

Regular Session, 2005

SENATE BILL NO. 263

BY SENATOR KOSTELKA

TAX/SALES. Provides for the definition of component parts of immovable property for purposes of state and local sales and use tax. (gov sig)

1 AN ACT

2 To enact R.S. 47:301(m), relative to the sales tax of the state and its political subdivisions;  
3 to provide for an exclusion for certain defined component parts of immovable  
4 property; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 47:301(m) is hereby enacted to read as follows:

7 §301. Definitions

8 As used in this Chapter the following words, terms, and phrases have the  
9 meaning ascribed to them in this Section, unless the context clearly indicates a  
10 different meaning:

11 \* \* \*  
12 (16) \* \* \*

13 (m)(1) For purposes of the sales and use tax imposed by the state of  
14 Louisiana, by a political subdivision whose boundaries are coterminous with  
15 those of the state, or by all political subdivisions of the state, tangible personal  
16 property shall not include immovable property, including the component parts  
17 of immovable property, as defined in this Subparagraph. For purposes of this

1           **Subparagraph, the component parts of immovable property shall include all of**  
2           **the following:**

3                   **(aa) Things permanently attached to a building or other construction,**  
4                   **including plumbing, heating, cooling, electrical or other installations and the**  
5                   **component parts thereof, such as electrical and plumbing fixtures.**

6                   **(bb) Other things that are permanently attached to an immovable or to**  
7                   **its component parts such that:**

8                           **(AA) Based on societal expectations, the ownership of the items would**  
9                           **be expected to be conveyed with the sale of the immovable;**

10                           **(BB) The items cannot be removed without substantial damage to**  
11                           **themselves or to the immovable to which they are attached.**

12                           **(2) For "substantial damage" for purposes of this Subparagraph shall**  
13                           **include the impairment of the functional usage of the immovable or the thing**  
14                           **attached thereto, such as the removal of a toilet from the plumbing system of a**  
15                           **building.**

16   \*       \*       \*

17           Section 2. This Act shall take effect and become operative if and only if Senate Bill  
18           No. \_\_\_\_ of this 2005 Regular Session is not enacted and does not become law.

19           Section 3. This Act shall become effective upon signature by the governor or, if not  
20           signed by the governor, upon expiration of the time for bills to become law without signature  
21           by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
22           vetoed by the governor and subsequently approved by the legislature, this Act shall become  
23           effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Riley Boudreaux.

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DIGEST

Proposed law defines as "tangible personal property," and thereby excludes from state and local sales tax, immovable property, including the "component parts of immovable property," defined to include all of the following:

- (1) Things permanently attached to a building or other construction, and their component parts, such as electrical and plumbing fixtures.

- (2) Other things that are permanently attached to an immovable or to its component parts such that:
- (a) Based on societal expectations, the ownership of the items would be expected to be conveyed with the sale of the immovable;
  - (b) The items cannot be removed without substantial damage to themselves or to the immovable to which they are attached. "Substantial damage" is defined to include the impairment of the functional usage of the immovable or the thing attached thereto, such as the removal of a toilet from the plumbing system of a building.

Proposed law only takes effect if Senate Bill No. \_\_\_\_\_ of the 2005 Regular Session is not enacted.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 47:301(16)(m))