

1                   A bill to be entitled  
2           An act relating to the tax on sales, use, and other  
3           transactions; amending s. 212.031, F.S.; continuing in  
4           effect an exemption from the tax on rental or license fees  
5           which is provided for certain property rented, leased, or  
6           licensed by a convention or exhibition hall, auditorium,  
7           stadium, theater, arena, civic center, performing arts  
8           center, or publicly owned recreational facility;  
9           abrogating the repeal of and reviving and readopting s.  
10          212.031(10), F.S., relating to an exemption provided for  
11          certain charges imposed by a convention or exhibition  
12          hall, auditorium, stadium, theater, arena, civic center,  
13          performing arts center, or publicly owned recreational  
14          facility upon a lessee or licensee; amending s. 212.04,  
15          F.S., relating to the tax on admissions; continuing in  
16          effect a provision that excludes certain service charges  
17          from the sale price or actual value of an admission;  
18          continuing in effect an exemption from the tax which is  
19          provided for admission charges to an event sponsored by a  
20          governmental entity, sports authority, or sports  
21          commission; continuing in effect provisions governing the  
22          remitting of certain admission taxes to the Department of  
23          Revenue; providing effective dates.

24  
25   Be It Enacted by the Legislature of the State of Florida:

26  
27           Section 1.   Effective July 1, 2006, paragraph (a) of  
28           subsection (1) of section 212.031, Florida Statutes, as amended

29 | by section 3 of chapter 2000-345, as amended by section 55 of  
 30 | chapter 2002-218, and as amended by section 2 of chapter 2000-  
 31 | 182, section 1 of chapter 2000-183, section 53 of chapter 2000-  
 32 | 260, and section 27 of chapter 2001-140, Laws of Florida, and  
 33 | subsection (3) of said section, as amended by section 3 of  
 34 | chapter 2000-345, as amended by section 55 of chapter 2002-218,  
 35 | Laws of Florida, are amended to read:

36 |       212.031 Tax on rental or license fee for use of real  
 37 | property.--

38 |       (1)(a) It is declared to be the legislative intent that  
 39 | every person is exercising a taxable privilege who engages in  
 40 | the business of renting, leasing, letting, or granting a license  
 41 | for the use of any real property unless such property is:

- 42 |           1. Assessed as agricultural property under s. 193.461.
- 43 |           2. Used exclusively as dwelling units.
- 44 |           3. Property subject to tax on parking, docking, or storage  
 45 | spaces under s. 212.03(6).
- 46 |           4. Recreational property or the common elements of a  
 47 | condominium when subject to a lease between the developer or  
 48 | owner thereof and the condominium association in its own right  
 49 | or as agent for the owners of individual condominium units or  
 50 | the owners of individual condominium units. However, only the  
 51 | lease payments on such property shall be exempt from the tax  
 52 | imposed by this chapter, and any other use made by the owner or  
 53 | the condominium association shall be fully taxable under this  
 54 | chapter.
- 55 |           5. A public or private street or right-of-way and poles,  
 56 | conduits, fixtures, and similar improvements located on such

57 streets or rights-of-way, occupied or used by a utility or  
58 provider of communications services, as defined by s. 202.11,  
59 for utility or communications or television purposes. For  
60 purposes of this subparagraph, the term "utility" means any  
61 person providing utility services as defined in s. 203.012. This  
62 exception also applies to property, wherever located, on which  
63 the following are placed: towers, antennas, cables, accessory  
64 structures, or equipment, not including switching equipment,  
65 used in the provision of mobile communications services as  
66 defined in s. 202.11. For purposes of this chapter, towers used  
67 in the provision of mobile communications services, as defined  
68 in s. 202.11, are considered to be fixtures.

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

71 7. Property used at an airport exclusively for the purpose  
72 of aircraft landing or aircraft taxiing or property used by an  
73 airline for the purpose of loading or unloading passengers or  
74 property onto or from aircraft or for fueling aircraft.

75 8.a. Property used at a port authority, as defined in s.  
76 315.02(2), exclusively for the purpose of oceangoing vessels or  
77 tugs docking, or such vessels mooring on property used by a port  
78 authority for the purpose of loading or unloading passengers or  
79 cargo onto or from such a vessel, or property used at a port  
80 authority for fueling such vessels, or to the extent that the  
81 amount paid for the use of any property at the port is based on  
82 the charge for the amount of tonnage actually imported or  
83 exported through the port by a tenant.

84 b. The amount charged for the use of any property at the

85 | port in excess of the amount charged for tonnage actually  
86 | imported or exported shall remain subject to tax except as  
87 | provided in sub-subparagraph a.

