

By Senator Gaetz

4-01527-10

20101950\_\_

1                   A bill to be entitled  
2       An act relating to the tax on transient  
3       accommodations; amending s. 125.0104, F.S.; defining  
4       terms for the purpose of specifying how the tax on  
5       transient accommodations is calculated; conforming  
6       cross-references to changes made by the act; amending  
7       s. 212.03, F.S.; defining terms for the purpose of  
8       specifying how the tax on transient accommodations is  
9       imposed; requiring a person who operates transient  
10      accommodations to collect and pay the tax on transient  
11      accommodations to the Department of Revenue; requiring  
12      a person who operates transient accommodations to  
13      separately state the taxes charged on the transient  
14      accommodations on a receipt; amending s. 212.0305,  
15      F.S.; defining terms for the purpose of specifying how  
16      the tax on transient accommodations is calculated;  
17      requiring a person who operates transient  
18      accommodations to separately state the taxes charged  
19      on the transient accommodations on a receipt;  
20      conforming a cross-reference to changes made by the  
21      act; declaring that the act is clarifying and remedial  
22      in nature; amending s. 213.015, F.S.; conforming a  
23      cross-reference to changes made by the act; providing  
24      an effective date.

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

27  
28       Section 1. Paragraph (b) of subsection (2) of section  
29       125.0104, Florida Statutes, is amended and reordered, and

4-01527-10

20101950\_\_

30 subsection (3) of that section is amended, to read:

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

33 (2) APPLICATION; DEFINITIONS.-

34 (a) *Application*.—The provisions contained in chapter 212  
35 apply to the administration of any tax levied pursuant to this  
36 section.

37 (b) *Definitions*.—As used in ~~For purposes of~~ this section,  
38 the term:

39 1. "Consideration," "rental," or "rents" means the amount  
40 received by a person who operates transient accommodations for  
41 use or who secures the use of any living quarters or sleeping or  
42 housekeeping accommodations in, from, or a part of, or in  
43 connection with any hotel, apartment hotel, motel, resort motel,  
44 apartment, apartment motel, roominghouse, mobile home park,  
45 recreational vehicle park, condominium, or timeshare resort. The  
46 term "consideration," "rental," or "rents" does not include  
47 payments received by unrelated persons for facilitating the  
48 booking of reservations for, or on behalf of, the lessees or  
49 licensees at hotels, apartment hotels, motels, resort motels,  
50 apartments, apartment motels, roominghouses, mobile home parks,  
51 recreational vehicle parks, condominiums, or timeshare resorts  
52 in this state.

53 2. "Person who operates transient accommodations" means the  
54 person who conducts the daily affairs of the physical facilities  
55 of the transient accommodations and who is responsible for  
56 providing the services commonly associated with operating the  
57 facilities of the transient accommodations, regardless of  
58 whether such commonly associated services are provided by third

4-01527-10

20101950\_\_

59 parties.

60 ~~3.1.~~ "Promotion" means marketing or advertising designed to  
61 increase tourist-related business activities.

62 ~~5.2.~~ "Tourist" means a person who participates in trade or  
63 recreation activities outside the county of his or her permanent  
64 residence or who rents or leases transient accommodations as  
65 described in paragraph (3) (a) or (b).

66 6. "Unrelated persons" means persons who are not related to  
67 the person who operates transient accommodations within the  
68 meaning of 26 U.S.C. s. 267(b) or s. 707(b).

69 ~~4.3.~~ "Retained spring training franchise" means a spring  
70 training franchise that had a location in this state on or  
71 before December 31, 1998, and that has continuously remained at  
72 that location for at least the 10 years preceding that date.

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

74 (a)1. It is declared to be the intent of the Legislature  
75 that every person who rents, leases, or lets for consideration  
76 any living quarters or accommodations in any hotel, apartment  
77 hotel, motel, resort motel, apartment, apartment motel,  
78 roominghouse, mobile home park, recreational vehicle park,  
79 condominium, or timeshare resort for a term of 6 months or less  
80 is exercising a privilege that ~~which~~ is subject to taxation  
81 under this section, unless such person rents, leases, or lets  
82 for consideration any living quarters or accommodations that  
83 ~~which~~ are exempt according to the provisions of chapter 212.

84 ~~2.a.~~ Tax is ~~shall be~~ due on the consideration paid for  
85 occupancy in the county pursuant to a regulated short-term  
86 product, as defined in s. 721.05, or occupancy in the county  
87 pursuant to a product that would be deemed a regulated short-

4-01527-10

20101950

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

105 (b)~~b~~. Consideration paid for the purchase of a timeshare  
106 license in a timeshare plan, as defined in s. 721.05, is rent  
107 subject to taxation under this section.

