

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Ross offered the following:

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3 **Amendment (with title amendment)**

4 Between lines 433 and 434, insert:

5 Section 14. Sections 3 and 4 of chapter 2000-345, Laws of
6 Florida, as amended by section 55 of chapter 2002-218, Laws of
7 Florida, are amended to read:

8 Section 3. Effective July 1, 2008 ~~2006~~, subsection(10) of
9 section 212.031, Florida Statutes, as created by this act, is
10 repealed, and paragraph (a) of subsection (1) and subsection (3)
11 of said section, as amended by this act, are amended to read:

12 212.031 Lease or rental of or license in real property.--

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

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

18 2. Used exclusively as dwelling units.

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

21 4. Recreational property or the common elements of a
22 condominium when subject to a lease between the developer or
23 owner thereof and the condominium association in its own right
24 or as agent for the owners of individual condominium units or
25 the owners of individual condominium units. However, only the
26 lease payments on such property shall be exempt from the tax
27 imposed by this chapter, and any other use made by the owner or
28 the condominium association shall be fully taxable under this
29 chapter.

30 5. A public or private street or right-of-way and poles,
31 conduits, fixtures, and similar improvements located on such
32 streets or rights-of-way, occupied or used by a utility or
33 franchised cable television company for utility or
34 communications or television purposes. For purposes of this
35 subparagraph, the term "utility" means any person providing
36 utility services as defined in s. 203.012. This exception also
37 applies to property, excluding buildings, wherever located, on
38 which antennas, cables, adjacent accessory structures, or
39 adjacent accessory equipment used in the provision of cellular,
40 enhanced specialized mobile radio, or personal communications
41 services are placed.

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

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44 7. Property used at an airport exclusively for the purpose
45 of aircraft landing or aircraft taxiing or property used by an
46 airline for the purpose of loading or unloading passengers or
47 property onto or from aircraft or for fueling aircraft.

48 8.a. Property used at a port authority, as defined in s.
49 315.02(2), exclusively for the purpose of oceangoing vessels or
50 tugs docking, or such vessels mooring on property used by a port
51 authority for the purpose of loading or unloading passengers or
52 cargo onto or from such a vessel, or property used at a port
53 authority for fueling such vessels, or to the extent that the
54 amount paid for the use of any property at the port is based on
55 the charge for the amount of tonnage actually imported or
56 exported through the port by a tenant.

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

61 9. Property used as an integral part of the performance of
62 qualified production services. As used in this subparagraph,
63 the term "qualified production services" means any activity or
64 service performed directly in connection with the production of
65 a qualified motion picture, as defined in s. 212.06(1)(b), and
66 includes:

67 a. Photography, sound and recording, casting, location
68 managing and scouting, shooting, creation of special and optical
69 effects, animation, adaptation (language, media, electronic, or
70 otherwise), technological modifications, computer graphics, set
71 and stage support (such as electricians, lighting designers and

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72 operators, greensmen, prop managers and assistants, and grips),
73 wardrobe (design, preparation, and management), hair and
74 makeup (design, production, and application), performing (such as
75 acting, dancing, and playing), designing and executing stunts,
76 coaching, consulting, writing, scoring, composing,
77 choreographing, script supervising, directing, producing,
78 transmitting dailies, dubbing, mixing, editing, cutting,
79 looping, printing, processing, duplicating, storing, and
80 distributing;

81 b. The design, planning, engineering, construction,
82 alteration, repair, and maintenance of real or personal property
83 including stages, sets, props, models, paintings, and facilities
84 principally required for the performance of those services
85 listed in sub-subparagraph a.; and

86 c. Property management services directly related to
87 property used in connection with the services described in sub-
88 subparagraphs a. and b.

