

LEGISLATIVE BILL 123

Approved by the Governor March 16, 1994

Introduced by Byars, 30; Lynch, 13

AN ACT relating to motorboats; to amend sections 37-1216 and 37-1226, Reissue Revised Statutes of Nebraska, 1943, section 77-27,147, Revised Statutes Supplement, 1992, and sections 37-1214, 37-1274, 77-2702.07, 77-2702.09, 77-2702.17, and 77-2703, Revised Statutes Supplement, 1993; to provide for and change provisions relating to titling, registration, and sale of motorboats; to provide powers and duties for county clerks and the Department of Motor Vehicles; to provide fees; to provide penalties; to provide for applicability of the Uniform Commercial Code; to redefine terms; to change provisions relating to the payment of sales tax; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 37-1214, Revised Statutes Supplement, 1993, be amended to read as follows:

37-1214. The owner of each motorboat shall register such vessel every three years. The owner of such vessel shall present the certificate of title acquired pursuant to sections 3 to 15 of this act and shall file an application for number with the county treasurer of the county in which the applicant resides on forms approved and provided by the commission. The application shall be signed by the owner of the vessel, giving shall contain the year manufactured, shall contain a copy of the certificate of title, and shall be accompanied by a fee for the three-year period of not less than fifteen dollars and not more than twenty dollars for Class 1 boats, not less than thirty dollars and not more than forty dollars for Class 2 boats, not less than forty-five dollars and not more than sixty dollars for Class 3 boats, and not less than seventy-five dollars and not more than one hundred dollars for Class 4 boats, as established by the commission pursuant to section 81-814.02.

Sec. 2. That section 37-1216, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-1216. Upon presentation of the certificate of title acquired pursuant to sections 3 to 15 of this act and receipt of the application under section 37-1214 in approved form, the county treasurer shall enter the application upon the records of his the office and issue to the applicant a certificate of number stating the number awarded to the vessel and the name and address of the owner. The , which number shall be displayed on each side of the bow, such and the numbers being shall be at least three inches high, of block characteristics, contrasting in color with the boat, and clearly visible from a distance of one hundred feet. The commission shall assign each county treasurer a block of numbers and certificates therefor.

Sec. 3. No manufacturer, importer, dealer, or other person shall sell or otherwise dispose of a new motorboat to a dealer to be used by such dealer for purposes of display and resale without delivering to the dealer a duly executed manufacturer's or importer's certificate with assignments on the certificate to show title in the purchaser of the motorboat. No dealer shall purchase or acquire a new motorboat without obtaining from the seller a manufacturer's or importer's certificate.

Sec. 4. (1) Except as provided in section 3 of this act, (a) no person shall sell or otherwise dispose of a motorboat without delivering to the purchaser or transferee of the motorboat a certificate of title with an assignment on the certificate to show title in the purchaser and (b) no person shall purchase or otherwise acquire or bring into this state a motorboat without complying with sections 3 to 15 of this act except for temporary use.

(2) No purchaser or transferee shall receive a certificate of title which does not contain an assignment to show title in the purchaser or transferee. Possession of a title which does not meet this requirement shall be prima facie evidence of a violation of this section.

Sec. 5. No person acquiring a motorboat from the owner thereof, whether the owner is a manufacturer, importer, dealer, or otherwise, shall acquire any right, title, claim, or interest in or to such motorboat until he or she has physical possession of the motorboat and a duly executed certificate of title or a manufacturer's or importer's certificate with assignments on the certificate to show title in the purchaser or an instrument in writing required by section 9 of this act. No waiver or estoppel shall

operate in favor of such person against a person having physical possession of the motorboat and the certificate of title, the manufacturer's or importer's certificate, or an instrument in writing required by section 9 of this act. No court in any case at law or in equity shall recognize the right, title, claim, or interest of any person in or to any motorboat sold, disposed of, mortgaged, or encumbered unless there is compliance with this section.

Sec. 6. (1) Application for a certificate of title shall be made upon a form prescribed by the Department of Motor Vehicles and shall be sworn to before a notary public or other officer empowered to administer oaths. All applications shall be presented to the county clerk with the application for number under section 37-1214 and shall be accompanied by the fee prescribed in section 15 of this act. The owner of a motorboat may obtain a certificate of title at any time prior to registration under section 37-1214.

(2) If a certificate of title has previously been issued for the motorboat in this state, the application for a new certificate of title shall be accompanied by the certificate of title duly assigned. If a certificate of title has not previously been issued for the motorboat in this state, the application shall be accompanied by a manufacturer's or importer's certificate, a duly certified copy thereof, a certificate of title from another state, or a court order issued by a court of record, a manufacturer's certificate of origin, or an assigned registration certificate, if the motorboat was brought into this state from a state which does not have a certificate of title law. The county clerk shall retain the evidence of title presented by the applicant on which the certificate of title is issued. When the evidence of title presented by the applicant is a certificate of title issued by another state, the department shall notify the state of prior issuance that the certificate of title has been surrendered.

(3) The county clerk shall use reasonable diligence in ascertaining whether or not the statements in the application for a certificate of title are true by checking the application and documents accompanying the same with the records of motorboats in his or her office. If he or she is satisfied that the applicant is the owner of the motorboat and that the application is in the proper form, the county clerk shall issue a certificate of title over his or her signature and sealed with his or her seal.

(4) In the case of the sale of a motorboat, the certificate of title shall be obtained in the name of the purchaser upon application signed by the purchaser, except that for titles to be held by husband and wife, applications may be accepted by the clerk upon the signature of either one as a signature for himself or herself and as an agent for his or her spouse.

(5) In all cases of transfers of motorboats, the application for a certificate of title shall be filed within thirty days after the delivery of the motorboat. A dealer need not apply for a certificate of title for a motorboat in stock or acquired for stock purposes, but upon transfer of a motorboat in stock or acquired for stock purposes, the dealer shall give the transferee a reassignment of the certificate of title on the motorboat or an assignment of a manufacturer's or importer's certificate. If all reassignments printed on the certificate of title have been used, the dealer shall obtain title in his or her name prior to any subsequent transfer.

