

By: Davis

S.B. No. 935

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the sales and use tax on the repair, maintenance,
3 creation, or restoration, or the sale, storage, use, or other
4 consumption, of a computer program.

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

6 SECTION 1. Section 151.0101(a), Tax Code, is amended to
7 read as follows:

8 (a) "Taxable services" means:
9 (1) amusement services;
10 (2) cable television services;
11 (3) personal services;
12 (4) motor vehicle parking and storage services;
13 (5) the repair, remodeling, maintenance, and
14 restoration of tangible personal property, except:

15 (A) aircraft;
16 (B) a ship, boat, or other vessel, other than:
17 (i) a taxable boat or motor as defined by
18 Section 160.001;
19 (ii) a sports fishing boat; or
20 (iii) any other vessel used for pleasure;

21 and

22 (C) the repair, maintenance, and restoration of a
23 motor vehicle; ~~and~~

24 ~~[(D) the repair, maintenance, creation, and~~

1 ~~restoration of a computer program, including its development and~~
2 ~~modification, not sold by the person performing the repair,~~
3 ~~maintenance, creation, or restoration service;]~~

- 4 (6) telecommunications services;
- 5 (7) credit reporting services;
- 6 (8) debt collection services;
- 7 (9) insurance services;
- 8 (10) information services;
- 9 (11) real property services;
- 10 (12) data processing services;
- 11 (13) real property repair and remodeling;
- 12 (14) security services;
- 13 (15) telephone answering services;
- 14 (16) Internet access service; and
- 15 (17) a sale by a transmission and distribution
- 16 utility, as defined in Section 31.002, Utilities Code, of
- 17 transmission or delivery of service directly to an electricity
- 18 end-use customer whose consumption of electricity is subject to
- 19 taxation under this chapter.

20 SECTION 2. Subchapter H, Chapter 151, Tax Code, is amended
21 by adding Section 151.352 to read as follows:

22 Sec. 151.352. CUSTOM COMPUTER PROGRAM. The services to
23 create a computer program and the sale or storage, use, or other
24 consumption of a computer program are exempted from the taxes
25 imposed by this chapter if:

- 26 (1) the computer program is sold by the creator to a
- 27 purchaser;

1 (2) the computer program is created at the request of
2 the purchaser;

3 (3) the exclusive rights to the computer program are
4 transferred from the creator to the purchaser; and

5 (4) the computer program is created:

6 (A) without the use of existing programming code;
7 or

8 (B) with the use of existing programming code
9 only if the existing programming code is available for use without
10 charge by everyone.

11 SECTION 3. The change in law made by this Act does not
12 affect tax liability accruing before the effective date of this
13 Act. That liability continues in effect as if this Act had not been
14 enacted, and the former law is continued in effect for the
15 collection of taxes due and for civil and criminal enforcement of
16 the liability for those taxes.

17 SECTION 4. This Act takes effect September 1, 2013.