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

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

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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

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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

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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

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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,

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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;

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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

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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

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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

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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

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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

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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.