Sec. 7. (1) The county clerk shall issue the certificate of title in triplicate. All certificates of title shall be typewritten. One copy shall be retained by the clerk in his or her office, and the other copy shall be transmitted on the day of issuance to the Department of Motor Vehicles. The county clerk shall sign and affix his or her seal to the original certificate of title and deliver the certificate to the applicant if there are no liens on the motorboat or deliver or mail the certificate to the holder of the first lien on the day of issuance if there are liens on the motorboat. The county clerk shall keep on hand a sufficient supply of blank forms which shall be furnished and distributed without charge to manufacturers, dealers, or other persons residing within the county, except that certificates of title shall only be issued by the county clerk or the department. Each county shall issue and file certificates of title using the vehicle titling and registration computer system.

(2) Each clerk of the various counties shall provide his or her seal without charge to the applicant on any certificate of title, application for certificate of title, duplicate copy, assignment or reassignment, power of attorney, statement, or affidavit pertaining to the issuance of a certificate of title. The department shall prescribe a uniform method of numbering certificates of title.

(3) The county clerk shall (a) file all certificates of title according to rules and regulations of the department, (b) maintain in the office indices for such certificates of title, (c) be authorized to destroy all previous records five years after a subsequent transfer has been made on a

motorboat, and (d) be authorized to destroy all certificates of title and all supporting records and documents which have been on file for a period of five years or more from the date of filing the certificate or a notation of lien, whichever occurs later. Any person holding a certificate of title to a motorboat may refile the same with the county clerk to prevent destruction of the clerk's records.

Sec. 8. The Department of Motor Vehicles shall adopt and promulgate rules and regulations necessary to carry out sections 3 to 18 of this act, and the county clerks shall conform to the rules and regulations and act at the direction of the department. The department shall also provide the county clerks with the necessary training for the proper administration of such sections. The department shall receive and file in its office all instruments forwarded to it by the county clerks under such sections and shall maintain indices covering the entire state for the instruments so filed. These indices shall be by motorboat number and alphabetically by the owner's name and shall be for the entire state and not for individual counties. The department shall provide and furnish the forms required by section 14 of this act to the county clerks except manufacturers' or importers' certificates. The department shall check with its records all duplicate certificates of title received from the county clerks. If it appears that a certificate of title has been improperly issued, the department shall cancel the certificate. Upon cancellation of any certificate of title, the department shall notify the county clerk who issued the certificate, and the county clerk shall enter the cancellation upon his or her records. The department shall also notify the person to whom such certificate of title was issued and any lienholders appearing on the certificate of the cancellation and shall demand the surrender of the certificate of title, but the cancellation shall not affect the validity of any lien noted on the certificate. The holder of the certificate of title shall return the certificate to the department immediately. If a certificate of number has been issued pursuant to section 37-1214 to the holder of a certificate of title so canceled, the department shall immediately cancel the certificate and demand the return of the certificate of number and the holder of the certificate shall return the certificate to the department immediately.

Sec. 9. Every motorboat sale between a manufacturer or distributor shall be evidenced by an instrument in writing upon a form that may be promulgated by the Department of Motor Vehicles and approved by the Attorney General which shall contain all the agreements of the parties and shall be signed by the buyer and seller or a duly acknowledged agent of the seller. Prior to or concurrent with any such motorboat sale, the seller shall deliver to the buyer one instrument which shall contain the following information: (1) Name of seller; (2) name of buyer; (3) year of model, manufacturer's name, hull identification number, and hull length; (4) cash sale price; (5) the amount of buyer's downpayment and whether made in money or goods or partly in money and partly in goods, including a brief description of any goods traded in; (6) the difference between subdivisions (4) and (5) of this section; (7) the amount included for insurance if a separate charge is made therefor, specifying the types of coverages; (8) the basic time-price, which is the sum of subdivisions (6) and (7) of this section; (9) the time-price differential; (10) the amount of the time-price balance, which is the sum of subdivisions (8) and (9) of this section payable in installments by the buyer to the seller; (11) the number, amount, and due date or period of each installment payment; (12) the time-sale price; (13) whether the sale is as is or subject to warranty and, if subject to warranty, specifying the warranty; and (14) if repairs or inspections arising out of the conduct of a dealer's business cannot be provided by the dealer in any representations or warranties that may arise, the instrument shall so state that fact and shall provide the purchaser with the location of a facility where such repairs or inspections can be accomplished as provided for in the service contract. A copy of all such instruments shall be retained in the file of the dealer for five years from the date of sale.

Sec. 10. (1) The provisions of article 9, Uniform Commercial Code, shall not be construed to apply to or to permit or require the deposit, filing, or other record whatsoever of a security agreement, conveyance intended to operate as a mortgage, trust receipt, conditional sales contract, or similar instrument or any copy of the same covering a motorboat. Any mortgage, conveyance intended to operate as a security agreement as provided by article 9, Uniform Commercial Code, trust receipt, conditional sales contract, or other similar instrument covering a motorboat, if such instrument is accompanied by delivery of such manufacturer's or importer's certificate and followed by actual and continued possession of same by the holder of the instrument or, in the case of a certificate of title, if a notation of same has been made by the county clerk or the Department of Motor Vehicles on the

face of the certificate, shall be valid as against the creditors of the debtor, whether armed with process or not, and subsequent purchasers, secured parties, and other lienholders or claimants, but otherwise shall not be valid against them, except that during any period in which a motorboat is inventory, as defined in subdivision (4) of section 9-109, Uniform Commercial Code, held for sale by a person or corporation that is in the business of selling motorboats, the filing provisions of article 9, Uniform Commercial Code, as applied to inventory shall apply to a security interest in the motorboat created by such person or corporation as debtor without the notation of lien on the instrument of title. A buyer at retail from a dealer of any motorboat in the ordinary course of business shall take the motorboat free of any security interest.

(2) All liens, security agreements, and encumbrances noted upon a certificate of title shall take priority according to the order of time in which the same are noted on the certificate by the county clerk or the department. Exposure for sale of any motorboat by the owner thereof with the knowledge or with the knowledge and consent of the holder of any lien, security agreement, or encumbrance on the motorboat shall not render the same void or ineffective as against the creditors of the owner or holder of subsequent liens, security agreements, or encumbrances upon the motorboat.

(3) Upon presentation of a security agreement, trust receipt, conditional sales contract, or similar instrument to the clerk of the county where the certificate of title was issued or, if issued by the department, to the department together with the certificate of title and the fee prescribed by section 15 of this act, the holder of such instrument may have a notation of the lien made on the face of the certificate of title. The county clerk or the department shall enter the notation and the date thereof over the signature of such officer or deputy and the seal of office and shall also note the lien and the date thereof on the duplicate of the certificate on file. If noted by a county clerk, he or she shall on that day notify the department which shall note the lien on its records. The county clerk or the department shall also indicate by appropriate notation and on such instrument itself the fact that the lien has been noted on the certificate of title.

