

By Senator Latvala

19-922-01

1 A bill to be entitled
2 An act relating to the sales and use tax;
3 amending s. 212.08, F.S.; providing an
4 exemption from the sales and use tax for
5 building materials used in the rehabilitation
6 of real property located in a designated
7 brownfield area; providing an exemption from
8 the sales and use tax for business property
9 purchased for use by businesses located in a
10 designated brownfield area; providing an
11 effective date.

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13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Paragraphs (g) and (h) of subsection (5) of
16 section 212.08, Florida Statutes, are amended to read:

17 212.08 Sales, rental, use, consumption, distribution,
18 and storage tax; specified exemptions.--The sale at retail,
19 the rental, the use, the consumption, the distribution, and
20 the storage to be used or consumed in this state of the
21 following are hereby specifically exempt from the tax imposed
22 by this chapter.

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

24 (g) Building materials used in the rehabilitation of
25 real property located in an enterprise zone or designated
26 brownfield area.--

27 1. Beginning July 1, 1995, building materials used in
28 the rehabilitation of real property located in an enterprise
29 zone, or, after July 1, 1997, in a designated brownfield area
30 under s. 376.80 shall be exempt from the tax imposed by this
31 chapter upon an affirmative showing to the satisfaction of the

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

15 a. The name and address of the person claiming the
16 refund.

17 b. An address and assessment roll parcel number of the
18 rehabilitated real property in an enterprise zone or
19 designated brownfield area for which a refund of previously
20 paid taxes is being sought.

21 c. A description of the improvements made to
22 accomplish the rehabilitation of the real property.

23 d. A copy of the building permit issued for the
24 rehabilitation of the real property.

25 e. A sworn statement, under the penalty of perjury,
26 from the general contractor licensed in this state with whom
27 the applicant contracted to make the improvements necessary to
28 accomplish the rehabilitation of the real property, which
29 statement lists the building materials used in the
30 rehabilitation of the real property, the actual cost of the
31 building materials, and the amount of sales tax paid in this

1 state on the building materials. In the event that a general
2 contractor has not been used, the applicant shall provide this
3 information in a sworn statement, under the penalty of
4 perjury. Copies of the invoices which evidence the purchase of
5 the building materials used in such rehabilitation and the
6 payment of sales tax on the building materials shall be
7 attached to the sworn statement provided by the general
8 contractor or by the applicant. Unless the actual cost of
9 building materials used in the rehabilitation of real property
10 and the payment of sales taxes due thereon is documented by a
11 general contractor or by the applicant in this manner, the
12 cost of such building materials shall be an amount equal to 40
13 percent of the increase in assessed value for ad valorem tax
14 purposes.

15 f. The identifying number assigned pursuant to s.
16 290.0065 to the enterprise zone or designated brownfield area
17 in which the rehabilitated real property is located.

18 g. A certification by the local building code
19 inspector that the improvements necessary to accomplish the
20 rehabilitation of the real property are substantially
21 completed.

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

24 i. If applicable, the name and address of each
25 permanent employee of the business, including, for each
26 employee who is a resident of an enterprise zone or designated
27 brownfield area, the identifying number assigned pursuant to
28 s. 290.0065 to the enterprise zone in which the employee
29 resides.

30 2. This exemption inures to a city, county, or other
31 governmental agency through a refund of previously paid taxes

1 if the building materials used in the rehabilitation of real
2 property located in an enterprise zone or designated
3 brownfield area are paid for from the funds of a community
4 development block grant or similar grant or loan program. To
5 receive a refund pursuant to this paragraph, a city, county,
6 or other governmental agency must file an application which
7 includes the same information required to be provided in
8 subparagraph 1. by an owner, lessee, or lessor of
9 rehabilitated real property. In addition, the application must
10 include a sworn statement signed by the chief executive
11 officer of the city, county, or other governmental agency
12 seeking a refund which states that the building materials for
13 which a refund is sought were paid for from the funds of a
14 community development block grant or similar grant or loan
15 program.

16 3. Within 10 working days after receipt of an
17 application, the governing body or enterprise zone development
18 agency having jurisdiction over the enterprise zone or
19 designated brownfield area shall review the application to
20 determine if it contains all the information required pursuant
21 to subparagraph 1. or subparagraph 2. and meets the criteria
22 set out in this paragraph. The governing body or agency shall
23 certify all applications that contain the information required
24 pursuant to subparagraph 1. or subparagraph 2. and meet the
25 criteria set out in this paragraph as eligible to receive a
26 refund. If applicable, the governing body or agency shall also
27 certify if 20 percent of the employees of the business are
28 residents of an enterprise zone or designated brownfield area,
29 excluding temporary and part-time employees. The certification
30 shall be in writing, and a copy of the certification shall be
31 transmitted to the executive director of the Department of

1 Revenue. The applicant shall be responsible for forwarding a
2 certified application to the department within the time
3 specified in subparagraph 4.

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

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

27 6. The department shall adopt rules governing the
28 manner and form of refund applications and may establish
29 guidelines as to the requisites for an affirmative showing of
30 qualification for exemption under this paragraph.

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

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

10 a. "Building materials" means tangible personal
11 property that ~~which~~ becomes a component part of improvements
12 to real property.

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

15 c. "Rehabilitation of real property" means the
16 reconstruction, renovation, restoration, rehabilitation,
17 construction, or expansion of improvements to real property.

18 d. "Substantially completed" has the same meaning as
19 provided in s. 192.042(1).

