

By Senator Perry

8-00801-19

2019618__

A bill to be entitled
An act relating to the tax on commercial real property; amending s. 212.031, F.S.; providing an exemption from the tax imposed on rental or license fees charged for the use of commercial real property; increasing the amount of the exemption at specified intervals; authorizing the Department of Revenue to review any lease, license, or other information for certain purposes; authorizing the department, under certain circumstances, to adjust the total rental charge subject to the exemption; providing for the future repeal of s. 212.031, F.S., relating to the imposition of a tax on the rental or license fees charged for the use of commercial real property; amending s. 212.0598, F.S.; conforming a provision to changes made by the act; amending s. 212.0602, F.S.; defining the term "qualified production services"; conforming provisions to changes made by the act; amending ss. 212.08, 212.12, 288.1258, 338.234, and 341.840, F.S.; conforming provisions to changes made by the act; providing effective dates.

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

Section 1. Section 212.031, Florida Statutes, is amended to read:

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

(1)(a) It is declared to be the legislative intent that

8-00801-19

2019618__

every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license for the use of any real property unless such property is:

1. Assessed as agricultural property under s. 193.461.
2. Used exclusively as dwelling units.
3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).

4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the owners of individual condominium units or the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter, and any other use made by the owner or the condominium association shall be fully taxable under this chapter.

5. A public or private street or right-of-way and poles, conduits, fixtures, and similar improvements located on such streets or rights-of-way, occupied or used by a utility or provider of communications services, as defined by s. 202.11, for utility or communications or television purposes. For purposes of this subparagraph, the term "utility" means any person providing utility services as defined in s. 203.012. This exception also applies to property, wherever located, on which the following are placed: towers, antennas, cables, accessory structures, or equipment, not including switching equipment, used in the provision of mobile communications services as defined in s. 202.11. For purposes of this chapter, towers used in the provision of mobile communications services, as defined

8-00801-19

2019618__

in s. 202.11, are considered to be fixtures.

6. A public street or road which is used for transportation purposes.

7. Property used at an airport exclusively for the purpose of aircraft landing or aircraft taxiing or property used by an airline for the purpose of loading or unloading passengers or property onto or from aircraft or for fueling aircraft.

8.a. Property used at a port authority, as defined in s. 315.02(2), exclusively for the purpose of oceangoing vessels or tugs docking, or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels, or to the extent that the amount paid for the use of any property at the port is based on the charge for the amount of tonnage actually imported or exported through the port by a tenant.

b. The amount charged for the use of any property at the port in excess of the amount charged for tonnage actually imported or exported shall remain subject to tax except as provided in sub-subparagraph a.

9. Property used as an integral part of the performance of qualified production services. As used in this subparagraph, the term "qualified production services" means any activity or service performed directly in connection with the production of a qualified motion picture, as defined in s. 212.06(1)(b), and includes:

a. Photography, sound and recording, casting, location managing and scouting, shooting, creation of special and optical effects, animation, adaptation (language, media, electronic, or

8-00801-19

2019618__

otherwise), technological modifications, computer graphics, set and stage support (such as electricians, lighting designers and operators, greensmen, prop managers and assistants, and grips), wardrobe (design, preparation, and management), hair and makeup (design, production, and application), performing (such as acting, dancing, and playing), designing and executing stunts, coaching, consulting, writing, scoring, composing, choreographing, script supervising, directing, producing, transmitting dailies, dubbing, mixing, editing, cutting, looping, printing, processing, duplicating, storing, and distributing;

b. The design, planning, engineering, construction, alteration, repair, and maintenance of real or personal property including stages, sets, props, models, paintings, and facilities principally required for the performance of those services listed in sub-subparagraph a.; and

c. Property management services directly related to property used in connection with the services described in sub-subparagraphs a. and b.

This exemption will inure to the taxpayer upon presentation of the certificate of exemption issued to the taxpayer under the provisions of s. 288.1258.

10. Leased, subleased, licensed, or rented to a person providing food and drink concessionaire services within the premises of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, publicly owned recreational facility, or any business operated under a permit issued pursuant to chapter 550. A person

8-00801-19

2019618__

117 providing retail concessionaire services involving the sale of
118 food and drink or other tangible personal property within the
119 premises of an airport shall be subject to tax on the rental of
120 real property used for that purpose, but shall not be subject to
121 the tax on any license to use the property. For purposes of this
122 subparagraph, the term "sale" shall not include the leasing of
123 tangible personal property.

