

1 A bill to be entitled
2 An act relating to review of exemptions and exclusions
3 from the tax on sales, use, and other transactions;
4 requiring the Senate and House of Representatives to
5 appoint a Joint Legislative Review Committee to
6 oversee the review of exemptions from the tax on
7 sales, use, and other transactions and make
8 recommendations regarding the review; creating s.
9 11.9035, F.S.; providing a short title; providing
10 responsibilities of the Joint Legislative Review
11 Committee for the purpose of reviewing exemptions from
12 the general state sales and use tax and exclusions of
13 sales of services from such taxation; providing for
14 meetings and governance by joint rules; providing
15 definitions; specifying powers and duties; providing
16 for reports; requiring continuing periodic review of
17 sales tax exemptions and exclusions; providing for
18 legislative proposals; amending s. 212.08, F.S.;
19 providing for future elimination of all sales, rental,
20 use, consumption, distribution, and storage tax
21 exemptions under the section except those for general
22 groceries, medical, guide dogs for the blind, hospital
23 meals and rooms, household fuels, meals delivered by
24 nonprofit volunteer organizations as a charitable
25 function, and certain books, lunches, and publications
26 used or provided at schools for students grades K
27 through 12; repealing s. 212.051, F.S., relating to
28 exemption for equipment, machinery, and other

29 materials for pollution control; repealing s. 212.052,
 30 F.S., relating to exemption for research or
 31 development costs; repealing s. 212.0598, F.S.,
 32 relating to partial exemption for air carriers'
 33 maintenance bases; repealing s. 212.0602, F.S.,
 34 relating to a limited exemption for education;
 35 repealing s. 212.0801, F.S., relating to an exemption
 36 for qualified aircraft; repealing s. 212.0821, F.S.,
 37 relating to legislative intent that political
 38 subdivisions and public libraries use sales tax
 39 exemption certificates for certain purchases;
 40 repealing s. 212.09, F.S., relating to trade-ins
 41 deducted; repealing s. 212.096, F.S., relating to
 42 credit for job creation in enterprise zones; repealing
 43 s. 212.097, F.S., relating to Urban High Crime area
 44 job tax credit; repealing s. 212.098, F.S., relating
 45 to rural job tax credit; providing for future repeal
 46 of certain provisions of ss. 212.02, 212.03, 212.031,
 47 212.04, 212.05, 212.0506, 212.06, 212.0601, 212.07,
 48 212.081, 212.12, 212.20, and 376.75, F.S., relating to
 49 various sales and use tax exemptions, exclusions, and
 50 credits; providing exceptions; providing effective
 51 dates.

52
 53 WHEREAS, Florida's current budget difficulties require the
 54 state to consider innovative solutions in addressing the long-
 55 term viability of the state's tax structure, and

HB 907

2012

56 WHEREAS, the state's tax structure should treat individuals
 57 fairly and equitably, imposing similar tax burdens on people in
 58 similar circumstances, and

59 WHEREAS, exemptions to the state's sales tax should serve
 60 an important state interest and should be uniform in the effect
 61 on citizens of the state, and

62 WHEREAS, the Legislature finds that a periodic sunset and
 63 review of all sales tax exemptions will serve to restore
 64 fairness to the state's tax structure, NOW, THEREFORE,

65
 66 Be It Enacted by the Legislature of the State of Florida:

67
 68 Section 1. The Senate and the House of Representatives
 69 shall appoint a Joint Legislative Review Committee for the
 70 purposes of overseeing the review of exemptions from the tax on
 71 sales, use, and other transactions required by s. 11.9035,
 72 Florida Statutes, and making recommendations to the Legislature
 73 regarding the review of exemptions.

74 Section 2. Section 11.9035, Florida Statutes, is created
 75 to read:

76 11.9035 Sales and use tax exemption and exclusion review.—

77 (1) SHORT TITLE.—This section may be cited as the "Florida
 78 Sales Tax Fairness Restoration Act."

79 (2) SALES TAX EXEMPTIONS REVIEW.—The Joint Legislative
 80 Review Committee shall conduct comprehensive, periodic reviews
 81 of all exemptions from the general state sales and use tax and
 82 exclusions of sales of services from such taxation as provided
 83 by this section.

84 (3) PROCEDURES.—The committee for each review cycle shall
85 have its initial meeting no later than September 1, 2012, and
86 thereafter as necessary at the call of the chair at the time and
87 place designated by the chair. A quorum shall consist of a
88 majority of the committee members from each house. During the
89 interim between regular sessions, the committee may conduct its
90 meetings through teleconferences or other similar means.

91 (4) RULES.—For purposes of this section, the committee
92 shall be governed by joint rules adopted by the Legislature
93 pursuant to the authority to adopt rules under s. 4, Art. III of
94 the State Constitution.

95 (5) DEFINITIONS.—As used in this section, the term:

96 (a) "General state sales and use tax" means the sales and
97 use tax imposed under chapter 212.

98 (b) "Service" means a service within any of the following
99 service categories under the North American Industry
100 Classification System (NAICS):

- 101 1. Personal services.
- 102 2. Professional services.
- 103 3. Business services.
- 104 4. Financial services.
- 105 5. Media services.
- 106 6. Entertainment and sports services.
- 107 7. Construction services.
- 108 8. Institutional services.
- 109 9. Transportation services.
- 110 10. Health services.

HB 907

2012

111 (6) POWERS AND DUTIES.—The committee shall have the power
112 and duty to conduct a comprehensive review of all current and
113 future exemptions from the general state sales and use tax and
114 the exclusion of sales of services from such taxation. The
115 committee shall establish criteria by which each exemption or
116 exclusion shall be evaluated. In developing the evaluation
117 criteria, the committee shall consider the following principles
118 of taxation:

119 (a) Equity.—The tax system should treat individuals
120 equitably. It should impose similar tax burdens on people in
121 similar circumstances and should minimize regressivity.

122 (b) Simplicity, transparency, and compliance.—The tax
123 system should facilitate taxpayer compliance. It should be
124 simple and easy to understand and should provide visibility and
125 awareness of the taxes being paid.

126 (c) Neutrality.—The tax system should affect taxpayers
127 uniformly and consistently. The primary purpose of any tax
128 should be to raise revenue for appropriate governmental
129 functions, rather than to influence business and personal
130 decisions.

131 (d) Stability.—The tax system should produce revenues in a
132 stable and reliable manner that is sufficient to fund
133 appropriate governmental functions and expenditures.

134 (e) Integration.—The tax system should balance the need
135 for integration of federal, state, and local taxation.

136 (f) Public purpose.—Any sales and use tax exemption or
137 exclusion under the tax system should be based upon a
138 determination that the exemption or exclusion promotes an

HB 907

2012

139 important state interest and should benefit citizens as equally
140 as possible.

141 (7) FINDINGS AND RECOMMENDATIONS.—In conducting its review
142 of each exemption from the general state sales and use tax or
143 the exclusion of the sale of a service from such taxation, the
144 committee shall make findings of fact and recommend whether the
145 exemption should be retained, modified, or repealed or whether
146 the exclusion should be retained or eliminated. Each
147 recommendation must be made by majority vote of the committee
148 members from each house. If a majority vote of the committee
149 members from each house cannot be achieved, the committee must
150 recommend that the exemption or exclusion be repealed. The
151 findings of fact and recommendations of the committee shall be
152 made by reports to the President of the Senate and the Speaker
153 of the House of Representatives.

154 (8) EXEMPTIONS AND EXCLUSIONS REVIEW.—

155 (a) The committee may use its discretion in determining
156 the order in which it reviews the exemptions and exclusions. For
157 the initial review, the committee shall submit, to the President
158 of the Senate and the Speaker of the House of Representatives,
159 its initial report on one-third of the exemptions and exclusions
160 by November 1, 2012, its report on the second one-third of the
161 exemptions and exclusions by March 1, 2013, and its report on
162 the final one-third of the exemptions and exclusions by July 1,
163 2013, with no duplication of exemptions or exclusions from one
164 report to the next. Thereafter, the committee shall review every
165 3 years approximately one-third of the exemptions and exclusions
166 with no duplication of exemptions or exclusions reviewed from

HB 907

2012

167 one 3-year period to the next 3-year period. The committee shall
168 submit its 3-year period review reports no later than December 1
169 of the year before the next regular session after the third year
170 of each 3-year review cycle. The committee shall begin a new 9-
171 year review cycle of all exemptions from the general state sales
172 and use tax and all exclusions of sales of services from such
173 taxation every 9 years after the termination of the previous
174 review cycle.

175 (b) Notwithstanding the provisions of this section,
176 exemptions and exclusions for necessities, including, but not
177 limited to, exemptions for general groceries as described in s.
178 212.08(1), exemptions for medical products or supplies as
179 described in s. 212.08(2), health services, residential housing,
180 residential electricity, and home heating fuel, and sales of
181 property or services that the state is prohibited from taxing
182 under the Constitution or laws of the United States may not be
183 subject to review by the committee or repeal in legislation
184 proposed by the committee.

185 (9) LEGISLATION.—At the regular session after submission
186 of each annual report to the Speaker of the House of
187 Representatives and the President of the Senate, the committee
188 shall introduce in both houses of the Legislature bills
189 presenting for reenactment, modification, or repeal those
190 exemptions from the general state sales and use tax or any
191 imposition of such taxation on sales of services that were
192 recommended by the committee in the report submitted immediately
193 before the session in which introduced. Each bill introduced
194 must be restricted to a single exemption or the imposition of

HB 907

2012

195 the tax on a single service and must be submitted to a vote of
 196 the members of each house of the Legislature no later than the
 197 eighth week of the session in which introduced, unless the
 198 substance of the bill has already been voted on by the members
 199 of that house of the Legislature in another bill during that
 200 session and either passed or defeated or the bill has already
 201 been submitted to the members of the other house and has been
 202 defeated.

203 (10) REPEAL.—Any exemption from the state general sales
 204 and use tax or exemption from imposition of such tax on sales of
 205 services, that is not prohibited from review by the committee
 206 under the requirements of paragraph (8) (b) and is not modified
 207 or reenacted by the end of the regular session after any 9-year
 208 review period, stands repealed on July 1 after the end of the
 209 regular session immediately after the 9-year review period.

210 (11) CONSTRUCTION.—This section does not preclude a
 211 legislator from filing for any legislative session a bill
 212 proposing to modify, repeal, or enact any exemption from the
 213 general state sales and use tax or the imposition of such
 214 taxation on the sales of any service.

215 Section 3. Effective July 1, 2015, section 212.08, Florida
 216 Statutes, is amended to read:

217 212.08 Sales, rental, use, consumption, distribution, and
 218 storage tax; specified exemptions.—The sale at retail, the
 219 rental, the use, the consumption, the distribution, and the
 220 storage to be used or consumed in this state of the following
 221 are hereby specifically exempt from the tax imposed by this
 222 chapter.

223 (1) EXEMPTIONS; GENERAL GROCERIES.—

224 (a) Food products for human consumption are exempt from
225 the tax imposed by this chapter.

226 (b) For the purpose of this chapter, as used in this
227 subsection, the term "food products" means edible commodities,
228 whether processed, cooked, raw, canned, or in any other form,
229 which are generally regarded as food. This includes, but is not
230 limited to, all of the following:

231 1. Cereals and cereal products, baked goods,
232 oleomargarine, meat and meat products, fish and seafood
233 products, frozen foods and dinners, poultry, eggs and egg
234 products, vegetables and vegetable products, fruit and fruit
235 products, spices, salt, sugar and sugar products, milk and dairy
236 products, and products intended to be mixed with milk.

237 2. Natural fruit or vegetable juices or their concentrates
238 or reconstituted natural concentrated fruit or vegetable juices,
239 whether frozen or unfrozen, dehydrated, powdered, granulated,
240 sweetened or unsweetened, seasoned with salt or spice, or
241 unseasoned; coffee, coffee substitutes, or cocoa; and tea,
242 unless it is sold in a liquid form.

243 3. Bakery products sold by bakeries, pastry shops, or like
244 establishments that do not have eating facilities.

245 (c) The exemption provided by this subsection does not
246 apply to:

247 1. Food products sold as meals for consumption on or off
248 the premises of the dealer.

249 2. Food products furnished, prepared, or served for
250 consumption at tables, chairs, or counters or from trays,

HB 907

2012

251 glasses, dishes, or other tableware, whether provided by the
252 dealer or by a person with whom the dealer contracts to furnish,
253 prepare, or serve food products to others.

254 3. Food products ordinarily sold for immediate consumption
255 on the seller's premises or near a location at which parking
256 facilities are provided primarily for the use of patrons in
257 consuming the products purchased at the location, even though
258 such products are sold on a "take out" or "to go" order and are
259 actually packaged or wrapped and taken from the premises of the
260 dealer.

261 4. Sandwiches sold ready for immediate consumption on or
262 off the seller's premises.

263 5. Food products sold ready for immediate consumption
264 within a place, the entrance to which is subject to an admission
265 charge.

266 6. Food products sold as hot prepared food products.

267 7. Soft drinks, including, but not limited to, any
268 nonalcoholic beverage, any preparation or beverage commonly
269 referred to as a "soft drink," or any noncarbonated drink made
270 from milk derivatives or tea, if sold in cans or similar
271 containers.

272 8. Ice cream, frozen yogurt, and similar frozen dairy or
273 nondairy products in cones, small cups, or pints, popsicles,
274 frozen fruit bars, or other novelty items, whether or not sold
275 separately.

276 9. Food that is prepared, whether on or off the premises,
277 and sold for immediate consumption. This does not apply to food
278 prepared off the premises and sold in the original sealed

279 container, or the slicing of products into smaller portions.

280 10. Food products sold through a vending machine,
281 pushcart, motor vehicle, or any other form of vehicle.

282 11. Candy and any similar product regarded as candy or
283 confection, based on its normal use, as indicated on the label
284 or advertising thereof.

285 12. Bakery products sold by bakeries, pastry shops, or
286 like establishments having eating facilities, except when sold
287 for consumption off the seller's premises.

288 13. Food products served, prepared, or sold in or by
289 restaurants, lunch counters, cafeterias, hotels, taverns, or
290 other like places of business.

291 (d) As used in this subsection, the term:

292 1. "For consumption off the seller's premises" means that
293 the food or drink is intended by the customer to be consumed at
294 a place away from the dealer's premises.

295 2. "For consumption on the seller's premises" means that
296 the food or drink sold may be immediately consumed on the
297 premises where the dealer conducts his or her business. In
298 determining whether an item of food is sold for immediate
299 consumption, the customary consumption practices prevailing at
300 the selling facility shall be considered.

301 3. "Premises" shall be construed broadly, and means, but
302 is not limited to, the lobby, aisle, or auditorium of a theater;
303 the seating, aisle, or parking area of an arena, rink, or
304 stadium; or the parking area of a drive-in or outdoor theater.
305 The premises of a caterer with respect to catered meals or
306 beverages shall be the place where such meals or beverages are

HB 907

2012

307 served.

308 4. "Hot prepared food products" means those products,
309 items, or components which have been prepared for sale in a
310 heated condition and which are sold at any temperature that is
311 higher than the air temperature of the room or place where they
312 are sold. "Hot prepared food products," for the purposes of this
313 subsection, includes a combination of hot and cold food items or
314 components where a single price has been established for the
315 combination and the food products are sold in such combination,
316 such as a hot meal, a hot specialty dish or serving, or a hot
317 sandwich or hot pizza, including cold components or side items.

318 (e)1. Food or drinks not exempt under paragraphs (a), (b),
319 (c), and (d) are exempt, notwithstanding those paragraphs, when
320 purchased with food coupons or Special Supplemental Food Program
321 for Women, Infants, and Children vouchers issued under authority
322 of federal law.

323 2. This paragraph is effective only while federal law
324 prohibits a state's participation in the federal food coupon
325 program or Special Supplemental Food Program for Women, Infants,
326 and Children if there is an official determination that state or
327 local sales taxes are collected within that state on purchases
328 of food or drinks with such coupons.

329 3. This paragraph shall not apply to any food or drinks on
330 which federal law shall permit sales taxes without penalty, such
331 as termination of the state's participation.

332 (f) The application of the tax on a package that contains
333 exempt food products and taxable nonfood products depends upon
334 the essential character of the complete package.

HB 907

2012

335 1. If the taxable items represent more than 25 percent of
336 the cost of the complete package and a single charge is made,
337 the entire sales price of the package is taxable. If the taxable
338 items are separately stated, the separate charge for the taxable
339 items is subject to tax.

340 2. If the taxable items represent 25 percent or less of
341 the cost of the complete package and a single charge is made,
342 the entire sales price of the package is exempt from tax. The
343 person preparing the package is liable for the tax on the cost
344 of the taxable items going into the complete package. If the
345 taxable items are separately stated, the separate charge is
346 subject to tax.

347 (2) EXEMPTIONS; MEDICAL.—

348 (a) There shall be exempt from the tax imposed by this
349 chapter any medical products and supplies or medicine dispensed
350 according to an individual prescription or prescriptions written
351 by a prescriber authorized by law to prescribe medicinal drugs;
352 hypodermic needles; hypodermic syringes; chemical compounds and
353 test kits used for the diagnosis or treatment of human disease,
354 illness, or injury; and common household remedies recommended
355 and generally sold for internal or external use in the cure,
356 mitigation, treatment, or prevention of illness or disease in
357 human beings, but not including cosmetics or toilet articles,
358 notwithstanding the presence of medicinal ingredients therein,
359 according to a list prescribed and approved by the Department of
360 Health, which list shall be certified to the Department of
361 Revenue from time to time and included in the rules promulgated
362 by the Department of Revenue. There shall also be exempt from

363 the tax imposed by this chapter artificial eyes and limbs;
 364 orthopedic shoes; prescription eyeglasses and items incidental
 365 thereto or which become a part thereof; dentures; hearing aids;
 366 crutches; prosthetic and orthopedic appliances; and funerals. In
 367 addition, any items intended for one-time use which transfer
 368 essential optical characteristics to contact lenses shall be
 369 exempt from the tax imposed by this chapter; however, this
 370 exemption shall apply only after \$100,000 of the tax imposed by
 371 this chapter on such items has been paid in any calendar year by
 372 a taxpayer who claims the exemption in such year. Funeral
 373 directors shall pay tax on all tangible personal property used
 374 by them in their business.

375 (b) For the purposes of this subsection:

376 1. "Prosthetic and orthopedic appliances" means any
 377 apparatus, instrument, device, or equipment used to replace or
 378 substitute for any missing part of the body, to alleviate the
 379 malfunction of any part of the body, or to assist any disabled
 380 person in leading a normal life by facilitating such person's
 381 mobility. Such apparatus, instrument, device, or equipment shall
 382 be exempted according to an individual prescription or
 383 prescriptions written by a physician licensed under chapter 458,
 384 chapter 459, chapter 460, chapter 461, or chapter 466, or
 385 according to a list prescribed and approved by the Department of
 386 Health, which list shall be certified to the Department of
 387 Revenue from time to time and included in the rules promulgated
 388 by the Department of Revenue.