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

22 (h) Business property used in an enterprise zone or
23 designated brownfield area.--

24 1. Beginning July 1, 1995, business property purchased
25 for use by businesses located in an enterprise zone that ~~which~~
26 is subsequently used in an enterprise zone or, after July 1,
27 1997, in a designated brownfield area under s. 376.80, shall
28 be exempt from the tax imposed by this chapter. This exemption
29 inures to the business only through a refund of previously
30 paid taxes. A refund shall be authorized upon an affirmative
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1 showing by the taxpayer to the satisfaction of the department
2 that the requirements of this paragraph have been met.

3 2. To receive a refund, the business must file under
4 oath with the governing body or enterprise zone development
5 agency having jurisdiction over the enterprise zone or
6 designated brownfield area where the business is located, as
7 applicable, an application which includes:

8 a. The name and address of the business claiming the
9 refund.

10 b. The identifying number assigned pursuant to s.
11 290.0065 to the enterprise zone in which the business is
12 located.

13 c. A specific description of the property for which a
14 refund is sought, including its serial number or other
15 permanent identification number.

16 d. The location of the property.

17 e. The sales invoice or other proof of purchase of the
18 property, showing the amount of sales tax paid, the date of
19 purchase, and the name and address of the sales tax dealer
20 from whom the property was purchased.

21 f. Whether the business is a small business as defined
22 by s. 288.703(1).

23 g. If applicable, the name and address of each
24 permanent employee of the business, including, for each
25 employee who is a resident of an enterprise zone or designated
26 brownfield area, the identifying number assigned pursuant to
27 s. 290.0065 to the enterprise zone or designated brownfield
28 area in which the employee resides.

29 3. Within 10 working days after receipt of an
30 application, the governing body or enterprise zone development
31 agency having jurisdiction over the enterprise zone or

1 designated brownfield area shall review the application to
2 determine if it contains all the information required pursuant
3 to subparagraph 2. and meets the criteria set out in this
4 paragraph. The governing body or agency shall certify all
5 applications that contain the information required pursuant to
6 subparagraph 2. and meet the criteria set out in this
7 paragraph as eligible to receive a refund. If applicable, the
8 governing body or agency shall also certify if 20 percent of
9 the employees of the business are residents of an enterprise
10 zone or designated brownfield area, excluding temporary and
11 part-time employees. The certification shall be in writing,
12 and a copy of the certification shall be transmitted to the
13 executive director of the Department of Revenue. The business
14 shall be responsible for forwarding a certified application to
15 the department within the time specified in subparagraph 4.

16 4. An application for a refund pursuant to this
17 paragraph must be submitted to the department within 6 months
18 after the business property is purchased.

19 5. The provisions of s. 212.095 do not apply to any
20 refund application made pursuant to this paragraph. The amount
21 refunded on purchases of business property under this
22 paragraph shall be the lesser of 97 percent of the sales tax
23 paid on such business property or \$5,000, or, if no less than
24 20 percent of the employees of the business are residents of
25 an enterprise zone or designated brownfield area, excluding
26 temporary and part-time employees, the amount refunded on
27 purchases of business property under this paragraph shall be
28 the lesser of 97 percent of the sales tax paid on such
29 business property or \$10,000. A refund approved pursuant to
30 this paragraph shall be made within 30 days of formal approval
31 by the department of the application for the refund. No refund

1 shall be granted under this paragraph unless the amount to be
2 refunded exceeds \$100 in sales tax paid on purchases made
3 within a 60-day time period.

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

8 7. If the department determines that the business
9 property is used outside an enterprise zone or designated
10 brownfield area within 3 years from the date of purchase, the
11 amount of taxes refunded to the business purchasing such
12 business property shall immediately be due and payable to the
13 department by the business, together with the appropriate
14 interest and penalty, computed from the date of purchase, in
15 the manner provided by this chapter. Notwithstanding this
16 subparagraph, business property used exclusively in:

- 17 a. Licensed commercial fishing vessels,
- 18 b. Fishing guide boats, or
- 19 c. Ecotourism guide boats

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21 that leave and return to a fixed location within an area
22 designated under s. 370.28 are eligible for the exemption
23 provided under this paragraph if all requirements of this
24 paragraph are met. Such vessels and boats must be owned by a
25 business that is eligible to receive the exemption provided
26 under this paragraph. This exemption does not apply to the
27 purchase of a vessel or boat.

28 8. The department shall deduct an amount equal to 10
29 percent of each refund granted under the provisions of this
30 paragraph from the amount transferred into the Local
31 Government Half-cent Sales Tax Clearing Trust Fund pursuant to

1 s. 212.20 for the county area in which the business property
2 is located and shall transfer that amount to the General
3 Revenue Fund.

4 9. For the purposes of this exemption, "business
5 property" means new or used property defined as "recovery
6 property" in s. 168(c) of the Internal Revenue Code of 1954,
7 as amended, except:

8 a. Property classified as 3-year property under s.
9 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

10 b. Industrial machinery and equipment as defined in
11 sub-subparagraph (b)6.a. and eligible for exemption under
12 paragraph (b); and

13 c. Building materials as defined in sub-subparagraph
14 (g)8.a.

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

17 Section 2. This act shall take effect July 1, 2001.

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20 SENATE SUMMARY

21 Provides an exemption from the sales and use tax for
22 building materials and business property used by
23 businesses in a designated brownfield area.
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