

1                   A bill to be entitled  
 2           An act relating to the transient rentals tax; amending s.  
 3           212.03, F.S.; providing definitions; requiring certain  
 4           persons to collect and remit the tax on certain transient  
 5           rentals; providing requirements, procedures, and  
 6           limitations; requiring the Department of Revenue to  
 7           provide for an amnesty for certain unpaid taxes,  
 8           penalties, and interest; providing criteria; providing  
 9           exclusions from application of the amnesty; authorizing  
 10          the department to adopt rules to implement the amnesty;  
 11          providing for effective period of such rules; providing an  
 12          effective date.

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 14   Be It Enacted by the Legislature of the State of Florida:

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

18           212.03 Transient rentals tax; rate, procedure,  
 19           enforcement, exemptions.--

20           (8) For purposes of this section and ss. 125.0104,  
 21           125.0108, and 212.0305, the term "engaging in the business of  
 22           renting, leasing, letting, or granting a license to use  
 23           transient rental accommodations" includes any activity in which  
 24           a person offers information about the availability of  
 25           accommodations to a customer, arranges for the customer's  
 26           occupancy of the accommodations, establishes the total rental  
 27           price the customer pays for the accommodations, or collects the  
 28           rental payments from the customer.

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29       (9) The terms "total rent" as used in this section, "total  
30 consideration" as used in ss. 125.0104 and 125.0108, and  
31 "consideration" as used in s. 212.0305 have the same meaning and  
32 include the total amount a customer must pay in order to use or  
33 occupy a transient accommodation, including service charges or  
34 fees that are a condition of occupancy, except for mandatory  
35 fees imposed for the availability of communications services.  
36 Charges or fees paid by a customer to the person collecting the  
37 rent or consideration as a condition of occupancy are included  
38 in the taxable rent or consideration even if the charges or fees  
39 are separately itemized on the customer's bill or are for items  
40 or services provided by a third party. Charges for items or  
41 services provided to occupants of transient accommodations that  
42 are not intrinsic to occupancy of the accommodation are provided  
43 only upon the election of the occupant and are separately  
44 itemized are not considered taxable rent.

45       (10) Persons engaging in activities described in  
46 subsection (8) shall register with the department and collect  
47 and remit taxes on the total rent charged to their customers,  
48 unless the registered owners or operators of the accommodations  
49 agree in writing to report and remit taxes on their behalf. Any  
50 written agreement must require the person collecting the rent to  
51 report total taxable sales and taxes due and pay the taxes  
52 collected to the owner or operator by the last day of the month  
53 in which the customer pays the rent or the last day of the month  
54 in which the customer completes the occupancy of the  
55 accommodation. The owner or operator shall report and remit the  
56 taxes with the owner or operator's return that is due in the

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57 month following the month in which the taxes are paid to the  
58 owner or operator. The owner or operator is not liable for any  
59 tax, penalty, or interest due as a result of the failure of the  
60 person who arranged the occupancy and collected the rent to  
61 accurately report and remit the taxes imposed by this section or  
62 by s. 125.0104, s. 125.0108, or s. 212.0305. If the owner or  
63 operator does not agree to report and remit taxes on behalf of  
64 the person who rents the accommodations as provided in  
65 subsection (8), that person shall extend his or her annual  
66 resale certificate in lieu of paying taxes on the amounts he or  
67 she pays to the owner or operator for the accommodations. The  
68 department may provide by rule for a single registration with  
69 the department by a person engaged in the activities described  
70 in subsection (8) for all political subdivisions for which the  
71 tourist development tax is collected by the department rather  
72 than require separate registrations for each location where  
73 transient rental accommodations are located; however, a person  
74 engaged in the activities described in subsection (8) must  
75 register with each political subdivision that collects its own  
76 tourist development tax. Such person may file consolidated  
77 returns as provided in s. 212.11(1)(e).

78 Section 2. (1) The Department of Revenue shall provide  
79 for an amnesty for unpaid taxes, penalties, and interest imposed  
80 under chapter 125, Florida Statutes, or chapter 212, Florida  
81 Statutes, on transient rentals provided:

82 (a) The rentals subject to amnesty were made prior to July  
83 1, 2009.

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

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

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

93 (2) (a) The amnesty is not available for taxes, penalties,  
94 or interest assessed if the assessment is final and has not been  
95 timely challenged, or for any taxes, penalties, or interest that  
96 have been paid to the department unless the payment is the  
97 subject of an assessment that is not final or that has been  
98 timely challenged.

99 (b) The amnesty is not available for tax billed to or  
100 collected from the consumer who pays for occupancy of the  
101 transient rental facility. The amnesty applies, however, to such  
102 amounts to the extent that the person who collected the rental  
103 payments can document that such taxes were remitted to the owner  
104 or operator of the transient rental facility.

105 (3) The Department of Revenue may adopt emergency rules  
106 under ss. 120.536(1) and 120.54(4), Florida Statutes, to  
107 implement the amnesty. Such rules may provide forms and  
108 procedures for applying for amnesty, for reporting the rentals  
109 for which amnesty is sought, and for ensuring the applicant's  
110 ongoing commitment to registration, collection, and remittance  
111 of the taxes imposed by state law on transient rentals.

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112 Notwithstanding any other provision of law, the emergency rules  
113 shall remain effective until 6 months after the date of adoption  
114 of the rule or the date of final resolution of all amnesty  
115 applications filed pursuant to this section, whichever occurs  
116 later.

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