

By Senator Horne

6-202-00

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           providing exemptions from the tax on renting,  
5           leasing, letting, or granting a license for the  
6           use of real property; amending s. 212.04, F.S.;  
7           providing exemptions from the tax on  
8           admissions; providing for the due date of the  
9           tax on admissions for events at specified  
10          facilities; providing retroactive relief to  
11          certain taxpayers; providing an effective date.  
12  
13          WHEREAS, the promotion of business within the state  
14          serves the interests of Florida generally, and  
15          WHEREAS, enhanced business activity within the State of  
16          Florida results in the generation of greater revenues to the  
17          state, and  
18          WHEREAS, government has a vested interest in assuring  
19          that facilities are able to attract entertainment, the arts,  
20          and cultural events for the general public, and  
21          WHEREAS, the facilities to which this act applies  
22          provide thousands of jobs and countless hours of leisure  
23          relaxation to patrons and tourists, NOW, THEREFORE,  
24  
25          Be It Enacted by the Legislature of the State of Florida:  
26  
27          Section 1. Paragraph (a) of subsection (1) and  
28          subsection (3) of section 212.031, Florida Statutes, are  
29          amended, and subsection (10) is added to that section, to  
30          read:  
31

1           212.031 Lease or rental of or license in real  
2 property.--

3           (1)(a) It is declared to be the legislative intent  
4 that every person is exercising a taxable privilege who  
5 engages in the business of renting, leasing, letting, or  
6 granting a license for the use of any real property unless  
7 such property is:

8           1. Assessed as agricultural property under s. 193.461.

9           2. Used exclusively as dwelling units.

10           3. Property subject to tax on parking, docking, or  
11 storage spaces under s. 212.03(6).

12           4. Recreational property or the common elements of a  
13 condominium when subject to a lease between the developer or  
14 owner thereof and the condominium association in its own right  
15 or as agent for the owners of individual condominium units or  
16 the owners of individual condominium units. However, only the  
17 lease payments on such property shall be exempt from the tax  
18 imposed by this chapter, and any other use made by the owner  
19 or the condominium association shall be fully taxable under  
20 this chapter.

21           5. A public or private street or right-of-way and  
22 poles, conduits, fixtures, and similar improvements located on  
23 such streets or rights-of-way, occupied or used by a utility  
24 or franchised cable television company for utility or  
25 communications or television purposes. For purposes of this  
26 subparagraph, the term "utility" means any person providing  
27 utility services as defined in s. 203.012. This exception also  
28 applies to property, excluding buildings, wherever located, on  
29 which antennas, cables, adjacent accessory structures, or  
30 adjacent accessory equipment used in the provision of

31

1 cellular, enhanced specialized mobile radio, or personal  
2 communications services are placed.

3 6. A public street or road which is used for  
4 transportation purposes.

5 7. Property used at an airport exclusively for the  
6 purpose of aircraft landing or aircraft taxiing or property  
7 used by an airline for the purpose of loading or unloading  
8 passengers or property onto or from aircraft or for fueling  
9 aircraft.

10 8.a. Property used at a port authority, as defined in  
11 s. 315.02(2), exclusively for the purpose of oceangoing  
12 vessels or tugs docking, or such vessels mooring on property  
13 used by a port authority for the purpose of loading or  
14 unloading passengers or cargo onto or from such a vessel, or  
15 property used at a port authority for fueling such vessels, or  
16 to the extent that the amount paid for the use of any property  
17 at the port is based on the charge for the amount of tonnage  
18 actually imported or exported through the port by a tenant.

19 b. The amount charged for the use of any property at  
20 the port in excess of the amount charged for tonnage actually  
21 imported or exported shall remain subject to tax except as  
22 provided in sub-subparagraph a.

