

By Senator Sullivan

22-861A-99

See HB

1 A bill to be entitled
2 An act relating to tax on sales, use, and other
3 transactions; amending s. 212.031, F.S.;
4 providing that the tax on the lease or rental
5 of or license in real property does not apply
6 when the property is a public or private street
7 or right-of-way used by a utility or franchised
8 cable television company for utility,
9 television, or communication purposes;
10 providing an effective date.

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

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14 Section 1. Paragraph (a) of subsection (1) of section
15 212.031, Florida Statutes, 1998 Supplement, is amended to
16 read:

17 212.031 Lease or rental of or license in real
18 property.--

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

- 24 1. Assessed as agricultural property under s. 193.461.
- 25 2. Used exclusively as dwelling units.
- 26 3. Property subject to tax on parking, docking, or
27 storage spaces under s. 212.03(6).
- 28 4. Recreational property or the common elements of a
29 condominium when subject to a lease between the developer or
30 owner thereof and the condominium association in its own right
31 or as agent for the owners of individual condominium units or

1 the owners of individual condominium units. However, only the
2 lease payments on such property shall be exempt from the tax
3 imposed by this chapter, and any other use made by the owner
4 or the condominium association shall be fully taxable under
5 this chapter.

6 5. A public or private street or right-of-way occupied
7 or used by a utility or franchised cable television company
8 for utility, television, or other communications purposes.

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

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

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

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

29 9. Property used as an integral part of the
30 performance of qualified production services. As used in this
31 subparagraph, the term "qualified production services" means

1 any activity or service performed directly in connection with
2 the production of a qualified motion picture, as defined in s.
3 212.06(1)(b), and includes:

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

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

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

27 10. Leased, subleased, or rented to a person providing
28 food and drink concessionaire services within the premises of
29 a movie theater, a business operated under a permit issued
30 pursuant to chapter 550, or any publicly owned arena, sports
31 stadium, convention hall, exhibition hall, auditorium, or

1 recreational facility. A person providing retail
2 concessionaire services involving the sale of food and drink
3 or other tangible personal property within the premises of an
4 airport shall be subject to tax on the rental of real property
5 used for that purpose, but shall not be subject to the tax on
6 any license to use the property. For purposes of this
7 subparagraph, the term "sale" shall not include the leasing of
8 tangible personal property.

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

19 Section 2. This act shall take effect upon becoming a
20 law.

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23 LEGISLATIVE SUMMARY

24 Provides that the sales tax on the lease or rental of or
25 license in real property does not apply when the property
26 is a public or private street or right-of-way used by a
27 utility or franchised cable television company for
28 utility, television, or communication purposes.
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