

HB 7055

2006

1 A bill to be entitled

2 An act relating to enterprise zones; amending s. 195.099,
3 F.S.; reenacting a periodic review requirement; providing
4 for future expiration; amending s. 220.03, F.S.; revising
5 a definition; amending s. 212.08, F.S.; limiting the
6 exemption by refund of certain taxes for rehabilitation of
7 certain property in an enterprise zone; providing an
8 exception; providing for retroactive application; amending
9 s. 212.096, F.S.; revising a definition; revising an
10 information requirement for claiming an enterprise zone
11 jobs tax credit; amending s. 220.13, F.S.; reenacting a
12 definitional provision; providing for future expiration of
13 provisions relating to enterprise zone credits; amending
14 s. 220.181, F.S.; revising certain criteria for granting
15 an enterprise zone jobs tax credit; amending s. 290.0055,
16 F.S.; providing a property owner notification requirement
17 for a governing body adopting an enterprise zone boundary
18 change resolution; providing for time-limited continuing
19 eligibility for a building materials tax exemption for
20 certain businesses; specifying eligibility requirements;
21 providing for retroactive application; providing for
22 future repeal; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Subsection (1) of section 195.099, Florida
27 Statutes, is reenacted and amended to read:

28 195.099 Periodic review.--

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 (1) (a) The department shall periodically review the
 30 assessments of new, rebuilt, and expanded business reported
 31 according to s. 193.077(3), to ensure parity of level of
 32 assessment with other classifications of property.

33 (b) ~~The provisions of~~ This subsection shall expire ~~and be~~
 34 ~~void~~ on the date specified in s. 290.016 for the expiration of
 35 the Florida Enterprise Zone Act June 30, 2005.

36 Section 2. Paragraph (ff) of subsection (1) of section
 37 220.03, Florida Statutes, is amended to read:

38 220.03 Definitions.--

39 (1) SPECIFIC TERMS.--When used in this code, and when not
 40 otherwise distinctly expressed or manifestly incompatible with
 41 the intent thereof, the following terms shall have the following
 42 meanings:

43 (ff) "New job has been created" means that, on the date of
 44 application, the total number of full-time jobs is greater than
 45 the total was ~~has increased in an enterprise zone from the~~
 46 ~~average of the previous 12 months prior to that date,~~ as
 47 demonstrated to the department by a business located in the
 48 enterprise zone.

49 Section 3. Paragraph (g) of subsection (5) of section
 50 212.08, Florida Statutes, is amended to read:

51 212.08 Sales, rental, use, consumption, distribution, and
 52 storage tax; specified exemptions.--The sale at retail, the
 53 rental, the use, the consumption, the distribution, and the
 54 storage to be used or consumed in this state of the following
 55 are hereby specifically exempt from the tax imposed by this
 56 chapter.

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

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

60 1. Building materials used in the rehabilitation of real
61 property located in an enterprise zone shall be exempt from the
62 tax imposed by this chapter upon an affirmative showing to the
63 satisfaction of the department that the items have been used for
64 the rehabilitation of real property located in an enterprise
65 zone. Except as provided in subparagraph 2., this exemption
66 inures to the owner, lessee, or lessor of the rehabilitated real
67 property located in an enterprise zone only through a refund of
68 previously paid taxes. To receive a refund pursuant to this
69 paragraph, the owner, lessee, or lessor of the rehabilitated
70 real property located in an enterprise zone must file an
71 application under oath with the governing body or enterprise
72 zone development agency having jurisdiction over the enterprise
73 zone where the business is located, as applicable, which
74 includes:

75 a. The name and address of the person claiming the refund.

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

79 c. A description of the improvements made to accomplish
80 the rehabilitation of the real property.

81 d. A copy of the building permit issued for the
82 rehabilitation of the real property.

83 e. A sworn statement, under the penalty of perjury, from
84 the general contractor licensed in this state with whom the

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85 applicant contracted to make the improvements necessary to
86 accomplish the rehabilitation of the real property, which
87 statement lists the building materials used in the
88 rehabilitation of the real property, the actual cost of the
89 building materials, and the amount of sales tax paid in this
90 state on the building materials. In the event that a general
91 contractor has not been used, the applicant shall provide this
92 information in a sworn statement, under the penalty of perjury.
93 Copies of the invoices which evidence the purchase of the
94 building materials used in such rehabilitation and the payment
95 of sales tax on the building materials shall be attached to the
96 sworn statement provided by the general contractor or by the
97 applicant. Unless the actual cost of building materials used in
98 the rehabilitation of real property and the payment of sales
99 taxes due thereon is documented by a general contractor or by
100 the applicant in this manner, the cost of such building
101 materials shall be an amount equal to 40 percent of the increase
102 in assessed value for ad valorem tax purposes.

