

Bill No. SB 952

Barcode 344076

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Senator Margolis moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Paragraph (a) of subsection (1) of section 212.031, Florida Statutes, as amended by section 3 of chapter 2000-345, as amended by section 55 of chapter 2002-218, and as amended by section 2 of chapter 2000-182, section 1 of chapter 2000-183, section 53 of chapter 2000-260, and section 27 of chapter 2001-140, Laws of Florida, and subsection (3) of that section, as amended by section 3 of chapter 2000-345, as amended by section 55 of chapter 2002-218, Laws of Florida, are amended to read:

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

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

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1 such property is:

2 1. Assessed as agricultural property under s. 193.461.

3 2. Used exclusively as dwelling units.

4 3. Property subject to tax on parking, docking, or
5 storage spaces under s. 212.03(6).

6 4. Recreational property or the common elements of a
7 condominium when subject to a lease between the developer or
8 owner thereof and the condominium association in its own right
9 or as agent for the owners of individual condominium units or
10 the owners of individual condominium units. However, only the
11 lease payments on such property shall be exempt from the tax
12 imposed by this chapter, and any other use made by the owner
13 or the condominium association shall be fully taxable under
14 this chapter.

15 5. A public or private street or right-of-way and
16 poles, conduits, fixtures, and similar improvements located on
17 such streets or rights-of-way, occupied or used by a utility
18 or provider of communications services, as defined by s.
19 202.11, for utility or communications or television purposes.
20 For purposes of this subparagraph, the term "utility" means
21 any person providing utility services as defined in s.
22 203.012. This exception also applies to property, wherever
23 located, on which the following are placed: towers, antennas,
24 cables, accessory structures, or equipment, not including
25 switching equipment, used in the provision of mobile
26 communications services as defined in s. 202.11. For purposes
27 of this chapter, towers used in the provision of mobile
28 communications services, as defined in s. 202.11, are
29 considered to be fixtures.

30 6. A public street or road which is used for
31 transportation purposes.

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1 7. Property used at an airport exclusively for the
 2 purpose of aircraft landing or aircraft taxiing or property
 3 used by an airline for the purpose of loading or unloading
 4 passengers or property onto or from aircraft or for fueling
 5 aircraft.

6 8.a. Property used at a port authority, as defined in
 7 s. 315.02(2), exclusively for the purpose of oceangoing
 8 vessels or tugs docking, or such vessels mooring on property
 9 used by a port authority for the purpose of loading or
 10 unloading passengers or cargo onto or from such a vessel, or
 11 property used at a port authority for fueling such vessels, or
 12 to the extent that the amount paid for the use of any property
 13 at the port is based on the charge for the amount of tonnage
 14 actually imported or exported through the port by a tenant.

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

19 9. Property used as an integral part of the
 20 performance of qualified production services. As used in this
 21 subparagraph, the term "qualified production services" means
 22 any activity or service performed directly in connection with
 23 the production of a qualified motion picture, as defined in s.
 24 212.06(1)(b), and includes:

25 a. Photography, sound and recording, casting, location
 26 managing and scouting, shooting, creation of special and
 27 optical effects, animation, adaptation (language, media,
 28 electronic, or otherwise), technological modifications,
 29 computer graphics, set and stage support (such as
 30 electricians, lighting designers and operators, greensmen,
 31 prop managers and assistants, and grips), wardrobe (design,

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1 preparation, and management), hair and makeup (design,
 2 production, and application), performing (such as acting,
 3 dancing, and playing), designing and executing stunts,
 4 coaching, consulting, writing, scoring, composing,
 5 choreographing, script supervising, directing, producing,
 6 transmitting dailies, dubbing, mixing, editing, cutting,
 7 looping, printing, processing, duplicating, storing, and
 8 distributing;

9 b. The design, planning, engineering, construction,
 10 alteration, repair, and maintenance of real or personal
 11 property including stages, sets, props, models, paintings, and
 12 facilities principally required for the performance of those
 13 services listed in sub-subparagraph a.; and

14 c. Property management services directly related to
 15 property used in connection with the services described in
 16 sub-subparagraphs a. and b.

17

18 This exemption will inure to the taxpayer upon presentation of
 19 the certificate of exemption issued to the taxpayer under the
 20 provisions of s. 288.1258.

