motel,
 20 roominghouse, mobile home park, recreational vehicle park, ~~or~~
 21 condominium, or timeshare resort for a term of 6 months or less
 22 is exercising a privilege which is subject to taxation under
 23 this section, unless such person rents, leases, or lets for
 24 consideration any living quarters or accommodations which are
 25 exempt according to the provisions of chapter 212.

26 2.a. Tax shall be due on the consideration paid for
 27 occupancy in the county pursuant to a regulated short-term
 28 product, as defined in s. 721.05, or occupancy in the county
 29 pursuant to a product that would be deemed a regulated short-

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30 term product if the agreement to purchase the short-term right
31 were executed in this state. Such tax shall be collected on the
32 last day of occupancy within the county unless such
33 consideration is applied to the purchase of a timeshare estate.
34 The occupancy of an accommodation of a timeshare resort pursuant
35 to a timeshare plan, a multisite timeshare plan, or an exchange
36 transaction in an exchange program, as defined in s. 721.05, by
37 the owner of a timeshare interest or such owner's guest, which
38 guest is not paying monetary consideration to the owner or to a
39 third party for the benefit of the owner, is not a privilege
40 subject to taxation under this section. A membership or
41 transaction fee paid by a timeshare owner that does not provide
42 the timeshare owner with the right to occupy any specific
43 timeshare unit but merely provides the timeshare owner with the
44 opportunity to exchange a timeshare interest through an exchange
45 program is a service charge and not subject to taxation under
46 this section.

47 b. Consideration paid for the purchase of a timeshare
48 license in a timeshare plan, as defined in s. 721.05, is rent
49 subject to taxation under this section.

50 Section 2. Paragraph (b) of subsection (1) of section
51 125.0108, Florida Statutes, is amended to read:

52 125.0108 Areas of critical state concern; tourist impact
53 tax.—

54 (1)

55 (b)1. It is declared to be the intent of the Legislature
56 that every person who rents, leases, or lets for consideration
57 any living quarters or accommodations in any hotel, apartment
58 hotel, motel, resort motel, apartment, apartment motel,

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59 roominghouse, mobile home park, recreational vehicle park, ~~or~~
60 condominium, or timeshare resort for a term of 6 months or less,
61 unless such establishment is exempt from the tax imposed by s.
62 212.03, is exercising a taxable privilege on the proceeds
63 therefrom under this section.

64 2.a. Tax shall be due on the consideration paid for
65 occupancy in the county pursuant to a regulated short-term
66 product, as defined in s. 721.05, or occupancy in the county
67 pursuant to a product that would be deemed a regulated short-
68 term product if the agreement to purchase the short-term right
69 were executed in this state. Such tax shall be collected on the
70 last day of occupancy within the county unless such
71 consideration is applied to the purchase of a timeshare estate.
72 The occupancy of an accommodation of a timeshare resort pursuant
73 to a timeshare plan, a multisite timeshare plan, or an exchange
74 transaction in an exchange program, as defined in s. 721.05, by
75 the owner of a timeshare interest or such owner's guest, which
76 guest is not paying monetary consideration to the owner or to a
77 third party for the benefit of the owner, is not a privilege
78 subject to taxation under this section. A membership or
79 transaction fee paid by a timeshare owner that does not provide
80 the timeshare owner with the right to occupy any specific
81 timeshare unit but merely provides the timeshare owner with the
82 opportunity to exchange a timeshare interest through an exchange
83 program is a service charge and not subject to taxation under
84 this section.

85 b. Consideration paid for the purchase of a timeshare
86 license in a timeshare plan, as defined in s. 721.05, is rent
87 subject to taxation under this section.

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88 Section 3. Subsection (1) of section 212.03, Florida
 89 Statutes, is amended to read:

90 212.03 Transient rentals tax; rate, procedure, enforcement,
 91 exemptions.—

92 (1) (a) It is hereby declared to be the legislative intent
 93 that every person is exercising a taxable privilege who engages
 94 in the business of renting, leasing, letting, or granting a
 95 license to use any living quarters or sleeping or housekeeping
 96 accommodations in, from, or a part of, or in connection with any
 97 hotel, apartment house, roominghouse, ~~or~~ tourist or trailer
 98 camp, mobile home park, recreational vehicle park, condominium,
 99 or timeshare resort. However, any person who rents, leases,
 100 lets, or grants a license to others to use, occupy, or enter
 101 upon any living quarters or sleeping or housekeeping
 102 accommodations in any apartment house houses, roominghouse
 103 roominghouses, tourist camp camps, or trailer camp camps, mobile
 104 home park, recreational vehicle park, condominium, or timeshare
 105 resort and who exclusively enters into a bona fide written
 106 agreement for continuous residence for longer than 6 months in
 107 duration at such property is not exercising a taxable privilege.
 108 For the exercise of such taxable privilege, a tax is hereby
 109 levied in an amount equal to 6 percent of and on the total
 110 rental charged for such living quarters or sleeping or
 111 housekeeping accommodations by the person charging or collecting
 112 the rental. Such tax shall apply to hotels, apartment houses,
 113 roominghouses, ~~or~~ tourist or trailer camps, mobile home parks,
 114 recreational vehicle parks, condominiums, or timeshare resorts,
 115 whether or not these facilities have ~~there is in connection with~~
 116 ~~any of the same~~ any dining rooms, cafes, or other places where

