

By Senator Latvala

20-01179-15

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1                   A bill to be entitled  
2       An act relating to the tax on real property rental and  
3       license fees; amending s. 212.031, F.S.; providing an  
4       exemption from the tax for certain common area  
5       maintenance charges; defining the term "common area  
6       maintenance charges"; providing that such charges do  
7       not include certain maintenance or repair costs  
8       required to be capitalized for federal tax purposes;  
9       reenacting ss. 212.0598(2) and 288.1258(2)(b) and (c)  
10      and (3), F.S., to incorporate the amendment made to s.  
11      212.031, F.S., in references thereto; providing an  
12      effective date.

13  
14 Be It Enacted by the Legislature of the State of Florida:

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16       Section 1. Paragraph (c) of subsection (1) of section  
17      212.031, Florida Statutes, is amended to read:

18       212.031 Tax on rental or license fee for use of real  
19      property.—

20       (1)

21       (c) For the exercise of such privilege, a tax is levied in  
22      an amount equal to 6 percent of and on the total rent or license  
23      fee charged for such real property by the person charging or  
24      collecting the rental or license fee.

25       1. The total rent or license fee charged for such real  
26      property includes ~~shall include~~ payments for the granting of a  
27      privilege to use or occupy real property for any purpose and  
28      ~~shall include~~ base rent, percentage rents, or similar charges.  
29      Such charges must ~~shall~~ be included in the total rent or license

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30 fee subject to tax under this section regardless of whether ~~or~~  
31 ~~not~~ they can be attributed to the ability of the lessor's or  
32 licensor's property as used or operated to attract customers.

33 2. The following are not subject to tax under this section:

34 a. Payments for intrinsically valuable personal property  
35 such as franchises, trademarks, service marks, logos, or patents  
36 are not subject to tax under this section.

37 b. Common area maintenance charges that are separately  
38 stated in the written lease agreement and that do not exceed 5  
39 percent of the base rent amount. For purposes of this sub-  
40 subparagraph, the term "common area maintenance charges" means  
41 the amount required to be paid under a lease agreement to the  
42 lessor which is exclusively used by the lessor to maintain or  
43 repair the portions of the real property that are dedicated for  
44 the use, enjoyment, or benefit of all lessees. Such charges do  
45 not include maintenance or repair costs that are required to be  
46 capitalized for federal tax purposes.

47 3. In the case of a contractual arrangement that provides  
48 for both payments taxable as total rent or license fee and  
49 payments not subject to tax, the tax shall be based on a  
50 reasonable allocation of such payments and does ~~shall~~ not apply  
51 to that portion which is for the nontaxable payments.

52 Section 2. Subsection (2) of s. 212.0598 and paragraphs (b)  
53 and (c) of subsection (2) and subsection (3) of s. 288.1258,  
54 Florida Statutes, are reenacted for the purpose of incorporating  
55 the amendment made by this act to s. 212.031, Florida Statutes,  
56 in references thereto.

57 Section 3. This act shall take effect July 1, 2015.