

By Senator Sullivan

22-705-01

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           excluding certain pass-through charges on  
5           commercial real property leases from the tax;  
6           providing an effective date.

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

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10           Section 1. Paragraph (c) of subsection (1) of section  
11 212.031, Florida Statutes, is amended to read:

12           212.031 Lease or rental of or license in real  
13 property.--

14           (1)

15           (c) For the exercise of such privilege, a tax is  
16 levied in an amount equal to 6 percent of and on the total  
17 rent or license fee charged for such real property by the  
18 person charging or collecting the rental or license fee. The  
19 total rent or license fee charged for such real property shall  
20 include payments for the granting of a privilege to use or  
21 occupy real property for any purpose and shall include base  
22 rent, percentage rents, or similar charges. Such charges shall  
23 be included in the total rent or license fee subject to tax  
24 under this section whether or not they can be attributed to  
25 the ability of the lessor's or licensor's property as used or  
26 operated to attract customers. As used in this paragraph, the  
27 term "total rent or license fee" does not include ad valorem  
28 taxes, maintenance charges, or insurance premiums paid for the  
29 benefit and protection of the landlord if the proportionate  
30 share of each of those items is separately billed on an  
31 invoice by the landlord as pass-through charges. Payments for

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

9 Section 2. This act shall take effect July 1, 2001.

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SENATE SUMMARY

Provides that the total rent or license fee for a commercial real property lease which is subject to the sales tax does not include pass-through charges consisting of a separately billed proportionate share of ad valorem taxes, maintenance charges, and certain insurance premiums.