

By Senator Hays

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1 A bill to be entitled
2 An act relating to the tax on sales, use, and other
3 transactions; repealing s. 212.031, F.S., relating to
4 imposition of a tax on the rental or license fee
5 charged for the use of commercial real property;
6 amending ss. 212.0598, 212.0602, 288.1258, 338.234,
7 and 341.840, F.S.; conforming cross-references;
8 providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Section 212.031, Florida Statutes, is repealed.

13 Section 2. Subsection (2) of section 212.0598, Florida
14 Statutes, is amended to read:

15 212.0598 Special provisions; air carriers.-

16 (2) The basis of the tax shall be the ratio of Florida
17 mileage to total mileage as determined pursuant to chapter 220
18 and this section. The ratio shall be determined at the close of
19 the carrier's preceding fiscal year. However, during the fiscal
20 year in which the air carrier begins initial operations in this
21 state, the carrier may determine its mileage apportionment
22 factor based on an estimated ratio of anticipated revenue miles
23 in this state to anticipated total revenue miles. In such cases,
24 the air carrier shall pay additional tax or apply for a refund
25 based on the actual ratio for that year. The applicable ratio
26 shall be applied each month to the carrier's total systemwide
27 gross purchases of tangible personal property and services
28 otherwise taxable in Florida. Additionally, the ratio shall be
29 applied each month to the carrier's total systemwide payments

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30 for the lease or rental of, or license in, real property used by
31 the carrier substantially for aircraft maintenance if that
32 carrier employed, on average, during the previous calendar
33 quarter in excess of 3,000 full-time equivalent maintenance or
34 repair employees at one maintenance base that it leases, rents,
35 or has a license in, in this state. ~~In all other instances, the~~
36 ~~tax on real property leased, rented, or licensed by the carrier~~
37 ~~shall be as provided in s. 212.031.~~

38 Section 3. Section 212.0602, Florida Statutes, is amended
39 to read:

40 212.0602 Education; limited exemption.—To facilitate
41 investment in education and job training, there is also exempt
42 from the taxes levied under this chapter, subject to the
43 provisions of this section, the purchase or lease of materials,
44 equipment, and other items or the license in or lease of real
45 property by any entity, institution, or organization that is
46 primarily engaged in teaching students to perform any of the
47 activities or services described in former s. 212.031(1)(a)9.,
48 that conducts classes at a fixed location located in this state,
49 that is licensed under chapter 1005, and that has at least 500
50 enrolled students. Any entity, institution, or organization
51 meeting the requirements of this section shall be deemed to
52 qualify for the exemptions in former s. ss. 212.031(1)(a)9. and
53 s. 212.08(5)(f) and (12), ~~and~~ and to qualify for an exemption for
54 its purchase or lease of materials, equipment, and other items
55 used for education or demonstration of the school's curriculum,
56 including supporting operations. Nothing in this section shall
57 preclude an entity described in this section from qualifying for
58 any other exemption provided for in this chapter.

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59 Section 4. Subsections (2) and (3) of section 288.1258,
60 Florida Statutes, are amended to read:

61 288.1258 Entertainment industry qualified production
62 companies; application procedure; categories; duties of the
63 Department of Revenue; records and reports.—

64 (2) APPLICATION PROCEDURE.—

65 (a) The Department of Revenue will review all submitted
66 applications for the required information. Within 10 working
67 days after the receipt of a properly completed application, the
68 Department of Revenue will forward the completed application to
69 the Office of Film and Entertainment for approval.

70 (b)1. The Office of Film and Entertainment shall establish
71 a process by which an entertainment industry production company
72 may be approved by the office as a qualified production company
73 and may receive a certificate of exemption from the Department
74 of Revenue for the sales and use tax exemptions under ss.
75 ~~212.031~~, ~~212.06~~, and 212.08.

76 2. Upon determination by the Office of Film and
77 Entertainment that a production company meets the established
78 approval criteria and qualifies for exemption, the Office of
79 Film and Entertainment shall return the approved application or
80 application renewal or extension to the Department of Revenue,
81 which shall issue a certificate of exemption.

82 3. The Office of Film and Entertainment shall deny an
83 application or application for renewal or extension from a
84 production company if it determines that the production company
85 does not meet the established approval criteria.

86 (c) The Office of Film and Entertainment shall develop,
87 with the cooperation of the Department of Revenue and local

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88 government entertainment industry promotion agencies, a
89 standardized application form for use in approving qualified
90 production companies.

91 1. The application form shall include, but not be limited
92 to, production-related information on employment, proposed
93 budgets, planned purchases of items exempted from sales and use
94 taxes under ss. ~~212.031~~, 212.06~~7~~, and 212.08, a signed
95 affirmation from the applicant that any items purchased for
96 which the applicant is seeking a tax exemption are intended for
97 use exclusively as an integral part of entertainment industry
98 preproduction, production, or postproduction activities engaged
99 in primarily in this state, and a signed affirmation from the
100 Office of Film and Entertainment that the information on the
101 application form has been verified and is correct. In lieu of
102 information on projected employment, proposed budgets, or
103 planned purchases of exempted items, a production company
104 seeking a 1-year certificate of exemption may submit summary
105 historical data on employment, production budgets, and purchases
106 of exempted items related to production activities in this
107 state. Any information gathered from production companies for
108 the purposes of this section shall be considered confidential
109 taxpayer information and shall be disclosed only as provided in
110 s. 213.053.

111 2. The application form may be distributed to applicants by
112 the Office of Film and Entertainment or local film commissions.

113 (d) All applications, renewals, and extensions for
114 designation as a qualified production company shall be processed
115 by the Office of Film and Entertainment.