124 11. Property occupied pursuant to an instrument calling for
125 payments which the department has declared, in a Technical
126 Assistance Advisement issued on or before March 15, 1993, to be
127 nontaxable pursuant to rule 12A-1.070(19)(c), Florida
128 Administrative Code; provided that this subparagraph shall only
129 apply to property occupied by the same person before and after
130 the execution of the subject instrument and only to those
131 payments made pursuant to such instrument, exclusive of renewals
132 and extensions thereof occurring after March 15, 1993.

133 12. Property used or occupied predominantly for space
134 flight business purposes. As used in this subparagraph, "space
135 flight business" means the manufacturing, processing, or
136 assembly of a space facility, space propulsion system, space
137 vehicle, satellite, or station of any kind possessing the
138 capacity for space flight, as defined by s. 212.02(23), or
139 components thereof, and also means the following activities
140 supporting space flight: vehicle launch activities, flight
141 operations, ground control or ground support, and all
142 administrative activities directly related thereto. Property
143 shall be deemed to be used or occupied predominantly for space
144 flight business purposes if more than 50 percent of the
145 property, or improvements thereon, is used for one or more space

8-00801-19

2019618__

146 flight business purposes. Possession by a landlord, lessor, or
147 licensor of a signed written statement from the tenant, lessee,
148 or licensee claiming the exemption shall relieve the landlord,
149 lessor, or licensor from the responsibility of collecting the
150 tax, and the department shall look solely to the tenant, lessee,
151 or licensee for recovery of such tax if it determines that the
152 exemption was not applicable.

153 13. Rented, leased, subleased, or licensed to a person
154 providing telecommunications, data systems management, or
155 Internet services at a publicly or privately owned convention
156 hall, civic center, or meeting space at a public lodging
157 establishment as defined in s. 509.013. This subparagraph
158 applies only to that portion of the rental, lease, or license
159 payment that is based upon a percentage of sales, revenue
160 sharing, or royalty payments and not based upon a fixed price.
161 This subparagraph is intended to be clarifying and remedial in
162 nature and shall apply retroactively. This subparagraph does not
163 provide a basis for an assessment of any tax not paid, or create
164 a right to a refund of any tax paid, pursuant to this section
165 before July 1, 2010.

166 (b) When a lease involves multiple use of real property
167 wherein a part of the real property is subject to the tax
168 herein, and a part of the property would be excluded from the
169 tax under subparagraph (a)1., subparagraph (a)2., subparagraph
170 (a)3., or subparagraph (a)5., the department shall determine,
171 from the lease or license and such other information as may be
172 available, that portion of the total rental charge which is
173 exempt from the tax imposed by this section. The portion of the
174 premises leased or rented by a for-profit entity providing a

8-00801-19

2019618__

175 residential facility for the aged will be exempt on the basis of
176 a pro rata portion calculated by combining the square footage of
177 the areas used for residential units by the aged and for the
178 care of such residents and dividing the resultant sum by the
179 total square footage of the rented premises. For purposes of
180 this section, the term "residential facility for the aged" means
181 a facility that is licensed or certified in whole or in part
182 under chapter 400, chapter 429, or chapter 651; or that provides
183 residences to the elderly and is financed by a mortgage or loan
184 made or insured by the United States Department of Housing and
185 Urban Development under s. 202, s. 202 with a s. 8 subsidy, s.
186 221(d)(3) or (4), s. 232, or s. 236 of the National Housing Act;
187 or other such similar facility that provides residences
188 primarily for the elderly.

189 (c) For the exercise of such privilege, a tax is levied at
190 the rate of 5.7 percent of and on the total rent or license fee
191 charged for such real property by the person charging or
192 collecting the rental or license fee. The total rent or license
193 fee charged for such real property shall include payments for
194 the granting of a privilege to use or occupy real property for
195 any purpose and shall include base rent, percentage rents, or
196 similar charges. Such charges shall be included in the total
197 rent or license fee subject to tax under this section whether or
198 not they can be attributed to the ability of the lessor's or
199 licensor's property as used or operated to attract customers.
200 Payments for intrinsically valuable personal property such as
201 franchises, trademarks, service marks, logos, or patents are not
202 subject to tax under this section. In the case of a contractual
203 arrangement that provides for both payments taxable as total

8-00801-19

2019618__

rent or license fee and payments not subject to tax, the tax shall be based on a reasonable allocation of such payments and shall not apply to that portion which is for the nontaxable payments.

