

1                   A bill to be entitled  
2           An act relating to temporary accommodations; amending s.  
3           125.0104, F.S.; expanding authorized uses of tourist  
4           development tax revenues to include publicly owned  
5           convention center hotels and appurtenant facilities;  
6           amending ss. 125.0104, 125.0108, 212.03, and 212.0305,  
7           F.S.; revising application of provisions imposing certain  
8           taxes upon consideration paid for occupancy of certain  
9           timeshare resort products; providing application and  
10          construction; amending s. 624.605, F.S.; expanding the  
11          list of entities authorized to offer debt cancellation  
12          products for purposes of the definition of the term  
13          "casualty insurance" to include sellers of timeshare  
14          interests; amending s. 721.05, F.S.; revising a  
15          definition; amending s. 721.07, F.S.; specifying  
16          additional information required in certain public offering  
17          statements for timeshare plans; amending s. 721.20, F.S.;  
18          requiring resale service providers to provide certain fee  
19          or cost and listings information to timeshare interest  
20          owners; specifying that failure to disclose constitutes an  
21          unfair and deceptive trade practice; providing that  
22          certain contracts are void and purchasers are entitled to  
23          refunds of certain moneys; providing severability;  
24          providing an effective date.

25  
26    Be It Enacted by the Legislature of the State of Florida:

27  
28          Section 1. Paragraph (a) of subsection (3) and paragraph

29 (a) of subsection (5) of section 125.0104, Florida Statutes, are  
 30 amended to read:

31 125.0104 Tourist development tax; procedure for levying;  
 32 authorized uses; referendum; enforcement.--

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

34 (a)1. It is declared to be the intent of the Legislature  
 35 that every person who rents, leases, or lets for consideration  
 36 any living quarters or accommodations in any hotel, apartment  
 37 hotel, motel, resort motel, apartment, apartment motel,  
 38 roominghouse, mobile home park, recreational vehicle park, ~~or~~  
 39 condominium, or timeshare resort for a term of 6 months or less  
 40 is exercising a privilege which is subject to taxation under  
 41 this section, unless such person rents, leases, or lets for  
 42 consideration any living quarters or accommodations which are  
 43 exempt according to the provisions of chapter 212.

44 2.a. Tax shall be due on the consideration paid for  
 45 occupancy in the county pursuant to a regulated short-term  
 46 product, as defined in s. 721.05, or occupancy in the county  
 47 pursuant to a product that would be deemed a regulated short-  
 48 term product if the agreement to purchase the short-term right  
 49 were executed in this state. Such tax shall be collected on the  
 50 last day of occupancy within the county unless such  
 51 consideration is applied to the purchase of a timeshare estate.  
 52 The occupancy of an accommodation of a timeshare resort pursuant  
 53 to a timeshare plan, a multisite timeshare plan, or an exchange  
 54 transaction in an exchange program, as defined in s. 721.05, by  
 55 the owner of a timeshare interest or such owner's guest, which  
 56 guest is not paying monetary consideration to the owner or to a

57 third party for the benefit of the owner, is not a privilege  
 58 subject to taxation under this section. A membership or  
 59 transaction fee paid by a timeshare owner that does not provide  
 60 the timeshare owner with the right to occupy any specific  
 61 timeshare unit but merely provides the timeshare owner with the  
 62 opportunity to exchange a timeshare interest through an exchange  
 63 program is a service charge and not subject to taxation under  
 64 this section.

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

68 (5) AUTHORIZED USES OF REVENUE.--

69 (a) All tax revenues received pursuant to this section by  
 70 a county imposing the tourist development tax shall be used by  
 71 that county for the following purposes only:

72 1. To acquire, construct, extend, enlarge, remodel,  
 73 repair, improve, maintain, operate, or promote one or more  
 74 publicly owned and operated convention centers, sports stadiums,  
 75 sports arenas, coliseums, or auditoriums; ~~or~~ museums that are  
 76 publicly owned and operated or owned and operated by not-for-  
 77 profit organizations and open to the public; or publicly owned  
 78 convention center hotels and appurtenant facilities, including,  
 79 but not limited to, walkways and meeting facilities, within the  
 80 boundaries of the county or subcounty special taxing district in  
 81 which the tax is levied. Tax revenues received pursuant to this  
 82 section may also be used for promotion of zoological parks that  
 83 are publicly owned and operated or owned and operated by not-  
 84 for-profit organizations and open to the public. However, these

