

By the Committee on Fiscal Resource and Senators Horne, Cowin, Geller, Hargrett, King, Grant and Diaz-Balart

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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.; providing exemptions from the tax on renting, leasing, letting, or granting a license for the use of real property; amending s. 212.04, F.S.; providing exemptions from the tax on admissions; including a sports authority or a sports commission as sponsors of an event; providing a definition; providing for the due date of the tax on admissions for events at specified facilities; specifying that the exemptions are provided to publicly owned facilities; providing retroactive relief to certain taxpayers; providing an effective date.

WHEREAS, the promotion of business within the state serves the interests of Florida generally, and

WHEREAS, enhanced business activity within the State of Florida results in the generation of greater revenues to the state, and

WHEREAS, government has a vested interest in assuring that facilities are able to attract entertainment, the arts, and cultural events for the general public, and

WHEREAS, the facilities to which this act applies provide thousands of jobs and countless hours of leisure relaxation to patrons and tourists, NOW, THEREFORE,

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

1 Section 1. Paragraph (a) of subsection (1) and
2 subsection (3) of section 212.031, Florida Statutes, are
3 amended, and subsection (10) is added to that section, to
4 read:

5 212.031 Lease or rental of or license in real
6 property.--

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

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

13 2. Used exclusively as dwelling units.

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

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

25 5. A public or private street or right-of-way and
26 poles, conduits, fixtures, and similar improvements located on
27 such streets or rights-of-way, occupied or used by a utility
28 or franchised cable television company for utility or
29 communications or television purposes. For purposes of this
30 subparagraph, the term "utility" means any person providing
31 utility services as defined in s. 203.012. This exception also

1 applies to property, excluding buildings, wherever located, on
2 which antennas, cables, adjacent accessory structures, or
3 adjacent accessory equipment used in the provision of
4 cellular, enhanced specialized mobile radio, or personal
5 communications services are placed.

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

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

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

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

26 9. Property used as an integral part of the
27 performance of qualified production services. As used in this
28 subparagraph, the term "qualified production services" means
29 any activity or service performed directly in connection with
30 the production of a qualified motion picture, as defined in s.
31 212.06(1)(b), and includes:

1 a. Photography, sound and recording, casting, location
2 managing and scouting, shooting, creation of special and
3 optical effects, animation, adaptation (language, media,
4 electronic, or otherwise), technological modifications,
5 computer graphics, set and stage support (such as
6 electricians, lighting designers and operators, greensmen,
7 prop managers and assistants, and grips), wardrobe (design,
8 preparation, and management), hair and makeup (design,
9 production, and application), performing (such as acting,
10 dancing, and playing), designing and executing stunts,
11 coaching, consulting, writing, scoring, composing,
12 choreographing, script supervising, directing, producing,
13 transmitting dailies, dubbing, mixing, editing, cutting,
14 looping, printing, processing, duplicating, storing, and
15 distributing;

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

21 c. Property management services directly related to
22 property used in connection with the services described in
23 sub-subparagraphs a. and b.

24 10. Leased, subleased, licensed, or rented to a person
25 providing food and drink concessionaire services within the
26 premises of a convention hall, exhibition hall, auditorium,
27 stadium, theater, arena, civic center, performing arts center,
28 publicly owned recreational facility, or any business operated
29 under a permit issued pursuant to chapter 550. A person
30 providing retail concessionaire services involving the sale of
31 food and drink or other tangible personal property within the

1 premises of an airport shall be subject to tax on the rental
2 of real property used for that purpose, but shall not be
3 subject to the tax on any license to use the property. For
4 purposes of this subparagraph, the term "sale" shall not
5 include the leasing of tangible personal property.

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

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

25 (3) The tax imposed by this section shall be in
26 addition to the total amount of the rental or license fee,
27 shall be charged by the lessor or person receiving the rent or
28 payment in and by a rental or license fee arrangement with the
29 lessee or person paying the rental or license fee, and shall
30 be due and payable at the time of the receipt of such rental
31 or license fee payment by the lessor or other person who

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

26 (10) Separately stated charges imposed by a convention
27 hall, exhibition hall, auditorium, stadium, theater, arena,
28 civic center, performing arts center, or publicly owned
29 recreational facility upon a lessee or licensee for food,
30 drink, or services required or available in connection with a
31 lease or license to use real property, including charges for

1 laborers, stagehands, ticket takers, event staff, security
2 personnel, cleaning staff, and other event-related personnel,
3 advertising, and credit card processing are exempt from the
4 tax imposed by this section.