89 10. Leased, subleased, licensed, or rented to a person
90 providing food and drink concessionaire services within the
91 premises of a convention hall, exhibition hall, auditorium,
92 stadium, theater, arena, civic center, performing arts center,
93 publicly owned recreational facility, or any business operated
94 under a permit issued pursuant to chapter 550. A person
95 providing retail concessionaire services involving the sale of
96 food and drink or other tangible personal property within the
97 premises of an airport shall be subject to tax on the rental of
98 real property used for that purpose, but shall not be subject to
99 the tax on any license to use the property. For purposes of

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100 this subparagraph, the term "sale" shall not include the leasing
101 of tangible personal property.

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

111 (3) The tax imposed by this section shall be in addition
112 to the total amount of the rental or license fee, shall be
113 charged by the lessor or person receiving the rent or payment in
114 and by a rental or license fee arrangement with the lessee or
115 person paying the rental or license fee, and shall be due and
116 payable at the time of the receipt of such rental or license fee
117 payment by the lessor or other person who receives the rental or
118 payment. The owner, lessor, or person receiving the rent or
119 license fee shall remit the tax to the department at the times
120 and in the manner hereinafter provided for dealers to remit
121 taxes under this chapter. The same duties imposed by this
122 chapter upon dealers in tangible personal property respecting
123 the collection and remission of the tax; the making of returns;
124 the keeping of books, records, and accounts; and the compliance
125 with the rules and regulations of the department in the
126 administration of this chapter shall apply to and be binding
127 upon all persons who manage any leases or operate real property,

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128 hotels, apartment houses, roominghouses, or tourist and trailer
129 camps and all persons who collect or receive rents or license
130 fees taxable under this chapter on behalf of owners or lessors.

131 Section 4. Effective July 1, 2008 ~~2006~~, paragraph(b) of
132 subsection (1), paragraph (a) of subsection (2), and subsection
133 (3) of section 212.04, Florida Statutes, as amended by this act,
134 are amended to read:

135 212.04 Admissions tax; rate, procedure, enforcement.--

136 (1)

137 (b) For the exercise of such privilege, a tax is levied at
138 the rate of 6 percent of sales price, or the actual value
139 received from such admissions, which 6 percent shall be added to
140 and collected with all such admissions from the purchaser
141 thereof, and such tax shall be paid for the exercise of the
142 privilege as defined in the preceding paragraph. Each ticket
143 must show on its face the actual sales price of the admission,
144 or each dealer selling the admission must prominently display at
145 the box office or other place where the admission charge is made
146 a notice disclosing the price of the admission, and the tax
147 shall be computed and collected on the basis of the actual price
148 of the admission charged by the dealer. The sale price or
149 actual value of admission shall, for the purpose of this
150 chapter, be that price remaining after deduction of federal
151 taxes, if any, imposed upon such admission, and, the rate of tax
152 on each admission shall be according to the brackets established
153 by s. 212.12(9).

154 (2)(a)1. No tax shall be levied on admissions to athletic
155 or other events sponsored by elementary schools, junior high

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156 schools, middle schools, high schools, community colleges,
157 public or private colleges and universities, deaf and blind
158 schools, facilities of the youth services programs of the
159 Department of Children and Family Services, and state
160 correctional institutions when only student, faculty, or inmate
161 talent is used. However, this exemption shall not apply to
162 admission to athletic events sponsored by an institution within
163 the State University System, and the proceeds of the tax
164 collected on such admissions shall be retained and used by each
165 institution to support women's athletics as provided in s.
166 240.533(3)(c).

167 2.a. No tax shall be levied on dues, membership fees, and
168 admission charges imposed by not-for-profit sponsoring
169 organizations. To receive this exemption, the sponsoring
170 organization must qualify as a not-for-profit entity under the
171 provisions of s. 501(c)(3) of the Internal Revenue Code of 1954,
172 as amended.

173 b. No tax imposed by this section and not actually
174 collected before August 1, 1992, shall be due from any museum or
175 historic building owned by any political subdivision of the
176 state.

177 3. No tax shall be levied on an admission paid by a
178 student, or on the student's behalf, to any required place of
179 sport or recreation if the student's participation in the sport
180 or recreational activity is required as a part of a program or
181 activity sponsored by, and under the jurisdiction of, the
182 student's educational institution, provided his or her
183 attendance is as a participant and not as a spectator.

