

1                                   A bill to be entitled  
 2           An act relating to the tax on property rental fees and the  
 3           tax on admissions; amending s. 212.031, F.S.; abrogating  
 4           the repeal of the tax exemption on rental or license fees  
 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; amending s. 2, ch.  
 9           2006-101, Laws of Florida; abrogating the repeal of the  
 10          tax exemption provided for certain charges imposed by a  
 11          convention or exhibition hall, auditorium, stadium,  
 12          theater, arena, civic center, performing arts center, or  
 13          publicly owned recreational facility upon a lessee or  
 14          licensee; amending s. 212.04, F.S.; abrogating the repeal  
 15          of the tax exemption for admission charges to events  
 16          sponsored by governmental entities, sports authorities,  
 17          and sports commissions; providing an effective date.

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

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 21           Section 1. Paragraph (a) of subsection (1) of section  
 22           212.031, Florida Statutes, is amended to read:

23           212.031 Tax on rental or license fee for use of real  
 24           property.--

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

- 29 | 1. Assessed as agricultural property under s. 193.461.
- 30 | 2. Used exclusively as dwelling units.
- 31 | 3. Property subject to tax on parking, docking, or storage
- 32 | spaces under s. 212.03(6).
- 33 | 4. Recreational property or the common elements of a
- 34 | condominium when subject to a lease between the developer or
- 35 | owner thereof and the condominium association in its own right
- 36 | or as agent for the owners of individual condominium units or
- 37 | the owners of individual condominium units. However, only the
- 38 | lease payments on such property shall be exempt from the tax
- 39 | imposed by this chapter, and any other use made by the owner or
- 40 | the condominium association shall be fully taxable under this
- 41 | chapter.
- 42 | 5. A public or private street or right-of-way and poles,
- 43 | conduits, fixtures, and similar improvements located on such
- 44 | streets or rights-of-way, occupied or used by a utility or
- 45 | provider of communications services, as defined by s. 202.11,
- 46 | for utility or communications or television purposes. For
- 47 | purposes of this subparagraph, the term "utility" means any
- 48 | person providing utility services as defined in s. 203.012. This
- 49 | exception also applies to property, wherever located, on which
- 50 | the following are placed: towers, antennas, cables, accessory
- 51 | structures, or equipment, not including switching equipment,
- 52 | used in the provision of mobile communications services as
- 53 | defined in s. 202.11. For purposes of this chapter, towers used
- 54 | in the provision of mobile communications services, as defined
- 55 | in s. 202.11, are considered to be fixtures.
- 56 | 6. A public street or road which is used for

57 transportation purposes.

58 7. Property used at an airport exclusively for the purpose  
59 of aircraft landing or aircraft taxiing or property used by an  
60 airline for the purpose of loading or unloading passengers or  
61 property onto or from aircraft or for fueling aircraft.

62 8.a. Property used at a port authority, as defined in s.  
63 315.02(2), exclusively for the purpose of oceangoing vessels or  
64 tugs docking, or such vessels mooring on property used by a port  
65 authority for the purpose of loading or unloading passengers or  
66 cargo onto or from such a vessel, or property used at a port  
67 authority for fueling such vessels, or to the extent that the  
68 amount paid for the use of any property at the port is based on  
69 the charge for the amount of tonnage actually imported or  
70 exported through the port by a tenant.

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

75 9. Property used as an integral part of the performance of  
76 qualified production services. As used in this subparagraph, the  
77 term "qualified production services" means any activity or  
78 service performed directly in connection with the production of  
79 a qualified motion picture, as defined in s. 212.06(1)(b), and  
80 includes:

81 a. Photography, sound and recording, casting, location  
82 managing and scouting, shooting, creation of special and optical  
83 effects, animation, adaptation (language, media, electronic, or  
84 otherwise), technological modifications, computer graphics, set

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85 and stage support (such as electricians, lighting designers and  
86 operators, greensmen, prop managers and assistants, and grips),  
87 wardrobe (design, preparation, and management), hair and makeup  
88 (design, production, and application), performing (such as  
89 acting, dancing, and playing), designing and executing stunts,  
90 coaching, consulting, writing, scoring, composing,  
91 choreographing, script supervising, directing, producing,  
92 transmitting dailies, dubbing, mixing, editing, cutting,  
93 looping, printing, processing, duplicating, storing, and  
94 distributing;

95 b. The design, planning, engineering, construction,  
96 alteration, repair, and maintenance of real or personal property  
97 including stages, sets, props, models, paintings, and facilities  
98 principally required for the performance of those services  
99 listed in sub-subparagraph a.; and

100 c. Property management services directly related to  
101 property used in connection with the services described in sub-  
102 subparagraphs a. and b.

