

By the Committee on Regulated Industries and Senator Sullivan

315-2056-99

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A bill to be entitled  
An act relating to tax on sales, use, and other transactions; amending s. 212.031, F.S.; providing that the tax on the lease or rental of or license in real property does not apply when the property is a public or private street or right-of-way or certain improvements located on such property used by a utility or franchised cable television company for utility, television, or communication purposes; defining the term "utility"; providing an effective date.

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

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

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

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

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

8           5. A public or private street or right-of-way, and  
9 poles, conduits, fixtures, and similar improvements located on  
10 such streets or rights-of-way, occupied or used by a utility  
11 or franchised cable television company for utility or  
12 communications or television purposes. For purposes of this  
13 subparagraph, the term "utility" means any person providing  
14 utility services as defined in s. 203.012.

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

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

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

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

5           9. Property used as an integral part of the  
6 performance of qualified production services. As used in this  
7 subparagraph, the term "qualified production services" means  
8 any activity or service performed directly in connection with  
9 the production of a qualified motion picture, as defined in s.  
10 212.06(1)(b), and includes:

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

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

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

4           10. Leased, subleased, or rented to a person providing  
5 food and drink concessionaire services within the premises of  
6 a movie theater, a business operated under a permit issued  
7 pursuant to chapter 550, or any publicly owned arena, sports  
8 stadium, convention hall, exhibition hall, auditorium, or  
9 recreational facility. A person providing retail  
10 concessionaire services involving the sale of food and drink  
11 or other tangible personal property within the premises of an  
12 airport shall be subject to tax on the rental of real property  
13 used for that purpose, but shall not be subject to the tax on  
14 any license to use the property. For purposes of this  
15 subparagraph, the term "sale" shall not include the leasing of  
16 tangible personal property.

17           11. Property occupied pursuant to an instrument  
18 calling for payments which the department has declared, in a  
19 Technical Assistance Advisement issued on or before March 15,  
20 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c),  
21 Florida Administrative Code; provided that this subparagraph  
22 shall only apply to property occupied by the same person  
23 before and after the execution of the subject instrument and  
24 only to those payments made pursuant to such instrument,  
25 exclusive of renewals and extensions thereof occurring after  
26 March 15, 1993.

27           Section 2. This act shall take effect upon becoming a  
28 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
SB 1200

Provides that the sales tax exemption for franchised cable companies from the taxation of leases, rentals, and licenses in real property applies to the poles, conduits, fixtures and similar improvements located on public or private streets or rights-of-way as well to the public or private street or rights-of-way.