21 10. Leased, subleased, licensed, or rented to a person
 22 providing food and drink concessionaire services within the
 23 premises of a convention hall, exhibition hall, auditorium,
 24 stadium, theater, arena, civic center, performing arts center,
 25 publicly owned recreational facility, or any business operated
 26 under a permit issued pursuant to chapter 550. A person
 27 providing retail concessionaire services involving the sale of
 28 food and drink or other tangible personal property within the
 29 premises of an airport shall be subject to tax on the rental
 30 of real property used for that purpose, but shall not be
 31 subject to the tax on any license to use the property. For

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1 purposes of this subparagraph, the term "sale" shall not
2 include the leasing of tangible personal property.

3 11. Property occupied pursuant to an instrument
4 calling for payments which the department has declared, in a
5 Technical Assistance Advisement issued on or before March 15,
6 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c),
7 Florida Administrative Code; provided that this subparagraph
8 shall only apply to property occupied by the same person
9 before and after the execution of the subject instrument and
10 only to those payments made pursuant to such instrument,
11 exclusive of renewals and extensions thereof occurring after
12 March 15, 1993.

13 12. Rented, leased, subleased, or licensed to a
14 concessionaire by a convention hall, exhibition hall,
15 auditorium, stadium, theater, arena, civic center, performing
16 arts center, or publicly owned recreational facility, during
17 an event at the facility, to be used by the concessionaire to
18 sell souvenirs, novelties, or other event-related products.
19 This subparagraph applies only to that portion of the rental,
20 lease, or license payment which is based on a percentage of
21 sales and not based on a fixed price. This subparagraph is
22 repealed July 1, 2009.

23 ~~13.12-~~ Property used or occupied predominantly for
24 space flight business purposes. As used in this subparagraph,
25 "space flight business" means the manufacturing, processing,
26 or assembly of a space facility, space propulsion system,
27 space vehicle, satellite, or station of any kind possessing
28 the capacity for space flight, as defined by s. 212.02(23), or
29 components thereof, and also means the following activities
30 supporting space flight: vehicle launch activities, flight
31 operations, ground control or ground support, and all

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1 administrative activities directly related thereto. Property
 2 shall be deemed to be used or occupied predominantly for space
 3 flight business purposes if more than 50 percent of the
 4 property, or improvements thereon, is used for one or more
 5 space flight business purposes. Possession by a landlord,
 6 lessor, or licensor of a signed written statement from the
 7 tenant, lessee, or licensee claiming the exemption shall
 8 relieve the landlord, lessor, or licensor from the
 9 responsibility of collecting the tax, and the department shall
 10 look solely to the tenant, lessee, or licensee for recovery of
 11 such tax if it determines that the exemption was not
 12 applicable.

13 (3) The tax imposed by this section shall be in
 14 addition to the total amount of the rental or license fee,
 15 shall be charged by the lessor or person receiving the rent or
 16 payment in and by a rental or license fee arrangement with the
 17 lessee or person paying the rental or license fee, and shall
 18 be due and payable at the time of the receipt of such rental
 19 or license fee payment by the lessor or other person who
 20 receives the rental or payment. Notwithstanding any other
 21 provision of this chapter, the tax imposed by this section on
 22 the rental, lease, or license for the use of a convention
 23 hall, exhibition hall, auditorium, stadium, theater, arena,
 24 civic center, performing arts center, or publicly owned
 25 recreational facility to hold an event of not more than 7
 26 consecutive days' duration shall be collected at the time of
 27 the payment for that rental, lease, or license but is not due
 28 and payable to the department until the first day of the month
 29 following the last day that the event for which the payment is
 30 made is actually held, and becomes delinquent on the 21st day
 31 of that month. The owner, lessor, or person receiving the rent

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1 or license fee shall remit the tax to the department at the
 2 times and in the manner hereinafter provided for dealers to
 3 remit taxes under this chapter. The same duties imposed by
 4 this chapter upon dealers in tangible personal property
 5 respecting the collection and remission of the tax; the making
 6 of returns; the keeping of books, records, and accounts; and
 7 the compliance with the rules and regulations of the
 8 department in the administration of this chapter shall apply
 9 to and be binding upon all persons who manage any leases or
 10 operate real property, hotels, apartment houses,
 11 roominghouses, or tourist and trailer camps and all persons
 12 who collect or receive rents or license fees taxable under
 13 this chapter on behalf of owners or lessors.

