

1                                   A bill to be entitled  
 2       An act relating to timeshare resorts; 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       amending s. 721.07, F.S.; specifying additional  
 8       information required in certain public offering statements  
 9       for timeshare plans; amending s. 721.20, F.S.; requiring  
 10      resale service providers to provide certain fee or cost  
 11      and listings information to timeshare interest owners;  
 12      specifying that failure to disclose constitutes an unfair  
 13      and deceptive trade practice; providing that certain  
 14      contracts are void and purchasers are entitled to refunds  
 15      of certain moneys; providing an effective date.

16  
 17   Be It Enacted by the Legislature of the State of Florida:

18  
 19           Section 1. Paragraph (a) of subsection (3) of section  
 20   125.0104, Florida Statutes, is amended to read:

21           125.0104 Tourist development tax; procedure for levying;  
 22   authorized uses; referendum; enforcement.--

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

24           (a)1. It is declared to be the intent of the Legislature  
 25   that every person who rents, leases, or lets for consideration  
 26   any living quarters or accommodations in any hotel, apartment  
 27   hotel, motel, resort motel, apartment, apartment motel,  
 28   roominghouse, mobile home park, recreational vehicle park, ~~or~~

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29 | condominium, or timeshare resort for a term of 6 months or less  
30 | is exercising a privilege which is subject to taxation under  
31 | this section, unless such person rents, leases, or lets for  
32 | consideration any living quarters or accommodations which are  
33 | exempt according to the provisions of chapter 212.

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

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

58 Section 2. Paragraph (b) of subsection (1) of section  
 59 125.0108, Florida Statutes, is amended to read:

60 125.0108 Areas of critical state concern; tourist impact  
 61 tax.--

62 (1)

63 (b)1. It is declared to be the intent of the Legislature  
 64 that every person who rents, leases, or lets for consideration  
 65 any living quarters or accommodations in any hotel, apartment  
 66 hotel, motel, resort motel, apartment, apartment motel,  
 67 roominghouse, mobile home park, recreational vehicle park, ~~or~~  
 68 condominium, or timeshare resort for a term of 6 months or less,  
 69 unless such establishment is exempt from the tax imposed by s.  
 70 212.03, is exercising a taxable privilege on the proceeds  
 71 therefrom under this section.

72 2.a. Tax shall be due on the consideration paid for  
 73 occupancy in the county pursuant to a regulated short-term  
 74 product, as defined in s. 721.05, or occupancy in the county  
 75 pursuant to a product that would be deemed a regulated short-  
 76 term product if the agreement to purchase the short-term right  
 77 were executed in this state. Such tax shall be collected on the  
 78 last day of occupancy within the county unless such  
 79 consideration is applied to the purchase of a timeshare estate.  
 80 The occupancy of an accommodation of a timeshare resort pursuant  
 81 to a timeshare plan, a multisite timeshare plan, or an exchange  
 82 transaction in an exchange program, as defined in s. 721.05, by

83 the owner of a timeshare interest or such owner's guest, which  
 84 guest is not paying monetary consideration to the owner or to a  
 85 third party for the benefit of the owner, is not a privilege  
 86 subject to taxation under this section. A membership or  
 87 transaction fee paid by a timeshare owner that does not provide  
 88 the timeshare owner with the right to occupy any specific  
 89 timeshare unit but merely provides the timeshare owner with the  
 90 opportunity to exchange a timeshare interest through an exchange  
 91 program is a service charge and not subject to taxation under  
 92 this section.

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

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

98 212.03 Transient rentals tax; rate, procedure,  
 99 enforcement, exemptions.--

100 (1) (a) It is hereby declared to be the legislative intent  
 101 that every person is exercising a taxable privilege who engages  
 102 in the business of renting, leasing, letting, or granting a  
 103 license to use any living quarters or sleeping or housekeeping  
 104 accommodations in, from, or a part of, or in connection with any  
 105 hotel, apartment house, roominghouse, ~~or~~ tourist or trailer  
 106 camp, mobile home park, recreational vehicle park, condominium,  
 107 or timeshare resort. However, any person who rents, leases,  
 108 lets, or grants a license to others to use, occupy, or enter  
 109 upon any living quarters or sleeping or housekeeping  
 110 accommodations in any apartment house ~~houses~~, roominghouse

111 ~~roominghouses, tourist camp camps, or trailer camp camps, mobile~~  
 112 ~~home park, recreational vehicle park, condominium, or timeshare~~  
 113 ~~resort~~ and who exclusively enters into a bona fide written  
 114 agreement for continuous residence for longer than 6 months in  
 115 duration at such property is not exercising a taxable privilege.  
 116 For the exercise of such taxable privilege, a tax is hereby  
 117 levied in an amount equal to 6 percent of and on the total  
 118 rental charged for such living quarters or sleeping or  
 119 housekeeping accommodations by the person charging or collecting  
 120 the rental. Such tax shall apply to hotels, apartment houses,  
 121 roominghouses, ~~or~~ tourist or trailer camps, mobile home parks,  
 122 recreational vehicle parks, condominiums, or timeshare resorts,  
 123 whether or not these facilities have ~~there is in connection with~~  
 124 ~~any of the same~~ any dining rooms, cafes, or other places where  
 125 meals or lunches are sold or served to guests.

