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593-04508D-09

Proposed Committee Substitute by the Committee on Finance and
Tax

1 A bill to be entitled
2 An act relating to the tax on transient rentals;
3 amending s. 212.03, F.S.; redefining terms; requiring
4 persons who engage in certain business activities to
5 collect and remit the tax on transient rentals;
6 prohibiting an owner, owner's representative, or
7 operator from authorizing another person to facilitate
8 the rental of transient rental accommodations unless
9 the person agrees to collect and remit the tax on
10 transient rentals; authorizing the Department of
11 Revenue to provide by rule for a single registration
12 for a dealer to register to collect the tourist
13 development tax in certain political subdivisions;
14 requiring dealers who engage in certain activities
15 relating to transient rentals to separately state the
16 taxes separately from the tangible personal property
17 or services on the invoice; amending s. 212.06, F.S.;
18 redefining the term "dealer"; authorizing the
19 Department of Revenue to adopt emergency rules to
20 implement the act; providing legislative intent;
21 providing for prospective application of the act;
22 providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Subsections (8) and (9) are added to section
27 212.03, Florida Statutes, to read:



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28 212.03 Transient rentals tax; rate, procedure, enforcement,
29 exemptions.-

30 (8) (a) For purposes of this section, ss. 125.0104,
31 125.0108, and 212.0305, and chapter 67-930, Laws of Florida, as
32 amended, the business of renting, leasing, letting, or granting
33 a license to use transient rental accommodations includes
34 receiving a payment consisting of, in any part, an amount
35 subject to tax under subsection (1) during the course of
36 engaging in any of the following activities:

37 1. Offering information regarding the availability of
38 transient rental accommodations located in this state;

39 2. Disclosing or establishing the amount paid for transient
40 rental accommodations located in this state;

41 3. Assisting in making a reservation for transient rental
42 accommodations located in this state; or

43 4. Participating in arranging for the occupancy of
44 transient rental accommodations located in this state on behalf
45 of another person.

46 (b) The terms "total rent" as used in this section, "total
47 consideration" as used in ss. 125.0104 and 125.0108,
48 "consideration" as used in s. 212.0305, and "rent" as used in
49 chapter 67-930, Laws of Florida, as amended, have the same
50 meaning and include all amounts paid to a dealer engaged in the
51 business activities described in paragraph (a) or otherwise
52 collected or paid for the occupancy, use, or possession of an
53 accommodation, or the right to occupy, use, or possess an
54 accommodation. Such amounts include cash, credits, property,
55 goods, wares, merchandise, services, or other things of value,
56 without deduction for separately identified charges, surcharges,



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57 fees, or reimbursements, unless specifically excluded under
58 paragraph (c).

59 (c) The terms "total rent" as used in this section, "total
60 consideration" as used in ss. 125.0104 and 125.0108,
61 "consideration" as used in s. 212.0305, and "rent" as used in
62 chapter 67-930, Laws of Florida, as amended, do not include:

63 1. Mandatory charges imposed for the availability of
64 communications services; or

65 2. Separately stated taxes that are remitted to the taxing
66 authority imposing the tax.

67 (9) (a) A person who engages in activities described in
68 paragraph (8) (a) shall register with the department and each
69 self-administering local government and collect and remit taxes
70 on the total rent pursuant to this section, total consideration
71 pursuant to ss. 125.0104 and 125.0108, consideration pursuant to
72 s. 212.0305, and rent pursuant to chapter 67-930, Laws of
73 Florida. An owner, owner's representative, or operator providing
74 transient accommodations in this state may not enter into an
75 agreement with any person intending to engage in the business
76 activities described in paragraph (8) (a) concerning such
77 accommodations unless such person has registered as a dealer
78 pursuant to this chapter, has provided a resale certificate and
79 has agreed in writing with the owner, owner's representative, or
80 operator to truthfully collect and remit tax on the total amount
81 due on the rental of transient accommodations located in this
82 state.

83 (b) The department may provide by rule for a single
84 registration with the department by a dealer engaged in the
85 activities described in paragraph (8) (a) for all political



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86 subdivisions for which the tourist development tax is collected
87 by the department. The department need not require separate
88 registrations for each location where transient rental
89 accommodations are located for a dealer who is not an owner or
90 operator. However, a dealer engaged in the activities described
91 in paragraph (8) (a) must register with each political
92 subdivision that collects its own tourist development tax. Such
93 dealer may file consolidated returns pursuant to s.
94 212.11(1) (e).

95 (c) Each dealer engaged in the activities described in
96 paragraph (8) (a) shall add the amount of the taxes imposed by
97 this section and ss. 125.0104, 125.0108, and 212.0305 and
98 chapter 67-930, Laws of Florida, as amended, to the total rent
99 and shall state the taxes separately from the price of the
100 tangible personal property or services on all invoices. The tax
101 shall be due and payable at the time of receipt of the payment
102 in the manner provided for dealers pursuant to this chapter. The
103 combined amount of taxes due under ss. 125.0104 and 125.0108,
104 and chapter 67-930, Laws of Florida, as amended, shall be stated
105 and identified as local tax, and the tax imposed pursuant to
106 this section shall be stated and identified as sales tax.

107 Section 2. Paragraph (m) is added to subsection (2) of
108 section 212.06, Florida Statutes, to read:

109 212.06 Sales, storage, use tax; collectible from dealers;
110 "dealer" defined; dealers to collect from purchasers;
111 legislative intent as to scope of tax.-

112 (2)

113 (m) "Dealer" also means any person who pursuant to an
114 agreement with an owner, owner's representative, or operator of



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115 a transient rental accommodation located in this state and
116 incident to the sale, lease, or rental of such transient
117 accommodations, receives a payment consisting of, in any part,
118 an amount subject to tax under subsection (1) during the course
119 of engaging in any of the following activities

120 1. Offering information regarding the availability of
121 transient rental accommodations located in this state;

122 2. Disclosing or establishing the amount paid for transient
123 rental accommodations located in this state ;

124 3. Assisting in making a reservation for transient rental
125 accommodations located in this state; or

126 4. Participating in arranging for the occupancy of
127 transient rental accommodations located in this state on behalf
128 of another person.

129 Section 3. The Department of Revenue may adopt emergency
130 rules to implement this act. These rules may prescribe the
131 necessary forms and procedures that apply to the transient
132 rentals tax including provisions to ensure the timely
133 registration, collection, and remittance of the taxes imposed by
134 state law on transient rentals. Notwithstanding any other law,
135 the emergency rules shall remain in effect for 6 months after
136 the date of adoption of the rules or the date of final adoption,
137 whichever occurs later.

138 Section 4. Sections 1 and 2 of this act do not change the
139 application of the taxes imposed by ss. 125.0104, 125.0108,
140 212.03, and 212.0305 and chapter 67-930, Laws of Florida, as
141 amended, do not alter the state of the law on such transactions,
142 and do not indicate any legislative intent with regard to
143 transactions occurring before the effective date of this act.



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144 This act applies to the collection, remittance, assessment, and
145 a refund of tax only for the period beginning on and after July
146 1, 2009.

147 Section 5. This act shall take effect July 1, 2009.