389 2. "Cosmetics" means articles intended to be rubbed,
 390 poured, sprinkled, or sprayed on, introduced into, or otherwise

HB 907

2012

391 applied to the human body for cleansing, beautifying, promoting
392 attractiveness, or altering the appearance and also means
393 articles intended for use as a compound of any such articles,
394 including, but not limited to, cold creams, suntan lotions,
395 makeup, and body lotions.

396 3. "Toilet articles" means any article advertised or held
397 out for sale for grooming purposes and those articles that are
398 customarily used for grooming purposes, regardless of the name
399 by which they may be known, including, but not limited to, soap,
400 toothpaste, hair spray, shaving products, colognes, perfumes,
401 shampoo, deodorant, and mouthwash.

402 4. "Prescription" includes any order for drugs or
403 medicinal supplies written or transmitted by any means of
404 communication by a duly licensed practitioner authorized by the
405 laws of the state to prescribe such drugs or medicinal supplies
406 and intended to be dispensed by a pharmacist. The term also
407 includes an orally transmitted order by the lawfully designated
408 agent of such practitioner. The term also includes an order
409 written or transmitted by a practitioner licensed to practice in
410 a jurisdiction other than this state, but only if the pharmacist
411 called upon to dispense such order determines, in the exercise
412 of his or her professional judgment, that the order is valid and
413 necessary for the treatment of a chronic or recurrent illness.
414 The term also includes a pharmacist's order for a product
415 selected from the formulary created pursuant to s. 465.186. A
416 prescription may be retained in written form, or the pharmacist
417 may cause it to be recorded in a data processing system,
418 provided that such order can be produced in printed form upon

419 lawful request.

420 (c) Chlorine shall not be exempt from the tax imposed by
 421 this chapter when used for the treatment of water in swimming
 422 pools.

423 (d) Lithotripters are exempt.

424 (e) Human organs are exempt.

425 (f) Sales of drugs to or by physicians, dentists,
 426 veterinarians, and hospitals in connection with medical
 427 treatment are exempt.

428 (g) Medical products and supplies used in the cure,
 429 mitigation, alleviation, prevention, or treatment of injury,
 430 disease, or incapacity which are temporarily or permanently
 431 incorporated into a patient or client by a practitioner of the
 432 healing arts licensed in the state are exempt.

433 (h) The purchase by a veterinarian of commonly recognized
 434 substances possessing curative or remedial properties which are
 435 ordered and dispensed as treatment for a diagnosed health
 436 disorder by or on the prescription of a duly licensed
 437 veterinarian, and which are applied to or consumed by animals
 438 for alleviation of pain or the cure or prevention of sickness,
 439 disease, or suffering are exempt. Also exempt are the purchase
 440 by a veterinarian of antiseptics, absorbent cotton, gauze for
 441 bandages, lotions, vitamins, and worm remedies.

442 (i) X-ray opaques, also known as opaque drugs and
 443 radiopaque, such as the various opaque dyes and barium sulphate,
 444 when used in connection with medical X rays for treatment of
 445 bodies of humans and animals, are exempt.

446 (j) Parts, special attachments, special lettering, and

447 other like items that are added to or attached to tangible
 448 personal property so that a handicapped person can use them are
 449 exempt when such items are purchased by a person pursuant to an
 450 individual prescription.

451 (k) This subsection shall be strictly construed and
 452 enforced.

453 ~~(3) EXEMPTIONS; CERTAIN FARM EQUIPMENT. There shall be no~~
 454 ~~tax on the sale, rental, lease, use, consumption, or storage for~~
 455 ~~use in this state of power farm equipment used exclusively on a~~
 456 ~~farm or in a forest in the agricultural production of crops or~~
 457 ~~products as produced by those agricultural industries included~~
 458 ~~in s. 570.02(1), or for fire prevention and suppression work~~
 459 ~~with respect to such crops or products. Harvesting may not be~~
 460 ~~construed to include processing activities. This exemption is~~
 461 ~~not forfeited by moving farm equipment between farms or forests.~~
 462 ~~However, this exemption shall not be allowed unless the~~
 463 ~~purchaser, renter, or lessee signs a certificate stating that~~
 464 ~~the farm equipment is to be used exclusively on a farm or in a~~
 465 ~~forest for agricultural production or for fire prevention and~~
 466 ~~suppression, as required by this subsection. Possession by a~~
 467 ~~seller, lessor, or other dealer of a written certification by~~
 468 ~~the purchaser, renter, or lessee certifying the purchaser's,~~
 469 ~~renter's, or lessee's entitlement to an exemption permitted by~~
 470 ~~this subsection relieves the seller from the responsibility of~~
 471 ~~collecting the tax on the nontaxable amounts, and the department~~
 472 ~~shall look solely to the purchaser for recovery of such tax if~~
 473 ~~it determines that the purchaser was not entitled to the~~
 474 ~~exemption.~~

475 ~~(4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES, ETC.~~
 476 ~~(a) Also exempt are:~~
 477 ~~1. Water delivered to the purchaser through pipes or~~
 478 ~~conduits or delivered for irrigation purposes. The sale of~~
 479 ~~drinking water in bottles, cans, or other containers, including~~
 480 ~~water that contains minerals or carbonation in its natural state~~
 481 ~~or water to which minerals have been added at a water treatment~~
 482 ~~facility regulated by the Department of Environmental Protection~~
 483 ~~or the Department of Health, is exempt. This exemption does not~~
 484 ~~apply to the sale of drinking water in bottles, cans, or other~~
 485 ~~containers if carbonation or flavorings, except those added at a~~
 486 ~~water treatment facility, have been added. Water that has been~~
 487 ~~enhanced by the addition of minerals and that does not contain~~
 488 ~~any added carbonation or flavorings is also exempt.~~
 489 ~~2. All fuels used by a public or private utility,~~
 490 ~~including any municipal corporation or rural electric~~
 491 ~~cooperative association, in the generation of electric power or~~
 492 ~~energy for sale. Fuel other than motor fuel and diesel fuel is~~
 493 ~~taxable as provided in this chapter with the exception of fuel~~
 494 ~~expressly exempt herein. Motor fuels and diesel fuels are~~
 495 ~~taxable as provided in chapter 206, with the exception of those~~
 496 ~~motor fuels and diesel fuels used by railroad locomotives or~~
 497 ~~vessels to transport persons or property in interstate or~~
 498 ~~foreign commerce, which are taxable under this chapter only to~~
 499 ~~the extent provided herein. The basis of the tax shall be the~~
 500 ~~ratio of intrastate mileage to interstate or foreign mileage~~
 501 ~~traveled by the carrier's railroad locomotives or vessels that~~
 502 ~~were used in interstate or foreign commerce and that had at~~

HB 907

2012

503 ~~least some Florida mileage during the previous fiscal year of~~
504 ~~the carrier, such ratio to be determined at the close of the~~
505 ~~fiscal year of the carrier. However, during the fiscal year in~~
506 ~~which the carrier begins its initial operations in this state,~~
507 ~~the carrier's mileage apportionment factor may be determined on~~
508 ~~the basis of an estimated ratio of anticipated miles in this~~
509 ~~state to anticipated total miles for that year, and~~
510 ~~subsequently, additional tax shall be paid on the motor fuel and~~
511 ~~diesel fuels, or a refund may be applied for, on the basis of~~
512 ~~the actual ratio of the carrier's railroad locomotives' or~~
513 ~~vessels' miles in this state to its total miles for that year.~~
514 ~~This ratio shall be applied each month to the total Florida~~
515 ~~purchases made in this state of motor and diesel fuels to~~
516 ~~establish that portion of the total used and consumed in~~
517 ~~intrastate movement and subject to tax under this chapter. The~~
518 ~~basis for imposition of any discretionary surtax shall be set~~
519 ~~forth in s. 212.054. Fuels used exclusively in intrastate~~
520 ~~commerce do not qualify for the proration of tax.~~

521 ~~3. The transmission or wheeling of electricity.~~
522 ~~(b) Alcoholic beverages and malt beverages are not exempt.~~
523 ~~The terms "alcoholic beverages" and "malt beverages" as used in~~
524 ~~this paragraph have the same meanings ascribed to them in ss.~~
525 ~~561.01(4) and 563.01, respectively. It is determined by the~~
526 ~~Legislature that the classification of alcoholic beverages made~~
527 ~~in this paragraph for the purpose of extending the tax imposed~~
528 ~~by this chapter is reasonable and just, and it is intended that~~
529 ~~such tax be separate from, and in addition to, any other tax~~
530 ~~imposed on alcoholic beverages.~~

HB 907

2012

531 ~~(5) EXEMPTIONS; ACCOUNT OF USE.~~

532 ~~(a) Items in agricultural use and certain nets. There are~~
533 ~~exempt from the tax imposed by this chapter nets designed and~~
534 ~~used exclusively by commercial fisheries; disinfectants,~~
535 ~~fertilizers, insecticides, pesticides, herbicides, fungicides,~~
536 ~~and weed killers used for application on crops or groves,~~
537 ~~including commercial nurseries and home vegetable gardens, used~~
538 ~~in dairy barns or on poultry farms for the purpose of protecting~~
539 ~~poultry or livestock, or used directly on poultry or livestock,~~
540 ~~portable containers or movable receptacles in which portable~~
541 ~~containers are placed, used for processing farm products; field~~
542 ~~and garden seeds, including flower seeds; nursery stock,~~
543 ~~seedlings, cuttings, or other propagative material purchased for~~
544 ~~growing stock; seeds, seedlings, cuttings, and plants used to~~
545 ~~produce food for human consumption; cloth, plastic, and other~~
546 ~~similar materials used for shade, mulch, or protection from~~
547 ~~frost or insects on a farm; generators used on poultry farms;~~
548 ~~and liquefied petroleum gas or other fuel used to heat a~~
549 ~~structure in which started pullets or broilers are raised;~~
550 ~~however, such exemption shall not be allowed unless the~~
551 ~~purchaser or lessee signs a certificate stating that the item to~~
552 ~~be exempted is for the exclusive use designated herein. Also~~
553 ~~exempt are cellophane wrappers, glue for tin and glass~~
554 ~~(apiarists), mailing cases for honey, shipping cases, window~~
555 ~~cartons, and baling wire and twine used for baling hay, when~~
556 ~~used by a farmer to contain, produce, or process an agricultural~~
557 ~~commodity.~~

558 ~~(b) Machinery and equipment used to increase productive~~

HB 907

2012

559 ~~output.~~

560 ~~1. Industrial machinery and equipment purchased for~~
561 ~~exclusive use by a new business in spaceport activities as~~
562 ~~defined by s. 212.02 or for use in new businesses that~~
563 ~~manufacture, process, compound, or produce for sale items of~~
564 ~~tangible personal property at fixed locations are exempt from~~
565 ~~the tax imposed by this chapter upon an affirmative showing by~~
566 ~~the taxpayer to the satisfaction of the department that such~~
567 ~~items are used in a new business in this state. Such purchases~~
568 ~~must be made prior to the date the business first begins its~~
569 ~~productive operations, and delivery of the purchased item must~~
570 ~~be made within 12 months after that date.~~

571 ~~2. Industrial machinery and equipment purchased for~~
572 ~~exclusive use by an expanding facility which is engaged in~~
573 ~~spaceport activities as defined by s. 212.02 or for use in~~
574 ~~expanding manufacturing facilities or plant units which~~
575 ~~manufacture, process, compound, or produce for sale items of~~
576 ~~tangible personal property at fixed locations in this state are~~
577 ~~exempt from any amount of tax imposed by this chapter upon an~~
578 ~~affirmative showing by the taxpayer to the satisfaction of the~~
579 ~~department that such items are used to increase the productive~~
580 ~~output of such expanded facility or business by not less than 10~~
581 ~~percent.~~

582 ~~3.a. To receive an exemption provided by subparagraph 1.~~
583 ~~or subparagraph 2., a qualifying business entity shall apply to~~
584 ~~the department for a temporary tax exemption permit. The~~
585 ~~application shall state that a new business exemption or~~
586 ~~expanded business exemption is being sought. Upon a tentative~~

HB 907

2012

587 ~~affirmative determination by the department pursuant to~~
588 ~~subparagraph 1. or subparagraph 2., the department shall issue~~
589 ~~such permit.~~

590 ~~b. The applicant shall maintain all necessary books and~~
591 ~~records to support the exemption. Upon completion of purchases~~
592 ~~of qualified machinery and equipment pursuant to subparagraph 1.~~
593 ~~or subparagraph 2., the temporary tax permit shall be delivered~~
594 ~~to the department or returned to the department by certified or~~
595 ~~registered mail.~~

596 ~~e. If, in a subsequent audit conducted by the department,~~
597 ~~it is determined that the machinery and equipment purchased as~~
598 ~~exempt under subparagraph 1. or subparagraph 2. did not meet the~~
599 ~~criteria mandated by this paragraph or if commencement of~~
600 ~~production did not occur, the amount of taxes exempted at the~~
601 ~~time of purchase shall immediately be due and payable to the~~
602 ~~department by the business entity, together with the appropriate~~
603 ~~interest and penalty, computed from the date of purchase, in the~~
604 ~~manner prescribed by this chapter.~~

605 ~~d. If a qualifying business entity fails to apply for a~~
606 ~~temporary exemption permit or if the tentative determination by~~
607 ~~the department required to obtain a temporary exemption permit~~
608 ~~is negative, a qualifying business entity shall receive the~~
609 ~~exemption provided in subparagraph 1. or subparagraph 2. through~~
610 ~~a refund of previously paid taxes. No refund may be made for~~
611 ~~such taxes unless the criteria mandated by subparagraph 1. or~~
612 ~~subparagraph 2. have been met and commencement of production has~~
613 ~~occurred.~~

614 ~~4. The department shall adopt rules governing applications~~

HB 907

2012

615 ~~for, issuance of, and the form of temporary tax exemption~~
616 ~~permits; provisions for recapture of taxes; and the manner and~~
617 ~~form of refund applications, and may establish guidelines as to~~
618 ~~the requisites for an affirmative showing of increased~~
619 ~~productive output, commencement of production, and qualification~~
620 ~~for exemption.~~

621 ~~5. The exemptions provided in subparagraphs 1. and 2. do~~
622 ~~not apply to machinery or equipment purchased or used by~~
623 ~~electric utility companies, communications companies, oil or gas~~
624 ~~exploration or production operations, publishing firms that do~~
625 ~~not export at least 50 percent of their finished product out of~~
626 ~~the state, any firm subject to regulation by the Division of~~
627 ~~Hotels and Restaurants of the Department of Business and~~
628 ~~Professional Regulation, or any firm that does not manufacture,~~
629 ~~process, compound, or produce for sale items of tangible~~
630 ~~personal property or that does not use such machinery and~~
631 ~~equipment in spaceport activities as required by this paragraph.~~
632 ~~The exemptions provided in subparagraphs 1. and 2. shall apply~~
633 ~~to machinery and equipment purchased for use in phosphate or~~
634 ~~other solid minerals severance, mining, or processing~~
635 ~~operations.~~

636 ~~6. For the purposes of the exemptions provided in~~
637 ~~subparagraphs 1. and 2., these terms have the following~~
638 ~~meanings:~~

639 ~~a. "Industrial machinery and equipment" means tangible~~
640 ~~personal property or other property that has a depreciable life~~
641 ~~of 3 years or more and that is used as an integral part in the~~
642 ~~manufacturing, processing, compounding, or production of~~

HB 907

2012

643 ~~tangible personal property for sale or is exclusively used in~~
644 ~~spaceport activities. A building and its structural components~~
645 ~~are not industrial machinery and equipment unless the building~~
646 ~~or structural component is so closely related to the industrial~~
647 ~~machinery and equipment that it houses or supports that the~~
648 ~~building or structural component can be expected to be replaced~~
649 ~~when the machinery and equipment are replaced. Heating and air-~~
650 ~~conditioning systems are not industrial machinery and equipment~~
651 ~~unless the sole justification for their installation is to meet~~
652 ~~the requirements of the production process, even though the~~
653 ~~system may provide incidental comfort to employees or serve, to~~
654 ~~an insubstantial degree, nonproduction activities. The term~~
655 ~~includes parts and accessories only to the extent that the~~
656 ~~exemption thereof is consistent with the provisions of this~~
657 ~~paragraph.~~

658 ~~b. "Productive output" means the number of units actually~~
659 ~~produced by a single plant, operation, or product line in a~~
660 ~~single continuous 12-month period, irrespective of sales.~~
661 ~~Increases in productive output shall be measured by the output~~
662 ~~for 12 continuous months selected by the expanding business~~
663 ~~following the completion of installation of such machinery or~~
664 ~~equipment over the output for the 12 continuous months~~
665 ~~immediately preceding such installation. However, in no case may~~
666 ~~such time period begin later than 2 years following the~~
667 ~~completion of installation of the new machinery and equipment.~~
668 ~~The units used to measure productive output shall be physically~~
669 ~~comparable between the two periods, irrespective of sales.~~

670 ~~(c) Machinery and equipment used in production of~~

671 ~~electrical or steam energy.~~

672 ~~1. The purchase of machinery and equipment for use at a~~
673 ~~fixed location which machinery and equipment are necessary in~~
674 ~~the production of electrical or steam energy resulting from the~~
675 ~~burning of boiler fuels other than residual oil is exempt from~~
676 ~~the tax imposed by this chapter. Such electrical or steam energy~~
677 ~~must be primarily for use in manufacturing, processing,~~
678 ~~compounding, or producing for sale items of tangible personal~~
679 ~~property in this state. Use of a de minimis amount of residual~~
680 ~~fuel to facilitate the burning of nonresidual fuel shall not~~
681 ~~reduce the exemption otherwise available under this paragraph.~~

682 ~~2. In facilities where machinery and equipment are~~
683 ~~necessary to burn both residual and nonresidual fuels, the~~
684 ~~exemption shall be prorated. Such proration shall be based upon~~
685 ~~the production of electrical or steam energy from nonresidual~~
686 ~~fuels as a percentage of electrical or steam energy from all~~
687 ~~fuels. If it is determined that 15 percent or less of all~~
688 ~~electrical or steam energy generated was produced by burning~~
689 ~~residual fuel, the full exemption shall apply. Purchasers~~
690 ~~claiming a partial exemption shall obtain such exemption by~~
691 ~~refund of taxes paid, or as otherwise provided in the~~
692 ~~department's rules.~~

693 ~~3. The department may adopt rules that provide for~~
694 ~~implementation of this exemption. Purchasers of machinery and~~
695 ~~equipment qualifying for the exemption provided in this~~
696 ~~paragraph shall furnish the vendor with an affidavit stating~~
697 ~~that the item or items to be exempted are for the use designated~~
698 ~~herein. Any person furnishing a false affidavit to the vendor~~

HB 907

2012

699 ~~for the purpose of evading payment of any tax imposed under this~~
700 ~~chapter shall be subject to the penalty set forth in s. 212.085~~
701 ~~and as otherwise provided by law. Purchasers with self-accrual~~
702 ~~authority shall maintain all documentation necessary to prove~~
703 ~~the exempt status of purchases.~~