108 (c)~~(b)~~ Subject to the provisions of this section, any  
109 county in this state may levy and impose a tourist development  
110 tax on the exercise within its boundaries of the taxable  
111 privilege described in paragraph (a) or paragraph (b), except  
112 that an ~~there shall be no~~ additional levy under this section may  
113 not be imposed in any cities or towns presently imposing a  
114 municipal resort tax as authorized under chapter 67-930, Laws of  
115 Florida, and this section does ~~shall~~ not in any way affect the  
116 powers and existence of any tourist development authority

4-01527-10

20101950\_\_

117 created pursuant to chapter 67-930, Laws of Florida. A ~~No~~ county  
118 authorized to levy a convention development tax pursuant to s.  
119 212.0305, or to s. 8 of chapter 84-324, Laws of Florida, may not  
120 ~~shall be allowed to~~ levy more than the 2 percent ~~2-percent~~ tax  
121 authorized by this section. A county may elect to levy and  
122 impose the tourist development tax in a subcounty special  
123 district of the county. However, if a county so elects to levy  
124 and impose the tax on a subcounty special district basis, the  
125 district shall embrace all or a significant contiguous portion  
126 of the county, and the county shall assist the Department of  
127 Revenue in identifying the rental units subject to tax in the  
128 district.

129 (d) ~~(e)~~ The tourist development tax shall be levied,  
130 imposed, and set by the governing board of the county at a rate  
131 of 1 percent or 2 percent of each dollar and major fraction of  
132 each dollar of the total consideration charged for such lease or  
133 rental. When receipt of consideration is by way of property  
134 other than money, the tax shall be levied and imposed on the  
135 fair market value of such nonmonetary consideration.

136 (e) ~~(d)~~ In addition to any 1 percent ~~1-percent~~ or 2 percent  
137 ~~2-percent~~ tax imposed under paragraph (d) ~~(e)~~, the governing  
138 board of the county may levy, impose, and set an additional 1  
139 percent of each dollar above the tax rate set under paragraph  
140 (d) ~~(e)~~ by the extraordinary vote of the governing board for the  
141 purposes set forth in subsection (5) or by referendum approval  
142 by the registered electors within the county or subcounty  
143 special district. A ~~No~~ county may not ~~shall~~ levy, impose, and  
144 set the tax authorized under this paragraph unless the county  
145 has imposed the 1 percent ~~1-percent~~ or 2 percent ~~2-percent~~ tax

4-01527-10

20101950\_\_

146 authorized under paragraph (d) ~~(e)~~ for a minimum of 3 years  
147 prior to the effective date of the levy and imposition of the  
148 tax authorized by this paragraph. Revenues raised by the  
149 additional tax authorized under this paragraph may ~~shall~~ not be  
150 used for debt service on or refinancing of existing facilities  
151 as specified in subparagraph (5) (a)1. unless approved by a  
152 resolution adopted by an extraordinary majority of the total  
153 membership of the governing board of the county. If the 1-  
154 percent or 2-percent tax authorized in paragraph (d) ~~(e)~~ is  
155 levied within a subcounty special taxing district, the  
156 additional tax authorized in this paragraph shall only be levied  
157 therein. The provisions of paragraphs (4) (a)-(d) do ~~shall~~ not  
158 apply to the adoption of the additional tax authorized in this  
159 paragraph. The effective date of the levy and imposition of the  
160 tax authorized under this paragraph is ~~shall be~~ the first day of  
161 the second month following approval of the ordinance by the  
162 governing board or the first day of any subsequent month as may  
163 be specified in the ordinance. A certified copy of such  
164 ordinance shall be furnished by the county to the Department of  
165 Revenue within 10 days after approval of such ordinance.

166 (f) ~~(e)~~ The tourist development tax is ~~shall be~~ in addition  
167 to any other tax imposed pursuant to chapter 212 and in addition  
168 to all other taxes and fees and the consideration for the rental  
169 or lease.

170 (g) ~~(f)~~ The tourist development tax shall be charged by the  
171 person receiving the consideration for the lease or rental, and  
172 it shall be collected from the lessee, tenant, or customer at  
173 the time of payment of the consideration for such lease or  
174 rental.

4-01527-10

20101950\_\_

175        (h)~~(g)~~ The person receiving the consideration for such  
176 rental or lease shall receive, account for, and remit the tax to  
177 the Department of Revenue at the time and in the manner provided  
178 for persons who collect and remit taxes under s. 212.03. The  
179 same duties and privileges imposed by chapter 212 upon dealers  
180 in tangible property, respecting the collection and remission of  
181 tax; the making of returns; the keeping of books, records, and  
182 accounts; and compliance with the rules of the Department of  
183 Revenue in the administration of that chapter ~~shall~~ apply to and  
184 are ~~be~~ binding upon all persons who are subject to the  
185 provisions of this section. However, the Department of Revenue  
186 may authorize a quarterly return and payment when the tax  
187 remitted by the dealer for the preceding quarter did not exceed  
188 \$25.

