

By Senator Gaetz

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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;
6 revising requirements for charging, collecting, and
7 remitting the transient rentals tax; providing
8 requirements for separate statement of the tax on
9 rental documents; amending s. 212.0305, F.S.;
10 providing definitions; revising requirements for
11 charging, collecting, and remitting the convention
12 development tax; providing requirements for separate
13 statement of the tax on rental documents; providing
14 construction; amending s. 213.30, F.S.; authorizing
15 the Department of Revenue to compensate county
16 governments for providing certain information to the
17 department; specifying a payment amount; providing an
18 effective date.

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

21
22 Section 1. Paragraph (a) of subsection (3) of section
23 125.0104, Florida Statutes, is amended to read:

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

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

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

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

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

58 ~~3.b.~~ Consideration paid for the purchase of a timeshare

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59 license in a timeshare plan, as defined in s. 721.05, is rent
60 subject to taxation under this section.

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

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

87 212.03 Transient rentals tax; rate, procedure, enforcement,

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88 exemptions.—

89 (1)

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

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

114 3. The terms "rent," "rental," "rentals," and "rental
115 payments," as used in this section, mean the amount received by
116 a person operating transient accommodations for the use or

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

138 (2) The tax provided for in this section ~~herein~~ shall be in
139 addition to the total amount of the rental, shall be charged by
140 any the lessor or person operating transient accommodations
141 subject to the tax imposed under this chapter ~~receiving the rent~~
142 in and by such ~~said~~ rental arrangement to the lessee or person
143 paying the rental, and shall be due and payable at the time of
144 the receipt of such rental payment by the ~~lessor or~~ person
145 operating the transient accommodations, ~~as defined in this~~

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

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

174 212.0305 Convention development taxes; intent;

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175 administration; authorization; use of proceeds.-

176 (3) APPLICATION; ADMINISTRATION; PENALTIES.-

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

191 ~~2.a.~~ Tax shall be due on the consideration paid for
192 occupancy in the county pursuant to a regulated short-term
193 product, as defined in s. 721.05, or occupancy in the county
194 pursuant to a product that would be deemed a regulated short-
195 term product if the agreement to purchase the short-term right
196 was executed in this state. Such tax shall be collected on the
197 last day of occupancy within the county unless such
198 consideration is applied to the purchase of a timeshare estate.
199 The occupancy of an accommodation of a timeshare resort pursuant
200 to a timeshare plan, a multisite timeshare plan, or an exchange
201 transaction in an exchange program, as defined in s. 721.05, by
202 the owner of a timeshare interest or such owner's guest, which
203 guest is not paying monetary consideration to the owner or to a

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204 third party for the benefit of the owner, is not a privilege
205 subject to taxation under this section. A membership or
206 transaction fee paid by a timeshare owner that does not provide
207 the timeshare owner with the right to occupy any specific
208 timeshare unit but merely provides the timeshare owner with the
209 opportunity to exchange a timeshare interest through an exchange
210 program is a service charge and not subject to taxation under
211 this section.

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

215 4. The terms "consideration," "rental," and "rents," as
216 used in this section, mean the amount received by a person
217 operating transient accommodations for the use or securing the
218 use of any living quarters or sleeping or housekeeping
219 accommodations in, from, or a part of, or in connection with,
220 any hotel, apartment house, roominghouse, timeshare resort,
221 tourist or trailer camp, mobile home park, recreational vehicle
222 park, or condominium. The term "person operating transient
223 accommodations" means the person conducting the daily affairs of
224 the physical facilities furnishing transient accommodations who
225 is responsible for providing the services commonly associated
226 with operating the facilities furnishing transient
227 accommodations regardless of whether such commonly associated
228 services are provided by third parties. The terms
229 "consideration," "rental," and "rents" do not include payments
230 received by unrelated persons for facilitating the booking of
231 reservations for or on behalf of the lessees or licensees at
232 hotels, apartment houses, roominghouses, timeshare resorts,

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233 tourist or trailer camps, mobile home parks, recreational
234 vehicle parks, or condominiums in this state. The term
235 “unrelated persons” means persons who are not related to the
236 person operating transient accommodations within the meaning of
237 s. 267(b) or s. 707(b) of the Internal Revenue Code of 1986, as
238 amended.

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

254 Section 4. The amendments to ss. 125.0104, 212.03, and
255 212.301, Florida Statutes, made by this act are intended to be
256 clarifying and remedial in nature and shall not provide a basis
257 for assessments or refunds of tax for periods prior to July 1,
258 2010.

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

261 213.30 Compensation for information relating to a violation

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262 of the tax laws.—

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

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

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

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

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

280 b. Is found by the department to have an unpaid tax
281 liability.

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

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

290 2. ~~(b)~~ The identification and registration of a taxpayer who

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

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

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