

By Senator Dawson

29-1498-05

See HB

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A bill to be entitled

An act relating to the transient rentals tax; amending s. 212.03, F.S.; clarifying the meaning of the term "engaging in the business of renting, leasing, letting, or granting a license to use transient rental accommodations" for taxation purposes; expanding the definition of the term "taxable rent or consideration"; requiring persons engaged in renting certain accommodations to register with the Department of Revenue as sales tax dealers and collect and remit taxes; providing that the registered owners or operators of certain accommodations may agree in writing to report and remit taxes on behalf of the person engaged in renting the accommodations; providing intent; providing amnesty for unpaid taxes, penalties, and interest on transient rentals under certain circumstances; authorizing the department to adopt emergency rules to implement the amnesty; providing an effective date.

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

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

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

(8) For purposes of this section and ss. 125.0104, 125.0108, and 212.0305, the term "engaging in the business of renting, leasing, letting, or granting a license to use

1 transient rental accommodations" includes any activity in
2 which a person offers information about the availability of
3 accommodations to a customer, arranges for the customer's
4 occupancy of the accommodations, establishes the total rental
5 price the customer pays for the accommodations, or collects
6 the rental payments from the customer.

7 (9) The terms "total rent" as used in this section,
8 "total consideration" as used in ss. 125.0104 and 125.0108,
9 and "consideration" as used in s. 212.0305 have the same
10 meaning and include the total amount a customer must pay in
11 order to use or occupy a transient accommodation, including
12 service charges or fees that are a condition of occupancy,
13 except for mandatory fees imposed for the availability of
14 communications services. Charges or fees paid by a customer to
15 the person collecting the rent or consideration as a condition
16 of occupancy are included in the taxable rent or consideration
17 even if the charges or fees are separately itemized on the
18 customer's bill or are for items or services provided by a
19 third party. Charges for items or services provided to
20 occupants of transient accommodations that are not intrinsic
21 to occupancy of the accommodation, are provided only upon the
22 election of the occupant, and are separately itemized are not
23 taxable rent or consideration.

24 (10) Persons engaging in activities described in
25 subsection (8) shall register with the department and collect
26 and remit taxes on the total rent charged to their customers,
27 unless the registered owners or operators of the
28 accommodations agree in writing to report and remit taxes on
29 their behalf. Any written agreement must require the person
30 collecting the rent to report total taxable sales and taxes
31 due and pay the taxes collected to the owner or operator by

1 the last day of the month in which the customer pays the rent
2 or the last day of the month in which the customer completes
3 the occupancy of the accommodation. The owner or operator
4 shall report and remit the taxes with the owner or operator's
5 return that is due in the month following the month in which
6 the taxes are paid to the owner or operator. The owner or
7 operator is not liable for any tax, penalty, or interest due
8 as a result of the failure of the person who arranged the
9 occupancy and collected the rent to accurately report and
10 remit the taxes imposed by this section or by ss. 125.0104,
11 125.0108, and 212.0305. If the owner or operator does not
12 agree to report and remit taxes on behalf of the person who
13 rents the accommodations as provided in subsection (8), that
14 person shall extend his or her annual resale certificate in
15 lieu of paying taxes on the amounts he or she pays to the
16 owner or operator for the accommodations. The department may
17 provide by rule for a single registration by a person engaged
18 in the activities described in subsection (8) rather than
19 require separate registrations for each location where
20 transient rental accommodations are located. Such person may
21 file consolidated returns as provided in s. 212.11(1)(e).

22 Section 2. The amendments to section 212.03, Florida
23 Statutes, made by this act are intended to clarify existing
24 law.

25 Section 3. Amnesty for registration and remittance of
26 tax.--

27 (1) The state shall provide an amnesty for unpaid
28 taxes, penalties, and interest imposed under chapter 125 or
29 chapter 212, Florida Statutes, on transient rentals if the
30 following requirements are met:
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1 (a) The rentals subject to amnesty were made prior to
2 July 1, 2005.

3 (b) The rental payments were collected by persons who
4 are not owners, operators, or managers of the transient rental
5 facilities or their agents.

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

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

12 (2) The amnesty is not available for taxes, penalties,
13 or interest assessed if the assessment is final and has not
14 been timely challenged, or for any taxes, penalties, or
15 interest that have been paid to the department unless the
16 payment is the subject of an assessment that is not final or
17 that has been timely challenged.

18 (3) The amnesty is not available for tax billed to or
19 collected from the consumer who pays for occupancy of the
20 transient rental facility. The amnesty applies, however, to
21 such amounts to the extent that the person who collected the
22 rental payments can document that such taxes were remitted to
23 the owner or operator of the transient rental facility.

24 (4) The Department of Revenue may adopt emergency
25 rules under sections 120.536(1) and 120.54(4), Florida
26 Statutes, to implement the amnesty. Such rules may provide
27 forms and procedures for applying for amnesty, for reporting
28 the rentals for which amnesty is sought, and for ensuring the
29 applicant's ongoing commitment to registration, collection,
30 and remittance of the taxes imposed by state law on transient
31 rentals. Notwithstanding any other law to the contrary, the

1 emergency rules shall remain effective until 6 months after
2 the date of adoption of the rule or he date of final
3 resolution of all amnesty applications filed pursuant to this
4 section, whichever occurs later.

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