(4) The county clerk or the department, upon receipt of a lien instrument duly signed by the owner in the manner prescribed by law governing such lien instruments together with the fee prescribed for notation of lien, shall notify the first lienholder to deliver to the county clerk or the department, within fifteen days from the date of notice, the certificate of title to permit notation of the junior lien and, after notation of the lien, the county clerk or the department shall deliver the certificate of title to the first lienholder. The holder of a certificate of title who refuses to deliver a certificate of title to the county clerk or the department for the purpose of showing a junior lien on the certificate of title within fifteen days from the date when notified to do so shall be liable for damages to the junior lienholder for the amount of damages the junior lienholder suffered by reason of the holder of the certificate of title refusing to permit the showing of the lien on the certificate of title.

(5) When the lien is discharged, the holder shall, within fifteen days after payment is received, note a cancellation of the lien on the face of the certificate of title over his, her, or its signature and deliver the certificate of title to the county clerk or the department which shall note the cancellation of the lien on the face of the certificate of title and on the records of the office. If delivered to a county clerk, he or she shall on that day notify the department which shall note the cancellation on its records. The county clerk or the department shall then return the certificate of title to the owner or as otherwise directed by the owner. The cancellation of the lien shall be noted on the certificate of title without charge.

Sec. 11. (1) In the event of the transfer of ownership of a motorboat by operation of law as upon inheritance, devise, or bequest, order in bankruptcy, insolvency, replevin, or execution sale, (2) whenever a motorboat is sold to satisfy storage or repair charges, or (3) whenever repossession is had upon default in performance of the terms of a chattel mortgage, trust receipt, conditional sales contract, or other like agreement, the clerk of the county in which the last certificate of title to the motorboat was issued or the Department of Motor Vehicles if the last certificate of title was issued by the department, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or when that is not possible, upon presentation of satisfactory proof of ownership and right of possession to the motorboat, and upon payment of the fee prescribed in section 15 of this act and the presentation of an application for certificate of title, may issue to the applicant a certificate of title thereto. If the prior certificate of title issued for the motorboat

provided for joint ownership with right of survivorship, a new certificate of title shall be issued to a subsequent purchaser upon the assignment of the prior certificate of title by the surviving owner and presentation of satisfactory proof of death of the deceased owner. Only an affidavit by the person or agent of the person to whom possession of the motorboat has so passed, setting forth facts entitling him or her to such possession and ownership, together with a copy of the journal entry, court order, or instrument upon which such claim of possession and ownership is founded shall be considered satisfactory proof of ownership and right of possession, except that if the applicant cannot produce such proof of ownership, he or she may submit to the department such evidence as he or she may have and the department may thereupon, if it finds the evidence sufficient, issue the certificate of title or authorize the county clerk to issue a certificate of title, as the case may be. If from the records in the office of the county clerk or the department there appear to be any liens on the motorboat, the certificate of title shall contain a statement of the liens unless the application is accompanied by proper evidence of their satisfaction or extinction. If the county in which the last certificate of title to the motorboat was issued cannot be determined, the application for title shall be processed by the clerk of the county where the court entering the journal entry or order is located or the county where the instrument was executed upon which the claim of possession and ownership is founded as the case may be.

Sec. 12. In the event of a lost or destroyed certificate of title, the owner of the motorboat or the holder of a lien on the motorboat shall apply, upon a form prescribed by the Department of Motor Vehicles, to the clerk of the county where the certificate of title was issued or, if issued by the department, to the department, for a certified copy of the certificate of title and shall pay the fee prescribed by section 15 of this act. The application shall be signed and sworn to by the person making the application. The county clerk, with the approval of the department, or the department shall issue a certified copy of the certificate of title to the person entitled to receive the certificate of title. If the county clerk's records of the title have been destroyed pursuant to section 7 of this act, the county clerk shall issue a duplicate certificate of title to the person entitled to receive the certificate upon such showing as the clerk deems sufficient. If the applicant cannot produce such proof of ownership, he or she may apply directly to the department and submit such evidence as he or she may have, and the department may, if it finds the evidence sufficient, authorize the county clerk to issue a duplicate certificate of title. The new purchaser shall be entitled to receive an original title upon presentation of the assigned duplicate copy of the certificate of title, properly assigned to the new purchaser, to the county clerk as prescribed in section 6 of this act. Any purchaser of the motorboat may at the time of purchase require the seller of the motorboat to indemnify him or her and all subsequent purchasers of the motorboat against any loss which he, she, or they may suffer by reason of any claim presented upon the original certificate. In the event of the recovery of the original certificate of title by the owner, he or she shall immediately surrender the certificate to the county clerk or the department for cancellation.

Sec. 13. Each owner of a motorboat and each person mentioned as owner in the last certificate of title, when the motorboat is dismantled, destroyed, or changed in such a manner that it loses its character as a motorboat or changed in such a manner that it is not the motorboat described in the certificate of title, shall surrender his or her certificate of title to the clerk of the county where the certificate of title was issued or, if issued by the Department of Motor Vehicles, to the department. If the certificate of title is surrendered to the county clerk, he or she shall, with the consent of any holders of any liens noted on the certificate, enter a cancellation upon his or her records and shall notify the department of the cancellation. If the certificate is surrendered to the department, it shall, with the consent of any holder of any lien noted on the certificate, enter a cancellation upon its records. Upon cancellation of a certificate of title in the manner prescribed by this section, the county clerk and the department may cancel and destroy all certificates and all memorandum certificates in that chain of title.

