

By Representative Brummer

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 an exemption from the tax on the
5 lease or rental of or license in real property
6 when the owner of the real property also owns
7 the lessee, licensee, or the other tenant;
8 providing an effective date.

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

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12 Section 1. Paragraph (a) of subsection (1) of section
13 212.031, Florida Statutes, is amended to read:

14 212.031 Lease or rental of or license in real
15 property.--

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

21 1. Assessed as agricultural property under s. 193.461.

22 2. Used exclusively as dwelling units.

23 3. Property subject to tax on parking, docking, or
24 storage spaces under s. 212.03(6).

25 4. Recreational property or the common elements of a
26 condominium when subject to a lease between the developer or
27 owner thereof and the condominium association in its own right
28 or as agent for the owners of individual condominium units or
29 the owners of individual condominium units. However, only the
30 lease payments on such property shall be exempt from the tax
31 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 and
4 poles, conduits, fixtures, and similar improvements located on
5 such streets or rights-of-way, occupied or used by a utility
6 or franchised cable television company for utility or
7 communications or television purposes. For purposes of this
8 subparagraph, the term "utility" means any person providing
9 utility services as defined in s. 203.012. This exception also
10 applies to property, excluding buildings, wherever located, on
11 which antennas, cables, adjacent accessory structures, or
12 adjacent accessory equipment used in the provision of
13 cellular, enhanced specialized mobile radio, or personal
14 communications services are placed.

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, licensed, or rented to a person
5 providing food and drink concessionaire services within the
6 premises of a convention hall, exhibition hall, auditorium,
7 stadium, theater, arena, civic center, performing arts center,
8 recreational facility, or any business operated under a permit
9 issued pursuant to chapter 550. 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 12. Leased, rented, or licensed to a lessee, licensee,
28 or other tenant that is owned by the owner of the real
29 property.

30 Section 2. This act shall take effect July 1, 2000.

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HOUSE SUMMARY

Provides an exemption from the tax on the lease or rental of or license in real property when the owner of the real property also owns the lessee, licensee, or other tenant.