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184 4. No tax shall be levied on admissions to the National
185 Football League championship game, on admissions to any
186 semifinal game or championship game of a national collegiate
187 tournament, or on admissions to a Major League Baseball all-star
188 game.

189 5. A participation fee or sponsorship fee imposed by a
190 governmental entity as described in s. 212.08(6) for an athletic
191 or recreational program is exempt when the governmental entity
192 by itself, or in conjunction with an organization exempt under
193 s. 501(c)(3) of the Internal Revenue Code of 1954, as amended,
194 sponsors, administers, plans, supervises, directs, and controls
195 the athletic or recreational program.

196 6. Also exempt from the tax imposed by this section to the
197 extent provided in this subparagraph are admissions to live
198 theater, live opera, or live ballet productions in this state
199 which are sponsored by an organization that has received a
200 determination from the Internal Revenue Service that the
201 organization is exempt from federal income tax under s.
202 501(c)(3) of the Internal Revenue Code of 1954, as amended, if
203 the organization actively participates in planning and
204 conducting the event, is responsible for the safety and success
205 of the event, is organized for the purpose of sponsoring live
206 theater, live opera, or live ballet productions in this state,
207 has more than 10,000 subscribing members and has among the
208 stated purposes in its charter the promotion of arts education
209 in the communities which it serves, and will receive at least 20
210 percent of the net profits, if any, of the events which the
211 organization sponsors and will bear the risk of at least 20

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212 percent of the losses, if any, from the events which it sponsors
213 if the organization employs other persons as agents to provide
214 services in connection with a sponsored event. Prior to March 1
215 of each year, such organization may apply to the department for
216 a certificate of exemption for admissions to such events
217 sponsored in this state by the organization during the
218 immediately following state fiscal year. The application shall
219 state the total dollar amount of admissions receipts collected
220 by the organization or its agents from such events in this state
221 sponsored by the organization or its agents in the year
222 immediately preceding the year in which the organization applies
223 for the exemption. Such organization shall receive the exemption
224 only to the extent of \$1.5 million multiplied by the ratio that
225 such receipts bear to the total of such receipts of all
226 organizations applying for the exemption in such year; however,
227 in no event shall such exemption granted to any organization
228 exceed 6 percent of such admissions receipts collected by the
229 organization or its agents in the year immediately preceding the
230 year in which the organization applies for the exemption. Each
231 organization receiving the exemption shall report each month to
232 the department the total admissions receipts collected from such
233 events sponsored by the organization during the preceding month
234 and shall remit to the department an amount equal to 6 percent
235 of such receipts reduced by any amount remaining under the
236 exemption. Tickets for such events sold by such organizations
237 shall not reflect the tax otherwise imposed under this section.

238 7. Also exempt from the tax imposed by this section are
239 entry fees for participation in freshwater fishing tournaments.

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240 8. Also exempt from the tax imposed by this section are
241 participation or entry fees charged to participants in a game,
242 race, or other sport or recreational event if spectators are
243 charged a taxable admission to such event.

244 9. No tax shall be levied on admissions to any postseason
245 collegiate football game sanctioned by the National Collegiate
246 Athletic Association.

247 (3) Such taxes shall be paid and remitted at the same time
248 and in the same manner as provided for remitting taxes on sales
249 of tangible personal property, as hereinafter provided.

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251

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

253 Between lines 53 and 54, insert:

254

255 amending ss. 3 and 4, ch. 2000-345, Laws of Florida, as amended;
256 extending for 2 years a tax exemption provided for certain real
257 property that is rented, leased, subleased, or licensed to a
258 concessionaire; providing requirements for collecting the tax
259 imposed on certain rentals, leases, or licenses; providing
260 requirements for determining the sale price or actual value of
261 certain ticket sales; extending for 2 years a tax exemption
262 provided for certain admission charges; providing requirements
263 for collecting the tax on certain admissions;