

1 A bill to be entitled
2 An act relating to the tax on sales, use, and other
3 transactions; amending s. 212.02, F.S.; repealing the
4 exemption for memberships to physical fitness facilities
5 owned or operated by a licensed hospital; deleting the
6 definition of "qualified aircraft"; defining the term
7 "fractional aircraft ownership program"; amending s.
8 212.031, F.S.; clarifying the application of the exemption
9 to certain rentals within certain public facilities;
10 abrogating the repeal of the tax exemption on rental or
11 license fees provided for certain property rented, leased,
12 or licensed by a convention or exhibition hall,
13 auditorium, stadium, theater, arena, civic center,
14 performing arts center, or publicly owned recreational
15 facility; revising the exemption on the rental, lease,
16 sublease, or license for the use of box seats; providing
17 that the amendment to s. 212.031, F.S., made by the act is
18 clarifying and remedial; amending s. 212.04, F.S.;
19 abrogating the repeal of the tax exemption for admission
20 charges to events sponsored by governmental entities,
21 sports authorities, and sports commissions; providing an
22 exemption for admissions to the National Basketball
23 Association All-Star Game and the National Hockey League
24 All-Star Game; amending s. 212.05, F.S.; increasing the
25 tax rate on charges for the use of coin-operated amusement
26 machines; providing an exception for certain machines
27 located in facilities owned, operated, or leased by
28 certain veterans' service organizations; imposing a

29 maximum limitation on the amount of tax collected on sales
30 or use of aircrafts or boats in this state; creating s.
31 212.0597, F.S.; providing a maximum tax on the sale or use
32 of fractional aircraft ownership interests; amending s.
33 212.08, F.S.; providing a temporary exemption for certain
34 industrial machinery and equipment used in manufacturing;
35 specifying availability of the exemption through refund;
36 specifying a refund amount limitation; providing refund
37 application procedures and requirements; providing an
38 aggregate annual refund limitation; requiring the
39 Department of Revenue to establish the refund application
40 form; repealing the exemption for ostrich feed; repealing
41 the exemption for newspapers, magazines, and newsletter
42 subscriptions delivered by mail; amending the exemption
43 for charter fishing vessels to apply only to a vessel
44 licensed for no more than six customers; exempting from
45 certain taxes the charge for such charters in fresh water
46 solely for fishing purposes; repealing the exemption for
47 repair and maintenance labor charges for qualified
48 aircraft; repealing the exemption for sales or leases of
49 qualified aircraft; providing tax exemptions on the sale
50 or use of aircraft primarily used in a fractional aircraft
51 ownership program; repealing s. 212.0801, F.S., relating
52 to qualified aircraft exemptions; amending s. 2, ch. 2006-
53 101, Laws of Florida; abrogating the repeal of the tax
54 exemption provided for certain charges imposed by a
55 convention or exhibition hall, auditorium, stadium,
56 theater, arena, civic center, performing arts center, or

57 | publicly owned recreational facility upon a lessee or
58 | licensee; specifying a period during which the sale of
59 | books, clothing, and school supplies are exempt from such
60 | tax; providing definitions; providing exceptions;
61 | providing an exemption from the sales and use tax for
62 | sales of certain tangible personal property used for
63 | hurricane preparedness for a certain period; providing
64 | exceptions; authorizing the Department of Revenue to adopt
65 | emergency rules; providing appropriations; providing
66 | effective dates.

67 |
68 | Be It Enacted by the Legislature of the State of Florida:
69 |

70 | Section 1. Subsections (1) and (33) of section 212.02,
71 | Florida Statutes, are amended to read:

72 | 212.02 Definitions.--The following terms and phrases when
73 | used in this chapter have the meanings ascribed to them in this
74 | section, except where the context clearly indicates a different
75 | meaning:

76 | (1) The term "admissions" means and includes the net sum
77 | of money after deduction of any federal taxes for admitting a
78 | person or vehicle or persons to any place of amusement, sport,
79 | or recreation or for the privilege of entering or staying in any
80 | place of amusement, sport, or recreation, including, but not
81 | limited to, theaters, outdoor theaters, shows, exhibitions,
82 | games, races, or any place where charge is made by way of sale
83 | of tickets, gate charges, seat charges, box charges, season pass
84 | charges, cover charges, greens fees, participation fees,

