

By Senator Kirkpatrick

5-836-00

See HB 499

1                                   A bill to be entitled  
2           An act relating to ad valorem taxation;  
3           amending s. 192.042, F.S.; removing provisions  
4           which require that, in the assessment of real  
5           property, improvements or portions not  
6           substantially completed on January 1 shall have  
7           no value placed thereon, and that, in the  
8           assessment of tangible personal property,  
9           construction work in progress shall have no  
10          value placed thereon until substantially  
11          completed; requiring the owner of real property  
12          which on January 1 had uncompleted improvements  
13          to return a description and valuation thereof  
14          to the property appraiser, and specifying  
15          effect of failure to do so; amending ss.  
16          192.001, 212.08, F.S., to conform; providing an  
17          effective date.

18  
19 Be It Enacted by the Legislature of the State of Florida:  
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21           Section 1. Paragraph (d) of subsection (11) of section  
22 192.001, Florida Statutes, is amended to read:

23           192.001 Definitions.--All definitions set out in  
24 chapters 1 and 200 that are applicable to this part are  
25 included herein. In addition, the following definitions shall  
26 apply in the imposition of ad valorem taxes:

27           (11) "Personal property," for the purposes of ad  
28 valorem taxation, shall be divided into four categories as  
29 follows:

30           (d) "Tangible personal property" means all goods,  
31 chattels, and other articles of value (but does not include

1 the vehicular items enumerated in s. 1(b), Art. VII of the  
2 State Constitution and elsewhere defined) capable of manual  
3 possession and whose chief value is intrinsic to the article  
4 itself. ~~"Construction work in progress" consists of those~~  
5 ~~items of tangible personal property commonly known as~~  
6 ~~fixtures, machinery, and equipment when in the process of~~  
7 ~~being installed in new or expanded improvements to real~~  
8 ~~property and whose value is materially enhanced upon~~  
9 ~~connection or use with a preexisting, taxable, operational~~  
10 ~~system or facility. Construction work in progress shall be~~  
11 ~~deemed substantially completed when connected with the~~  
12 ~~preexisting, taxable, operational system or facility.~~  
13 Inventory and household goods are expressly excluded from this  
14 definition.

15 Section 2. Section 192.042, Florida Statutes, is  
16 amended to read:

17 192.042 Date of assessment.--All property shall be  
18 assessed according to its just value as follows:

19 (1) Real property, on January 1 of each year.  
20 ~~Improvements or portions not substantially completed on~~  
21 ~~January 1 shall have no value placed thereon. "Substantially~~  
22 ~~completed" shall mean that the improvement or some~~  
23 ~~self-sufficient unit within it can be used for the purpose for~~  
24 ~~which it was constructed.~~

25 (2) Tangible personal property, on January 1, ~~except~~  
26 ~~construction work in progress shall have no value placed~~  
27 ~~thereon until substantially completed as defined in s.~~  
28 ~~192.001(11)(d).~~

29 (3) Intangible personal property, according to the  
30 rules laid down in chapter 199.

31

1           (4) Every person owning or having the control or  
2 custody of real property of whatsoever character that is  
3 subject to taxation under the laws of this state, which as of  
4 January 1 had improvements in the process of being constructed  
5 on or added to said real property, shall return under oath the  
6 same for taxation to the property appraiser of the county  
7 where the real property is located on or before April 1,  
8 giving the character and value of the real property, the  
9 nature and description of the improvements on or to the  
10 property, and the value of same as determined by such person  
11 as of January 1; upon failure to do so the assessment and  
12 valuation made by the property appraiser shall be deemed to be  
13 prima facie correct and held to be binding upon the owner or  
14 other person or corporation interested in or having an  
15 interest in the property, unless petition is timely filed with  
16 the value adjustment board.

17           Section 3. Paragraph (g) of subsection (5) of section  
18 212.08, Florida Statutes, is amended to read:

19           212.08 Sales, rental, use, consumption, distribution,  
20 and storage tax; specified exemptions.--The sale at retail,  
21 the rental, the use, the consumption, the distribution, and  
22 the storage to be used or consumed in this state of the  
23 following are hereby specifically exempt from the tax imposed  
24 by this chapter.