103

104 This exemption will inure to the taxpayer upon presentation of  
105 the certificate of exemption issued to the taxpayer under the  
106 provisions of s. 288.1258.

107 10. Leased, subleased, licensed, or rented to a person  
108 providing food and drink concessionaire services within the  
109 premises of a convention hall, exhibition hall, auditorium,  
110 stadium, theater, arena, civic center, performing arts center,  
111 publicly owned recreational facility, or any business operated  
112 under a permit issued pursuant to chapter 550. A person

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113 providing retail concessionaire services involving the sale of  
114 food and drink or other tangible personal property within the  
115 premises of an airport shall be subject to tax on the rental of  
116 real property used for that purpose, but shall not be subject to  
117 the tax on any license to use the property. For purposes of this  
118 subparagraph, the term "sale" shall not include the leasing of  
119 tangible personal property.

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

129 12. Rented, leased, subleased, or licensed to a  
130 concessionaire by a convention hall, exhibition hall,  
131 auditorium, stadium, theater, arena, civic center, performing  
132 arts center, or publicly owned recreational facility, during an  
133 event at the facility, to be used by the concessionaire to sell  
134 souvenirs, novelties, or other event-related products. This  
135 subparagraph applies only to that portion of the rental, lease,  
136 or license payment which is based on a percentage of sales and  
137 not based on a fixed price. ~~This subparagraph is repealed July~~  
138 ~~1, 2009.~~

139 13. Property used or occupied predominantly for space  
140 flight business purposes. As used in this subparagraph, "space

141 flight business" means the manufacturing, processing, or  
 142 assembly of a space facility, space propulsion system, space  
 143 vehicle, satellite, or station of any kind possessing the  
 144 capacity for space flight, as defined by s. 212.02(23), or  
 145 components thereof, and also means the following activities  
 146 supporting space flight: vehicle launch activities, flight  
 147 operations, ground control or ground support, and all  
 148 administrative activities directly related thereto. Property  
 149 shall be deemed to be used or occupied predominantly for space  
 150 flight business purposes if more than 50 percent of the  
 151 property, or improvements thereon, is used for one or more space  
 152 flight business purposes. Possession by a landlord, lessor, or  
 153 licensor of a signed written statement from the tenant, lessee,  
 154 or licensee claiming the exemption shall relieve the landlord,  
 155 lessor, or licensor from the responsibility of collecting the  
 156 tax, and the department shall look solely to the tenant, lessee,  
 157 or licensee for recovery of such tax if it determines that the  
 158 exemption was not applicable.

159 Section 2. Section 2 of chapter 2006-101, Laws of Florida,  
 160 is amended to read:

161 Section 2. Notwithstanding the provisions of section 3 of  
 162 chapter 2000-345, Laws of Florida, as amended by section 55 of  
 163 chapter 2002-218, Laws of Florida, subsection (10) of s.  
 164 212.031, Florida Statutes, shall not stand repealed on July 1,  
 165 2006, as scheduled by such laws, but that subsection is revived  
 166 and readopted. ~~Subsection (10) of s. 212.031, Florida Statutes,~~  
 167 ~~is repealed July 1, 2009.~~

168 Section 3. Paragraph (a) of subsection (2) of section

169 212.04, Florida Statutes, is amended to read:

170 212.04 Admissions tax; rate, procedure, enforcement.--

171 (2)(a)1. No tax shall be levied on admissions to athletic  
 172 or other events sponsored by elementary schools, junior high  
 173 schools, middle schools, high schools, community colleges,  
 174 public or private colleges and universities, deaf and blind  
 175 schools, facilities of the youth services programs of the  
 176 Department of Children and Family Services, and state  
 177 correctional institutions when only student, faculty, or inmate  
 178 talent is used. However, this exemption shall not apply to  
 179 admission to athletic events sponsored by a state university,  
 180 and the proceeds of the tax collected on such admissions shall  
 181 be retained and used by each institution to support women's  
 182 athletics as provided in s. 1006.71(2)(c).

