

By Senator Lynn

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1 A bill to be entitled
2 An act relating to the tax on transient rentals;
3 amending s. 212.03, F.S.; requiring that persons who
4 engage in certain business activities related to
5 transient rentals collect the tax; providing
6 definitions; authorizing the Department of Revenue to
7 adopt rules to exclude certain charges from the
8 definition of the terms "total rent" or "total
9 consideration"; requiring certain persons to report
10 and remit the tax on certain transient rentals;
11 providing requirements, procedures, and limitations;
12 requiring the Department of Revenue to provide for an
13 amnesty for certain unpaid taxes, penalties, and
14 interest; providing criteria for qualifying for the
15 amnesty; providing exclusions from application of the
16 amnesty; authorizing the department to adopt emergency
17 rules to implement the amnesty; providing for the
18 effective period of such rules; providing an effective
19 date.

20
21 Be It Enacted by the Legislature of the State of Florida:

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

25 212.03 Transient rentals tax; rate, procedure, enforcement,
26 exemptions.—

27 (8) For purposes of this section and ss. 125.0104,
28 125.0108, and 212.0305, the business of renting, leasing,
29 letting, or granting a license to use transient rental

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

36 (9) (a) The terms "total rent" as used in this section,
37 "total consideration" as used in ss. 125.0104 and 125.0108, and
38 "total consideration" as used in s. 212.0305 have the same
39 meaning and include:

40 1. The total amount a customer pays for the right to occupy
41 a transient accommodation.

42 2. Charges that must be paid as a condition of the right of
43 occupancy, except for mandatory fees imposed for the
44 availability of communications services.

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

49 4. Charges for the use of tangible personal property or
50 services as a condition of the right of occupancy, even if
51 separately stated.

52 (b) Notwithstanding subsection (a), the department may
53 adopt rules that exclude separately stated charges for tangible
54 personal property and services from the definition of total rent
55 or total consideration.

56 (10) Persons engaging in activities described in subsection
57 (8) shall register with the department and collect and remit
58 taxes on the total rent charged to their customers, unless the

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59 registered owners or operators of the accommodations agree in
60 writing to report and remit taxes on their behalf. Any written
61 agreement must require the person collecting the rent to report
62 total taxable sales and taxes due and pay the taxes collected to
63 the owner or operator by the last day of the month in which the
64 customer pays the rent or the last day of the month in which the
65 customer completes the occupancy of the accommodation. The owner
66 or operator shall report and remit the taxes along with the
67 owner or operator's return that is due in the month following
68 the month in which the taxes are paid to the owner or operator.
69 The owner or operator is not liable for any tax, penalty, or
70 interest due as a result of the failure of the person who
71 arranged the occupancy and collected the rent to accurately
72 report and remit the taxes imposed by this section or by s.
73 125.0104, s. 125.0108, or s. 212.0305. If the owner or operator
74 does not agree to report and remit taxes on behalf of the person
75 who rents the accommodations as provided in subsection (8), that
76 person shall extend his or her annual resale certificate in lieu
77 of paying taxes on the amounts he or she pays to the owner or
78 operator for the accommodations. The department may provide by
79 rule for a single registration with the department by a person
80 engaged in the activities described in subsection (8) for all
81 political subdivisions for which the tourist development tax is
82 collected by the department. The department need not require
83 separate registrations for each location where transient rental
84 accommodations are located. However, a person engaged in the
85 activities described in subsection (8) must register with each
86 political subdivision that collects its own tourist development
87 tax. Such person may file consolidated returns as provided in s.

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88 212.11(1)(e).

89 Section 2. (1) The Department of Revenue shall provide for
90 an amnesty for unpaid taxes, penalties, and interest imposed
91 under chapter 125 or chapter 212, Florida Statutes, on transient
92 rentals if:

93 (a) The rentals subject to amnesty were made prior to July
94 1, 2009.

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

98 (c) The person who collected the rental payments registers
99 with the department to pay taxes on transient rentals on or
100 before October 1, 2009.

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

104 (2)(a) The amnesty is not available for taxes, penalties,
105 or interest assessed if the assessment is final and has not been
106 timely challenged, or for any taxes, penalties, or interest that
107 have been paid to the department unless the payment is the
108 subject of an assessment that is not final or that has been
109 timely challenged.

110 (b) The amnesty is not available for tax billed to or
111 collected from the consumer who pays for occupancy of the
112 transient rental facility. The amnesty applies, however, to such
113 amounts to the extent that the person who collected the rental
114 payments can document that such taxes were remitted to the owner
115 or operator of the transient rental facility.

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

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117 implement the amnesty. The rules may provide forms and
118 procedures for applying for amnesty, for reporting the rentals
119 for which amnesty is sought, and for ensuring the applicant's
120 ongoing commitment to registration, collection, and remittance
121 of the taxes imposed by state law on transient rentals.
122 Notwithstanding any other provision of law, the emergency rules
123 shall remain effective until 6 months after the date of adoption
124 of the rule or the date of final resolution of all amnesty
125 applications filed pursuant to this section, whichever occurs
126 later.

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