189        (i)~~(h)~~ The Department of Revenue shall keep records showing  
190 the amount of taxes collected, which records shall also include  
191 records disclosing the amount of taxes collected for and from  
192 each county in which the tax authorized by this section is  
193 applicable. These records shall be open for inspection during  
194 the regular office hours of the Department of Revenue, subject  
195 to the provisions of s. 213.053.

196        (j)~~(i)~~ Collections received by the Department of Revenue  
197 from the tax, less costs of administration of this section,  
198 shall be paid and returned monthly to the county that ~~which~~  
199 imposed the tax, for use by the county in accordance with ~~the~~  
200 ~~provisions of~~ this section. They shall be placed in the county  
201 tourist development trust fund of the respective county, which  
202 shall be established by each county as a condition precedent to  
203 receipt of such funds.

4-01527-10

20101950\_\_

204        (k)~~(j)~~ The Department of Revenue is authorized to employ  
205 persons and incur other expenses for which funds are  
206 appropriated by the Legislature.

207        (l)~~(k)~~ The Department of Revenue shall adopt ~~promulgate~~  
208 such rules and shall prescribe and publish such forms as may be  
209 necessary to effectuate the purposes of this section.

210        (m)~~(l)~~ In addition to any other tax that ~~which~~ is imposed  
211 pursuant to this section, a county may impose up to an  
212 additional 1-percent tax on the exercise of the privilege  
213 described in paragraph (a) or paragraph (b) by majority vote of  
214 the governing board of the county in order to:

215            1. Pay the debt service on bonds issued to finance the  
216 construction, reconstruction, or renovation of a professional  
217 sports franchise facility, or the acquisition, construction,  
218 reconstruction, or renovation of a retained spring training  
219 franchise facility, either publicly owned and operated, or  
220 publicly owned and operated by the owner of a professional  
221 sports franchise or other lessee with sufficient expertise or  
222 financial capability to operate such facility, and to pay the  
223 planning and design costs incurred prior to the issuance of such  
224 bonds.

225            2. Pay the debt service on bonds issued to finance the  
226 construction, reconstruction, or renovation of a convention  
227 center, and to pay the planning and design costs incurred before  
228 ~~prior to~~ the issuance of such bonds.

229            3. Pay the operation and maintenance costs of a convention  
230 center for a period of up to 10 years. Only counties that have  
231 elected to levy the tax for the purposes authorized in  
232 subparagraph 2. may use the tax for the purposes enumerated in



4-01527-10

20101950\_\_

233 this subparagraph. Any county that elects to levy the tax for  
234 the purposes authorized in subparagraph 2. after July 1, 2000,  
235 may use the proceeds of the tax to pay the operation and  
236 maintenance costs of a convention center for the life of the  
237 bonds.

238 4. Promote and advertise tourism in the State of Florida  
239 and nationally and internationally; however, if tax revenues are  
240 expended for an activity, service, venue, or event, the  
241 activity, service, venue, or event shall have as one of its main  
242 purposes the attraction of tourists as evidenced by the  
243 promotion of the activity, service, venue, or event to tourists.

244  
245 The provision of paragraph (c) ~~(b)~~ which prohibits any county  
246 authorized to levy a convention development tax pursuant to s.  
247 212.0305 from levying more than the 2 percent ~~2-percent~~ tax  
248 authorized by this section, and the provisions of paragraphs  
249 (4) (a)-(d), do shall not apply to the additional tax authorized  
250 in this paragraph. The effective date of the levy and imposition  
251 of the tax authorized under this paragraph is shall be the first  
252 day of the second month following approval of the ordinance by  
253 the governing board or the first day of any subsequent month as  
254 may be specified in the ordinance. A certified copy of such  
255 ordinance shall be furnished by the county to the Department of  
256 Revenue within 10 days after approval of such ordinance.

257 (n) ~~(m)~~ 1. In addition to any other tax that ~~which~~ is imposed  
258 pursuant to this section, a high tourism impact county may  
259 impose an additional 1 percent ~~1-percent~~ tax on the exercise of  
260 the privilege described in paragraph (a) or paragraph (b) by  
261 extraordinary vote of the governing board of the county. The tax

4-01527-10

20101950

262 revenues received pursuant to this paragraph must ~~shall~~ be used  
263 for one or more of the authorized uses pursuant to subsection  
264 (5).