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

189 b. No tax shall be levied on admission charges to an event  
 190 sponsored by a governmental entity, sports authority, or sports  
 191 commission when held in a convention hall, exhibition hall,  
 192 auditorium, stadium, theater, arena, civic center, performing  
 193 arts center, or publicly owned recreational facility and when  
 194 100 percent of the risk of success or failure lies with the  
 195 sponsor of the event and 100 percent of the funds at risk for  
 196 the event belong to the sponsor, and student or faculty talent

197 is not exclusively used. As used in this sub-subparagraph, the  
198 terms "sports authority" and "sports commission" mean a  
199 nonprofit organization that is exempt from federal income tax  
200 under s. 501(c)(3) of the Internal Revenue Code and that  
201 contracts with a county or municipal government for the purpose  
202 of promoting and attracting sports-tourism events to the  
203 community with which it contracts. ~~This sub-subparagraph is~~  
204 ~~repealed July 1, 2009.~~

205 3. No tax shall be levied on an admission paid by a  
206 student, or on the student's behalf, to any required place of  
207 sport or recreation if the student's participation in the sport  
208 or recreational activity is required as a part of a program or  
209 activity sponsored by, and under the jurisdiction of, the  
210 student's educational institution, provided his or her  
211 attendance is as a participant and not as a spectator.

212 4. No tax shall be levied on admissions to the National  
213 Football League championship game, on admissions to any  
214 semifinal game or championship game of a national collegiate  
215 tournament, or on admissions to a Major League Baseball all-star  
216 game.

217 5. A participation fee or sponsorship fee imposed by a  
218 governmental entity as described in s. 212.08(6) for an athletic  
219 or recreational program is exempt when the governmental entity  
220 by itself, or in conjunction with an organization exempt under  
221 s. 501(c)(3) of the Internal Revenue Code of 1954, as amended,  
222 sponsors, administers, plans, supervises, directs, and controls  
223 the athletic or recreational program.

224 6. Also exempt from the tax imposed by this section to the

225 extent provided in this subparagraph are admissions to live  
226 theater, live opera, or live ballet productions in this state  
227 which are sponsored by an organization that has received a  
228 determination from the Internal Revenue Service that the  
229 organization is exempt from federal income tax under s.  
230 501(c)(3) of the Internal Revenue Code of 1954, as amended, if  
231 the organization actively participates in planning and  
232 conducting the event, is responsible for the safety and success  
233 of the event, is organized for the purpose of sponsoring live  
234 theater, live opera, or live ballet productions in this state,  
235 has more than 10,000 subscribing members and has among the  
236 stated purposes in its charter the promotion of arts education  
237 in the communities which it serves, and will receive at least 20  
238 percent of the net profits, if any, of the events which the  
239 organization sponsors and will bear the risk of at least 20  
240 percent of the losses, if any, from the events which it sponsors  
241 if the organization employs other persons as agents to provide  
242 services in connection with a sponsored event. Prior to March 1  
243 of each year, such organization may apply to the department for  
244 a certificate of exemption for admissions to such events  
245 sponsored in this state by the organization during the  
246 immediately following state fiscal year. The application shall  
247 state the total dollar amount of admissions receipts collected  
248 by the organization or its agents from such events in this state  
249 sponsored by the organization or its agents in the year  
250 immediately preceding the year in which the organization applies  
251 for the exemption. Such organization shall receive the exemption  
252 only to the extent of \$1.5 million multiplied by the ratio that

253 such receipts bear to the total of such receipts of all  
254 organizations applying for the exemption in such year; however,  
255 in no event shall such exemption granted to any organization  
256 exceed 6 percent of such admissions receipts collected by the  
257 organization or its agents in the year immediately preceding the  
258 year in which the organization applies for the exemption. Each  
259 organization receiving the exemption shall report each month to  
260 the department the total admissions receipts collected from such  
261 events sponsored by the organization during the preceding month  
262 and shall remit to the department an amount equal to 6 percent  
263 of such receipts reduced by any amount remaining under the  
264 exemption. Tickets for such events sold by such organizations  
265 shall not reflect the tax otherwise imposed under this section.

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

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

272 9. No tax shall be levied on admissions to any postseason  
273 collegiate football game sanctioned by the National Collegiate  
274 Athletic Association.

275 Section 4. This act shall take effect upon becoming a law.