85 entrance fees, or other fees or receipts of anything of value
 86 measured on an admission or entrance or length of stay or seat
 87 box accommodations in any place where there is any exhibition,
 88 amusement, sport, or recreation, and all dues and fees paid to
 89 private clubs and membership clubs providing recreational or
 90 physical fitness facilities, including, but not limited to,
 91 golf, tennis, swimming, yachting, boating, athletic, exercise,
 92 and fitness facilities, ~~except physical fitness facilities owned~~
 93 ~~or operated by any hospital licensed under chapter 395.~~

94 (33) "Fractional aircraft ownership program" means a
 95 program that meets the requirements of 14 C.F.R. part 91,
 96 subpart K, relating to fractional ownership operations, except
 97 the program must include a minimum of 25 aircraft owned or
 98 leased by the business or affiliated group, as defined by s.
 99 1504(a) of the Internal Revenue Code, providing the program.
 100 Such aircraft must be used in the fractional aircraft ownership
 101 program providing the program. "Qualified aircraft" means any
 102 aircraft having a maximum certified takeoff weight of less than
 103 10,000 pounds and equipped with twin turbofan engines that meet
 104 Stage IV noise requirements that is used by a business operating
 105 as an on-demand air carrier under Federal Aviation
 106 Administration Regulation Title 14, chapter I, part 135, Code of
 107 Federal Regulations, that owns or leases and operates a fleet of
 108 at least 25 of such aircraft in this state.

109 Section 2. Paragraph (a) of subsection (1) and subsection
 110 (9) of section 212.031, Florida Statutes, are amended to read:
 111 212.031 Tax on rental or license fee for use of real
 112 property.--

113 (1) (a) It is declared to be the legislative intent that
 114 every person is exercising a taxable privilege who engages in
 115 the business of renting, leasing, letting, or granting a license
 116 for the use of any real property unless such property is:

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

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

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

141 defined in s. 202.11. For purposes of this chapter, towers used
 142 in the provision of mobile communications services, as defined
 143 in s. 202.11, are considered to be fixtures.

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

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

150 8.a. Property used at a port authority, as defined in s.
 151 315.02(2), exclusively for the purpose of oceangoing vessels or
 152 tugs docking, or such vessels mooring on property used by a port
 153 authority for the purpose of loading or unloading passengers or
 154 cargo onto or from such a vessel, or property used at a port
 155 authority for fueling such vessels, or to the extent that the
 156 amount paid for the use of any property at the port is based on
 157 the charge for the amount of tonnage actually imported or
 158 exported through the port by a tenant.

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

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

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

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

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

191
192 This exemption will inure to the taxpayer upon presentation of
193 the certificate of exemption issued to the taxpayer under the
194 provisions of s. 288.1258.

195 10. Leased, subleased, licensed, or rented to a person
196 providing food and drink concessionaire services within the

197 premises of a convention hall, exhibition hall, auditorium,
198 stadium, theater, arena, civic center, performing arts center,
199 publicly owned recreational facility, or any business operated
200 under a permit issued pursuant to chapter 550. This provision
201 applies only to the space used exclusively for selling and
202 distributing food and drinks. A person providing retail
203 concessionaire services involving the sale of food and drink or
204 other tangible personal property within the premises of an
205 airport shall be subject to tax on the rental of real property
206 used for that purpose, but shall not be subject to the tax on
207 any license to use the property. For purposes of this
208 subparagraph, the term "sale" shall not include the leasing of
209 tangible personal property.

210 11. Property occupied pursuant to an instrument calling
211 for payments which the department has declared, in a Technical
212 Assistance Advisement issued on or before March 15, 1993, to be
213 nontaxable pursuant to rule 12A-1.070(19)(c), Florida
214 Administrative Code; provided that this subparagraph shall only
215 apply to property occupied by the same person before and after
216 the execution of the subject instrument and only to those
217 payments made pursuant to such instrument, exclusive of renewals
218 and extensions thereof occurring after March 15, 1993.

219 12. Rented, leased, subleased, or licensed to a
220 concessionaire by a convention hall, exhibition hall,
221 auditorium, stadium, theater, arena, civic center, performing
222 arts center, or publicly owned recreational facility, during an
223 event at the facility, to be used by the concessionaire to sell
224 souvenirs, novelties, or other event-related products. This

225 | subparagraph applies only to that portion of the rental, lease,
 226 | or license payment which is based on a percentage of sales and
 227 | not based on a fixed price. ~~This subparagraph is repealed July~~
 228 | ~~1, 2009.~~

