

By Senator Grant

13-339A-98

1 A bill to be entitled
2 An act relating to the tax on sales, use, and
3 other transactions; amending s. 212.031, F.S.;
4 excluding certain pass-through charges on
5 commercial real estate leases from such taxes;
6 providing an effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Paragraph (c) of subsection (1) of section
11 212.031, Florida Statutes, is amended to read:

12 212.031 Lease or rental of or license in real
13 property.--

14 (1)

15 (c) For the exercise of such privilege, as tax is
16 levied in an amount equal to 6 percent of and on the total
17 rent or license fee charged for such real property by the
18 person charging or collecting the rental or license fee. The
19 total rent or license fee charged for such real property shall
20 include payments for the granting of a privilege to use or
21 occupy real property for any purpose and shall include base
22 rent, percentage rents, or similar charges. Such charges shall
23 be included in the total rent or license fee subject to tax
24 under this section whether or not they can be attributed to
25 the ability of the lessor's or licensor's property as used or
26 operated to attract customers. For purposes of this paragraph,
27 the term "total rent or license fee" does not include ad
28 valorem taxes, maintenance charges, or insurance premiums paid
29 for the benefit and protection of the landlord when the
30 proportionate share of each of those items is separately
31 billed on an invoice by the landlord. Payments for

1 intrinsically valuable personal property such as franchises,
2 trademarks, service marks, logos, or patents are not subject
3 to tax under this section. In the case of a contractual
4 arrangement that provides for both payments taxable as total
5 rent or license fee and payments not subject to tax, the tax
6 shall be based on a reasonable allocation of such payments and
7 shall not apply to that portion which is for the nontaxable
8 payments.

9 Section 2. This act shall take effect July 1, 1998.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

SENATE SUMMARY

Provides that the total rent and license fee for a commercial real estate lease subject to the sales tax does not include a proportionate share of pass-through charges comprised of ad valorem taxes, maintenance charges, and certain insurance premiums.