

1                   A bill to be entitled  
 2           An act relating to the tax on transient rentals; amending  
 3           s. 212.03, F.S.; expanding the description of certain  
 4           business activities relating to transient rental  
 5           accommodations that are subject to certain transient  
 6           rental taxation requirements; providing definitions;  
 7           authorizing the Department of Revenue to adopt rules;  
 8           requiring certain persons to register with the department  
 9           and report and remit the tax on certain transient rentals;  
 10          providing requirements, procedures, and limitations;  
 11          requiring the Department of Revenue to provide for an  
 12          amnesty for certain unpaid taxes, penalties, and interest;  
 13          providing criteria for qualifying for the amnesty;  
 14          providing exclusions from application of the amnesty;  
 15          authorizing the department to adopt emergency rules to  
 16          implement the amnesty; providing for the effective period  
 17          of such rules; providing an effective date.

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

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

23           212.03 Transient rentals tax; rate, procedure,  
 24           enforcement, exemptions.--

25           (8) For purposes of this section, ss. 125.0104, 125.0108,  
 26           and 212.0305, and chapter 67-930, Laws of Florida, as amended,  
 27           the business of renting, leasing, letting, or granting a license  
 28           to use transient rental accommodations includes any activity in

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29 which a person offers information about the availability of  
30 accommodations to a customer, arranges for the customer's  
31 occupancy of the accommodations, establishes the total rent the  
32 customer will pay for the accommodations, or collects the rental  
33 payments from the customer.

34 (9) (a) The terms "total rent" as used in this section,  
35 "total consideration" as used in ss. 125.0104 and 125.0108,  
36 "consideration" as used in s. 212.0305, and "rent" as used in  
37 chapter 67-930, Laws of Florida, as amended, have the same  
38 meaning and include:

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

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

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

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

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

55 (10) Each person engaging in activities described in  
56 subsection (8) shall register with the department and collect

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

85 that self-administers any local transient accommodations tax. A  
86 person engaged in the activities described in subsection (8) may  
87 file a consolidated return as provided in s. 212.11(1)(e).

88 Section 2. (1) The Department of Revenue shall provide  
89 for an amnesty for unpaid taxes, penalties, and interest imposed  
90 under chapter 125 or chapter 212, Florida Statutes, or chapter  
91 67-930, Laws of Florida, as amended, on transient rentals if:

92 (a) The rentals subject to the amnesty were made prior to  
93 July 1, 2010.

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

97 (c) The person who collected the rental payments registers  
98 with the department and any applicable local jurisdictions to  
99 pay taxes on transient rentals on or before October 1, 2010.

100 (d) The person who collected the rental payments applies  
101 for amnesty by October 1, 2010, pursuant to rules of the  
102 department.

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

109 (b) The amnesty does not apply to any tax billed to or  
110 collected from the consumer who pays for occupancy of the  
111 transient rental facility. The amnesty applies, however, to such  
112 amounts to the extent that the person who collected the rental

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113 payments documents that such taxes were remitted to the owner or  
114 operator of the transient rental facility.

115 (3) The Department of Revenue may adopt emergency rules to  
116 implement the provisions of this act. Such rules may provide  
117 forms and procedures for applying for the amnesty, for reporting  
118 the rentals for which amnesty is sought, and for ensuring the  
119 applicant's ongoing commitment to registration, collection, and  
120 remittance of the taxes imposed by state law on transient  
121 rentals. Notwithstanding any other provision of law, the  
122 emergency rules shall remain effective until 6 months after the  
123 date of adoption of the rule or the date of final resolution of  
124 all amnesty applications filed pursuant to this section,  
125 whichever occurs later. These rules may be renewed during the  
126 pendency of procedures to adopt rules addressing the subject of  
127 the emergency rules.

128 Section 3. This act shall take effect July 1, 2010.