229 | 13. Property used or occupied predominantly for space
 230 | flight business purposes. As used in this subparagraph, "space
 231 | flight business" means the manufacturing, processing, or
 232 | assembly of a space facility, space propulsion system, space
 233 | vehicle, satellite, or station of any kind possessing the
 234 | capacity for space flight, as defined by s. 212.02(23), or
 235 | components thereof, and also means the following activities
 236 | supporting space flight: vehicle launch activities, flight
 237 | operations, ground control or ground support, and all
 238 | administrative activities directly related thereto. Property
 239 | shall be deemed to be used or occupied predominantly for space
 240 | flight business purposes if more than 50 percent of the
 241 | property, or improvements thereon, is used for one or more space
 242 | flight business purposes. Possession by a landlord, lessor, or
 243 | licensor of a signed written statement from the tenant, lessee,
 244 | or licensee claiming the exemption shall relieve the landlord,
 245 | lessor, or licensor from the responsibility of collecting the
 246 | tax, and the department shall look solely to the tenant, lessee,
 247 | or licensee for recovery of such tax if it determines that the
 248 | exemption was not applicable.

249 | (9) The rental, lease, sublease, or license for the use of
 250 | ~~a skybox, luxury box, or other~~ box seats for use during a high
 251 | school or college football game is exempt from the tax imposed
 252 | by this section when the charge for such rental, lease,

253 sublease, or license is imposed by a nonprofit sponsoring
 254 organization which is qualified as nonprofit pursuant to s.
 255 501(c) (3) of the Internal Revenue Code.

256 Section 3. The amendment to s. 212.031(1)(a)10., Florida
 257 Statutes, made by this act is intended to be clarifying and
 258 remedial in nature.

259 Section 4. Paragraph (a) of subsection (2) of section
 260 212.04, Florida Statutes, is amended to read:

261 212.04 Admissions tax; rate, procedure, enforcement.--

262 (2)(a)1. No tax shall be levied on admissions to athletic
 263 or other events sponsored by elementary schools, junior high
 264 schools, middle schools, high schools, community colleges,
 265 public or private colleges and universities, deaf and blind
 266 schools, facilities of the youth services programs of the
 267 Department of Children and Family Services, and state
 268 correctional institutions when only student, faculty, or inmate
 269 talent is used. However, this exemption shall not apply to
 270 admission to athletic events sponsored by a state university,
 271 and the proceeds of the tax collected on such admissions shall
 272 be retained and used by each institution to support women's
 273 athletics as provided in s. 1006.71(2)(c).

274 2.a. No tax shall be levied on dues, membership fees, and
 275 admission charges imposed by not-for-profit sponsoring
 276 organizations. To receive this exemption, the sponsoring
 277 organization must qualify as a not-for-profit entity under the
 278 provisions of s. 501(c) (3) of the Internal Revenue Code of 1954,
 279 as amended.

280 b. No tax shall be levied on admission charges to an event
281 sponsored by a governmental entity, sports authority, or sports
282 commission when held in a convention hall, exhibition hall,
283 auditorium, stadium, theater, arena, civic center, performing
284 arts center, or publicly owned recreational facility and when
285 100 percent of the risk of success or failure lies with the
286 sponsor of the event and 100 percent of the funds at risk for
287 the event belong to the sponsor, and student or faculty talent
288 is not exclusively used. As used in this sub-subparagraph, the
289 terms "sports authority" and "sports commission" mean a
290 nonprofit organization that is exempt from federal income tax
291 under s. 501(c)(3) of the Internal Revenue Code and that
292 contracts with a county or municipal government for the purpose
293 of promoting and attracting sports-tourism events to the
294 community with which it contracts. ~~This sub-subparagraph is~~
295 ~~repealed July 1, 2009.~~

296 3. No tax shall be levied on an admission paid by a
297 student, or on the student's behalf, to any required place of
298 sport or recreation if the student's participation in the sport
299 or recreational activity is required as a part of a program or
300 activity sponsored by, and under the jurisdiction of, the
301 student's educational institution, provided his or her
302 attendance is as a participant and not as a spectator.

303 4. No tax shall be levied on admissions to the National
304 Football League championship game, on admissions to any
305 semifinal game or championship game of a national collegiate
306 tournament, or on admissions to a Major League Baseball all-star
307 game.

308 5. A participation fee or sponsorship fee imposed by a
309 governmental entity as described in s. 212.08(6) for an athletic
310 or recreational program is exempt when the governmental entity
311 by itself, or in conjunction with an organization exempt under
312 s. 501(c)(3) of the Internal Revenue Code of 1954, as amended,
313 sponsors, administers, plans, supervises, directs, and controls
314 the athletic or recreational program.

