

By the Committee on Comprehensive Planning

316-1152B-03

1 A bill to be entitled
2 An act relating to local government financing;
3 amending s. 192.001, F.S.; removing the
4 definition of the term "construction work in
5 progress" and defining the term "substantially
6 completed" for purposes of provisions governing
7 the imposition of ad valorem taxes; amending s.
8 192.042, F.S., relating to the assessment of
9 property; removing provisions specifying that
10 improvements or portions thereof not
11 substantially completed on January 1 have no
12 value; removing provisions specifying that,
13 with respect to the assessment of tangible
14 personal property, construction work in
15 progress has no value until substantially
16 completed; requiring that the value and
17 description of improvements on or to real
18 property as of January 1 be reported to the
19 property appraiser under oath; providing that
20 the assessment made by the property appraiser
21 is prima facie correct upon failure to report;
22 amending ss. 193.155 and 193.703, F.S.,
23 relating to homestead assessments and
24 assessments for living quarters of parents or
25 grandparents; clarifying provisions governing
26 the method for valuing improvements to
27 property; amending s. 206.41, F.S.; providing
28 for adjustments in the tax rates for the
29 ninth-cent fuel tax and the local option fuel
30 tax; amending s. 212.08, F.S., relating to
31 certain tax exemptions for building and

1 construction materials; redefining the term
2 "substantially completed" to conform to changes
3 made by the act; providing an effective date.
4

5 Be It Enacted by the Legislature of the State of Florida:
6

7 Section 1. Paragraph (d) of subsection (11) of section
8 192.001, Florida Statutes, is amended, and subsection (20) is
9 added to that section, to read:

10 192.001 Definitions.--All definitions set out in
11 chapters 1 and 200 that are applicable to this chapter are
12 included herein. In addition, the following definitions shall
13 apply in the imposition of ad valorem taxes:

14 (11) "Personal property," for the purposes of ad
15 valorem taxation, shall be divided into four categories as
16 follows:

17 (d) "Tangible personal property" means all goods,
18 chattels, and other articles of value (but does not include
19 the vehicular items enumerated in s. 1(b), Art. VII of the
20 State Constitution and elsewhere defined) capable of manual
21 possession and whose chief value is intrinsic to the article
22 itself.~~Construction work in progress" consists of those~~
23 ~~items of tangible personal property commonly known as~~
24 ~~fixtures, machinery, and equipment when in the process of~~
25 ~~being installed in new or expanded improvements to real~~
26 ~~property and whose value is materially enhanced upon~~
27 ~~connection or use with a preexisting, taxable, operational~~
28 ~~system or facility. Construction work in progress shall be~~
29 ~~deemed substantially completed when connected with the~~
30 ~~preexisting, taxable, operational system or facility.~~
31

1 ~~Inventory and household goods are expressly excluded from this~~
2 ~~definition.~~

3 (20) "Substantially completed" means that the
4 improvement or any self-sufficient unit within the improvement
5 can be used for the purpose for which it was constructed.

6 Section 2. Section 192.042, Florida Statutes, is
7 amended to read:

8 192.042 Date of assessment.--

9 (1) All property shall be assessed according to its
10 just value as follows:

11 (a)(1) Real property, on January 1 of each year.
12 ~~Improvements or portions not substantially completed on~~
13 ~~January 1 shall have no value placed thereon. "Substantially~~
14 ~~completed" shall mean that the improvement or some~~
15 ~~self-sufficient unit within it can be used for the purpose for~~
16 ~~which it was constructed.~~

17 (b)(2) Tangible personal property, on January 1 of
18 each year, ~~except construction work in progress shall have no~~
19 ~~value placed thereon until substantially completed as defined~~
20 ~~in s. 192.001(11)(d).~~

21 (c)(3) Intangible personal property, according to the
22 rules laid down in chapter 199.

