

1                                   A bill to be entitled  
 2           An act relating to enterprise zone business property use  
 3           tax exemption; amending s. 212.08, F.S.; revising refund  
 4           requirements for the exemption for certain business  
 5           property used in an enterprise zone; revising the  
 6           definition of "business property"; providing an effective  
 7           date.

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

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 11           Section 1. Paragraph (h) of subsection (5) of section  
 12           212.08, Florida Statutes, is amended to read:

13           212.08 Sales, rental, use, consumption, distribution, and  
 14           storage tax; specified exemptions.--The sale at retail, the  
 15           rental, the use, the consumption, the distribution, and the  
 16           storage to be used or consumed in this state of the following  
 17           are hereby specifically exempt from the tax imposed by this  
 18           chapter.

- 19           (5) EXEMPTIONS; ACCOUNT OF USE.--  
 20           (h) Business property used in an enterprise zone.--

21           1. Business property purchased for use by businesses  
 22           located in an enterprise zone which is subsequently used in an  
 23           enterprise zone shall be exempt from the tax imposed by this  
 24           chapter. This exemption inures to the business only through a  
 25           refund of previously paid taxes. A refund shall be authorized  
 26           upon an affirmative showing by the taxpayer to the satisfaction  
 27           of the department that the requirements of this paragraph have  
 28           been met.

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- 29           2. To receive a refund, the business must file under oath  
30 with the governing body or enterprise zone development agency  
31 having jurisdiction over the enterprise zone where the business  
32 is located, as applicable, an application which includes:
- 33           a. The name and address of the business claiming the  
34 refund.
- 35           b. The identifying number assigned pursuant to s. 290.0065  
36 to the enterprise zone in which the business is located.
- 37           c. A specific description of the property for which a  
38 refund is sought, including its serial number or other permanent  
39 identification number.
- 40           d. The location of the property.
- 41           e. The sales invoice or other proof of purchase of the  
42 property, showing the amount of sales tax paid, the date of  
43 purchase, and the name and address of the sales tax dealer from  
44 whom the property was purchased.
- 45           f. Whether the business is a small business as defined by  
46 s. 288.703(1).
- 47           g. If applicable, the name and address of each permanent  
48 employee of the business, including, for each employee who is a  
49 resident of an enterprise zone, the identifying number assigned  
50 pursuant to s. 290.0065 to the enterprise zone in which the  
51 employee resides.
- 52           3. Within 10 working days after receipt of an application,  
53 the governing body or enterprise zone development agency shall  
54 review the application to determine if it contains all the  
55 information required pursuant to subparagraph 2. and meets the  
56 criteria set out in this paragraph. The governing body or agency

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57 shall certify all applications that contain the information  
58 required pursuant to subparagraph 2. and meet the criteria set  
59 out in this paragraph as eligible to receive a refund. If  
60 applicable, the governing body or agency shall also certify if  
61 20 percent of the employees of the business are residents of an  
62 enterprise zone, excluding temporary and part-time employees.  
63 The certification shall be in writing, and a copy of the  
64 certification shall be transmitted to the executive director of  
65 the Department of Revenue. The business shall be responsible for  
66 forwarding a certified application to the department within the  
67 time specified in subparagraph 4.

68 4. An application for a refund pursuant to this paragraph  
69 must be submitted to the department within 6 months after the  
70 tax is due on the business property that is purchased.

71 5. The provisions of s. 212.095 do not apply to any refund  
72 application made pursuant to this paragraph. The amount refunded  
73 on purchases of business property under this paragraph shall be  
74 the lesser of 97 percent of the sales tax paid on such business  
75 property or \$5,000, or, if no less than 20 percent of the  
76 employees of the business are residents of an enterprise zone,  
77 excluding temporary and part-time employees, the amount refunded  
78 on purchases of business property under this paragraph shall be  
79 the lesser of 97 percent of the sales tax paid on such business  
80 property or \$10,000. A refund approved pursuant to this  
81 paragraph shall be made within 30 days of formal approval by the  
82 department of the application for the refund. No refund shall be  
83 granted under this paragraph unless the amount to be refunded

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84 exceeds \$300 ~~\$100~~ in sales tax paid on combined purchases made  
85 within a 90-day ~~60-day~~ time period.

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

90 7. If the department determines that the business property  
91 is used outside an enterprise zone within 3 years from the date  
92 of purchase, the amount of taxes refunded to the business  
93 purchasing such business property shall immediately be due and  
94 payable to the department by the business, together with the  
95 appropriate interest and penalty, computed from the date of  
96 purchase, in the manner provided by this chapter.

97 Notwithstanding this subparagraph, business property used  
98 exclusively in:

- 99 a. Licensed commercial fishing vessels,  
100 b. Fishing guide boats, or  
101 c. Ecotourism guide boats

102

103 that leave and return to a fixed location within an area  
104 designated under s. 370.28 are eligible for the exemption  
105 provided under this paragraph if all requirements of this  
106 paragraph are met. Such vessels and boats must be owned by a  
107 business that is eligible to receive the exemption provided  
108 under this paragraph. This exemption does not apply to the  
109 purchase of a vessel or boat.

110 8. The department shall deduct an amount equal to 10  
111 percent of each refund granted under the provisions of this

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112 paragraph from the amount transferred into the Local Government  
 113 Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20  
 114 for the county area in which the business property is located  
 115 and shall transfer that amount to the General Revenue Fund.

116 9. For the purposes of this exemption, "business property"  
 117 means new or used property defined as "recovery property" in s.  
 118 168(c) of the Internal Revenue Code of 1954, as amended, except:

119 a. Property classified as 3-year property under s.  
 120 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended.†

121 b. Industrial machinery and equipment as defined in sub-  
 122 subparagraph (b)6.a. and eligible for exemption under paragraph  
 123 (b)†

124 c. Building materials as defined in sub-subparagraph  
 125 (g)8.a.† and

126 ~~d. Business property having a sales price of under \$5,000~~  
 127 ~~per unit.~~

128 10. This paragraph expires on the date specified in s.  
 129 290.016 for the expiration of the Florida Enterprise Zone Act.  
 130 Section 2. This act shall take effect July 1, 2007.