(d) When the rental or license fee of any such real property is paid by way of property, goods, wares, merchandise, services, or other thing of value, the tax shall be at the rate of 5.7 percent of the value of the property, goods, wares, merchandise, services, or other thing of value.

(e) The tax rate in effect at the time that the tenant or person occupies, uses, or is entitled to occupy or use the real property is the tax rate applicable to the transaction taxable under this section, regardless of when a rent or license fee payment is due or paid. The applicable tax rate may not be avoided by delaying or accelerating rent or license fee payments.

(f) The following amounts are exempt from the tax imposed under this section on each lease or license of real property:

1. Effective January 1, 2020, the first \$10,000 of the total rent or license fee subject to tax under this section which is charged during the calendar year by the person charging or collecting the rental or license fee to the tenant or person actually occupying, using, or entitled to the use of the property.

2. Effective January 1, 2021, the first \$20,000 of the total rent or license fee subject to tax under this section which is charged during the calendar year by the person charging or collecting the rental or license fee to the tenant or person actually occupying, using, or entitled to the use of the

8-00801-19

2019618__

property.

3. Effective January 1, 2022, the first \$30,000 of the total rent or license fee subject to tax under this section which is charged during the calendar year by the person charging or collecting the rental or license fee to the tenant or person actually occupying, using, or entitled to the use of the property.

4. Effective January 1, 2023, the first \$40,000 of the total rent or license fee subject to tax under this section which is charged during the calendar year by the person charging or collecting the rental or license fee to the tenant or person actually occupying, using, or entitled to the use of the property.

5. Effective January 1, 2024, the first \$50,000 of the total rent or license fee subject to tax under this section which is charged during the calendar year by the person charging or collecting the rental or license fee to the tenant or person actually occupying, using, or entitled to the use of the property.

6. Effective January 1, 2025, the first \$60,000 of the total rent or license fee subject to tax under this section which is charged during the calendar year by the person charging or collecting the rental or license fee to the tenant or person actually occupying, using, or entitled to the use of the property.

7. Effective January 1, 2026, the first \$70,000 of the total rent or license fee subject to tax under this section which is charged during the calendar year by the person charging or collecting the rental or license fee to the tenant or person

8-00801-19

2019618__

262 actually occupying, using, or entitled to the use of the
263 property.

264 8. Effective January 1, 2027, the first \$80,000 of the
265 total rent or license fee subject to tax under this section
266 which is charged during the calendar year by the person charging
267 or collecting the rental or license fee to the tenant or person
268 actually occupying, using, or entitled to the use of the
269 property.

270 9. Effective January 1, 2028, the first \$90,000 of the
271 total rent or license fee subject to tax under this section
272 which is charged during the calendar year by the person charging
273 or collecting the rental or license fee to the tenant or person
274 actually occupying, using, or entitled to the use of the
275 property.

276
277 For purposes of administering and implementing the exemptions
278 provided in this paragraph, the department may review any lease,
279 license, or other such information as may be available to
280 determine the total rental charge that is subject to the
281 applicable exemption. The department may adjust the total rental
282 charge subject to the exemption, as necessary, to accurately
283 reflect the intent, terms, duration, or subject of one or more
284 rental or license agreements.

285 (2)(a) The tenant or person actually occupying, using, or
286 entitled to the use of any property from which the rental or
287 license fee is subject to taxation under this section shall pay
288 the tax to his or her immediate landlord or other person
289 granting the right to such tenant or person to occupy or use
290 such real property.

8-00801-19

2019618__

(b) It is the further intent of this Legislature that only one tax be collected on the rental or license fee payable for the occupancy or use of any such property, that the tax so collected shall not be pyramided by a progression of transactions, and that the amount of the tax due the state shall not be decreased by any such progression of transactions.