23 (2) If, on January 1, improvements are being
24 constructed on or added to real property that is subject to
25 taxation under state law, the person owning or having control
26 or custody of the real property shall, on or before April 1,
27 make a report under oath to the property appraiser for the
28 county where the real property is located giving the character
29 and value of the real property, the nature and description of
30 the improvements on or to the property, and the value of the
31 improvements as determined by such person as of January 1. If

1 the person owning or having control or custody of the real
2 property fails to make the report required by this subsection,
3 the assessment and valuation made by the property appraiser
4 shall be considered prima facie correct and shall be binding
5 upon the owner or corporation having an interest in the
6 property unless a petition is timely filed with the value
7 adjustment board.

8 Section 3. Subsection (4) of section 193.155, Florida
9 Statutes, is amended to read:

10 193.155 Homestead assessments.--Homestead property
11 shall be assessed at just value as of January 1, 1994.
12 Property receiving the homestead exemption after January 1,
13 1994, shall be assessed at just value as of January 1 of the
14 year in which the property receives the exemption.

15 (4)(a) Changes, additions, or improvements to
16 homestead property shall be assessed at just value. However,
17 if such changes, additions, or improvements are not
18 substantially completed as of January 1, such changes,
19 additions, or improvements are not subject to the assessment
20 limitation until as of the first January 1 after the changes,
21 additions, or improvements are substantially complete
22 completed.

23 (b) Changes, additions, or improvements do not include
24 replacement of a portion of real property damaged or destroyed
25 by misfortune or calamity when the just value of the damaged
26 or destroyed portion as replaced is not more than 125 percent
27 of the just value of the damaged or destroyed portion. The
28 value of any replaced real property, or portion thereof, which
29 is in excess of 125 percent of the just value of the damaged
30 or destroyed property shall be deemed to be a change,
31 addition, or improvement. Replaced real property with a just

1 value of less than 100 percent of the original property's just
2 value shall be assessed pursuant to subsection (5).

3 (c) Changes, additions, or improvements include
4 improvements made to common areas or other improvements made
5 to property other than to the homestead property by the owner
6 or by an owner association, which improvements directly
7 benefit the homestead property. Such changes, additions, or
8 improvements shall be assessed at just value, and the just
9 value shall be apportioned among the parcels benefiting from
10 the improvement.

11 Section 4. Subsection (6) of section 193.703, Florida
12 Statutes, is amended to read:

13 193.703 Reduction in assessment for living quarters of
14 parents or grandparents.--

15 (6) When the property owner no longer qualifies for
16 the reduction in assessed value for living quarters of parents
17 or grandparents, the previously excluded just value of such
18 improvements ~~as of the first January 1 after the improvements~~
19 ~~were substantially completed~~ shall be added back to the
20 assessed value of the property.

21 Section 5. Paragraphs (d) and (e) of subsection (1) of
22 section 206.41, Florida Statutes, are amended to read:

23 206.41 State taxes imposed on motor fuel.--

24 (1) The following taxes are imposed on motor fuel
25 under the circumstances described in subsection (6):

26 (d)1. An additional tax of 1 cent per net gallon may
27 be imposed by each county on motor fuel, which shall be
28 designated as the "ninth-cent fuel tax." This tax shall be
29 levied and used as provided in s. 336.021.

30 2. Beginning January 1, 2004, and on January 1 of each
31 year thereafter, counties may, by ordinance, provide that the

1 tax rate set forth in subparagraph 1. be adjusted by the
2 percentage change in the average of the consumer price index
3 issued by the United States Department of Labor for the most
4 recent 12-month period ending September 30, and rounded to the
5 nearest tenth of a cent, as determined by the Department of
6 Revenue. However, the tax rate may not be less than 1 cent per
7 gallon.

8 3. All impositions and rate changes of the tax shall
9 be levied before July 1, to be effective January 1 of the
10 following year.

11 4. A certified copy of the ordinance that authorizes
12 the indexing of the tax authorized by this section must be
13 furnished by the county to the Department of Revenue within 10
14 days after the adoption of the ordinance indexing the tax.

