

By Representative Tamargo

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.

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

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 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.

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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.