

696-186AX-05

Bill No. HB 349, 1st Eng.

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

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Albright offered the following:

Amendment (with title amendment)

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, 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

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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. This exception also
15 applies to property, excluding buildings, wherever located, on
16 which antennas, cables, adjacent accessory structures, or
17 adjacent accessory equipment used in the provision of
18 cellular, enhanced specialized mobile radio, or personal
19 communications services are placed.

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

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

27 8.a. Property used at a port authority, as defined in
28 s. 315.02(2), exclusively for the purpose of oceangoing
29 vessels or tugs docking, or such vessels mooring on property
30 used by a port authority for the purpose of loading or
31 unloading passengers or cargo onto or from such a vessel, or

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1 property used at a port authority for fueling such vessels, or
2 to the extent that the amount paid for the use of any property
3 at the port is based on the charge for the amount of tonnage
4 actually imported or exported through the port by a tenant.

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

9 9. Property used as an integral part of the
10 performance of qualified production services. As used in this
11 subparagraph, the term "qualified production services" means
12 any activity or service performed directly in connection with
13 the production of a qualified motion picture, as defined in s.
14 212.06(1)(b), and includes:

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

30 b. The design, planning, engineering, construction,
31 alteration, repair, and maintenance of real or personal

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1 property including stages, sets, props, models, paintings, and
2 facilities principally required for the performance of those
3 services listed in sub-subparagraph a.; and

4 c. Property management services directly related to
5 property used in connection with the services described in
6 sub-subparagraphs a. and b.

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

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

30 Section 2. For an event that took place prior to the
31 effective date of this act, tax imposed by s. 212.031, Florida

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1 Statutes, on the rental, lease, sublease, or licensing of real
2 property to a concessionaire by a convention hall, exhibition
3 hall, auditorium, stadium, theater, arena, civic center,
4 performing arts center, or publicly owned recreational
5 facility, during an event at the facility, to be used by the
6 concessionaire to sell souvenirs, novelties, or other
7 event-related products, that was not charged and collected on
8 the portion of the rental, lease, or license payment based on
9 a percentage of sales and not based on a fixed price shall not
10 be due from the taxpayer; however, any tax actually collected,
11 along with applicable interest and penalty, shall be remitted
12 to the department and no refund shall be due on these amounts
13 or any other amounts of tax, interest, or penalty previously
14 remitted to the department.

15 Section 3. For an event that took place prior to the
16 effective date of this act, tax imposed by s. 212.031, Florida
17 Statutes, on separately stated charges imposed by a convention
18 hall, exhibition hall, auditorium, stadium, theater, arena,
19 civic center, performing arts center, or publicly owned
20 recreational facility upon a lessee or licensee for food,
21 drink, or services required or available in connection with a
22 lease or license to use real property, including charges for
23 laborers, stagehands, ticket takers, event staff, security
24 personnel, cleaning staff, and other event-related personnel,
25 advertising, and credit card processing, that was not charged
26 and collected shall not be due from the taxpayer; however, any
27 tax actually collected, along with applicable interest and
28 penalty, shall be remitted to the department and no refund
29 shall be due on these amounts or any other amounts of tax,
30 interest, or penalty previously remitted to the department.

31 Section 4. For admissions that were purchased prior to

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1 the effective date of this act, tax imposed by s. 212.04,
2 Florida Statutes, on the portion of the sales price or actual
3 value of the admission consisting of state or locally imposed
4 or authorized seat surcharges, taxes, or fees, or separately
5 stated ticket service charges imposed by a facility ticket
6 office or a ticketing service and added to a separately
7 stated, established ticket price, that was not charged and
8 collected shall not be due from the taxpayer; however, any tax
9 actually collected, along with applicable interest and
10 penalty, shall be remitted to the department and no refund
11 shall be due on these amounts or any other amounts of tax,
12 interest, or penalty previously remitted to the department.

13 Section 5. For admissions that were purchased prior to
14 the effective date of this act, tax imposed by s. 212.04,
15 Florida Statutes, on the admission charges to an event
16 sponsored by a governmental entity, sports authority, or
17 sports commission when held in a convention hall, exhibition
18 hall, auditorium, stadium, theater, arena, civic center,
19 performing arts center, or publicly owned recreational
20 facility, when the sponsor of the event was responsible for
21 100 percent of the risk of success or failure, and 100 percent
22 of the funds at risk for the event belonged to the sponsor,
23 and student or faculty talent was not exclusively used, that
24 was not charged and collected shall not be due from the
25 taxpayer; however, any tax actually collected, along with
26 applicable interest and penalty, shall be remitted to the
27 department and no refund shall be due on these amounts or any
28 other amounts of tax, interest, or penalty previously remitted
29 to the department. As used in this section, "sports authority"
30 and "sports commission" mean a nonprofit organization that is
31 exempt from federal income tax under s. 501.(c)(3) of the

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1 Internal Revenue Code and that contracts with a county or
2 municipal government for the purpose of promoting and
3 attracting sports-tourism events to the community with which
4 it contracts.

5 Section 6. This act shall take effect upon becoming a
6 law.

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

10 And the title is amended as follows:

11 remove from the title of the bill: the entire title

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13 and insert in lieu thereof:

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A bill to be entitled

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An act relating to tax on sales, use, and other

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transactions; amending s. 212.031, F.S.,

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relating to the tax on the lease or rental of

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or license in real property; revising

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application of the exemption for property

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leased, subleased, licensed, or rented to a

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person providing food and drink concessionaire

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services in certain facilities; providing that

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certain tax not collected on property rented,

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leased, subleased, or licensed by certain

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facilities to a concessionaire selling

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event-related products during an event at the

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facility for events prior to the effective date

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of the act shall not be due; providing that tax

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not collected on separately stated charges by

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certain facilities for certain food, drink, or

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services in connection with use of their

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1 property for events prior to the effective date
2 of the act shall not be due; providing that,
3 for admissions purchased prior to the effective
4 date of the act, admissions tax not collected
5 on that portion of an admission charge
6 consisting of state or local seat surcharges,
7 taxes, or fees, or certain ticket service
8 charges, shall not be due; providing that,
9 under certain conditions, for admissions
10 purchased prior to the effective date of the
11 act, admissions tax not collected on admission
12 charges to events sponsored by governmental
13 entities, sports authorities, or sports
14 commissions shall not be due; providing an
15 effective date.

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