

By the Committee on Commerce and Consumer Services; and
Senator Crist

577-2154-05

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

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

1 Section 1. Effective July 1, 2006, paragraph (a) of
2 subsection (1) of section 212.031, Florida Statutes, as
3 amended by section 3 of chapter 2000-345, as amended by
4 section 55 of chapter 2002-218, and as amended by section 2 of
5 chapter 2000-182, section 1 of chapter 2000-183, section 53 of
6 chapter 2000-260, and section 27 of chapter 2001-140, Laws of
7 Florida, and subsection (3) of that section, as amended by
8 section 3 of chapter 2000-345, as amended by section 55 of
9 chapter 2002-218, Laws of Florida, are amended to read:

10 212.031 Tax on rental or license fee for use of real
11 property.--

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

- 17 1. Assessed as agricultural property under s. 193.461.
- 18 2. Used exclusively as dwelling units.
- 19 3. Property subject to tax on parking, docking, or
20 storage spaces under s. 212.03(6).
- 21 4. Recreational property or the common elements of a
22 condominium when subject to a lease between the developer or
23 owner thereof and the condominium association in its own right
24 or as agent for the owners of individual condominium units or
25 the owners of individual condominium units. However, only the
26 lease payments on such property shall be exempt from the tax
27 imposed by this chapter, and any other use made by the owner
28 or the condominium association shall be fully taxable under
29 this chapter.
- 30 5. A public or private street or right-of-way and
31 poles, conduits, fixtures, and similar improvements located on

1 such streets or rights-of-way, occupied or used by a utility
2 or provider of communications services, as defined by s.
3 202.11, for utility or communications or television purposes.
4 For purposes of this subparagraph, the term "utility" means
5 any person providing utility services as defined in s.
6 203.012. This exception also applies to property, wherever
7 located, on which the following are placed: towers, antennas,
8 cables, accessory structures, or equipment, not including
9 switching equipment, used in the provision of mobile
10 communications services as defined in s. 202.11. For purposes
11 of this chapter, towers used in the provision of mobile
12 communications services, as defined in s. 202.11, are
13 considered to be fixtures.

14 6. A public street or road which is used for
15 transportation purposes.

16 7. Property used at an airport exclusively for the
17 purpose of aircraft landing or aircraft taxiing or property
18 used by an airline for the purpose of loading or unloading
19 passengers or property onto or from aircraft or for fueling
20 aircraft.

21 8.a. Property used at a port authority, as defined in
22 s. 315.02(2), exclusively for the purpose of oceangoing
23 vessels or tugs docking, or such vessels mooring on property
24 used by a port authority for the purpose of loading or
25 unloading passengers or cargo onto or from such a vessel, or
26 property used at a port authority for fueling such vessels, or
27 to the extent that the amount paid for the use of any property
28 at the port is based on the charge for the amount of tonnage
29 actually imported or exported through the port by a tenant.

30 b. The amount charged for the use of any property at
31 the port in excess of the amount charged for tonnage actually

1 imported or exported shall remain subject to tax except as
2 provided in sub-subparagraph a.

3 9. Property used as an integral part of the
4 performance of qualified production services. As used in this
5 subparagraph, the term "qualified production services" means
6 any activity or service performed directly in connection with
7 the production of a qualified motion picture, as defined in s.
8 212.06(1)(b), and includes:

9 a. Photography, sound and recording, casting, location
10 managing and scouting, shooting, creation of special and
11 optical effects, animation, adaptation (language, media,
12 electronic, or otherwise), technological modifications,
13 computer graphics, set and stage support (such as
14 electricians, lighting designers and operators, greensmen,
15 prop managers and assistants, and grips), wardrobe (design,
16 preparation, and management), hair and makeup (design,
17 production, and application), performing (such as acting,
18 dancing, and playing), designing and executing stunts,
19 coaching, consulting, writing, scoring, composing,
20 choreographing, script supervising, directing, producing,
21 transmitting dailies, dubbing, mixing, editing, cutting,
22 looping, printing, processing, duplicating, storing, and
23 distributing;

24 b. The design, planning, engineering, construction,
25 alteration, repair, and maintenance of real or personal
26 property including stages, sets, props, models, paintings, and
27 facilities principally required for the performance of those
28 services listed in sub-subparagraph a.; and

29 c. Property management services directly related to
30 property used in connection with the services described in
31 sub-subparagraphs a. and b.

