

By: Duncan

S.B. No. 947

A BILL TO BE ENTITLED

AN ACT

relating to the exemption from ad valorem taxation of certain tangible personal property stored temporarily at a location in this state.

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

SECTION 1. Section 11.253(a), Tax Code, as added by Chapter 830 (H.B. 621), Acts of the 80th Legislature, Regular Session, 2007, is amended by amending Subdivision (2) and adding Subdivisions (5) and (6) to read as follows:

(2) "Goods-in-transit" means tangible personal property that:

(A) is acquired in or imported into this state to be forwarded to another location in this state or outside this state;

(B) is stored under a contract of bailment by a public warehouse operator ~~[detained]~~ at one or more public warehouse facilities ~~[a location]~~ in this state that are not in any way owned or controlled by ~~[in which]~~ the owner of the personal property ~~[does not have a direct or indirect ownership interest]~~ for the account of ~~[assembling, storing, manufacturing, processing, or fabricating purposes by]~~ the person who acquired or imported the property;

(C) is transported to another location in this state or outside this state not later than 175 days after the date

1 the person acquired the property in or imported the property into
2 this state; and

3 (D) does not include oil, natural gas, petroleum
4 products, aircraft, dealer's motor vehicle inventory, dealer's
5 vessel and outboard motor inventory, dealer's heavy equipment
6 inventory, or retail manufactured housing inventory.

7 (5) "Bailee" and "warehouse" have the meanings
8 assigned by Section 7.102, Business & Commerce Code.

9 (6) "Public warehouse operator" means a person that:

10 (A) is both a bailee and a warehouse; and

11 (B) for hire stores, at one or more public
12 warehouse facilities, tangible personal property that is owned by
13 other persons solely for the account of those persons and not for
14 the operator's account.

15 SECTION 2. Section 11.253, Tax Code, as added by Chapter 830
16 (H.B. 621), Acts of the 80th Legislature, Regular Session, 2007, is
17 amended by amending Subsections (e) and (h) and adding Subsections
18 (j-1) and (j-2) to read as follows:

19 (e) In determining the market value of goods-in-transit
20 that in the preceding year were [~~assembled,~~] stored[~~, manufactured,~~
21 ~~processed, or fabricated~~] in this state, the chief appraiser shall
22 exclude the cost of equipment, machinery, or materials that entered
23 into and became component parts of the goods-in-transit but were
24 not themselves goods-in-transit or that were not transported to
25 another location in this state or outside this state before the
26 expiration of 175 days after the date they were brought into this
27 state by the property owner or acquired by the property owner in

1 this state. For component parts held in bulk, the chief appraiser
2 may use the average length of time a component part was held by the
3 owner of the component parts during the preceding year at a location
4 in this state that was not owned by or under the control of the owner
5 of the component parts in determining whether the component parts
6 were transported to another location in this state or outside this
7 state before the expiration of 175 days.

8 (h) The chief appraiser by written notice delivered to a
9 property owner who claims an exemption under this section may
10 require the property owner to provide copies of property records so
11 the chief appraiser can determine the amount and value of
12 goods-in-transit and that the location in this state where the
13 goods-in-transit were detained for storage [~~assembling, storing,~~
14 ~~manufacturing, processing, or fabricating purposes~~] was not owned
15 by or under the control of the owner of the goods-in-transit. If
16 the property owner fails to deliver the information requested in
17 the notice before the 31st day after the date the notice is
18 delivered to the property owner, the property owner forfeits the
19 right to claim or receive the exemption for that year.

20 (j-1) Notwithstanding Subsection (j) or official action
21 that was taken under that subsection before September 1, 2009, to
22 tax goods-in-transit exempt under Subsection (b) and not exempt
23 under other law, a taxing unit may not tax such goods-in-transit in
24 a tax year that begins on or after January 1, 2010, unless the
25 governing body of the taxing unit takes action on or after September
26 1, 2009, in the manner required for official action by the governing
27 body, to provide for the taxation of the goods-in-transit. The

1 official action to tax the goods-in-transit must be taken before
2 January 1 of the first tax year in which the governing body proposes
3 to tax goods-in-transit. Before acting to tax the exempt property,
4 the governing body of the taxing unit must conduct a public hearing
5 as required by Section 1-n(d), Article VIII, Texas Constitution.
6 If the governing body of a taxing unit provides for the taxation of
7 the goods-in-transit as provided by this subsection, the exemption
8 prescribed by Subsection (b) does not apply to that unit. The
9 goods-in-transit remain subject to taxation by the taxing unit
10 until the governing body of the taxing unit, in the manner required
11 for official action, rescinds or repeals its previous action to tax
12 goods-in-transit, or otherwise determines that the exemption
13 prescribed by Subsection (b) will apply to that taxing unit.

14 (j-2) Notwithstanding Subsection (j-1), if under Subsection
15 (j) the governing body of a taxing unit, before September 1, 2009,
16 took action to provide for the taxation of goods-in-transit and
17 pledged the taxes imposed on the goods-in-transit for the payment
18 of a debt of the taxing unit, the tax officials of the taxing unit
19 may continue to impose the taxes against the goods-in-transit until
20 the debt is discharged, if cessation of the imposition would impair
21 the obligation of the contract by which the debt was created.

22 SECTION 3. Section 11.253(a)(2), Tax Code, as amended by
23 this Act, applies only to an ad valorem tax year that begins on or
24 after January 1, 2010.

25 SECTION 4. (a) Except as provided by Subsection (b) of this
26 section, this Act takes effect January 1, 2010.

27 (b) Section 2 of this Act takes effect September 1, 2009.