5 Section 2. No tax imposed by chapter 212, Florida
6 Statutes, on the transactions exempted under section 1 of this
7 act, and not actually paid or collected by a taxpayer before
8 the effective date of this act, shall be due from such
9 taxpayer. However, any tax actually collected shall be
10 remitted to the Department of Revenue, and no refund shall be
11 due.

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

15 212.04 Admissions tax; rate, procedure, enforcement.--

16 (1)

17 (b) For the exercise of such privilege, a tax is
18 levied at the rate of 6 percent of sales price, or the actual
19 value received from such admissions, which 6 percent shall be
20 added to and collected with all such admissions from the
21 purchaser thereof, and such tax shall be paid for the exercise
22 of the privilege as defined in the preceding paragraph. Each
23 ticket must show on its face the actual sales price of the
24 admission, or each dealer selling the admission must
25 prominently display at the box office or other place where the
26 admission charge is made a notice disclosing the price of the
27 admission, and the tax shall be computed and collected on the
28 basis of the actual price of the admission charged by the
29 dealer. The sale price or actual value of admission shall,
30 for the purpose of this chapter, be that price remaining after
31 deduction of federal taxes and state or locally imposed or

1 authorized seat surcharges, taxes, or fees, if any, imposed
2 upon such admission. The sale price or actual value does not
3 include separately stated ticket service charges that are
4 imposed by a facility ticket office or a ticketing service and
5 added to a separately stated, established ticket price.,~~and~~
6 The rate of tax on each admission shall be according to the
7 brackets established by s. 212.12(9).

8 (2)(a)1. No tax shall be levied on admissions to
9 athletic or other events sponsored by elementary schools,
10 junior high schools, middle schools, high schools, community
11 colleges, public or private colleges and universities, deaf
12 and blind schools, facilities of the youth services programs
13 of the Department of Children and Family Services, and state
14 correctional institutions when only student, faculty, or
15 inmate talent is used. However, this exemption shall not apply
16 to admission to athletic events sponsored by an institution
17 within the State University System, and the proceeds of the
18 tax collected on such admissions shall be retained and used by
19 each institution to support women's athletics as provided in
20 s. 240.533(3)(c).

21 2.a. No tax shall be levied on dues, membership fees,
22 and admission charges imposed by not-for-profit sponsoring
23 organizations. To receive this exemption, the sponsoring
24 organization must qualify as a not-for-profit entity under the
25 provisions of s. 501(c)(3) of the Internal Revenue Code of
26 1954, as amended.

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

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1 c. A tax may not be levied on admission charges to an
2 event sponsored by a governmental entity, a sports authority,
3 or a sports commission when held in a convention hall,
4 exhibition hall, auditorium, stadium, theater, arena, civic
5 center, performing arts center, or publicly owned recreational
6 facility and when 100 percent of the risk of success or
7 failure lies with the sponsor of the event and 100 percent of
8 the funds at risk for the event belong to the sponsor, and
9 student or faculty talent is not exclusively used. As used in
10 this sub-subparagraph, the terms "sports authority" and
11 "sports commission" mean a nonprofit organization that is
12 exempt from federal income tax under s. 501(c)(3) of the
13 Internal Revenue Code and that contracts with a county or
14 municipal government for the purpose of promoting and
15 attracting sports-tourism events to the community with which
16 it contracts.

17 3. No tax shall be levied on an admission paid by a
18 student, or on the student's behalf, to any required place of
19 sport or recreation if the student's participation in the
20 sport or recreational activity is required as a part of a
21 program or activity sponsored by, and under the jurisdiction
22 of, the student's educational institution, provided his or her
23 attendance is as a participant and not as a spectator.

24 4. No tax shall be levied on admissions to the
25 National Football League championship game, on admissions to
26 any semifinal game or championship game of a national
27 collegiate tournament, or on admissions to a Major League
28 Baseball all-star game.