704 ~~(d) Machinery and equipment used under federal procurement~~
705 ~~contract.—~~

706 ~~1. Industrial machinery and equipment purchased by an~~
707 ~~expanding business which manufactures tangible personal property~~
708 ~~pursuant to federal procurement regulations at fixed locations~~
709 ~~in this state are exempt from the tax imposed in this chapter~~
710 ~~upon an affirmative showing by the taxpayer to the satisfaction~~
711 ~~of the department that such items are used to increase the~~
712 ~~implicit productive output of the expanded business by not less~~
713 ~~than 10 percent. The percentage of increase is measured as~~
714 ~~deflated implicit productive output for the calendar year during~~
715 ~~which the installation of the machinery or equipment is~~
716 ~~completed or during which commencement of production utilizing~~
717 ~~such items is begun divided by the implicit productive output~~
718 ~~for the preceding calendar year. In no case may the commencement~~
719 ~~of production begin later than 2 years following completion of~~
720 ~~installation of the machinery or equipment.~~

721 ~~2. The amount of the exemption allowed shall equal the~~
722 ~~taxes otherwise imposed by this chapter on qualifying industrial~~
723 ~~machinery or equipment reduced by the percentage of gross~~
724 ~~receipts from cost-reimbursement type contracts attributable to~~
725 ~~the plant or operation to total gross receipts so attributable,~~
726 ~~accrued for the year of completion or commencement.~~

HB 907

2012

727 ~~3. The exemption provided by this paragraph shall inure to~~
728 ~~the taxpayer only through refund of previously paid taxes. Such~~
729 ~~refund shall be made within 30 days of formal approval by the~~
730 ~~department of the taxpayer's application, which application may~~
731 ~~be made on an annual basis following installation of the~~
732 ~~machinery or equipment.~~

733 ~~4. For the purposes of this paragraph, the term:~~

734 ~~a. "Cost-reimbursement type contracts" has the same~~
735 ~~meaning as in 32 C.F.R. s. 3-405.~~

736 ~~b. "Deflated implicit productive output" means the product~~
737 ~~of implicit productive output times the quotient of the national~~
738 ~~defense implicit price deflator for the preceding calendar year~~
739 ~~divided by the deflator for the year of completion or~~
740 ~~commencement.~~

741 ~~e. "Eligible costs" means the total direct and indirect~~
742 ~~costs, as defined in 32 C.F.R. ss. 15-202 and 15-203, excluding~~
743 ~~general and administrative costs, selling expenses, and profit,~~
744 ~~defined by the uniform cost-accounting standards adopted by the~~
745 ~~Cost Accounting Standards Board created pursuant to 50 U.S.C. s.~~
746 ~~2168.~~

747 ~~d. "Implicit productive output" means the annual eligible~~
748 ~~costs attributable to all contracts or subcontracts subject to~~
749 ~~federal procurement regulations of the single plant or operation~~
750 ~~at which the machinery or equipment is used.~~

751 ~~e. "Industrial machinery and equipment" means tangible~~
752 ~~personal property or other property that has a depreciable life~~
753 ~~of 3 years or more, that qualifies as an eligible cost under~~
754 ~~federal procurement regulations, and that is used as an integral~~

HB 907

2012

755 ~~part of the process of production of tangible personal property.~~
756 ~~A building and its structural components are not industrial~~
757 ~~machinery and equipment unless the building or structural~~
758 ~~component is so closely related to the industrial machinery and~~
759 ~~equipment that it houses or supports that the building or~~
760 ~~structural component can be expected to be replaced when the~~
761 ~~machinery and equipment are replaced. Heating and air-~~
762 ~~conditioning systems are not industrial machinery and equipment~~
763 ~~unless the sole justification for their installation is to meet~~
764 ~~the requirements of the production process, even though the~~
765 ~~system may provide incidental comfort to employees or serve, to~~
766 ~~an insubstantial degree, nonproduction activities. The term~~
767 ~~includes parts and accessories only to the extent that the~~
768 ~~exemption of such parts and accessories is consistent with the~~
769 ~~provisions of this paragraph.~~

770 ~~f. "National defense implicit price deflator" means the~~
771 ~~national defense implicit price deflator for the gross national~~
772 ~~product as determined by the Bureau of Economic Analysis of the~~
773 ~~United States Department of Commerce.~~

774 ~~5. The exclusions provided in subparagraph (b)5. apply to~~
775 ~~this exemption. This exemption applies only to machinery or~~
776 ~~equipment purchased pursuant to production contracts with the~~
777 ~~United States Department of Defense and Armed Forces, the~~
778 ~~National Aeronautics and Space Administration, and other federal~~
779 ~~agencies for which the contracts are classified for national~~
780 ~~security reasons. In no event shall the provisions of this~~
781 ~~paragraph apply to any expanding business the increase in~~
782 ~~productive output of which could be measured under the~~

783 ~~provisions of sub-subparagraph (b) 6.b. as physically comparable~~
 784 ~~between the two periods.~~

785 ~~(c) Gas or electricity used for certain agricultural~~
 786 ~~purposes.—~~

787 ~~1. Butane gas, propane gas, natural gas, and all other~~
 788 ~~forms of liquefied petroleum gases are exempt from the tax~~
 789 ~~imposed by this chapter if used in any tractor, vehicle, or~~
 790 ~~other farm equipment which is used exclusively on a farm or for~~
 791 ~~processing farm products on the farm and no part of which gas is~~
 792 ~~used in any vehicle or equipment driven or operated on the~~
 793 ~~public highways of this state. This restriction does not apply~~
 794 ~~to the movement of farm vehicles or farm equipment between~~
 795 ~~farms. The transporting of bees by water and the operating of~~
 796 ~~equipment used in the apiary of a beekeeper is also deemed an~~
 797 ~~exempt use.~~

798 ~~2. Electricity used directly or indirectly for production~~
 799 ~~or processing of agricultural products on the farm is exempt~~
 800 ~~from the tax imposed by this chapter. This exemption applies~~
 801 ~~only if the electricity used for the exempt purposes is~~
 802 ~~separately metered. If the electricity is not separately~~
 803 ~~metered, it is conclusively presumed that some portion of the~~
 804 ~~electricity is used for a nonexempt purpose, and all of the~~
 805 ~~electricity used for such purposes is taxable.~~

806 ~~(f) Motion picture or video equipment used in motion~~
 807 ~~picture or television production activities and sound recording~~
 808 ~~equipment used in the production of master tapes and master~~
 809 ~~records.—~~

810 ~~1. Motion picture or video equipment and sound recording~~

HB 907

2012

811 ~~equipment purchased or leased for use in this state in~~
812 ~~production activities is exempt from the tax imposed by this~~
813 ~~chapter. The exemption provided by this paragraph shall inure to~~
814 ~~the taxpayer upon presentation of the certificate of exemption~~
815 ~~issued to the taxpayer under the provisions of s. 288.1258.~~

816 ~~2. For the purpose of the exemption provided in~~
817 ~~subparagraph 1.:~~

818 ~~a. "Motion picture or video equipment" and "sound~~
819 ~~recording equipment" includes only tangible personal property or~~
820 ~~other property that has a depreciable life of 3 years or more~~
821 ~~and that is used by the lessee or purchaser exclusively as an~~
822 ~~integral part of production activities; however, motion picture~~
823 ~~or video equipment and sound recording equipment does not~~
824 ~~include supplies, tape, records, film, or video tape used in~~
825 ~~productions or other similar items; vehicles or vessels; or~~
826 ~~general office equipment not specifically suited to production~~
827 ~~activities. In addition, the term does not include equipment~~
828 ~~purchased or leased by television or radio broadcasting or cable~~
829 ~~companies licensed by the Federal Communications Commission.~~
830 ~~Furthermore, a building and its structural components are not~~
831 ~~motion picture or video equipment and sound recording equipment~~
832 ~~unless the building or structural component is so closely~~
833 ~~related to the motion picture or video equipment and sound~~
834 ~~recording equipment that it houses or supports that the building~~
835 ~~or structural component can be expected to be replaced when the~~
836 ~~motion picture or video equipment and sound recording equipment~~
837 ~~are replaced. Heating and air conditioning systems are not~~
838 ~~motion picture or video equipment and sound recording equipment~~

HB 907

2012

839 ~~unless the sole justification for their installation is to meet~~
840 ~~the requirements of the production activities, even though the~~
841 ~~system may provide incidental comfort to employees or serve, to~~
842 ~~an insubstantial degree, nonproduction activities.~~

843 ~~b. "Production activities" means activities directed~~
844 ~~toward the preparation of a:~~

845 ~~(I) Master tape or master record embodying sound; or~~

846 ~~(II) Motion picture or television production which is~~
847 ~~produced for theatrical, commercial, advertising, or educational~~
848 ~~purposes and utilizes live or animated actions or a combination~~
849 ~~of live and animated actions. The motion picture or television~~
850 ~~production shall be commercially produced for sale or for~~
851 ~~showing on screens or broadcasting on television and may be on~~
852 ~~film or video tape.~~

853 ~~(g) Building materials used in the rehabilitation of real~~
854 ~~property located in an enterprise zone.—~~

855 ~~1. Building materials used in the rehabilitation of real~~
856 ~~property located in an enterprise zone are exempt from the tax~~
857 ~~imposed by this chapter upon an affirmative showing to the~~
858 ~~satisfaction of the department that the items have been used for~~
859 ~~the rehabilitation of real property located in an enterprise~~
860 ~~zone. Except as provided in subparagraph 2., this exemption~~
861 ~~inures to the owner, lessee, or lessor at the time the real~~
862 ~~property is rehabilitated, but only through a refund of~~
863 ~~previously paid taxes. To receive a refund pursuant to this~~
864 ~~paragraph, the owner, lessee, or lessor of the rehabilitated~~
865 ~~real property must file an application under oath with the~~
866 ~~governing body or enterprise zone development agency having~~

HB 907

2012

867 ~~jurisdiction over the enterprise zone where the business is~~
868 ~~located, as applicable. A single application for a refund may be~~
869 ~~submitted for multiple, contiguous parcels that were part of a~~
870 ~~single parcel that was divided as part of the rehabilitation of~~
871 ~~the property. All other requirements of this paragraph apply to~~
872 ~~each parcel on an individual basis. The application must~~
873 ~~include:~~

874 ~~a. The name and address of the person claiming the refund.~~

875 ~~b. An address and assessment roll parcel number of the~~
876 ~~rehabilitated real property for which a refund of previously~~
877 ~~paid taxes is being sought.~~

878 ~~c. A description of the improvements made to accomplish~~
879 ~~the rehabilitation of the real property.~~

880 ~~d. A copy of a valid building permit issued by the county~~
881 ~~or municipal building department for the rehabilitation of the~~
882 ~~real property.~~

883 ~~e. A sworn statement, under penalty of perjury, from the~~
884 ~~general contractor licensed in this state with whom the~~
885 ~~applicant contracted to make the improvements necessary to~~
886 ~~rehabilitate the real property, which lists the building~~
887 ~~materials used to rehabilitate the real property, the actual~~
888 ~~cost of the building materials, and the amount of sales tax paid~~
889 ~~in this state on the building materials. If a general contractor~~
890 ~~was not used, the applicant, not a general contractor, shall~~
891 ~~make the sworn statement required by this sub-subparagraph.~~

892 ~~Copies of the invoices that evidence the purchase of the~~
893 ~~building materials used in the rehabilitation and the payment of~~
894 ~~sales tax on the building materials must be attached to the~~

HB 907

2012

895 ~~sworn statement provided by the general contractor or by the~~
896 ~~applicant. Unless the actual cost of building materials used in~~
897 ~~the rehabilitation of real property and the payment of sales~~
898 ~~taxes is documented by a general contractor or by the applicant~~
899 ~~in this manner, the cost of the building materials is deemed to~~
900 ~~be an amount equal to 40 percent of the increase in assessed~~
901 ~~value for ad valorem tax purposes.~~

902 ~~f. The identifying number assigned pursuant to s. 290.0065~~
903 ~~to the enterprise zone in which the rehabilitated real property~~
904 ~~is located.~~

905 ~~g. A certification by the local building code inspector~~
906 ~~that the improvements necessary to rehabilitate the real~~
907 ~~property are substantially completed.~~

908 ~~h. A statement of whether the business is a small business~~
909 ~~as defined by s. 288.703.~~

910 ~~i. If applicable, the name and address of each permanent~~
911 ~~employee of the business, including, for each employee who is a~~
912 ~~resident of an enterprise zone, the identifying number assigned~~
913 ~~pursuant to s. 290.0065 to the enterprise zone in which the~~
914 ~~employee resides.~~

915 ~~2. This exemption inures to a municipality, county, other~~
916 ~~governmental unit or agency, or nonprofit community-based~~
917 ~~organization through a refund of previously paid taxes if the~~
918 ~~building materials used in the rehabilitation are paid for from~~
919 ~~the funds of a community development block grant, State Housing~~
920 ~~Initiatives Partnership Program, or similar grant or loan~~
921 ~~program. To receive a refund, a municipality, county, other~~
922 ~~governmental unit or agency, or nonprofit community-based~~

HB 907

2012

923 ~~organization must file an application that includes the same~~
924 ~~information required in subparagraph 1. In addition, the~~
925 ~~application must include a sworn statement signed by the chief~~
926 ~~executive officer of the municipality, county, other~~
927 ~~governmental unit or agency, or nonprofit community-based~~
928 ~~organization seeking a refund which states that the building~~
929 ~~materials for which a refund is sought were funded by a~~
930 ~~community development block grant, State Housing Initiatives~~
931 ~~Partnership Program, or similar grant or loan program.~~

932 ~~3. Within 10 working days after receipt of an application,~~
933 ~~the governing body or enterprise zone development agency shall~~
934 ~~review the application to determine if it contains all the~~
935 ~~information required by subparagraph 1. or subparagraph 2. and~~
936 ~~meets the criteria set out in this paragraph. The governing body~~
937 ~~or agency shall certify all applications that contain the~~
938 ~~required information and are eligible to receive a refund. If~~
939 ~~applicable, the governing body or agency shall also certify if~~
940 ~~20 percent of the employees of the business are residents of an~~
941 ~~enterprise zone, excluding temporary and part-time employees.~~
942 ~~The certification must be in writing, and a copy of the~~
943 ~~certification shall be transmitted to the executive director of~~
944 ~~the department. The applicant is responsible for forwarding a~~
945 ~~certified application to the department within the time~~
946 ~~specified in subparagraph 4.~~

947 ~~4. An application for a refund must be submitted to the~~
948 ~~department within 6 months after the rehabilitation of the~~
949 ~~property is deemed to be substantially completed by the local~~
950 ~~building code inspector or by November 1 after the rehabilitated~~

HB 907

2012

951 ~~property is first subject to assessment.~~

952 ~~5. Only one exemption through a refund of previously paid~~
953 ~~taxes for the rehabilitation of real property is permitted for~~
954 ~~any single parcel of property unless there is a change in~~
955 ~~ownership, a new lessor, or a new lessee of the real property. A~~
956 ~~refund may not be granted unless the amount to be refunded~~
957 ~~exceeds \$500. A refund may not exceed the lesser of 97 percent~~
958 ~~of the Florida sales or use tax paid on the cost of the building~~
959 ~~materials used in the rehabilitation of the real property as~~
960 ~~determined pursuant to sub-subparagraph 1.e. or \$5,000, or, if~~
961 ~~at least 20 percent of the employees of the business are~~
962 ~~residents of an enterprise zone, excluding temporary and part-~~
963 ~~time employees, the amount of refund may not exceed the lesser~~
964 ~~of 97 percent of the sales tax paid on the cost of the building~~
965 ~~materials or \$10,000. A refund shall be made within 30 days~~
966 ~~after formal approval by the department of the application for~~
967 ~~the refund.~~

968 ~~6. The department shall adopt rules governing the manner~~
969 ~~and form of refund applications and may establish guidelines as~~
970 ~~to the requisites for an affirmative showing of qualification~~
971 ~~for exemption under this paragraph.~~

972 ~~7. The department shall deduct an amount equal to 10~~
973 ~~percent of each refund granted under this paragraph from the~~
974 ~~amount transferred into the Local Government Half-cent Sales Tax~~
975 ~~Clearing Trust Fund pursuant to s. 212.20 for the county area in~~
976 ~~which the rehabilitated real property is located and shall~~
977 ~~transfer that amount to the General Revenue Fund.~~

978 ~~8. For the purposes of the exemption provided in this~~

979 ~~paragraph, the term:~~

980 a. ~~"Building materials" means tangible personal property~~
 981 ~~that becomes a component part of improvements to real property.~~

982 b. ~~"Real property" has the same meaning as provided in s.~~
 983 ~~192.001(12), except that the term does not include a condominium~~
 984 ~~parcel or condominium property as defined in s. 718.103.~~

985 e. ~~"Rehabilitation of real property" means the~~
 986 ~~reconstruction, renovation, restoration, rehabilitation,~~
 987 ~~construction, or expansion of improvements to real property.~~

988 d. ~~"Substantially completed" has the same meaning as~~
 989 ~~provided in s. 192.042(1).~~

990 9. ~~This paragraph expires on the date specified in s.~~
 991 ~~290.016 for the expiration of the Florida Enterprise Zone Act.~~

992 ~~(h) Business property used in an enterprise zone.—~~

993 1. ~~Business property purchased for use by businesses~~
 994 ~~located in an enterprise zone which is subsequently used in an~~
 995 ~~enterprise zone shall be exempt from the tax imposed by this~~
 996 ~~chapter. This exemption inures to the business only through a~~
 997 ~~refund of previously paid taxes. A refund shall be authorized~~
 998 ~~upon an affirmative showing by the taxpayer to the satisfaction~~
 999 ~~of the department that the requirements of this paragraph have~~
 1000 ~~been met.~~

1001 2. ~~To receive a refund, the business must file under oath~~
 1002 ~~with the governing body or enterprise zone development agency~~
 1003 ~~having jurisdiction over the enterprise zone where the business~~
 1004 ~~is located, as applicable, an application which includes:~~

1005 a. ~~The name and address of the business claiming the~~
 1006 ~~refund.~~

HB 907

2012

1007 ~~b. The identifying number assigned pursuant to s. 290.0065~~
 1008 ~~to the enterprise zone in which the business is located.~~

1009 ~~e. A specific description of the property for which a~~
 1010 ~~refund is sought, including its serial number or other permanent~~
 1011 ~~identification number.~~

1012 ~~d. The location of the property.~~

1013 ~~e. The sales invoice or other proof of purchase of the~~
 1014 ~~property, showing the amount of sales tax paid, the date of~~
 1015 ~~purchase, and the name and address of the sales tax dealer from~~
 1016 ~~whom the property was purchased.~~

1017 ~~f. Whether the business is a small business as defined by~~
 1018 ~~s. 288.703.~~

