

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

A bill to be entitled  
 An act relating to the tax on sales, use, and other transactions; amending s. 212.031, F.S.; continuing an exemption from the tax on rental or license fees which is provided for certain property rented, leased, or licensed by a convention or exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility for a specified period; providing for future repeal; postponing the repeal of and reviving and readopting s. 212.031(10), F.S., relating to an exemption provided for certain charges imposed by a convention or exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility upon a lessee or licensee; providing for future repeal; amending s. 212.04, F.S., relating to the tax on admissions; continuing in effect a provision that excludes certain service charges from the sale price or actual value of an admission; continuing an exemption from the tax which is provided for admission charges to an event sponsored by a governmental entity, sports authority, or sports commission; providing for future repeal; continuing in effect provisions governing the remitting of certain admission taxes to the Department of Revenue; providing an effective date.

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

29 Section 1. Paragraph (a) of subsection (1) of section  
 30 212.031, Florida Statutes, as amended by section 3 of chapter  
 31 2000-345, as amended by section 55 of chapter 2002-218, and as  
 32 amended by section 2 of chapter 2000-182, section 1 of chapter  
 33 2000-183, section 53 of chapter 2000-260, and section 27 of  
 34 chapter 2001-140, Laws of Florida, and subsection (3) of said  
 35 section, as amended by section 3 of chapter 2000-345, as amended  
 36 by section 55 of chapter 2002-218, Laws of Florida, are amended  
 37 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. Paragraph (b) of subsection (1) and subsection  
 212 (3) of section 212.04, Florida Statutes, as amended by section 4  
 213 of chapter 2000-345, as amended by section 55 of chapter 2002-  
 214 218, Laws of Florida, and paragraph (a) of subsection (2) of  
 215 said section, as amended by section 4 of chapter 2000-345, as  
 216 amended by section 55 of chapter 2002-218, as amended by section  
 217 916 of chapter 2002-387, and as amended by section 24 of chapter  
 218 2000-158, and section 11 of chapter 2000-210, Laws of Florida,  
 219 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 actual  
 234 value of admission shall, for the purpose of this chapter, be  
 235 that price remaining after deduction of federal taxes and state  
 236 or locally imposed or authorized seat surcharges, taxes, or  
 237 fees, if any, imposed upon such admission. The sale price or  
 238 actual value does not include separately stated ticket service  
 239 charges that are imposed by a facility ticket office or a  
 240 ticketing service and added to a separately stated, established  
 241 ticket price. ~~and~~ The rate of tax on each admission shall be  
 242 according to the brackets established by s. 212.12(9).

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

253 | be retained and used by each institution to support women's  
 254 | athletics as provided in s. 1006.71(2)(c).

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

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

277 |       3. No tax shall be levied on an admission paid by a  
 278 | student, or on the student's behalf, to any required place of  
 279 | sport or recreation if the student's participation in the sport  
 280 | or recreational activity is required as a part of a program or

281 activity sponsored by, and under the jurisdiction of, the  
282 student's educational institution, provided his or her  
283 attendance is as a participant and not as a spectator.

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

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

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

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

337 shall not reflect the tax otherwise imposed under this section.

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

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

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

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

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

358 Section 4. This act shall take effect July 1, 2006.