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117 meals or lunches are sold or served to guests.

118 (b)1. Tax shall be due on the consideration paid for
119 occupancy in the county pursuant to a regulated short-term
120 product, as defined in s. 721.05, or occupancy in the county
121 pursuant to a product that would be deemed a regulated short-
122 term product if the agreement to purchase the short-term right
123 were executed in this state. Such tax shall be collected on the
124 last day of occupancy within the county unless such
125 consideration is applied to the purchase of a timeshare estate.
126 The occupancy of an accommodation of a timeshare resort pursuant
127 to a timeshare plan, a multisite timeshare plan, or an exchange
128 transaction in an exchange program, as defined in s. 721.05, by
129 the owner of a timeshare interest or such owner's guest, which
130 guest is not paying monetary consideration to the owner or to a
131 third party for the benefit of the owner, is not a privilege
132 subject to taxation under this section. A membership or
133 transaction fee paid by a timeshare owner that does not provide
134 the timeshare owner with the right to occupy any specific
135 timeshare unit but merely provides the timeshare owner with the
136 opportunity to exchange a timeshare interest through an exchange
137 program is a service charge and not subject to taxation under
138 this section.

139 2. Consideration paid for the purchase of a timeshare
140 license in a timeshare plan, as defined in s. 721.05, is rent
141 subject to taxation under this section.

142 Section 4. Paragraph (a) of subsection (3) of section
143 212.0305, Florida Statutes, is amended to read:

144 212.0305 Convention development taxes; intent;
145 administration; authorization; use of proceeds.-

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146 (3) APPLICATION; ADMINISTRATION; PENALTIES.—

147 (a)1. The convention development tax on transient rentals
148 imposed by the governing body of any county authorized to so
149 levy shall apply to the amount of any payment made by any person
150 to rent, lease, or use for a period of 6 months or less any
151 living quarters or accommodations in a hotel, apartment hotel,
152 motel, resort motel, apartment, apartment motel, roominghouse,
153 tourist or trailer camp, mobile home park, recreational vehicle
154 park, ~~or condominium,~~ or timeshare resort. When receipt of
155 consideration is by way of property other than money, the tax
156 shall be levied and imposed on the fair market value of such
157 nonmonetary consideration. Any payment made by a person to rent,
158 lease, or use any living quarters or accommodations which are
159 exempt from the tax imposed under s. 212.03 shall likewise be
160 exempt from any tax imposed under this section.

161 2.a. Tax shall be due on the consideration paid for
162 occupancy in the county pursuant to a regulated short-term
163 product, as defined in s. 721.05, or occupancy in the county
164 pursuant to a product that would be deemed a regulated short-
165 term product if the agreement to purchase the short-term right
166 were executed in this state. Such tax shall be collected on the
167 last day of occupancy within the county unless such
168 consideration is applied to the purchase of a timeshare estate.
169 The occupancy of an accommodation of a timeshare resort pursuant
170 to a timeshare plan, a multisite timeshare plan, or an exchange
171 transaction in an exchange program, as defined in s. 721.05, by
172 the owner of a timeshare interest or such owner's guest, which
173 guest is not paying monetary consideration to the owner or to a
174 third party for the benefit of the owner, is not a privilege

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175 subject to taxation under this section. A membership or
176 transaction fee paid by a timeshare owner that does not provide
177 the timeshare owner with the right to occupy any specific
178 timeshare unit but merely provides the timeshare owner with the
179 opportunity to exchange a timeshare interest through an exchange
180 program is a service charge and not subject to taxation under
181 this section.

182 b. Consideration paid for the purchase of a timeshare
183 license in a timeshare plan, as defined in s. 721.05, is rent
184 subject to taxation under this section.

185 Section 5. This act shall take effect July 1, 2009, is
186 intended to be clarifying and remedial in nature, and does not
187 provide a basis for assessments of tax, or refunds of tax, for
188 periods prior to July 1, 2009.