Sec. 14. A certificate of title shall be printed upon safety security paper to be selected by the Department of Motor Vehicles. The certificate of title, manufacturer's statement of origin, and assignment of manufacturer's certificate shall be upon forms prescribed by the department and may include county of issuance, date of issuance, certificate of title number, previous certificate of title number, registration number, name and address of the owner, acquisition date, manufacturer's name, model year, hull identification number, hull material, propulsion, hull length, issuing county

clerk's signature and official seal, and sufficient space for the notation and release of liens, mortgages, or encumbrances, if any. An assignment of certificate of title shall appear on each certificate of title and shall include a statement that the owner of the motorboat assigns all his or her right, title, and interest in the motorboat, the name and address of the assignee, the name and address of the lienholder or secured party, if any, and the signature of the owner, duly notarized. A reassignment by a dealer shall appear on each certificate of title and shall include a statement that the dealer assigns all his or her right, title, and interest in the motorboat, the name and address of the assignee, the name and address of the lienholder or secured party, if any, and the signature of the dealer or designated representative, duly notarized. Reassignments shall be printed on the reverse side of each certificate of title as many times as convenient. The department may, with the approval of the Attorney General, require additional information on such forms.

The county clerk, subject to the approval of the department, shall assign a distinguishing hull identification number to any homebuilt motorboat or any motorboat manufactured prior to November 1, 1972. Hull identification numbers shall be assigned and affixed in conformity with the Federal Boat Safety Act of 1971.

Sec. 15. (1) The county clerks or the Department of Motor Vehicles shall charge a fee of ten dollars for each certificate of title and a fee of three dollars for each notation of any lien on a certificate of title. The county clerks shall retain for the county four dollars of the ten dollars charged for each certificate of title and two dollars for each notation of lien. The remaining amount of the fee charged for the certificate of title and notation of lien under this subsection shall be remitted to the State Treasurer for credit to the General Fund.

(2) The county clerks or the department shall charge a fee of ten dollars for each replacement or duplicate copy of a certificate of title, and the duplicate copy issued shall show only those unreleased liens of record. A fee of four dollars shall be charged for refiling a certificate of title pursuant to section 7 of this act. Such fees shall be remitted by the county or the department to the State Treasurer for credit to the General Fund.

(3) In addition to the fees prescribed in subsections (1) and (2) of this section, the county clerks or the department shall charge a fee of four dollars for each certificate of title, each replacement or duplicate copy of a certificate of title, each refiling of a certificate of title, and each notation of lien on a certificate of title. The county clerks or the department shall remit the fee charged under this subsection to the State Treasurer for credit to the Department of Motor Vehicles Computerization and Operations Fund.

(4) The county clerks shall remit fees due the State Treasurer under this section monthly and not later than the fifth day of the month following the collection thereof. The county clerks shall remit fees not due to the State Treasurer to their respective county treasurers who shall credit such fees so remitted to the county general fund.

Sec. 16. It shall be a Class IV felony to (1) forge any certificate of title or manufacturer's or importer's certificate to a motorboat, any assignment of either, or any cancellation of any liens on a motorboat, (2) hold or use such certificate, assignment, or cancellation knowing the same to have been forged, (3) procure or attempt to procure a certificate of title to a motorboat or pass or attempt to pass a certificate of title or any assignment thereof to a motorboat, knowing or having reason to believe that such motorboat has been stolen, or (4) knowingly use a false or fictitious name, knowingly give a false or fictitious address, or knowingly make any false statement in any application or affidavit required under sections 3 to 15 of this act or in a bill of sale or sworn statement of ownership.

Sec. 17. It shall be a Class III misdemeanor to (1) operate in this state a motorboat for which a certificate of title is required without having a certificate of title or upon which the certificate of title has been canceled, (2) acquire, purchase, hold, or display for sale a new motorboat without having obtained a manufacturer's or importer's certificate or a certificate of title therefor, (3) fail to surrender any certificate of title or any certificate of number upon cancellation of the certificate by the county clerk or the Department of Motor Vehicles and notice thereof, (4) fail to surrender the certificate of title to the county clerk in case of the destruction or dismantling or change of a motorboat in such respect that it is not the motorboat described in the certificate of title, (5) purport to sell or transfer a motorboat without delivering to the purchaser or transferee of the motorboat a certificate of title or a manufacturer's or importer's certificate thereto duly assigned to the purchaser, (6) knowingly alter or

deface a certificate of title, or (7) violate any of the other provisions of sections 3 to 15 of this act.

Sec. 18. (1) Any security interest in a motorboat perfected prior to the operative date of this act shall continue to be perfected (a) until the financing statement perfecting such security interest is terminated or would have lapsed in the absence of the filing of a continuation statement pursuant to article 9, Uniform Commercial Code, or (b) until a motorboat certificate of title is issued and a lien noted on the face thereof pursuant to section 10 of this act.

(2) Any lien noted on the face of a motorboat certificate of title after the operative date of this act, pursuant to subsection (1) of this section, on behalf of the holder of a security interest in the motorboat, shall have priority as of the date such security interest was originally perfected.

(3) The holder of a motorboat certificate of title shall, upon request, surrender the motorboat certificate of title to a holder of a security interest in the motorboat which was perfected prior to the operative date of this act to permit notation of a lien on the motorboat certificate of title and shall do such other acts as may be required to permit such notation.

(4) The assignment, release, or satisfaction of a security interest in a motorboat shall be governed by the laws under which it was perfected.

Sec. 19. That section 37-1226, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-1226. Every certificate of number and number awarded pursuant to sections 37-1201 to 37-1274 the State Boat Act shall continue in full force and effect for a period of three years unless sooner terminated or discontinued, in accordance with sections 37-1201 to 37-1274. The initial three-year period shall commence on January 1, 1979, and expire on December 31, 1981, and subsequent The numbering periods shall commence January 1 of each year and expire on December 31 of every three-year numbering period thereafter. Certificates of number and the number awarded may be renewed by the owner in the same manner provided for in the initial securing of such certificates and number by presenting the previously issued certificate of number to the county treasurer.

Sec. 20. That section 37-1274, Revised Statutes Supplement, 1993, be amended to read as follows:

37-1274. Sections 37-1201 to 37-1274 and sections 3 to 18 of this act shall be known and may be cited as the State Boat Act.

Sec. 21. That section 77-2702.07, Revised Statutes Supplement, 1993, be amended to read as follows:

77-2702.07. (1) Gross receipts shall mean the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers valued in money whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of property sold. In accordance with rules and regulations adopted and promulgated by the Tax Commissioner, a deduction may be taken if the retailer has purchased property for some purpose other than resale, has reimbursed his or her vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his or her vendor with respect to the sale of the property;

(b) The cost of the materials used, labor or service costs, interest paid, losses, or any other expense;

(c) The cost of transportation of the property prior to its sale to the purchaser;

(d) The amount of any excise or property tax levied against the property except as otherwise provided in the Nebraska Revenue Act of 1967; or

(e) The amount charged for warranties, guarantees, or maintenance agreements.