15 5. The department shall notify each terminal supplier,
16 position holder, wholesaler, and importer of the tax rate
17 applicable under this paragraph for the 12-month period
18 beginning January 1.

19 (e)1. An additional tax of between 1 cent and 11 cents
20 per net gallon may be imposed on motor fuel by each county,
21 which shall be designated as the "local option fuel tax."
22 This tax shall be levied and used as provided in s. 336.025.

23 2. Beginning January 1, 2004, and on January 1 of each
24 year thereafter, counties may, by ordinance, provide that the
25 tax rate set forth in subparagraph 1. be adjusted by the
26 percentage change in the average of the consumer price index
27 issued by the United States Department of Labor for the most
28 recent 12-month period ending September 30, and rounded to the
29 nearest tenth of a cent, as determined by the Department of
30 Revenue. However, the tax rate may not be less than the rate
31 per gallon levied pursuant to subparagraph 1.

1 3. All impositions and rate changes of the tax shall
2 be levied before July 1, to be effective January 1 of the
3 following year.

4 4. A certified copy of the ordinance that authorizes
5 the indexing of the tax authorized by this section must be
6 furnished by the county to the Department of Revenue within 10
7 days after the adoption of the ordinance indexing the tax.

8 5. The department shall notify each terminal supplier,
9 position holder, wholesaler, and importer of the tax rate
10 applicable under this paragraph for the 12-month period
11 beginning January 1.

12 Section 6. Paragraphs (g) and (n) of subsection (5) of
13 section 212.08, Florida Statutes, are amended to read:

14 212.08 Sales, rental, use, consumption, distribution,
15 and storage tax; specified exemptions.--The sale at retail,
16 the rental, the use, the consumption, the distribution, and
17 the storage to be used or consumed in this state of the
18 following are hereby specifically exempt from the tax imposed
19 by this chapter.

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

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

23 1. Building materials used in the rehabilitation of
24 real property located in an enterprise zone shall be exempt
25 from the tax imposed by this chapter upon an affirmative
26 showing to the satisfaction of the department that the items
27 have been used for the rehabilitation of real property located
28 in an enterprise zone. Except as provided in subparagraph 2.,
29 this exemption inures to the owner, lessee, or lessor of the
30 rehabilitated real property located in an enterprise zone only
31 through a refund of previously paid taxes. To receive a refund

1 pursuant to this paragraph, the owner, lessee, or lessor of
2 the rehabilitated real property located in an enterprise zone
3 must file an application under oath with the governing body or
4 enterprise zone development agency having jurisdiction over
5 the enterprise zone where the business is located, as
6 applicable, which includes:

7 a. The name and address of the person claiming the
8 refund.

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

12 c. A description of the improvements made to
13 accomplish the rehabilitation of the real property.

14 d. A copy of the building permit issued for the
15 rehabilitation of the real property.

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

1 and the payment of sales taxes due thereon is documented by a
2 general contractor or by the applicant in this manner, the
3 cost of such building materials shall be an amount equal to 40
4 percent of the increase in assessed value for ad valorem tax
5 purposes.

6 f. The identifying number assigned pursuant to s.
7 290.0065 to the enterprise zone in which the rehabilitated
8 real property is located.

9 g. A certification by the local building code
10 inspector that the improvements necessary to accomplish the
11 rehabilitation of the real property are substantially
12 completed.

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

15 i. If applicable, the name and address of each
16 permanent employee of the business, including, for each
17 employee who is a resident of an enterprise zone, the
18 identifying number assigned pursuant to s. 290.0065 to the
19 enterprise zone in which the employee resides.

20 2. This exemption inures to a city, county, other
21 governmental agency, or nonprofit community-based organization
22 through a refund of previously paid taxes if the building
23 materials used in the rehabilitation of real property located
24 in an enterprise zone are paid for from the funds of a
25 community development block grant, State Housing Initiatives
26 Partnership Program, or similar grant or loan program. To
27 receive a refund pursuant to this paragraph, a city, county,
28 other governmental agency, or nonprofit community-based
29 organization must file an application which includes the same
30 information required to be provided in subparagraph 1. by an
31 owner, lessee, or lessor of rehabilitated real property. In

1 addition, the application must include a sworn statement
2 signed by the chief executive officer of the city, county,
3 other governmental agency, or nonprofit community-based
4 organization seeking a refund which states that the building
5 materials for which a refund is sought were paid for from the
6 funds of a community development block grant, State Housing
7 Initiatives Partnership Program, or similar grant or loan
8 program.

