

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 terms "total rental" and "total 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 registration requirements; providing tax collection and remittance requirements; providing tax proceeds distribution requirements; 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 provisions of the act; 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, ss. 125.0104, 125.0108, and 212.0305, and chapter 67-930, Laws of Florida, as amended, the term "engaging in the business of renting, leasing, letting, or granting a license to use transient rental accommodations"

29 includes any activity in which a person offers information about
30 the availability of accommodations to a customer, arranges for
31 the customer's occupancy of the accommodations, establishes the
32 total rental price the customer pays for the accommodations, and
33 collects the rental payments from the customer.

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

52 (10) Each person engaging in activities described in
53 subsection (8) shall register with the department as a dealer
54 and collect and remit taxes on the total rental charged to his
55 or her customers. Such registration shall consist of a single,
56 state-level registration, regardless of the number of facilities

57 at which that person handles accommodations or the number of
58 local taxing jurisdictions in which the facilities are located.
59 Such person shall extend an annual resale certificate in lieu of
60 paying taxes on the amounts he or she pays to the owner or
61 operator for the accommodations. Notwithstanding any election
62 made by a county to self-administer local taxes under chapter
63 125, s. 212.0305, or chapter 67-930, Laws of Florida, as
64 amended, each dealer shall collect and remit to the department
65 any tax imposed under chapter 125, s. 212.0305, or chapter 67-
66 930, Laws of Florida, as amended, and shall separately report
67 and identify each such tax to the department, by jurisdiction,
68 on a form prescribed by the department. The department shall
69 distribute any such tax imposed and collected under chapter 125,
70 s. 212.0305, or chapter 67-930, Laws of Florida, as amended, to
71 the local jurisdiction imposing the tax in accordance with the
72 information provided on the form.

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

75 Section 3. Amnesty for registration and remittance of
76 tax.--

77 (1) The state shall provide an amnesty for unpaid taxes,
78 penalties, and interest imposed under chapter 125, Florida
79 Statutes, chapter 212, Florida Statutes, or chapter 67-930, Laws
80 of Florida, as amended, on transient rentals if the following
81 requirements are met:

82 (a) The rentals subject to amnesty were made prior to July
83 1, 2006.

84 (b) The rental payments were collected by persons who are

85 not owners, operators, or managers of the transient rental
86 facilities or their agents.

87 (c) The person who collected the rental payments registers
88 with the Department of Revenue to pay taxes on transient rentals
89 by October 1, 2006.

90 (d) The person who collected the rental payments applies
91 for amnesty by October 1, 2006, pursuant to rules of the
92 Department of Revenue.

93 (2) The amnesty is not available for taxes, penalties, or
94 interest that have been assessed if the assessment is final and
95 has not been timely challenged, or for any taxes, penalties, or
96 interest that have been paid to the department or other
97 jurisdiction unless the payment is the subject of an assessment
98 that is not final or that has been timely challenged.

99 (3) The amnesty is not available for tax billed to or
100 collected from the consumer who pays for occupancy of the
101 transient rental facility. The amnesty applies, however, to such
102 amounts to the extent that the person who collected the rental
103 payments can document that such taxes were remitted to the owner
104 or operator of the transient rental facility.

105 (4) The Department of Revenue may adopt emergency rules
106 under ss. 120.536(1) and 120.54(4), Florida Statutes, to
107 implement the provisions of this act. Such rules may provide
108 forms and procedures for applying for amnesty, for reporting the
109 rentals for which amnesty is sought, and for ensuring the
110 applicant's ongoing commitment to registration, collection, and
111 remittance of the taxes imposed by state law on transient
112 rentals. Notwithstanding any other provision of law, the

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113 emergency rules shall remain effective until 6 months after the
114 date of adoption of the rule or the date of final resolution of
115 all amnesty applications filed pursuant to this section,
116 whichever occurs later, and may be renewed during the pendency
117 of procedures to adopt rules addressing the subject of the
118 emergency rules.

119 Section 4. This act shall take effect July 1, 2006.