(2) Gross receipts of every person engaged as a public utility specified in this subsection or as a community antenna television service operator or any person involved in connecting and installing services defined in subdivision (2)(a), (b), or (d) of this section shall mean:

(a) In the furnishing of telephone communication service, the gross income received from furnishing local exchange telephone service and intrastate message toll telephone service. Gross receipts shall not mean the gross income, including division of revenue, settlements, or carrier access charges received on or after January 1, 1984, from the sale of a telephone communication service to a communication service provider for purposes of

furnishing telephone communication service;

(b) In the furnishing of telegraph service, the gross income received from the furnishing of intrastate telegraph services;

(c) In the furnishing of gas, electricity, sewer, and water service except water used for irrigation of agricultural lands, manufacturing purposes, and the care of animal life, the products of which ordinarily constitute food for human consumption, the gross income received from the furnishing of such services upon billings or statements rendered to consumers for such utility services; and

(d) In the furnishing of community antenna television service, the gross income received from the furnishing of such community antenna television service as regulated under sections 18-2201 to 18-2205 or 23-383 to 23-388.

Gross receipts shall also mean gross income received from the provision, installation, construction, servicing, or removal of property used in conjunction with the furnishing, installing, or connecting of any public utility services specified in subdivision (2)(a) or (b) of this section or community antenna television service specified in subdivision (2)(d) of this section. Gross receipts shall not mean gross income received from telephone directory advertising.

(3) Gross receipts of every person engaged in selling, leasing, or otherwise providing intellectual or entertainment property shall mean:

(a) In the furnishing of computer software, the gross income received, including the charges for coding, punching, or otherwise producing computer software and the charges for the tapes, disks, punched cards, or other properties furnished by the seller. Gross receipts shall not mean the amount charged for training customers in the use of computer software if such amount is separately stated and such separate statement is not used as a means of avoiding imposition of the tax upon the actual sales price of the computer software; and

(b) In the furnishing of videotapes, movie film, satellite programming, satellite programming service, and satellite television signal descrambling or decoding devices, the gross income received from the license, franchise, or other method establishing the charge except the gross income received from videotape and film rentals, satellite programming, and satellite programming service when the sales tax or the admission tax is charged under the Nebraska Revenue Act of 1967.

(4) Gross receipts shall not include any of the following:

(a) Cash discounts allowed and taken on sales;

(b) The amount of any rebate granted by a motor vehicle or motorboat manufacturer or dealer at the time of sale of the motor vehicle or motorboat, which rebate functions as a discount from the sales price of the motor vehicle or motorboat;

(c) Sales price of property returned by customers when the full sales price is refunded either in cash or credit;

(d) The amount charged for finance charges, carrying charges, service charges, or interest from credit extended on sales of property under contracts providing for deferred payments of the purchase price if such charges are not used as a means of avoiding imposition of the tax upon the actual sales price of the property;

(e) The value of property taken by a seller in trade as all or a part of the consideration for a sale of property of any kind or nature;

(f) The value of a motor vehicle or motorboat taken by any person in trade as all or a part of the consideration for a sale of another motor vehicle or motorboat; or

(g) Receipts from conditional sale contracts, installment sale contracts, rentals, and leases executed in writing prior to June 1, 1967, and with delivery of the property prior to June 1, 1967, if such conditional sale contracts, installment sale contracts, rentals, or leases are for a fixed price and are not subject to negotiation or alteration.

Sec. 22. That section 77-2702.09, Revised Statutes Supplement, 1993, be amended to read as follows:

77-2702.09. Occasional sale shall mean:

(1) A sale, but not a lease or rental, of property which is the subject of any intercompany sale or transfer involving any parent, subsidiary, or brother-sister company relationship under section 77-2704.28 and which was either originally acquired prior to June 1, 1967, or, if acquired thereafter, the seller or transferor directly or indirectly has previously paid a sales or use tax thereon, including:

(a) From one corporation to another corporation pursuant to a reorganization. For purposes of this subdivision, reorganization shall mean a statutory merger or consolidation or the acquisition by a corporation of substantially all of the properties of another corporation when the

consideration is solely all or a part of the voting stock of the acquiring corporation or of its parent or subsidiary corporation;

(b) In connection with the winding up, dissolution, or liquidation of a corporation only when there is a distribution of the property of such corporation to the shareholders in kind if the portion of the property so distributed to the shareholder is substantially in proportion to the share of stock or securities held by the shareholder;

(c) To a corporation for the purpose of organization of such corporation or the contribution of additional capital to such corporation when the former owners of the property transferred are immediately after the transfer in control of the corporation and the stock or securities received by each is substantially in proportion to his or her interest in the property prior to the transfer;

(d) To a partnership in the organization of such partnership if the former owners of the property transferred are immediately after the transfer members of such partnership and the interest in the partnership received by each is substantially in proportion to his or her interest in the property prior to the transfer;

(e) From a partnership to the members thereof when made in kind in the dissolution of such partnership if the portion of the property so distributed to the members of the partnership is substantially in proportion to the interest in the partnership held by the members;

(f) To a limited liability company in the organization of such limited liability company if the former owners of the property transferred are immediately after the transfer members of such limited liability company and the interest in the limited liability company received by each is substantially in proportion to his or her interest in the property prior to the transfer;

(g) From a limited liability company to the members thereof when made in kind in the dissolution of such limited liability company if the portion of the property so distributed to the members of the limited liability company is substantially in proportion to the interest in the limited liability company held by the members;

(h) From one limited liability company to another limited liability company pursuant to a reorganization; or

(i) Any transaction between two persons that qualifies as a tax-free transaction under the Internal Revenue Code of 1986, as amended;

(2) A sale of household goods and personal effects if each of the following conditions is met and if any one condition is not met then the entire gross receipts shall be subject to the tax imposed by section 77-2703:

(a) Such sales are by an individual at his or her residence or if more than one individual's property is involved such sales are by one of the individuals involved at the residence of one of the individuals;

(b) Such sales do not occur at any residence for more than three days during a calendar year;

(c) Such individual or individuals or any member of any of their households does not conduct or engage in a trade or business in which similar items are sold;

(d) Such property sold was originally acquired for and used for personal use; and

