

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.

18
 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

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

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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

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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.