

By Representative Johnson

1 A bill to be entitled
2 An act relating to tax on sales, use, and other
3 transactions; amending s. 212.031, F.S.,
4 relating to the tax on the lease or rental of
5 or license in real property; providing an
6 exemption for property rented, leased,
7 subleased, or licensed by certain facilities to
8 a concessionaire selling event-related products
9 during an event at the facility; specifying
10 when the tax on the rental, lease, or license
11 to use certain facilities for certain events
12 shall be collected and when it is due to the
13 Department of Revenue; providing that
14 separately stated charges by certain facilities
15 for certain food, drink, or services in
16 connection with use of their property are
17 exempt from said tax; amending s. 212.04, F.S.,
18 relating to the tax on admissions; providing
19 that the value of an admission does not include
20 state or local seat surcharges, taxes, or fees,
21 or certain ticket service charges under certain
22 conditions; providing an exemption for
23 admission charges to events sponsored by
24 governmental entities, sports authorities, or
25 sports commissions under certain conditions;
26 specifying when the tax on admissions to events
27 at certain facilities shall be collected and
28 when it is due to the department; providing
29 that no tax imposed on the transactions
30 exempted by the act and not actually paid or
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2 act shall be due; providing an effective date.

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5 serves the interests of Florida generally, and

6 WHEREAS, enhanced business activity within the State of

8 state, and

9 WHEREAS, government has a vested interest in assuring

11 and cultural events for the general public, and

12 WHEREAS, the facilities to which this act applies

14 relaxation to patrons and tourists, NOW, THEREFORE,

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18 Section 1. (1) Paragraph (a) of subsection (1) and

20 amended, and subsection (10) is added to said section, to

21 read:

23 property.--

24 (1)(a) It is declared to be the legislative intent

26 engages in the business of renting, leasing, letting, or

27 granting a license for the use of any real property unless

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

30 2. Used exclusively as dwelling units.

- 1 3. Property subject to tax on parking, docking, or
2 storage spaces under s. 212.03(6).
- 3 4. Recreational property or the common elements of a
4 condominium when subject to a lease between the developer or
5 owner thereof and the condominium association in its own right
6 or as agent for the owners of individual condominium units or
7 the owners of individual condominium units. However, only the
8 lease payments on such property shall be exempt from the tax
9 imposed by this chapter, and any other use made by the owner
10 or the condominium association shall be fully taxable under
11 this chapter.
- 12 5. A public or private street or right-of-way and
13 poles, conduits, fixtures, and similar improvements located on
14 such streets or rights-of-way, occupied or used by a utility
15 or franchised cable television company for utility or
16 communications or television purposes. For purposes of this
17 subparagraph, the term "utility" means any person providing
18 utility services as defined in s. 203.012. This exception also
19 applies to property, excluding buildings, wherever located, on
20 which antennas, cables, adjacent accessory structures, or
21 adjacent accessory equipment used in the provision of
22 cellular, enhanced specialized mobile radio, or personal
23 communications services are placed.
- 24 6. A public street or road which is used for
25 transportation purposes.
- 26 7. Property used at an airport exclusively for the
27 purpose of aircraft landing or aircraft taxiing or property
28 used by an airline for the purpose of loading or unloading
29 passengers or property onto or from aircraft or for fueling
30 aircraft.
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1 8.a. Property used at a port authority, as defined in
2 s. 315.02(2), exclusively for the purpose of oceangoing
3 vessels or tugs docking, or such vessels mooring on property
4 used by a port authority for the purpose of loading or
5 unloading passengers or cargo onto or from such a vessel, or
6 property used at a port authority for fueling such vessels, or
7 to the extent that the amount paid for the use of any property
8 at the port is based on the charge for the amount of tonnage
9 actually imported or exported through the port by a tenant.