(e) Such property is not otherwise excepted from the definition of occasional sale;

(3) Commencing with any transaction occurring on or after October 1, 1985, any sale of business or farm machinery and equipment if each of the following conditions is met and if any one condition is not met the entire gross receipts shall be subject to the tax imposed by section 77-2703:

(a) Such machinery or equipment was used by the seller or seller's predecessor in a sale described in subdivision (1) of this section as a depreciable capital asset in connection with the farm or business for a period of at least one year;

(b) Such property was originally acquired prior to June 1, 1967, or if acquired thereafter, the seller or seller's predecessor in a sale described in subdivision (1) of this section directly or indirectly has previously paid a sales or use tax thereon; and

(c) Such property is not otherwise excepted from the definition of occasional sale;

(4) Commencing October 1, 1985, a sale by an organization created exclusively for religious purposes or an agent of the organization for such sale if each of the following conditions is met and if any one condition is not met then the entire gross receipts shall be subject to the tax imposed by section 77-2703:

(a) All sales occur during an activity conducted by such

organization or, if more than one organization is involved, by one of the organizations owning property being sold;

(b) The organization only sells property it owns during one such activity in a calendar year; and

(c) The activity does not last longer than three consecutive days; and

(5) Any sale that is made in connection with the sale to a single buyer of all or substantially all of a trade or business if the seller or seller's predecessor in a sale described in subdivision (1) of this section directly or indirectly has previously paid a sales or use tax thereon. This subdivision shall apply to any transaction occurring on or after October 1, 1985.

Commencing October 1, 1985, occasional sale shall not include any sale directly by or any sale which is supervised or aided by an auctioneer or an agent or employee of an auctioneer.

Except for a sale listed in subdivision (1) of this section, an occasional sale shall not mean any sale of motor vehicles, trailers, and semitrailers as defined in section 60-301 or any sale of a motorboat as defined in section 37-1204.

Sec. 23. That section 77-2702.17, Revised Statutes Supplement, 1993, be amended to read as follows:

77-2702.17. (1) Sales price shall mean the total amount for which property is sold valued in money whether paid in money or otherwise, without any deduction on account of:

(a) The cost of the property sold;

(b) The cost of material used, labor or service cost, interest paid, losses, or any other expenses;

(c) The cost of transportation of the property. The total amount for which property is sold shall include any services which are a part of the sale and any amount for which credit is given to the purchaser by the seller;

(d) The cost of computer software contained on the property; or

(e) The cost of any license, franchise, or lease for the use of computer software or entertainment properties such as videotapes or movie films.

(2) Sales price shall not mean any of the following:

(a) Cash discounts allowed and taken on sales;

(b) The amount of any rebate granted by a motor vehicle or motorboat manufacturer or dealer at the time of sale of the motor vehicle or motorboat, which rebate functions as a discount from the sales price of the motor vehicle or motorboat;

(c) The amount refunded for property returned by customers when all or part of the amount charged therefor is refunded either in cash or credit;

(d) The amount charged for finance charges, carrying charges, service charges, or interest from credit extended on sales of property under contracts providing for deferred payments of the purchase price if such charges are not used as a means of avoiding imposition of the tax upon the actual sales price of the property;

(e) The value of property taken by a seller in trade as all or a part of the consideration for a sale of property of any kind or nature;

(f) The value of a motor vehicle or motorboat taken by any person in trade as all or part of the consideration for a sale of another motor vehicle or motorboat; or

(g) The amount charged for labor or services rendered in annexing property to real estate.

Sec. 24. That section 77-2703, Revised Statutes Supplement, 1993, be amended to read as follows:

77-2703. (1) There is hereby imposed a tax at the rate provided in section 77-2701.02 upon the gross receipts from all sales of tangible personal property sold at retail in this state, the gross receipts of every person engaged as a public utility, as a community antenna television service operator or any person involved in the connecting and installing of the services defined in subdivision (2)(a), (b), or (d) of section 77-2702.07, or as a retailer of intellectual or entertainment properties referred to in subsection (3) of section 77-2702.07, the gross receipts from the sale of admissions in this state, and the gross receipts from the sale of warranties, guarantees, service agreements, or maintenance agreements when the items covered are subject to tax under this section. When there is a sale, the tax shall be imposed at the rate in effect at the time the gross receipts are realized under the accounting basis used by the retailer to maintain his or her books and records.

(a) The tax imposed by this section shall be collected by the retailer from the consumer. It shall constitute a part of the purchase price

and until collected shall be a debt from the consumer to the retailer and shall be recoverable at law in the same manner as other debts. The tax required to be collected by the retailer from the consumer constitutes a debt owed by the retailer to this state.

(b) It is unlawful for any retailer to advertise, hold out, or state to the public or to any customer, directly or indirectly, that the tax or part thereof will be assumed or absorbed by the retailer, that it will not be added to the selling, renting, or leasing price of the property sold, rented, or leased, or that, if added, it or any part thereof will be refunded. The provisions of this subdivision shall not apply to a public utility.

(c) The tax required to be collected by the retailer from the purchaser, unless otherwise provided by statute or by rule and regulation of the Tax Commissioner, shall be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sales, rentals, or leases.

(d) For the purpose of more efficiently securing the payment, collection, and accounting for the sales tax and for the convenience of the retailer in collecting the sales tax, it shall be the duty of the Tax Commissioner to adopt and promulgate appropriate rules and regulations prescribing a schedule or schedules of the amounts to be collected from the consumer or user to effectuate the computation and collection of the tax imposed by the Nebraska Revenue Act of 1967. Such schedule or schedules shall provide that the tax shall be collected from the consumer or user uniformly on sales according to brackets based on sales prices of the item or items, except that the Tax Commissioner may authorize computation and collection of the tax uniformly on a straight percentage basis in lieu of brackets in situations involving machine or computer billing.

(e) The use of tokens or stamps for the purpose of collecting or enforcing the collection of the taxes imposed in the Nebraska Revenue Act of 1967 or for any other purpose in connection with such taxes is prohibited.

(f) For the purpose of the proper administration of the provisions of the Nebraska Revenue Act of 1967 and to prevent evasion of the retail sales tax, it shall be presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of property is not a sale at retail is upon the person who makes the sale unless he or she takes, in good faith, from the purchaser a resale certificate to the effect that the property is purchased for the purpose of reselling, leasing, or renting it or takes, in good faith, an exemption certificate pursuant to subsection (7) of section 77-2705. Receipt of a resale certificate or exemption certificate, taken in good faith, shall be conclusive proof for the seller that the sale was made for resale or was exempt.