265 2. A county is considered to be a high tourism impact  
266 county after the Department of Revenue has certified to such  
267 county that the sales subject to the tax levied pursuant to this  
268 section exceeded \$600 million during the previous calendar year,  
269 or were at least 18 percent of the county's total taxable sales  
270 under chapter 212 if where the sales subject to the tax levied  
271 pursuant to this section were a minimum of \$200 million, except  
272 that a ~~no~~ county authorized to levy a convention development tax  
273 pursuant to s. 212.0305 may not ~~shall~~ be considered a high  
274 tourism impact county. Once a county qualifies as a high tourism  
275 impact county, it shall retain this designation for the period  
276 the tax is levied pursuant to this paragraph.

277 3. The provisions of paragraphs (4) (a)-(d) do ~~shall~~ not  
278 apply to the adoption of the additional tax authorized in this  
279 paragraph. The effective date of the levy and imposition of the  
280 tax authorized under this paragraph is ~~shall be~~ the first day of  
281 the second month following approval of the ordinance by the  
282 governing board or the first day of any subsequent month as may  
283 be specified in the ordinance. A certified copy of such  
284 ordinance shall be furnished by the county to the Department of  
285 Revenue within 10 days after approval of such ordinance.

286 (o) ~~(n)~~ In addition to any other tax that is imposed under  
287 this section, a county that has imposed the tax under paragraph  
288 (l) may impose an additional tax that is no greater than 1  
289 percent on the exercise of the privilege described in paragraph  
290 (a) by a majority plus one vote of the membership of the board

4-01527-10

20101950\_\_

291 of county commissioners in order to:

292 1. Pay the debt service on bonds issued to finance:

293 a. The construction, reconstruction, or renovation of a  
294 facility either publicly owned and operated, or publicly owned  
295 and operated by the owner of a professional sports franchise or  
296 other lessee with sufficient expertise or financial capability  
297 to operate such facility, and to pay the planning and design  
298 costs incurred prior to the issuance of such bonds for a new  
299 professional sports franchise as defined in s. 288.1162.

300 b. The acquisition, construction, reconstruction, or  
301 renovation of a facility either publicly owned and operated, or  
302 publicly owned and operated by the owner of a professional  
303 sports franchise or other lessee with sufficient expertise or  
304 financial capability to operate such facility, and to pay the  
305 planning and design costs incurred prior to the issuance of such  
306 bonds for a retained spring training franchise.

307 2. Promote and advertise tourism in the State of Florida  
308 and nationally and internationally; however, if tax revenues are  
309 expended for an activity, service, venue, or event, the  
310 activity, service, venue, or event shall have as one of its main  
311 purposes the attraction of tourists as evidenced by the  
312 promotion of the activity, service, venue, or event to tourists.

313

314 A county that imposes the tax authorized in this paragraph may  
315 not expend any ad valorem tax revenues for the acquisition,  
316 construction, reconstruction, or renovation of a facility for  
317 which tax revenues are used pursuant to subparagraph 1. The  
318 provision of paragraph (c) ~~(b)~~ which prohibits any county  
319 authorized to levy a convention development tax pursuant to s.

4-01527-10

20101950\_\_

320 212.0305 from levying more than the 2 percent ~~2-percent~~ tax  
 321 authorized by this section does ~~shall~~ not apply to the  
 322 additional tax authorized by this paragraph in counties which  
 323 levy convention development taxes pursuant to s. 212.0305(4)(a).  
 324 Subsection (4) does not apply to the adoption of the additional  
 325 tax authorized in this paragraph. The effective date of the levy  
 326 and imposition of the tax authorized under this paragraph is the  
 327 first day of the second month following approval of the  
 328 ordinance by the board of county commissioners or the first day  
 329 of any subsequent month specified in the ordinance. A certified  
 330 copy of such ordinance shall be furnished by the county to the  
 331 Department of Revenue within 10 days after approval of the  
 332 ordinance.

333 Section 2. Subsections (1) and (2) of section 212.03,  
 334 Florida Statutes, are amended to read:

335 212.03 Transient rentals tax; rate, procedure, enforcement,  
 336 exemptions.—

337 (1)(a) The Legislature intends ~~It is hereby declared to be~~  
 338 ~~the legislative intent~~ that every person is exercising a taxable  
 339 privilege who engages in the business of renting, leasing,  
 340 letting, or granting a license to use any living quarters or  
 341 sleeping or housekeeping accommodations in, from, or a part of,  
 342 or in connection with any hotel, apartment house, roominghouse,  
 343 tourist or trailer camp, mobile home park, recreational vehicle  
 344 park, condominium, or timeshare resort. However, any person who  
 345 rents, leases, lets, or grants a license to others to use,  
 346 occupy, or enter upon any living quarters or sleeping or  
 347 housekeeping accommodations in any apartment house,  
 348 roominghouse, tourist camp, trailer camp, mobile home park,

