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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/01/2009	.	
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The Committee on Commerce (Lynn) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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 business of renting, leasing, letting, or granting a license



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13 to use transient rental accommodations includes any activity in
14 which a person offers information about the availability of
15 accommodations to a customer, arranges for the customer's
16 occupancy of the accommodations, establishes the total rent the
17 customer pays for the accommodations, or collects the rental
18 payments from the customer.

19 (9) (a) The terms "total rent" as used in this section,
20 "total consideration" as used in ss. 125.0104 and 125.0108,
21 "consideration" as used in s. 212.0305, and "rent" as used in
22 chapter 67-930, Laws of Florida, as amended, have the same
23 meaning and include:

24 1. The total amount a customer pays for the right to occupy
25 a transient accommodation.

26 2. Charges that must be paid as a condition of the right of
27 occupancy, except for mandatory fees imposed for the
28 availability of communications services.

29 3. Charges paid by a customer to the person collecting the
30 rent or consideration as a condition of the right of occupancy,
31 even if the charges are separately stated or are for tangible
32 personal property or services provided by a third party.

33 4. Charges for the use of tangible personal property or
34 services as a condition of the right of occupancy, even if
35 separately stated.

36 (b) Notwithstanding paragraph (a), the department may adopt
37 rules that exclude separately stated charges for tangible
38 personal property and services from the definition of total rent
39 or total consideration.

40 (10) Persons engaging in activities described in subsection
41 (8) shall register with the department and collect and remit



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42 taxes on the total rent charged to their customers, unless the
43 registered owners or operators of the accommodations agree in
44 writing to report and remit taxes on their behalf. Any written
45 agreement must require the person collecting the rent to report
46 total taxable sales and taxes due and pay the taxes collected to
47 the owner or operator by the last day of the month in which the
48 customer pays the rent or the last day of the month in which the
49 customer completes the occupancy of the accommodation. The owner
50 or operator shall report and remit the taxes along with the
51 owner or operator's return, which is due in the month following
52 the month in which the taxes are paid to the owner or operator.
53 The owner or operator is not liable for any tax, penalty, or
54 interest due as a result of the failure of the person who
55 arranged the occupancy and collected the rent to accurately
56 report and remit the taxes imposed by this section or by s.
57 125.0104, s. 125.0108, or s. 212.0305, or s. 2 of chapter 67-
58 930, Laws of Florida, as amended. If the owner or operator does
59 not agree to report and remit taxes on behalf of the person who
60 rents the accommodations as provided in subsection (8), that
61 person shall extend his or her annual resale certificate in lieu
62 of paying taxes on the amounts he or she pays to the owner or
63 operator for the accommodations. A person engaged in the
64 activities described in subsection (8) may file with the
65 department a single application for registration. Such
66 application for registration must identify each county in which
67 transient accommodations are located. Such person must also file
68 a separate registration with each county that self-administers
69 any local transient accommodations tax. A person engaged in the
70 activities described in subsection (8) may file a consolidated



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71 return as provided in s. 212.11(1)(e).

72 Section 2. (1) The Department of Revenue shall provide for
73 an amnesty for unpaid taxes, penalties, and interest imposed
74 under chapter 125 or chapter 212, Florida Statutes, or chapter
75 67-930, Laws of Florida, as amended, on transient rentals if:

76 (a) The rentals subject to amnesty were made prior to July
77 1, 2009.

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

81 (c) The person who collected the rental payments registers
82 with the department and any applicable local jurisdictions to
83 pay taxes on transient rentals on or before October 1, 2009.

84 (d) The person who collected the rental payments applies
85 for amnesty by October 1, 2009, pursuant to rules of the
86 department.

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

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

99 (3) The Department of Revenue may adopt emergency rules to



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

112 Section 3. This act shall take effect July 1, 2009.

113
114 ===== T I T L E A M E N D M E N T =====

115 And the title is amended as follows:

116 Delete everything before the enacting clause
117 and insert:

118
119 A bill to be entitled
120 An act relating to the tax on transient rentals;
121 amending s. 212.03, F.S.; requiring that persons who
122 engage in certain business activities related to
123 transient rentals collect the tax; providing
124 definitions; authorizing the Department of Revenue to
125 adopt rules to exclude certain charges from the
126 definition of the terms "total rent," "total
127 consideration" or "consideration"; requiring certain
128 persons to report and remit the tax on certain



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129 transient rentals; providing requirements, procedures,
130 and limitations; requiring the Department of Revenue
131 to provide for an amnesty for certain unpaid taxes,
132 penalties, and interest; providing criteria for
133 qualifying for the amnesty; providing exclusions from
134 application of the amnesty; authorizing the department
135 to adopt emergency rules to implement the amnesty;
136 providing for the effective period of such rules;
137 providing an effective date.