

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

.
.
.
.

1 Representative(s) Carroll offered the following:

2
3 **Amendment (with title amendment)**

4 Between line(s) 8 and 9, insert:

5 Section 1. Effective July 1, 2006, paragraph (a) of
6 subsection (1) of section 212.031, Florida Statutes, as amended
7 by section 3 of chapter 2000-345, as amended by section 55 of
8 chapter 2002-218, and as amended by section 2 of chapter 2000-
9 182, section 1 of chapter 2000-183, section 53 of chapter 2000-
10 260, and section 27 of chapter 2001-140, Laws of Florida, and
11 subsection (3) of said section, as amended by section 3 of
12 chapter 2000-345, as amended by section 55 of chapter 2002-218,
13 Laws of Florida, are amended to read:

14 212.031 Tax on rental or license fee for use of real
15 property.--

860967

Amendment No. (for drafter's use only)

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

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

21 2. Used exclusively as dwelling units.

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

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

33 5. A public or private street or right-of-way and poles,
34 conduits, fixtures, and similar improvements located on such
35 streets or rights-of-way, occupied or used by a utility or
36 provider of communications services, as defined by s. 202.11,
37 for utility or communications or television purposes. For
38 purposes of this subparagraph, the term "utility" means any
39 person providing utility services as defined in s. 203.012. This
40 exception also applies to property, wherever located, on which
41 the following are placed: towers, antennas, cables, accessory
42 structures, or equipment, not including switching equipment,

860967

4/26/2005 2:46:18 PM

Amendment No. (for drafter's use only)

43 used in the provision of mobile communications services as
44 defined in s. 202.11. For purposes of this chapter, towers used
45 in the provision of mobile communications services, as defined
46 in s. 202.11, are considered to be fixtures.

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

49 7. Property used at an airport exclusively for the purpose
50 of aircraft landing or aircraft taxiing or property used by an
51 airline for the purpose of loading or unloading passengers or
52 property onto or from aircraft or for fueling aircraft.

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

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

66 9. Property used as an integral part of the performance of
67 qualified production services. As used in this subparagraph,
68 the term "qualified production services" means any activity or
69 service performed directly in connection with the production of

860967

4/26/2005 2:46:18 PM

Amendment No. (for drafter's use only)

70 a qualified motion picture, as defined in s. 212.06(1)(b), and
71 includes:

72 a. Photography, sound and recording, casting, location
73 managing and scouting, shooting, creation of special and optical
74 effects, animation, adaptation (language, media, electronic, or
75 otherwise), technological modifications, computer graphics, set
76 and stage support (such as electricians, lighting designers and
77 operators, greensmen, prop managers and assistants, and grips),
78 wardrobe (design, preparation, and management), hair and makeup
79 (design, production, and application), performing (such as
80 acting, dancing, and playing), designing and executing stunts,
81 coaching, consulting, writing, scoring, composing,
82 choreographing, script supervising, directing, producing,
83 transmitting dailies, dubbing, mixing, editing, cutting,
84 looping, printing, processing, duplicating, storing, and
85 distributing;

86 b. The design, planning, engineering, construction,
87 alteration, repair, and maintenance of real or personal property
88 including stages, sets, props, models, paintings, and facilities
89 principally required for the performance of those services
90 listed in sub-subparagraph a.; and

91 c. Property management services directly related to
92 property used in connection with the services described in sub-
93 subparagraphs a. and b.

94

860967

4/26/2005 2:46:18 PM

Amendment No. (for drafter's use only)

95 This exemption will inure to the taxpayer upon presentation of
96 the certificate of exemption issued to the taxpayer under the
97 provisions of s. 288.1258.

98 10. Leased, subleased, licensed, or rented to a person
99 providing food and drink concessionaire services within the
100 premises of a convention hall, exhibition hall, auditorium,
101 stadium, theater, arena, civic center, performing arts center,
102 publicly owned recreational facility, or any business operated
103 under a permit issued pursuant to chapter 550. A person
104 providing retail concessionaire services involving the sale of
105 food and drink or other tangible personal property within the
106 premises of an airport shall be subject to tax on the rental of
107 real property used for that purpose, but shall not be subject to
108 the tax on any license to use the property. For purposes of
109 this subparagraph, the term "sale" shall not include the leasing
110 of tangible personal property.