103 f. The identifying number assigned pursuant to s. 290.0065
104 to the enterprise zone in which the rehabilitated real property
105 is located.

106 g. A certification by the local building code inspector
107 that the improvements necessary to accomplish the rehabilitation
108 of the real property are substantially completed.

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

111 i. If applicable, the name and address of each permanent
112 employee of the business, including, for each employee who is a

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113 resident of an enterprise zone, the identifying number assigned
114 pursuant to s. 290.0065 to the enterprise zone in which the
115 employee resides.

116 2. This exemption inures to a city, county, other
117 governmental agency, or nonprofit community-based organization
118 through a refund of previously paid taxes if the building
119 materials used in the rehabilitation of real property located in
120 an enterprise zone are paid for from the funds of a community
121 development block grant, State Housing Initiatives Partnership
122 Program, or similar grant or loan program. To receive a refund
123 pursuant to this paragraph, a city, county, other governmental
124 agency, or nonprofit community-based organization must file an
125 application which includes the same information required to be
126 provided in subparagraph 1. by an owner, lessee, or lessor of
127 rehabilitated real property. In addition, the application must
128 include a sworn statement signed by the chief executive officer
129 of the city, county, other governmental agency, or nonprofit
130 community-based organization seeking a refund which states that
131 the building materials for which a refund is sought were paid
132 for from the funds of a community development block grant, State
133 Housing Initiatives Partnership Program, or similar grant or
134 loan program.

135 3. Within 10 working days after receipt of an application,
136 the governing body or enterprise zone development agency shall
137 review the application to determine if it contains all the
138 information required pursuant to subparagraph 1. or subparagraph
139 2. and meets the criteria set out in this paragraph. The
140 governing body or agency shall certify all applications that

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141 contain the information required pursuant to subparagraph 1. or
142 subparagraph 2. and meet the criteria set out in this paragraph
143 as eligible to receive a refund. If applicable, the governing
144 body or agency shall also certify if 20 percent of the employees
145 of the business are residents of an enterprise zone, excluding
146 temporary and part-time employees. The certification shall be in
147 writing, and a copy of the certification shall be transmitted to
148 the executive director of the Department of Revenue. The
149 applicant shall be responsible for forwarding a certified
150 application to the department within the time specified in
151 subparagraph 4.

152 4. An application for a refund pursuant to this paragraph
153 must be submitted to the department within 6 months after the
154 rehabilitation of the property is deemed to be substantially
155 completed by the local building code inspector or by September 1
156 after the rehabilitated property is first subject to assessment.

157 5. The provisions of s. 212.095 do not apply to any refund
158 application made pursuant to this paragraph. Not more than one
159 exemption through a refund of previously paid taxes for the
160 rehabilitation of real property shall be permitted for any
161 single parcel of property unless there is a change in ownership,
162 a new lessor, or a new lessee of the real property. No refund
163 shall be granted pursuant to this paragraph unless the amount to
164 be refunded exceeds \$500. No refund granted pursuant to this
165 paragraph shall exceed the lesser of 97 percent of the Florida
166 sales or use tax paid on the cost of the building materials used
167 in the rehabilitation of the real property as determined
168 pursuant to sub-subparagraph 1.e. or \$5,000, or, if no less than

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169 20 percent of the employees of the business are residents of an
170 enterprise zone, excluding temporary and part-time employees,
171 the amount of refund granted pursuant to this paragraph shall
172 not exceed the lesser of 97 percent of the sales tax paid on the
173 cost of such building materials or \$10,000. A refund approved
174 pursuant to this paragraph shall be made within 30 days of
175 formal approval by the department of the application for the
176 refund. This subparagraph shall apply retroactively to July 1,
177 2005.

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

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

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

191 a. "Building materials" means tangible personal property
192 which becomes a component part of improvements to real property.

193 b. "Real property" has the same meaning as provided in s.
194 192.001(12).

195 c. "Rehabilitation of real property" means the
 196 reconstruction, renovation, restoration, rehabilitation,
 197 construction, or expansion of improvements to real property.

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

200 9. This paragraph expires on the date specified in s.
 201 290.016 for the expiration of the Florida Enterprise Zone Act.