23 9. Property used as an integral part of the  
24 performance of qualified production services. As used in this  
25 subparagraph, the term "qualified production services" means  
26 any activity or service performed directly in connection with  
27 the production of a qualified motion picture, as defined in s.  
28 212.06(1)(b), and includes:

29 a. Photography, sound and recording, casting, location  
30 managing and scouting, shooting, creation of special and  
31 optical effects, animation, adaptation (language, media,

1 | electronic, or otherwise), technological modifications,  
2 | computer graphics, set and stage support (such as  
3 | electricians, lighting designers and operators, greensmen,  
4 | prop managers and assistants, and grips), wardrobe (design,  
5 | preparation, and management), hair and makeup (design,  
6 | production, and application), performing (such as acting,  
7 | dancing, and playing), designing and executing stunts,  
8 | coaching, consulting, writing, scoring, composing,  
9 | choreographing, script supervising, directing, producing,  
10 | transmitting dailies, dubbing, mixing, editing, cutting,  
11 | looping, printing, processing, duplicating, storing, and  
12 | distributing;

13 |         b. The design, planning, engineering, construction,  
14 | alteration, repair, and maintenance of real or personal  
15 | property including stages, sets, props, models, paintings, and  
16 | facilities principally required for the performance of those  
17 | services listed in sub-subparagraph a.; and

18 |         c. Property management services directly related to  
19 | property used in connection with the services described in  
20 | sub-subparagraphs a. and b.

21 |         10. Leased, subleased, licensed, or rented to a person  
22 | providing food and drink concessionaire services within the  
23 | premises of a convention hall, exhibition hall, auditorium,  
24 | stadium, theater, arena, civic center, performing arts center,  
25 | recreational facility, or any business operated under a permit  
26 | issued pursuant to chapter 550. A person providing retail  
27 | concessionaire services involving the sale of food and drink  
28 | or other tangible personal property within the premises of an  
29 | airport shall be subject to tax on the rental of real property  
30 | used for that purpose, but shall not be subject to the tax on  
31 | any license to use the property. For purposes of this

1 subparagraph, the term "sale" shall not include the leasing of  
2 tangible personal property.

3 11. Property occupied pursuant to an instrument  
4 calling for payments which the department has declared, in a  
5 Technical Assistance Advisement issued on or before March 15,  
6 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c),  
7 Florida Administrative Code; provided that this subparagraph  
8 shall only apply to property occupied by the same person  
9 before and after the execution of the subject instrument and  
10 only to those payments made pursuant to such instrument,  
11 exclusive of renewals and extensions thereof occurring after  
12 March 15, 1993.

13 12. Rented, leased, subleased, or licensed to a  
14 concessionaire by a convention hall, exhibition hall,  
15 auditorium, stadium, theater, arena, civic center, performing  
16 arts center, or recreational facility, during an event at the  
17 facility, to be used by the concessionaire to sell souvenirs,  
18 novelties, or other event-related products. This subparagraph  
19 applies only to that portion of the rental, lease, or license  
20 payment which is based on a percentage of sales and not based  
21 on a fixed price.

22 (3) The tax imposed by this section shall be in  
23 addition to the total amount of the rental or license fee,  
24 shall be charged by the lessor or person receiving the rent or  
25 payment in and by a rental or license fee arrangement with the  
26 lessee or person paying the rental or license fee, and shall  
27 be due and payable at the time of the receipt of such rental  
28 or license fee payment by the lessor or other person who  
29 receives the rental or payment. Notwithstanding any other  
30 provision of this chapter, the tax imposed by this section on  
31 the rental, lease, or license for the use of a convention

1 hall, exhibition hall, auditorium, stadium, theater, arena,  
2 civic center, performing arts center, or recreational facility  
3 to hold an event of not more than 7 consecutive days' duration  
4 shall be collected at the time of the payment for that rental,  
5 lease, or license but is not due and payable to the department  
6 until the first day of the month following the actual date of  
7 the event for which the payment is made and becomes delinquent  
8 on the 21st day of that month.The owner, lessor, or person  
9 receiving the rent or license fee shall remit the tax to the  
10 department at the times and in the manner hereinafter provided  
11 for dealers to remit taxes under this chapter. The same  
12 duties imposed by this chapter upon dealers in tangible  
13 personal property respecting the collection and remission of  
14 the tax; the making of returns; the keeping of books, records,  
15 and accounts; and the compliance with the rules and  
16 regulations of the department in the administration of this  
17 chapter shall apply to and be binding upon all persons who  
18 manage any leases or operate real property, hotels, apartment  
19 houses, roominghouses, or tourist and trailer camps and all  
20 persons who collect or receive rents or license fees taxable  
21 under this chapter on behalf of owners or lessors.