1019 ~~g. If applicable, the name and address of each permanent~~
 1020 ~~employee of the business, including, for each employee who is a~~
 1021 ~~resident of an enterprise zone, the identifying number assigned~~
 1022 ~~pursuant to s. 290.0065 to the enterprise zone in which the~~
 1023 ~~employee resides.~~

1024 ~~3. Within 10 working days after receipt of an application,~~
 1025 ~~the governing body or enterprise zone development agency shall~~
 1026 ~~review the application to determine if it contains all the~~
 1027 ~~information required pursuant to subparagraph 2. and meets the~~
 1028 ~~criteria set out in this paragraph. The governing body or agency~~
 1029 ~~shall certify all applications that contain the information~~
 1030 ~~required pursuant to subparagraph 2. and meet the criteria set~~
 1031 ~~out in this paragraph as eligible to receive a refund. If~~
 1032 ~~applicable, the governing body or agency shall also certify if~~
 1033 ~~20 percent of the employees of the business are residents of an~~
 1034 ~~enterprise zone, excluding temporary and part-time employees.~~

1035 ~~The certification shall be in writing, and a copy of the~~
 1036 ~~certification shall be transmitted to the executive director of~~
 1037 ~~the Department of Revenue. The business shall be responsible for~~
 1038 ~~forwarding a certified application to the department within the~~
 1039 ~~time specified in subparagraph 4.~~

1040 ~~4. An application for a refund pursuant to this paragraph~~
 1041 ~~must be submitted to the department within 6 months after the~~
 1042 ~~tax is due on the business property that is purchased.~~

1043 ~~5. The amount refunded on purchases of business property~~
 1044 ~~under this paragraph shall be the lesser of 97 percent of the~~
 1045 ~~sales tax paid on such business property or \$5,000, or, if no~~
 1046 ~~less than 20 percent of the employees of the business are~~
 1047 ~~residents of an enterprise zone, excluding temporary and part-~~
 1048 ~~time employees, the amount refunded on purchases of business~~
 1049 ~~property under this paragraph shall be the lesser of 97 percent~~
 1050 ~~of the sales tax paid on such business property or \$10,000. A~~
 1051 ~~refund approved pursuant to this paragraph shall be made within~~
 1052 ~~30 days after formal approval by the department of the~~
 1053 ~~application for the refund. A refund may not be granted under~~
 1054 ~~this paragraph unless the amount to be refunded exceeds \$100 in~~
 1055 ~~sales tax paid on purchases made within a 60-day time period.~~

1056 ~~6. The department shall adopt rules governing the manner~~
 1057 ~~and form of refund applications and may establish guidelines as~~
 1058 ~~to the requisites for an affirmative showing of qualification~~
 1059 ~~for exemption under this paragraph.~~

1060 ~~7. If the department determines that the business property~~
 1061 ~~is used outside an enterprise zone within 3 years from the date~~
 1062 ~~of purchase, the amount of taxes refunded to the business~~

1063 ~~purchasing such business property shall immediately be due and~~
 1064 ~~payable to the department by the business, together with the~~
 1065 ~~appropriate interest and penalty, computed from the date of~~
 1066 ~~purchase, in the manner provided by this chapter.~~

1067 ~~Notwithstanding this subparagraph, business property used~~
 1068 ~~exclusively in:~~

- 1069 ~~a. Licensed commercial fishing vessels,~~
- 1070 ~~b. Fishing guide boats, or~~
- 1071 ~~c. Ecotourism guide boats~~

1072
 1073 ~~that leave and return to a fixed location within an area~~
 1074 ~~designated under s. 379.2353, Florida Statutes 2010, are~~
 1075 ~~eligible for the exemption provided under this paragraph if all~~
 1076 ~~requirements of this paragraph are met. Such vessels and boats~~
 1077 ~~must be owned by a business that is eligible to receive the~~
 1078 ~~exemption provided under this paragraph. This exemption does not~~
 1079 ~~apply to the purchase of a vessel or boat.~~

1080 ~~8. The department shall deduct an amount equal to 10~~
 1081 ~~percent of each refund granted under this paragraph from the~~
 1082 ~~amount transferred into the Local Government Half-cent Sales Tax~~
 1083 ~~Clearing Trust Fund pursuant to s. 212.20 for the county area in~~
 1084 ~~which the business property is located and shall transfer that~~
 1085 ~~amount to the General Revenue Fund.~~

1086 ~~9. For the purposes of this exemption, "business property"~~
 1087 ~~means new or used property defined as "recovery property" in s.~~
 1088 ~~168(c) of the Internal Revenue Code of 1954, as amended, except:~~

- 1089 ~~a. Property classified as 3-year property under s.~~
- 1090 ~~168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;~~

HB 907

2012

1091 ~~b. Industrial machinery and equipment as defined in sub-~~
 1092 ~~subparagraph (b)6.a. and eligible for exemption under paragraph~~
 1093 ~~(b);~~

1094 ~~e. Building materials as defined in sub-subparagraph~~
 1095 ~~(g)8.a.; and~~

1096 ~~d. Business property having a sales price of under \$5,000~~
 1097 ~~per unit.~~

1098 ~~10. This paragraph expires on the date specified in s.~~
 1099 ~~290.016 for the expiration of the Florida Enterprise Zone Act.~~

1100 ~~(i) Aircraft modification services. There shall be exempt~~
 1101 ~~from the tax imposed by this chapter all charges for aircraft~~
 1102 ~~modification services, including parts and equipment furnished~~
 1103 ~~or installed in connection therewith, performed under authority~~
 1104 ~~of a supplemental type certificate issued by the Federal~~
 1105 ~~Aviation Administration.~~

1106 ~~(j) Machinery and equipment used in semiconductor,~~
 1107 ~~defense, or space technology production.~~

1108 ~~1.a. Industrial machinery and equipment used in~~
 1109 ~~semiconductor technology facilities certified under subparagraph~~
 1110 ~~5. to manufacture, process, compound, or produce semiconductor~~
 1111 ~~technology products for sale or for use by these facilities are~~
 1112 ~~exempt from the tax imposed by this chapter. For purposes of~~
 1113 ~~this paragraph, industrial machinery and equipment includes~~
 1114 ~~molds, dies, machine tooling, other appurtenances or accessories~~
 1115 ~~to machinery and equipment, testing equipment, test beds,~~
 1116 ~~computers, and software, whether purchased or self-fabricated,~~
 1117 ~~and, if self-fabricated, includes materials and labor for~~
 1118 ~~design, fabrication, and assembly.~~

HB 907

2012

1119 ~~b. Industrial machinery and equipment used in defense or~~
1120 ~~space technology facilities certified under subparagraph 5. to~~
1121 ~~design, manufacture, assemble, process, compound, or produce~~
1122 ~~defense technology products or space technology products for~~
1123 ~~sale or for use by these facilities are exempt from the tax~~
1124 ~~imposed by this chapter.~~

1125 ~~2. Building materials purchased for use in manufacturing~~
1126 ~~or expanding clean rooms in semiconductor manufacturing~~
1127 ~~facilities are exempt from the tax imposed by this chapter.~~

1128 ~~3. In addition to meeting the criteria mandated by~~
1129 ~~subparagraph 1. or subparagraph 2., a business must be certified~~
1130 ~~by the Department of Economic Opportunity in order to qualify~~
1131 ~~for exemption under this paragraph.~~

1132 ~~4. For items purchased tax-exempt pursuant to this~~
1133 ~~paragraph, possession of a written certification from the~~
1134 ~~purchaser, certifying the purchaser's entitlement to the~~
1135 ~~exemption, relieves the seller of the responsibility of~~
1136 ~~collecting the tax on the sale of such items, and the department~~
1137 ~~shall look solely to the purchaser for recovery of the tax if it~~
1138 ~~determines that the purchaser was not entitled to the exemption.~~

1139 ~~5.a. To be eligible to receive the exemption provided by~~
1140 ~~subparagraph 1. or subparagraph 2., a qualifying business entity~~
1141 ~~shall initially apply to Enterprise Florida, Inc. The original~~
1142 ~~certification is valid for a period of 2 years. In lieu of~~
1143 ~~submitting a new application, the original certification may be~~
1144 ~~renewed biennially by submitting to the Department of Economic~~
1145 ~~Opportunity a statement, certified under oath, that there has~~
1146 ~~not been a material change in the conditions or circumstances~~

HB 907

2012

1147 ~~entitling the business entity to the original certification. The~~
1148 ~~initial application and the certification renewal statement~~
1149 ~~shall be developed by the Department of Economic Opportunity.~~

1150 ~~b. The Division of Strategic Business Development of the~~
1151 ~~Department of Economic Opportunity shall review each submitted~~
1152 ~~initial application and determine whether or not the application~~
1153 ~~is complete within 5 working days. Once complete, the division~~
1154 ~~shall, within 10 working days, evaluate the application and~~
1155 ~~recommend approval or disapproval to the Department of Economic~~
1156 ~~Opportunity.~~

1157 ~~e. Upon receipt of the initial application and~~
1158 ~~recommendation from the division or upon receipt of a~~
1159 ~~certification renewal statement, the Department of Economic~~
1160 ~~Opportunity shall certify within 5 working days those applicants~~
1161 ~~who are found to meet the requirements of this section and~~
1162 ~~notify the applicant of the original certification or~~
1163 ~~certification renewal. If the Department of Economic Opportunity~~
1164 ~~finds that the applicant does not meet the requirements, it~~
1165 ~~shall notify the applicant and Enterprise Florida, Inc., within~~
1166 ~~10 working days that the application for certification has been~~
1167 ~~denied and the reasons for denial. The Department of Economic~~
1168 ~~Opportunity has final approval authority for certification under~~
1169 ~~this section.~~

1170 ~~d. The initial application and certification renewal~~
1171 ~~statement must indicate, for program evaluation purposes only,~~
1172 ~~the average number of full-time equivalent employees at the~~
1173 ~~facility over the preceding calendar year, the average wage and~~
1174 ~~benefits paid to those employees over the preceding calendar~~

1175 ~~year, the total investment made in real and tangible personal~~
 1176 ~~property over the preceding calendar year, and the total value~~
 1177 ~~of tax-exempt purchases and taxes exempted during the previous~~
 1178 ~~year. The department shall assist the Department of Economic~~
 1179 ~~Opportunity in evaluating and verifying information provided in~~
 1180 ~~the application for exemption.~~

1181 ~~e. The Department of Economic Opportunity may use the~~
 1182 ~~information reported on the initial application and~~
 1183 ~~certification renewal statement for evaluation purposes only.~~

1184 ~~6. A business certified to receive this exemption may~~
 1185 ~~elect to designate one or more state universities or community~~
 1186 ~~colleges as recipients of up to 100 percent of the amount of the~~
 1187 ~~exemption. To receive these funds, the institution must agree to~~
 1188 ~~match the funds with equivalent cash, programs, services, or~~
 1189 ~~other in-kind support on a one-to-one basis for research and~~
 1190 ~~development projects requested by the certified business. The~~
 1191 ~~rights to any patents, royalties, or real or intellectual~~
 1192 ~~property must be vested in the business unless otherwise agreed~~
 1193 ~~to by the business and the university or community college.~~

1194 ~~7. As used in this paragraph, the term:~~

1195 ~~a. "Semiconductor technology products" means raw~~
 1196 ~~semiconductor wafers or semiconductor thin films that are~~
 1197 ~~transformed into semiconductor memory or logic wafers, including~~
 1198 ~~wafers containing mixed memory and logic circuits; related~~
 1199 ~~assembly and test operations; active-matrix flat panel displays;~~
 1200 ~~semiconductor chips; semiconductor lasers; optoelectronic~~
 1201 ~~elements; and related semiconductor technology products as~~
 1202 ~~determined by the Department of Economic Opportunity.~~

HB 907

2012

1203 ~~b. "Clean rooms" means manufacturing facilities enclosed~~
1204 ~~in a manner that meets the clean manufacturing requirements~~
1205 ~~necessary for high-technology semiconductor-manufacturing~~
1206 ~~environments.~~

1207 ~~e. "Defense technology products" means products that have~~
1208 ~~a military application, including, but not limited to, weapons,~~
1209 ~~weapons systems, guidance systems, surveillance systems,~~
1210 ~~communications or information systems, munitions, aircraft,~~
1211 ~~vessels, or boats, or components thereof, which are intended for~~
1212 ~~military use and manufactured in performance of a contract with~~
1213 ~~the United States Department of Defense or the military branch~~
1214 ~~of a recognized foreign government or a subcontract thereunder~~
1215 ~~which relates to matters of national defense.~~

1216 ~~d. "Space technology products" means products that are~~
1217 ~~specifically designed or manufactured for application in space~~
1218 ~~activities, including, but not limited to, space launch~~
1219 ~~vehicles, space flight vehicles, missiles, satellites or~~
1220 ~~research payloads, avionics, and associated control systems and~~
1221 ~~processing systems and components of any of the foregoing. The~~
1222 ~~term does not include products that are designed or manufactured~~
1223 ~~for general commercial aviation or other uses even though those~~
1224 ~~products may also serve an incidental use in space applications.~~

1225 ~~(k) Samples. Paint color card samples, flooring and wall~~
1226 ~~samples, fabric swatch samples, window covering samples, and~~
1227 ~~similar samples, when such samples serve no useful purpose other~~
1228 ~~than as a comparison of color, texture, or design; are provided~~
1229 ~~by the manufacturer to a dealer or ultimate consumer for no~~
1230 ~~charge; and are given away by the dealer to the ultimate~~

1231 ~~consumer for no charge, are exempt.~~

1232 ~~(l) Growth enhancers or performance enhancers for cattle.~~

1233 ~~There is exempt from the tax imposed by this chapter the sale of~~

1234 ~~performance enhancing or growth enhancing products for cattle.~~

1235 ~~(m) Educational materials purchased by certain child care~~

1236 ~~facilities. Educational materials, such as glue, paper, paints,~~

1237 ~~crayons, unique craft items, scissors, books, and educational~~

1238 ~~toys, purchased by a child care facility that meets the~~

1239 ~~standards delineated in s. 402.305, is licensed under s.~~

1240 ~~402.308, holds a current Gold Seal Quality Care designation~~

1241 ~~pursuant to s. 402.281, and provides basic health insurance to~~

1242 ~~all employees are exempt from the taxes imposed by this chapter.~~

1243 ~~For purposes of this paragraph, the term "basic health~~

1244 ~~insurance" shall be defined and promulgated in rules developed~~

1245 ~~jointly by the Department of Children and Family Services, the~~

1246 ~~Agency for Health Care Administration, and the Financial~~

1247 ~~Services Commission.~~

1248 ~~(n) Materials for construction of single-family homes in~~

1249 ~~certain areas.~~

1250 ~~1. As used in this paragraph, the term:~~

1251 ~~a. "Building materials" means tangible personal property~~

1252 ~~that becomes a component part of a qualified home.~~

1253 ~~b. "Qualified home" means a single family home having an~~

1254 ~~appraised value of no more than \$160,000 which is located in an~~

1255 ~~enterprise zone, empowerment zone, or Front Porch Florida~~

1256 ~~Community and which is constructed and occupied by the owner~~

1257 ~~thereof for residential purposes.~~

1258 ~~e. "Substantially completed" has the same meaning as~~

1259 ~~provided in s. 192.042(1).~~

1260 ~~2. Building materials used in the construction of a~~

1261 ~~qualified home and the costs of labor associated with the~~

1262 ~~construction of a qualified home are exempt from the tax imposed~~

1263 ~~by this chapter upon an affirmative showing to the satisfaction~~

1264 ~~of the department that the requirements of this paragraph have~~

1265 ~~been met. This exemption inures to the owner through a refund of~~

1266 ~~previously paid taxes. To receive this refund, the owner must~~

1267 ~~file an application under oath with the department which~~

1268 ~~includes:~~

1269 ~~a. The name and address of the owner.~~

1270 ~~b. The address and assessment roll parcel number of the~~

1271 ~~home for which a refund is sought.~~

1272 ~~c. A copy of the building permit issued for the home.~~

1273 ~~d. A certification by the local building code inspector~~

1274 ~~that the home is substantially completed.~~

1275 ~~e. A sworn statement, under penalty of perjury, from the~~

1276 ~~general contractor licensed in this state with whom the owner~~

1277 ~~contracted to construct the home, which statement lists the~~

1278 ~~building materials used in the construction of the home and the~~

1279 ~~actual cost thereof, the labor costs associated with such~~

1280 ~~construction, and the amount of sales tax paid on these~~

1281 ~~materials and labor costs. If a general contractor was not used,~~

1282 ~~the owner shall provide this information in a sworn statement,~~

1283 ~~under penalty of perjury. Copies of invoices evidencing payment~~

1284 ~~of sales tax must be attached to the sworn statement.~~

1285 ~~f. A sworn statement, under penalty of perjury, from the~~

1286 ~~owner affirming that he or she is occupying the home for~~

1287 ~~residential purposes.~~

1288 3. ~~An application for a refund under this paragraph must~~

1289 ~~be submitted to the department within 6 months after the date~~

1290 ~~the home is deemed to be substantially completed by the local~~

1291 ~~building code inspector. Within 30 working days after receipt of~~

1292 ~~the application, the department shall determine if it meets the~~

1293 ~~requirements of this paragraph. A refund approved pursuant to~~

1294 ~~this paragraph shall be made within 30 days after formal~~

1295 ~~approval of the application by the department.~~

1296 4. ~~The department shall establish by rule an application~~

1297 ~~form and criteria for establishing eligibility for exemption~~

1298 ~~under this paragraph.~~

1299 5. ~~The exemption shall apply to purchases of materials on~~

1300 ~~or after July 1, 2000.~~

1301 ~~(c) Building materials in redevelopment projects.—~~

1302 1. ~~As used in this paragraph, the term:~~

1303 a. ~~"Building materials" means tangible personal property~~

1304 ~~that becomes a component part of a housing project or a mixed-~~

1305 ~~use project.~~

1306 b. ~~"Housing project" means the conversion of an existing~~

1307 ~~manufacturing or industrial building to housing units in an~~

1308 ~~urban high-crime area, enterprise zone, empowerment zone, Front~~

1309 ~~Porch Community, designated brownfield area, or urban infill~~

1310 ~~area and in which the developer agrees to set aside at least 20~~

1311 ~~percent of the housing units in the project for low-income and~~

1312 ~~moderate-income persons or the construction in a designated~~

1313 ~~brownfield area of affordable housing for persons described in~~

1314 ~~s. 420.0004(9), (11), (12), or (17) or in s. 159.603(7).~~

HB 907

2012

1315 ~~e. "Mixed-use project" means the conversion of an existing~~
1316 ~~manufacturing or industrial building to mixed-use units that~~
1317 ~~include artists' studios, art and entertainment services, or~~
1318 ~~other compatible uses. A mixed-use project must be located in an~~
1319 ~~urban high-crime area, enterprise zone, empowerment zone, Front~~
1320 ~~Porch Community, designated brownfield area, or urban infill~~
1321 ~~area, and the developer must agree to set aside at least 20~~
1322 ~~percent of the square footage of the project for low-income and~~
1323 ~~moderate-income housing.~~

