

By Senator Grant

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A bill to be entitled

An act relating to the tax on sales, use, and other transactions; amending s. 212.031, F.S.; excluding certain pass-through charges on commercial real estate leases from such taxes; providing an effective date.

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

Section 1. Paragraph (c) of subsection (1) of section 212.031, Florida Statutes, 1998 Supplement, is amended to read:

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

(1)

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

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

10 Section 2. This act shall take effect July 1, 1999.

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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.