

HB 1241

2010

1 A bill to be entitled
 2 An act relating to the tax on sales, use, and other
 3 transactions; amending s. 125.0104, F.S.; providing
 4 definitions relating to the tourist development tax;
 5 amending s. 212.03, F.S.; providing definitions; revising
 6 requirements for charging, collecting, and remitting the
 7 transient rentals tax; providing requirements for separate
 8 statement of the tax on rental documents; amending s.
 9 212.0305, F.S.; providing definitions; revising
 10 requirements for charging, collecting, and remitting the
 11 convention development tax; providing requirements for
 12 separate statement of the tax on rental documents;
 13 providing construction; amending s. 213.30, F.S.;
 14 authorizing the Department of Revenue to compensate county
 15 governments for providing certain information to the
 16 department; specifying a payment amount; providing an
 17 effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Paragraph (a) of subsection (3) of section
 22 125.0104, Florida Statutes, is amended to read:

23 125.0104 Tourist development tax; procedure for levying;
 24 authorized uses; referendum; enforcement.—

25 (3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.—

26 (a)1. It is declared to be the intent of the Legislature
 27 that every person who rents, leases, or lets for consideration
 28 any living quarters or accommodations in any hotel, apartment

HB 1241

2010

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

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

HB 1241

2010

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

60 4. The terms "consideration," "rental," and "rents," as
61 used in this section, mean the amount received by a person
62 operating transient accommodations for the use or securing the
63 use of any living quarters or sleeping or housekeeping
64 accommodations in, from, or a part of, or in connection with,
65 any hotel, apartment house, roominghouse, timeshare resort,
66 tourist or trailer camp, mobile home park, recreational vehicle
67 park, or condominium. The term "person operating transient
68 accommodations" means the person conducting the daily affairs of
69 the physical facilities furnishing transient accommodations who
70 is responsible for providing the services commonly associated
71 with operating the facilities furnishing transient
72 accommodations regardless of whether such commonly associated
73 services are provided by third parties. The terms
74 "consideration," "rental," and "rents" do not include payments
75 received by unrelated persons for facilitating the booking of
76 reservations for or on behalf of the lessees or licensees at
77 hotels, apartment houses, roominghouses, timeshare resorts,
78 tourist or trailer camps, mobile home parks, recreational
79 vehicle parks, or condominiums in this state. The term
80 "unrelated persons" means persons who are not related to the
81 person operating transient accommodations within the meaning of
82 s. 267(b) or s. 707(b) of the Internal Revenue Code of 1986, as
83 amended.

HB 1241

2010

84 Section 2. Paragraph (b) of subsection (1) and subsection
85 (2) of section 212.03, Florida Statutes, are amended to read:

86 212.03 Transient rentals tax; rate, procedure,
87 enforcement, exemptions.—

88 (1)

89 (b)1. Tax shall be due on the consideration paid for
90 occupancy in the county pursuant to a regulated short-term
91 product, as defined in s. 721.05, or occupancy in the county
92 pursuant to a product that would be deemed a regulated short-
93 term product if the agreement to purchase the short-term right
94 was executed in this state. Such tax shall be collected on the
95 last day of occupancy within the county unless such
96 consideration is applied to the purchase of a timeshare estate.
97 The occupancy of an accommodation of a timeshare resort pursuant
98 to a timeshare plan, a multisite timeshare plan, or an exchange
99 transaction in an exchange program, as defined in s. 721.05, by
100 the owner of a timeshare interest or such owner's guest, which
101 guest is not paying monetary consideration to the owner or to a
102 third party for the benefit of the owner, is not a privilege
103 subject to taxation under this section. A membership or
104 transaction fee paid by a timeshare owner that does not provide
105 the timeshare owner with the right to occupy any specific
106 timeshare unit but merely provides the timeshare owner with the
107 opportunity to exchange a timeshare interest through an exchange
108 program is a service charge and not subject to taxation under
109 this section.

110 2. Consideration paid for the purchase of a timeshare
111 license in a timeshare plan, as defined in s. 721.05, is rent

HB 1241

2010

112 subject to taxation under this section.