315 6. Also exempt from the tax imposed by this section to the
316 extent provided in this subparagraph are admissions to live
317 theater, live opera, or live ballet productions in this state
318 which are sponsored by an organization that has received a
319 determination from the Internal Revenue Service that the
320 organization is exempt from federal income tax under s.
321 501(c)(3) of the Internal Revenue Code of 1954, as amended, if
322 the organization actively participates in planning and
323 conducting the event, is responsible for the safety and success
324 of the event, is organized for the purpose of sponsoring live
325 theater, live opera, or live ballet productions in this state,
326 has more than 10,000 subscribing members and has among the
327 stated purposes in its charter the promotion of arts education
328 in the communities which it serves, and will receive at least 20
329 percent of the net profits, if any, of the events which the
330 organization sponsors and will bear the risk of at least 20
331 percent of the losses, if any, from the events which it sponsors
332 if the organization employs other persons as agents to provide
333 services in connection with a sponsored event. Prior to March 1
334 of each year, such organization may apply to the department for
335 a certificate of exemption for admissions to such events

336 sponsored in this state by the organization during the
337 immediately following state fiscal year. The application shall
338 state the total dollar amount of admissions receipts collected
339 by the organization or its agents from such events in this state
340 sponsored by the organization or its agents in the year
341 immediately preceding the year in which the organization applies
342 for the exemption. Such organization shall receive the exemption
343 only to the extent of \$1.5 million multiplied by the ratio that
344 such receipts bear to the total of such receipts of all
345 organizations applying for the exemption in such year; however,
346 in no event shall such exemption granted to any organization
347 exceed 6 percent of such admissions receipts collected by the
348 organization or its agents in the year immediately preceding the
349 year in which the organization applies for the exemption. Each
350 organization receiving the exemption shall report each month to
351 the department the total admissions receipts collected from such
352 events sponsored by the organization during the preceding month
353 and shall remit to the department an amount equal to 6 percent
354 of such receipts reduced by any amount remaining under the
355 exemption. Tickets for such events sold by such organizations
356 shall not reflect the tax otherwise imposed under this section.

357 7. Also exempt from the tax imposed by this section are
358 entry fees for participation in freshwater fishing tournaments.

359 8. Also exempt from the tax imposed by this section are
360 participation or entry fees charged to participants in a game,
361 race, or other sport or recreational event if spectators are
362 charged a taxable admission to such event.

363 9. No tax shall be levied on admissions to any postseason
 364 collegiate football game sanctioned by the National Collegiate
 365 Athletic Association.

366 10. No tax shall be levied on admissions to the National
 367 Basketball Association All-Star Game.

368 11. No tax shall be levied on admissions to the National
 369 Hockey League All-Star Game.

370 Section 5. Paragraph (h) of subsection (1) of section
 371 212.05, Florida Statutes, is amended, and subsection (5) is
 372 added to that section, to read:

373 212.05 Sales, storage, use tax.--It is hereby declared to
 374 be the legislative intent that every person is exercising a
 375 taxable privilege who engages in the business of selling
 376 tangible personal property at retail in this state, including
 377 the business of making mail order sales, or who rents or
 378 furnishes any of the things or services taxable under this
 379 chapter, or who stores for use or consumption in this state any
 380 item or article of tangible personal property as defined herein
 381 and who leases or rents such property within the state.

382 (1) For the exercise of such privilege, a tax is levied on
 383 each taxable transaction or incident, which tax is due and
 384 payable as follows:

385 (h)1. A tax is imposed at the rate of 6 4 percent on the
 386 charges for the use of coin-operated amusement machines, except
 387 the rate shall be 4 percent on the charges for the use of coin-
 388 operated amusement machines as described in s. 849.161 and
 389 located at any facility owned, operated, or leased by a
 390 division, post, or chapter of a veterans service organization