85 | purposes may be implemented through service contracts and leases  
86 | with lessees with sufficient expertise or financial capability  
87 | to operate such facilities;

88 |       2. To promote and advertise tourism in the State of  
89 | Florida and nationally and internationally; however, if tax  
90 | revenues are expended for an activity, service, venue, or event,  
91 | the activity, service, venue, or event shall have as one of its  
92 | main purposes the attraction of tourists as evidenced by the  
93 | promotion of the activity, service, venue, or event to tourists;

94 |       3. To fund convention bureaus, tourist bureaus, tourist  
95 | information centers, and news bureaus as county agencies or by  
96 | contract with the chambers of commerce or similar associations  
97 | in the county, which may include any indirect administrative  
98 | costs for services performed by the county on behalf of the  
99 | promotion agency; or

100 |       4. To finance beach park facilities or beach improvement,  
101 | maintenance, renourishment, restoration, and erosion control,  
102 | including shoreline protection, enhancement, cleanup, or  
103 | restoration of inland lakes and rivers to which there is public  
104 | access as those uses relate to the physical preservation of the  
105 | beach, shoreline, or inland lake or river. However, any funds  
106 | identified by a county as the local matching source for beach  
107 | renourishment, restoration, or erosion control projects included  
108 | in the long-range budget plan of the state's Beach Management  
109 | Plan, pursuant to s. 161.091, or funds contractually obligated  
110 | by a county in the financial plan for a federally authorized  
111 | shore protection project may not be used or loaned for any other  
112 | purpose. In counties of less than 100,000 population, no more

113 than 10 percent of the revenues from the tourist development tax  
114 may be used for beach park facilities.

115 Section 2. Paragraph (b) of subsection (1) of section  
116 125.0108, Florida Statutes, is amended to read:

117 125.0108 Areas of critical state concern; tourist impact  
118 tax.--

119 (1)

120 (b)1. It is declared to be the intent of the Legislature  
121 that every person who rents, leases, or lets for consideration  
122 any living quarters or accommodations in any hotel, apartment  
123 hotel, motel, resort motel, apartment, apartment motel,  
124 roominghouse, mobile home park, recreational vehicle park, ~~or~~  
125 condominium, or timeshare resort for a term of 6 months or less,  
126 unless such establishment is exempt from the tax imposed by s.  
127 212.03, is exercising a taxable privilege on the proceeds  
128 therefrom under this section.

129 2.a. Tax shall be due on the consideration paid for  
130 occupancy in the county pursuant to a regulated short-term  
131 product, as defined in s. 721.05, or occupancy in the county  
132 pursuant to a product that would be deemed a regulated short-  
133 term product if the agreement to purchase the short-term right  
134 were executed in this state. Such tax shall be collected on the  
135 last day of occupancy within the county unless such  
136 consideration is applied to the purchase of a timeshare estate.  
137 The occupancy of an accommodation of a timeshare resort pursuant  
138 to a timeshare plan, a multisite timeshare plan, or an exchange  
139 transaction in an exchange program, as defined in s. 721.05, by  
140 the owner of a timeshare interest or such owner's guest, which

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

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

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

155 212.03 Transient rentals tax; rate, procedure,  
 156 enforcement, exemptions.--

157 (1) (a) It is hereby declared to be the legislative intent  
 158 that every person is exercising a taxable privilege who engages  
 159 in the business of renting, leasing, letting, or granting a  
 160 license to use any living quarters or sleeping or housekeeping  
 161 accommodations in, from, or a part of, or in connection with any  
 162 hotel, apartment house, roominghouse, ~~or~~ tourist or trailer  
 163 camp, mobile home park, recreational vehicle park, condominium,  
 164 or timeshare resort. However, any person who rents, leases,  
 165 lets, or grants a license to others to use, occupy, or enter  
 166 upon any living quarters or sleeping or housekeeping  
 167 accommodations in any apartment house houses, roominghouse  
 168 ~~roominghouses,~~ tourist camp camps, ~~or~~ trailer camp camps, mobile

169 home park, recreational vehicle park, condominium, or timeshare  
 170 resort and who exclusively enters into a bona fide written  
 171 agreement for continuous residence for longer than 6 months in  
 172 duration at such property is not exercising a taxable privilege.  
 173 For the exercise of such taxable privilege, a tax is hereby  
 174 levied in an amount equal to 6 percent of and on the total  
 175 rental charged for such living quarters or sleeping or  
 176 housekeeping accommodations by the person charging or collecting  
 177 the rental. Such tax shall apply to hotels, apartment houses,  
 178 roominghouses, ~~or~~ tourist or trailer camps, mobile home parks,  
 179 recreational vehicle parks, condominiums, or timeshare resorts,  
 180 whether or not these facilities have ~~there is in connection with~~  
 181 ~~any of the same any~~ dining rooms, cafes, or other places where  
 182 meals or lunches are sold or served to guests.