29 5. A participation fee or sponsorship fee imposed by a
30 governmental entity as described in s. 212.08(6) for an
31 athletic or recreational program is exempt when the

1 governmental entity by itself, or in conjunction with an
2 organization exempt under s. 501(c)(3) of the Internal Revenue
3 Code of 1954, as amended, sponsors, administers, plans,
4 supervises, directs, and controls the athletic or recreational
5 program.

6 6. Also exempt from the tax imposed by this section to
7 the extent provided in this subparagraph are admissions to
8 live theater, live opera, or live ballet productions in this
9 state which are sponsored by an organization that has received
10 a determination from the Internal Revenue Service that the
11 organization is exempt from federal income tax under s.
12 501(c)(3) of the Internal Revenue Code of 1954, as amended, if
13 the organization actively participates in planning and
14 conducting the event, is responsible for the safety and
15 success of the event, is organized for the purpose of
16 sponsoring live theater, live opera, or live ballet
17 productions in this state, has more than 10,000 subscribing
18 members and has among the stated purposes in its charter the
19 promotion of arts education in the communities which it
20 serves, and will receive at least 20 percent of the net
21 profits, if any, of the events which the organization sponsors
22 and will bear the risk of at least 20 percent of the losses,
23 if any, from the events which it sponsors if the organization
24 employs other persons as agents to provide services in
25 connection with a sponsored event. Prior to March 1 of each
26 year, such organization may apply to the department for a
27 certificate of exemption for admissions to such events
28 sponsored in this state by the organization during the
29 immediately following state fiscal year. The application shall
30 state the total dollar amount of admissions receipts collected
31 by the organization or its agents from such events in this

1 state sponsored by the organization or its agents in the year
2 immediately preceding the year in which the organization
3 applies for the exemption. Such organization shall receive the
4 exemption only to the extent of \$1.5 million multiplied by the
5 ratio that such receipts bear to the total of such receipts of
6 all organizations applying for the exemption in such year;
7 however, in no event shall such exemption granted to any
8 organization exceed 6 percent of such admissions receipts
9 collected by the organization or its agents in the year
10 immediately preceding the year in which the organization
11 applies for the exemption. Each organization receiving the
12 exemption shall report each month to the department the total
13 admissions receipts collected from such events sponsored by
14 the organization during the preceding month and shall remit to
15 the department an amount equal to 6 percent of such receipts
16 reduced by any amount remaining under the exemption. Tickets
17 for such events sold by such organizations shall not reflect
18 the tax otherwise imposed under this section.

19 7. Also exempt from the tax imposed by this section
20 are entry fees for participation in freshwater fishing
21 tournaments.

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

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

29 (3) Such taxes shall be paid and remitted at the same
30 time and in the same manner as provided for remitting taxes on
31 sales of tangible personal property, as hereinafter provided.

1 Notwithstanding any other provision of this chapter, the tax
2 on admission to an event at a convention hall, exhibition
3 hall, auditorium, stadium, theater, arena, civic center,
4 performing arts center, or publicly owned recreational
5 facility shall be collected at the time of payment for the
6 admission but is not due to the department until the first day
7 of the month following the actual date of the event for which
8 the admission is sold and becomes delinquent on the 21st day
9 of that month.

10 Section 4. No tax imposed under chapter 212, Florida
11 Statutes, on the transactions exempted under section 3 of this
12 act and not actually paid or collected by a taxpayer before
13 the effective date of this act shall be due from the taxpayer.
14 However, any tax actually collected shall be remitted to the
15 Department of Revenue, and no refund shall be due.

16 Section 5. This act shall take effect July 1, 2000.

17
18 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
19 COMMITTEE SUBSTITUTE FOR
20 SB 194

21 The Committee Substitute made the following changes to SB 194:

- 22 1) Clarifies that "recreational facilities" mean "publicly
23 owned recreational facilities".
- 24 2) Adds to the tax exemption on admission charges to events
25 sponsored by certain government-owned facilities when
26 100% of the risk lies with such facility, an event
27 sponsored by a "sports authority" or "sports
28 commission". Provides definitions for "sports authority"
29 and "sports commission".