391 granted a federal charter under Title 36, U.S.C. The tax shall
392 be calculated by dividing the gross receipts from such charges
393 for the applicable reporting period by a divisor, determined as
394 provided in this subparagraph, to compute gross taxable sales,
395 and then subtracting gross taxable sales from gross receipts to
396 arrive at the amount of tax due. For the 6-percent tax, for
397 counties that do not impose a discretionary sales surtax, the
398 divisor is equal to 1.06 ~~1.04~~; for counties that impose a 0.5
399 percent discretionary sales surtax, the divisor is equal to 1.65
400 ~~1.045~~; for counties that impose a 1 percent discretionary sales
401 surtax, the divisor is equal to 1.070 ~~1.050~~; and for counties
402 that impose a 2 percent sales surtax, the divisor is equal to
403 ~~1.080~~ ~~1.060~~. For the 4-percent tax, for counties that do not
404 impose a discretionary sales surtax, the divisor is equal to
405 1.04; for counties that impose a 0.5-percent discretionary sales
406 surtax, the divisor is equal to 1.045; for counties that impose
407 a 1-percent discretionary sales surtax, the divisor is equal to
408 1.050; and for counties that impose a 2-percent discretionary
409 sales surtax, the divisor is equal to 1.060. If a county imposes
410 a discretionary sales surtax that is not listed in this
411 subparagraph, the department shall make the applicable divisor
412 available in an electronic format or otherwise. Additional
413 divisors shall bear the same mathematical relationship to the
414 next higher and next lower divisors as the new surtax rate bears
415 to the next higher and next lower surtax rates for which
416 divisors have been established. When a machine is activated by a
417 slug, token, coupon, or any similar device which has been
418 purchased, the tax is on the price paid by the user of the

419 device for such device.

420 2. As used in this paragraph, the term "operator" means
421 any person who possesses a coin-operated amusement machine for
422 the purpose of generating sales through that machine and who is
423 responsible for removing the receipts from the machine.

424 a. If the owner of the machine is also the operator of it,
425 he or she shall be liable for payment of the tax without any
426 deduction for rent or a license fee paid to a location owner for
427 the use of any real property on which the machine is located.

428 b. If the owner or lessee of the machine is also its
429 operator, he or she shall be liable for payment of the tax on
430 the purchase or lease of the machine, as well as the tax on
431 sales generated through the machine.

432 c. If the proprietor of the business where the machine is
433 located does not own the machine, he or she shall be deemed to
434 be the lessee and operator of the machine and is responsible for
435 the payment of the tax on sales, unless such responsibility is
436 otherwise provided for in a written agreement between him or her
437 and the machine owner.

438 3.a. An operator of a coin-operated amusement machine may
439 not operate or cause to be operated in this state any such
440 machine until the operator has registered with the department
441 and has conspicuously displayed an identifying certificate
442 issued by the department. The identifying certificate shall be
443 issued by the department upon application from the operator. The
444 identifying certificate shall include a unique number, and the
445 certificate shall be permanently marked with the operator's
446 name, the operator's sales tax number, and the maximum number of

447 machines to be operated under the certificate. An identifying
448 certificate shall not be transferred from one operator to
449 another. The identifying certificate must be conspicuously
450 displayed on the premises where the coin-operated amusement
451 machines are being operated.

452 b. The operator of the machine must obtain an identifying
453 certificate before the machine is first operated in the state
454 and by July 1 of each year thereafter. The annual fee for each
455 certificate shall be based on the number of machines identified
456 on the application times \$30 and is due and payable upon
457 application for the identifying device. The application shall
458 contain the operator's name, sales tax number, business address
459 where the machines are being operated, and the number of
460 machines in operation at that place of business by the operator.
461 No operator may operate more machines than are listed on the
462 certificate. A new certificate is required if more machines are
463 being operated at that location than are listed on the
464 certificate. The fee for the new certificate shall be based on
465 the number of additional machines identified on the application
466 form times \$30.

467 c. A penalty of \$250 per machine is imposed on the
468 operator for failing to properly obtain and display the required
469 identifying certificate. A penalty of \$250 is imposed on the
470 lessee of any machine placed in a place of business without a
471 proper current identifying certificate. Such penalties shall
472 apply in addition to all other applicable taxes, interest, and
473 penalties.

474 d. Operators of coin-operated amusement machines must
 475 obtain a separate sales and use tax certificate of registration
 476 for each county in which such machines are located. One sales
 477 and use tax certificate of registration is sufficient for all of
 478 the operator's machines within a single county.

479 4. The provisions of this paragraph do not apply to coin-
 480 operated amusement machines owned and operated by churches or
 481 synagogues.

482 5. In addition to any other penalties imposed by this
 483 chapter, a person who knowingly and willfully violates any
 484 provision of this paragraph commits a misdemeanor of the second
 485 degree, punishable as provided in s. 775.082 or s. 775.083.

486 6. The department may adopt rules necessary to administer
 487 the provisions of this paragraph.