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

26 4. An application for a refund pursuant to this
27 paragraph must be submitted to the department within 6 months
28 after the rehabilitation of the property is deemed to be
29 substantially completed by the local building code inspector
30 or within 90 days after the rehabilitated property is first
31 subject to assessment.

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.

31

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 any self-sufficient unit within the improvement can be used
13 for the purpose for which it was constructed ~~has the same~~
14 ~~meaning as provided in s. 192.042(1).~~

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

17 (n) Materials for construction of single-family homes
18 in certain areas.--

19 1. As used in this paragraph, the term:

20 a. "Building materials" means tangible personal
21 property that becomes a component part of a qualified home.

22 b. "Qualified home" means a single-family home having
23 an appraised value of no more than \$160,000 which is located
24 in an enterprise zone, empowerment zone, or Front Porch
25 Florida Community and which is constructed and occupied by the
26 owner thereof for residential purposes.

27 c. "Substantially completed" means that an improvement
28 or any self-sufficient unit within the improvement can be used
29 for the purpose for which it was constructed ~~has the same~~
30 ~~meaning as provided in s. 192.042(1).~~

31

1 2. Building materials used in the construction of a
2 qualified home and the costs of labor associated with the
3 construction of a qualified home are exempt from the tax
4 imposed by this chapter upon an affirmative showing to the
5 satisfaction of the department that the requirements of this
6 paragraph have been met. This exemption inures to the owner
7 through a refund of previously paid taxes. To receive this
8 refund, the owner must file an application under oath with the
9 department which includes:

10 a. The name and address of the owner.

11 b. The address and assessment roll parcel number of
12 the home for which a refund is sought.

13 c. A copy of the building permit issued for the home.

14 d. A certification by the local building code
15 inspector that the home is substantially completed.

16 e. A sworn statement, under penalty of perjury, from
17 the general contractor licensed in this state with whom the
18 owner contracted to construct the home, which statement lists
19 the building materials used in the construction of the home
20 and the actual cost thereof, the labor costs associated with
21 such construction, and the amount of sales tax paid on these
22 materials and labor costs. If a general contractor was not
23 used, the owner shall provide this information in a sworn
24 statement, under penalty of perjury. Copies of invoices
25 evidencing payment of sales tax must be attached to the sworn
26 statement.

27 f. A sworn statement, under penalty of perjury, from
28 the owner affirming that he or she is occupying the home for
29 residential purposes.

30 3. An application for a refund under this paragraph
31 must be submitted to the department within 6 months after the

1 date the home is deemed to be substantially completed by the
2 local building code inspector. Within 30 working days after
3 receipt of the application, the department shall determine if
4 it meets the requirements of this paragraph. A refund approved
5 pursuant to this paragraph shall be made within 30 days after
6 formal approval of the application by the department. The
7 provisions of s. 212.095 do not apply to any refund
8 application made under this paragraph.

9 4. The department shall establish by rule an
10 application form and criteria for establishing eligibility for
11 exemption under this paragraph.

12 5. The exemption shall apply to purchases of materials
13 on or after July 1, 2000.

14 Section 7. This act shall take effect upon becoming a
15 law.

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18 SENATE SUMMARY

19 Revises provisions governing the valuation of
20 improvements to real property for purposes of ad valorem
21 taxation. Requires a property owner to report to the
22 property appraiser the value of improvements on or to
23 real property as of January 1. Authorizes certain
24 adjustments in the tax rates for the ninth-cent fuel tax
25 and the local option fuel tax. (See bill for details.)
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