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

120 12. Rented, leased, subleased, or licensed to a
121 concessionaire by a convention hall, exhibition hall,

860967

4/26/2005 2:46:18 PM

Amendment No. (for drafter's use only)

122 auditorium, stadium, theater, arena, civic center, performing
123 arts center, or publicly owned recreational facility, during an
124 event at the facility, to be used by the concessionaire to sell
125 souvenirs, novelties, or other event-related products. This
126 subparagraph applies only to that portion of the rental, lease,
127 or license payment which is based on a percentage of sales and
128 not based on a fixed price. This subparagraph is repealed July
129 1, 2009.

130 ~~13.12.~~ Property used or occupied predominantly for space
131 flight business purposes. As used in this subparagraph, "space
132 flight business" means the manufacturing, processing, or
133 assembly of a space facility, space propulsion system, space
134 vehicle, satellite, or station of any kind possessing the
135 capacity for space flight, as defined by s. 212.02(23), or
136 components thereof, and also means the following activities
137 supporting space flight: vehicle launch activities, flight
138 operations, ground control or ground support, and all
139 administrative activities directly related thereto. Property
140 shall be deemed to be used or occupied predominantly for space
141 flight business purposes if more than 50 percent of the
142 property, or improvements thereon, is used for one or more space
143 flight business purposes. Possession by a landlord, lessor, or
144 licensor of a signed written statement from the tenant, lessee,
145 or licensee claiming the exemption shall relieve the landlord,
146 lessor, or licensor from the responsibility of collecting the
147 tax, and the department shall look solely to the tenant, lessee,

860967

4/26/2005 2:46:18 PM

Amendment No. (for drafter's use only)

148 or licensee for recovery of such tax if it determines that the
149 exemption was not applicable.

150 (3) The tax imposed by this section shall be in addition
151 to the total amount of the rental or license fee, shall be
152 charged by the lessor or person receiving the rent or payment in
153 and by a rental or license fee arrangement with the lessee or
154 person paying the rental or license fee, and shall be due and
155 payable at the time of the receipt of such rental or license fee
156 payment by the lessor or other person who receives the rental or
157 payment. Notwithstanding any other provision of this chapter,
158 the tax imposed by this section on the rental, lease, or license
159 for the use of a convention hall, exhibition hall, auditorium,
160 stadium, theater, arena, civic center, performing arts center,
161 or publicly owned recreational facility to hold an event of not
162 more than 7 consecutive days' duration shall be collected at the
163 time of the payment for that rental, lease, or license but is
164 not due and payable to the department until the first day of the
165 month following the last day that the event for which the
166 payment is made is actually held, and becomes delinquent on the
167 21st day of that month. The owner, lessor, or person receiving
168 the rent or license fee shall remit the tax to the department at
169 the times and in the manner hereinafter provided for dealers to
170 remit taxes under this chapter. The same duties imposed by this
171 chapter upon dealers in tangible personal property respecting
172 the collection and remission of the tax; the making of returns;
173 the keeping of books, records, and accounts; and the compliance
174 with the rules and regulations of the department in the

860967

4/26/2005 2:46:18 PM

Amendment No. (for drafter's use only)

175 administration of this chapter shall apply to and be binding
176 upon all persons who manage any leases or operate real property,
177 hotels, apartment houses, roominghouses, or tourist and trailer
178 camps and all persons who collect or receive rents or license
179 fees taxable under this chapter on behalf of owners or lessors.

180 Section 2. Notwithstanding the provisions of section 3 of
181 chapter 2000-345, Laws of Florida, as amended by section 55 of
182 chapter 2002-218, Laws of Florida, subsection (10) of s.
183 212.031, Florida Statutes, shall not stand repealed on July 1,
184 2006, as scheduled by such laws, but that subsection is revived
185 and readopted. Subsection (10) of s. 212.031, Florida Statutes,
186 is repealed July 1, 2009.