4-01527-10

20101950\_\_

349 recreational vehicle park, condominium, or timeshare resort and  
350 who exclusively enters into a bona fide written agreement for  
351 continuous residence for longer than 6 months in duration at  
352 such property is not exercising a taxable privilege. For the  
353 exercise of such taxable privilege, a tax is hereby levied in an  
354 amount equal to 6 percent of and on the total rental charged for  
355 such living quarters or sleeping or housekeeping accommodations  
356 by the person charging or collecting the rental. Such tax shall  
357 apply to hotels, apartment houses, roominghouses, tourist or  
358 trailer camps, mobile home parks, recreational vehicle parks,  
359 condominiums, or timeshare resorts, whether or not these  
360 facilities have dining rooms, cafes, or other places where meals  
361 or lunches are sold or served to guests.

362 (b) As used in this section, the term:

363 1. "Person who operates transient accommodations" means the  
364 person who conducts the daily affairs of the physical facilities  
365 of the transient accommodations and who is responsible for  
366 providing the services commonly associated with operating the  
367 facilities of the transient accommodations, regardless of  
368 whether such commonly associated services are provided by third  
369 parties.

370 2. "Rent," "rental," "rentals," or "rental payments," means  
371 the amount received by a person who operates transient  
372 accommodations for use or who secures the use of any living  
373 quarters or sleeping or housekeeping accommodations in, from, or  
374 a part of, or in connection with any hotel, apartment hotel,  
375 motel, resort motel, apartment, apartment motel, roominghouse,  
376 mobile home park, recreational vehicle park, condominium, or  
377 timeshare resort. The terms "rent," "rental," "rentals," or

4-01527-10

20101950

378 "rental payments" do not include payments received by unrelated  
379 persons for facilitating the booking of reservations for, or on  
380 behalf of, the lessees or licensees at hotels, apartment hotels,  
381 motels, resort motels, apartments, apartment motels,  
382 roominghouses, mobile home parks, recreational vehicle parks,  
383 condominiums, or timeshare resorts in this state.

384 3. "Unrelated persons" means persons who are not related to  
385 the person who operates transient accommodations within the  
386 meaning of 26 U.S.C. s. 267(b) or s. 707(b).

387 (c) ~~(b)~~1. Tax shall be due on the consideration paid for  
388 occupancy in the county pursuant to a regulated short-term  
389 product, as defined in s. 721.05, or occupancy in the county  
390 pursuant to a product that would be deemed a regulated short-  
391 term product if the agreement to purchase the short-term right  
392 was executed in this state. Such tax shall be collected on the  
393 last day of occupancy within the county unless such  
394 consideration is applied to the purchase of a timeshare estate.  
395 The occupancy of an accommodation of a timeshare resort pursuant  
396 to a timeshare plan, a multisite timeshare plan, or an exchange  
397 transaction in an exchange program, as defined in s. 721.05, by  
398 the owner of a timeshare interest or such owner's guest, which  
399 guest is not paying monetary consideration to the owner or to a  
400 third party for the benefit of the owner, is not a privilege  
401 subject to taxation under this section. A membership or  
402 transaction fee paid by a timeshare owner that does not provide  
403 the timeshare owner with the right to occupy any specific  
404 timeshare unit but merely provides the timeshare owner with the  
405 opportunity to exchange a timeshare interest through an exchange  
406 program is a service charge and not subject to taxation under

4-01527-10

20101950\_\_

407 this section.

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

411 (2) The tax imposed by this section is provided for herein  
412 ~~shall be~~ in addition to the total amount of the rental. A, ~~shall~~  
413 ~~be charged by the lessor or person operating transient~~  
414 accommodations shall collect the tax from receiving the rent in  
415 ~~and by said rental arrangement to the lessee or person paying~~  
416 the rental. The tax is, ~~and shall be~~ due and payable at the time  
417 of the receipt of the ~~such~~ rental payment by a ~~the lessor or~~  
418 person who operates transient accommodations, ~~as defined in this~~  
419 ~~chapter, who receives said rental or payment. The owner, lessor,~~  
420 ~~or person who operates transient accommodations receiving the~~  
421 ~~rent~~ shall remit the tax to the department at the times and in  
422 the manner ~~hereinafter~~ provided for dealers to remit taxes under  
423 this chapter. The same duties imposed by this chapter upon  
424 dealers in tangible personal property respecting the collection  
425 and remission of the tax; the making of returns; the keeping of  
426 books, records, and accounts; and the compliance with the rules  
427 and regulations of the department in the administration of this  
428 chapter ~~shall~~ apply to and are ~~be~~ binding upon all persons who  
429 manage or operate hotels, apartment houses, roominghouses,  
430 tourist and trailer camps, and the rental of condominium units,  
431 and to all persons who collect or receive such rents on behalf  
432 of such owner or lessor taxable under this chapter. A person who  
433 operates transient accommodations shall separately state the tax  
434 from the rental charged on the receipt, invoice, or other  
435 documentation issued with respect to charges for transient

