

HB 1291

2016

1 A bill to be entitled
2 An act relating to original works of art; amending s.
3 212.08, F.S.; providing an exemption from the sales
4 and use tax for certain types of original works of
5 art; defining the term "original work of art";
6 authorizing the Department of Revenue to adopt
7 emergency rules; providing a repeal date for
8 authorization to adopt emergency rules; providing an
9 effective date.

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

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13 Section 1. Paragraph (ooo) is added to subsection (7) of
14 section 212.08, Florida Statutes, to read:

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

21 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
22 entity by this chapter do not inure to any transaction that is
23 otherwise taxable under this chapter when payment is made by a
24 representative or employee of the entity by any means,
25 including, but not limited to, cash, check, or credit card, even
26 when that representative or employee is subsequently reimbursed

27 | by the entity. In addition, exemptions provided to any entity by
28 | this subsection do not inure to any transaction that is
29 | otherwise taxable under this chapter unless the entity has
30 | obtained a sales tax exemption certificate from the department
31 | or the entity obtains or provides other documentation as
32 | required by the department. Eligible purchases or leases made
33 | with such a certificate must be in strict compliance with this
34 | subsection and departmental rules, and any person who makes an
35 | exempt purchase with a certificate that is not in strict
36 | compliance with this subsection and the rules is liable for and
37 | shall pay the tax. The department may adopt rules to administer
38 | this subsection.

39 | ~~(ooo)~~ Original works of art.—The first \$10,000 of the
40 | sales price paid for the sale of an original work of art that is
41 | signed by the artist and sold by or on behalf of the artist is
42 | exempt from the tax imposed by this chapter if the work is not
43 | numbered and the sales price equals or exceeds \$1,000. To obtain
44 | the exemption under this paragraph, the dealer must sign a
45 | certificate under penalty of perjury attesting that the work of
46 | art meets the requirements for an exemption under this
47 | paragraph. As used in this paragraph, the term "original work of
48 | art" means the expression or application of human creative skill
49 | and imagination in the form of a one-of-a-kind piece to be
50 | appreciated primarily for its beauty or emotional power, the
51 | value of which is attributable predominantly to its artistic
52 | importance. The term is limited to framed or unframed paintings,

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53 sculptures, traditional and fine crafts, etchings, pottery,
54 ceramics, silkscreens, hand-blown glass art, and installation
55 art. The term does not include architecture; literature,
56 including books and other writings; music, including musical
57 compositions, recordings, and the performance of musical
58 compositions; theater, including plays and the performance of
59 plays; films, including the creation of films and acting in
60 films; dance, including the creation and performance of dance;
61 performance arts; posters; lithographs; numbered prints; artist
62 proofs; photographs; jewelry; artifacts of joint historical and
63 artistic importance; furniture; designer clothing and other
64 wearable art; plants; food products; floral arrangements; light
65 installations; and other collectibles not specifically included
66 in this paragraph.

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

71 (2) This section is repealed June 30, 2017.

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