(g) In the rental or lease of automobiles, trucks, trailers, semitrailers, and truck-tractors as defined in section 60-301, for periods of one year or more, the lessor may elect not to collect and remit the sales tax on the gross receipts and instead pay a sales tax on the cost of such vehicle. If such election is made, it shall be made pursuant to the following conditions:

(i) Notice of the desire to make such election shall be filed with the Tax Commissioner and shall not become effective until the Tax Commissioner is satisfied that the taxpayer has complied with all conditions of this subsection and all rules and regulations of the Tax Commissioner;

(ii) Such election when made shall continue in force and effect for a period of not less than two years and thereafter until such time as the lessor elects to terminate the election;

(iii) When such election is made, it shall apply to all vehicles of the lessor rented or leased for periods of one year or more except vehicles to be leased to common or contract carriers who provide to the lessor a valid common or contract carrier exemption certificate. If the lessor rents or leases other vehicles for periods of less than one year, such lessor shall maintain his or her books and records and his or her accounting procedure as the Tax Commissioner prescribes; and

(iv) The Tax Commissioner by rule and regulation shall prescribe the contents and form of the notice of election, a procedure for the determination of the tax base of vehicles which are under an existing lease at the time such election becomes effective, the method and manner for terminating such election, and such other rules and regulations as may be necessary for the proper administration of this subdivision.

(h) The tax imposed by this section on the sales of motor vehicles, trailers, and semitrailers as defined in section 60-301 shall be the liability of the purchaser and, with the exception of motor vehicles, trailers, and semitrailers registered pursuant to section 60-305.09, the tax shall be collected by the county treasurer or designated county official as provided in

section 60-302 at the time the purchaser makes application for the registration of the motor vehicle, trailer, or semitrailer for operation upon the highways of this state. The tax imposed by this section on motor vehicles, trailers, and semitrailers registered pursuant to section 60-305.09 shall be collected by the Department of Motor Vehicles at the time the purchaser makes application for the registration of the motor vehicle, trailer, or semitrailer for operation upon the highways of this state. At the time of the sale of any motor vehicle, trailer, or semitrailer, the seller shall (i) state on the sales invoice the dollar amount of the tax imposed under this section and (ii) furnish to the purchaser a certified statement of the transaction, in such form as the Tax Commissioner prescribes, setting forth as a minimum the total sales price, the allowance for any trade-in, and the difference between the two. The sales tax due shall be computed on the difference between the total sales price and the allowance for any trade-in as disclosed by such certified statement. Any seller who willfully understates the amount upon which the sales tax is due shall be subject to a penalty of one thousand dollars. A copy of such certified statement shall also be furnished to the Tax Commissioner. Any seller who fails or refuses to furnish such certified statement shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. If the seller fails to state on the sales invoice the dollar amount of the tax due, the purchaser shall have the right and authority to rescind any agreement for purchase and to declare the purchase null and void. If the purchaser retains such motor vehicle, trailer, or semitrailer in this state and does not register it for operation on the highways of this state within thirty days of the purchase thereof, the tax imposed by this section shall immediately thereafter be paid by the purchaser to the county treasurer, the designated county official, or the Department of Motor Vehicles. If the tax is not paid on or before the thirtieth day after its purchase, the county treasurer, designated county official, or Department of Motor Vehicles shall also collect from the purchaser interest from the thirtieth day through the date of payment and sales tax penalties as provided in the Nebraska Revenue Act of 1967. The county treasurer, designated county official, or Department of Motor Vehicles shall report and remit the tax so collected to the Tax Commissioner by the fifteenth day of the following month. The county treasurer or designated county official shall deduct and withhold for the use of the county general fund, from all amounts required to be collected under this subsection, the collection fee permitted to be deducted by any retailer collecting the sales tax. The Department of Motor Vehicles shall deduct, withhold, and deposit in the Interstate Registration Operations Cash Fund the collection fee permitted to be deducted by any retailer collecting the sales tax. The collection fee shall be forfeited if the county treasurer, designated county official, or Department of Motor Vehicles violates any rule or regulation pertaining to the collection of the use tax.

(i) The tax imposed by this section on the sale of a motorboat as defined in section 37-1204 shall be the liability of the purchaser. The tax shall be collected by the county treasurer at the time the purchaser makes application for the registration of the motorboat. At the time of the sale of a motorboat, the seller shall (i) state on the sales invoice the dollar amount of the tax imposed under this section and (ii) furnish to the purchaser a certified statement of the transaction, in such form as the Tax Commissioner prescribes, setting forth as a minimum the total sales price, the allowance for any trade-in, and the difference between the two. The sales tax due shall be computed on the difference between the total sales price and the allowance for any trade-in as disclosed by such certified statement. A copy of such certified statement shall also be furnished to the Tax Commissioner. Any seller who fails or refuses to furnish such certified statement shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. If the seller fails to state on the sales invoice the dollar amount of the tax due, the purchaser shall have the right and authority to rescind any agreement for purchase and to declare the purchase null and void. If the purchaser retains such motorboat in this state and does not register it within thirty days of the purchase thereof, the tax imposed by this section shall immediately thereafter be paid by the purchaser to the county treasurer. The county treasurer shall report and remit the tax so collected to the Tax Commissioner at such times as the Tax Commissioner may require by rule and regulation. The county treasurer shall deduct and withhold for the use of the county general fund the collection fee permitted to be deducted by any retailer collecting the sales tax. The collection fee shall be forfeited if the county treasurer violates any rule or regulation pertaining to the collection of the use tax.

(1) ~~(1)~~ The Tax Commissioner shall adopt and promulgate necessary rules and regulations for determining the amount subject to the taxes imposed by this section so as to insure that the full amount of any applicable tax is paid in cases in which a sale is made of which a part is subject to the taxes imposed by this section and a part of which is not so subject and a separate accounting is not practical or economical.

(2) A use tax is hereby imposed on the storage, use, or other consumption in this state of property purchased, leased, or rented from any retailer and on any transaction the gross receipts of which are subject to tax under subsection (1) of this section on or after June 1, 1967, for storage, use, or other consumption in this state at the rate set as provided in subsection (1) of this section on the sales price of the property or, in the case of leases or rentals, of the lease or rental prices.