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

14 9. Property used as an integral part of the
15 performance of qualified production services. As used in this
16 subparagraph, the term "qualified production services" means
17 any activity or service performed directly in connection with
18 the production of a qualified motion picture, as defined in s.
19 212.06(1)(b), and includes:

20 a. Photography, sound and recording, casting, location
21 managing and scouting, shooting, creation of special and
22 optical effects, animation, adaptation (language, media,
23 electronic, or otherwise), technological modifications,
24 computer graphics, set and stage support (such as
25 electricians, lighting designers and operators, greensmen,
26 prop managers and assistants, and grips), wardrobe (design,
27 preparation, and management), hair and makeup (design,
28 production, and application), performing (such as acting,
29 dancing, and playing), designing and executing stunts,
30 coaching, consulting, writing, scoring, composing,
31 choreographing, script supervising, directing, producing,

1 transmitting dailies, dubbing, mixing, editing, cutting,
2 looping, printing, processing, duplicating, storing, and
3 distributing;

4 b. The design, planning, engineering, construction,
5 alteration, repair, and maintenance of real or personal
6 property including stages, sets, props, models, paintings, and
7 facilities principally required for the performance of those
8 services listed in sub-subparagraph a.; and

9 c. Property management services directly related to
10 property used in connection with the services described in
11 sub-subparagraphs a. and b.

12 10. Leased, subleased, licensed, or rented to a person
13 providing food and drink concessionaire services within the
14 premises of a convention hall, exhibition hall, auditorium,
15 stadium, theater, arena, civic center, performing arts center,
16 recreational facility, or any business operated under a permit
17 issued pursuant to chapter 550. A person providing retail
18 concessionaire services involving the sale of food and drink
19 or other tangible personal property within the premises of an
20 airport shall be subject to tax on the rental of real property
21 used for that purpose, but shall not be subject to the tax on
22 any license to use the property. For purposes of this
23 subparagraph, the term "sale" shall not include the leasing of
24 tangible personal property.

25 11. Property occupied pursuant to an instrument
26 calling for payments which the department has declared, in a
27 Technical Assistance Advisement issued on or before March 15,
28 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c),
29 Florida Administrative Code; provided that this subparagraph
30 shall only apply to property occupied by the same person
31 before and after the execution of the subject instrument and

1 only to those payments made pursuant to such instrument,
2 exclusive of renewals and extensions thereof occurring after
3 March 15, 1993.

4 12. Rented, leased, subleased, or licensed to a
5 concessionaire by a convention hall, exhibition hall,
6 auditorium, stadium, theater, arena, civic center, performing
7 arts center, or recreational facility, during an event at the
8 facility, to be used by the concessionaire to sell souvenirs,
9 novelties, or other event-related products. This subparagraph
10 applies only to that portion of the rental, lease, or license
11 payment which is based on a percentage of sales and not based
12 on a fixed price.

13 (3) The tax imposed by this section shall be in
14 addition to the total amount of the rental or license fee,
15 shall be charged by the lessor or person receiving the rent or
16 payment in and by a rental or license fee arrangement with the
17 lessee or person paying the rental or license fee, and shall
18 be due and payable at the time of the receipt of such rental
19 or license fee payment by the lessor or other person who
20 receives the rental or payment. Notwithstanding any other
21 provision of this chapter, the tax imposed by this section on
22 the rental, lease, or license for the use of a convention
23 hall, exhibition hall, auditorium, stadium, theater, arena,
24 civic center, performing arts center, or recreational facility
25 to hold an event of not more than 7 consecutive days' duration
26 shall be collected at the time of the payment for that rental,
27 lease, or license but is not due and payable to the department
28 until the first day of the month following the last day that
29 the event for which the payment is made is actually held, and
30 becomes delinquent on the 21st day of that month.The owner,
31 lessor, or person receiving the rent or license fee shall

1 remit the tax to the department at the times and in the manner
2 hereinafter provided for dealers to remit taxes under this
3 chapter. The same duties imposed by this chapter upon dealers
4 in tangible personal property respecting the collection and
5 remission of the tax; the making of returns; the keeping of
6 books, records, and accounts; and the compliance with the
7 rules and regulations of the department in the administration
8 of this chapter shall apply to and be binding upon all persons
9 who manage any leases or operate real property, hotels,
10 apartment houses, roominghouses, or tourist and trailer camps
11 and all persons who collect or receive rents or license fees
12 taxable under this chapter on behalf of owners or lessors.