4-01527-10

20101950\_\_

436 accommodations. Persons who facilitate the booking of  
437 reservations, who are unrelated persons with respect to a person  
438 who operates transient accommodations with respect to which the  
439 reservation is booked, are not required to separately state  
440 amounts charged on the receipt, invoice, or other documentation.  
441 Any amounts specifically collected as tax are state funds and  
442 shall be remitted as tax.

443 Section 3. Subsection (3) and paragraph (c) of subsection  
444 (5) of section 212.0305, Florida Statutes, are amended to read:  
445 212.0305 Convention development taxes; intent;  
446 administration; authorization; use of proceeds.—

447 (3) APPLICATION; ADMINISTRATION; PENALTIES.—

448 (a)1. The convention development tax on transient rentals  
449 imposed by the governing body of a any county authorized to ~~se~~  
450 levy the tax applies shall apply to the amount of any payment  
451 made by any person to rent, lease, or use for a period of 6  
452 months or less any living quarters or accommodations in a hotel,  
453 apartment hotel, motel, resort motel, apartment, apartment  
454 motel, roominghouse, tourist or trailer camp, mobile home park,  
455 recreational vehicle park, condominium, or timeshare resort. If  
456 ~~When~~ receipt of consideration is by way of property other than  
457 money, the tax is shall be levied and imposed on the fair market  
458 value of such nonmonetary consideration. Any payment made by a  
459 person to rent, lease, or use any living quarters or  
460 accommodations that which are exempt from the tax imposed under  
461 s. 212.03 is shall likewise be exempt from any tax imposed under  
462 this section.

463 2.a. Tax is shall be due on the consideration paid for  
464 occupancy in the county pursuant to a regulated short-term



4-01527-10

20101950\_\_

465 product, as defined in s. 721.05, or occupancy in the county  
466 pursuant to a product that would be deemed a regulated short-  
467 term product if the agreement to purchase the short-term right  
468 was executed in this state. The ~~Such~~ tax shall be collected on  
469 the last day of occupancy within the county unless the ~~such~~  
470 consideration is applied to the purchase of a timeshare estate.  
471 The occupancy of an accommodation of a timeshare resort pursuant  
472 to a timeshare plan, a multisite timeshare plan, or an exchange  
473 transaction in an exchange program, as defined in s. 721.05, by  
474 the owner of a timeshare interest or such owner's guest, which  
475 guest is not paying monetary consideration to the owner or to a  
476 third party for the benefit of the owner, is not a privilege  
477 subject to taxation under this section. A membership or  
478 transaction fee paid by a timeshare owner which ~~that~~ does not  
479 provide the timeshare owner with the right to occupy any  
480 specific timeshare unit but merely provides the timeshare owner  
481 with the opportunity to exchange a timeshare interest through an  
482 exchange program is a service charge and not subject to taxation  
483 under this section.

484 ~~b. Consideration paid for the purchase of a timeshare~~  
485 ~~license in a timeshare plan, as defined in s. 721.05, is rent~~  
486 ~~subject to taxation under this section.~~

487 (b) As used in this section, the term:

488 1. "Consideration," "rental," or "rents," means the amount  
489 received by a person who operates transient accommodations for  
490 use or who secures the use of any living quarters or sleeping or  
491 housekeeping accommodations in, from, or a part of, or in  
492 connection with any hotel, apartment hotel, motel, resort motel,  
493 apartment, apartment motel, roominghouse, mobile home park,

4-01527-10

20101950\_\_

494 recreational vehicle park, condominium, or timeshare resort. The  
495 term "consideration," "rental," or "rents," does not include  
496 payments received by unrelated persons for facilitating the  
497 booking of reservations for, or on behalf of, the lessees or  
498 licensees at hotels, apartment hotels, motels, resort motels,  
499 apartments, apartment motels, roominghouses, mobile home parks,  
500 recreational vehicle parks, condominiums, or timeshare resorts  
501 in this state.

502 2. "Person who operates transient accommodations" means the  
503 person who conducts the daily affairs of the physical facilities  
504 of the transient accommodations and who is responsible for  
505 providing the services commonly associated with operating the  
506 facilities of the transient accommodations, regardless of  
507 whether such commonly associated services are provided by third  
508 parties.