187 Section 3. Effective July 1, 2006, paragraph (b) of
188 subsection (1) and subsection (3) of section 212.04, Florida
189 Statutes, as amended by section 4 of chapter 2000-345, as
190 amended by section 55 of chapter 2002-218, Laws of Florida, and
191 paragraph (a) of subsection (2) of said section, as amended by
192 section 4 of chapter 2000-345, as amended by section 55 of
193 chapter 2002-218, as amended by section 916 of chapter 2002-387,
194 and as amended by section 24 of chapter 2000-158, and section 11
195 of chapter 2000-210, Laws of Florida, are amended to read:

196 212.04 Admissions tax; rate, procedure, enforcement.--

197 (1)

198 (b) For the exercise of such privilege, a tax is levied at
199 the rate of 6 percent of sales price, or the actual value
200 received from such admissions, which 6 percent shall be added to
201 and collected with all such admissions from the purchaser

860967

4/26/2005 2:46:18 PM

Amendment No. (for drafter's use only)

202 thereof, and such tax shall be paid for the exercise of the
203 privilege as defined in the preceding paragraph. Each ticket
204 must show on its face the actual sales price of the admission,
205 or each dealer selling the admission must prominently display at
206 the box office or other place where the admission charge is made
207 a notice disclosing the price of the admission, and the tax
208 shall be computed and collected on the basis of the actual price
209 of the admission charged by the dealer. The sale price or
210 actual value of admission shall, for the purpose of this
211 chapter, be that price remaining after deduction of federal
212 taxes and state or locally imposed or authorized seat
213 surcharges, taxes, or fees, if any, imposed upon such admission.
214 The sale price or actual value does not include separately
215 stated ticket service charges that are imposed by a facility
216 ticket office or a ticketing service and added to a separately
217 stated, established ticket price. ~~and~~ The rate of tax on each
218 admission shall be according to the brackets established by s.
219 212.12(9).

220 (2)(a)1. No tax shall be levied on admissions to athletic
221 or other events sponsored by elementary schools, junior high
222 schools, middle schools, high schools, community colleges,
223 public or private colleges and universities, deaf and blind
224 schools, facilities of the youth services programs of the
225 Department of Children and Family Services, and state
226 correctional institutions when only student, faculty, or inmate
227 talent is used. However, this exemption shall not apply to
228 admission to athletic events sponsored by a state university,

860967

4/26/2005 2:46:18 PM

Amendment No. (for drafter's use only)

229 and the proceeds of the tax collected on such admissions shall
230 be retained and used by each institution to support women's
231 athletics as provided in s. 1006.71(2)(c).

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

238 b. No tax shall be levied on admission charges to an event
239 sponsored by a governmental entity, sports authority, or sports
240 commission when held in a convention hall, exhibition hall,
241 auditorium, stadium, theater, arena, civic center, performing
242 arts center, or publicly owned recreational facility and when
243 100 percent of the risk of success or failure lies with the
244 sponsor of the event and 100 percent of the funds at risk for
245 the event belong to the sponsor, and student or faculty talent
246 is not exclusively used. As used in this sub-subparagraph, the
247 terms "sports authority" and "sports commission" mean a
248 nonprofit organization that is exempt from federal income tax
249 under s. 501(c)(3) of the Internal Revenue Code and that
250 contracts with a county or municipal government for the purpose
251 of promoting and attracting sports-tourism events to the
252 community with which it contracts. This sub-subparagraph is
253 repealed July 1, 2009.

254 3. No tax shall be levied on an admission paid by a
255 student, or on the student's behalf, to any required place of

860967

4/26/2005 2:46:18 PM

Amendment No. (for drafter's use only)

256 sport or recreation if the student's participation in the sport
257 or recreational activity is required as a part of a program or
258 activity sponsored by, and under the jurisdiction of, the
259 student's educational institution, provided his or her
260 attendance is as a participant and not as a spectator.

261 4. No tax shall be levied on admissions to the National
262 Football League championship game, on admissions to any
263 semifinal game or championship game of a national collegiate
264 tournament, or on admissions to a Major League Baseball all-star
265 game.

266 5. A participation fee or sponsorship fee imposed by a
267 governmental entity as described in s. 212.08(6) for an athletic
268 or recreational program is exempt when the governmental entity
269 by itself, or in conjunction with an organization exempt under
270 s. 501(c)(3) of the Internal Revenue Code of 1954, as amended,
271 sponsors, administers, plans, supervises, directs, and controls
272 the athletic or recreational program.

