



805408

LEGISLATIVE ACTION

Senate

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House

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Senator Lynn moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

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

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



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14 accommodations to a customer, arranges for the customer's  
15 occupancy of the accommodations, establishes the total rent the  
16 customer pays for the accommodations, or collects the rental  
17 payments from the customer.

18 (9) (a) The terms "total rent" as used in this section,  
19 "total consideration" as used in ss. 125.0104 and 125.0108,  
20 "consideration" as used in s. 212.0305, and "rent" as used in  
21 chapter 67-930, Laws of Florida, as amended, have the same  
22 meaning and include:

23 1. The total amount a customer pays for the right to occupy  
24 a transient accommodation.

25 2. Charges that must be paid as a condition of the right of  
26 occupancy, except for mandatory fees imposed for the  
27 availability of communications services.

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

32 4. Charges for the use of tangible personal property or  
33 services as a condition of the right of occupancy, even if  
34 separately stated.

35 (b) Notwithstanding paragraph (a), the department may adopt  
36 rules that exclude separately stated charges for tangible  
37 personal property and services from the definition of total rent  
38 or total consideration.

39 (10) Persons engaging in activities described in subsection  
40 (8) shall register with the department and collect and remit  
41 taxes on the total rent charged to their customers, unless the  
42 registered owners or operators of the accommodations agree in



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43 writing to report and remit taxes on their behalf. Any written  
44 agreement must require the person collecting the rent to report  
45 total taxable sales and taxes due and pay the taxes collected to  
46 the owner or operator by the last day of the month in which the  
47 customer pays the rent or the last day of the month in which the  
48 customer completes the occupancy of the accommodation. The owner  
49 or operator shall report and remit the taxes along with the  
50 owner or operator's return, which is due in the month following  
51 the month in which the taxes are paid to the owner or operator.  
52 The owner or operator is not liable for any tax, penalty, or  
53 interest due as a result of the failure of the person who  
54 arranged the occupancy and collected the rent to accurately  
55 report and remit the taxes imposed by this section or by s.  
56 125.0104, s. 125.0108, or s. 212.0305, or s. 2 of chapter 67-  
57 930, Laws of Florida, as amended. If the owner or operator does  
58 not agree to report and remit taxes on behalf of the person who  
59 rents the accommodations as provided in subsection (8), that  
60 person shall extend his or her annual resale certificate in lieu  
61 of paying taxes on the amounts he or she pays to the owner or  
62 operator for the accommodations. A person engaged in the  
63 activities described in subsection (8) may file with the  
64 department a single application for registration. Such  
65 application for registration must identify each county in which  
66 transient accommodations are located. Such person must also file  
67 a separate registration with each county that self-administers  
68 any local transient accommodations tax. A person engaged in the  
69 activities described in subsection (8) may file a consolidated  
70 return as provided in s. 212.11(1)(e).

71 Section 2. (1) The Department of Revenue shall provide for



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72 an amnesty for unpaid taxes, penalties, and interest imposed  
73 under chapter 125 or chapter 212, Florida Statutes, or chapter  
74 67-930, Laws of Florida, as amended, on transient rentals if:

75 (a) The rentals subject to amnesty were made prior to July  
76 1, 2011.

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

80 (c) The person who collected the rental payments registers  
81 with the department and any applicable local jurisdictions to  
82 pay taxes on transient rentals on or before October 1, 2011.

83 (d) The person who collected the rental payments applies  
84 for amnesty by October 1, 2011, pursuant to rules of the  
85 department.

86 (2)(a) The amnesty is not available for taxes, penalties,  
87 or interest assessed if the assessment is final and has not been  
88 timely challenged, or for any taxes, penalties, or interest that  
89 have been paid to the department or other jurisdiction unless  
90 the payment is the subject of an assessment that is not final or  
91 that has been timely challenged.

92 (b) The amnesty is not available for tax billed to or  
93 collected from the consumer who pays for occupancy of the  
94 transient rental facility. The amnesty applies, however, to such  
95 amounts to the extent that the person who collected the rental  
96 payments documents that such taxes were remitted to the owner or  
97 operator of the transient rental facility.

98 (3) The Department of Revenue may adopt emergency rules to  
99 implement the provisions of this act. Such rules may provide  
100 forms and procedures for applying for amnesty, for reporting the



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101 rentals for which amnesty is sought, and for ensuring the  
102 applicant's ongoing commitment to registration, collection, and  
103 remittance of the taxes imposed by state law on transient  
104 rentals. Notwithstanding any other provision of law, the  
105 emergency rules shall remain effective until 6 months after the  
106 date of adoption of the rule or the date of final resolution of  
107 all amnesty applications filed pursuant to this section,  
108 whichever occurs later. These rules may be renewed during the  
109 pendency of procedures to adopt rules addressing the subject of  
110 the emergency rules.

111 Section 3. This act shall take effect July 1, 2011.

112  
113 ===== T I T L E A M E N D M E N T =====

114 And the title is amended as follows:

115 Delete everything before the enacting clause  
116 and insert:

117 A bill to be entitled  
118 An act relating to the tax on transient rentals;  
119 amending s. 212.03, F.S.; requiring that persons who  
120 engage in certain business activities related to  
121 transient rentals collect the tax; providing  
122 definitions; authorizing the Department of Revenue to  
123 adopt rules to exclude certain charges from the  
124 definition of the terms "total rent" or "total  
125 consideration"; requiring certain persons to report  
126 and remit the tax on certain transient rentals;  
127 providing requirements, procedures, and limitations;  
128 requiring the Department of Revenue to provide for an  
129 amnesty for certain unpaid taxes, penalties, and



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130 interest; providing criteria for qualifying for the  
131 amnesty; providing exclusions from application of the  
132 amnesty; authorizing the department to adopt emergency  
133 rules to implement the amnesty; providing for the  
134 effective period of such rules; providing an effective  
135 date.