14 Section 2. Notwithstanding the provisions of section 3
 15 of chapter 2000-345, Laws of Florida, as amended by section 55
 16 of chapter 2002-218, Laws of Florida, subsection (10) of s.
 17 212.031, Florida Statutes, shall not stand repealed on July 1,
 18 2006, as scheduled by such laws, but that subsection is
 19 revived and readopted. Subsection (10) of s. 212.031, Florida
 20 Statutes, is repealed July 1, 2009.

21 Section 3. Paragraph (b) of subsection (1) and
 22 subsection (3) of section 212.04, Florida Statutes, as amended
 23 by section 4 of chapter 2000-345, as amended by section 55 of
 24 chapter 2002-218, Laws of Florida, and paragraph (a) of
 25 subsection (2) of that section, as amended by section 4 of
 26 chapter 2000-345, as amended by section 55 of chapter
 27 2002-218, as amended by section 916 of chapter 2002-387, and
 28 as amended by section 24 of chapter 2000-158, and section 11
 29 of chapter 2000-210, Laws of Florida, are amended to read:

30 212.04 Admissions tax; rate, procedure, enforcement.--
 31 (1)

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1 (b) For the exercise of such privilege, a tax is
 2 levied at the rate of 6 percent of sales price, or the actual
 3 value received from such admissions, which 6 percent shall be
 4 added to and collected with all such admissions from the
 5 purchaser thereof, and such tax shall be paid for the exercise
 6 of the privilege as defined in the preceding paragraph. Each
 7 ticket must show on its face the actual sales price of the
 8 admission, or each dealer selling the admission must
 9 prominently display at the box office or other place where the
 10 admission charge is made a notice disclosing the price of the
 11 admission, and the tax shall be computed and collected on the
 12 basis of the actual price of the admission charged by the
 13 dealer. The sale price or actual value of admission shall, for
 14 the purpose of this chapter, be that price remaining after
 15 deduction of federal taxes and state or locally imposed or
 16 authorized seat surcharges, taxes, or fees, if any, imposed
 17 upon such admission. The sale price or actual value does not
 18 include separately stated ticket service charges that are
 19 imposed by a facility ticket office or a ticketing service and
 20 added to a separately stated, established ticket price., and
 21 The rate of tax on each admission shall be according to the
 22 brackets established by s. 212.12(9).

23 (2)(a)1. No tax shall be levied on admissions to
 24 athletic or other events sponsored by elementary schools,
 25 junior high schools, middle schools, high schools, community
 26 colleges, public or private colleges and universities, deaf
 27 and blind schools, facilities of the youth services programs
 28 of the Department of Children and Family Services, and state
 29 correctional institutions when only student, faculty, or
 30 inmate talent is used. However, this exemption shall not apply
 31 to admission to athletic events sponsored by a state

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1 university, and the proceeds of the tax collected on such
2 admissions shall be retained and used by each institution to
3 support women's athletics as provided in s. 1006.71(2)(c).

4 2.a. No tax shall be levied on dues, membership fees,
5 and admission charges imposed by not-for-profit sponsoring
6 organizations. To receive this exemption, the sponsoring
7 organization must qualify as a not-for-profit entity under the
8 provisions of s. 501(c)(3) of the Internal Revenue Code of
9 1954, as amended.

10 b. No tax shall be levied on admission charges to an
11 event sponsored by a governmental entity, sports authority, or
12 sports commission when held in a convention hall, exhibition
13 hall, auditorium, stadium, theater, arena, civic center,
14 performing arts center, or publicly owned recreational
15 facility and when 100 percent of the risk of success or
16 failure lies with the sponsor of the event and 100 percent of
17 the funds at risk for the event belong to the sponsor, and
18 student or faculty talent is not exclusively used. As used in
19 this sub-subparagraph, the terms "sports authority" and
20 "sports commission" mean a nonprofit organization that is
21 exempt from federal income tax under s. 501(c)(3) of the
22 Internal Revenue Code and that contracts with a county or
23 municipal government for the purpose of promoting and
24 attracting sports-tourism events to the community with which
25 it contracts. This sub-subparagraph is repealed July 1, 2009.