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2 This exemption will inure to the taxpayer upon presentation of
3 the certificate of exemption issued to the taxpayer under the
4 provisions of s. 288.1258.

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

18 11. Property occupied pursuant to an instrument
19 calling for payments which the department has declared, in a
20 Technical Assistance Advisement issued on or before March 15,
21 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c),
22 Florida Administrative Code; provided that this subparagraph
23 shall only apply to property occupied by the same person
24 before and after the execution of the subject instrument and
25 only to those payments made pursuant to such instrument,
26 exclusive of renewals and extensions thereof occurring after
27 March 15, 1993.

28 12. Rented, leased, subleased, or licensed to a
29 concessionaire by a convention hall, exhibition hall,
30 auditorium, stadium, theater, arena, civic center, performing
31 arts center, or publicly owned recreational facility, during

1 an event at the facility, to be used by the concessionaire to
2 sell souvenirs, novelties, or other event-related products.
3 This subparagraph applies only to that portion of the rental,
4 lease, or license payment which is based on a percentage of
5 sales and not based on a fixed price. This subparagraph
6 expires July 1, 2009.

7 ~~13.12-~~ Property used or occupied predominantly for
8 space flight business purposes. As used in this subparagraph,
9 "space flight business" means the manufacturing, processing,
10 or assembly of a space facility, space propulsion system,
11 space vehicle, satellite, or station of any kind possessing
12 the capacity for space flight, as defined by s. 212.02(23), or
13 components thereof, and also means the following activities
14 supporting space flight: vehicle launch activities, flight
15 operations, ground control or ground support, and all
16 administrative activities directly related thereto. Property
17 shall be deemed to be used or occupied predominantly for space
18 flight business purposes if more than 50 percent of the
19 property, or improvements thereon, is used for one or more
20 space flight business purposes. Possession by a landlord,
21 lessor, or licensor of a signed written statement from the
22 tenant, lessee, or licensee claiming the exemption shall
23 relieve the landlord, lessor, or licensor from the
24 responsibility of collecting the tax, and the department shall
25 look solely to the tenant, lessee, or licensee for recovery of
26 such tax if it determines that the exemption was not
27 applicable.

28 (3) The tax imposed by this section shall be in
29 addition to the total amount of the rental or license fee,
30 shall be charged by the lessor or person receiving the rent or
31 payment in and by a rental or license fee arrangement with the

1 lessee or person paying the rental or license fee, and shall
2 be due and payable at the time of the receipt of such rental
3 or license fee payment by the lessor or other person who
4 receives the rental or payment. Notwithstanding any other
5 provision of this chapter, the tax imposed by this section on
6 the rental, lease, or license for the use of a convention
7 hall, exhibition hall, auditorium, stadium, theater, arena,
8 civic center, performing arts center, or publicly owned
9 recreational facility to hold an event of not more than 7
10 consecutive days' duration shall be collected at the time of
11 the payment for that rental, lease, or license but is not due
12 and payable to the department until the first day of the month
13 following the last day that the event for which the payment is
14 made is actually held, and becomes delinquent on the 21st day
15 of that month. The owner, lessor, or person receiving the rent
16 or license fee shall remit the tax to the department at the
17 times and in the manner hereinafter provided for dealers to
18 remit taxes under this chapter. The same duties imposed by
19 this chapter upon dealers in tangible personal property
20 respecting the collection and remission of the tax; the making
21 of returns; the keeping of books, records, and accounts; and
22 the compliance with the rules and regulations of the
23 department in the administration of this chapter shall apply
24 to and be binding upon all persons who manage any leases or
25 operate real property, hotels, apartment houses,
26 roominghouses, or tourist and trailer camps and all persons
27 who collect or receive rents or license fees taxable under
28 this chapter on behalf of owners or lessors.