1324 ~~d. "Substantially completed" has the same meaning as~~
1325 ~~provided in s. 192.042(1).~~

1326 ~~2. Building materials used in the construction of a~~
1327 ~~housing project or mixed-use project are exempt from the tax~~
1328 ~~imposed by this chapter upon an affirmative showing to the~~
1329 ~~satisfaction of the department that the requirements of this~~
1330 ~~paragraph have been met. This exemption inures to the owner~~
1331 ~~through a refund of previously paid taxes. To receive this~~
1332 ~~refund, the owner must file an application under oath with the~~
1333 ~~department which includes:~~

1334 ~~a. The name and address of the owner.~~

1335 ~~b. The address and assessment roll parcel number of the~~
1336 ~~project for which a refund is sought.~~

1337 ~~c. A copy of the building permit issued for the project.~~

1338 ~~d. A certification by the local building code inspector~~
1339 ~~that the project is substantially completed.~~

1340 ~~e. A sworn statement, under penalty of perjury, from the~~
1341 ~~general contractor licensed in this state with whom the owner~~
1342 ~~contracted to construct the project, which statement lists the~~

1343 ~~building materials used in the construction of the project and~~
 1344 ~~the actual cost thereof, and the amount of sales tax paid on~~
 1345 ~~these materials. If a general contractor was not used, the owner~~
 1346 ~~shall provide this information in a sworn statement, under~~
 1347 ~~penalty of perjury. Copies of invoices evidencing payment of~~
 1348 ~~sales tax must be attached to the sworn statement.~~

1349 ~~3. An application for a refund under this paragraph must~~
 1350 ~~be submitted to the department within 6 months after the date~~
 1351 ~~the project is deemed to be substantially completed by the local~~
 1352 ~~building code inspector. Within 30 working days after receipt of~~
 1353 ~~the application, the department shall determine if it meets the~~
 1354 ~~requirements of this paragraph. A refund approved pursuant to~~
 1355 ~~this paragraph shall be made within 30 days after formal~~
 1356 ~~approval of the application by the department.~~

1357 ~~4. The department shall establish by rule an application~~
 1358 ~~form and criteria for establishing eligibility for exemption~~
 1359 ~~under this paragraph.~~

1360 ~~5. The exemption shall apply to purchases of materials on~~
 1361 ~~or after July 1, 2000.~~

1362 ~~(p) Community contribution tax credit for donations.—~~

1363 ~~1. Authorization.—Persons who are registered with the~~
 1364 ~~department under s. 212.18 to collect or remit sales or use tax~~
 1365 ~~and who make donations to eligible sponsors are eligible for tax~~
 1366 ~~credits against their state sales and use tax liabilities as~~
 1367 ~~provided in this paragraph:~~

1368 ~~a. The credit shall be computed as 50 percent of the~~
 1369 ~~person's approved annual community contribution.~~

1370 ~~b. The credit shall be granted as a refund against state~~

1371 ~~sales and use taxes reported on returns and remitted in the 12~~
 1372 ~~months preceding the date of application to the department for~~
 1373 ~~the credit as required in sub-subparagraph 3.c. If the annual~~
 1374 ~~credit is not fully used through such refund because of~~
 1375 ~~insufficient tax payments during the applicable 12-month period,~~
 1376 ~~the unused amount may be included in an application for a refund~~
 1377 ~~made pursuant to sub-subparagraph 3.c. in subsequent years~~
 1378 ~~against the total tax payments made for such year. Carryover~~
 1379 ~~credits may be applied for a 3-year period without regard to any~~
 1380 ~~time limitation that would otherwise apply under s. 215.26.~~

1381 ~~e. A person may not receive more than \$200,000 in annual~~
 1382 ~~tax credits for all approved community contributions made in any~~
 1383 ~~one year.~~

1384 ~~d. All proposals for the granting of the tax credit~~
 1385 ~~require the prior approval of the Department of Economic~~
 1386 ~~Opportunity.~~

1387 ~~e. The total amount of tax credits which may be granted~~
 1388 ~~for all programs approved under this paragraph, s. 220.183, and~~
 1389 ~~s. 624.5105 is \$10.5 million annually for projects that provide~~
 1390 ~~homeownership opportunities for low income or very low income~~
 1391 ~~households as defined in s. 420.9071(19) and (28) and \$3.5~~
 1392 ~~million annually for all other projects.~~

1393 ~~f. A person who is eligible to receive the credit provided~~
 1394 ~~for in this paragraph, s. 220.183, or s. 624.5105 may receive~~
 1395 ~~the credit only under the one section of the person's choice.~~

1396 ~~2. Eligibility requirements.—~~

1397 ~~a. A community contribution by a person must be in the~~
 1398 ~~following form:~~

1399 ~~(I) Cash or other liquid assets;~~
 1400 ~~(II) Real property;~~
 1401 ~~(III) Goods or inventory; or~~
 1402 ~~(IV) Other physical resources as identified by the~~
 1403 ~~Department of Economic Opportunity.~~

1404 ~~b. All community contributions must be reserved~~
 1405 ~~exclusively for use in a project. As used in this sub-~~
 1406 ~~subparagraph, the term "project" means any activity undertaken~~
 1407 ~~by an eligible sponsor which is designed to construct, improve,~~
 1408 ~~or substantially rehabilitate housing that is affordable to low-~~
 1409 ~~income or very low-income households as defined in s.~~
 1410 ~~420.9071(19) and (28); designed to provide commercial,~~
 1411 ~~industrial, or public resources and facilities; or designed to~~
 1412 ~~improve entrepreneurial and job-development opportunities for~~
 1413 ~~low-income persons. A project may be the investment necessary to~~
 1414 ~~increase access to high-speed broadband capability in rural~~
 1415 ~~communities with enterprise zones, including projects that~~
 1416 ~~result in improvements to communications assets that are owned~~
 1417 ~~by a business. A project may include the provision of museum~~
 1418 ~~educational programs and materials that are directly related to~~
 1419 ~~any project approved between January 1, 1996, and December 31,~~
 1420 ~~1999, and located in an enterprise zone designated pursuant to~~
 1421 ~~s. 290.0065. This paragraph does not preclude projects that~~
 1422 ~~propose to construct or rehabilitate housing for low-income or~~
 1423 ~~very low-income households on scattered sites. With respect to~~
 1424 ~~housing, contributions may be used to pay the following eligible~~
 1425 ~~low-income and very low-income housing-related activities:~~

1426 ~~(I) Project development impact and management fees for~~

1427 ~~low income or very low income housing projects;~~
 1428 ~~(II) Down payment and closing costs for eligible persons,~~
 1429 ~~as defined in s. 420.9071(19) and (28);~~
 1430 ~~(III) Administrative costs, including housing counseling~~
 1431 ~~and marketing fees, not to exceed 10 percent of the community~~
 1432 ~~contribution, directly related to low income or very low income~~
 1433 ~~projects; and~~
 1434 ~~(IV) Removal of liens recorded against residential~~
 1435 ~~property by municipal, county, or special district local~~
 1436 ~~governments when satisfaction of the lien is a necessary~~
 1437 ~~precedent to the transfer of the property to an eligible person,~~
 1438 ~~as defined in s. 420.9071(19) and (28), for the purpose of~~
 1439 ~~promoting home ownership. Contributions for lien removal must be~~
 1440 ~~received from a nonrelated third party.~~
 1441 ~~e. The project must be undertaken by an "eligible~~
 1442 ~~sponsor," which includes:~~
 1443 ~~(I) A community action program;~~
 1444 ~~(II) A nonprofit community-based development organization~~
 1445 ~~whose mission is the provision of housing for low income or~~
 1446 ~~very low income households or increasing entrepreneurial and~~
 1447 ~~job development opportunities for low income persons;~~
 1448 ~~(III) A neighborhood housing services corporation;~~
 1449 ~~(IV) A local housing authority created under chapter 421;~~
 1450 ~~(V) A community redevelopment agency created under s.~~
 1451 ~~163.356;~~
 1452 ~~(VI) A historic preservation district agency or~~
 1453 ~~organization;~~
 1454 ~~(VII) A regional workforce board;~~

1455 ~~(VIII) A direct support organization as provided in s.~~
 1456 ~~1009.983;~~

1457 ~~(IX) An enterprise zone development agency created under~~
 1458 ~~s. 290.0056;~~

1459 ~~(X) A community-based organization incorporated under~~
 1460 ~~chapter 617 which is recognized as educational, charitable, or~~
 1461 ~~scientific pursuant to s. 501(c)(3) of the Internal Revenue Code~~
 1462 ~~and whose bylaws and articles of incorporation include~~
 1463 ~~affordable housing, economic development, or community~~
 1464 ~~development as the primary mission of the corporation;~~

1465 ~~(XI) Units of local government;~~

1466 ~~(XII) Units of state government; or~~

1467 ~~(XIII) Any other agency that the Department of Economic~~
 1468 ~~Opportunity designates by rule.~~

1469

1470 ~~In no event may a contributing person have a financial interest~~
 1471 ~~in the eligible sponsor.~~

1472 ~~d. The project must be located in an area designated an~~
 1473 ~~enterprise zone or a Front Porch Florida Community, unless the~~
 1474 ~~project increases access to high-speed broadband capability for~~
 1475 ~~rural communities with enterprise zones but is physically~~
 1476 ~~located outside the designated rural zone boundaries. Any~~
 1477 ~~project designed to construct or rehabilitate housing for low-~~
 1478 ~~income or very-low-income households as defined in s.~~
 1479 ~~420.9071(19) and (28) is exempt from the area requirement of~~
 1480 ~~this sub-subparagraph.~~

1481 ~~e.(I) If, during the first 10 business days of the state~~
 1482 ~~fiscal year, eligible tax credit applications for projects that~~

1483 ~~provide homeownership opportunities for low-income or very low-~~
 1484 ~~income households as defined in s. 420.9071(19) and (28) are~~
 1485 ~~received for less than the annual tax credits available for~~
 1486 ~~those projects, the Department of Economic Opportunity shall~~
 1487 ~~grant tax credits for those applications and shall grant~~
 1488 ~~remaining tax credits on a first-come, first-served basis for~~
 1489 ~~any subsequent eligible applications received before the end of~~
 1490 ~~the state fiscal year. If, during the first 10 business days of~~
 1491 ~~the state fiscal year, eligible tax credit applications for~~
 1492 ~~projects that provide homeownership opportunities for low-income~~
 1493 ~~or very-low-income households as defined in s. 420.9071(19) and~~
 1494 ~~(28) are received for more than the annual tax credits available~~
 1495 ~~for those projects, the Department of Economic Opportunity shall~~
 1496 ~~grant the tax credits for those applications as follows:~~

1497 ~~(A) If tax credit applications submitted for approved~~
 1498 ~~projects of an eligible sponsor do not exceed \$200,000 in total,~~
 1499 ~~the credits shall be granted in full if the tax credit~~
 1500 ~~applications are approved.~~

1501 ~~(B) If tax credit applications submitted for approved~~
 1502 ~~projects of an eligible sponsor exceed \$200,000 in total, the~~
 1503 ~~amount of tax credits granted pursuant to sub-sub-sub-~~
 1504 ~~subparagraph (A) shall be subtracted from the amount of~~
 1505 ~~available tax credits, and the remaining credits shall be~~
 1506 ~~granted to each approved tax credit application on a pro rata~~
 1507 ~~basis.~~

1508 ~~(II) If, during the first 10 business days of the state~~
 1509 ~~fiscal year, eligible tax credit applications for projects other~~
 1510 ~~than those that provide homeownership opportunities for low-~~

1511 ~~income or very low income households as defined in s.~~
 1512 ~~420.9071(19) and (28) are received for less than the annual tax~~
 1513 ~~credits available for those projects, the Department of Economic~~
 1514 ~~Opportunity shall grant tax credits for those applications and~~
 1515 ~~shall grant remaining tax credits on a first-come, first-served~~
 1516 ~~basis for any subsequent eligible applications received before~~
 1517 ~~the end of the state fiscal year. If, during the first 10~~
 1518 ~~business days of the state fiscal year, eligible tax credit~~
 1519 ~~applications for projects other than those that provide~~
 1520 ~~homeownership opportunities for low income or very low income~~
 1521 ~~households as defined in s. 420.9071(19) and (28) are received~~
 1522 ~~for more than the annual tax credits available for those~~
 1523 ~~projects, the Department of Economic Opportunity shall grant the~~
 1524 ~~tax credits for those applications on a pro rata basis.~~

1525 ~~3. Application requirements.—~~

1526 ~~a. Any eligible sponsor seeking to participate in this~~
 1527 ~~program must submit a proposal to the Department of Economic~~
 1528 ~~Opportunity which sets forth the name of the sponsor, a~~
 1529 ~~description of the project, and the area in which the project is~~
 1530 ~~located, together with such supporting information as is~~
 1531 ~~prescribed by rule. The proposal must also contain a resolution~~
 1532 ~~from the local governmental unit in which the project is located~~
 1533 ~~certifying that the project is consistent with local plans and~~
 1534 ~~regulations.~~

1535 ~~b. Any person seeking to participate in this program must~~
 1536 ~~submit an application for tax credit to the Department of~~
 1537 ~~Economic Opportunity which sets forth the name of the sponsor, a~~
 1538 ~~description of the project, and the type, value, and purpose of~~

HB 907

2012

1539 ~~the contribution. The sponsor shall verify the terms of the~~
1540 ~~application and indicate its receipt of the contribution, which~~
1541 ~~verification must be in writing and accompany the application~~
1542 ~~for tax credit. The person must submit a separate tax credit~~
1543 ~~application to the Department of Economic Opportunity for each~~
1544 ~~individual contribution that it makes to each individual~~
1545 ~~project.~~

1546 ~~e. Any person who has received notification from the~~
1547 ~~Department of Economic Opportunity that a tax credit has been~~
1548 ~~approved must apply to the department to receive the refund.~~
1549 ~~Application must be made on the form prescribed for claiming~~
1550 ~~refunds of sales and use taxes and be accompanied by a copy of~~
1551 ~~the notification. A person may submit only one application for~~
1552 ~~refund to the department within any 12-month period.~~

1553 ~~4. Administration.—~~

1554 ~~a. The Department of Economic Opportunity may adopt rules~~
1555 ~~pursuant to ss. 120.536(1) and 120.54 necessary to administer~~
1556 ~~this paragraph, including rules for the approval or disapproval~~
1557 ~~of proposals by a person.~~

1558 ~~b. The decision of the Department of Economic Opportunity~~
1559 ~~must be in writing, and, if approved, the notification shall~~
1560 ~~state the maximum credit allowable to the person. Upon approval,~~
1561 ~~the Department of Economic Opportunity shall transmit a copy of~~
1562 ~~the decision to the Department of Revenue.~~

1563 ~~e. The Department of Economic Opportunity shall~~
1564 ~~periodically monitor all projects in a manner consistent with~~
1565 ~~available resources to ensure that resources are used in~~
1566 ~~accordance with this paragraph; however, each project must be~~

1567 ~~reviewed at least once every 2 years.~~

1568 ~~d. The Department of Economic Opportunity shall, in~~
 1569 ~~consultation with the statewide and regional housing and~~
 1570 ~~financial intermediaries, market the availability of the~~
 1571 ~~community contribution tax credit program to community-based~~
 1572 ~~organizations.~~

1573 ~~5. Expiration. This paragraph expires June 30, 2015;~~
 1574 ~~however, any accrued credit carryover that is unused on that~~
 1575 ~~date may be used until the expiration of the 3-year carryover~~
 1576 ~~period for such credit.~~

1577 ~~(g) Entertainment industry tax credit; authorization;~~
 1578 ~~eligibility for credits. The credits against the state sales tax~~
 1579 ~~authorized pursuant to s. 288.1254 shall be deducted from any~~
 1580 ~~sales and use tax remitted by the dealer to the department by~~
 1581 ~~electronic funds transfer and may only be deducted on a sales~~
 1582 ~~and use tax return initiated through electronic data~~
 1583 ~~interchange. The dealer shall separately state the credit on the~~
 1584 ~~electronic return. The net amount of tax due and payable must be~~
 1585 ~~remitted by electronic funds transfer. If the credit for the~~
 1586 ~~qualified expenditures is larger than the amount owed on the~~
 1587 ~~sales and use tax return that is eligible for the credit, the~~
 1588 ~~unused amount of the credit may be carried forward to a~~
 1589 ~~succeeding reporting period as provided in s. 288.1254(4)(e). A~~
 1590 ~~dealer may only obtain a credit using the method described in~~
 1591 ~~this subparagraph. A dealer is not authorized to obtain a credit~~
 1592 ~~by applying for a refund.~~

1593 ~~(6) EXEMPTIONS; POLITICAL SUBDIVISIONS.—~~

1594 ~~(a) There are also exempt from the tax imposed by this~~

HB 907

2012

1595 ~~chapter sales made to the United States Government, a state, or~~
1596 ~~any county, municipality, or political subdivision of a state~~
1597 ~~when payment is made directly to the dealer by the governmental~~
1598 ~~entity. This exemption shall not inure to any transaction~~
1599 ~~otherwise taxable under this chapter when payment is made by a~~
1600 ~~government employee by any means, including, but not limited to,~~
1601 ~~cash, check, or credit card when that employee is subsequently~~
1602 ~~reimbursed by the governmental entity. This exemption does not~~
1603 ~~include sales, rental, use, consumption, or storage for use in~~
1604 ~~any political subdivision or municipality in this state of~~
1605 ~~machines and equipment and parts and accessories therefor used~~
1606 ~~in the generation, transmission, or distribution of electrical~~
1607 ~~energy by systems owned and operated by a political subdivision~~
1608 ~~in this state for transmission or distribution expansion.~~
1609 ~~Likewise exempt are charges for services rendered by radio and~~
1610 ~~television stations, including line charges, talent fees, or~~
1611 ~~license fees and charges for films, videotapes, and~~
1612 ~~transcriptions used in producing radio or television broadcasts.~~
1613 ~~The exemption provided in this subsection does not include~~
1614 ~~sales, rental, use, consumption, or storage for use in any~~
1615 ~~political subdivision or municipality in this state of machines~~
1616 ~~and equipment and parts and accessories therefor used in~~
1617 ~~providing two-way telecommunications services to the public for~~
1618 ~~hire by the use of a telecommunications facility, as defined in~~
1619 ~~s. 364.02(14), and for which a certificate is required under~~
1620 ~~chapter 364, which facility is owned and operated by any county,~~
1621 ~~municipality, or other political subdivision of the state. Any~~
1622 ~~immunity of any political subdivision of the state or other~~