126 (b)1. Tax shall be due on the consideration paid for  
 127 occupancy in the county pursuant to a regulated short-term  
 128 product, as defined in s. 721.05, or occupancy in the county  
 129 pursuant to a product that would be deemed a regulated short-  
 130 term product if the agreement to purchase the short-term right  
 131 were executed in this state. Such tax shall be collected on the  
 132 last day of occupancy within the county unless such  
 133 consideration is applied to the purchase of a timeshare estate.  
 134 The occupancy of an accommodation of a timeshare resort pursuant  
 135 to a timeshare plan, a multisite timeshare plan, or an exchange  
 136 transaction in an exchange program, as defined in s. 721.05, by  
 137 the owner of a timeshare interest or such owner's guest, which  
 138 guest is not paying monetary consideration to the owner or to a

139 third party for the benefit of the owner, is not a privilege  
 140 subject to taxation under this section. A membership or  
 141 transaction fee paid by a timeshare owner that does not provide  
 142 the timeshare owner with the right to occupy any specific  
 143 timeshare unit but merely provides the timeshare owner with the  
 144 opportunity to exchange a timeshare interest through an exchange  
 145 program is a service charge and not subject to taxation under  
 146 this section.

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

150 Section 4. Paragraph (a) of subsection (3) of section  
 151 212.0305, Florida Statutes, is amended to read:

152 212.0305 Convention development taxes; intent;  
 153 administration; authorization; use of proceeds.--

154 (3) APPLICATION; ADMINISTRATION; PENALTIES.--

155 (a)1. The convention development tax on transient rentals  
 156 imposed by the governing body of any county authorized to so  
 157 levy shall apply to the amount of any payment made by any person  
 158 to rent, lease, or use for a period of 6 months or less any  
 159 living quarters or accommodations in a hotel, apartment hotel,  
 160 motel, resort motel, apartment, apartment motel, roominghouse,  
 161 tourist or trailer camp, mobile home park, recreational vehicle  
 162 park, ~~or~~ condominium, or timeshare resort. When receipt of  
 163 consideration is by way of property other than money, the tax  
 164 shall be levied and imposed on the fair market value of such  
 165 nonmonetary consideration. Any payment made by a person to rent,  
 166 lease, or use any living quarters or accommodations which are

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167 exempt from the tax imposed under s. 212.03 shall likewise be  
 168 exempt from any tax imposed under this section.

169 2.a. Tax shall be due on the consideration paid for  
 170 occupancy in the county pursuant to a regulated short-term  
 171 product, as defined in s. 721.05, or occupancy in the county  
 172 pursuant to a product that would be deemed a regulated short-  
 173 term product if the agreement to purchase the short-term right  
 174 were executed in this state. Such tax shall be collected on the  
 175 last day of occupancy within the county unless such  
 176 consideration is applied to the purchase of a timeshare estate.  
 177 The occupancy of an accommodation of a timeshare resort pursuant  
 178 to a timeshare plan, a multisite timeshare plan, or an exchange  
 179 transaction in an exchange program, as defined in s. 721.05, by  
 180 the owner of a timeshare interest or such owner's guest, which  
 181 guest is not paying monetary consideration to the owner or to a  
 182 third party for the benefit of the owner, is not a privilege  
 183 subject to taxation under this section. A membership or  
 184 transaction fee paid by a timeshare owner that does not provide  
 185 the timeshare owner with the right to occupy any specific  
 186 timeshare unit but merely provides the timeshare owner with the  
 187 opportunity to exchange a timeshare interest through an exchange  
 188 program is a service charge and not subject to taxation under  
 189 this section.

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

193 Section 5. The amendments to sections 125.0104, 125.0108,  
 194 212.03, and 212.0305, Florida Statutes, made by this act are

195 intended to be clarifying and remedial in nature and do not  
 196 provide a basis for assessments of tax, or refunds of tax, for  
 197 periods prior to July 1, 2009.

198 Section 6. Paragraph (ii) is added to subsection (5) of  
 199 section 721.07, Florida Statutes, to read:

200 721.07 Public offering statement.--Prior to offering any  
 201 timeshare plan, the developer must submit a filed public  
 202 offering statement to the division for approval as prescribed by  
 203 s. 721.03, s. 721.55, or this section. Until the division  
 204 approves such filing, any contract regarding the sale of that  
 205 timeshare plan is subject to cancellation by the purchaser  
 206 pursuant to s. 721.10.

207 (5) Every filed public offering statement for a timeshare  
 208 plan which is not a multisite timeshare plan shall contain the  
 209 information required by this subsection. The division is  
 210 authorized to provide by rule the method by which a developer  
 211 must provide such information to the division.

212 (ii) A statement that the owner's obligation to pay  
 213 assessments continues for as long as he or she owns the  
 214 timeshare interest and that when a person inherits a timeshare  
 215 interest, that person is responsible for paying those  
 216 assessments.

217 Section 7. Subsection (9) is added to section 721.20,  
 218 Florida Statutes, to read:

219 721.20 Licensing requirements; suspension or revocation of  
 220 license; exceptions to applicability; collection of advance fees  
 221 for listings unlawful.--

222 (9) (a) Prior to listing or advertising a timeshare



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223 interest for resale, a resale service provider shall provide to  
224 the timeshare interest owner a description of any fees or costs  
225 relating to the advertising, listing, or sale of the timeshare  
226 interest that the timeshare interest owner, or any other person,  
227 must pay to the resale service provider or any third party, when  
228 such fees or costs are due, and the ratio or percentage of the  
229 number of listings of timeshare interests for sale versus the  
230 number of timeshare interests sold by the resale service  
231 provider for each of the previous 2 calendar years.

232 (b) Failure to disclose this information in writing  
233 constitutes an unfair and deceptive trade practice pursuant to  
234 chapter 501. Any contract entered into in violation of this  
235 subsection is void and the purchaser is entitled to a full  
236 refund of any moneys paid to the resale service provider.

237 Section 8. This act shall take effect July 1, 2009.