

1 A bill to be entitled

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

5
6 Section 1. Subsection (2) of section 212.03, Florida
7 Statutes, is amended to read:

8 212.03 Transient rentals tax; rate, procedure,
9 enforcement, exemptions.—

10 (2) (a) The tax provided for herein shall be in addition to
11 the total amount of the rental, shall be charged by the lessor
12 or person receiving the rent in and by said rental arrangement
13 to the lessee or person paying the rental, and shall be due and
14 payable at the time of the receipt of such rental payment by the
15 lessor or person, as defined in this chapter, who receives said
16 rental or payment. The owner, lessor, or person receiving the
17 rent shall remit the tax to the department at the times and in
18 the manner hereinafter provided for dealers to remit taxes under
19 this chapter. The same duties imposed by this chapter upon
20 dealers in tangible personal property respecting the collection
21 and remission of the tax; the making of returns; the keeping of
22 books, records, and accounts; and the compliance with the rules
23 and regulations of the department in the administration of this
24 chapter shall apply to and be binding upon all persons who
25 manage or operate hotels, apartment houses, roominghouses,

26 | tourist and trailer camps, and the rental of condominium units,
 27 | and to all persons who collect or receive such rents on behalf
 28 | of such owner or lessor taxable under this chapter.

29 | (b) If a guest uses a payment system on or through an
 30 | advertising platform, as defined in s. 509.013, to pay for the
 31 | rental of a vacation rental located in this state, the
 32 | advertising platform shall collect and remit taxes as provided
 33 | in this paragraph.

34 | 1. An advertising platform, as defined in s. 509.013, that
 35 | owns, operates or manages a vacation rental or that is related
 36 | within the meaning of s. 1504, s. 267(b), or s. 707(b) of the
 37 | Internal Revenue Code of 1986, to a person that owns, operates,
 38 | or manages a vacation rental shall collect and remit all taxes
 39 | due under this section and ss. 125.0104, 125.0108, 205.044,
 40 | 212.0305, and 212.055 related to the rental.

41 | 2. An advertising platform to which subparagraph 1. does
 42 | not apply shall collect and remit all taxes due from the owner,
 43 | operator or manager under this section and ss. 125.0104,
 44 | 125.0108, 205.044, 212.0305, and 212.055 related to the rental.
 45 | Of the total amount paid by the lessee or rentee, the amount
 46 | retained by the advertising platform for reservation or payment
 47 | service is not taxable under this section and ss. 125.0104,
 48 | 125.0108, 205.044, 212.0305, and 212.055.

49 |

50 In order to facilitate the remittance of such taxes, the
 51 department and jurisdictions that require such taxes to be
 52 remitted must allow advertising platforms to register, collect,
 53 and remit such taxes.

54
 55 Section 2. Section 509.013, Florida Statutes, is amended
 56 to read:

57 509.013 Definitions.—As used in this chapter, the term:

58 (1) "Advertising platform" means a person who:

59 (a) Provides an online application, software, website, or
 60 system through which a vacation rental located in this state is
 61 advertised or held out to the public as available to rent for
 62 transient occupancy;

63 (b) Provides or maintains a marketplace for the renting by
 64 transient occupancy of a vacation rental; and

65 (c) Provides a reservation or payment system that
 66 facilitates a transaction for the renting by transient occupancy
 67 of a vacation rental and for which the person collects or
 68 receives, directly or indirectly, a fee in connection with the
 69 reservation or payment service provided for such transaction.

70 (2)~~(6)~~ "Director" means the Director of the Division of
 71 Hotels and Restaurants of the Department of Business and
 72 Professional Regulation.

73 (3)~~(1)~~ "Division" means the Division of Hotels and
 74 Restaurants of the Department of Business and Professional

75 Regulation.

76 (4)~~(3)~~ "Guest" means any patron, customer, tenant, lodger,
77 boarder, or occupant of a public lodging establishment or public
78 food service establishment.

79 (5)~~(16)~~ "Nontransient" means a guest in nontransient
80 occupancy.

