

Amendment No. 001 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Committee on Finance & Taxation offered the following:

**Amendment (with title amendment)**

On page 1, line 12

remove from the bill: everything after the enacting clause

and insert in lieu thereof:

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).

Amendment No. 001 (for drafter's use only)

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

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

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

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

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

Amendment No. 001 (for drafter's use only)

1 actually imported or exported through the port by a tenant.

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

6           9. Property used as an integral part of the  
7 performance of qualified production services. As used in this  
8 subparagraph, the term "qualified production services" means  
9 any activity or service performed directly in connection with  
10 the production of a qualified motion picture, as defined in s.  
11 212.06(1)(b), and includes:

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

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

Amendment No. 001 (for drafter's use only)

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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Amendment No. 001 (for drafter's use only)

1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 1, lines 7-9

4 remove from the title of the bill: all of said lines

5

6 and insert in lieu thereof:

7 or right of way, or poles, conduits, fixtures, and similar

8 improvements located in a right-of-way used by a cable

9 television company for communications or television purposes;

10 providing a definition for the term utility; providing an

11 effective date.

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