488 (5) Notwithstanding any other provision of this chapter,
 489 the maximum amount of tax imposed under this chapter and
 490 collected on each sale or use of an aircraft or boat in this
 491 state may not exceed \$18,000.

492 Section 6. Section 212.0597, Florida Statutes, is created
 493 to read:

494 212.0597 Maximum tax on fractional aircraft ownership
 495 interests.--The tax imposed under this chapter, including any
 496 discretionary sales surtax under s. 212.055, is limited to \$300
 497 on the sale or use in this state of a fractional ownership
 498 interest in aircraft pursuant to a fractional aircraft ownership
 499 program. This maximum tax applies to the total consideration
 500 paid for the fractional ownership interest, including any
 501 amounts paid by the fractional owner as monthly management or

502 maintenance fees. The maximum tax applies only if the fractional
 503 ownership interest is sold by or to the operator of the
 504 fractional aircraft ownership program or if the fractional
 505 ownership interest is transferred upon the approval of the
 506 operator of the fractional aircraft ownership program.

507 Section 7. Paragraph (q) is added to subsection (5) of
 508 section 212.08, Florida Statutes, paragraphs (d), (w), (y),
 509 (ee), and (ss) of subsection (7) are amended, and paragraphs
 510 (ggg) and (hhh) are added to subsection (7) of that section, to
 511 read:

512 212.08 Sales, rental, use, consumption, distribution, and
 513 storage tax; specified exemptions.--The sale at retail, the
 514 rental, the use, the consumption, the distribution, and the
 515 storage to be used or consumed in this state of the following
 516 are hereby specifically exempt from the tax imposed by this
 517 chapter.

518 (5) EXEMPTIONS; ACCOUNT OF USE.--

519 (q) Industrial machinery and equipment used in
 520 manufacturing.--

521 1. Items of industrial machinery and equipment purchased
 522 for use in manufacturing facilities or plant units that
 523 manufacture, process, compound, or produce for sale items of
 524 tangible personal property at fixed locations are exempt from
 525 the tax imposed by this chapter when the individual item of
 526 machinery or equipment has a sales price in excess of \$5,000 and
 527 the sale takes place on or after July 1, 2009, and before July
 528 1, 2011.

529 2. This exemption shall inure to the taxpayer only through

530 a refund of previously paid taxes. However, the maximum amount
531 of tax available for refund for any taxpayer is \$50,000 per
532 fiscal year.

533 3. In order to obtain a refund under this paragraph, the
534 taxpayer must file a completed application for refund with the
535 Department of Revenue within 30 calendar days after the date of
536 purchase of the exempt item. A single application may request a
537 refund for more than 1 item of exempt property. The department
538 shall process completed applications in the order in which the
539 applications are received. The department may not approve more
540 than \$2.5 million of total refunds in any fiscal year.

541 4. The department shall establish the form for applying
542 for a refund under this paragraph.

543 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any
544 entity by this chapter do not inure to any transaction that is
545 otherwise taxable under this chapter when payment is made by a
546 representative or employee of the entity by any means,
547 including, but not limited to, cash, check, or credit card, even
548 when that representative or employee is subsequently reimbursed
549 by the entity. In addition, exemptions provided to any entity by
550 this subsection do not inure to any transaction that is
551 otherwise taxable under this chapter unless the entity has
552 obtained a sales tax exemption certificate from the department
553 or the entity obtains or provides other documentation as
554 required by the department. Eligible purchases or leases made
555 with such a certificate must be in strict compliance with this
556 subsection and departmental rules, and any person who makes an
557 exempt purchase with a certificate that is not in strict

558 compliance with this subsection and the rules is liable for and
 559 shall pay the tax. The department may adopt rules to administer
 560 this subsection.

561 (d) Feeds.--Feeds for poultry, ~~estriches,~~ and livestock,
 562 including racehorses and dairy cows, are exempt.

563 (w) Certain ~~newspaper, magazine, and newsletter~~
 564 ~~subscriptions,~~ shoppers, and community newspapers.--Likewise
 565 ~~exempt are newspaper, magazine, and newsletter subscriptions in~~
 566 ~~which the product is delivered to the customer by mail. Also~~
 567 exempt are free, circulated publications that are published on a
 568 regular basis, the content of which is primarily advertising,
 569 and that are distributed through the mail, home delivery, or
 570 newsstands. ~~The exemption for newspaper, magazine, and~~
 571 ~~newsletter subscriptions which is provided in this paragraph~~
 572 ~~applies only to subscriptions entered into after March 1, 1997.~~