HB 907

2012

1623 ~~entity of local government from taxation of the property used to~~
1624 ~~provide telecommunication services that is taxed as a result of~~
1625 ~~this section is hereby waived. However, the exemption provided~~
1626 ~~in this subsection includes transactions taxable under this~~
1627 ~~chapter which are for use by the operator of a public-use~~
1628 ~~airport, as defined in s. 332.004, in providing such~~
1629 ~~telecommunications services for the airport or its tenants,~~
1630 ~~concessionaires, or licensees, or which are for use by a public~~
1631 ~~hospital for the provision of such telecommunications services.~~
1632 ~~(b) The exemption provided under this subsection does not~~
1633 ~~include sales of tangible personal property made to contractors~~
1634 ~~employed directly to or as agents of any such government or~~
1635 ~~political subdivision when such tangible personal property goes~~
1636 ~~into or becomes a part of public works owned by such government~~
1637 ~~or political subdivision. A determination of whether a~~
1638 ~~particular transaction is properly characterized as an exempt~~
1639 ~~sale to a government entity or a taxable sale to a contractor~~
1640 ~~shall be based upon the substance of the transaction rather than~~
1641 ~~the form in which the transaction is cast. However, for sales of~~
1642 ~~tangible personal property that go into or become a part of~~
1643 ~~public works owned by a governmental entity, other than the~~
1644 ~~Federal Government, a governmental entity claiming the exemption~~
1645 ~~provided under this subsection shall certify to the dealer and~~
1646 ~~the contractor the entity's claim to the exemption by providing~~
1647 ~~the dealer and the contractor a certificate of entitlement to~~
1648 ~~the exemption for such sales. If the department later determines~~
1649 ~~that such sales, in which the governmental entity provided the~~
1650 ~~dealer and the contractor with a certificate of entitlement to~~

1651 ~~the exemption, were not exempt sales to the governmental entity,~~
 1652 ~~the governmental entity shall be liable for any tax, penalty,~~
 1653 ~~and interest determined to be owed on such transactions.~~
 1654 ~~Possession by a dealer or contractor of a certificate of~~
 1655 ~~entitlement to the exemption from the governmental entity~~
 1656 ~~relieves the dealer from the responsibility of collecting tax on~~
 1657 ~~the sale and the contractor for any liability for tax, penalty,~~
 1658 ~~or interest related to the sale, and the department shall look~~
 1659 ~~solely to the governmental entity for recovery of tax, penalty,~~
 1660 ~~and interest if the department determines that the transaction~~
 1661 ~~was not an exempt sale to the governmental entity. The~~
 1662 ~~governmental entity may not transfer liability for such tax,~~
 1663 ~~penalty, and interest to another party by contract or agreement.~~
 1664 ~~(c) The department shall adopt rules for determining~~
 1665 ~~whether a particular transaction is properly characterized as an~~
 1666 ~~exempt sale to a governmental entity or a taxable sale to a~~
 1667 ~~contractor which give special consideration to factors that~~
 1668 ~~govern the status of the tangible personal property before being~~
 1669 ~~affixed to real property. In developing such rules, assumption~~
 1670 ~~of the risk of damage or loss is of paramount consideration in~~
 1671 ~~the determination. The department shall also adopt, by rule, a~~
 1672 ~~certificate of entitlement to exemption for use as provided in~~
 1673 ~~paragraph (b). The certificate shall require the governmental~~
 1674 ~~entity to affirm that it will comply with the requirements of~~
 1675 ~~this subsection and the rules adopted under paragraph (b) in~~
 1676 ~~order to qualify for the exemption and that it acknowledges its~~
 1677 ~~liability for any tax, penalty, or interest later determined by~~
 1678 ~~the department to be owed on such transactions.~~

HB 907

2012

1679 (3) ~~(7)~~ MISCELLANEOUS EXEMPTIONS.—Exemptions provided to
1680 any entity by this chapter do not inure to any transaction that
1681 is otherwise taxable under this chapter when payment is made by
1682 a representative or employee of the entity by any means,
1683 including, but not limited to, cash, check, or credit card, even
1684 when that representative or employee is subsequently reimbursed
1685 by the entity. In addition, exemptions provided to any entity by
1686 this subsection do not inure to any transaction that is
1687 otherwise taxable under this chapter unless the entity has
1688 obtained a sales tax exemption certificate from the department
1689 or the entity obtains or provides other documentation as
1690 required by the department. Eligible purchases or leases made
1691 with such a certificate must be in strict compliance with this
1692 subsection and departmental rules, and any person who makes an
1693 exempt purchase with a certificate that is not in strict
1694 compliance with this subsection and the rules is liable for and
1695 shall pay the tax. The department may adopt rules to administer
1696 this subsection.

1697 ~~(a) Artificial commemorative flowers. Exempt from the tax~~
1698 ~~imposed by this chapter is the sale of artificial commemorative~~
1699 ~~flowers by bona fide nationally chartered veterans'~~
1700 ~~organizations.~~

1701 ~~(b) Boiler fuels. When purchased for use as a combustible~~
1702 ~~fuel, purchases of natural gas, residual oil, recycled oil,~~
1703 ~~waste oil, solid waste material, coal, sulfur, wood, wood~~
1704 ~~residues or wood bark used in an industrial manufacturing,~~
1705 ~~processing, compounding, or production process at a fixed~~
1706 ~~location in this state are exempt from the taxes imposed by this~~

1707 ~~chapter; however, such exemption shall not be allowed unless the~~
 1708 ~~purchaser signs a certificate stating that the fuel to be~~
 1709 ~~exempted is for the exclusive use designated herein. This~~
 1710 ~~exemption does not apply to the use of boiler fuels that are not~~
 1711 ~~used in manufacturing, processing, compounding, or producing~~
 1712 ~~items of tangible personal property for sale, or to the use of~~
 1713 ~~boiler fuels used by any firm subject to regulation by the~~
 1714 ~~Division of Hotels and Restaurants of the Department of Business~~
 1715 ~~and Professional Regulation.~~

1716 ~~(c) Crustacea bait. Also exempt from the tax imposed by~~
 1717 ~~this chapter is the purchase by commercial fishers of bait~~
 1718 ~~intended solely for use in the entrapment of Callinectes sapidus~~
 1719 ~~and Menippe mercenaria.~~

1720 ~~(d) Feeds. Feeds for poultry, ostriches, and livestock,~~
 1721 ~~including racehorses and dairy cows, are exempt.~~

1722 ~~(e) Film rentals. Film rentals are exempt when an~~
 1723 ~~admission is charged for viewing such film, and license fees and~~
 1724 ~~direct charges for films, videotapes, and transcriptions used by~~
 1725 ~~television or radio stations or networks are exempt.~~

1726 ~~(f) Flags. Also exempt are sales of the flag of the United~~
 1727 ~~States and the official state flag of Florida.~~

1728 ~~(g) Florida Retired Educators Association and its local~~
 1729 ~~chapters. Also exempt from payment of the tax imposed by this~~
 1730 ~~chapter are purchases of office supplies, equipment, and~~
 1731 ~~publications made by the Florida Retired Educators Association~~
 1732 ~~and its local chapters.~~

1733 ~~(a)-(h)~~ (a) Guide dogs for the blind.—Also exempt are the sale
 1734 or rental of guide dogs for the blind, commonly referred to as

HB 907

2012

1735 "seeing-eye dogs," and the sale of food or other items for such
 1736 guide dogs.

1737 1. The department shall issue a consumer's certificate of
 1738 exemption to any blind person who holds an identification card
 1739 as provided for in s. 413.091 and who either owns or rents, or
 1740 contemplates the ownership or rental of, a guide dog for the
 1741 blind. The consumer's certificate of exemption shall be issued
 1742 without charge and shall be of such size as to be capable of
 1743 being carried in a wallet or billfold.

1744 2. The department shall make such rules concerning items
 1745 exempt from tax under the provisions of this paragraph as may be
 1746 necessary to provide that any person authorized to have a
 1747 consumer's certificate of exemption need only present such a
 1748 certificate at the time of paying for exempt goods and shall not
 1749 be required to pay any tax thereon.

1750 (b) ~~(i)~~ Hospital meals and rooms.—Also exempt from payment
 1751 of the tax imposed by this chapter on rentals and meals are
 1752 patients and inmates of any hospital or other physical plant or
 1753 facility designed and operated primarily for the care of persons
 1754 who are ill, aged, infirm, mentally or physically incapacitated,
 1755 or otherwise dependent on special care or attention. Residents
 1756 of a home for the aged are exempt from payment of taxes on meals
 1757 provided through the facility. A home for the aged is defined as
 1758 a facility that is licensed or certified in part or in whole
 1759 under chapter 400, chapter 429, or chapter 651, or that is
 1760 financed by a mortgage loan made or insured by the United States
 1761 Department of Housing and Urban Development under s. 202, s. 202
 1762 with a s. 8 subsidy, s. 221(d)(3) or (4), s. 232, or s. 236 of

1763 the National Housing Act, or other such similar facility
 1764 designed and operated primarily for the care of the aged.

1765 (c)~~(j)~~ Household fuels.—Also exempt from payment of the
 1766 tax imposed by this chapter are sales of utilities to
 1767 residential households or owners of residential models in this
 1768 state by utility companies who pay the gross receipts tax
 1769 imposed under s. 203.01, and sales of fuel to residential
 1770 households or owners of residential models, including oil,
 1771 kerosene, liquefied petroleum gas, coal, wood, and other fuel
 1772 products used in the household or residential model for the
 1773 purposes of heating, cooking, lighting, and refrigeration,
 1774 regardless of whether such sales of utilities and fuels are
 1775 separately metered and billed direct to the residents or are
 1776 metered and billed to the landlord. If any part of the utility
 1777 or fuel is used for a nonexempt purpose, the entire sale is
 1778 taxable. The landlord shall provide a separate meter for
 1779 nonexempt utility or fuel consumption. ~~For the purposes of this~~
 1780 ~~paragraph, licensed family day care homes shall also be exempt.~~

1781 (d)~~(k)~~ Meals provided by certain nonprofit organizations.—
 1782 There is exempt from the tax imposed by this chapter the sale of
 1783 prepared meals by a nonprofit volunteer organization to
 1784 handicapped, elderly, or indigent persons when such meals are
 1785 delivered as a charitable function by the organization to such
 1786 persons at their places of residence.

1787 ~~(l) Organizations providing special educational, cultural,~~
 1788 ~~recreational, and social benefits to minors. Also exempt from~~
 1789 ~~the tax imposed by this chapter are sales or leases to and sales~~
 1790 ~~of donated property by nonprofit organizations which are~~

1791 ~~incorporated pursuant to chapter 617 the primary purpose of~~
 1792 ~~which is providing activities that contribute to the development~~
 1793 ~~of good character or good sportsmanship, or to the educational~~
 1794 ~~or cultural development, of minors. This exemption is extended~~
 1795 ~~only to that level of the organization that has a salaried~~
 1796 ~~executive officer or an elected nonsalaried executive officer.~~
 1797 ~~For the purpose of this paragraph, the term "donated property"~~
 1798 ~~means any property transferred to such nonprofit organization~~
 1799 ~~for less than 50 percent of its fair market value.~~

1800 ~~(m) Religious institutions.—~~

1801 ~~1. There are exempt from the tax imposed by this chapter~~
 1802 ~~transactions involving sales or leases directly to religious~~
 1803 ~~institutions when used in carrying on their customary nonprofit~~
 1804 ~~religious activities or sales or leases of tangible personal~~
 1805 ~~property by religious institutions having an established~~
 1806 ~~physical place for worship at which nonprofit religious services~~
 1807 ~~and activities are regularly conducted and carried on.~~

1808 ~~2. As used in this paragraph, the term "religious~~
 1809 ~~institutions" means churches, synagogues, and established~~
 1810 ~~physical places for worship at which nonprofit religious~~
 1811 ~~services and activities are regularly conducted and carried on.~~
 1812 ~~The term "religious institutions" includes nonprofit~~
 1813 ~~corporations the sole purpose of which is to provide free~~
 1814 ~~transportation services to church members, their families, and~~
 1815 ~~other church attendees. The term "religious institutions" also~~
 1816 ~~includes nonprofit state, nonprofit district, or other nonprofit~~
 1817 ~~governing or administrative offices the function of which is to~~
 1818 ~~assist or regulate the customary activities of religious~~

HB 907

2012

1819 ~~institutions. The term "religious institutions" also includes~~
1820 ~~any nonprofit corporation that is qualified as nonprofit under~~
1821 ~~s. 501(c)(3) of the Internal Revenue Code of 1986, as amended,~~
1822 ~~and that owns and operates a Florida television station, at~~
1823 ~~least 90 percent of the programming of which station consists of~~
1824 ~~programs of a religious nature and the financial support for~~
1825 ~~which, exclusive of receipts for broadcasting from other~~
1826 ~~nonprofit organizations, is predominantly from contributions~~
1827 ~~from the general public. The term "religious institutions" also~~
1828 ~~includes any nonprofit corporation that is qualified as~~
1829 ~~nonprofit under s. 501(c)(3) of the Internal Revenue Code of~~
1830 ~~1986, as amended, the primary activity of which is making and~~
1831 ~~distributing audio recordings of religious scriptures and~~
1832 ~~teachings to blind or visually impaired persons at no charge.~~
1833 ~~The term "religious institutions" also includes any nonprofit~~
1834 ~~corporation that is qualified as nonprofit under s. 501(c)(3) of~~
1835 ~~the Internal Revenue Code of 1986, as amended, the sole or~~
1836 ~~primary function of which is to provide, upon invitation,~~
1837 ~~nonprofit religious services, evangelistic services, religious~~
1838 ~~education, administrative assistance, or missionary assistance~~
1839 ~~for a church, synagogue, or established physical place of~~
1840 ~~worship at which nonprofit religious services and activities are~~
1841 ~~regularly conducted.~~

1842 ~~(n) Veterans' organizations.—~~

1843 ~~1. There are exempt from the tax imposed by this chapter~~
1844 ~~transactions involving sales or leases to qualified veterans'~~
1845 ~~organizations and their auxiliaries when used in carrying on~~
1846 ~~their customary veterans' organization activities.~~

1847 ~~2. As used in this paragraph, the term "veterans'~~
 1848 ~~organizations" means nationally chartered or recognized~~
 1849 ~~veterans' organizations, including, but not limited to, Florida~~
 1850 ~~chapters of the Paralyzed Veterans of America, Catholic War~~
 1851 ~~Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and~~
 1852 ~~the Disabled American Veterans, Department of Florida, Inc.,~~
 1853 ~~which hold current exemptions from federal income tax under s.~~
 1854 ~~501(c)(4) or (19) of the Internal Revenue Code of 1986, as~~
 1855 ~~amended.~~

1856 ~~(e) Schools, colleges, and universities. Also exempt from~~
 1857 ~~the tax imposed by this chapter are sales or leases to state~~
 1858 ~~tax-supported schools, colleges, or universities.~~

1859 ~~(p) Section 501(c)(3) organizations. Also exempt from the~~
 1860 ~~tax imposed by this chapter are sales or leases to organizations~~
 1861 ~~determined by the Internal Revenue Service to be currently~~
 1862 ~~exempt from federal income tax pursuant to s. 501(c)(3) of the~~
 1863 ~~Internal Revenue Code of 1986, as amended, when such leases or~~
 1864 ~~purchases are used in carrying on their customary nonprofit~~
 1865 ~~activities.~~

1866 ~~(q) Resource recovery equipment. Also exempt is resource~~
 1867 ~~recovery equipment which is owned and operated by or on behalf~~
 1868 ~~of any county or municipality, certified by the Department of~~
 1869 ~~Environmental Protection under the provisions of s. 403.715.~~

1870 (e) ~~(r)~~ School books and school lunches.—This exemption
 1871 applies to school books used in regularly prescribed courses of
 1872 study, and to school lunches served in public, parochial, or
 1873 nonprofit schools operated for and attended by pupils of grades
 1874 K through 12. Yearbooks, magazines, newspapers, directories,

1875 bulletins, and similar publications distributed by such
 1876 educational institutions to their students are also exempt.
 1877 School books and food sold or served at community colleges and
 1878 other institutions of higher learning are taxable.

1879 ~~(s) Tasting beverages. Vinous and alcoholic beverages~~
 1880 ~~provided by distributors or vendors for the purpose of "wine~~
 1881 ~~tasting" and "spirituous beverage tasting" as contemplated under~~
 1882 ~~the provisions of ss. 564.06 and 565.12, respectively, are~~
 1883 ~~exempt from the tax imposed by this chapter.~~

1884 ~~(t) Boats temporarily docked in state.—~~

1885 ~~1. Notwithstanding the provisions of chapter 328,~~
 1886 ~~pertaining to the registration of vessels, a boat upon which the~~
 1887 ~~state sales or use tax has not been paid is exempt from the use~~
 1888 ~~tax under this chapter if it enters and remains in this state~~
 1889 ~~for a period not to exceed a total of 20 days in any calendar~~
 1890 ~~year calculated from the date of first dockage or slippage at a~~
 1891 ~~facility, registered with the department, that rents dockage or~~
 1892 ~~slippage space in this state. If a boat brought into this state~~
 1893 ~~for use under this paragraph is placed in a facility, registered~~
 1894 ~~with the department, for repairs, alterations, refitting, or~~
 1895 ~~modifications and such repairs, alterations, refitting, or~~
 1896 ~~modifications are supported by written documentation, the 20-day~~
 1897 ~~period shall be tolled during the time the boat is physically in~~
 1898 ~~the care, custody, and control of the repair facility, including~~
 1899 ~~the time spent on sea trials conducted by the facility. The 20-~~
 1900 ~~day time period may be tolled only once within a calendar year~~
 1901 ~~when a boat is placed for the first time that year in the~~
 1902 ~~physical care, custody, and control of a registered repair~~

HB 907

2012

1903 ~~facility; however, the owner may request and the department may~~
 1904 ~~grant an additional tolling of the 20-day period for purposes of~~
 1905 ~~repairs that arise from a written guarantee given by the~~
 1906 ~~registered repair facility, which guarantee covers only those~~
 1907 ~~repairs or modifications made during the first tolled period.~~
 1908 ~~Within 72 hours after the date upon which the registered repair~~
 1909 ~~facility took possession of the boat, the facility must have in~~
 1910 ~~its possession, on forms prescribed by the department, an~~
 1911 ~~affidavit which states that the boat is under its care, custody,~~
 1912 ~~and control and that the owner does not use the boat while in~~
 1913 ~~the facility. Upon completion of the repairs, alterations,~~
 1914 ~~refitting, or modifications, the registered repair facility~~
 1915 ~~must, within 72 hours after the date of release, have in its~~
 1916 ~~possession a copy of the release form which shows the date of~~
 1917 ~~release and any other information the department requires. The~~
 1918 ~~repair facility shall maintain a log that documents all~~
 1919 ~~alterations, additions, repairs, and sea trials during the time~~
 1920 ~~the boat is under the care, custody, and control of the~~
 1921 ~~facility. The affidavit shall be maintained by the registered~~
 1922 ~~repair facility as part of its records for as long as required~~
 1923 ~~by s. 213.35. When, within 6 months after the date of its~~
 1924 ~~purchase, a boat is brought into this state under this~~
 1925 ~~paragraph, the 6-month period provided in s. 212.05(1)(a)2. or~~
 1926 ~~s. 212.06(8) shall be tolled.~~