113 3. The terms "rent," "rental," "rentals," and "rental
114 payments," as used in this section, mean the amount received by
115 a person operating transient accommodations for the use or
116 securing of any living quarters or sleeping or housekeeping
117 accommodations in, from, or a part of, or in connection with,
118 any hotel, apartment house, roominghouse, mobile home park,
119 recreational vehicle park, condominium, timeshare resort, or
120 tourist or trailer camp. The term "person operating transient
121 accommodations" means the person conducting the daily affairs of
122 the physical facilities furnishing transient accommodations who
123 is responsible for providing the services commonly associated
124 with operating the facilities furnishing transient
125 accommodations regardless of whether such commonly associated
126 services are provided by third parties. The terms "rent,"
127 "rental," "rentals," and "rental payments" do not include
128 payments received by unrelated persons for facilitating the
129 booking of reservations for or on behalf of the lessees or
130 licensees at hotels, apartment houses, roominghouses, mobile
131 home parks, recreational vehicle parks, condominiums, timeshare
132 resorts, or tourist or trailer camps in this state. The term
133 "unrelated persons" means persons who are not related to the
134 person operating transient accommodations within the meaning of
135 s. 267(b) or s. 707(b) of the Internal Revenue Code of 1986, as
136 amended.

137 (2) The tax provided for in this section ~~herein~~ shall be
138 in addition to the total amount of the rental, shall be charged
139 by any the lessor or person operating transient accommodations

HB 1241

2010

140 subject to the tax imposed under this chapter ~~receiving the rent~~
141 in and by such ~~said~~ rental arrangement to the lessee or person
142 paying the rental, and shall be due and payable at the time of
143 the receipt of such rental payment by the ~~lessor or~~ person
144 operating the transient accommodations, ~~as defined in this~~
145 ~~chapter, who receives said rental or payment.~~ The ~~owner, lessor,~~
146 ~~or~~ person operating the transient accommodations ~~receiving the~~
147 ~~rent~~ shall remit ~~the tax~~ to the department the tax on the amount
148 of the rent received by the person at the times and in the
149 manner hereinafter provided for dealers to remit taxes under
150 this chapter. The same duties imposed by this chapter upon
151 dealers in tangible personal property respecting the collection
152 and remission of the tax; the making of returns; the keeping of
153 books, records, and accounts; and the compliance with the rules
154 and regulations of the department in the administration of this
155 chapter shall apply to and be binding upon all persons who
156 manage or operate hotels, apartment houses, roominghouses,
157 tourist and trailer camps, and the rental of condominium units,
158 and to all persons who collect or receive such rents on behalf
159 of such owner or lessor taxable under this chapter. The person
160 operating transient accommodations shall separately state the
161 tax from the rental charged on the receipt, invoice, or other
162 documentation issued with respect to charges for transient
163 accommodations. Persons facilitating the booking of reservations
164 who are unrelated to the person operating the transient
165 accommodations in which the reservation is booked are not
166 required to separately state amounts charged on the receipt,
167 invoice, or other documentation issued by the person

168 facilitating the booking of the reservation. Any amounts
 169 specifically collected as a tax are state funds and must be
 170 remitted as tax.

171 Section 3. Paragraphs (a) and (b) of subsection (3) of
 172 section 212.0305, Florida Statutes, are amended to read:

173 212.0305 Convention development taxes; intent;
 174 administration; authorization; use of proceeds.—

175 (3) APPLICATION; ADMINISTRATION; PENALTIES.—

176 (a)1. The convention development tax on transient rentals
 177 imposed by the governing body of any county authorized to so
 178 levy shall apply to the amount of any payment made by any person
 179 to rent, lease, or use for a period of 6 months or less any
 180 living quarters or accommodations in a hotel, apartment hotel,
 181 motel, resort motel, apartment, apartment motel, roominghouse,
 182 tourist or trailer camp, mobile home park, recreational vehicle
 183 park, condominium, or timeshare resort. When receipt of
 184 consideration is by way of property other than money, the tax
 185 shall be levied and imposed on the fair market value of such
 186 nonmonetary consideration. Any payment made by a person to rent,
 187 lease, or use any living quarters or accommodations which are
 188 exempt from the tax imposed under s. 212.03 shall likewise be
 189 exempt from any tax imposed under this section.

190 ~~2.a.~~ Tax shall be due on the consideration paid for
 191 occupancy in the county pursuant to a regulated short-term
 192 product, as defined in s. 721.05, or occupancy in the county
 193 pursuant to a product that would be deemed a regulated short-
 194 term product if the agreement to purchase the short-term right
 195 was executed in this state. Such tax shall be collected on the

HB 1241

2010

196 last day of occupancy within the county unless such
197 consideration is applied to the purchase of a timeshare estate.
198 The occupancy of an accommodation of a timeshare resort pursuant
199 to a timeshare plan, a multisite timeshare plan, or an exchange
200 transaction in an exchange program, as defined in s. 721.05, by
201 the owner of a timeshare interest or such owner's guest, which
202 guest is not paying monetary consideration to the owner or to a
203 third party for the benefit of the owner, is not a privilege
204 subject to taxation under this section. A membership or
205 transaction fee paid by a timeshare owner that does not provide
206 the timeshare owner with the right to occupy any specific
207 timeshare unit but merely provides the timeshare owner with the
208 opportunity to exchange a timeshare interest through an exchange
209 program is a service charge and not subject to taxation under
210 this section.

