

By: Howard of Fort Bend

H.B. No. 4267

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the determination of ownership of goods for the purpose
3 of deducting the cost of goods sold under the franchise tax.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 171.1012(i), Tax Code, is amended to
6 read as follows:

7 (i) A taxable entity may make a subtraction under this
8 section in relation to the cost of goods sold only if that entity
9 owns the goods. The determination of whether a taxable entity is
10 an owner is based on all of the facts and circumstances, including
11 the various benefits and burdens of ownership vested with the
12 taxable entity. A taxable entity furnishing labor or materials to
13 a project for the construction, improvement, remodeling, repair, or
14 industrial maintenance (as the term "maintenance" is defined in
15 T.A.C. Section 3.357) of real property is considered to be an owner
16 of that labor or materials and may include the costs, as allowed by
17 this section, in the computation of cost of goods sold. Solely for
18 purposes of this section, a taxable entity shall be treated as the
19 owner of goods being manufactured or produced by the entity under a
20 contract with the federal government, including any subcontracts
21 that support a contract with the federal government,
22 notwithstanding that the Federal Acquisition Regulation may
23 require that title or risk of loss with respect to those goods be
24 transferred to the federal government before the manufacture or

1 production of those goods is complete. A taxable entity is
2 considered the owner of goods sold for purposes of this section if
3 as a result of selling the goods the entity reports gross revenue
4 and a separate cost of sales on the entity's financial statements,
5 regardless of whether the entity at any point has legal title to the
6 goods.

7 SECTION 2. This Act applies only to a report originally due
8 on or after the effective date of this Act.

9 SECTION 3. This Act takes effect January 1, 2010.