88 |         9. Property used as an integral part of the performance of  
89 | qualified production services. As used in this subparagraph,  
90 | the term "qualified production services" means any activity or  
91 | service performed directly in connection with the production of  
92 | a qualified motion picture, as defined in s. 212.06(1)(b), and  
93 | includes:

94 |         a. Photography, sound and recording, casting, location  
95 | managing and scouting, shooting, creation of special and optical  
96 | effects, animation, adaptation (language, media, electronic, or  
97 | otherwise), technological modifications, computer graphics, set  
98 | and stage support (such as electricians, lighting designers and  
99 | operators, greensmen, prop managers and assistants, and grips),  
100 | wardrobe (design, preparation, and management), hair and makeup  
101 | (design, production, and application), performing (such as  
102 | acting, dancing, and playing), designing and executing stunts,  
103 | coaching, consulting, writing, scoring, composing,  
104 | choreographing, script supervising, directing, producing,  
105 | transmitting dailies, dubbing, mixing, editing, cutting,  
106 | looping, printing, processing, duplicating, storing, and  
107 | distributing;

108 |         b. The design, planning, engineering, construction,  
109 | alteration, repair, and maintenance of real or personal property  
110 | including stages, sets, props, models, paintings, and facilities  
111 | principally required for the performance of those services  
112 | listed in sub-subparagraph a.; and

113           c. Property management services directly related to  
114 property used in connection with the services described in sub-  
115 subparagraphs a. and b.

116  
117 This exemption will inure to the taxpayer upon presentation of  
118 the certificate of exemption issued to the taxpayer under the  
119 provisions of s. 288.1258.

120           10. Leased, subleased, licensed, or rented to a person  
121 providing food and drink concessionaire services within the  
122 premises of a convention hall, exhibition hall, auditorium,  
123 stadium, theater, arena, civic center, performing arts center,  
124 publicly owned recreational facility, or any business operated  
125 under a permit issued pursuant to chapter 550. A person  
126 providing retail concessionaire services involving the sale of  
127 food and drink or other tangible personal property within the  
128 premises of an airport shall be subject to tax on the rental of  
129 real property used for that purpose, but shall not be subject to  
130 the tax on any license to use the property. For purposes of  
131 this subparagraph, the term "sale" shall not include the leasing  
132 of tangible personal property.

133           11. Property occupied pursuant to an instrument calling  
134 for payments which the department has declared, in a Technical  
135 Assistance Advisement issued on or before March 15, 1993, to be  
136 nontaxable pursuant to rule 12A-1.070(19)(c), Florida  
137 Administrative Code; provided that this subparagraph shall only  
138 apply to property occupied by the same person before and after  
139 the execution of the subject instrument and only to those  
140 payments made pursuant to such instrument, exclusive of renewals

141 and extensions thereof occurring after March 15, 1993.

142 12. Rented, leased, subleased, or licensed to a  
143 concessionaire by a convention hall, exhibition hall,  
144 auditorium, stadium, theater, arena, civic center, performing  
145 arts center, or publicly owned recreational facility, during an  
146 event at the facility, to be used by the concessionaire to sell  
147 souvenirs, novelties, or other event-related products. This  
148 subparagraph applies only to that portion of the rental, lease,  
149 or license payment which is based on a percentage of sales and  
150 not based on a fixed price.

151 13.12. Property used or occupied predominantly for space  
152 flight business purposes. As used in this subparagraph, "space  
153 flight business" means the manufacturing, processing, or  
154 assembly of a space facility, space propulsion system, space  
155 vehicle, satellite, or station of any kind possessing the  
156 capacity for space flight, as defined by s. 212.02(23), or  
157 components thereof, and also means the following activities  
158 supporting space flight: vehicle launch activities, flight  
159 operations, ground control or ground support, and all  
160 administrative activities directly related thereto. Property  
161 shall be deemed to be used or occupied predominantly for space  
162 flight business purposes if more than 50 percent of the  
163 property, or improvements thereon, is used for one or more space  
164 flight business purposes. Possession by a landlord, lessor, or  
165 licensor of a signed written statement from the tenant, lessee,  
166 or licensee claiming the exemption shall relieve the landlord,  
167 lessor, or licensor from the responsibility of collecting the  
168 tax, and the department shall look solely to the tenant, lessee,

169 or licensee for recovery of such tax if it determines that the  
 170 exemption was not applicable.

