

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1404

SPONSOR: Senator Myers

SUBJECT: Tax on Sales, Use and Other Transactions

DATE: April 14, 2000

REVISED: 04/19/00 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Keating</u>	<u>Wood</u>	<u>FR</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>CM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill provides an exemption from the tax on the lease or rental of or license in real property for that portion of leased real property which is used as a public golf course when charges for use of the golf course are taxable as admissions. The bill provides for the determination of the exempt portion and provides requirements to qualify for the exemption.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 212.031

II. Present Situation:

Section 212.031(1)(a), F.S., states that every person is exercising a taxable privilege who engages in the renting, leasing, letting, or granting of a licence for the use of any real property. The tax rate is 6 percent of and on the total rent or license fee charged for such real property by the person charging or collecting the rental or license fee. There are several exemptions to the tax imposed on this privilege based on the type or use of the property. Property used for the following are exempt:

- 1) assessed as agricultural property under s. 193.461, F.S.
- 2) used exclusively as dwelling units.
- 3) property subject to tax on parking, docking, or storage spaces under s. 212.03(6), F.S.
- 4) recreational property or the common elements of a condominium under certain conditions.
- 5) public or private street or right of way occupied or used by a utility for utility purposes.
- 6) a public street or road used for transportation purposes.
- 7) airport property used for aircraft taxiing and landing, loading or unloading of passengers or property, or fueling aircraft.
- 8) property used at a port authority, as defined in s. 315.02(2), F.S., exclusively for the purposes of oceangoing vessels or tugs docking, loading or unloading passengers or cargo,

fueling, or to the extent that charges for the use of such property are based upon the tonnage actually imported or exported.

- 9) property used as an integral part of any activity or service performed directly in connection with the production of a qualified motion picture, as defined in s. 212.06(1)(b).
- 10) property used to provide food and drink concessionaire services within a movie theater, publicly owned arena, sports stadium, convention or exhibition hall, auditorium or recreational facility or any business operated under a permit issued under chapter 550, F.S.
- 11) any property occupied pursuant to an instrument calling for payments which the Department of Revenue has declared in a Technical Assistance Advisement issued on or before March 15, 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c) of the Florida Administrative Code.

Section 212.04(1)(a), F.S., provides that it is a taxable privilege to sell or receive anything of value by way of admissions. Paragraph (b) of this subsection provides the tax rate of 6 percent for such privilege and specifies the rate shall be computed after deducting any federal taxes imposed on the admission. Subsection (2)(a)1. of s. 212.04, F.S., provides exemptions to the tax levied on admissions for certain events. Subsection (3) of s. 212.04, F.S., provides that the admissions tax shall be paid and remitted at the same time and in the same manner as provided for remitting taxes on sales of tangible personal property.

In addition to the state rate of 6 percent, local governments are authorized to levy one or more of six types of Local Discretionary Sales Surtaxes, ranging from up to 0.5 percent to 1.0 percent each, for a maximum rate of 1.5 percent.

Pursuant to section 212.054, F.S., the local discretionary sales surtaxes apply to all transactions subject to the state tax imposed on sales, use, services, rentals, admissions, and other authorized transactions. The surtax is computed by multiplying the rate imposed by the county where the sale occurs by the amount of taxable sale. The sales amount is not subject to the surtax if the property or service is delivered within a county that does not impose a surtax. In addition, the tax is not subject to any sales amount above \$5,000 on any item of tangible personal property and on long distance telephone service. The \$5,000 cap does not apply to the sale of any other service.

III. Effect of Proposed Changes:

The bill adds a new subsection (10) to s. 212.031, F.S., to exempt from tax imposed on the lease, rental, or license that portion of leased real property used for a public golf course when use of the golf course is subject to a charge taxable under 212.04, F.S. Paragraph (a) of new subsection (10) provides that the portion of real property eligible for the exemption shall be the lesser of:

- The percentage of the total area of the leased property used for the golf course; or
- Ninety percent of the total area of the property.

Paragraph (a) provides that the area of the property used for the golf course is to be determined by multiplying the published length of the course in yards times 100 yards.

Paragraph (b) of new subsection (10) provides that a golf course qualifies as a public golf course if not more than 75 percent of the rounds played at the golf course are played by members. Such determination is to be made on an annual basis based on the rounds played during the previous full calendar year. For golf courses not in business during the entire previous year, the determination is to be made on a monthly basis based on the rounds played in the previous month. "Member" is defined to mean a person who pays a fixed amount of dues for the privilege of playing an unlimited number of rounds of golf. Golf rounds played by guests of members are to be considered rounds played by nonmembers.

Subsection (c) of new subsection (10) provides the exemption shall not be allowed unless the lessee extends a signed certificate to the lessor stating the property to be exempted is for the exclusive use described in subsection (10). The certificate must include the exempt percentage determined pursuant to paragraph (a), and a statement that the golf course qualifies as a public golf course pursuant to this subsection.

Section 2. The bill takes effect of January 1, 2001.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates that the exemption from the sales tax on the lease or rental of or license in real property for certain public golf course will result in a recurring loss to the General Revenue Fund of \$0.6 million with a recurring loss to local governments of \$0.1 million.

Issue/Fund	General Revenue		Trust		Local		Total	
	1st Year \$	Recurring \$	1st Year \$	Recurring \$	1st Year \$	Recurring \$	1st Year \$	Recurring \$
Exemption for Certain Golf Courses	(0.3)	(0.6)	(*)	(*)	(*)	(0.1)	(0.3)	(0.7)

* Insignificant

** Indeterminate

B. Private Sector Impact:

This bill will reduce taxes paid by golf courses qualifying for the sales tax exemption provided by this bill.

C. Government Sector Impact:

The Department of Revenue will have to incur the cost of issuing a Taxpayer Information Publication (TIP) to be sent to specific registered businesses that would be impacted by this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Fiscal Resource:

Amends s. 212.08(5), F.S., adding a new paragraph (n), providing a sales tax exemption for railroad roadway materials used in the construction, repair, or maintenance of railways. Provides a definition for "roadway materials".(WITH TITLE AMENDMENT)

Fiscal impact: recurring GR loss of \$ 0.6 million