

HOUSE BILL 2378

By Hicks G

AN ACT to amend Tennessee Code Annotated, Title 67,
relative to taxation of computer software services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-6-387, is amended by deleting the section and substituting instead the following:

(a) There is exempt from the tax imposed by this chapter the fabrication, installation, and repair of computer software by a person, including the person's agent or direct employee, for the person's own use and consumption. As used in this section, the term "direct employee" means an employee to whom the person is obligated to issue a federal form W-2, wage and tax statement, and with respect to whom the person has responsibility for withholding taxes under the Federal Insurance Contributions Act (26 U.S.C. §§ 3101-3126), or such other entity or affiliate that upon petition to the commissioner has been approved as having that responsibility under this section.

(b) There is exempt from the tax imposed by this chapter the access and use of software that remains in the possession of the dealer who provides the software or in the possession of a third party on behalf of such dealer, as described in § 67-6-231(b), where the access and use of the software is solely by a person or the person's agent or direct employee, as defined in subsection (a), for the exclusive purpose of fabricating other software that is both:

- (1) Owned by that person; and
- (2) For that person's own use and consumption.

SECTION 2. This act takes effect July 1, 2022, the public welfare requiring it.