

By Senator Gruters

23-00609B-20

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1                   A bill to be entitled  
2       An act relating to taxation of real property; amending  
3       s. 212.031, F.S.; exempting from the sales and use tax  
4       certain property that is rented, leased, subleased, or  
5       licensed to a specified small business; providing  
6       definitions; providing application procedures;  
7       requiring the Department of Revenue to approve or deny  
8       such application within a specified time period;  
9       providing requirements for the department and the  
10      small business; providing for expiration of the  
11      approval letter; providing renewal procedures;  
12      providing an effective date.

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

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16       Section 1. Subsection (10) is added to section 212.031,  
17 Florida Statutes, to read:

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

20       (10) (a) The rental, lease, sublease, or license of real  
21 property to a small business is exempt from the tax imposed by  
22 this section.

23       (b) For purposes of this subsection, the term:

24       1. "Small business" means a business that employs nine or  
25 fewer total employees at all of its business locations which are  
26 related through common ownership and whose business activities  
27 are integrated with, dependent upon, or contribute to the flow  
28 of value among such locations.

29       2. "Total employees" means all full-time and part-time

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30 employees currently employed by a small business at all of its  
31 business locations, wherever they are located, and includes any  
32 person performing services for the small business under an  
33 employee leasing arrangement as defined in s. 468.520(4).

34 (c) To receive an exemption under paragraph (a), a small  
35 business must submit a completed application to the department  
36 containing the following information:

37 1. A statement that the small business is seeking the  
38 exemption provided in this subsection.

39 2. The name, mailing address, and, if applicable, the  
40 federal employment identification number and business partner  
41 number of the small business.

42 3. A list of the physical addresses of each of the small  
43 business's business locations in the state.

44 4. A copy of the small business's most recently signed and  
45 filed Florida Department of Revenue Employer's Quarterly Report  
46 (RT-6) documenting that nine or fewer employees were employed  
47 during each of the months within the most recently filed RT-6,  
48 if such small business was required to file the RT-6.

49 5. A sworn statement, under penalty of perjury, executed by  
50 a duly authorized officer or agent of the small business  
51 certifying the number of total employees employed by the small  
52 business and attesting to the accuracy of the information  
53 included in the application.

54 (d)1. The department must review each application to  
55 determine whether it is complete. If it is not complete, the  
56 department must notify the small business and specify the  
57 additional information necessary to complete the application.

58 2. The department must approve or deny each complete

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59 application within 30 days after receiving it. The department  
60 shall review and verify the small business's eligibility for the  
61 exemption by confirming that the number of total employees in  
62 the certification statement and the number of total employees  
63 listed in the RT-6 is nine or fewer, if the RT-6 was required to  
64 be submitted.

65 3. If the department determines that the small business is  
66 eligible for the exemption, it must issue an approval letter to  
67 the small business that includes the name of the small business,  
68 a list of all of the small business's business locations in the  
69 state, a statement that the small business qualifies for the  
70 exemption under this subsection, and an expiration date that is  
71 1 year after the last day of the month in which the approval  
72 letter was issued.

73 4. If the department is unable to verify the eligibility of  
74 the small business, the department must issue a denial letter to  
75 the small business explaining the reasons for denial.

76 (e) To obtain the exemption under this subsection, the  
77 small business must submit the approval letter to the landlord,  
78 lessor, or licensor. The exemption applies only during the time  
79 that the small business occupies, uses, or is entitled to occupy  
80 or use the real property regardless of when a rent or license  
81 fee payment is due or paid. The applicable tax under this  
82 chapter may not be avoided by delaying or accelerating rent or  
83 license fee payments so that they are paid during a period  
84 covered by the approval letter.

85 (f)1. An approval letter is valid for 1 year after the last  
86 day of the month in which it was issued. To continue receiving  
87 the tax exemption without interruption, the small business must

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88 submit a new application to the department at least 45 days  
89 before the approval letter is scheduled to expire.

90 2. A small business that does not reapply within the  
91 timeframe specified in subparagraph 1. may submit a new  
92 application to the department at any time. Any rental, lease,  
93 sublease, or license of real property to the small business  
94 after a previously issued approval letter has expired is subject  
95 to the applicable tax under this chapter unless it is otherwise  
96 exempt.

97 Section 2. This act shall take effect January 1, 2021.