29 Section 2. Notwithstanding the provisions of section 3
30 of chapter 2000-345, Laws of Florida, as amended by section 55
31 of chapter 2002-218, Laws of Florida, subsection (10) of

1 section 212.031, Florida Statutes, shall not stand repealed on
2 July 1, 2006, as scheduled by such laws, but that subsection
3 is revived and readopted. Subsection (10) of section 212.031,
4 Florida Statutes, is repealed July 1, 2009.

5 Section 3. Effective July 1, 2006, paragraph (b) of
6 subsection (1) and subsection (3) of section 212.04, Florida
7 Statutes, as amended by section 4 of chapter 2000-345, as
8 amended by section 55 of chapter 2002-218, Laws of Florida,
9 and paragraph (a) of subsection (2) of that section, as
10 amended by section 4 of chapter 2000-345, as amended by
11 section 55 of chapter 2002-218, as amended by section 916 of
12 chapter 2002-387, and as amended by section 24 of chapter
13 2000-158, and section 11 of chapter 2000-210, Laws of Florida,
14 are amended to read:

15 212.04 Admissions tax; rate, procedure, enforcement.--

16 (1)

17 (b) For the exercise of such privilege, a tax is
18 levied at the rate of 6 percent of sales price, or the actual
19 value received from such admissions, which 6 percent shall be
20 added to and collected with all such admissions from the
21 purchaser thereof, and such tax shall be paid for the exercise
22 of the privilege as defined in the preceding paragraph. Each
23 ticket must show on its face the actual sales price of the
24 admission, or each dealer selling the admission must
25 prominently display at the box office or other place where the
26 admission charge is made a notice disclosing the price of the
27 admission, and the tax shall be computed and collected on the
28 basis of the actual price of the admission charged by the
29 dealer. The sale price or actual value of admission shall,
30 for the purpose of this chapter, be that price remaining after
31 deduction of federal taxes and state or locally imposed or

1 authorized seat surcharges, taxes, or fees, if any, imposed
2 upon such admission. The sale price or actual value does not
3 include separately stated ticket service charges that are
4 imposed by a facility ticket office or a ticketing service and
5 added to a separately stated, established ticket price., and
6 The rate of tax on each admission shall be according to the
7 brackets established by s. 212.12(9).

8 (2)(a)1. No tax shall be levied on admissions to
9 athletic or other events sponsored by elementary schools,
10 junior high schools, middle schools, high schools, community
11 colleges, public or private colleges and universities, deaf
12 and blind schools, facilities of the youth services programs
13 of the Department of Children and Family Services, and state
14 correctional institutions when only student, faculty, or
15 inmate talent is used. However, this exemption shall not apply
16 to admission to athletic events sponsored by a state
17 university, and the proceeds of the tax collected on such
18 admissions shall be retained and used by each institution to
19 support women's athletics as provided in s. 1006.71(2)(c).

20 2.a. No tax shall be levied on dues, membership fees,
21 and admission charges imposed by not-for-profit sponsoring
22 organizations. To receive this exemption, the sponsoring
23 organization must qualify as a not-for-profit entity under the
24 provisions of s. 501(c)(3) of the Internal Revenue Code of
25 1954, as amended.

26 b. No tax shall be levied on admission charges to an
27 event sponsored by a governmental entity, sports authority, or
28 sports commission when held in a convention hall, exhibition
29 hall, auditorium, stadium, theater, arena, civic center,
30 performing arts center, or publicly owned recreational
31 facility and when 100 percent of the risk of success or

1 failure lies with the sponsor of the event and 100 percent of
2 the funds at risk for the event belong to the sponsor, and
3 student or faculty talent is not exclusively used. As used in
4 this sub-subparagraph, the terms "sports authority" and
5 "sports commission" mean a nonprofit organization that is
6 exempt from federal income tax under s. 501(c)(3) of the
7 Internal Revenue Code and that contracts with a county or
8 municipal government for the purpose of promoting and
9 attracting sports-tourism events to the community with which
10 it contracts. This sub-subparagraph expires July 1, 2009.

