

SB 631 5

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

ENROLLED

Senate Bill No. 631

(BY SENATOR McCABE)

[Passed March 10, 2007; in effect ninety days from passage.]

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[Passed March 10, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §11-15-8d of the Code of West Virginia, 1931, as amended, relating to the consumers sales and service tax generally; and providing a refundable exemption for purchases by a contractor when the purchased materials will be used or consumed in the construction, alteration, repair or improvement of a new or existing building or structure to be used primarily by persons or entities exempt from the consumers sales and service tax on purchases.

Be it enacted by the Legislature of West Virginia:

That §11-15-8d of the Code of West Virginia, 1931, as

amended, be amended and reenacted to read as follows:

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-8d. Limitations on right to assert exemptions.

1 Persons who perform “contracting” as defined in
2 section two of this article, or persons acting in an
3 agency capacity, may not assert any exemption to which
4 the purchaser of such contracting services or the
5 principal is entitled. Any statutory exemption to which
6 a taxpayer may be entitled shall be invalid unless the
7 tangible personal property or taxable service is actually
8 purchased by such taxpayer and is directly invoiced to
9 and paid by such taxpayer: *Provided*, That this section
10 shall not apply to purchases by an employee for his or
11 her employer; purchases by a partner for his or her
12 partnership; or purchases by a duly authorized officer
13 of a corporation, or unincorporated organization, for his
14 or her corporation or unincorporated organization so
15 long as the purchase is invoiced to and paid by such
: 16 employer, partnership, corporation or unincorporated
17 organization.

18 *Transition rule.* — This section shall not apply to
19 purchases of tangible personal property or taxable
20 services in fulfillment of a purchasing agent or
21 procurement agent contract executed and legally
22 binding on the parties thereto prior to the fifteenth day
23 of September, one thousand nine hundred ninety:
24 *Provided*, That this transition rule shall not apply to
25 any purchases of tangible personal property or taxable
26 services made under such a contract after the
27 thirty-first day of August, one thousand nine hundred
28 ninety-one; and this transition rule shall not apply if the
29 primary purpose of the purchasing agent or

30 procurement agent contract was to avoid payment of
31 consumers sales and use taxes: *Provided, however,* That
32 effective the first day of July, two thousand seven, this
33 section shall not apply to purchases of services,
34 machinery, supplies or materials, except gasoline and
35 special fuel, to be directly used or consumed in the
36 construction, alteration, repair or improvement of a new
37 or existing building or structure by a person performing
38 "contracting", as defined in section two of this article,
39 if the purchaser of the "contracting" services would be
40 entitled to claim the refundable exemption under the
41 provisions of subdivision (2), subsection (b), section nine
42 of this article had it purchased the services, machinery,
43 supplies or materials.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this
the ^{*4th*} Day of *April*, 2007.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

APR 03 2007

Time 1:30 p