(3) The tax imposed by this section shall be in addition to the total amount of the rental or license fee, shall be charged by the lessor or person receiving the rent or payment in and by a rental or license fee arrangement with the lessee or person paying the rental or license fee, and shall be due and payable at the time of the receipt of such rental or license fee payment by the lessor or other person who receives the rental or payment. Notwithstanding any other provision of this chapter, the tax imposed by this section on the rental, lease, or license for the use of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility to hold an event of not more than 7 consecutive days' duration shall be collected at the time of the payment for that rental, lease, or license but is not due and payable to the department until the first day of the month following the last day that the event for which the payment is made is actually held, and becomes delinquent on the 21st day of that month. The owner, lessor, or person receiving the rent or license fee shall remit the tax to the department at the times and in the manner hereinafter provided for dealers to remit taxes under this chapter. The same duties imposed by this chapter upon dealers in tangible personal property respecting the collection and remission of the tax; the making of returns;

8-00801-19

2019618__

the keeping of books, records, and accounts; and the compliance with the rules and regulations of the department in the administration of this chapter shall apply to and be binding upon all persons who manage any leases or operate real property, hotels, apartment houses, roominghouses, or tourist and trailer camps and all persons who collect or receive rents or license fees taxable under this chapter on behalf of owners or lessors.

(4) The tax imposed by this section shall constitute a lien on the property of the lessee or licensee of any real estate in the same manner as, and shall be collectible as are, liens authorized and imposed by ss. 713.68 and 713.69.

(5) When space is subleased to a convention or industry trade show in a convention hall, exhibition hall, or auditorium, whether publicly or privately owned, the sponsor who holds the prime lease is subject to tax on the prime lease and the sublease is exempt.

(6) The lease or rental of land or a hall or other facilities by a fair association subject to the provisions of chapter 616 to a show promoter or prime operator of a carnival or midway attraction is exempt from the tax imposed by this section; however, the sublease of land or a hall or other facilities by the show promoter or prime operator is not exempt from the provisions of this section.

(7) Utility charges subject to sales tax which are paid by a tenant to the lessor and which are part of a payment for the privilege or right to use or occupy real property are exempt from tax if the lessor has paid sales tax on the purchase of such utilities and the charges billed by the lessor to the tenant are separately stated and at the same or a lower price

8-00801-19

2019618__

than those paid by the lessor.

(8) Charges by lessors to a lessee to cancel or terminate a lease agreement are presumed taxable if the lessor records such charges as rental income in its books and records. This presumption can be overcome by the provision of sufficient documentation by either the lessor or the lessee that such charges were other than for the rental of real property.

(9) The rental, lease, sublease, or license for the use of a skybox, luxury box, or other box seats for use during a high school or college football game is exempt from the tax imposed by this section when the charge for such rental, lease, sublease, or license is imposed by a nonprofit sponsoring organization which is qualified as nonprofit pursuant to s. 501(c)(3) of the Internal Revenue Code.

Section 2. Effective January 1, 2029, section 212.031, Florida Statutes, is repealed.

Section 3. Effective January 1, 2029, subsection (2) of section 212.0598, Florida Statutes, is amended to read:

212.0598 Special provisions; air carriers.—

(2) The basis of the tax shall be the ratio of Florida mileage to total mileage as determined pursuant to chapter 220 and this section. The ratio shall be determined at the close of the carrier's preceding fiscal year. However, during the fiscal year in which the air carrier begins initial operations in this state, the carrier may determine its mileage apportionment factor based on an estimated ratio of anticipated revenue miles in this state to anticipated total revenue miles. In such cases, the air carrier shall pay additional tax or apply for a refund based on the actual ratio for that year. The applicable ratio

8-00801-19

2019618__

shall be applied each month to the carrier's total systemwide gross purchases of tangible personal property and services otherwise taxable in Florida. ~~Additionally, the ratio shall be applied each month to the carrier's total systemwide payments for the lease or rental of, or license in, real property used by the carrier substantially for aircraft maintenance if that carrier employed, on average, during the previous calendar quarter in excess of 3,000 full-time equivalent maintenance or repair employees at one maintenance base that it leases, rents, or has a license in, in this state. In all other instances, the tax on real property leased, rented, or licensed by the carrier shall be as provided in s. 212.031.~~

Section 4. Effective January 1, 2029, section 212.0602, Florida Statutes, is amended to read:

