

By the Committee on Commerce; and Senator Altman

577-03413-09

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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. 212.02, F.S.; defining the
4 term "fractional aircraft ownership program"; amending
5 s. 212.08, F.S.; providing tax exemptions on the sale
6 or use of aircraft primarily used in a fractional
7 aircraft ownership program and for the parts and labor
8 used in the maintenance, repair, and overhaul of such
9 aircraft; creating s. 212.0597, F.S.; providing a
10 maximum tax on the sale or use of fractional aircraft
11 ownership interests; providing an effective date.
12

13 WHEREAS, Florida has identified the aviation and aerospace
14 industries for economic development, and

15 WHEREAS, Florida has determined that the synergy in the
16 space, aerospace, and aviation industries attracts the world's
17 leading businesses to the state, and

18 WHEREAS, Florida employs approximately 80,000 people in the
19 aviation and aerospace industries at an average annual wage of
20 \$52,000, and

21 WHEREAS, Florida has the third-largest aviation
22 maintenance, repair, and overhaul cluster in the United States
23 and has strategies directed toward expanding these aviation
24 support services, and

25 WHEREAS, Florida intends to remain competitive with other
26 states as additional innovative commercial air transportation
27 products are developed, NOW, THEREFORE,

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

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Section 1. Subsection (34) is added to section 212.02, Florida Statutes, to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(34) "Fractional aircraft ownership program" means a program that meets the requirements of 14 C.F.R part 91, subpart K, relating to fractional ownership operations, except that the program must include a minimum of 25 aircraft owned or leased by the business or affiliated group, as defined by s. 1504(a) of the Internal Revenue Code, providing the program. Such aircraft must be used in the fractional aircraft ownership program providing the program.

Section 2. Paragraph (ggg) is added to subsection (7) of section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed

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59 by the entity. In addition, exemptions provided to any entity by
60 this subsection do not inure to any transaction that is
61 otherwise taxable under this chapter unless the entity has
62 obtained a sales tax exemption certificate from the department
63 or the entity obtains or provides other documentation as
64 required by the department. Eligible purchases or leases made
65 with such a certificate must be in strict compliance with this
66 subsection and departmental rules, and any person who makes an
67 exempt purchase with a certificate that is not in strict
68 compliance with this subsection and the rules is liable for and
69 shall pay the tax. The department may adopt rules to administer
70 this subsection.

71 (ggg) Fractional aircraft ownership programs.—Also exempt
72 from the tax imposed by this chapter is the sale or use of
73 aircraft primarily used in a fractional aircraft ownership
74 program, and any parts or labor used in the completion,
75 maintenance, repair, or overhaul of such aircraft. The exemption
76 is not allowed unless the purchaser or lessee furnishes the
77 dealer with a certificate stating that the lease, purchase,
78 repair, or maintenance to be exempted is for aircraft primarily
79 used in a fractional aircraft ownership program and that the
80 purchaser or lessee qualifies for the exemption. If a purchaser
81 or lessee makes tax-exempt purchases on a continual basis, the
82 purchaser or lessee may allow the dealer to keep the certificate
83 on file. The purchaser or lessee must inform the dealer that has
84 the certificate on file if the purchaser or lessee no longer
85 qualifies for the exemption. The department shall adopt rules to
86 administer this section, including rules determining the format
87 of the certificate.

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88 Section 3. Section 212.0597, Florida Statutes, is created
89 to read:

90 212.0597 Maximum tax on fractional aircraft ownership
91 interests.—The tax imposed under this chapter, including any
92 discretionary sales surtax under s. 212.055, is limited to \$300
93 on the sale or use in this state of a fractional ownership
94 interest in aircraft pursuant to a fractional aircraft ownership
95 program. This maximum tax applies to the total consideration
96 paid for the fractional ownership interest, including any
97 amounts paid by the fractional owner as monthly management or
98 maintenance fees. The maximum tax applies only if the fractional
99 ownership interest is sold by or to the operator of the
100 fractional aircraft ownership program, or if the fractional
101 ownership interest is transferred upon the approval of the
102 operator of the fractional aircraft ownership program.

103 Section 4. This act shall take effect July 1, 2009.