1927 ~~2. During the period of repairs, alterations, refitting,~~
 1928 ~~or modifications and during the 20-day period referred to in~~
 1929 ~~subparagraph 1., the boat may be listed for sale, contracted for~~
 1930 ~~sale, or sold exclusively by a broker or dealer registered with~~

1931 ~~the department without incurring a use tax under this chapter;~~
 1932 ~~however, the sales tax levied under this chapter applies to such~~
 1933 ~~sale.~~

1934 ~~3. The mere storage of a boat at a registered repair~~
 1935 ~~facility does not qualify as a tax-exempt use in this state.~~

1936 ~~4. As used in this paragraph, "registered repair facility"~~
 1937 ~~means:~~

1938 ~~a. A full-service facility that:~~

1939 ~~(I) Is located on a navigable body of water;~~

1940 ~~(II) Has haulout capability such as a dry dock, travel~~
 1941 ~~lift, railway, or similar equipment to service craft under the~~
 1942 ~~care, custody, and control of the facility;~~

1943 ~~(III) Has adequate piers and storage facilities to provide~~
 1944 ~~safe berthing of vessels in its care, custody, and control; and~~

1945 ~~(IV) Has necessary shops and equipment to provide repair~~
 1946 ~~or warranty work on vessels under the care, custody, and control~~
 1947 ~~of the facility;~~

1948 ~~b. A marina that:~~

1949 ~~(I) Is located on a navigable body of water;~~

1950 ~~(II) Has adequate piers and storage facilities to provide~~
 1951 ~~safe berthing of vessels in its care, custody, and control; and~~

1952 ~~(III) Has necessary shops and equipment to provide repairs~~
 1953 ~~or warranty work on vessels; or~~

1954 ~~e. A shoreside facility that:~~

1955 ~~(I) Is located on a navigable body of water;~~

1956 ~~(II) Has adequate piers and storage facilities to provide~~
 1957 ~~safe berthing of vessels in its care, custody, and control; and~~

1958 ~~(III) Has necessary shops and equipment to provide repairs~~

1959 ~~or warranty work.~~

1960 ~~(u) Volunteer fire departments. Also exempt are~~

1961 ~~firefighting and rescue service equipment and supplies purchased~~

1962 ~~by volunteer fire departments, duly chartered under the Florida~~

1963 ~~Statutes as corporations not for profit.~~

1964 ~~(v) Professional services.~~

1965 ~~1. Also exempted are professional, insurance, or personal~~

1966 ~~service transactions that involve sales as inconsequential~~

1967 ~~elements for which no separate charges are made.~~

1968 ~~2. The personal service transactions exempted pursuant to~~

1969 ~~subparagraph 1. do not exempt the sale of information services~~

1970 ~~involving the furnishing of printed, mimeographed, or~~

1971 ~~multigraphed matter, or matter duplicating written or printed~~

1972 ~~matter in any other manner, other than professional services and~~

1973 ~~services of employees, agents, or other persons acting in a~~

1974 ~~representative or fiduciary capacity or information services~~

1975 ~~furnished to newspapers and radio and television stations. As~~

1976 ~~used in this subparagraph, the term "information services"~~

1977 ~~includes the services of collecting, compiling, or analyzing~~

1978 ~~information of any kind or nature and furnishing reports thereof~~

1979 ~~to other persons.~~

1980 ~~3. This exemption does not apply to any service warranty~~

1981 ~~transaction taxable under s. 212.0506.~~

1982 ~~4. This exemption does not apply to any service~~

1983 ~~transaction taxable under s. 212.05(1)(i).~~

1984 ~~(w) Certain newspaper, magazine, and newsletter~~

1985 ~~subscriptions, shoppers, and community newspapers. Likewise~~

1986 ~~exempt are newspaper, magazine, and newsletter subscriptions in~~

1987 ~~which the product is delivered to the customer by mail. Also~~
 1988 ~~exempt are free, circulated publications that are published on a~~
 1989 ~~regular basis, the content of which is primarily advertising,~~
 1990 ~~and that are distributed through the mail, home delivery, or~~
 1991 ~~newsstands. The exemption for newspaper, magazine, and~~
 1992 ~~newsletter subscriptions which is provided in this paragraph~~
 1993 ~~applies only to subscriptions entered into after March 1, 1997.~~

1994 ~~(x) Sporting equipment brought into the state. Sporting~~
 1995 ~~equipment brought into Florida, for a period of not more than 4~~
 1996 ~~months in any calendar year, used by an athletic team or an~~
 1997 ~~individual athlete in a sporting event is exempt from the use~~
 1998 ~~tax if such equipment is removed from the state within 7 days~~
 1999 ~~after the completion of the event.~~

2000 ~~(y) Charter fishing vessels. The charge for chartering any~~
 2001 ~~boat or vessel, with the crew furnished, solely for the purpose~~
 2002 ~~of fishing is exempt from the tax imposed under s. 212.04 or s.~~
 2003 ~~212.05. This exemption does not apply to any charge to enter or~~
 2004 ~~stay upon any "head-boat," party boat, or other boat or vessel.~~
 2005 ~~Nothing in this paragraph shall be construed to exempt any boat~~
 2006 ~~from sales or use tax upon the purchase thereof except as~~
 2007 ~~provided in paragraph (t) and s. 212.05.~~

2008 ~~(z) Vending machines sponsored by nonprofit or charitable~~
 2009 ~~organizations. Also exempt are food or drinks for human~~
 2010 ~~consumption sold for 25 cents or less through a coin-operated~~
 2011 ~~vending machine sponsored by a nonprofit corporation qualified~~
 2012 ~~as nonprofit pursuant to s. 501(c)(3) or (4) of the Internal~~
 2013 ~~Revenue Code of 1986, as amended.~~

2014 ~~(aa) Certain commercial vehicles. Also exempt is the sale,~~

HB 907

2012

2015 ~~lease, or rental of a commercial motor vehicle as defined in s.~~
 2016 ~~207.002(2), when the following conditions are met:~~

2017 ~~1. The sale, lease, or rental occurs between two commonly~~
 2018 ~~owned and controlled corporations;~~

2019 ~~2. Such vehicle was titled and registered in this state at~~
 2020 ~~the time of the sale, lease, or rental; and~~

2021 ~~3. Florida sales tax was paid on the acquisition of such~~
 2022 ~~vehicle by the seller, lessor, or renter.~~

2023 ~~(bb) Community cemeteries.—Also exempt are purchases by~~
 2024 ~~any nonprofit corporation that has qualified under s. 501(c)(13)~~
 2025 ~~of the Internal Revenue Code of 1986, as amended, and is~~
 2026 ~~operated for the purpose of maintaining a cemetery that was~~
 2027 ~~donated to the community by deed.~~

2028 ~~(cc) Works of art.—~~

2029 ~~1. Also exempt are works of art sold to or used by an~~
 2030 ~~educational institution.~~

2031 ~~2. This exemption also applies to the sale to or use in~~
 2032 ~~this state of any work of art by any person if it was purchased~~
 2033 ~~or imported exclusively for the purpose of being donated to any~~
 2034 ~~educational institution, or loaned to and made available for~~
 2035 ~~display by any educational institution, provided that the term~~
 2036 ~~of the loan agreement is for at least 10 years.~~

2037 ~~3. The exemption provided by this paragraph for donations~~
 2038 ~~is allowed only if the person who purchased the work of art~~
 2039 ~~transfers title to the donated work of art to an educational~~
 2040 ~~institution. Such transfer of title shall be evidenced by an~~
 2041 ~~affidavit meeting requirements established by rule to document~~
 2042 ~~entitlement to the exemption. Nothing in this paragraph shall~~

2043 ~~preclude a work of art donated to an educational institution~~
 2044 ~~from remaining in the possession of the donor or purchaser, as~~
 2045 ~~long as title to the work of art lies with the educational~~
 2046 ~~institution.~~

2047 ~~4. A work of art is presumed to have been purchased in or~~
 2048 ~~imported into this state exclusively for loan as provided in~~
 2049 ~~subparagraph 2., if it is so loaned or placed in storage in~~
 2050 ~~preparation for such a loan within 90 days after purchase or~~
 2051 ~~importation, whichever is later; but a work of art is not deemed~~
 2052 ~~to be placed in storage in preparation for loan for purposes of~~
 2053 ~~this exemption if it is displayed at any place other than an~~
 2054 ~~educational institution.~~

2055 ~~5. The exemptions provided by this paragraph are allowed~~
 2056 ~~only if the person who purchased the work of art gives to the~~
 2057 ~~vendor an affidavit meeting the requirements, established by~~
 2058 ~~rule, to document entitlement to the exemption. The person who~~
 2059 ~~purchased the work of art shall forward a copy of such affidavit~~
 2060 ~~to the Department of Revenue at the time it is issued to the~~
 2061 ~~vendor.~~

2062 ~~6. The exemption for loans provided by subparagraph 2.~~
 2063 ~~applies only for the period during which a work of art is in the~~
 2064 ~~possession of the educational institution or is in storage~~
 2065 ~~before transfer of possession to that institution; and when it~~
 2066 ~~ceases to be so possessed or held, tax based upon the sales~~
 2067 ~~price paid by the owner is payable, and the statute of~~
 2068 ~~limitations provided in s. 95.091 shall begin to run at that~~
 2069 ~~time. However, tax shall not become due if the work of art is~~
 2070 ~~donated to an educational institution after the loan ceases.~~

2071 ~~7. Any educational institution to which a work of art has~~
 2072 ~~been donated pursuant to this paragraph shall make available to~~
 2073 ~~the department the title to the work of art and any other~~
 2074 ~~relevant information. Any educational institution which has~~
 2075 ~~received a work of art on loan pursuant to this paragraph shall~~
 2076 ~~make available to the department information relating to the~~
 2077 ~~work of art. Any educational institution that transfers from its~~
 2078 ~~possession a work of art as defined by this paragraph which has~~
 2079 ~~been loaned to it must notify the Department of Revenue within~~
 2080 ~~60 days after the transfer.~~

2081 ~~8. For purposes of the exemptions provided by this~~
 2082 ~~paragraph, the term:~~

2083 ~~a. "Educational institutions" includes state tax-~~
 2084 ~~supported, parochial, church, and nonprofit private schools,~~
 2085 ~~colleges, or universities that conduct regular classes and~~
 2086 ~~courses of study required for accreditation by or membership in~~
 2087 ~~the Southern Association of Colleges and Schools, the Florida~~
 2088 ~~Council of Independent Schools, or the Florida Association of~~
 2089 ~~Christian Colleges and Schools, Inc.; nonprofit private schools~~
 2090 ~~that conduct regular classes and courses of study accepted for~~
 2091 ~~continuing education credit by a board of the Division of~~
 2092 ~~Medical Quality Assurance of the Department of Health; or~~
 2093 ~~nonprofit libraries, art galleries, performing arts centers that~~
 2094 ~~provide educational programs to school children, which programs~~
 2095 ~~involve performances or other educational activities at the~~
 2096 ~~performing arts center and serve a minimum of 50,000 school~~
 2097 ~~children a year, and museums open to the public.~~

2098 ~~b. "Work of art" includes pictorial representations,~~

2099 ~~sculpture, jewelry, antiques, stamp collections and coin~~
 2100 ~~collections, and other tangible personal property, the value of~~
 2101 ~~which is attributable predominantly to its artistic, historical,~~
 2102 ~~political, cultural, or social importance.~~

2103 ~~(dd) Taxicab leases.—The lease of or license to use a~~
 2104 ~~taxicab or taxicab-related equipment and services provided by a~~
 2105 ~~taxicab company to an independent taxicab operator are exempt,~~
 2106 ~~provided, however, the exemptions provided under this paragraph~~
 2107 ~~only apply if sales or use tax has been paid on the acquisition~~
 2108 ~~of the taxicab and its related equipment.~~

2109 ~~(ee) Aircraft repair and maintenance labor charges.—There~~
 2110 ~~shall be exempt from the tax imposed by this chapter all labor~~
 2111 ~~charges for the repair and maintenance of qualified aircraft,~~
 2112 ~~aircraft of more than 15,000 pounds maximum certified takeoff~~
 2113 ~~weight, and rotary wing aircraft of more than 10,000 pounds~~
 2114 ~~maximum certified takeoff weight. Except as otherwise provided~~
 2115 ~~in this chapter, charges for parts and equipment furnished in~~
 2116 ~~connection with such labor charges are taxable.~~

2117 ~~(ff) Certain electricity or steam uses.—~~

2118 ~~1. Subject to the provisions of subparagraph 4., charges~~
 2119 ~~for electricity or steam used to operate machinery and equipment~~
 2120 ~~at a fixed location in this state when such machinery and~~
 2121 ~~equipment is used to manufacture, process, compound, produce, or~~
 2122 ~~prepare for shipment items of tangible personal property for~~
 2123 ~~sale, or to operate pollution control equipment, recycling~~
 2124 ~~equipment, maintenance equipment, or monitoring or control~~
 2125 ~~equipment used in such operations are exempt to the extent~~
 2126 ~~provided in this paragraph. If 75 percent or more of the~~

HB 907

2012

2127 ~~electricity or steam used at the fixed location is used to~~
2128 ~~operate qualifying machinery or equipment, 100 percent of the~~
2129 ~~charges for electricity or steam used at the fixed location are~~
2130 ~~exempt. If less than 75 percent but 50 percent or more of the~~
2131 ~~electricity or steam used at the fixed location is used to~~
2132 ~~operate qualifying machinery or equipment, 50 percent of the~~
2133 ~~charges for electricity or steam used at the fixed location are~~
2134 ~~exempt. If less than 50 percent of the electricity or steam used~~
2135 ~~at the fixed location is used to operate qualifying machinery or~~
2136 ~~equipment, none of the charges for electricity or steam used at~~
2137 ~~the fixed location are exempt.~~

2138 ~~2. This exemption applies only to industries classified~~
2139 ~~under SIC Industry Major Group Numbers 10, 12, 13, 14, 20, 22,~~
2140 ~~23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38,~~
2141 ~~and 39 and Industry Group Number 212. As used in this paragraph,~~
2142 ~~"SIC" means those classifications contained in the Standard~~
2143 ~~Industrial Classification Manual, 1987, as published by the~~
2144 ~~Office of Management and Budget, Executive Office of the~~
2145 ~~President.~~

2146 ~~3. Possession by a seller of a written certification by~~
2147 ~~the purchaser, certifying the purchaser's entitlement to an~~
2148 ~~exemption permitted by this subsection, relieves the seller from~~
2149 ~~the responsibility of collecting the tax on the nontaxable~~
2150 ~~amounts, and the department shall look solely to the purchaser~~
2151 ~~for recovery of such tax if it determines that the purchaser was~~
2152 ~~not entitled to the exemption.~~

2153 ~~4. Such exemption shall be applied as follows: beginning~~
2154 ~~July 1, 2000, 100 percent of the charges for such electricity or~~

2155 ~~steam shall be exempt.~~

2156 ~~(gg) Fair associations. Also exempt from the tax imposed~~
 2157 ~~by this chapter is the sale, use, lease, rental, or grant of a~~
 2158 ~~license to use, made directly to or by a fair association, of~~
 2159 ~~real or tangible personal property; any charge made by a fair~~
 2160 ~~association, or its agents, for parking, admissions, or for~~
 2161 ~~temporary parking of vehicles used for sleeping quarters;~~
 2162 ~~rentals, subleases, and sublicenses of real or tangible personal~~
 2163 ~~property between the owner of the central amusement attraction~~
 2164 ~~and any owner of an amusement ride, as those terms are used in~~
 2165 ~~ss. 616.15(1)(b) and 616.242(3)(a), for the furnishing of~~
 2166 ~~amusement rides at a public fair or exposition; and other~~
 2167 ~~transactions of a fair association which are incurred directly~~
 2168 ~~by the fair association in the financing, construction, and~~
 2169 ~~operation of a fair, exposition, or other event or facility that~~
 2170 ~~is authorized by s. 616.08. As used in this paragraph, the terms~~
 2171 ~~"fair association" and "public fair or exposition" have the same~~
 2172 ~~meaning as those terms are defined in s. 616.001. This exemption~~
 2173 ~~does not apply to the sale of tangible personal property made by~~
 2174 ~~a fair association through an agent or independent contractor;~~
 2175 ~~sales of admissions and tangible personal property by a~~
 2176 ~~concessionaire, vendor, exhibitor, or licensee; or rentals and~~
 2177 ~~subleases of tangible personal property or real property between~~
 2178 ~~the owner of the central amusement attraction and a~~
 2179 ~~concessionaire, vendor, exhibitor, or licensee, except for the~~
 2180 ~~furnishing of amusement rides, which transactions are exempt.~~

2181 ~~(hh) Solar energy systems. Also exempt are solar energy~~
 2182 ~~systems or any component thereof. The Florida Solar Energy~~

2183 ~~Center shall from time to time certify to the department a list~~
 2184 ~~of equipment and requisite hardware considered to be a solar~~
 2185 ~~energy system or a component thereof.~~

2186 ~~(ii) Nonprofit cooperative hospital laundries. Also exempt~~
 2187 ~~are sales or leases to nonprofit organizations that are~~
 2188 ~~incorporated under chapter 617 and which are treated, for~~
 2189 ~~federal income tax purposes, as cooperatives under subchapter T~~
 2190 ~~of the Internal Revenue Code, whose sole purpose is to offer~~
 2191 ~~laundry supplies and services to their members who must all be~~
 2192 ~~exempt from federal income tax pursuant to s. 501(c)(3) of the~~
 2193 ~~Internal Revenue Code. A member of a nonprofit cooperative~~
 2194 ~~hospital laundry whose Internal Revenue Code status changes~~
 2195 ~~shall, within 90 days after such change, divest all~~
 2196 ~~participation in the cooperative. The provision of laundry~~
 2197 ~~supplies and services to a nonmember business pursuant to a~~
 2198 ~~declaration of emergency under s. 252.36(2) and a written~~
 2199 ~~emergency plan of operation executed by the members of the~~
 2200 ~~cooperative does not invalidate or cause the denial of a~~
 2201 ~~cooperative's certificate of exemption.~~

2202 ~~(jj) Complimentary meals. Also exempt from the tax imposed~~
 2203 ~~by this chapter are food or drinks that are furnished as part of~~
 2204 ~~a packaged room rate by any person offering for rent or lease~~
 2205 ~~any transient living accommodations as described in s.~~
 2206 ~~509.013(4)(a) which are licensed under part I of chapter 509 and~~
 2207 ~~which are subject to the tax under s. 212.03, if a separate~~
 2208 ~~charge or specific amount for the food or drinks is not shown.~~
 2209 ~~Such food or drinks are considered to be sold at retail as part~~
 2210 ~~of the total charge for the transient living accommodations.~~