212.0602 Education; limited exemption.-

(1) To facilitate investment in education and job training, there is also exempt from the taxes levied under this chapter, subject to ~~the provisions of~~ this section, the purchase or lease of materials, equipment, and other items ~~or the license in or lease of real property~~ by any entity, institution, or organization that is primarily engaged in teaching students to perform any qualified production services ~~of the activities or services described in s. 212.031(1)(a)9.~~, that conducts classes at a fixed location located in this state, that is licensed under chapter 1005, and that has at least 500 enrolled students. Any entity, institution, or organization meeting the requirements of this section ~~is~~ shall be deemed to qualify for the exemptions in s. 212.08(5)(f) and (12) ~~ss. 212.031(1)(a)9. and 212.08(5)(f) and (12),~~ and to qualify for an exemption for

8-00801-19

2019618__

its purchase or lease of materials, equipment, and other items used for education or demonstration of the school's curriculum, including supporting operations. Nothing in this section shall preclude an entity described in this section from qualifying for any other exemption provided for in this chapter.

(2) As used in this section, the term "qualified production services" means any activity or service performed directly in connection with the production of a qualified motion picture, as defined in s. 212.06(1)(b), and includes:

(a) Photography, sound and recording, casting, location managing and scouting, shooting, creation of special and optical effects, animation, adaptation (language, media, electronic, or otherwise), technological modifications, computer graphics, set and stage support (such as electricians, lighting designers and operators, greensmen, prop managers and assistants, and grips), wardrobe (design, preparation, and management), hair and makeup (design, production, and application), performing (such as acting, dancing, and playing), designing and executing stunts, coaching, consulting, writing, scoring, composing, choreographing, script supervising, directing, producing, transmitting dailies, dubbing, mixing, editing, cutting, looping, printing, processing, duplicating, storing, and distributing.

(b) The design, planning, engineering, construction, alteration, repair, and maintenance of real or personal property, including stages, sets, props, models, paintings, and facilities principally required for the performance of the services identified in paragraph (a).

(c) Property management services directly related to

8-00801-19

2019618__

property used in connection with the services identified in
paragraphs (a) and (b).

Section 5. Effective January 1, 2029, paragraph (s) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(s) *Data center property.*—

1. As used in this paragraph, the term:

a. "Critical IT load" means that portion of electric power capacity, expressed in terms of megawatts, which is reserved solely for owners or tenants of a data center to operate their computer server equipment. The term does not include any ancillary load for cooling, lighting, common areas, or other equipment.

b. "Cumulative capital investment" means the combined total of all expenses incurred by the owners or tenants of a data center after July 1, 2017, in connection with acquiring, constructing, installing, equipping, or expanding the data center. However, the term does not include any expenses incurred in the acquisition of improved real property operating as a data center at the time of acquisition or within 6 months before the acquisition.

c. "Data center" means a facility that:

8-00801-19

2019618__

(I) Consists of one or more contiguous parcels in this state, along with the buildings, substations and other infrastructure, fixtures, and personal property located on the parcels;

(II) Is used exclusively to house and operate equipment that receives, stores, aggregates, manages, processes, transforms, retrieves, researches, or transmits data; or that is necessary for the proper operation of equipment that receives, stores, aggregates, manages, processes, transforms, retrieves, researches, or transmits data;

(III) Has a critical IT load of 15 megawatts or higher, and a critical IT load of 1 megawatt or higher dedicated to each individual owner or tenant within the data center; and

(IV) Is constructed on or after July 1, 2017.

d. "Data center property" means property used exclusively at a data center to construct, outfit, operate, support, power, cool, dehumidify, secure, or protect a data center and any contiguous dedicated substations. The term includes, but is not limited to, construction materials, component parts, machinery, equipment, computers, servers, installations, redundancies, and operating or enabling software, including any replacements, updates and new versions, and upgrades to or for such property, regardless of whether the property is a fixture or is otherwise affixed to or incorporated into real property. The term also includes electricity used exclusively at a data center.