183 (b)1. Tax shall be due on the consideration paid for  
 184 occupancy in the county pursuant to a regulated short-term  
 185 product, as defined in s. 721.05, or occupancy in the county  
 186 pursuant to a product that would be deemed a regulated short-  
 187 term product if the agreement to purchase the short-term right  
 188 were executed in this state. Such tax shall be collected on the  
 189 last day of occupancy within the county unless such  
 190 consideration is applied to the purchase of a timeshare estate.  
 191 The occupancy of an accommodation of a timeshare resort pursuant  
 192 to a timeshare plan, a multisite timeshare plan, or an exchange  
 193 transaction in an exchange program, as defined in s. 721.05, by  
 194 the owner of a timeshare interest or such owner's guest, which  
 195 guest is not paying monetary consideration to the owner or to a  
 196 third party for the benefit of the owner, is not a privilege

197 subject to taxation under this section. A membership or  
 198 transaction fee paid by a timeshare owner that does not provide  
 199 the timeshare owner with the right to occupy any specific  
 200 timeshare unit but merely provides the timeshare owner with the  
 201 opportunity to exchange a timeshare interest through an exchange  
 202 program is a service charge and not subject to taxation under  
 203 this section.

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

207 Section 4. Paragraph (a) of subsection (3) of section  
 208 212.0305, Florida Statutes, is amended to read:

209 212.0305 Convention development taxes; intent;  
 210 administration; authorization; use of proceeds.--

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

212 (a)1. The convention development tax on transient rentals  
 213 imposed by the governing body of any county authorized to so  
 214 levy shall apply to the amount of any payment made by any person  
 215 to rent, lease, or use for a period of 6 months or less any  
 216 living quarters or accommodations in a hotel, apartment hotel,  
 217 motel, resort motel, apartment, apartment motel, roominghouse,  
 218 tourist or trailer camp, mobile home park, recreational vehicle  
 219 park, ~~or~~ condominium, or timeshare resort. When receipt of  
 220 consideration is by way of property other than money, the tax  
 221 shall be levied and imposed on the fair market value of such  
 222 nonmonetary consideration. Any payment made by a person to rent,  
 223 lease, or use any living quarters or accommodations which are



224 exempt from the tax imposed under s. 212.03 shall likewise be  
 225 exempt from any tax imposed under this section.

226 2.a. Tax shall be due on the consideration paid for  
 227 occupancy in the county pursuant to a regulated short-term  
 228 product, as defined in s. 721.05, or occupancy in the county  
 229 pursuant to a product that would be deemed a regulated short-  
 230 term product if the agreement to purchase the short-term right  
 231 were executed in this state. Such tax shall be collected on the  
 232 last day of occupancy within the county unless such  
 233 consideration is applied to the purchase of a timeshare estate.  
 234 The occupancy of an accommodation of a timeshare resort pursuant  
 235 to a timeshare plan, a multisite timeshare plan, or an exchange  
 236 transaction in an exchange program, as defined in s. 721.05, by  
 237 the owner of a timeshare interest or such owner's guest, which  
 238 guest is not paying monetary consideration to the owner or to a  
 239 third party for the benefit of the owner, is not a privilege  
 240 subject to taxation under this section. A membership or  
 241 transaction fee paid by a timeshare owner that does not provide  
 242 the timeshare owner with the right to occupy any specific  
 243 timeshare unit but merely provides the timeshare owner with the  
 244 opportunity to exchange a timeshare interest through an exchange  
 245 program is a service charge and not subject to taxation under  
 246 this section.