(a) Every person storing, using, or otherwise consuming in this state property purchased from a retailer or leased or rented from another person for such purpose shall be liable for the use tax at the rate in effect when his or her liability for the use tax becomes certain under the accounting basis used to maintain his or her books and records. His or her liability shall not be extinguished until the use tax has been paid to this state, except that a receipt from a retailer engaged in business in this state or from a retailer who is authorized by the Tax Commissioner, under such rules and regulations as he or she may prescribe, to collect the sales tax and who is, for the purposes of the Nebraska Revenue Act of 1967 relating to the sales tax, regarded as a retailer engaged in business in this state, which receipt is given to the purchaser pursuant to subdivision (b) of this subsection, shall be sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

(b) Every retailer engaged in business in this state and selling, leasing, or renting property for storage, use, or other consumption in this state shall, at the time of making any sale, collect any tax which may be due from the purchaser and shall give to the purchaser, upon request, a receipt therefor in the manner and form prescribed by the Tax Commissioner.

(c) The Tax Commissioner, in order to facilitate the proper administration of the use tax, may designate such person or persons as he or she may deem necessary to be use tax collectors and delegate to such persons such authority as is necessary to collect any use tax which is due and payable to the State of Nebraska. The Tax Commissioner may require of all persons so designated a surety bond in favor of the State of Nebraska to insure against any misappropriation of state funds so collected. The Tax Commissioner may require any tax official, city, county, or state, to collect the use tax on behalf of the state. All persons designated to or required to collect the use tax shall account for such collections in the manner prescribed by the Tax Commissioner. Nothing in this subdivision shall be so construed as to prevent the Tax Commissioner or his or her employees from collecting any use taxes due and payable to the State of Nebraska.

(d) All persons designated to collect the use tax and all persons required to collect the use tax shall forward the total of such collections to the Tax Commissioner at such time and in such manner as the Tax Commissioner may prescribe. Such collectors of the use tax shall deduct and withhold from the amount of taxes collected two and one-half percent of the first three thousand dollars remitted each month and one-half of one percent of all amounts in excess of three thousand dollars remitted each month as reimbursement for the cost of collecting the tax, except that for each month from October 1, 1991, to September 30, 1992, such collectors shall deduct and withhold from the amount of taxes collected three percent of the first five thousand dollars remitted each month and one percent of all amounts in excess of five thousand dollars remitted each month as reimbursement for the cost of collecting the tax and for each month from April 1, 1993, to March 31, 1994, such collectors shall deduct and withhold from the amount of taxes collected three-quarters of one percent of the first two thousand dollars remitted each month and one-quarter of one percent of all amounts in excess of two thousand dollars remitted each month as reimbursement for the cost of collecting the tax. Any such deduction shall be forfeited to the State of Nebraska if such collector violates any rule, regulation, or directive of the Tax Commissioner.

(e) For the purpose of the proper administration of the Nebraska Revenue Act of 1967 and to prevent evasion of the use tax, it shall be presumed that property sold, leased, or rented by any person for delivery in this state is sold, leased, or rented for storage, use, or other consumption in this state until the contrary is established. The burden of proving the contrary is upon the person who purchases, leases, or rents the property.

(f) It shall be further presumed, in the absence of evidence to the contrary, that property shipped or brought to this state by the purchaser

after June 1, 1967, was purchased from a retailer on or after that date for storage, use, or other consumption in this state.

(g)(i) Except as provided in subdivisions (g)(ii) ~~(g)(iii)~~ and ~~(g)(iv)~~ through (g)(v) of this subsection, when a person purchases property in another state, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country with the intent of using such property in such other state, commonwealth, territory, possession, or country and such property is actually used in the other state, commonwealth, territory, possession, or country for its intended purpose, the property shall not be subject to tax in this state.

(ii) Subdivision (g)(i) of this subsection shall only apply to a motor vehicle, trailer, or semitrailer as defined in section 60-301 when it is licensed for operation on the highways of the other state, commonwealth, territory, possession, or country prior to being brought into this state.

(iii) Subdivision (g)(i) of this subsection shall not apply to an aircraft which is brought into this state within one year of purchase and (A) is regularly based within this state or (B) more than one-half of the aircraft's operating hours are within this state.

For purposes of subdivision (g)(iii) of this subsection, operation of the aircraft for the purpose of maintenance, repair, or fabrication with subsequent removal from this state upon completion of such maintenance, repair, or fabrication shall not be considered operating hours.

(iv) Subdivision (g)(i) of this subsection shall only apply to a motorboat as defined in section 37-1204 when it is registered for operation in the other state, commonwealth, territory, possession, or country prior to being brought into this state.

(v) ~~(iv)~~ Subdivision (g)(i) of this subsection shall not apply to any property that is manufactured, processed, or fabricated in another state and that is not used for its intended purpose in the other state after its manufacture, processing, or fabrication.

Sec. 25. That section 77-27,147, Revised Statutes Supplement, 1992, be amended to read as follows:

77-27,147. All relevant provisions of the Nebraska Revenue Act of 1967, as amended from time to time, and not inconsistent with the Local Option Revenue Act, shall govern transactions, proceedings, and activities pursuant to any tax imposed under the Local Option Revenue Act.

For the purposes of the Local Option Revenue Act, all retail sales, rentals, and leases, as defined and described in the Nebraska Revenue Act of 1967, are consummated:

(1) At the place where title, possession, or segregation takes place, with the exception of sales of motor vehicles, trailers, ~~and~~ semitrailers, and motorboats, if a purchaser takes possession of tangible personal property within a municipality which has enacted a tax under the Local Option Revenue Act, regardless of the business location of the Nebraska retailer;

(2) At the point of delivery of utility services and community antenna television services or where such services are provided, with the exception that Nebraska intrastate message toll telephone and telegraph services shall be consummated in the municipality where the customer is normally billed for such service; and

(3) At the physical location of individual vending machines.

Sec. 26. This act shall become operative on January 1, 1997.

Sec. 27. That original sections 37-1216 and 37-1226, Reissue Revised Statutes of Nebraska, 1943, section 77-27,147, Revised Statutes Supplement, 1992, and sections 37-1214, 37-1274, 77-2702.07, 77-2702.09, 77-2702.17, and 77-2703, Revised Statutes Supplement, 1993, are repealed.