26 3. No tax shall be levied on an admission paid by a
27 student, or on the student's behalf, to any required place of
28 sport or recreation if the student's participation in the
29 sport or recreational activity is required as a part of a
30 program or activity sponsored by, and under the jurisdiction
31 of, the student's educational institution, provided his or her

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1 attendance is as a participant and not as a spectator.

2 4. No tax shall be levied on admissions to the
3 National Football League championship game, on admissions to
4 any semifinal game or championship game of a national
5 collegiate tournament, or on admissions to a Major League
6 Baseball all-star game.

7 5. A participation fee or sponsorship fee imposed by a
8 governmental entity as described in s. 212.08(6) for an
9 athletic or recreational program is exempt when the
10 governmental entity by itself, or in conjunction with an
11 organization exempt under s. 501(c)(3) of the Internal Revenue
12 Code of 1954, as amended, sponsors, administers, plans,
13 supervises, directs, and controls the athletic or recreational
14 program.

15 6. Also exempt from the tax imposed by this section to
16 the extent provided in this subparagraph are admissions to
17 live theater, live opera, or live ballet productions in this
18 state which are sponsored by an organization that has received
19 a determination from the Internal Revenue Service that the
20 organization is exempt from federal income tax under s.
21 501(c)(3) of the Internal Revenue Code of 1954, as amended, if
22 the organization actively participates in planning and
23 conducting the event, is responsible for the safety and
24 success of the event, is organized for the purpose of
25 sponsoring live theater, live opera, or live ballet
26 productions in this state, has more than 10,000 subscribing
27 members and has among the stated purposes in its charter the
28 promotion of arts education in the communities which it
29 serves, and will receive at least 20 percent of the net
30 profits, if any, of the events which the organization sponsors
31 and will bear the risk of at least 20 percent of the losses,

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1 if any, from the events which it sponsors if the organization
2 employs other persons as agents to provide services in
3 connection with a sponsored event. Prior to March 1 of each
4 year, such organization may apply to the department for a
5 certificate of exemption for admissions to such events
6 sponsored in this state by the organization during the
7 immediately following state fiscal year. The application shall
8 state the total dollar amount of admissions receipts collected
9 by the organization or its agents from such events in this
10 state sponsored by the organization or its agents in the year
11 immediately preceding the year in which the organization
12 applies for the exemption. Such organization shall receive the
13 exemption only to the extent of \$1.5 million multiplied by the
14 ratio that such receipts bear to the total of such receipts of
15 all organizations applying for the exemption in such year;
16 however, in no event shall such exemption granted to any
17 organization exceed 6 percent of such admissions receipts
18 collected by the organization or its agents in the year
19 immediately preceding the year in which the organization
20 applies for the exemption. Each organization receiving the
21 exemption shall report each month to the department the total
22 admissions receipts collected from such events sponsored by
23 the organization during the preceding month and shall remit to
24 the department an amount equal to 6 percent of such receipts
25 reduced by any amount remaining under the exemption. Tickets
26 for such events sold by such organizations shall not reflect
27 the tax otherwise imposed under this section.

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

31 8. Also exempt from the tax imposed by this section

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1 are participation or entry fees charged to participants in a
2 game, race, or other sport or recreational event if spectators
3 are charged a taxable admission to such event.

4 9. No tax shall be levied on admissions to any
5 postseason collegiate football game sanctioned by the National
6 Collegiate Athletic Association.

7 (3) Such taxes shall be paid and remitted at the same
8 time and in the same manner as provided for remitting taxes on
9 sales of tangible personal property, as hereinafter provided.
10 Notwithstanding any other provision of this chapter, the tax
11 on admission to an event at a convention hall, exhibition
12 hall, auditorium, stadium, theater, arena, civic center,
13 performing arts center, or publicly owned recreational
14 facility shall be collected at the time of payment for the
15 admission but is not due to the department until the first day
16 of the month following the actual date of the event for which
17 the admission is sold and becomes delinquent on the 21st day
18 of that month.

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

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22 ===== T I T L E A M E N D M E N T =====

23 And the title is amended as follows:

24 Delete everything before the enacting clause

25

26 and insert:

27 A bill to be entitled
28 An act relating to the tax on sales, use, and
29 other transactions; amending s. 212.031, F.S.;
30 continuing an exemption from the tax on rental
31 or license fees which is provided for certain

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

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