25           (5) EXEMPTIONS; ACCOUNT OF USE.--

26           (g) Building materials used in the rehabilitation of  
27 real property located in an enterprise zone.--

28           1. Beginning July 1, 1995, building materials used in  
29 the rehabilitation of real property located in an enterprise  
30 zone shall be exempt from the tax imposed by this chapter upon  
31 an affirmative showing to the satisfaction of the department

1 that the items have been used for the rehabilitation of real  
2 property located in an enterprise zone. Except as provided in  
3 subparagraph 2., this exemption inures to the owner, lessee,  
4 or lessor of the rehabilitated real property located in an  
5 enterprise zone only through a refund of previously paid  
6 taxes. To receive a refund pursuant to this paragraph, the  
7 owner, lessee, or lessor of the rehabilitated real property  
8 located in an enterprise zone must file an application under  
9 oath with the governing body or enterprise zone development  
10 agency having jurisdiction over the enterprise zone where the  
11 business is located, as applicable, which includes:

12       a. The name and address of the person claiming the  
13 refund.

14       b. An address and assessment roll parcel number of the  
15 rehabilitated real property in an enterprise zone for which a  
16 refund of previously paid taxes is being sought.

17       c. A description of the improvements made to  
18 accomplish the rehabilitation of the real property.

19       d. A copy of the building permit issued for the  
20 rehabilitation of the real property.

21       e. A sworn statement, under the penalty of perjury,  
22 from the general contractor licensed in this state with whom  
23 the applicant contracted to make the improvements necessary to  
24 accomplish the rehabilitation of the real property, which  
25 statement lists the building materials used in the  
26 rehabilitation of the real property, the actual cost of the  
27 building materials, and the amount of sales tax paid in this  
28 state on the building materials. In the event that a general  
29 contractor has not been used, the applicant shall provide this  
30 information in a sworn statement, under the penalty of  
31 perjury. Copies of the invoices which evidence the purchase of

1 the building materials used in such rehabilitation and the  
2 payment of sales tax on the building materials shall be  
3 attached to the sworn statement provided by the general  
4 contractor or by the applicant. Unless the actual cost of  
5 building materials used in the rehabilitation of real property  
6 and the payment of sales taxes due thereon is documented by a  
7 general contractor or by the applicant in this manner, the  
8 cost of such building materials shall be an amount equal to 40  
9 percent of the increase in assessed value for ad valorem tax  
10 purposes.

11 f. The identifying number assigned pursuant to s.  
12 290.0065 to the enterprise zone in which the rehabilitated  
13 real property is located.

14 g. A certification by the local building inspector  
15 that the improvements necessary to accomplish the  
16 rehabilitation of the real property are substantially  
17 completed.

18 h. Whether the business is a small business as defined  
19 by s. 288.703(1).

20 i. If applicable, the name and address of each  
21 permanent employee of the business, including, for each  
22 employee who is a resident of an enterprise zone, the  
23 identifying number assigned pursuant to s. 290.0065 to the  
24 enterprise zone in which the employee resides.

25 2. This exemption inures to a city, county, or other  
26 governmental agency through a refund of previously paid taxes  
27 if the building materials used in the rehabilitation of real  
28 property located in an enterprise zone are paid for from the  
29 funds of a community development block grant or similar grant  
30 or loan program. To receive a refund pursuant to this  
31 paragraph, a city, county, or other governmental agency must

1 file an application which includes the same information  
2 required to be provided in subparagraph 1. by an owner,  
3 lessee, or lessor of rehabilitated real property. In addition,  
4 the application must include a sworn statement signed by the  
5 chief executive officer of the city, county, or other  
6 governmental agency seeking a refund which states that the  
7 building materials for which a refund is sought were paid for  
8 from the funds of a community development block grant or  
9 similar grant or loan program.

