

By Senator Lynn

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1 A bill to be entitled

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

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Paragraph (a) of subsection (1) of section
24 212.031, Florida Statutes, is amended to read:

25 212.031 Tax on rental or license fee for use of real
26 property.—

27 (1) (a) It is declared to be the legislative intent that
28 every person is exercising a taxable privilege who engages in
29 the business of renting, leasing, letting, or granting a license

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30 for the use of any real property unless such property is:

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

32 2. Used exclusively as dwelling units.

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

35 4. Recreational property or the common elements of a
36 condominium when subject to a lease between the developer or
37 owner thereof and the condominium association in its own right
38 or as agent for the owners of individual condominium units or
39 the owners of individual condominium units. However, only the
40 lease payments on such property shall be exempt from the tax
41 imposed by this chapter, and any other use made by the owner or
42 the condominium association shall be fully taxable under this
43 chapter.

44 5. A public or private street or right-of-way and poles,
45 conduits, fixtures, and similar improvements located on such
46 streets or rights-of-way, occupied or used by a utility or
47 provider of communications services, as defined by s. 202.11,
48 for utility or communications or television purposes. For
49 purposes of this subparagraph, the term "utility" means any
50 person providing utility services as defined in s. 203.012. This
51 exception also applies to property, wherever located, on which
52 the following are placed: towers, antennas, cables, accessory
53 structures, or equipment, not including switching equipment,
54 used in the provision of mobile communications services as
55 defined in s. 202.11. For purposes of this chapter, towers used
56 in the provision of mobile communications services, as defined
57 in s. 202.11, are considered to be fixtures.

58 6. A public street or road which is used for transportation

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59 purposes.

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

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

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

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

83 a. Photography, sound and recording, casting, location
84 managing and scouting, shooting, creation of special and optical
85 effects, animation, adaptation (language, media, electronic, or
86 otherwise), technological modifications, computer graphics, set
87 and stage support (such as electricians, lighting designers and

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

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

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

105

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

109 10. Leased, subleased, licensed, or rented to a person
110 providing food and drink concessionaire services within the
111 premises of a convention hall, exhibition hall, auditorium,
112 stadium, theater, arena, civic center, performing arts center,
113 publicly owned recreational facility, or any business operated
114 under a permit issued pursuant to chapter 550. A person
115 providing retail concessionaire services involving the sale of
116 food and drink or other tangible personal property within the

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117 premises of an airport shall be subject to tax on the rental of
118 real property used for that purpose, but shall not be subject to
119 the tax on any license to use the property. For purposes of this
120 subparagraph, the term "sale" shall not include the leasing of
121 tangible personal property.

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

131 12. Rented, leased, subleased, or licensed to a
132 concessionaire by a convention hall, exhibition hall,
133 auditorium, stadium, theater, arena, civic center, performing
134 arts center, or publicly owned recreational facility, during an
135 event at the facility, to be used by the concessionaire to sell
136 souvenirs, novelties, or other event-related products. This
137 subparagraph applies only to that portion of the rental, lease,
138 or license payment which is based on a percentage of sales and
139 not based on a fixed price. ~~This subparagraph is repealed July~~
140 ~~1, 2009.~~

141 13. Property used or occupied predominantly for space
142 flight business purposes. As used in this subparagraph, "space
143 flight business" means the manufacturing, processing, or
144 assembly of a space facility, space propulsion system, space
145 vehicle, satellite, or station of any kind possessing the

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

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

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

170 Section 3. Paragraph (a) of subsection (2) of section
171 212.04, Florida Statutes, is amended to read:

172 212.04 Admissions tax; rate, procedure, enforcement.—

173 (2) (a) 1. No tax shall be levied on admissions to athletic
174 or other events sponsored by elementary schools, junior high

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175 schools, middle schools, high schools, community colleges,
176 public or private colleges and universities, deaf and blind
177 schools, facilities of the youth services programs of the
178 Department of Children and Family Services, and state
179 correctional institutions when only student, faculty, or inmate
180 talent is used. However, this exemption shall not apply to
181 admission to athletic events sponsored by a state university,
182 and the proceeds of the tax collected on such admissions shall
183 be retained and used by each institution to support women's
184 athletics as provided in s. 1006.71(2)(c).

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

191 b. No tax shall be levied on admission charges to an event
192 sponsored by a governmental entity, sports authority, or sports
193 commission when held in a convention hall, exhibition hall,
194 auditorium, stadium, theater, arena, civic center, performing
195 arts center, or publicly owned recreational facility and when
196 100 percent of the risk of success or failure lies with the
197 sponsor of the event and 100 percent of the funds at risk for
198 the event belong to the sponsor, and student or faculty talent
199 is not exclusively used. As used in this sub-subparagraph, the
200 terms "sports authority" and "sports commission" mean a
201 nonprofit organization that is exempt from federal income tax
202 under s. 501(c)(3) of the Internal Revenue Code and that
203 contracts with a county or municipal government for the purpose

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204 of promoting and attracting sports-tourism events to the
205 community with which it contracts. ~~This sub-subparagraph is~~
206 ~~repealed July 1, 2009.~~

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

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

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

226 6. Also exempt from the tax imposed by this section to the
227 extent provided in this subparagraph are admissions to live
228 theater, live opera, or live ballet productions in this state
229 which are sponsored by an organization that has received a
230 determination from the Internal Revenue Service that the
231 organization is exempt from federal income tax under s.
232 501(c)(3) of the Internal Revenue Code of 1954, as amended, if

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233 the organization actively participates in planning and
234 conducting the event, is responsible for the safety and success
235 of the event, is organized for the purpose of sponsoring live
236 theater, live opera, or live ballet productions in this state,
237 has more than 10,000 subscribing members and has among the
238 stated purposes in its charter the promotion of arts education
239 in the communities which it serves, and will receive at least 20
240 percent of the net profits, if any, of the events which the
241 organization sponsors and will bear the risk of at least 20
242 percent of the losses, if any, from the events which it sponsors
243 if the organization employs other persons as agents to provide
244 services in connection with a sponsored event. Prior to March 1
245 of each year, such organization may apply to the department for
246 a certificate of exemption for admissions to such events
247 sponsored in this state by the organization during the
248 immediately following state fiscal year. The application shall
249 state the total dollar amount of admissions receipts collected
250 by the organization or its agents from such events in this state
251 sponsored by the organization or its agents in the year
252 immediately preceding the year in which the organization applies
253 for the exemption. Such organization shall receive the exemption
254 only to the extent of \$1.5 million multiplied by the ratio that
255 such receipts bear to the total of such receipts of all
256 organizations applying for the exemption in such year; however,
257 in no event shall such exemption granted to any organization
258 exceed 6 percent of such admissions receipts collected by the
259 organization or its agents in the year immediately preceding the
260 year in which the organization applies for the exemption. Each
261 organization receiving the exemption shall report each month to

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262 the department the total admissions receipts collected from such
263 events sponsored by the organization during the preceding month
264 and shall remit to the department an amount equal to 6 percent
265 of such receipts reduced by any amount remaining under the
266 exemption. Tickets for such events sold by such organizations
267 shall not reflect the tax otherwise imposed under this section.

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

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

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

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