13 (10) Separately stated charges imposed by a convention
14 hall, exhibition hall, auditorium, stadium, theater, arena,
15 civic center, performing arts center, or recreational facility
16 upon a lessee or licensee for food, drink, or services
17 required or available in connection with a lease or license to
18 use real property, including charges for laborers, stagehands,
19 ticket takers, event staff, security personnel, cleaning
20 staff, and other event-related personnel, advertising, and
21 credit card processing, are exempt from the tax imposed by
22 this section.

23 (2) No tax imposed by chapter 212, Florida Statutes,
24 on the transactions exempted under this section, and not
25 actually paid or collected by a taxpayer before the effective
26 date of this act, shall be due from such taxpayer. However,
27 any tax actually collected shall be remitted to the Department
28 of Revenue, and no refund shall be due.

29 Section 2. (1) Paragraph (b) of subsection (1),
30 paragraph (a) of subsection (2), and subsection (3) of section
31 212.04, Florida Statutes, are amended to read:

1 inmate talent is used. However, this exemption shall not apply
2 to admission to athletic events sponsored by an institution
3 within the State University System, and the proceeds of the
4 tax collected on such admissions shall be retained and used by
5 each institution to support women's athletics as provided in
6 s. 240.533(3)(c).

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

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

17 c. No tax shall be levied on admission charges to an
18 event sponsored by a governmental entity, sports authority, or
19 sports commission when held in a convention hall, exhibition
20 hall, auditorium, stadium, theater, arena, civic center,
21 performing arts center, or recreational facility and when 100
22 percent of the risk of success or failure lies with the
23 sponsor of the event and 100 percent of the funds at risk for
24 the event belong to the sponsor, and student or faculty talent
25 is not exclusively used.

26 3. No tax shall be levied on an admission paid by a
27 student, or on the student's behalf, to any required place of
28 sport or recreation if the student's participation in the
29 sport or recreational activity is required as a part of a
30 program or activity sponsored by, and under the jurisdiction
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1 of, the student's educational institution, provided his or her
2 attendance is as a participant and not as a spectator.

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

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

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

1 and will bear the risk of at least 20 percent of the losses,
3 employs other persons as agents to provide services in
4 connection with a sponsored event. Prior to March 1 of each
6 certificate of exemption for admissions to such events
7 sponsored in this state by the organization during the
9 state the total dollar amount of admissions receipts collected
10 by the organization or its agents from such events in this
12 immediately preceding the year in which the organization
13 applies for the exemption. Such organization shall receive the
15 ratio that such receipts bear to the total of such receipts of
16 all organizations applying for the exemption in such year;
18 organization exceed 6 percent of such admissions receipts
19 collected by the organization or its agents in the year
21 applies for the exemption. Each organization receiving the
22 exemption shall report each month to the department the total
24 the organization during the preceding month and shall remit to
25 the department an amount equal to 6 percent of such receipts
27 for such events sold by such organizations shall not reflect
28 the tax otherwise imposed under this section.
30 are entry fees for participation in freshwater fishing
31 tournaments.

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

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

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

19 (2) No tax imposed by chapter 212, Florida Statutes,
20 on the transactions exempted under this section, and not
21 actually paid or collected by a taxpayer before the effective
22 date of this act, shall be due from such taxpayer. However,
23 any tax actually collected shall be remitted to the Department
24 of Revenue, and no refund shall be due.

25 Section 3. This act shall take effect July 1, 2000.
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HOUSE SUMMARY

Revises provisions relating to the tax on the lease or rental of or license in real property. Provides an exemption for property rented, leased, subleased, or licensed by a convention hall, auditorium, stadium, exhibition hall, recreational facility, theater, arena, civic center, or performing arts center to a concessionaire selling event-related products during an event at the facility. Specifies when the tax on the rental, lease, or license to use such facilities for certain events shall be collected and when it is due to the Department of Revenue. Provides that separately stated charges by such facilities for food, drink, or services in connection with a lease or license to use their property are exempt from said tax.

Revises provisions relating to the tax on admissions. Provides that the value of an admission does not include state or local seat surcharges, taxes, or fees, or certain ticket service charges under certain conditions. Provides an exemption for admission charges to events sponsored by a governmental entity, sports authority, or sports commission and held in such facilities, under certain conditions. Specifies when the tax on admissions to events at such facilities shall be collected and when it is due to the department.

Provides that no tax imposed on the transactions exempted by the act and not actually paid or collected prior to the effective date of the act shall be due.