202 Section 4. Paragraph (e) of subsection (1) and paragraph
 203 (e) of subsection (3) of section 212.096, Florida Statutes, are
 204 amended to read:

205 212.096 Sales, rental, storage, use tax; enterprise zone
 206 jobs credit against sales tax.--

207 (1) For the purposes of the credit provided in this
 208 section:

209 (e) "New job has been created" means that, on the date of
 210 application, the total number of full-time jobs is greater than
 211 the total was ~~has increased in an enterprise zone from the~~
 212 ~~average of the previous~~ 12 months prior to that date, as
 213 demonstrated to the department by a business located in the
 214 enterprise zone.

215
 216 A person shall be deemed to be employed if the person performs
 217 duties in connection with the operations of the business on a
 218 regular, full-time basis, provided the person is performing such
 219 duties for an average of at least 36 hours per week each month.
 220 The person must be performing such duties at a business site
 221 located in the enterprise zone.

222 (3) In order to claim this credit, an eligible business
 223 must file under oath with the governing body or enterprise zone
 224 development agency having jurisdiction over the enterprise zone
 225 where the business is located, as applicable, a statement which
 226 includes:

227 (e) Demonstration to the department that, on the date of
 228 application, the total number of full-time jobs defined under
 229 paragraph (1)(d) is greater than the total was ~~has increased in~~
 230 ~~an enterprise zone from the average of the previous~~ 12 months
 231 prior to that date.

232 Section 5. Paragraph (a) of subsection (1) of section
 233 220.13, Florida Statutes, is reenacted and amended to read:

234 220.13 "Adjusted federal income" defined.--

235 (1) The term "adjusted federal income" means an amount
 236 equal to the taxpayer's taxable income as defined in subsection
 237 (2), or such taxable income of more than one taxpayer as
 238 provided in s. 220.131, for the taxable year, adjusted as
 239 follows:

240 (a) Additions.--There shall be added to such taxable
 241 income:

242 1. The amount of any tax upon or measured by income,
 243 excluding taxes based on gross receipts or revenues, paid or
 244 accrued as a liability to the District of Columbia or any state
 245 of the United States which is deductible from gross income in
 246 the computation of taxable income for the taxable year.

247 2. The amount of interest which is excluded from taxable
 248 income under s. 103(a) of the Internal Revenue Code or any other
 249 federal law, less the associated expenses disallowed in the

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250 computation of taxable income under s. 265 of the Internal
251 Revenue Code or any other law, excluding 60 percent of any
252 amounts included in alternative minimum taxable income, as
253 defined in s. 55(b)(2) of the Internal Revenue Code, if the
254 taxpayer pays tax under s. 220.11(3).

255 3. In the case of a regulated investment company or real
256 estate investment trust, an amount equal to the excess of the
257 net long-term capital gain for the taxable year over the amount
258 of the capital gain dividends attributable to the taxable year.

259 4. That portion of the wages or salaries paid or incurred
260 for the taxable year which is equal to the amount of the credit
261 allowable for the taxable year under s. 220.181. ~~The provisions~~
262 ~~of This subparagraph shall expire and be void on the date~~
263 specified in s. 290.016 for the expiration of the Florida
264 Enterprise Zone Act June 30, 2005.

265 5. That portion of the ad valorem school taxes paid or
266 incurred for the taxable year which is equal to the amount of
267 the credit allowable for the taxable year under s. 220.182. ~~The~~
268 ~~provisions of This subparagraph shall expire and be void on the~~
269 date specified in s. 290.016 for the expiration of the Florida
270 Enterprise Zone Act June 30, 2005.

271 6. The amount of emergency excise tax paid or accrued as a
272 liability to this state under chapter 221 which tax is
273 deductible from gross income in the computation of taxable
274 income for the taxable year.

275 7. That portion of assessments to fund a guaranty
276 association incurred for the taxable year which is equal to the
277 amount of the credit allowable for the taxable year.

278 8. In the case of a nonprofit corporation which holds a
 279 pari-mutuel permit and which is exempt from federal income tax
 280 as a farmers' cooperative, an amount equal to the excess of the
 281 gross income attributable to the pari-mutuel operations over the
 282 attributable expenses for the taxable year.

283 9. The amount taken as a credit for the taxable year under
 284 s. 220.1895.

285 10. Up to nine percent of the eligible basis of any
 286 designated project which is equal to the credit allowable for
 287 the taxable year under s. 220.185.

