

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 300

Introduced by Linehan, 39.

Read first time January 11, 2023

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
- 2 77-2704.12, Revised Statutes Cumulative Supplement, 2022; to change
- 3 provisions relating to sales and use tax exemptions for nonprofit
- 4 organizations; to provide an operative date; and to repeal the
- 5 original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2704.12, Revised Statutes Cumulative
2 Supplement, 2022, is amended to read:

3 77-2704.12 (1) Sales and use taxes shall not be imposed on the gross
4 receipts from the sale, lease, or rental of and the storage, use, or
5 other consumption in this state of purchases by (a) any nonprofit
6 organization created exclusively for religious purposes, (b) any
7 nonprofit organization providing services exclusively to the blind, (c)
8 any nonprofit private educational institution established under sections
9 79-1601 to 79-1607, (d) any accredited, nonprofit, privately controlled
10 college or university with its primary campus physically located in
11 Nebraska, (e) any nonprofit (i) hospital, (ii) health clinic when one or
12 more hospitals or the parent corporations of the hospitals own or control
13 the health clinic for the purpose of reducing the cost of health services
14 or when the health clinic receives federal funds through the United
15 States Public Health Service for the purpose of serving populations that
16 are medically underserved, (iii) skilled nursing facility, (iv)
17 intermediate care facility, (v) assisted-living facility, (vi)
18 intermediate care facility for persons with developmental disabilities,
19 (vii) nursing facility, (viii) home health agency, (ix) hospice or
20 hospice service, (x) respite care service, (xi) mental health substance
21 use treatment center licensed under the Health Care Facility Licensure
22 Act, or (xii) center for independent living as defined in 29 U.S.C. 796a,
23 (f) any nonprofit licensed residential child-caring agency, (g) any
24 nonprofit licensed child-placing agency, ~~or~~ (h) any nonprofit
25 organization certified by the Department of Health and Human Services to
26 provide community-based services for persons with developmental
27 disabilities, or (i) any nonprofit organization certified or contracted
28 by a regional behavioral health authority or the Division of Behavioral
29 Health of the Department of Health and Human Services to provide
30 community-based mental health or substance use services.

31 (2) Any organization listed in subsection (1) of this section shall

1 apply for an exemption on forms provided by the Tax Commissioner. The
2 application shall be approved and a numbered certificate of exemption
3 received by the applicant organization in order to be exempt from the
4 sales and use tax.

5 (3) The appointment of purchasing agents shall be recognized for the
6 purpose of altering the status of the construction contractor as the
7 ultimate consumer of building materials which are physically annexed to
8 the structure and which subsequently belong to the owner of the
9 organization or institution. The appointment of purchasing agents shall
10 be in writing and occur prior to having any building materials annexed to
11 real estate in the construction, improvement, or repair. The contractor
12 who has been appointed as a purchasing agent may apply for a refund of or
13 use as a credit against a future use tax liability the tax paid on
14 inventory items annexed to real estate in the construction, improvement,
15 or repair of a project for a licensed not-for-profit institution.

16 (4) Any organization listed in subsection (1) of this section which
17 enters into a contract of construction, improvement, or repair upon
18 property annexed to real estate without first issuing a purchasing agent
19 authorization to a contractor or repairperson prior to the building
20 materials being annexed to real estate in the project may apply to the
21 Tax Commissioner for a refund of any sales and use tax paid by the
22 contractor or repairperson on the building materials physically annexed
23 to real estate in the construction, improvement, or repair.

24 (5) Any person purchasing, storing, using, or otherwise consuming
25 building materials in the performance of any construction, improvement,
26 or repair by or for any institution enumerated in subsection (1) of this
27 section which is licensed upon completion although not licensed at the
28 time of construction or improvement, which building materials are annexed
29 to real estate and which subsequently belong to the owner of the
30 institution, shall pay any applicable sales or use tax thereon. Upon
31 becoming licensed and receiving a numbered certificate of exemption, the

1 institution organized not for profit shall be entitled to a refund of the
2 amount of taxes so paid in the performance of such construction,
3 improvement, or repair and shall submit whatever evidence is required by
4 the Tax Commissioner sufficient to establish the total sales and use tax
5 paid upon the building materials physically annexed to real estate in the
6 construction, improvement, or repair.

7 Sec. 2. This act becomes operative on October 1, 2023.

8 Sec. 3. Original section 77-2704.12, Revised Statutes Cumulative
9 Supplement, 2022, is repealed.