573 (y) Charter fishing vessels.--The charge for chartering
 574 any boat or vessel, licensed under s. 379.354(7) for no more
 575 than six customers and with the crew furnished, solely for the
 576 purpose of fishing is exempt from the tax imposed under s.
 577 212.04 or s. 212.05. The charge for chartering exclusively in
 578 fresh water any boat or vessel carrying no more than six
 579 customers per charter and with the crew furnished, solely for
 580 the purpose of fishing, is exempt from the tax imposed under s.
 581 212.04 or s. 212.05. These exemptions do ~~This exemption does not~~
 582 apply to any charge to enter or stay upon any "head-boat," party
 583 boat, or other boat or vessel. Nothing in this paragraph shall
 584 be construed to exempt any boat from sales or use tax upon the

585 purchase thereof except as provided in paragraph (t) and s.
 586 212.05.

587 (ee) Aircraft repair and maintenance labor charges.--There
 588 shall be exempt from the tax imposed by this chapter all labor
 589 charges for the repair and maintenance of an ~~qualified aircraft,~~
 590 aircraft of more than 15,000 pounds maximum certified takeoff
 591 weight, and rotary wing aircraft of more than 10,000 pounds
 592 maximum certified takeoff weight. Except as otherwise provided
 593 in this chapter, charges for parts and equipment furnished in
 594 connection with such labor charges are taxable.

595 (ss) Aircraft sales or leases.--The sale or lease of a
 596 ~~qualified aircraft or~~ an aircraft of more than 15,000 pounds
 597 maximum certified takeoff weight for use by a common carrier is
 598 exempt from the tax imposed by this chapter. As used in this
 599 paragraph, "common carrier" means an airline operating under
 600 Federal Aviation Administration regulations contained in Title
 601 14, chapter I, part 121 or part 129 of the Code of Federal
 602 Regulations.

603 (ggg) Aircraft temporarily in the state.--

604 1. An aircraft owned by a person who is not a resident of
 605 this state is exempt from the use tax imposed under this chapter
 606 if the aircraft enters and remains in this state for less than a
 607 total of 21 days during the 6-month period after the date of
 608 purchase. The temporary use of the aircraft and subsequent
 609 removal from this state may be proven by invoices for fuel or
 610 tie-down or hangar charges issued by out-of-state vendors or
 611 suppliers or similar documentation that clearly and specifically
 612 identifies the aircraft. The exemption provided by this

613 subparagraph shall be in addition to the provisions of
614 subparagraph 2. and s. 212.05(1) (a).

615 2. An aircraft owned by a person who is not a resident of
616 this state is exempt from the use tax imposed under this chapter
617 if the aircraft enters or remains in this state exclusively for
618 purposes of flight training, repairs, alterations, refitting, or
619 modification. Such flight training, repairs, alterations,
620 refitting, or modification shall be supported by written
621 documentation issued by in-state vendors or suppliers which
622 clearly and specifically identifies the aircraft. The exemption
623 provided by this subparagraph shall be in addition to the
624 provisions of subparagraph 1. and s. 212.05(1) (a).

625 (hhh) Fractional aircraft ownership programs.--Also exempt
626 from the tax imposed by this chapter is the sale or use of
627 aircraft primarily used in a fractional aircraft ownership
628 program. The exemption is not allowed unless the purchaser or
629 lessee furnishes the dealer with a certificate stating that the
630 lease or purchase to be exempted is for aircraft primarily used
631 in a fractional aircraft ownership program and that the
632 purchaser or lessee qualifies for the exemption. If a purchaser
633 or lessee makes tax-exempt purchases on a continual basis, the
634 purchaser or lessee may allow the dealer to keep the certificate
635 on file. The purchaser or lessee must inform the dealer that has
636 the certificate on file if the purchaser or lessee no longer
637 qualifies for the exemption. The department shall determine the
638 format of the certificate.

639 Section 8. Section 212.0801, Florida Statutes, is
640 repealed.

641 Section 9. Section 2 of chapter 2006-101, Laws of Florida,
642 is amended to read:

643 Section 2. Notwithstanding the provisions of section 3 of
644 chapter 2000-345, Laws of Florida, as amended by section 55 of
645 chapter 2002-218, Laws of Florida, subsection (10) of s.
646 212.031, Florida Statutes, shall not stand repealed on July 1,
647 2006, as scheduled by such laws, but that subsection is revived
648 and readopted. ~~Subsection (10) of s. 212.031, Florida Statutes,~~
649 ~~is repealed July 1, 2009.~~

650 Section 10. (1) A tax levied under the provisions of
651 chapter 212, Florida Statutes, may not be collected on the sale
652 of:

653 (a)1. Books, clothing, wallets, or bags, including
654 handbags, backpacks, fanny packs, and diaper bags, but excluding
655 briefcases, suitcases, and other garment bags, having a sales
656 price of \$50 or less per item during the period from 12:01 a.m.,
657 August 8, 2009, through midnight, August 10, 2009.

