

By Senator Dean

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1 A bill to be entitled
2 An act relating to sales, storage, and use tax;
3 amending s. 212.06, F.S.; requiring that a person who
4 manufactures or acts as a dealer of factory-built
5 buildings or mobile homes for his or her own use in
6 the performance of contracts for the construction or
7 improvement of real property pay a tax upon the
8 greater of two specified amounts; exempting certain
9 mobile homes from classification as "fixtures" for the
10 purpose of determining whether a person is improving
11 real property; providing an effective date.

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

14
15 Section 1. Paragraph (b) of subsection (1) and paragraph
16 (b) of subsection (14) of section 212.06, Florida Statutes, are
17 amended to read:

18 212.06 Sales, storage, use tax; collectible from dealers;
19 "dealer" defined; dealers to collect from purchasers;
20 legislative intent as to scope of tax.—

21 (1)

22 (b) Except as otherwise provided, any person who
23 manufactures, produces, compounds, processes, or fabricates in
24 any manner tangible personal property for his or her own use
25 shall pay a tax upon the cost of the product manufactured,
26 produced, compounded, processed, or fabricated without any
27 deduction therefrom on account of the cost of material used,
28 labor or service costs, or transportation charges,
29 notwithstanding the provisions of s. 212.02 defining "cost

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30 price." However, the tax levied under this paragraph shall not
31 be imposed upon any person who manufactures or produces
32 electrical power or energy, steam energy, or other energy at a
33 single location, when such power or energy is used directly and
34 exclusively at such location, or at other locations if the
35 energy is transferred through facilities of the owner in the
36 operation of machinery or equipment that is used to manufacture,
37 process, compound, produce, fabricate, or prepare for shipment
38 tangible personal property for sale or to operate pollution
39 control equipment, maintenance equipment, or monitoring or
40 control equipment used in such operations. The manufacture or
41 production of electrical power or energy that is used for space
42 heating, lighting, office equipment, or air-conditioning or any
43 other nonmanufacturing, nonprocessing, noncompounding,
44 nonproducing, nonfabricating, or nonshipping activity is
45 taxable. Electrical power or energy consumed or dissipated in
46 the transmission or distribution of electrical power or energy
47 for resale is also not taxable. Fabrication labor shall not be
48 taxable when a person is using his or her own equipment and
49 personnel, for his or her own account, as a producer,
50 subproducer, or coproducer of a qualified motion picture. For
51 purposes of this chapter, the term "qualified motion picture"
52 means all or any part of a series of related images, either on
53 film, tape, or other embodiment, including, but not limited to,
54 all items comprising part of the original work and film-related
55 products derived therefrom as well as duplicates and prints
56 thereof and all sound recordings created to accompany a motion
57 picture, which is produced, adapted, or altered for exploitation
58 in, on, or through any medium or device and at any location,

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59 primarily for entertainment, commercial, industrial, or
60 educational purposes. This exemption for fabrication labor
61 associated with production of a qualified motion picture will
62 inure to the taxpayer upon presentation of the certificate of
63 exemption issued to the taxpayer under the provisions of s.
64 288.1258. A person who manufactures or acts as a dealer of
65 factory-built buildings or mobile homes for his or her own use
66 in the performance of contracts for the construction or
67 improvement of real property shall pay a tax only upon the
68 person's cost price of items used in the manufacture of such
69 buildings or upon 40 percent of the cost price of the factory-
70 built building or mobile home, whichever is greater.

71 (14) For the purpose of determining whether a person is
72 improving real property, the term:

73 (b) "Fixtures" means items that are an accessory to a
74 building, other structure, or land and that do not lose their
75 identity as accessories when installed but that do become
76 permanently attached to realty. However, the term does not
77 include the following items, whether or not such items are
78 attached to real property in a permanent manner: property of a
79 type that is required to be registered, licensed, titled, or
80 documented by this state or by the United States Government,
81 including, but not limited to, mobile homes, except mobile homes
82 that are assessed as real property or that are the subject of a
83 contract to improve real property by a manufacturer or dealer of
84 mobile homes, or industrial machinery or equipment. For purposes
85 of this paragraph, industrial machinery or equipment is not
86 limited to machinery and equipment used to manufacture, process,
87 compound, or produce tangible personal property. For an item to

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88 be considered a fixture, it is not necessary that the owner of
89 the item also own the real property to which it is attached.

90 Section 2. This act shall take effect July 1, 2009.