

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 14  
Corrected Copy 2/11/97  
Committee Substitute Favorable 6/25/97

Short Title: Update Custom Computer Software.

(Public)

Sponsors:

Referred to:

February 3, 1997

A BILL TO BE ENTITLED  
AN ACT TO MODIFY THE SALES TAX DEFINITION OF CUSTOM COMPUTER  
SOFTWARE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.3(20) reads as rewritten:

"(20) ~~'Tangible personal property' means and includes personal property which~~  
Tangible personal property. – Personal property that may be seen,  
weighed, measured, ~~felt–felt,~~ or touched or is in any other manner  
perceptible to the senses. The term ~~"tangible personal property"~~ shall  
does not include stocks, bonds, notes, ~~insurance–insurance,~~ or other  
obligations or securities, nor ~~shall–does~~ it include water delivered by or  
through main lines or pipes either for commercial or domestic use or  
consumption. The term includes all ~~"canned" or prewritten computer~~  
~~programs, either in the form of written procedures or in the form of storage~~  
~~media on which or in which the program is recorded, held, or existing for~~  
general or repeated sale, lease, or license to use or consume. The term does  
not include the design, development, writing, translation, fabrication, lease,  
license to use or consume, or transfer for a consideration of title or

1 possession of a custom computer program, other than a basic operational  
2 program, either in the form of written procedures or in the form of storage  
3 media on which or in which the program is recorded, or any required  
4 documentation or manuals designed to facilitate the use of the custom  
5 computer program. The term also does not include access to a computer  
6 program or a database when the user of the computer program or database  
7 receives a separately stated fee or other charge for the access.

8 As used in this subdivision:

- 9 a. "Basic operational program" or "control program" means a  
10 computer program that is fundamental and necessary to the  
11 functioning of a computer. A basic operational program is that  
12 part of an operating system, including supervisors, monitors,  
13 executives, and control or master programs, which consists of the  
14 control program elements of that system. A control or master  
15 program, as opposed to a processing program, controls the  
16 operation of a computer by managing the allocation of all system  
17 resources, including the central processing unit, main storage,  
18 input/output devices, and processing programs. A processing  
19 program is used to develop and implement the specific  
20 applications the computer is to perform.
- 21 b. "Computer program" means the complete plan for the solution of  
22 a problem, such as the complete sequence of automatic data-  
23 processing equipment instructions necessary to solve a problem,  
24 and includes both systems and application programs and  
25 subdivisions, such as assemblers, compilers, routines, generators,  
26 and utility programs.
- 27 c. "Custom computer program" means a computer program  
28 prepared to the special order of the customer. Custom computer  
29 programs include one of the following elements:
- 30 1. Preparation or selection of the programs for the customer's  
31 use requires an analysis of the customer's requirements by  
32 the vendor; or
  - 33 2. The program requires adaptation by the vendor to be used  
34 in a particular make and model of computer utilizing a  
35 specified output device.
- 36 d. "Storage media" means punched cards, tapes, disks, diskettes, or  
37 drums.

38 computer software delivered on a storage medium, such as a cd rom, a  
39 disk, or a tape."

40 Section 2. G.S. 105-164.13 is amended by adding a new subdivision to read:

41 "(43) Custom computer software. – 'Custom computer software' is software  
42 written in accordance with the specifications of a specific customer.  
43 The term includes a user manual or other documentation that

1                   accompanies the sale of the software. The term does not include  
2                   prewritten software that can be installed and executed with no  
3                   changes to the software's source code other than changes made to  
4                   configure hardware or software or to select personal preferences."

5                   Section 3. This act becomes effective October 1, 1997, and applies to sales  
6                   made on or after that date.