

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 for a
9 specified period; providing for future repeal; postponing
10 the repeal of and reviving and readopting s. 212.031(10),
11 F.S., relating to an exemption provided for certain
12 charges imposed by a convention or exhibition hall,
13 auditorium, stadium, theater, arena, civic center,
14 performing arts center, or publicly owned recreational
15 facility upon a lessee or licensee; providing for future
16 repeal; amending s. 212.04, F.S., relating to the tax on
17 admissions; continuing in effect a provision that excludes
18 certain service charges from the sale price or actual
19 value of an admission; continuing in effect an exemption
20 from the tax which is provided for admission charges to an
21 event sponsored by a governmental entity, sports
22 authority, or sports commission; providing for future
23 repeal; continuing in effect provisions governing the
24 remitting of certain admission taxes to the Department of
25 Revenue; providing effective dates.

26
27 Be It Enacted by the Legislature of the State of Florida:
28

29 Section 1. Effective July 1, 2006, paragraph (a) of
30 subsection (1) of section 212.031, Florida Statutes, as amended
31 by section 3 of chapter 2000-345, as amended by section 55 of
32 chapter 2002-218, and as amended by section 2 of chapter 2000-
33 182, section 1 of chapter 2000-183, section 53 of chapter 2000-
34 260, and section 27 of chapter 2001-140, Laws of Florida, and
35 subsection (3) of said section, as amended by section 3 of
36 chapter 2000-345, as amended by section 55 of chapter 2002-218,
37 Laws of Florida, are amended to read:

38 212.031 Tax on rental or license fee for use of real
39 property.--

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

44 1. Assessed as agricultural property under s. 193.461.
45 2. Used exclusively as dwelling units.
46 3. Property subject to tax on parking, docking, or storage
47 spaces under s. 212.03(6).

48 4. Recreational property or the common elements of a
49 condominium when subject to a lease between the developer or
50 owner thereof and the condominium association in its own right
51 or as agent for the owners of individual condominium units or
52 the owners of individual condominium units. However, only the
53 lease payments on such property shall be exempt from the tax
54 imposed by this chapter, and any other use made by the owner or
55 the condominium association shall be fully taxable under this
56 chapter.

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

71 | 6. A public street or road which is used for
72 | transportation purposes.

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

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

84 the charge for the amount of tonnage actually imported or
85 exported through the port by a tenant.

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

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

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

110 b. The design, planning, engineering, construction,
111 alteration, repair, and maintenance of real or personal property

112 including stages, sets, props, models, paintings, and facilities
 113 principally required for the performance of those services
 114 listed in sub-subparagraph a.; and

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

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

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

135 11. Property occupied pursuant to an instrument calling
 136 for payments which the department has declared, in a Technical
 137 Assistance Advisement issued on or before March 15, 1993, to be
 138 nontaxable pursuant to rule 12A-1.070(19)(c), Florida
 139 Administrative Code; provided that this subparagraph shall only

140 apply to property occupied by the same person before and after
141 the execution of the subject instrument and only to those
142 payments made pursuant to such instrument, exclusive of renewals
143 and extensions thereof occurring after March 15, 1993.

144 12. Rented, leased, subleased, or licensed to a
145 concessionaire by a convention hall, exhibition hall,
146 auditorium, stadium, theater, arena, civic center, performing
147 arts center, or publicly owned recreational facility, during an
148 event at the facility, to be used by the concessionaire to sell
149 souvenirs, novelties, or other event-related products. This
150 subparagraph applies only to that portion of the rental, lease,
151 or license payment which is based on a percentage of sales and
152 not based on a fixed price. This subparagraph is repealed July
153 1, 2009.

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

168 | licensor of a signed written statement from the tenant, lessee,
 169 | or licensee claiming the exemption shall relieve the landlord,
 170 | lessor, or licensor from the responsibility of collecting the
 171 | tax, and the department shall look solely to the tenant, lessee,
 172 | or licensee for recovery of such tax if it determines that the
 173 | exemption was not applicable.

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

196 the collection and remission of the tax; the making of returns;
 197 the keeping of books, records, and accounts; and the compliance
 198 with the rules and regulations of the department in the
 199 administration of this chapter shall apply to and be binding
 200 upon all persons who manage any leases or operate real property,
 201 hotels, apartment houses, roominghouses, or tourist and trailer
 202 camps and all persons who collect or receive rents or license
 203 fees taxable under this chapter on behalf of owners or lessors.

204 Section 2. Notwithstanding the provisions of section 3 of
 205 chapter 2000-345, Laws of Florida, as amended by section 55 of
 206 chapter 2002-218, Laws of Florida, subsection (10) of s.
 207 212.031, Florida Statutes, shall not stand repealed on July 1,
 208 2006, as scheduled by such laws, but that subsection is revived
 209 and readopted. Subsection (10) of s. 212.031, Florida Statutes,
 210 is repealed July 1, 2009.