509 3. "Unrelated persons" means persons who are not related to  
510 the person who operates transient accommodations within the  
511 meaning of 26 U.S.C. s. 267(b) or s. 707(b).

512 (c) Consideration paid for the purchase of a timeshare  
513 license in a timeshare plan, as defined in s. 721.05, is rent  
514 subject to taxation under this section.

515 (d) ~~(b)~~ The tax shall be charged by the person receiving the  
516 consideration for the lease or rental, and the tax shall be  
517 collected from the lessee, tenant, or customer at the time of  
518 payment of the consideration for such lease or rental. A person  
519 who operates transient accommodations shall separately state the  
520 tax from the rental charged on the receipt, invoice, or other  
521 documentation issued with respect to charges for transient  
522 accommodations. Persons who facilitate the booking of

4-01527-10

20101950\_\_

523 reservations, who are unrelated persons with respect to a person  
524 who operates transient accommodations with respect to which the  
525 reservation is booked, are not required to separately state  
526 amounts charged on the receipt, invoice, or other documentation.  
527 Any amounts specifically collected as tax are county funds and  
528 shall be remitted as tax.

529 (e)~~(e)~~ The person receiving the consideration for such  
530 rental or lease shall receive, account for, and remit the tax to  
531 the department at the time and in the manner provided for  
532 persons who collect and remit taxes under s. 212.03. The same  
533 duties and privileges imposed by this chapter upon dealers in  
534 tangible property respecting the collection and remission of  
535 tax; the making of returns; the keeping of books, records, and  
536 accounts; and compliance with the rules of the department in the  
537 administration of this chapter apply to and are binding upon all  
538 persons who are subject to the provisions of this section.  
539 However, the department may authorize a quarterly return and  
540 payment when the tax remitted by the dealer for the preceding  
541 quarter did not exceed \$25.

542 (f)~~(d)~~ The department shall keep records showing the amount  
543 of taxes collected, which records shall disclose the taxes  
544 collected from each county in which a local government resort  
545 tax is levied. These records are ~~shall be~~ subject to ~~the~~  
546 ~~provisions of~~ s. 213.053 and are confidential and exempt from  
547 ~~the provisions of~~ s. 119.07(1).

548 (g)~~(e)~~ The collections received by the department from the  
549 tax, less costs of administration, shall be paid and returned  
550 monthly to the county which imposed the tax, for use by the  
551 county as provided in this section. Such receipts shall be

4-01527-10

20101950\_\_

552 placed in a specific trust fund or funds created by the county.

553 (h)~~(f)~~ The department shall adopt ~~promulgate~~ such rules and  
554 shall prescribe and publish such forms as may be necessary to  
555 effectuate the purposes of this section. The department is  
556 authorized to establish audit procedures and to assess for  
557 delinquent taxes.

558 (i)~~(g)~~ The estimated tax provisions contained in s. 212.11  
559 do not apply to the administration of any tax levied under this  
560 section.

561 (j)~~(h)~~ Any person taxable under this section who, either by  
562 himself or herself or through the person's agents or employees,  
563 fails or refuses to charge and collect the taxes imposed by this  
564 section ~~herein provided~~ from the person paying any rental or  
565 lease is, ~~in addition to being~~ personally liable for the payment  
566 of the tax and commits, guilty of a misdemeanor of the first  
567 degree, punishable as provided in s. 775.082 or s. 775.083.

568 (k)~~(i)~~ A No person may not ~~shall~~ advertise or hold out to  
569 the public in any manner, directly or indirectly, that he or she  
570 will absorb all or any part of the tax; that he or she will  
571 relieve the person paying the rental of the payment of all or  
572 any part of the tax; or that the tax will not be added to the  
573 rental or lease consideration or, if added, that the tax or any  
574 part of the tax ~~thereof~~ will be refunded or refused, either  
575 directly or indirectly, by any method ~~whatsoever~~. Any person who  
576 willfully violates any provision of this paragraph commits is  
577 ~~guilty of~~ a misdemeanor of the first degree, punishable as  
578 provided in s. 775.082 or s. 775.083.

579 (l) (j) The tax constitutes ~~shall constitute~~ a lien on the  
580 property of the lessee, customer, or tenant in the same manner

4-01527-10

20101950\_\_

581 as, and is ~~shall be~~ collectible as are, liens authorized and  
582 imposed by ss. 713.67, 713.68, and 713.69.

583 (m) ~~(k)~~ Any tax levied pursuant to this section is ~~shall be~~  
584 in addition to any other tax imposed pursuant to this chapter  
585 and in addition to all other taxes and fees and the  
586 consideration for the rental or lease.

