

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

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

10  
 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-  
 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

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57 any living quarters or accommodations in any hotel, apartment  
58 hotel, motel, resort motel, apartment, apartment motel,  
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.

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

90            212.03 Transient rentals tax; rate, procedure,  
 91 enforcement, 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,

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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  
 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.--

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

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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  
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 shall not  
187 provide a basis for assessments of tax, or refunds of tax, for  
188 periods prior to July 1, 2009.