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

220 212.04 Admissions tax; rate, procedure, enforcement.--

221 (1)

222 (b) For the exercise of such privilege, a tax is levied at
 223 the rate of 6 percent of sales price, or the actual value

224 received from such admissions, which 6 percent shall be added to
 225 and collected with all such admissions from the purchaser
 226 thereof, and such tax shall be paid for the exercise of the
 227 privilege as defined in the preceding paragraph. Each ticket
 228 must show on its face the actual sales price of the admission,
 229 or each dealer selling the admission must prominently display at
 230 the box office or other place where the admission charge is made
 231 a notice disclosing the price of the admission, and the tax
 232 shall be computed and collected on the basis of the actual price
 233 of the admission charged by the dealer. The sale price or
 234 actual value of admission shall, for the purpose of this
 235 chapter, be that price remaining after deduction of federal
 236 taxes and state or locally imposed or authorized seat
 237 surcharges, taxes, or fees, if any, imposed upon such admission.
 238 The sale price or actual value does not include separately
 239 stated ticket service charges that are imposed by a facility
 240 ticket office or a ticketing service and added to a separately
 241 stated, established ticket price.—and The rate of tax on each
 242 admission shall be according to the brackets established by s.
 243 212.12(9).

244 (2)(a)1. No tax shall be levied on admissions to athletic
 245 or other events sponsored by elementary schools, junior high
 246 schools, middle schools, high schools, community colleges,
 247 public or private colleges and universities, deaf and blind
 248 schools, facilities of the youth services programs of the
 249 Department of Children and Family Services, and state
 250 correctional institutions when only student, faculty, or inmate
 251 talent is used. However, this exemption shall not apply to

252 admission to athletic events sponsored by a state university,
253 and the proceeds of the tax collected on such admissions shall
254 be retained and used by each institution to support women's
255 athletics as provided in s. 1006.71(2)(c).

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

262 b. No tax shall be levied on admission charges to an event
263 sponsored by a governmental entity, sports authority, or sports
264 commission when held in a convention hall, exhibition hall,
265 auditorium, stadium, theater, arena, civic center, performing
266 arts center, or publicly owned recreational facility and when
267 100 percent of the risk of success or failure lies with the
268 sponsor of the event and 100 percent of the funds at risk for
269 the event belong to the sponsor, and student or faculty talent
270 is not exclusively used. As used in this sub-subparagraph, the
271 terms "sports authority" and "sports commission" mean a
272 nonprofit organization that is exempt from federal income tax
273 under s. 501(c)(3) of the Internal Revenue Code and that
274 contracts with a county or municipal government for the purpose
275 of promoting and attracting sports-tourism events to the
276 community with which it contracts. This sub-subparagraph is
277 repealed July 1, 2009.

278 3. No tax shall be levied on an admission paid by a
279 student, or on the student's behalf, to any required place of

280 sport or recreation if the student's participation in the sport
281 or recreational activity is required as a part of a program or
282 activity sponsored by, and under the jurisdiction of, the
283 student's educational institution, provided his or her
284 attendance is as a participant and not as a spectator.

285 4. No tax shall be levied on admissions to the National
286 Football League championship game, on admissions to any
287 semifinal game or championship game of a national collegiate
288 tournament, or on admissions to a Major League Baseball all-star
289 game.

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

297 6. Also exempt from the tax imposed by this section to the
298 extent provided in this subparagraph are admissions to live
299 theater, live opera, or live ballet productions in this state
300 which are sponsored by an organization that has received a
301 determination from the Internal Revenue Service that the
302 organization is exempt from federal income tax under s.
303 501(c)(3) of the Internal Revenue Code of 1954, as amended, if
304 the organization actively participates in planning and
305 conducting the event, is responsible for the safety and success
306 of the event, is organized for the purpose of sponsoring live
307 theater, live opera, or live ballet productions in this state,

308 | has more than 10,000 subscribing members and has among the
309 | stated purposes in its charter the promotion of arts education
310 | in the communities which it serves, and will receive at least 20
311 | percent of the net profits, if any, of the events which the
312 | organization sponsors and will bear the risk of at least 20
313 | percent of the losses, if any, from the events which it sponsors
314 | if the organization employs other persons as agents to provide
315 | services in connection with a sponsored event. Prior to March 1
316 | of each year, such organization may apply to the department for
317 | a certificate of exemption for admissions to such events
318 | sponsored in this state by the organization during the
319 | immediately following state fiscal year. The application shall
320 | state the total dollar amount of admissions receipts collected
321 | by the organization or its agents from such events in this state
322 | sponsored by the organization or its agents in the year
323 | immediately preceding the year in which the organization applies
324 | for the exemption. Such organization shall receive the exemption
325 | only to the extent of \$1.5 million multiplied by the ratio that
326 | such receipts bear to the total of such receipts of all
327 | organizations applying for the exemption in such year; however,
328 | in no event shall such exemption granted to any organization
329 | exceed 6 percent of such admissions receipts collected by the
330 | organization or its agents in the year immediately preceding the
331 | year in which the organization applies for the exemption. Each
332 | organization receiving the exemption shall report each month to
333 | the department the total admissions receipts collected from such
334 | events sponsored by the organization during the preceding month
335 | and shall remit to the department an amount equal to 6 percent

336 of such receipts reduced by any amount remaining under the
337 exemption. Tickets for such events sold by such organizations
338 shall not reflect the tax otherwise imposed under this section.

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

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

345 9. No tax shall be levied on admissions to any postseason
346 collegiate football game sanctioned by the National Collegiate
347 Athletic Association.

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

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

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