587 (n) ~~(l)~~ The department shall administer the taxes levied by  
588 this section herein as increases in the rate of the tax  
589 authorized in s. 125.0104. The department shall collect and  
590 enforce the provisions of this section and s. 125.0104 in  
591 conjunction with each other in those counties authorized to levy  
592 the taxes authorized in this section herein. The department  
593 shall distribute the proceeds received from the taxes levied  
594 pursuant to this section and s. 125.0104 in proportion to the  
595 rates of the taxes authorized to the appropriate trust funds as  
596 provided by law. If a taxpayer underpays ~~In the event of~~  
597 ~~underpayment of~~ the total amount due ~~by a taxpayer~~ pursuant to  
598 this section and s. 125.0104, the department shall distribute  
599 the amount received in proportion to the rates of the taxes  
600 authorized to the appropriate trust funds as provided by law and  
601 the penalties and interest due on both of the said taxes apply  
602 ~~shall be applicable~~.

603 (5) LOCAL ADMINISTRATION OF TAX.—

604 (c) A county adopting an ordinance providing for the  
605 collection and administration of the tax on a local basis shall  
606 also adopt an ordinance electing either to assume all  
607 responsibility for auditing the records and accounts of dealers,  
608 and assessing, collecting, and enforcing payments of delinquent  
609 taxes, or to delegate such authority to the Department of

4-01527-10

20101950

610 Revenue. If the county elects to assume such responsibility, it  
611 ~~is shall be~~ bound by the rules adopted ~~promulgated~~ by the  
612 Department of Revenue pursuant to paragraph (3) (h) ~~(3) (f)~~, as  
613 well as those rules pertaining to the sales and use tax on  
614 transient rentals imposed by s. 212.03. The county may use any  
615 power granted in this chapter to the department to determine the  
616 amount of tax, penalties, and interest to be paid by each dealer  
617 and to enforce payment of such tax, penalties, and interest. The  
618 county may use a certified public accountant licensed in this  
619 state in the administration of its statutory duties and  
620 responsibilities. Such certified public accountants are bound by  
621 the same confidentiality requirements and subject to the same  
622 penalties as the county under s. 213.053. If the county  
623 delegates such authority to the department, the department shall  
624 distribute any collections so received, less costs of  
625 administration, to the county. The amount deducted for costs of  
626 administration by the department shall be used only for those  
627 costs which are solely and directly attributable to auditing,  
628 assessing, collecting, processing, and enforcing payments of  
629 delinquent taxes authorized in this section. If a county elects  
630 to delegate such authority to the department, the department  
631 shall audit only those businesses in the county that it audits  
632 pursuant to this chapter.

633 Section 4. Sections 1, 2, and 3 of this act are clarifying  
634 and remedial in nature. These sections may not be the basis for  
635 the assessment of a tax before July 1, 2010, and may not be the  
636 basis for a refund of a tax collected or paid before July 1,  
637 2010.

638 Section 5. Subsection (6) of section 213.015, Florida

4-01527-10

20101950\_\_

639 Statutes, is amended to read:

640       213.015 Taxpayer rights.—There is created a Florida  
641 Taxpayer's Bill of Rights to guarantee that the rights, privacy,  
642 and property of Florida taxpayers are adequately safeguarded and  
643 protected during tax assessment, collection, and enforcement  
644 processes administered under the revenue laws of this state. The  
645 Taxpayer's Bill of Rights compiles, in one document, brief but  
646 comprehensive statements which explain, in simple, nontechnical  
647 terms, the rights and obligations of the Department of Revenue  
648 and taxpayers. Section 192.0105 provides additional rights  
649 afforded to payors of property taxes and assessments. The rights  
650 afforded taxpayers to ensure that their privacy and property are  
651 safeguarded and protected during tax assessment and collection  
652 are available only insofar as they are implemented in other  
653 parts of the Florida Statutes or rules of the Department of  
654 Revenue. The rights so guaranteed Florida taxpayers in the  
655 Florida Statutes and the departmental rules are:

656       (6) The right to be informed of impending collection  
657 actions which require sale or seizure of property or freezing of  
658 assets, except jeopardy assessments, and the right to at least  
659 30 days' notice in which to pay the liability or seek further  
660 review (see ss. 198.20, 199.262, 201.16, 206.075, 206.24,  
661 211.125(5), 212.03(5), 212.0305(3)(k), 212.04(7), 212.14(1),  
662 213.73(3), 213.731, and 220.739 ~~ss. 198.20, 199.262, 201.16,~~  
663 ~~206.075, 206.24, 211.125(5), 212.03(5), 212.0305(3)(j),~~  
664 ~~212.04(7), 212.14(1), 213.73(3), 213.731, and 220.739~~).

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