

CHAMBER ACTION

1 The Finance & Tax Committee recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to the transient rentals tax; amending s.  
7 212.03, F.S.; clarifying the meaning of the term "engaging  
8 in the business of renting, leasing, letting, or granting  
9 a license to use transient rental accommodations" for  
10 taxation purposes; expanding the definition of the terms  
11 "total rental" and "total consideration"; requiring  
12 persons engaged in renting certain accommodations to  
13 register with the Department of Revenue as sales tax  
14 dealers and collect and remit taxes; providing for resale  
15 certificates and single registrations; providing intent;  
16 providing amnesty for unpaid taxes, penalties, and  
17 interest on transient rentals under certain circumstances;  
18 authorizing the department to adopt emergency rules to  
19 implement the provisions of the act; providing an  
20 effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

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24 Section 1. Subsections (8), (9), and (10) are added to  
25 section 212.03, Florida Statutes, to read:

26 212.03 Transient rentals tax; rate, procedure,  
27 enforcement, exemptions.--

28 (8) For purposes of this section, ss. 125.0104, 125.0108,  
29 and 212.0305, and chapter 67-930, Laws of Florida, as amended,  
30 the term "engaging in the business of renting, leasing, letting,  
31 or granting a license to use transient rental accommodations"  
32 includes any activity in which a person offers information about  
33 the availability of accommodations to a customer, arranges for  
34 the customer's occupancy of the accommodations, establishes the  
35 total rental price the customer pays for the accommodations, and  
36 collects the rental payments from the customer.

37 (9) The terms "total rental" as used in this section,  
38 "total consideration" as used in ss. 125.0104 and 125.0108,  
39 "consideration" as used in s. 212.0305, and "rent" as used in  
40 chapter 67-930, Laws of Florida, as amended, have the same  
41 meaning and include the total amount a customer must pay in  
42 order to use or occupy a transient accommodation, including  
43 service charges or fees that are a condition of occupancy,  
44 except for mandatory fees imposed for the availability of  
45 communications services. Charges or fees paid by a customer to  
46 the person collecting the rent or consideration as a condition  
47 of occupancy are included in the taxable rent or consideration  
48 even if the charges or fees are separately itemized on the  
49 customer's bill or are for items or services provided by a third  
50 party. Charges for items or services provided to occupants of  
51 transient accommodations that are not intrinsic to occupancy of

52 | the accommodation, are provided only upon the election of the  
 53 | occupant, and are separately itemized are not taxable rent or  
 54 | consideration.

55 | (10) Persons engaging in activities described in  
 56 | subsection (8) shall register with the department as a dealer  
 57 | and collect and remit taxes on the total rental charged to their  
 58 | customers. Such persons shall extend an annual resale  
 59 | certificate in lieu of paying taxes on the amounts he or she  
 60 | pays to the owner or operator for the accommodations. The  
 61 | department may provide by rule for a single registration by a  
 62 | person engaged in the activities described in subsection (8)  
 63 | rather than require separate registrations for each location  
 64 | where transient rental accommodations are located. Such persons  
 65 | may file consolidated returns as provided in s. 212.11(1)(e).

66 | Section 2. The amendments to s. 212.03, Florida Statutes,  
 67 | made by this act are intended to clarify existing law.

68 | Section 3. Amnesty for registration and remittance of  
 69 | tax.--

70 | (1) The state shall provide an amnesty for unpaid taxes,  
 71 | penalties, and interest imposed under chapter 125, Florida  
 72 | Statutes, chapter 212, Florida Statutes, or chapter 67-930, Laws  
 73 | of Florida, as amended, on transient rentals if the following  
 74 | requirements are met:

75 | (a) The rentals subject to amnesty were made prior to July  
 76 | 1, 2005.

77 | (b) The rental payments were collected by persons who are  
 78 | not owners, operators, or managers of the transient rental  
 79 | facilities or their agents.

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80       (c) The person who collected the rental payments registers  
 81 with the Department of Revenue to pay taxes on transient rentals  
 82 on or before July 1, 2005.

83       (d) The person who collected the rental payments applies  
 84 for amnesty within 3 months after July 1, 2005, pursuant to  
 85 rules of the Department of Revenue.

86       (2) The amnesty is not available for taxes, penalties, or  
 87 interest that have been assessed if the assessment is final and  
 88 has not been timely challenged, or for any taxes, penalties, or  
 89 interest that have been paid to the department unless the  
 90 payment is the subject of an assessment that is not final or  
 91 that has been timely challenged.

92       (3) The amnesty is not available for tax billed to or  
 93 collected from the consumer who pays for occupancy of the  
 94 transient rental facility. The amnesty applies, however, to such  
 95 amounts to the extent that the person who collected the rental  
 96 payments can document that such taxes were remitted to the owner  
 97 or operator of the transient rental facility.

98       (4) The Department of Revenue may adopt emergency rules  
 99 under ss. 120.536(1) and 120.54(4), Florida Statutes, to  
 100 implement the provisions of this act. Such rules may provide  
 101 forms and procedures for applying for amnesty, for reporting the  
 102 rentals for which amnesty is sought, and for ensuring the  
 103 applicant's ongoing commitment to registration, collection, and  
 104 remittance of the taxes imposed by state law on transient  
 105 rentals. Notwithstanding any other provision of law, the  
 106 emergency rules shall remain effective until 6 months after the  
 107 date of adoption of the rule or the date of final resolution of

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108 | all amnesty applications filed pursuant to this section,  
109 | whichever occurs later, and may be renewed during the pendency  
110 | of procedures to adopt rules addressing the subject of the  
111 | emergency rules.

112 |       Section 4. This act shall take effect July 1, 2005.