81 (6)~~(14)~~ "Nontransient establishment" means any public
82 lodging establishment that is rented or leased to guests by an
83 operator whose intention is that the dwelling unit occupied will
84 be the sole residence of the guest.

85 (7)~~(15)~~ "Nontransient occupancy" means occupancy when it
86 is the intention of the parties that the occupancy will not be
87 temporary. There is a rebuttable presumption that, when the
88 dwelling unit occupied is the sole residence of the guest, the
89 occupancy is nontransient.

90 (8)~~(2)~~ "Operator" means the owner, licensee, proprietor,
91 lessee, manager, assistant manager, or appointed agent of a
92 public lodging establishment or public food service
93 establishment.

94 (9) (a)~~(4) (a)~~ "Public lodging establishment" includes a
95 transient public lodging establishment as defined in
96 subparagraph 1. and a nontransient public lodging establishment
97 as defined in subparagraph 2.

98 1. "Transient public lodging establishment" means any
99 unit, group of units, dwelling, building, or group of buildings

100 within a single complex of buildings which is rented to guests
 101 more than three times in a calendar year for periods of less
 102 than 30 days or 1 calendar month, whichever is less, or which is
 103 advertised or held out to the public as a place regularly rented
 104 to guests.

105 2. "Nontransient public lodging establishment" means any
 106 unit, group of units, dwelling, building, or group of buildings
 107 within a single complex of buildings which is rented to guests
 108 for periods of at least 30 days or 1 calendar month, whichever
 109 is less, or which is advertised or held out to the public as a
 110 place regularly rented to guests for periods of at least 30 days
 111 or 1 calendar month.

112
 113 License classifications of public lodging establishments, and
 114 the definitions therefor, are set out in s. 509.242. For the
 115 purpose of licensure, the term does not include condominium
 116 common elements as defined in s. 718.103.

117 (b) The following are excluded from the definitions in
 118 paragraph (a):

119 1. Any dormitory or other living or sleeping facility
 120 maintained by a public or private school, college, or university
 121 for the use of students, faculty, or visitors.

122 2. Any facility certified or licensed and regulated by the
 123 Agency for Health Care Administration or the Department of
 124 Children and Families or other similar place regulated under s.

125 | 381.0072.

126 | 3. Any place renting four rental units or less, unless the
127 | rental units are advertised or held out to the public to be
128 | places that are regularly rented to transients.

129 | 4. Any unit or group of units in a condominium,
130 | cooperative, or timeshare plan and any individually or
131 | collectively owned one-family, two-family, three-family, or
132 | four-family dwelling house or dwelling unit that is rented for
133 | periods of at least 30 days or 1 calendar month, whichever is
134 | less, and that is not advertised or held out to the public as a
135 | place regularly rented for periods of less than 1 calendar
136 | month, provided that no more than four rental units within a
137 | single complex of buildings are available for rent.

138 | 5. Any migrant labor camp or residential migrant housing
139 | permitted by the Department of Health under ss. 381.008-
140 | 381.00895.

141 | 6. Any establishment inspected by the Department of Health
142 | and regulated by chapter 513.

143 | 7. Any nonprofit organization that operates a facility
144 | providing housing only to patients, patients' families, and
145 | patients' caregivers and not to the general public.

146 | 8. Any apartment building inspected by the United States
147 | Department of Housing and Urban Development or other entity
148 | acting on the department's behalf that is designated primarily
149 | as housing for persons at least 62 years of age. The division

150 may require the operator of the apartment building to attest in
 151 writing that such building meets the criteria provided in this
 152 subparagraph. The division may adopt rules to implement this
 153 requirement.

154 9. Any roominghouse, boardinghouse, or other living or
 155 sleeping facility that may not be classified as a hotel, motel,
 156 timeshare project, vacation rental, nontransient apartment, bed
 157 and breakfast inn, or transient apartment under s. 509.242.