10           3. Within 10 working days after receipt of an  
11 application, the governing body or enterprise zone development  
12 agency shall review the application to determine if it  
13 contains all the information required pursuant to subparagraph  
14 1. or subparagraph 2. and meets the criteria set out in this  
15 paragraph. The governing body or agency shall certify all  
16 applications that contain the information required pursuant to  
17 subparagraph 1. or subparagraph 2. and meet the criteria set  
18 out in this paragraph as eligible to receive a refund. If  
19 applicable, the governing body or agency shall also certify if  
20 20 percent of the employees of the business are residents of  
21 an enterprise zone, excluding temporary and part-time  
22 employees. The certification shall be in writing, and a copy  
23 of the certification shall be transmitted to the executive  
24 director of the Department of Revenue. The applicant shall be  
25 responsible for forwarding a certified application to the  
26 department within the time specified in subparagraph 4.

27           4. An application for a refund pursuant to this  
28 paragraph must be submitted to the department within 6 months  
29 after the rehabilitation of the property is deemed to be  
30 substantially completed by the local building inspector.

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1           5. The provisions of s. 212.095 do not apply to any  
2 refund application made pursuant to this paragraph. No more  
3 than one exemption through a refund of previously paid taxes  
4 for the rehabilitation of real property shall be permitted for  
5 any one parcel of real property. No refund shall be granted  
6 pursuant to this paragraph unless the amount to be refunded  
7 exceeds \$500. No refund granted pursuant to this paragraph  
8 shall exceed the lesser of 97 percent of the Florida sales or  
9 use tax paid on the cost of the building materials used in the  
10 rehabilitation of the real property as determined pursuant to  
11 sub-subparagraph 1.e. or \$5,000, or, if no less than 20  
12 percent of the employees of the business are residents of an  
13 enterprise zone, excluding temporary and part-time employees,  
14 the amount of refund granted pursuant to this paragraph shall  
15 not exceed the lesser of 97 percent of the sales tax paid on  
16 the cost of such building materials or \$10,000. A refund  
17 approved pursuant to this paragraph shall be made within 30  
18 days of formal approval by the department of the application  
19 for the refund.

20           6. The department shall adopt rules governing the  
21 manner and form of refund applications and may establish  
22 guidelines as to the requisites for an affirmative showing of  
23 qualification for exemption under this paragraph.

24           7. The department shall deduct an amount equal to 10  
25 percent of each refund granted under the provisions of this  
26 paragraph from the amount transferred into the Local  
27 Government Half-cent Sales Tax Clearing Trust Fund pursuant to  
28 s. 212.20 for the county area in which the rehabilitated real  
29 property is located and shall transfer that amount to the  
30 General Revenue Fund.

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1           8. For the purposes of the exemption provided in this  
2 paragraph:

3           a. "Building materials" means tangible personal  
4 property which becomes a component part of improvements to  
5 real property.

6           b. "Real property" has the same meaning as provided in  
7 s. 192.001(12).

8           c. "Rehabilitation of real property" means the  
9 reconstruction, renovation, restoration, rehabilitation,  
10 construction, or expansion of improvements to real property.

11           d. "Substantially completed" means that an improvement  
12 or some self-sufficient unit within it can be used for the  
13 purpose for which it was constructed ~~has the same meaning as~~  
14 ~~provided in s. 192.042(1).~~

15           9. The provisions of this paragraph shall expire and  
16 be void on December 31, 2005.

17           Section 4. This act shall take effect January 1, 2001.

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20           LEGISLATIVE SUMMARY

21           Removes provisions which require that, in the assessment  
22 of real property for ad valorem tax purposes,  
23 improvements or portions not substantially completed on  
24 January 1 shall have no value placed thereon, and that,  
25 in the assessment of tangible personal property,  
26 construction work in progress shall have no value placed  
27 thereon until substantially completed. Requires the owner  
28 of real property which on January 1 had uncompleted  
29 improvements to return a description and valuation  
30 thereof to the property appraiser by April 1. Failure to  
31 do so will result in the property appraiser's valuation  
being deemed prima facie correct.