116 (e) In the event that the Department of Revenue determines

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117 that a production company no longer qualifies for a certificate
118 of exemption, or has used a certificate of exemption for
119 purposes other than those authorized by this section and chapter
120 212, the Department of Revenue shall revoke the certificate of
121 exemption of that production company, and any sales or use taxes
122 exempted on items purchased or leased by the production company
123 during the time such company did not qualify for a certificate
124 of exemption or improperly used a certificate of exemption shall
125 become immediately due to the Department of Revenue, along with
126 interest and penalty as provided by s. 212.12. In addition to
127 the other penalties imposed by law, any person who knowingly and
128 willfully falsifies an application, or uses a certificate of
129 exemption for purposes other than those authorized by this
130 section and chapter 212, commits a felony of the third degree,
131 punishable as provided in ss. 775.082, 775.083, and 775.084.

132 (3) CATEGORIES.—

133 (a)1. A production company may be qualified for designation
134 as a qualified production company for a period of 1 year if the
135 company has operated a business in Florida at a permanent
136 address for a period of 12 consecutive months. Such a qualified
137 production company shall receive a single 1-year certificate of
138 exemption from the Department of Revenue for the sales and use
139 tax exemptions under ss. ~~212.031~~, 212.06, and 212.08, which
140 certificate shall expire 1 year after issuance or upon the
141 cessation of business operations in the state, at which time the
142 certificate shall be surrendered to the Department of Revenue.

143 2. The Office of Film and Entertainment shall develop a
144 method by which a qualified production company may annually
145 renew a 1-year certificate of exemption for a period of up to 5

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146 years without requiring the production company to resubmit a new
147 application during that 5-year period.

148 3. Any qualified production company may submit a new
149 application for a 1-year certificate of exemption upon the
150 expiration of that company's certificate of exemption.

151 (b)1. A production company may be qualified for designation
152 as a qualified production company for a period of 90 days. Such
153 production company shall receive a single 90-day certificate of
154 exemption from the Department of Revenue for the sales and use
155 tax exemptions under ss. ~~212.031~~, 212.06, and 212.08, which
156 certificate shall expire 90 days after issuance, with extensions
157 contingent upon approval of the Office of Film and
158 Entertainment. The certificate shall be surrendered to the
159 Department of Revenue upon its expiration.

160 2. Any production company may submit a new application for
161 a 90-day certificate of exemption upon the expiration of that
162 company's certificate of exemption.

163 Section 5. Section 338.234, Florida Statutes, is amended to
164 read:

165 338.234 Granting concessions or selling along the turnpike
166 system; ~~immunity from taxation.~~

167 ~~(1)~~ The department may enter into contracts or licenses
168 with any person for the sale of services or products or business
169 opportunities on the turnpike system, or the turnpike enterprise
170 may sell services, products, or business opportunities on the
171 turnpike system, which benefit the traveling public or provide
172 additional revenue to the turnpike system. Services, business
173 opportunities, and products authorized to be sold include, but
174 are not limited to, motor fuel, vehicle towing, and vehicle

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175 maintenance services; food with attendant nonalcoholic
176 beverages; lodging, meeting rooms, and other business services
177 opportunities; advertising and other promotional opportunities,
178 which advertising and promotions must be consistent with the
179 dignity and integrity of the state; state lottery tickets sold
180 by authorized retailers; games and amusements that operate by
181 the application of skill, not including games of chance as
182 defined in s. 849.16 or other illegal gambling games; Florida
183 citrus, goods promoting the state, or handmade goods produced
184 within the state; and travel information, tickets, reservations,
185 or other related services. However, the department, pursuant to
186 the grants of authority to the turnpike enterprise under this
187 section, shall not exercise the power of eminent domain solely
188 for the purpose of acquiring real property in order to provide
189 business services or opportunities, such as lodging and meeting-
190 room space on the turnpike system.

191 ~~(2) The effectuation of the authorized purposes of the~~
192 ~~Florida Intrastate Highway System and Florida Turnpike~~
193 ~~Enterprise, created under this chapter, is for the benefit of~~
194 ~~the people of the state, for the increase of their commerce and~~
195 ~~prosperity, and for the improvement of their health and living~~
196 ~~conditions; and, because the system and enterprise perform~~
197 ~~essential government functions in effectuating such purposes,~~
198 ~~neither the turnpike enterprise nor any nongovernment lessee or~~
199 ~~licensee renting, leasing, or licensing real property from the~~
200 ~~turnpike enterprise, pursuant to an agreement authorized by this~~
201 ~~section, are required to pay any commercial rental tax imposed~~
202 ~~under s. 212.031 on any capital improvements constructed,~~
203 ~~improved, acquired, installed, or used for such purposes.~~

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204 Section 6. Paragraph (a) of subsection (3) of section
205 341.840, Florida Statutes, is amended to read:

206 341.840 Tax exemption.—

207 (3) (a) Purchases or leases of tangible personal property or
208 real property by the authority, excluding agents of the
209 authority, are exempt from taxes imposed by chapter 212 as
210 provided in s. 212.08(6). Purchases or leases of tangible
211 personal property that is incorporated into the high-speed rail
212 system as a component part thereof, as determined by the
213 authority, by agents of the authority or the owner of the high-
214 speed rail system are exempt from sales or use taxes imposed by
215 chapter 212. ~~Leases, rentals, or licenses to use real property~~
216 ~~granted to agents of the authority or the owner of the high-~~
217 ~~speed rail system are exempt from taxes imposed by s. 212.031 if~~
218 ~~the real property becomes part of such system.~~ The exemptions
219 granted in this subsection do not apply to sales, leases, or
220 licenses by the authority, agents of the authority, or the owner
221 of the high-speed rail system.

222 Section 7. This act shall take effect July 1, 2012.