22 (10) Separately stated charges imposed by a convention  
23 hall, exhibition hall, auditorium, stadium, theater, arena,  
24 civic center, performing arts center, or recreational facility  
25 upon a lessee or licensee for food, drink, or services  
26 required or available in connection with a lease or license to  
27 use real property, including charges for laborers, stagehands,  
28 ticket takers, event staff, security personnel, cleaning  
29 staff, and other event-related personnel, advertising, and  
30 credit card processing are exempt from the tax imposed by this  
31 section.

1           Section 2. Paragraph (b) of subsection (1), paragraph  
2 (a) of subsection (2), and subsection (3) or section 212.04,  
3 Florida Statutes, are amended to read:

4           212.04 Admissions tax; rate, procedure, enforcement.--

5           (1)

6           (b) For the exercise of such privilege, a tax is  
7 levied at the rate of 6 percent of sales price, or the actual  
8 value received from such admissions, which 6 percent shall be  
9 added to and collected with all such admissions from the  
10 purchaser thereof, and such tax shall be paid for the exercise  
11 of the privilege as defined in the preceding paragraph. Each  
12 ticket must show on its face the actual sales price of the  
13 admission, or each dealer selling the admission must  
14 prominently display at the box office or other place where the  
15 admission charge is made a notice disclosing the price of the  
16 admission, and the tax shall be computed and collected on the  
17 basis of the actual price of the admission charged by the  
18 dealer. The sale price or actual value of admission shall,  
19 for the purpose of this chapter, be that price remaining after  
20 deduction of federal taxes and state or locally imposed or  
21 authorized seat surcharges, taxes, or fees, if any, imposed  
22 upon such admission. The sale price or actual value does not  
23 include separately stated ticket-service charges that are  
24 imposed by a facility ticket office or a ticketing service and  
25 added to a separately stated, established ticket price.~~7~~ ~~and~~  
26 The rate of tax on each admission shall be according to the  
27 brackets established by s. 212.12(9).

28           (2)(a)1. No tax shall be levied on admissions to  
29 athletic or other events sponsored by elementary schools,  
30 junior high schools, middle schools, high schools, community  
31 colleges, public or private colleges and universities, deaf

1 and blind schools, facilities of the youth services programs  
2 of the Department of Children and Family Services, and state  
3 correctional institutions when only student, faculty, or  
4 inmate talent is used. However, this exemption shall not apply  
5 to admission to athletic events sponsored by an institution  
6 within the State University System, and the proceeds of the  
7 tax collected on such admissions shall be retained and used by  
8 each institution to support women's athletics as provided in  
9 s. 240.533(3)(c).

10 2.a. No tax shall be levied on dues, membership fees,  
11 and admission charges imposed by not-for-profit sponsoring  
12 organizations. To receive this exemption, the sponsoring  
13 organization must qualify as a not-for-profit entity under the  
14 provisions of s. 501(c)(3) of the Internal Revenue Code of  
15 1954, as amended.

16 b. No tax imposed by this section and not actually  
17 collected before August 1, 1992, shall be due from any museum  
18 or historic building owned by any political subdivision of the  
19 state.

20 c. A tax may not be levied on admission charges to an  
21 event sponsored by a government-owned convention hall,  
22 exhibition hall, auditorium, stadium, theater, arena, civic  
23 center, performing arts center, or recreational facility when  
24 100 percent of the risk of success or failure lies with the  
25 governmental entity sponsoring the event and 100 percent of  
26 the funds at risk for the event belong to the facility and  
27 student or faculty talent is not exclusively used.

28 3. No tax shall be levied on an admission paid by a  
29 student, or on the student's behalf, to any required place of  
30 sport or recreation if the student's participation in the  
31 sport or recreational activity is required as a part of a

1 program or activity sponsored by, and under the jurisdiction  
2 of, the student's educational institution, provided his or her  
3 attendance is as a participant and not as a spectator.

4 4. No tax shall be levied on admissions to the  
5 National Football League championship game, on admissions to  
6 any semifinal game or championship game of a national  
7 collegiate tournament, or on admissions to a Major League  
8 Baseball all-star game.

