

By the Committee on Finance and Tax; and Senator Altman

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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.; 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:

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

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

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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 charging or receiving a payment consisting of, in any part, an  
35 amount collected for the benefit of an owner, owner's  
36 representative, or operator of a transient rental accommodation  
37 located in this state for the occupancy, use, or possession of  
38 the accommodation, or the right to occupy, use, or possess the  
39 accommodation during the course of engaging in any of the  
40 following activities:

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

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

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

47       4. Participating in arranging for the occupancy of  
48 transient rental accommodations located in this state on behalf  
49 of another person.

50       (b) The terms "total rental charged" as used in this  
51 section, "total consideration" as used in ss. 125.0104 and  
52 125.0108, "consideration" as used in s. 212.0305, and "rent" as  
53 used in chapter 67-930, Laws of Florida, as amended, have the  
54 same meaning and include amounts charged or received by a dealer  
55 in connection with an activity described in paragraph (a) and  
56 amounts charged or received for the benefit of an owner, owner's  
57 representative, or operator of a transient rental accommodation  
58 located in this state for the occupancy, use, or possession of

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59 an accommodation, or the right to occupy, use, or possess an  
60 accommodation. Such amounts include cash, credits, property,  
61 goods, wares, merchandise, services, or other things of value,  
62 without deduction for separately identified charges, surcharges,  
63 fees, or reimbursements, unless specifically excluded under  
64 paragraph (c).

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

69 1. Mandatory charges imposed for the availability of  
70 communications services; or

71 2. Separately stated taxes that are remitted to the taxing  
72 authority imposing the tax.

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

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88 state.

89 (b) The department may provide by rule for a single  
90 registration with the department by a dealer engaged in the  
91 activities described in paragraph (8) (a) for all political  
92 subdivisions for which the tourist development tax is collected  
93 by the department. The department need not require separate  
94 registrations for each location where transient rental  
95 accommodations are located for a dealer who is not an owner or  
96 operator. However, a dealer engaged in the activities described  
97 in paragraph (8) (a) must register with each political  
98 subdivision that collects its own tourist development tax. Such  
99 dealer may file consolidated returns pursuant to s.  
100 212.11(1) (e).

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

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

115 212.06 Sales, storage, use tax; collectible from dealers;  
116 "dealer" defined; dealers to collect from purchasers;

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117 legislative intent as to scope of tax.-

118 (2)

119 (m) "Dealer" also means any person who pursuant to an  
120 agreement with an owner, owner's representative, or operator of  
121 a transient rental accommodation located in this state and  
122 incident to the sale, lease, or rental of such transient  
123 accommodations, receives a payment consisting of, in any part,  
124 an amount subject to tax under subsection (1) during the course  
125 of engaging in any of the following activities

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

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

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

132 4. Participating in arranging for the occupancy of  
133 transient rental accommodations located in this state on behalf  
134 of another person.

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

144 Section 4. For transactions that occurred prior to the  
145 effective date of this act, it is not the intent of the

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146 Legislature to affect the interpretation of tax liability under  
147 the law applicable to those transactions.

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