

By Senator Margolis

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1 A bill to be entitled

2 An act relating to original works of art; amending s.
3 212.08, F.S.; exempting certain original works of art
4 from the sales and use tax; defining the term
5 "original work of art"; authorizing emergency
6 rulemaking; providing an effective date.

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8 Be It Enacted by the Legislature of the State of Florida:
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10 Section 1. Paragraph (ooo) is added to subsection (7) of
11 section 212.08, Florida Statutes, to read:

12 212.08 Sales, rental, use, consumption, distribution, and
13 storage tax; specified exemptions.—The sale at retail, the
14 rental, the use, the consumption, the distribution, and the
15 storage to be used or consumed in this state of the following
16 are hereby specifically exempt from the tax imposed by this
17 chapter.

18 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
19 entity by this chapter do not inure to any transaction that is
20 otherwise taxable under this chapter when payment is made by a
21 representative or employee of the entity by any means,
22 including, but not limited to, cash, check, or credit card, even
23 when that representative or employee is subsequently reimbursed
24 by the entity. In addition, exemptions provided to any entity by
25 this subsection do not inure to any transaction that is
26 otherwise taxable under this chapter unless the entity has
27 obtained a sales tax exemption certificate from the department
28 or the entity obtains or provides other documentation as
29 required by the department. Eligible purchases or leases made
30 with such a certificate must be in strict compliance with this
31 subsection and departmental rules, and any person who makes an
32 exempt purchase with a certificate that is not in strict

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33 compliance with this subsection and the rules is liable for and
34 shall pay the tax. The department may adopt rules to administer
35 this subsection.

36 (ooo) Original works of art.—The first \$10,000 of the sales
37 price paid for the sale of an original work of art that is
38 signed by the artist, and sold by or on behalf of the artist, is
39 exempt from the tax imposed by this chapter if the work is not
40 numbered and the sales price equals or exceeds \$1,000. To obtain
41 the exemption under this paragraph, the dealer must sign a
42 certificate under penalties of perjury attesting that the work
43 of art meets the requirements for an exemption under this
44 paragraph. As used in this paragraph, the term "original work of
45 art" means the expression or application of human creative skill
46 and imagination in the form of a one-of-a-kind piece to be
47 appreciated primarily for its beauty or emotional power, the
48 value of which is attributable predominantly to its artistic
49 importance. The term is limited to framed or unframed paintings,
50 sculptures, traditional and fine crafts, etchings, pottery,
51 ceramics, silkscreens, hand-blown glass art, and installation
52 art. The term does not include architecture; literature,
53 including books and other writings; music, including musical
54 compositions, recordings, and the performance of musical
55 compositions; theater, including plays and the performance of
56 plays; films, including the creation of films and acting in
57 films; dance, including the creation and performance of dance;
58 performance arts; posters; lithographs; numbered prints; artist
59 proofs; photographs; jewelry; artifacts of joint historical and
60 artistic importance; furniture; designer clothing and other
61 wearable art; plants; food products; floral arrangements; light

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62 installations; and other collectibles not specifically included
63 in this paragraph.

64 Section 2. The Department of Revenue is authorized, and all
65 conditions are deemed met, to adopt emergency rules under ss.
66 120.536(1) and 120.54(4), Florida Statutes, for the purpose of
67 implementing this act.

68 Section 3. This act shall take effect July 1, 2016.