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

250 Section 5. The amendments to sections 125.0104, 125.0108,  
 251 212.03, and 212.0305, Florida Statutes, made by this act are

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

255 Section 6. Paragraph (r) of subsection (1) of section  
 256 624.605, Florida Statutes, is amended to read:

257 624.605 "Casualty insurance" defined.--

258 (1) "Casualty insurance" includes:

259 (r) Insurance for debt cancellation products.--Insurance  
 260 that a creditor may purchase against the risk of financial loss  
 261 from the use of debt cancellation products with consumer loans  
 262 or leases or retail installment contracts. Insurance for debt  
 263 cancellation products is not liability insurance but shall be  
 264 considered credit insurance only for the purposes of s.  
 265 631.52(4).

266 1. For purposes of this paragraph, the term "debt  
 267 cancellation products" means loan, lease, or retail installment  
 268 contract terms, or modifications to loan, lease, or retail  
 269 installment contracts, under which a creditor agrees to cancel  
 270 or suspend all or part of a customer's obligation to make  
 271 payments upon the occurrence of specified events and includes,  
 272 but is not limited to, debt cancellation contracts, debt  
 273 suspension agreements, and guaranteed asset protection  
 274 contracts. However, the term "debt cancellation products" does  
 275 not include title insurance as defined in s. 624.608.

276 2. Debt cancellation products may be offered by financial  
 277 institutions, as defined in s. 655.005(1)(h), insured depository  
 278 institutions as defined in 12 U.S.C. s. 1813(c), and  
 279 subsidiaries of such institutions, as provided in the financial

280 institutions codes; by sellers as defined in s. 721.05, or by  
 281 the parents, subsidiaries, or affiliated entities of sellers, in  
 282 connection with the sale of timeshare interests;~~7~~ or by other  
 283 business entities as may be specifically authorized by law, and  
 284 such products shall not constitute insurance for purposes of the  
 285 Florida Insurance Code.

286 Section 7. Subsection (17) of section 721.05, Florida  
 287 Statutes, is amended to read:

288 721.05 Definitions.--As used in this chapter, the term:

289 (17) "Facility" means any permanent amenity, including any  
 290 structure, furnishing, fixture, equipment, service, improvement,  
 291 or real or personal property, improved or unimproved, other than  
 292 an accommodation of the timeshare plan, which is made available  
 293 to the purchasers of a timeshare plan. The term does not include  
 294 an incidental benefit as defined in this section.

295 Section 8. Paragraph (ii) is added to subsection (5) of  
 296 section 721.07, Florida Statutes, to read:

297 721.07 Public offering statement.--Prior to offering any  
 298 timeshare plan, the developer must submit a filed public  
 299 offering statement to the division for approval as prescribed by  
 300 s. 721.03, s. 721.55, or this section. Until the division  
 301 approves such filing, any contract regarding the sale of that  
 302 timeshare plan is subject to cancellation by the purchaser  
 303 pursuant to s. 721.10.

304 (5) Every filed public offering statement for a timeshare  
 305 plan which is not a multisite timeshare plan shall contain the  
 306 information required by this subsection. The division is  
 307 authorized to provide by rule the method by which a developer

308 must provide such information to the division.

309 (ii) A statement that the owner's obligation to pay  
310 assessments continues for as long as he or she owns the  
311 timeshare interest and that when a person inherits a timeshare  
312 interest, that person is responsible for paying those  
313 assessments.

314 Section 9. Subsection (9) is added to section 721.20,  
315 Florida Statutes, to read:

316 721.20 Licensing requirements; suspension or revocation of  
317 license; exceptions to applicability; collection of advance fees  
318 for listings unlawful.--

319 (9) (a) Prior to listing or advertising a timeshare  
320 interest for resale, a resale service provider shall provide to  
321 the timeshare interest owner a description of any fees or costs  
322 relating to the advertising, listing, or sale of the timeshare  
323 interest that the timeshare interest owner, or any other person,  
324 must pay to the resale service provider or any third party, when  
325 such fees or costs are due, and the ratio or percentage of the  
326 number of listings of timeshare interests for sale versus the  
327 number of timeshare interests sold by the resale service  
328 provider for each of the previous 2 calendar years.

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

334 Section 10. If any provision of this act or the  
335 application thereof to any person or circumstance is held

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336 invalid, the invalidity does not affect other provisions or  
337 applications of the act which can be given effect without the  
338 invalid provision or application, and to this end the provisions  
339 of this act are declared severable.

340 Section 11. This act shall take effect July 1, 2009.