2. Data center property is exempt from the tax imposed by this chapter, ~~except for the tax imposed by s. 212.031~~. To be eligible for the exemption provided by this paragraph, the data center's owners and tenants must make a cumulative capital

8-00801-19

2019618__

investment of \$150 million or more for the data center and the data center must have a critical IT load of 15 megawatts or higher and a critical IT load of 1 megawatt or higher dedicated to each individual owner or tenant within the data center. Each of these requirements must be satisfied no later than 5 years after the commencement of construction of the data center.

3.a. To receive the exemption provided by this paragraph, the person seeking the exemption must apply to the department for a temporary tax exemption certificate. The application must state that a qualifying data center designation is being sought and provide information that the requirements of subparagraph 2. will be met. Upon a tentative determination by the department that the data center will meet the requirements of subparagraph 2., the department must issue the certificate.

b.(I) The certificateholder shall maintain all necessary books and records to support the exemption provided by this paragraph. Upon satisfaction of all requirements of subparagraph 2., the certificateholder must deliver the temporary tax certificate to the department together with documentation sufficient to show the satisfaction of the requirements. Such documentation must include written declarations, pursuant to s. 92.525, from:

(A) A professional engineer, licensed pursuant to chapter 471, certifying that the critical IT load requirement set forth in subparagraph 2. has been satisfied at the data center; and

(B) A Florida certified public accountant, as defined in s. 473.302, certifying that the cumulative capital investment requirement set forth in subparagraph 2. has been satisfied for the data center.

8-00801-19

2019618__

The professional engineer and the Florida certified public accountant may not be professionally related with the data center's owners, tenants, or contractors, except that they may be retained by a data center owner to certify that the requirements of subparagraph 2. have been met.

(II) If the department determines that the subparagraph 2. requirements have been satisfied, the department must issue a permanent tax exemption certificate.

(III) Notwithstanding s. 212.084(4), the permanent tax exemption certificate remains valid and effective for as long as the data center described in the exemption application continues to operate as a data center as defined in subparagraph 1., with review by the department every 5 years to ensure compliance. As part of the review, the certificateholder shall, within 3 months before the end of any 5-year period, submit a written declaration, pursuant to s. 92.525, certifying that the critical IT load of 15 megawatts or higher and the critical IT load of 1 megawatt or higher dedicated to each individual owner or tenant within the data center required by subparagraph 2. continues to be met. All owners, tenants, contractors, and others purchasing exempt data center property shall maintain all necessary books and records to support the exemption as to those purchases.

(IV) Notwithstanding s. 213.053, the department may share information concerning a temporary or permanent data center exemption certificate among all owners, tenants, contractors, and others purchasing exempt data center property pursuant to such certificate.

c. If, in an audit conducted by the department, it is

8-00801-19

2019618__

determined that the certificateholder or any owners, tenants, contractors, or others purchasing, renting, or leasing data center property do not meet the criteria of this paragraph, the amount of taxes exempted at the time of purchase, rental, or lease is immediately due and payable to the department from the purchaser, renter, or lessee of those particular items, together with the appropriate interest and penalty computed from the date of purchase in the manner prescribed by this chapter.

Notwithstanding s. 95.091(3)(a), any tax due as provided in this sub-subparagraph may be assessed by the department within 6 years after the date the data center property was purchased.

d. Purchasers, lessees, and renters of data center property who qualify for the exemption provided by this paragraph shall obtain from the data center a copy of the tax exemption certificate issued pursuant to sub-subparagraph a. or sub-subparagraph b. Before or at the time of purchase of the item or items eligible for exemption, the purchaser, lessee, or renter shall provide to the seller a copy of the tax exemption certificate and a signed certificate of entitlement. Purchasers, lessees, and renters with self-accrual authority shall maintain all documentation necessary to prove the exempt status of purchases.

e. For any purchase, lease, or rental of property that is exempt pursuant to this paragraph, the possession of a copy of a tax exemption certificate issued pursuant to sub-subparagraph a. or sub-subparagraph b. and a signed certificate of entitlement relieves the seller of the responsibility of collecting the tax on the sale, lease, or rental of such property, and the department must look solely to the purchaser, renter, or lessee

8-00801-19

2019618__

for recovery of the tax if it determines that the purchase, rental, or lease was not entitled to the exemption.

