

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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1 collected prior to the effective date of the
2 act shall be due; providing an effective date.

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

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

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

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

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

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18 Section 1. (1) Paragraph (a) of subsection (1) and
19 subsection (3) of section 212.031, Florida Statutes, are
20 amended, and subsection (10) is added to said section, to
21 read:

22 212.031 Lease or rental of or license in real
23 property.--

24 (1)(a) It is declared to be the legislative intent
25 that every person is exercising a taxable privilege who
26 engages in the business of renting, leasing, letting, or
27 granting a license for the use of any real property unless
28 such property is:

- 29 1. Assessed as agricultural property under s. 193.461.
30 2. Used exclusively as dwelling units.

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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 publicly owned recreational facility, or any business operated
17 under a permit issued pursuant to chapter 550. A person
18 providing retail concessionaire services involving the sale of
19 food and drink or other tangible personal property within the
20 premises of an airport shall be subject to tax on the rental
21 of real property used for that purpose, but shall not be
22 subject to the tax on any license to use the property. For
23 purposes of this subparagraph, the term "sale" shall not
24 include the leasing of 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 publicly owned recreational facility, during
8 an event at the facility, to be used by the concessionaire to
9 sell souvenirs, novelties, or other event-related products.
10 This subparagraph applies only to that portion of the rental,
11 lease, or license payment which is based on a percentage of
12 sales and not based 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 publicly owned
16 recreational facility upon a lessee or licensee for food,
17 drink, or services required or available in connection with a
18 lease or license to use real property, including charges for
19 laborers, stagehands, ticket takers, event staff, security
20 personnel, cleaning staff, and other event-related personnel,
21 advertising, and credit card processing, are exempt from the
22 tax imposed by 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:

1 212.04 Admissions tax; rate, procedure, enforcement.--

2 (1)

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

25 (2)(a)1. No tax shall be levied on admissions to
26 athletic or other events sponsored by elementary schools,
27 junior high schools, middle schools, high schools, community
28 colleges, public or private colleges and universities, deaf
29 and blind schools, facilities of the youth services programs
30 of the Department of Children and Family Services, and state
31 correctional institutions when only student, faculty, or

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 publicly owned recreational
22 facility and when 100 percent of the risk of success or
23 failure lies with the sponsor of the event and 100 percent of
24 the funds at risk for the event belong to the sponsor, and
25 student or faculty talent is not exclusively used. As used in
26 this sub-subparagraph, the terms "sports authority" and
27 "sports commission" mean a nonprofit organization that is
28 exempt from federal income tax under s. 501(c)(3) of the
29 Internal Revenue Code and that contracts with a county or
30 municipal government for the purpose of promoting and

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1 attracting sports-tourism events to the community with which
2 it contracts.

3 3. No tax shall be levied on an admission paid by a
4 student, or on the student's behalf, to any required place of
5 sport or recreation if the student's participation in the
6 sport or recreational activity is required as a part of a
7 program or activity sponsored by, and under the jurisdiction
8 of, the student's educational institution, provided his or her
9 attendance is as a participant and not as a spectator.

10 4. No tax shall be levied on admissions to the
11 National Football League championship game, on admissions to
12 any semifinal game or championship game of a national
13 collegiate tournament, or on admissions to a Major League
14 Baseball all-star game.

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

23 6. Also exempt from the tax imposed by this section to
24 the extent provided in this subparagraph are admissions to
25 live theater, live opera, or live ballet productions in this
26 state which are sponsored by an organization that has received
27 a determination from the Internal Revenue Service that the
28 organization is exempt from federal income tax under s.
29 501(c)(3) of the Internal Revenue Code of 1954, as amended, if
30 the organization actively participates in planning and
31 conducting the event, is responsible for the safety and

1 success of the event, is organized for the purpose of
2 sponsoring live theater, live opera, or live ballet
3 productions in this state, has more than 10,000 subscribing
4 members and has among the stated purposes in its charter the
5 promotion of arts education in the communities which it
6 serves, and will receive at least 20 percent of the net
7 profits, if any, of the events which the organization sponsors
8 and will bear the risk of at least 20 percent of the losses,
9 if any, from the events which it sponsors if the organization
10 employs other persons as agents to provide services in
11 connection with a sponsored event. Prior to March 1 of each
12 year, such organization may apply to the department for a
13 certificate of exemption for admissions to such events
14 sponsored in this state by the organization during the
15 immediately following state fiscal year. The application shall
16 state the total dollar amount of admissions receipts collected
17 by the organization or its agents from such events in this
18 state sponsored by the organization or its agents in the year
19 immediately preceding the year in which the organization
20 applies for the exemption. Such organization shall receive the
21 exemption only to the extent of \$1.5 million multiplied by the
22 ratio that such receipts bear to the total of such receipts of
23 all organizations applying for the exemption in such year;
24 however, in no event shall such exemption granted to any
25 organization exceed 6 percent of such admissions receipts
26 collected by the organization or its agents in the year
27 immediately preceding the year in which the organization
28 applies for the exemption. Each organization receiving the
29 exemption shall report each month to the department the total
30 admissions receipts collected from such events sponsored by
31 the organization during the preceding month and shall remit to

1 the department an amount equal to 6 percent of such receipts
2 reduced by any amount remaining under the exemption. Tickets
3 for such events sold by such organizations shall not reflect
4 the tax otherwise imposed under this section.

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

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

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

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

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

3 Section 2. This act shall take effect July 1, 2000.
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