171 (3) The tax imposed by this section shall be in addition  
 172 to the total amount of the rental or license fee, shall be  
 173 charged by the lessor or person receiving the rent or payment in  
 174 and by a rental or license fee arrangement with the lessee or  
 175 person paying the rental or license fee, and shall be due and  
 176 payable at the time of the receipt of such rental or license fee  
 177 payment by the lessor or other person who receives the rental or  
 178 payment. Notwithstanding any other provision of this chapter,  
 179 the tax imposed by this section on the rental, lease, or license  
 180 for the use of a convention hall, exhibition hall, auditorium,  
 181 stadium, theater, arena, civic center, performing arts center,  
 182 or publicly owned recreational facility to hold an event of not  
 183 more than 7 consecutive days' duration shall be collected at the  
 184 time of the payment for that rental, lease, or license but is  
 185 not due and payable to the department until the first day of the  
 186 month following the last day that the event for which the  
 187 payment is made is actually held, and becomes delinquent on the  
 188 21st day of that month. The owner, lessor, or person receiving  
 189 the rent or license fee shall remit the tax to the department at  
 190 the times and in the manner hereinafter provided for dealers to  
 191 remit taxes under this chapter. The same duties imposed by this  
 192 chapter upon dealers in tangible personal property respecting  
 193 the collection and remission of the tax; the making of returns;  
 194 the keeping of books, records, and accounts; and the compliance  
 195 with the rules and regulations of the department in the  
 196 administration of this chapter shall apply to and be binding

197 upon all persons who manage any leases or operate real property,  
 198 hotels, apartment houses, roominghouses, or tourist and trailer  
 199 camps and all persons who collect or receive rents or license  
 200 fees taxable under this chapter on behalf of owners or lessors.

201 Section 2. Notwithstanding the provisions of section 3 of  
 202 chapter 2000-345, Laws of Florida, as amended by section 55 of  
 203 chapter 2002-218, Laws of Florida, subsection (10) of section  
 204 212.031, Florida Statutes, shall not stand repealed on July 1,  
 205 2006, as scheduled by such laws, but that subsection is revived  
 206 and readopted.

207 Section 3. Effective July 1, 2006, paragraph (b) of  
 208 subsection (1) and subsection (3) of section 212.04, Florida  
 209 Statutes, as amended by section 4 of chapter 2000-345, as  
 210 amended by section 55 of chapter 2002-218, Laws of Florida, and  
 211 paragraph (a) of subsection (2) of said section, as amended by  
 212 section 4 of chapter 2000-345, as amended by section 55 of  
 213 chapter 2002-218, as amended by section 916 of chapter 2002-387,  
 214 and as amended by section 24 of chapter 2000-158, and section 11  
 215 of chapter 2000-210, Laws of Florida, are amended to read:

216 212.04 Admissions tax; rate, procedure, enforcement.--

217 (1)

218 (b) For the exercise of such privilege, a tax is levied at  
 219 the rate of 6 percent of sales price, or the actual value  
 220 received from such admissions, which 6 percent shall be added to  
 221 and collected with all such admissions from the purchaser  
 222 thereof, and such tax shall be paid for the exercise of the  
 223 privilege as defined in the preceding paragraph. Each ticket  
 224 must show on its face the actual sales price of the admission,



225 or each dealer selling the admission must prominently display at  
 226 the box office or other place where the admission charge is made  
 227 a notice disclosing the price of the admission, and the tax  
 228 shall be computed and collected on the basis of the actual price  
 229 of the admission charged by the dealer. The sale price or  
 230 actual value of admission shall, for the purpose of this  
 231 chapter, be that price remaining after deduction of federal  
 232 taxes and state or locally imposed or authorized seat  
 233 surcharges, taxes, or fees, if any, imposed upon such admission.  
 234 The sale price or actual value does not include separately  
 235 stated ticket service charges that are imposed by a facility  
 236 ticket office or a ticketing service and added to a separately  
 237 stated, established ticket price. ~~and~~ The rate of tax on each  
 238 admission shall be according to the brackets established by s.  
 239 212.12(9).

240 (2)(a)1. No tax shall be levied on admissions to athletic  
 241 or other events sponsored by elementary schools, junior high  
 242 schools, middle schools, high schools, community colleges,  
 243 public or private colleges and universities, deaf and blind  
 244 schools, facilities of the youth services programs of the  
 245 Department of Children and Family Services, and state  
 246 correctional institutions when only student, faculty, or inmate  
 247 talent is used. However, this exemption shall not apply to  
 248 admission to athletic events sponsored by a state university,  
 249 and the proceeds of the tax collected on such admissions shall  
 250 be retained and used by each institution to support women's  
 251 athletics as provided in s. 1006.71(2)(c).

252 2.a. No tax shall be levied on dues, membership fees, and

253 admission charges imposed by not-for-profit sponsoring  
 254 organizations. To receive this exemption, the sponsoring  
 255 organization must qualify as a not-for-profit entity under the  
 256 provisions of s. 501(c)(3) of the Internal Revenue Code of 1954,  
 257 as amended.

