

By Senator Garcia

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1 A bill to be entitled

2 An act relating to the tax on sales, use, and other
3 transactions; amending s. 212.031, F.S.; providing a
4 limited exception from the tax on rental or license
5 fees charged for the use of real property for certain
6 ad valorem tax charges; providing that tax charges in
7 excess of a specified limit are subject to tax;
8 specifying the manner of remitting such taxes to the
9 Department of Revenue; requiring ad valorem tax
10 charges for multiple tenants or licensees of a parcel
11 of property or portions of a property to be calculated
12 in a specified manner under certain circumstances;
13 providing an effective date.

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

16
17 Section 1. Paragraph (c) of subsection (1) of section
18 212.031, Florida Statutes, is amended to read:

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

21 (1)

22 (c)1. For the exercise of such privilege, a tax is levied
23 in an amount equal to 6 percent of and on the total rent or
24 license fee charged for such real property by the person
25 charging or collecting the rental or license fee. The total rent
26 or license fee charged for such real property shall include
27 payments for the granting of a privilege to use or occupy real
28 property for any purpose and shall include base rent, percentage
29 rents, or similar charges. Such charges shall be included in the
30 total rent or license fee subject to tax under this section
31 whether or not they can be attributed to the ability of the
32 lessor's or licensor's property as used or operated to attract

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33 customers.

34 2. 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 3. Separately itemized charges for ad valorem taxes paid to
38 the lessor or the licensor, or to any other person if itemized
39 and not taxed, are not subject to tax under this section. For
40 purposes of this subparagraph, the maximum charges that are not
41 subject to tax in a calendar year for a single parcel of real
42 property are the lesser of the ad valorem taxes actually paid to
43 the tax collector or the ad valorem taxes delinquent on April 1
44 of the following calendar year. If the total ad valorem tax
45 charges exceed the taxes actually paid or delinquent on April 1
46 of the following calendar year, the excess ad valorem tax
47 charges are subject to tax, which must be remitted on the
48 December sales and use tax return to the department in the
49 manner provided for dealers to remit taxes under s. 212.11. If
50 multiple tenants or licensees occupy a parcel of real property
51 or portions of the real property are not subject to a lease or
52 license to use real property, the tenants' or licensees' ad
53 valorem tax charges shall be calculated based on a reasonable
54 allocation related to the real property occupied by each tenant
55 or used by each licensee.

56 4. In the case of a contractual arrangement that provides
57 for both payments taxable as total rent or license fee and
58 payments not subject to tax, the tax shall be based on a
59 reasonable allocation of such payments and shall not apply to
60 that portion which is for the nontaxable payments.

61 Section 2. This act shall take effect January 1, 2018.