4. After June 30, 2022, the department may not issue a temporary tax exemption certificate pursuant to this paragraph.

Section 6. Effective January 1, 2029, subsection (11) of section 212.12, Florida Statutes, is amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(11) The department shall make available in an electronic format or otherwise the tax amounts and brackets applicable to all taxable transactions that occur in counties that have a surtax at a rate other than 1 percent which would otherwise have been transactions taxable at the rate of 6 percent. Likewise, the department shall make available in an electronic format or otherwise the tax amounts and brackets applicable to transactions taxable at 4.35 percent pursuant to s.

~~212.05(1)(e)1.c. or the applicable tax rate pursuant to s.~~
~~212.031(1)~~ and on transactions that ~~which~~ would otherwise have been so taxable in counties that ~~which~~ have adopted a discretionary sales surtax.

Section 7. Effective January 1, 2029, paragraphs (b) and (c) of subsection (2) and subsection (3) of section 288.1258, Florida Statutes, are amended to read:

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

(2) APPLICATION PROCEDURE.—

8-00801-19

2019618__

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

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

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

(c) The Office of Film and Entertainment shall develop, with the cooperation of the Department of Revenue and local government entertainment industry promotion agencies, a standardized application form for use in approving qualified production companies.

1. The application form shall include, but not be limited to, production-related information on employment, proposed budgets, planned purchases of items exempted from sales and use taxes under ss. ~~212.031~~, 212.06, and 212.08, a signed affirmation from the applicant that any items purchased for which the applicant is seeking a tax exemption are intended for use exclusively as an integral part of entertainment industry preproduction, production, or postproduction activities engaged

8-00801-19

2019618__

in primarily in this state, and a signed affirmation from the Office of Film and Entertainment that the information on the application form has been verified and is correct. In lieu of information on projected employment, proposed budgets, or planned purchases of exempted items, a production company seeking a 1-year certificate of exemption may submit summary historical data on employment, production budgets, and purchases of exempted items related to production activities in this state. Any information gathered from production companies for the purposes of this section shall be considered confidential taxpayer information and shall be disclosed only as provided in s. 213.053.

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

(3) CATEGORIES.—

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

2. The Office of Film and Entertainment shall develop a method by which a qualified production company may annually renew a 1-year certificate of exemption for a period of up to 5 years without requiring the production company to resubmit a new

8-00801-19

2019618__

application during that 5-year period.

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

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

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

Section 8. Effective January 1, 2029, section 338.234, Florida Statutes, is amended to read:

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

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

8-00801-19

2019618__

697 beverages; lodging, meeting rooms, and other business services
698 opportunities; advertising and other promotional opportunities,
699 which advertising and promotions must be consistent with the
700 dignity and integrity of the state; state lottery tickets sold
701 by authorized retailers; games and amusements that operate by
702 the application of skill, not including games of chance as
703 defined in s. 849.16 or other illegal gambling games; Florida
704 citrus, goods promoting the state, or handmade goods produced
705 within the state; and travel information, tickets, reservations,
706 or other related services. However, the department, pursuant to
707 the grants of authority to the turnpike enterprise under this
708 section, shall not exercise the power of eminent domain solely
709 for the purpose of acquiring real property in order to provide
710 business services or opportunities, such as lodging and meeting-
711 room space on the turnpike system.

712 ~~(2) The effectuation of the authorized purposes of the~~
713 ~~Strategic Intermodal System, created under ss. 339.61-339.65,~~
714 ~~and Florida Turnpike Enterprise, created under this chapter, is~~
715 ~~for the benefit of the people of the state, for the increase of~~
716 ~~their commerce and prosperity, and for the improvement of their~~
717 ~~health and living conditions; and, because the system and~~
718 ~~enterprise perform essential government functions in~~
719 ~~effectuating such purposes, neither the turnpike enterprise nor~~
720 ~~any nongovernment lessee or licensee renting, leasing, or~~
721 ~~licensing real property from the turnpike enterprise, pursuant~~
722 ~~to an agreement authorized by this section, are required to pay~~
723 ~~any commercial rental tax imposed under s. 212.031 on any~~
724 ~~capital improvements constructed, improved, acquired, installed,~~
725 ~~or used for such purposes.~~

8-00801-19

2019618__

Section 9. Effective January 1, 2029, paragraph (a) of subsection (3) of section 341.840, Florida Statutes, is amended to read:

341.840 Tax exemption.—

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

Section 10. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2019.