158 (10) (a) ~~(5) (a)~~ "Public food service establishment" means
 159 any building, vehicle, place, or structure, or any room or
 160 division in a building, vehicle, place, or structure where food
 161 is prepared, served, or sold for immediate consumption on or in
 162 the vicinity of the premises; called for or taken out by
 163 customers; or prepared before ~~prior to~~ being delivered to
 164 another location for consumption. The term includes a culinary
 165 education program, as defined in s. 381.0072(2), which offers,
 166 prepares, serves, or sells food to the general public,
 167 regardless of whether it is inspected by another state agency
 168 for compliance with sanitation standards.

169 (b) The following are excluded from the definition in
 170 paragraph (a):

- 171 1. Any place maintained and operated by a public or
- 172 private school, college, or university:
 - 173 a. For the use of students and faculty; or
 - 174 b. Temporarily to serve such events as fairs, carnivals,

175 food contests, cook-offs, and athletic contests.

176 2. Any eating place maintained and operated by a church or
177 a religious, nonprofit fraternal, or nonprofit civic
178 organization:

179 a. For the use of members and associates; or

180 b. Temporarily to serve such events as fairs, carnivals,
181 food contests, cook-offs, or athletic contests.

182

183 Upon request by the division, a church or a religious, nonprofit
184 fraternal, or nonprofit civic organization claiming an exclusion
185 under this subparagraph must provide the division documentation
186 of its status as a church or a religious, nonprofit fraternal,
187 or nonprofit civic organization.

188 3. Any eating place maintained and operated by an
189 individual or entity at a food contest, cook-off, or a temporary
190 event lasting from 1 to 3 days which is hosted by a church or a
191 religious, nonprofit fraternal, or nonprofit civic organization.
192 Upon request by the division, the event host must provide the
193 division documentation of its status as a church or a religious,
194 nonprofit fraternal, or nonprofit civic organization.

195 4. Any eating place located on an airplane, train, bus, or
196 watercraft which is a common carrier.

197 5. Any eating place maintained by a facility certified or
198 licensed and regulated by the Agency for Health Care
199 Administration or the Department of Children and Families or

200 other similar place that is regulated under s. 381.0072.

201 6. Any place of business issued a permit or inspected by
202 the Department of Agriculture and Consumer Services under s.
203 500.12.

204 7. Any place of business where the food available for
205 consumption is limited to ice, beverages with or without
206 garnishment, popcorn, or prepackaged items sold without
207 additions or preparation.

208 8. Any theater, if the primary use is as a theater and if
209 patron service is limited to food items customarily served to
210 the admittees of theaters.

211 9. Any vending machine that dispenses any food or
212 beverages other than potentially hazardous foods, as defined by
213 division rule.

214 10. Any vending machine that dispenses potentially
215 hazardous food and which is located in a facility regulated
216 under s. 381.0072.

217 11. Any research and development test kitchen limited to
218 the use of employees and which is not open to the general
219 public.

220 (11)~~(7)~~ "Single complex of buildings" means all buildings
221 or structures that are owned, managed, controlled, or operated
222 under one business name and are situated on the same tract or
223 plot of land that is not separated by a public street or
224 highway.

225 (12)~~(8)~~ "Temporary food service event" means any event of
 226 30 days or less in duration where food is prepared, served, or
 227 sold to the general public.

228 (13)~~(9)~~ "Theme park or entertainment complex" means a
 229 complex comprised of at least 25 contiguous acres owned and
 230 controlled by the same business entity and which contains
 231 permanent exhibitions and a variety of recreational activities
 232 and has a minimum of 1 million visitors annually.

233 (14)~~(10)~~ "Third-party provider" means, for purposes of s.
 234 509.049, any provider of an approved food safety training
 235 program that provides training or such a training program to a
 236 public food service establishment that is not under common
 237 ownership or control with the provider.

238 (15)~~(13)~~ "Transient" means a guest in transient occupancy.

239 (16)~~(11)~~ "Transient establishment" means any public
 240 lodging establishment that is rented or leased to guests by an
 241 operator whose intention is that such guests' occupancy will be
 242 temporary.