273 6. Also exempt from the tax imposed by this section to the
274 extent provided in this subparagraph are admissions to live
275 theater, live opera, or live ballet productions in this state
276 which are sponsored by an organization that has received a
277 determination from the Internal Revenue Service that the
278 organization is exempt from federal income tax under s.
279 501(c)(3) of the Internal Revenue Code of 1954, as amended, if
280 the organization actively participates in planning and
281 conducting the event, is responsible for the safety and success
282 of the event, is organized for the purpose of sponsoring live

860967

4/26/2005 2:46:18 PM

Amendment No. (for drafter's use only)

283 theater, live opera, or live ballet productions in this state,
284 has more than 10,000 subscribing members and has among the
285 stated purposes in its charter the promotion of arts education
286 in the communities which it serves, and will receive at least 20
287 percent of the net profits, if any, of the events which the
288 organization sponsors and will bear the risk of at least 20
289 percent of the losses, if any, from the events which it sponsors
290 if the organization employs other persons as agents to provide
291 services in connection with a sponsored event. Prior to March 1
292 of each year, such organization may apply to the department for
293 a certificate of exemption for admissions to such events
294 sponsored in this state by the organization during the
295 immediately following state fiscal year. The application shall
296 state the total dollar amount of admissions receipts collected
297 by the organization or its agents from such events in this state
298 sponsored by the organization or its agents in the year
299 immediately preceding the year in which the organization applies
300 for the exemption. Such organization shall receive the exemption
301 only to the extent of \$1.5 million multiplied by the ratio that
302 such receipts bear to the total of such receipts of all
303 organizations applying for the exemption in such year; however,
304 in no event shall such exemption granted to any organization
305 exceed 6 percent of such admissions receipts collected by the
306 organization or its agents in the year immediately preceding the
307 year in which the organization applies for the exemption. Each
308 organization receiving the exemption shall report each month to
309 the department the total admissions receipts collected from such

860967

4/26/2005 2:46:18 PM

Amendment No. (for drafter's use only)

310 events sponsored by the organization during the preceding month
311 and shall remit to the department an amount equal to 6 percent
312 of such receipts reduced by any amount remaining under the
313 exemption. Tickets for such events sold by such organizations
314 shall not reflect the tax otherwise imposed under this section.

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

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

321 9. No tax shall be levied on admissions to any postseason
322 collegiate football game sanctioned by the National Collegiate
323 Athletic Association.

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

327 Notwithstanding any other provision of this chapter, the tax on
328 admission to an event at a convention hall, exhibition hall,
329 auditorium, stadium, theater, arena, civic center, performing
330 arts center, or publicly owned recreational facility shall be
331 collected at the time of payment for the admission but is not
332 due to the department until the first day of the month following
333 the actual date of the event for which the admission is sold and
334 becomes delinquent on the 21st day of that month.

335
336

860967

4/26/2005 2:46:18 PM

Amendment No. (for drafter's use only)

337 ===== T I T L E A M E N D M E N T =====
338 Remove line(s) 4-5, insert:
339 amending s. 212.031, F.S.; continuing in effect an
340 exemption from the tax on rental or license fees which is
341 provided for certain property rented, leased, or licensed
342 by a convention or exhibition hall, auditorium, stadium,
343 theater, arena, civic center, performing arts center, or
344 publicly owned recreational facility for a specified
345 period; providing for future repeal; postponing the repeal
346 of and reviving and readopting s. 212.031(10), F.S.,
347 relating to an exemption provided for certain charges
348 imposed by a convention or exhibition hall, auditorium,
349 stadium, theater, arena, civic center, performing arts
350 center, or publicly owned recreational facility upon a
351 lessee or licensee; providing for future repeal; amending
352 s. 212.04, F.S., relating to the tax on admissions;
353 continuing in effect a provision that excludes certain
354 service charges from the sale price or actual value of an
355 admission; continuing in effect an exemption from the tax
356 which is provided for admission charges to an event
357 sponsored by a governmental entity, sports authority, or
358 sports commission; providing for future repeal; continuing
359 in effect provisions governing the remitting of certain
360 admission taxes to the Department of Revenue; amending s.
361 212.08, F.S.; deleting a scheduled repeal of such
362 exemption; providing effective dates.

860967

4/26/2005 2:46:18 PM