

By the Committee on Fiscal Resource and Senators Gutman, Hargrett, Childers, Grant, Cowin and Diaz-Balart

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A bill to be entitled
An act relating to the tax on sales, use, and other transactions; amending s. 212.031, F.S.; providing for exemptions from the tax on renting, leasing, letting, or granting a license for the use of real property; 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 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

1 or the condominium association shall be fully taxable under
2 this chapter.

3 5. A public or private street or right-of-way occupied
4 or used by a utility for utility purposes.

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

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

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

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

25 9. Property used as an integral part of the
26 performance of qualified production services. As used in this
27 subparagraph, the term "qualified production services" means
28 any activity or service performed directly in connection with
29 the production of a qualified motion picture, as defined in s.
30 212.06(1)(b), and includes:

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

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

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

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

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

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

18 Section 2. This act shall take effect July 1, 1999.

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20 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
21 COMMITTEE SUBSTITUTE FOR
22 SB 1502

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23 The committee substitute revises the application of the sales
24 and use tax exemption on the lease, sublease, license to use,
25 or rental of property to a concessionaire by certain
26 facilities. Both publicly and privately owned convention
27 halls, exhibition halls, auditoriums, stadiums, theaters,
28 arenas, civic centers, performing arts centers, and
29 recreational facilities are now included in the existing list
30 of facilities exempt from the tax.
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