11 3. No tax shall be levied on an admission paid by a
12 student, or on the student's behalf, to any required place of
13 sport or recreation if the student's participation in the
14 sport or recreational activity is required as a part of a
15 program or activity sponsored by, and under the jurisdiction
16 of, the student's educational institution, provided his or her
17 attendance is as a participant and not as a spectator.

18 4. No tax shall be levied on admissions to the
19 National Football League championship game, on admissions to
20 any semifinal game or championship game of a national
21 collegiate tournament, or on admissions to a Major League
22 Baseball all-star game.

23 5. A participation fee or sponsorship fee imposed by a
24 governmental entity as described in s. 212.08(6) for an
25 athletic or recreational program is exempt when the
26 governmental entity by itself, or in conjunction with an
27 organization exempt under s. 501(c)(3) of the Internal Revenue
28 Code of 1954, as amended, sponsors, administers, plans,
29 supervises, directs, and controls the athletic or recreational
30 program.

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1 6. Also exempt from the tax imposed by this section to
2 the extent provided in this subparagraph are admissions to
3 live theater, live opera, or live ballet productions in this
4 state which are sponsored by an organization that has received
5 a determination from the Internal Revenue Service that the
6 organization is exempt from federal income tax under s.
7 501(c)(3) of the Internal Revenue Code of 1954, as amended, if
8 the organization actively participates in planning and
9 conducting the event, is responsible for the safety and
10 success of the event, is organized for the purpose of
11 sponsoring live theater, live opera, or live ballet
12 productions in this state, has more than 10,000 subscribing
13 members and has among the stated purposes in its charter the
14 promotion of arts education in the communities which it
15 serves, and will receive at least 20 percent of the net
16 profits, if any, of the events which the organization sponsors
17 and will bear the risk of at least 20 percent of the losses,
18 if any, from the events which it sponsors if the organization
19 employs other persons as agents to provide services in
20 connection with a sponsored event. Prior to March 1 of each
21 year, such organization may apply to the department for a
22 certificate of exemption for admissions to such events
23 sponsored in this state by the organization during the
24 immediately following state fiscal year. The application shall
25 state the total dollar amount of admissions receipts collected
26 by the organization or its agents from such events in this
27 state sponsored by the organization or its agents in the year
28 immediately preceding the year in which the organization
29 applies for the exemption. Such organization shall receive the
30 exemption only to the extent of \$1.5 million multiplied by the
31 ratio that such receipts bear to the total of such receipts of

1 all organizations applying for the exemption in such year;
2 however, in no event shall such exemption granted to any
3 organization exceed 6 percent of such admissions receipts
4 collected by the organization or its agents in the year
5 immediately preceding the year in which the organization
6 applies for the exemption. Each organization receiving the
7 exemption shall report each month to the department the total
8 admissions receipts collected from such events sponsored by
9 the organization during the preceding month and shall remit to
10 the department an amount equal to 6 percent of such receipts
11 reduced by any amount remaining under the exemption. Tickets
12 for such events sold by such organizations shall not reflect
13 the tax otherwise imposed under this section.

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

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

21 9. No tax shall be levied on admissions to any
22 postseason collegiate football game sanctioned by the National
23 Collegiate Athletic Association.

24 (3) Such taxes shall be paid and remitted at the same
25 time and in the same manner as provided for remitting taxes on
26 sales of tangible personal property, as hereinafter provided.
27 Notwithstanding any other provision of this chapter, the tax
28 on admission to an event at a convention hall, exhibition
29 hall, auditorium, stadium, theater, arena, civic center,
30 performing arts center, or publicly owned recreational
31 facility shall be collected at the time of payment for the

1 admission but is not due to the department until the first day
2 of the month following the actual date of the event for which
3 the admission is sold and becomes delinquent on the 21st day
4 of that month.

5 Section 4. This act shall take effect July 1, 2005.

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7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
8 COMMITTEE SUBSTITUTE FOR
9 Senate Bill 2520

10 The committee substitute provides that the extended sales tax
11 exemptions expire July 1, 2009.
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