288 11. The amount taken as a credit for the taxable year
 289 under s. 220.187.

290 Section 6. Paragraph (a) of subsection (1) and paragraph
 291 (f) of subsection (2) of section 220.181, Florida Statutes, are
 292 amended to read:

293 220.181 Enterprise zone jobs credit.--

294 (1)(a) There shall be allowed a credit against the tax
 295 imposed by this chapter to any business located in an enterprise
 296 zone which demonstrates to the department that, on the date of
 297 application, the total number of full-time jobs is greater than
 298 the total was ~~has increased from the average of the previous 12~~
 299 months prior to that date. The credit shall be computed as 20
 300 percent of the actual monthly wages paid in this state to each
 301 new employee hired when a new job has been created, as defined
 302 under s. 220.03(1)(ff), unless the business is located in a
 303 rural enterprise zone, pursuant to s. 290.004(6), in which case
 304 the credit shall be 30 percent of the actual monthly wages paid.
 305 If no less than 20 percent of the employees of the business are

306 residents of an enterprise zone, excluding temporary and part-
 307 time employees, the credit shall be computed as 30 percent of
 308 the actual monthly wages paid in this state to each new employee
 309 hired when a new job has been created, unless the business is
 310 located in a rural enterprise zone, in which case the credit
 311 shall be 45 percent of the actual monthly wages paid, for a
 312 period of up to 24 consecutive months. If the new employee hired
 313 when a new job is created is a participant in the welfare
 314 transition program, the following credit shall be a percent of
 315 the actual monthly wages paid: 40 percent for \$4 above the
 316 hourly federal minimum wage rate; 41 percent for \$5 above the
 317 hourly federal minimum wage rate; 42 percent for \$6 above the
 318 hourly federal minimum wage rate; 43 percent for \$7 above the
 319 hourly federal minimum wage rate; and 44 percent for \$8 above
 320 the hourly federal minimum wage rate.

321 (2) When filing for an enterprise zone jobs credit, a
 322 business must file under oath with the governing body or
 323 enterprise zone development agency having jurisdiction over the
 324 enterprise zone where the business is located, as applicable, a
 325 statement which includes:

326 (f) Demonstration to the department that, on the date of
 327 application, the total number of full-time jobs is greater than
 328 the total was ~~has increased from the average of the previous 12~~
 329 months prior to that date.

330 Section 7. Paragraph (c) is added to subsection (6) of
 331 section 290.0055, Florida Statutes, to read:

332 290.0055 Local nominating procedure.--

333 (6)

334 (c) At least 90 days before adopting a resolution seeking
 335 a change in the boundary of an enterprise zone, the governing
 336 body shall notify in writing all property owners and businesses
 337 that may be excluded from the enterprise zone by virtue of the
 338 proposed boundary change.

339 Section 8. (1) Notwithstanding the provisions of s.
 340 212.08(5)(g), Florida Statutes, as amended by this act, a
 341 business developing a project involving the rehabilitation of
 342 real property that has been excluded from an enterprise zone
 343 because of the redesignation requirements of s. 290.012 or s.
 344 290.0065, Florida Statutes, shall remain eligible to apply for
 345 the building materials tax exemption under s. 212.08(5)(g),
 346 Florida Statutes, for that project through December 31, 2007, if
 347 the following requirements are met:

348 (a) The project must have been located in an enterprise
 349 zone on or before December 31, 2005.

350 (b) The project must have a duration extending beyond
 351 December 31, 2005.

352 (c) The project must have been excluded from the
 353 enterprise zone due to the portion of the enterprise zone in
 354 which the project is located not meeting the pervasive poverty
 355 rate requirements of s. 290.0058(2)(a) or (b), Florida Statutes.

356 (d) The difference between the pervasive poverty rate
 357 requirements of s. 290.0058(2)(a), Florida Statutes, and the
 358 actual poverty rate in the area in which the project is located
 359 must be 5 percentage points or less.

360 (e) The business must apply for a certificate of
 361 eligibility for the project with the enterprise zone development

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362 agency by November 1, 2006, and demonstrate that the project
363 meets the requirements of this section.

364 (f) The enterprise zone development agency must provide a
365 copy of the certificate of eligibility to the Department of
366 Revenue.

367 (2) The provisions of this section are remedial in nature
368 and shall apply retroactively to December 31, 2005. This section
369 is repealed December 31, 2007.

370 Section 9. This act shall take effect upon becoming a law.