211 ~~3.b.~~ Consideration paid for the purchase of a timeshare
212 license in a timeshare plan, as defined in s. 721.05, is rent
213 subject to taxation under this section.

214 4. The terms "consideration," "rental," and "rents," as
215 used in this section, mean the amount received by a person
216 operating transient accommodations for the use or securing the
217 use of any living quarters or sleeping or housekeeping
218 accommodations in, from, or a part of, or in connection with,
219 any hotel, apartment house, roominghouse, timeshare resort,
220 tourist or trailer camp, mobile home park, recreational vehicle
221 park, or condominium. The term "person operating transient
222 accommodations" means the person conducting the daily affairs of
223 the physical facilities furnishing transient accommodations who

HB 1241

2010

224 is responsible for providing the services commonly associated
225 with operating the facilities furnishing transient
226 accommodations regardless of whether such commonly associated
227 services are provided by third parties. The terms
228 "consideration," "rental," and "rents" do not include payments
229 received by unrelated persons for facilitating the booking of
230 reservations for or on behalf of the lessees or licensees at
231 hotels, apartment houses, roominghouses, timeshare resorts,
232 tourist or trailer camps, mobile home parks, recreational
233 vehicle parks, or condominiums in this state. The term
234 "unrelated persons" means persons who are not related to the
235 person operating transient accommodations within the meaning of
236 s. 267(b) or s. 707(b) of the Internal Revenue Code of 1986, as
237 amended.

238 (b) The tax shall be charged by the person receiving the
239 consideration for the lease or rental, and the tax shall be
240 collected from the lessee, tenant, or customer at the time of
241 payment of the consideration for such lease or rental. The
242 person operating transient accommodations shall separately state
243 the tax from the rental charged on the receipt, invoice, or
244 other documentation issued with respect to charges for transient
245 accommodations. Persons facilitating the booking of reservations
246 who are unrelated to the person operating the transient
247 accommodations in which the reservation is booked are not
248 required to separately state amounts charged on the receipt,
249 invoice, or other documentation issued by the person
250 facilitating the booking of the reservation. Any amounts
251 specifically collected as a tax are county funds and must be

252 remitted as tax.

253 Section 4. The amendments to ss. 125.0104, 212.03, and
 254 212.301, Florida Statutes, made by this act are intended to be
 255 clarifying and remedial in nature and shall not provide a basis
 256 for assessments or refunds of tax for periods prior to July 1,
 257 2010.

258 Section 5. Subsection (1) of section 213.30, Florida
 259 Statutes, is amended to read:

260 213.30 Compensation for information relating to a
 261 violation of the tax laws.—

262 (1) The executive director of the department, pursuant to
 263 rules adopted by the department, is authorized to compensate:

264 (a) A county government providing information to the
 265 department leading to:

266 1. The punishment of, or collection of taxes, penalties,
 267 or interest from, any person with respect to the tax imposed by
 268 s. 212.03. The amount of any payment made under this
 269 subparagraph may not exceed 10 percent of any tax, penalties, or
 270 interest collected as a result of such information.

271 2. The identification and registration of a taxpayer who
 272 is not in compliance with the registration requirements of s.
 273 212.03. The amount of the payment made to any person who
 274 provides information to the department which results in the
 275 registration of a noncompliant taxpayer shall be \$100. The
 276 reward authorized in this subparagraph shall be paid only if the
 277 noncompliant taxpayer:

278 a. Is engaged in a bona fide taxable activity.

279 b. Is found by the department to have an unpaid tax

HB 1241

2010

280 liability.

281 (b) Persons providing information to the department
 282 leading to:

283 1.(a) The punishment of, or collection of taxes,
 284 penalties, or interest from, any person with respect to the
 285 taxes enumerated in s. 213.05. The amount of any payment made
 286 under this subparagraph ~~paragraph~~ may not exceed 10 percent of
 287 any tax, penalties, or interest collected as a result of such
 288 information.

289 2.(b) The identification and registration of a taxpayer
 290 who is not in compliance with the registration requirements of
 291 any tax statute that is listed in s. 213.05. The amount of the
 292 payment made to any person who provides information to the
 293 department which results in the registration of a noncompliant
 294 taxpayer shall be \$100. The reward authorized in this
 295 subparagraph ~~paragraph~~ shall be paid only if the noncompliant
 296 taxpayer:

- 297 a.1. Conducts business from a permanent, fixed location.†
- 298 b.2. Is engaged in a bona fide taxable activity.† ~~and~~
- 299 c.3. Is found by the department to have an unpaid tax
 300 liability.

301 Section 6. This act shall take effect July 1, 2010.