658 2. As used in this paragraph, the term:

659 a. "Book" means a set of printed sheets bound together and
660 published in a volume. For purposes of this paragraph, the term
661 "book" does not include newspapers, magazines, or other
662 periodicals.

663 b. "Clothing" means any article of wearing apparel,
664 including all footwear, except skis, swim fins, roller blades,
665 and skates, intended to be worn on or about the human body. For
666 purposes of this paragraph, the term "clothing" does not include
667 watches, watchbands, jewelry, umbrellas, or handkerchiefs.

668 (b)1. School supplies having a sales price of \$10 or less

669 per item during the period from 12:01 a.m., August 8, 2009,
670 through midnight, August 10, 2009.

671 2. As used in this paragraph, the term "school supplies"
672 means pens, pencils, erasers, crayons, notebooks, notebook
673 filler paper, legal pads, composition books, poster paper,
674 scissors, cellophane tape, glue or paste, rulers, computer
675 disks, protractors, compasses, and calculators.

676 (2) This section does not apply to sales within a theme
677 park or entertainment complex as defined in s. 509.013(9),
678 Florida Statutes, within a public lodging establishment as
679 defined in s. 509.013(4), Florida Statutes, or within an airport
680 as defined in s. 330.27(2), Florida Statutes.

681 (3) The Department of Revenue may adopt emergency rules to
682 administer this section.

683 Section 11. (1) Effective upon this act becoming a law
684 and effective June 5, 2009, through June 7, 2009, the tax levied
685 under chapter 212, Florida Statutes, may not be collected on the
686 sale of:

687 (a) Any portable self-powered light source selling for \$20
688 or less.

689 (b) Any portable self-powered radio, two-way radio, or
690 weatherband radio selling for \$75 or less.

691 (c) Any tarpaulin or other flexible waterproof sheeting
692 selling for \$50 or less.

693 (d) Any item normally sold as, or generally advertised as,
694 a ground anchor system or tie-down kit selling for \$50 or less.

695 (e) Any gas or diesel fuel tank selling for \$25 or less.

696 (f) Any package of AAA-cell, AA-cell, C-cell, D-cell, 6-

697 volt, or 9-volt batteries, excluding automobile and boat
 698 batteries, selling for \$30 or less.

699 (g) Any cell phone battery selling for \$60 or less or any
 700 cell phone charger selling for \$40 or less.

701 (h) Any nonelectric food storage cooler selling for \$30 or
 702 less.

703 (i) Any portable generator used to provide light or
 704 communications or preserve food in the event of a power outage
 705 selling for \$1,000 or less.

706 (j) Any storm shutter device selling for \$200 or less. As
 707 used in this paragraph, the term "storm shutter device" means
 708 materials and products manufactured, rated, and marketed
 709 specifically for the purpose of preventing window damage from
 710 storms.

711 (k) Any carbon monoxide detector selling for \$75 or less.

712 (l) Any reusable ice selling for \$10 or less.

713 (m) Any single product consisting of two or more of the
 714 items listed in paragraphs (a)-(l) selling for \$75 or less.

715 (2) This section does not apply to sales within a public
 716 lodging establishment as defined in s. 509.013(4), Florida
 717 Statutes, within a theme park or entertainment complex as
 718 defined in s. 509.013(9), Florida Statutes, or within an airport
 719 as defined in s. 330.27(2), Florida Statutes.

720 (3) The Department of Revenue may adopt rules pursuant to
 721 ss. 120.536(1) and 120.54, Florida Statutes, to administer this
 722 section.

723 Section 12. For the 2008-2009 fiscal year, the sum of
 724 \$246,157 is appropriated from the General Revenue Fund to the

725 Department of Revenue for purposes of administering section 9 of
726 this act.

727 Section 13. For the 2008-2009 fiscal year, the sum of
728 \$308,810 is appropriated from the General Revenue Fund to the
729 Department of Revenue for purposes of administering section 10
730 of this act.

731 Section 14. Except as otherwise provided, this act shall
732 take effect July 1, 2009.