243 (17)~~(12)~~ "Transient occupancy" means occupancy when it is
 244 the intention of the parties that the occupancy will be
 245 temporary. There is a rebuttable presumption that, when the
 246 dwelling unit occupied is not the sole residence of the guest,
 247 the occupancy is transient.

248 Section 3. Effective January 1, 2021, section 509.243,
 249 Florida Statutes, is created to read:

250 509.243 Advertising platforms.-
 251 (1) (a) An advertising platform must require that a person
 252 who places an advertisement for the rental of a vacation rental
 253 for transient occupancy:
 254 1. Include in the advertisement the vacation rental
 255 license number and the applicable Florida sales tax registration
 256 and tourist development tax account numbers under which such
 257 taxes must be paid before the advertisement may be listed; and
 258 2. Attest to the best of his or her knowledge that the
 259 vacation rental license number and the applicable Florida sales
 260 tax registration and tourist development tax account numbers are
 261 current, valid, and accurately stated in the advertisement.
 262 (b) An advertising platform must display the vacation
 263 rental license number and the applicable Florida sales tax
 264 registration and tourist development tax account numbers. The
 265 advertising platform must verify that the vacation rental
 266 license number provided by the owner or operator is valid and
 267 applies to the subject vacation rental before publishing the
 268 advertisement on its platform and again at the end of each
 269 calendar quarter that the advertisement remains on its platform.
 270 (c) The division shall maintain vacation rental license
 271 information in a readily accessible electronic format that is
 272 sufficient to facilitate prompt compliance with the requirements
 273 of this subsection by an advertising platform or a person
 274 placing an advertisement on an advertising platform for rental

275 of a vacation rental for transient occupancy.

276 (2) An advertising platform must provide to the division
277 on a quarterly basis, by file transfer protocol or electronic
278 data exchange file, a list of all vacation rentals located in
279 this state that are advertised on its platform, along with the
280 following information for each vacation rental:

281 (a) The uniform resource locator for the Internet address
282 of the vacation rental advertisement.

283 (b) Unless otherwise stated in the vacation rental
284 advertisement at the Internet address provided pursuant to
285 paragraph (a), the physical address of the vacation rental,
286 including any unit designation, the vacation rental license
287 number provided by the owner or operator, and the applicable
288 Florida sales tax registration and tourist development tax
289 account numbers under which taxes will be remitted for the
290 rentals commenced through the advertisement.

291 (3) An advertising platform must remove from public view
292 an advertisement from its online application, software, website,
293 or system within 15 business days after being notified by the
294 division in writing that the subject advertisement for the
295 rental of a vacation rental located in this state fails to
296 display a valid vacation rental license number issued by the
297 division.

298 (4) If a guest uses a payment system on or through an
299 advertising platform to pay for the rental of a vacation rental

300 located in this state, the advertising platform shall collect
301 and remit all taxes due under ss. 125.0104, 125.0108, 205.044,
302 212.03, 212.0305, and 212.055 related to the rental as provided
303 in s. 212.03(2)(b).

304 (5) If the division has probable cause to believe that a
305 person not licensed by the division has violated this chapter,
306 or any rule adopted pursuant to this chapter, the division may
307 issue and deliver to such person a notice to cease and desist
308 from the violation. The issuance of a notice to cease and desist
309 does not constitute agency action for which a hearing under ss.
310 120.569 and 120.57 may be sought. For the purpose of enforcing a
311 cease and desist notice, the division may file a proceeding in
312 the name of the state seeking the issuance of an injunction or a
313 writ of mandamus against any person who violates any provision
314 of the notice. If the department is required to seek enforcement
315 of the notice for a penalty pursuant to s. 120.569, it is
316 entitled to collect its attorney fees and costs, together with
317 any cost of collection.

318 (6) Advertising platforms must adopt an antidiscrimination
319 policy to help prevent discrimination among their users and must
320 inform all users of their services that it is illegal to refuse
321 accommodation to an individual based on race, creed, color, sex,
322 pregnancy, physical disability, or national origin pursuant to
323 s. 509.092.

324 Section 4. Except as otherwise expressly provided in this

325 | act, this act shall take effect upon becoming a law. |