

By the Committee on Commerce; and Senator Lynn

577-04101-09

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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," "total
9 consideration" or "consideration"; requiring certain
10 persons to report and remit the tax on certain
11 transient rentals; providing requirements, procedures,
12 and limitations; requiring the Department of Revenue
13 to provide for an amnesty for certain unpaid taxes,
14 penalties, and interest; providing criteria for
15 qualifying for the amnesty; providing exclusions from
16 application of the amnesty; authorizing the department
17 to adopt emergency rules to implement the amnesty;
18 providing for the effective period of such rules;
19 providing an effective 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, ss. 125.0104, 125.0108,
28 and 212.0305, and chapter 67-930, Laws of Florida, as amended,
29 the business of renting, leasing, letting, or granting a license

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30 to use transient rental accommodations includes any activity in
31 which a person offers information about the availability of
32 accommodations to a customer, arranges for the customer's
33 occupancy of the accommodations, establishes the total rent the
34 customer pays for the accommodations, or collects the rental
35 payments from the 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,
38 "consideration" as used in s. 212.0305, and "rent" as used in
39 chapter 67-930, Laws of Florida, as amended, have the same
40 meaning and include:

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

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

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

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

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

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

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59 taxes on the total rent charged to their customers, unless the
60 registered owners or operators of the accommodations agree in
61 writing to report and remit taxes on their behalf. Any written
62 agreement must require the person collecting the rent to report
63 total taxable sales and taxes due and pay the taxes collected to
64 the owner or operator by the last day of the month in which the
65 customer pays the rent or the last day of the month in which the
66 customer completes the occupancy of the accommodation. The owner
67 or operator shall report and remit the taxes along with the
68 owner or operator's return, which is due in the month following
69 the month in which the taxes are paid to the owner or operator.
70 The owner or operator is not liable for any tax, penalty, or
71 interest due as a result of the failure of the person who
72 arranged the occupancy and collected the rent to accurately
73 report and remit the taxes imposed by this section or by s.
74 125.0104, s. 125.0108, or s. 212.0305, or s. 2 of chapter 67-
75 930, Laws of Florida, as amended. If the owner or operator does
76 not agree to report and remit taxes on behalf of the person who
77 rents the accommodations as provided in subsection (8), that
78 person shall extend his or her annual resale certificate in lieu
79 of paying taxes on the amounts he or she pays to the owner or
80 operator for the accommodations. A person engaged in the
81 activities described in subsection (8) may file with the
82 department a single application for registration. Such
83 application for registration must identify each county in which
84 transient accommodations are located. Such person must also file
85 a separate registration with each county that self-administers
86 any local transient accommodations tax. A person engaged in the
87 activities described in subsection (8) may file a consolidated

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88 return as provided in s. 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, or chapter
92 67-930, Laws of Florida, as amended, on transient 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 and any applicable local jurisdictions to
100 pay taxes on transient rentals on or 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 or other jurisdiction unless
108 the payment is the subject of an assessment that is not final or
109 that has been 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 provisions of this act. Such rules may provide
118 forms and procedures for applying for amnesty, for reporting the
119 rentals for which amnesty is sought, and for ensuring the
120 applicant's ongoing commitment to registration, collection, and
121 remittance of the taxes imposed by state law on transient
122 rentals. Notwithstanding any other provision of law, the
123 emergency rules shall remain effective until 6 months after the
124 date of adoption of the rule or the date of final resolution of
125 all amnesty applications filed pursuant to this section,
126 whichever occurs later. These rules may be renewed during the
127 pendency of procedures to adopt rules addressing the subject of
128 the emergency rules.

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