258 b. No tax shall be levied on admission charges to an event  
 259 sponsored by a governmental entity, sports authority, or sports  
 260 commission when held in a convention hall, exhibition hall,  
 261 auditorium, stadium, theater, arena, civic center, performing  
 262 arts center, or publicly owned recreational facility and when  
 263 100 percent of the risk of success or failure lies with the  
 264 sponsor of the event and 100 percent of the funds at risk for  
 265 the event belong to the sponsor, and student or faculty talent  
 266 is not exclusively used. As used in this sub-subparagraph, the  
 267 terms "sports authority" and "sports commission" mean a  
 268 nonprofit organization that is exempt from federal income tax  
 269 under s. 501(c)(3) of the Internal Revenue Code and that  
 270 contracts with a county or municipal government for the purpose  
 271 of promoting and attracting sports-tourism events to the  
 272 community with which it contracts.

273 3. No tax shall be levied on an admission paid by a  
 274 student, or on the student's behalf, to any required place of  
 275 sport or recreation if the student's participation in the sport  
 276 or recreational activity is required as a part of a program or  
 277 activity sponsored by, and under the jurisdiction of, the  
 278 student's educational institution, provided his or her  
 279 attendance is as a participant and not as a spectator.

280 4. No tax shall be levied on admissions to the National

281 Football League championship game, on admissions to any  
282 semifinal game or championship game of a national collegiate  
283 tournament, or on admissions to a Major League Baseball all-star  
284 game.

285 5. A participation fee or sponsorship fee imposed by a  
286 governmental entity as described in s. 212.08(6) for an athletic  
287 or recreational program is exempt when the governmental entity  
288 by itself, or in conjunction with an organization exempt under  
289 s. 501(c)(3) of the Internal Revenue Code of 1954, as amended,  
290 sponsors, administers, plans, supervises, directs, and controls  
291 the athletic or recreational program.

292 6. Also exempt from the tax imposed by this section to the  
293 extent provided in this subparagraph are admissions to live  
294 theater, live opera, or live ballet productions in this state  
295 which are sponsored by an organization that has received a  
296 determination from the Internal Revenue Service that the  
297 organization is exempt from federal income tax under s.  
298 501(c)(3) of the Internal Revenue Code of 1954, as amended, if  
299 the organization actively participates in planning and  
300 conducting the event, is responsible for the safety and success  
301 of the event, is organized for the purpose of sponsoring live  
302 theater, live opera, or live ballet productions in this state,  
303 has more than 10,000 subscribing members and has among the  
304 stated purposes in its charter the promotion of arts education  
305 in the communities which it serves, and will receive at least 20  
306 percent of the net profits, if any, of the events which the  
307 organization sponsors and will bear the risk of at least 20  
308 percent of the losses, if any, from the events which it sponsors

309 | if the organization employs other persons as agents to provide  
 310 | services in connection with a sponsored event. Prior to March 1  
 311 | of each year, such organization may apply to the department for  
 312 | a certificate of exemption for admissions to such events  
 313 | sponsored in this state by the organization during the  
 314 | immediately following state fiscal year. The application shall  
 315 | state the total dollar amount of admissions receipts collected  
 316 | by the organization or its agents from such events in this state  
 317 | sponsored by the organization or its agents in the year  
 318 | immediately preceding the year in which the organization applies  
 319 | for the exemption. Such organization shall receive the exemption  
 320 | only to the extent of \$1.5 million multiplied by the ratio that  
 321 | such receipts bear to the total of such receipts of all  
 322 | organizations applying for the exemption in such year; however,  
 323 | in no event shall such exemption granted to any organization  
 324 | exceed 6 percent of such admissions receipts collected by the  
 325 | organization or its agents in the year immediately preceding the  
 326 | year in which the organization applies for the exemption. Each  
 327 | organization receiving the exemption shall report each month to  
 328 | the department the total admissions receipts collected from such  
 329 | events sponsored by the organization during the preceding month  
 330 | and shall remit to the department an amount equal to 6 percent  
 331 | of such receipts reduced by any amount remaining under the  
 332 | exemption. Tickets for such events sold by such organizations  
 333 | shall not reflect the tax otherwise imposed under this section.

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

336 |       8. Also exempt from the tax imposed by this section are

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337 participation or entry fees charged to participants in a game,  
338 race, or other sport or recreational event if spectators are  
339 charged a taxable admission to such event.

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

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

346 Notwithstanding any other provision of this chapter, the tax on  
347 admission to an event at a convention hall, exhibition hall,  
348 auditorium, stadium, theater, arena, civic center, performing  
349 arts center, or publicly owned recreational facility shall be  
350 collected at the time of payment for the admission but is not  
351 due to the department until the first day of the month following  
352 the actual date of the event for which the admission is sold and  
353 becomes delinquent on the 21st day of that month.

354 Section 4. Except as otherwise provided by this act, this  
355 act shall take effect July 1, 2005.