9 5. A participation fee or sponsorship fee imposed by a  
10 governmental entity as described in s. 212.08(6) for an  
11 athletic or recreational program is exempt when the  
12 governmental entity by itself, or in conjunction with an  
13 organization exempt under s. 501(c)(3) of the Internal Revenue  
14 Code of 1954, as amended, sponsors, administers, plans,  
15 supervises, directs, and controls the athletic or recreational  
16 program.

17 6. Also exempt from the tax imposed by this section to  
18 the extent provided in this subparagraph are admissions to  
19 live theater, live opera, or live ballet productions in this  
20 state which are sponsored by an organization that has received  
21 a determination from the Internal Revenue Service that the  
22 organization is exempt from federal income tax under s.  
23 501(c)(3) of the Internal Revenue Code of 1954, as amended, if  
24 the organization actively participates in planning and  
25 conducting the event, is responsible for the safety and  
26 success of the event, is organized for the purpose of  
27 sponsoring live theater, live opera, or live ballet  
28 productions in this state, has more than 10,000 subscribing  
29 members and has among the stated purposes in its charter the  
30 promotion of arts education in the communities which it  
31 serves, and will receive at least 20 percent of the net

1 profits, if any, of the events which the organization sponsors  
2 and will bear the risk of at least 20 percent of the losses,  
3 if any, from the events which it sponsors if the organization  
4 employs other persons as agents to provide services in  
5 connection with a sponsored event. Prior to March 1 of each  
6 year, such organization may apply to the department for a  
7 certificate of exemption for admissions to such events  
8 sponsored in this state by the organization during the  
9 immediately following state fiscal year. The application shall  
10 state the total dollar amount of admissions receipts collected  
11 by the organization or its agents from such events in this  
12 state sponsored by the organization or its agents in the year  
13 immediately preceding the year in which the organization  
14 applies for the exemption. Such organization shall receive the  
15 exemption only to the extent of \$1.5 million multiplied by the  
16 ratio that such receipts bear to the total of such receipts of  
17 all organizations applying for the exemption in such year;  
18 however, in no event shall such exemption granted to any  
19 organization exceed 6 percent of such admissions receipts  
20 collected by the organization or its agents in the year  
21 immediately preceding the year in which the organization  
22 applies for the exemption. Each organization receiving the  
23 exemption shall report each month to the department the total  
24 admissions receipts collected from such events sponsored by  
25 the organization during the preceding month and shall remit to  
26 the department an amount equal to 6 percent of such receipts  
27 reduced by any amount remaining under the exemption. Tickets  
28 for such events sold by such organizations shall not reflect  
29 the tax otherwise imposed under this section.

30  
31

1           7. Also exempt from the tax imposed by this section  
2 are entry fees for participation in freshwater fishing  
3 tournaments.

4           8. Also exempt from the tax imposed by this section  
5 are participation or entry fees charged to participants in a  
6 game, race, or other sport or recreational event if spectators  
7 are charged a taxable admission to such event.

8           9. No tax shall be levied on admissions to any  
9 postseason collegiate football game sanctioned by the National  
10 Collegiate Athletic Association.

11           (3) Such taxes shall be paid and remitted at the same  
12 time and in the same manner as provided for remitting taxes on  
13 sales of tangible personal property, as hereinafter provided.  
14 Notwithstanding any other provision of this chapter, the tax  
15 on admission to an event at a convention hall, exhibition  
16 hall, auditorium, stadium, theater, arena, civic center,  
17 performing arts center, or recreational facility shall be  
18 collected at the time of payment for the admission but is not  
19 due to the department until the first day of the month  
20 following the actual date of the event for which the admission  
21 is sold and becomes delinquent on the 21st day of that month.

22           Section 3. Any tax imposed under chapter 212, Florida  
23 Statutes, on the transactions exempted under this act and not  
24 actually paid or collected by a taxpayer before July 1, 2000,  
25 is not due from the taxpayer. However, any tax actually  
26 collected must be remitted to the Department of Revenue, and  
27 no refund is due.

28           Section 4. This act shall take effect July 1, 2000.  
29  
30  
31

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

\*\*\*\*\*

SENATE SUMMARY

Relates to the tax on sales, use, and other transactions. Provides exemptions from the tax on renting, leasing, letting, or granting a license for the use of real property. Provides exemptions from the tax on admissions. Provides the due date of the tax on admissions for events at specified facilities. Provides retroactive relief to certain taxpayers.