

STORAGE NAME: h0245.bdt

DATE: November 17, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS DEVELOPMENT & INTERNATIONAL TRADE
ANALYSIS**

BILL #: HB 245

RELATING TO: Sales Tax Exemption/Building Materials

SPONSOR(S): Representative Bradley

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) BUSINESS DEVELOPMENT & INTERNATIONAL TRADE
 - (2) COMMUNITY AFFAIRS
 - (3) FINANCE & TAXATION
 - (4) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (5)
-

I. SUMMARY:

This bill exempts from sales tax materials and labor used in the construction of a single-family home having an assessed value of \$60,000 or more but less than \$120,000, and which is located in an enterprise zone, empowerment zone, or Front Porch Florida Community. The exemption is granted to the owner of the home as a refund of taxes previously paid on materials and labor used in the construction of the home.

The bill specifies the requirements the home owner must meet in order to receive the refund including filing an application, under oath, stating: the owners name and address; the address and assessment roll parcel number of the qualified home; a copy of the building permit issued for the home; certification by the local building inspector that the home is substantially complete; a sworn statement, under penalty of perjury, from the general contractor with whom the owner contracted to construct the home that lists the building material used, the actual cost, labor costs associated with the construction, actual costs of construction and the applicable sales tax paid, and in the event a general contractor was not used, the owner must provide the same information in a sworn statement and copies of invoices evidencing payment of applicable sales tax; and, a sworn statement, under penalty of perjury, from the owner that he or she is occupying the home for residential purposes.

The Department of Revenue must, within 30 working days of receiving the refund application, determine if the application meets the requirements set forth in the bill. The refund must be made by DOR within 30 days after formal approval of the application.

The bill directs the Department of Revenue to establish, by rule, an application form and criteria for establishing eligibility for the exemption.

The revenue estimating conference has not yet addressed the bill.

The effective date of the bill is July 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Chapter 212, Florida Statutes, provides for the tax on sales, use and other transactions. Section 212.05, F.S., provides that every person who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under chapter 212, F.S., or who stores for use or consumption any item or article of tangible personal property and who leases or rents such property is exercising a taxable privilege. Section 212.05(1)(a)1.a., F.S., provides for a six percent tax rate on the retail price of each item or article of tangible personal property when sold at retail in this state. Section 212.05(1)(b), F.S., provides for a six percent tax on the cost price of any item of tangible personal property that is not sold but is used in the state. Additionally, local governments are authorized to levy one or more of six types of Local Discretionary Sales Surtaxes, ranging from 0.5 percent to 1.0 percent each.

Section 212.08(5)(g), F.S., exempts from sales tax those building materials used in the rehabilitation of real property located in an enterprise zone. Upon affirmative showing to the satisfaction of the department, the exemption inures to the owner, lessee, or lessor of the rehabilitated property, located in an enterprise zone in the form of a refund of previously paid taxes. The refund is capped at \$5,000 and the DOR interprets the statute to allow a person building a new house on qualifying property to apply for the refund. The exemption is not limited to single-family residences, nor does it require the owner to reside in the home.

In an analysis of HB 245, the Office of Tourism, Trade, and Economic Development (OTTED) provided information received from the National Association of Homebuilders (NAHB) regarding estimates on building materials costs for single-family homes. The NAHB reports that 20% of the total cost of a \$60,000 home is spent on building materials costs which are subject to the rate of 6 percent sales tax, or \$720. Additionally, 30% of the total cost of a \$100,000 home is spent on building materials costs subject to the rate of 6 percent sales tax, or \$1,800. On-site labor costs are not subject to the state sales tax.

Currently, there are 32 enterprise zones and one empowerment zone designated in the state. On October 8, 1999, Governor Bush designated the first six Front Porch Florida Neighborhoods. The Governor's Front Porch Florida Initiative calls for 20 such designations.

C. EFFECT OF PROPOSED CHANGES:

This bill would create a sales tax exemption on materials and labor used in the construction of single-family homes having an assessed value of \$60,000 or more but less than \$120,000 located in an enterprise zone, empowerment zone, or Front Porch Florida Community. The exemption is granted to the owner of the home as a refund of taxes previously paid on material and labor used the construction of a qualified home.

To receive a refund, the owner must file a refund application, under oath, with the DOR which includes:

1. The owners name and address.
2. The address and assessment roll parcel number of the qualified home.
3. A copy of the building permit issued for the home.
4. A certification by the local building inspector that the home is substantially complete.
5. A sworn statement, under penalty of perjury, from the general contractor with whom the owner contracted to construct the home that lists the building material used, the actual cost, labor costs associated with the construction, actual costs of construction and the applicable sales tax paid, and in the event a general contractor was not used, the owner must provide the same information in a sworn statement and copies of invoices evidencing payment of applicable sales tax.
6. A sworn statement, under penalty of perjury, from the owner that he or she is occupying the home for residential purposes.

An application for refund must be submitted to the DOR within 6 months after the date the home is considered "substantially" complete by the local building inspector. Within 30 days of receipt of the refund application, DOR must determine if the application meets the criteria established for the refund, and the refund must be made by DOR within 30 days after formal approval of the application.

The DOR is directed to establish, by rule, an application form and criteria for establishing eligibility for the exemption.

The effective date of the bill is July 1, 2000.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The revenue estimating conference has not yet addressed this bill.

2. Expenditures:

The revenue estimating conference has not yet addressed this bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill directs the Department of Revenue to establish, by rule, an application form and criteria for establishing eligibility for the exemption.

C. OTHER COMMENTS:

The DOR's analysis of HB 245 indicates that direction is needed as to whether the sponsor intends for the tax exemption to apply only to qualifying residential construction begun on or after the bill's effective date, or whether the department should accept applications for refund based on qualified residential construction started or completed within the 6 months prior to the bill's effective date.

The analysis of HB 245 by the Office of Tourism, Trade and Economic Development (OTTED) indicated that clarification regarding the sponsor's intent on the type of labor cost to be exempt is needed. On-site labor costs are not subject to the state sales tax or the local discretionary tax; however, there may be off-site labor costs associated with the construction or assembly of certain building materials or supplies affected.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT & INTERNATIONAL TRADE:

Prepared by:

Staff Director:

Jill F. Turman

J. Paul Whitfield, Jr.