HB 907

2012

2211 ~~Moreover, the person offering the accommodations is not~~
 2212 ~~considered to be the consumer of items purchased in furnishing~~
 2213 ~~such food or drinks and may purchase those items under~~
 2214 ~~conditions of a sale for resale.~~

2215 ~~(kk) Nonprofit corporation conducting the correctional~~
 2216 ~~work programs. Products sold pursuant to s. 946.515 by the~~
 2217 ~~corporation organized pursuant to part II of chapter 946 are~~
 2218 ~~exempt from the tax imposed by this chapter. This exemption~~
 2219 ~~applies retroactively to July 1, 1983.~~

2220 ~~(ll) Parent-teacher organizations, parent-teacher~~
 2221 ~~associations, and schools having grades K through 12.—~~

2222 ~~1. Sales or leases to parent-teacher organizations and~~
 2223 ~~associations the purpose of which is to raise funds for schools~~
 2224 ~~that teach grades K through 12 and that are associated with~~
 2225 ~~schools having grades K through 12 are exempt from the tax~~
 2226 ~~imposed by this chapter.~~

2227 ~~2. Parent-teacher organizations and associations described~~
 2228 ~~in subparagraph 1., and schools having grades K through 12, may~~
 2229 ~~pay tax to their suppliers on the cost price of school materials~~
 2230 ~~and supplies purchased, rented, or leased for resale or rental~~
 2231 ~~to students in grades K through 12, of items sold for~~
 2232 ~~fundraising purposes, and of items sold through vending machines~~
 2233 ~~located on the school premises, in lieu of collecting the tax~~
 2234 ~~imposed by this chapter from the purchaser. This paragraph also~~
 2235 ~~applies to food or beverages sold through vending machines~~
 2236 ~~located in the student lunchroom or dining room of a school~~
 2237 ~~having kindergarten through grade 12.~~

2238 ~~(mm) Mobile home lot improvements. Items purchased by~~

HB 907

2012

2239 ~~developers for use in making improvements to a mobile home lot~~
 2240 ~~owned by the developer may be purchased tax exempt as a sale for~~
 2241 ~~resale if made pursuant to a contract that requires the~~
 2242 ~~developer to sell a mobile home to a purchaser, place the mobile~~
 2243 ~~home on the lot, and make the improvements to the lot for a~~
 2244 ~~single lump sum price. The developer must collect and remit~~
 2245 ~~sales tax on the entire lump sum price.~~

2246 ~~(nn) Veterans Administration. When a veteran of the armed~~
 2247 ~~forces purchases an aircraft, boat, mobile home, motor vehicle,~~
 2248 ~~or other vehicle from a dealer pursuant to the provisions of 38~~
 2249 ~~U.S.C. s. 3902(a), or any successor provision of the United~~
 2250 ~~States Code, the amount that is paid directly to the dealer by~~
 2251 ~~the Veterans Administration is not taxable. However, any portion~~
 2252 ~~of the purchase price which is paid directly to the dealer by~~
 2253 ~~the veteran is taxable.~~

2254 ~~(oo) Complimentary items. There is exempt from the tax~~
 2255 ~~imposed by this chapter:~~

2256 ~~1. Any food or drink, whether or not cooked or prepared on~~
 2257 ~~the premises, provided without charge as a sample or for the~~
 2258 ~~convenience of customers by a dealer that primarily sells food~~
 2259 ~~product items at retail.~~

2260 ~~2. Any item given to a customer as part of a price~~
 2261 ~~guarantee plan related to point of sale errors by a dealer that~~
 2262 ~~primarily sells food products at retail.~~

2263
 2264 ~~The exemptions in this paragraph do not apply to businesses with~~
 2265 ~~the primary activity of serving prepared meals or alcoholic~~
 2266 ~~beverages for immediate consumption.~~

2267 ~~(pp) Donated foods or beverages. Any food or beverage~~
 2268 ~~donated by a dealer that sells food products at retail to a food~~
 2269 ~~bank or an organization that holds a current exemption from~~
 2270 ~~federal corporate income tax pursuant to s. 501(c) of the~~
 2271 ~~Internal Revenue Code of 1986, as amended, is exempt from the~~
 2272 ~~tax imposed by this chapter.~~

2273 ~~(qq) Racing dogs. The sale of a racing dog by its owner is~~
 2274 ~~exempt if the owner is also the breeder of the animal.~~

2275 ~~(rr) Equipment used in aircraft repair and maintenance.—~~
 2276 ~~There shall be exempt from the tax imposed by this chapter~~
 2277 ~~replacement engines, parts, and equipment used in the repair or~~
 2278 ~~maintenance of qualified aircraft, aircraft of more than 15,000~~
 2279 ~~pounds maximum certified takeoff weight, and rotary wing~~
 2280 ~~aircraft of more than 10,300 pounds maximum certified takeoff~~
 2281 ~~weight, when such parts or equipment are installed on such~~
 2282 ~~aircraft that is being repaired or maintained in this state.~~

2283 ~~(ss) Aircraft sales or leases. The sale or lease of a~~
 2284 ~~qualified aircraft or an aircraft of more than 15,000 pounds~~
 2285 ~~maximum certified takeoff weight for use by a common carrier is~~
 2286 ~~exempt from the tax imposed by this chapter. As used in this~~
 2287 ~~paragraph, "common carrier" means an airline operating under~~
 2288 ~~Federal Aviation Administration regulations contained in Title~~
 2289 ~~14, chapter I, part 121 or part 129 of the Code of Federal~~
 2290 ~~Regulations.~~

2291 ~~(tt) Nonprofit water systems. Sales or leases to a not-~~
 2292 ~~for-profit corporation which holds a current exemption from~~
 2293 ~~federal income tax under s. 501(c)(4) or (12) of the Internal~~
 2294 ~~Revenue Code, as amended, are exempt from the tax imposed by~~

2295 ~~this chapter if the sole or primary function of the corporation~~
 2296 ~~is to construct, maintain, or operate a water system in this~~
 2297 ~~state.~~

2298 ~~(uu) Library cooperatives. Sales or leases to library~~
 2299 ~~cooperatives certified under s. 257.41(2) are exempt from the~~
 2300 ~~tax imposed by this chapter.~~

2301 ~~(vv) Advertising agencies.—~~

2302 ~~1. As used in this paragraph, the term "advertising~~
 2303 ~~agency" means any firm that is primarily engaged in the business~~
 2304 ~~of providing advertising materials and services to its clients.~~

2305 ~~2. The sale of advertising services by an advertising~~
 2306 ~~agency to a client is exempt from the tax imposed by this~~
 2307 ~~chapter. Also exempt from the tax imposed by this chapter are~~
 2308 ~~items of tangible personal property such as photographic~~
 2309 ~~negatives and positives, videos, films, galleys, mechanicals,~~
 2310 ~~veloxes, illustrations, digital audiotapes, analog tapes,~~
 2311 ~~printed advertisement copies, compact discs for the purpose of~~
 2312 ~~recording, digital equipment, and artwork and the services used~~
 2313 ~~to produce those items if the items are:~~

2314 ~~a. Sold to an advertising agency that is acting as an~~
 2315 ~~agent for its clients pursuant to contract, and are created for~~
 2316 ~~the performance of advertising services for the clients;~~

2317 ~~b. Produced, fabricated, manufactured, or otherwise~~
 2318 ~~created by an advertising agency for its clients, and are used~~
 2319 ~~in the performance of advertising services for the clients; or~~

2320 ~~c. Sold by an advertising agency to its clients in the~~
 2321 ~~performance of advertising services for the clients, whether or~~
 2322 ~~not the charges for these items are marked up or separately~~

2323 ~~stated.~~

2324
 2325 ~~The exemption provided by this subparagraph does not apply when~~
 2326 ~~tangible personal property such as film, paper, and videotapes~~
 2327 ~~is purchased to create items such as photographic negatives and~~
 2328 ~~positives, videos, films, galleys, mechanicals, veloxes,~~
 2329 ~~illustrations, and artwork that are sold to an advertising~~
 2330 ~~agency or produced in-house by an advertising agency on behalf~~
 2331 ~~of its clients.~~

2332 ~~3. The items exempted from tax under subparagraph 2. and~~
 2333 ~~the creative services used by an advertising agency to design~~
 2334 ~~the advertising for promotional goods such as displays, display~~
 2335 ~~containers, exhibits, newspaper inserts, brochures, catalogues,~~
 2336 ~~direct mail letters or flats, shirts, hats, pens, pencils, key~~
 2337 ~~chains, or other printed goods or materials are not subject to~~
 2338 ~~tax. However, when such promotional goods are produced or~~
 2339 ~~reproduced for distribution, tax applies to the sales price~~
 2340 ~~charged to the client for such promotional goods.~~

2341 ~~4. For items purchased by an advertising agency and exempt~~
 2342 ~~from tax under this paragraph, possession of an exemption~~
 2343 ~~certificate from the advertising agency certifying the agency's~~
 2344 ~~entitlement to exemption relieves the vendor of the~~
 2345 ~~responsibility of collecting the tax on the sale of such items~~
 2346 ~~to the advertising agency, and the department shall look solely~~
 2347 ~~to the advertising agency for recovery of tax if it determines~~
 2348 ~~that the advertising agency was not entitled to the exemption.~~

2349 ~~5. The exemptions provided by this paragraph apply~~
 2350 ~~retroactively, except that all taxes that have been collected~~

2351 ~~must be remitted, and taxes that have been remitted before July~~
 2352 ~~1, 1999, on transactions that are subject to exemption under~~
 2353 ~~this paragraph are not subject to refund.~~

2354 ~~6. The department may adopt rules that interpret or define~~
 2355 ~~the provisions of these exemptions and provide examples~~
 2356 ~~regarding the application of these exemptions.~~

2357 ~~(ww) Bullion. The sale of gold, silver, or platinum~~
 2358 ~~bullion, or any combination thereof, in a single transaction is~~
 2359 ~~exempt if the sales price exceeds \$500. The dealer must maintain~~
 2360 ~~proper documentation, as prescribed by rule of the department,~~
 2361 ~~to identify that portion of a transaction which involves the~~
 2362 ~~sale of gold, silver, or platinum bullion and is exempt under~~
 2363 ~~this paragraph.~~

2364 ~~(xx) Certain repair and labor charges.—~~

2365 ~~1. Subject to the provisions of subparagraphs 2. and 3.,~~
 2366 ~~there is exempt from the tax imposed by this chapter all labor~~
 2367 ~~charges for the repair of, and parts and materials used in the~~
 2368 ~~repair of and incorporated into, industrial machinery and~~
 2369 ~~equipment which is used for the manufacture, processing,~~
 2370 ~~compounding, production, or preparation for shipping of items of~~
 2371 ~~tangible personal property at a fixed location within this~~
 2372 ~~state.~~

2373 ~~2. This exemption applies only to industries classified~~
 2374 ~~under SIC Industry Major Group Numbers 10, 12, 13, 14, 20, 22,~~
 2375 ~~23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38,~~
 2376 ~~and 39 and Industry Group Number 212. As used in this~~
 2377 ~~subparagraph, "SIC" means those classifications contained in the~~
 2378 ~~Standard Industrial Classification Manual, 1987, as published by~~

HB 907

2012

2379 ~~the Office of Management and Budget, Executive Office of the~~
 2380 ~~President.~~

2381 ~~3. This exemption shall be applied as follows:~~

2382 ~~a. Beginning July 1, 2000, 50 percent of such charges for~~
 2383 ~~repair parts and labor shall be exempt.~~

2384 ~~b. Beginning July 1, 2001, 75 percent of such charges for~~
 2385 ~~repair parts and labor shall be exempt.~~

2386 ~~c. Beginning July 1, 2002, 100 percent of such charges for~~
 2387 ~~repair parts and labor shall be exempt.~~

2388 ~~(yy) Film and other printing supplies. Also exempt are the~~
 2389 ~~following materials purchased, produced, or created by~~
 2390 ~~businesses classified under SIC Industry Numbers 275, 276, 277,~~
 2391 ~~278, or 279 for use in producing graphic matter for sale: film,~~
 2392 ~~photographic paper, dyes used for embossing and engraving,~~
 2393 ~~artwork, typography, lithographic plates, and negatives. As used~~
 2394 ~~in this paragraph, "SIC" means those classifications contained~~
 2395 ~~in the Standard Industrial Classification Manual, 1987, as~~
 2396 ~~published by the Office of Management and Budget, Executive~~
 2397 ~~Office of the President.~~

2398 ~~(zz) People-mover systems. People-mover systems, and parts~~
 2399 ~~thereof, which are purchased or manufactured by contractors~~
 2400 ~~employed either directly by or as agents for the United States~~
 2401 ~~Government, the state, a county, a municipality, a political~~
 2402 ~~subdivision of the state, or the public operator of a public-use~~
 2403 ~~airport as defined by s. 332.004(14) are exempt from the tax~~
 2404 ~~imposed by this chapter when the systems or parts go into or~~
 2405 ~~become part of publicly owned facilities. In the case of~~
 2406 ~~contractors who manufacture and install such systems and parts,~~

2407 ~~this exemption extends to the purchase of component parts and~~
 2408 ~~all other manufacturing and fabrication costs. The department~~
 2409 ~~may provide a form to be used by contractors to provide to~~
 2410 ~~suppliers of people mover systems or parts to certify the~~
 2411 ~~contractors' eligibility for the exemption provided under this~~
 2412 ~~paragraph. As used in this paragraph, "people mover systems"~~
 2413 ~~includes wheeled passenger vehicles and related control and~~
 2414 ~~power distribution systems that are part of a transportation~~
 2415 ~~system for use by the general public, regardless of whether such~~
 2416 ~~vehicles are operator-controlled or driverless, self-propelled~~
 2417 ~~or propelled by external power and control systems, or conducted~~
 2418 ~~on roads, rails, guidebeams, or other permanent structures that~~
 2419 ~~are an integral part of such transportation system. "Related~~
 2420 ~~control and power distribution systems" includes any electrical~~
 2421 ~~or electronic control or signaling equipment, but does not~~
 2422 ~~include the embedded wiring, conduits, or cabling used to~~
 2423 ~~transmit electrical or electronic signals among such control~~
 2424 ~~equipment, power distribution equipment, signaling equipment,~~
 2425 ~~and wheeled vehicles.~~

2426 ~~(aaa) Florida Fire and Emergency Services Foundation.—~~
 2427 ~~Sales or leases to the Florida Fire and Emergency Services~~
 2428 ~~Foundation are exempt from the tax imposed by this chapter.~~

2429 ~~(bbb) Railroad roadway materials. Also exempt from the tax~~
 2430 ~~imposed by this chapter are railroad roadway materials used in~~
 2431 ~~the construction, repair, or maintenance of railways. Railroad~~
 2432 ~~roadway materials shall include rails, ties, ballasts,~~
 2433 ~~communication equipment, signal equipment, power transmission~~
 2434 ~~equipment, and any other track materials.~~

HB 907

2012

2435 ~~(ccc) Advertising materials distributed free of charge by~~
2436 ~~mail in an envelope. Likewise exempt are materials consisting~~
2437 ~~exclusively of advertisements, such as individual coupons or~~
2438 ~~other individual cards, sheets, or pages of printed advertising,~~
2439 ~~that are distributed free of charge by mail in an envelope for~~
2440 ~~10 or more persons on a monthly, bimonthly, or other regular~~
2441 ~~basis.~~

2442 ~~(ddd) Certain delivery charges. Separately stated charges~~
2443 ~~that can be avoided at the option of the purchaser for the~~
2444 ~~delivery, inspection, placement, or removal from packaging or~~
2445 ~~shipping materials of furniture or appliances by the selling~~
2446 ~~dealer at the premises of the purchaser or the removal of~~
2447 ~~similar items from the premises of the purchaser are exempt. If~~
2448 ~~any charge for delivery, inspection, placement, or removal of~~
2449 ~~furniture or appliances includes the modification, assembly, or~~
2450 ~~construction of such furniture or appliances, then all of the~~
2451 ~~charges are taxable.~~

2452 ~~(eee) Bookstore operations at a postsecondary educational~~
2453 ~~institution. Also exempt from payment of the tax imposed by this~~
2454 ~~chapter on renting, leasing, letting, or granting a license for~~
2455 ~~the use of any real property are payments to a postsecondary~~
2456 ~~educational institution made by any person pursuant to a grant~~
2457 ~~of the right to conduct bookstore operations on real property~~
2458 ~~owned or leased by the postsecondary educational institution. As~~
2459 ~~used in this paragraph, the term "bookstore operations" means~~
2460 ~~activities consisting predominantly of sales, distribution, and~~
2461 ~~provision of textbooks, merchandise, and services traditionally~~
2462 ~~offered in college and university bookstores for the benefit of~~

2463 ~~the institution's students, faculty, and staff.~~
 2464 ~~(fff) Aircraft temporarily in the state.~~
 2465 ~~1. An aircraft owned by a nonresident is exempt from the~~
 2466 ~~use tax imposed under this chapter if the aircraft enters and~~
 2467 ~~remains in this state for less than a total of 21 days during~~
 2468 ~~the 6-month period after the date of purchase. The temporary use~~
 2469 ~~of the aircraft and subsequent removal from this state may be~~
 2470 ~~proven by invoices for fuel, tie-down, or hangar charges issued~~
 2471 ~~by out-of-state vendors or suppliers or similar documentation~~
 2472 ~~that clearly and specifically identifies the aircraft. The~~
 2473 ~~exemption provided in this subparagraph is in addition to the~~
 2474 ~~exemptions provided in subparagraph 2. and s. 212.05(1)(a).~~
 2475 ~~2. An aircraft owned by a nonresident is exempt from the~~
 2476 ~~use tax imposed under this chapter if the aircraft enters or~~
 2477 ~~remains in this state exclusively for purposes of flight~~
 2478 ~~training, repairs, alterations, refitting, or modification. Such~~
 2479 ~~purposes shall be supported by written documentation issued by~~
 2480 ~~in-state vendors or suppliers which clearly and specifically~~
 2481 ~~identifies the aircraft. The exemption provided in this~~
 2482 ~~subparagraph is in addition to the exemptions provided in~~
 2483 ~~subparagraph 1. and s. 212.05(1)(a).~~
 2484 ~~(ggg) Fractional aircraft ownership programs. The sale or~~
 2485 ~~use of aircraft primarily used in a fractional aircraft~~
 2486 ~~ownership program or of any parts or labor used in the~~
 2487 ~~completion, maintenance, repair, or overhaul of such aircraft is~~
 2488 ~~exempt from the tax imposed by this chapter. The exemption is~~
 2489 ~~not allowed unless the program manager of the fractional~~
 2490 ~~aircraft ownership program furnishes the dealer with a~~

2491 ~~certificate stating that the lease, purchase, repair, or~~
 2492 ~~maintenance is for aircraft primarily used in a fractional~~
 2493 ~~aircraft ownership program and that the program manager~~
 2494 ~~qualifies for the exemption. If a program manager makes tax-~~
 2495 ~~exempt purchases on a continual basis, the program manager may~~
 2496 ~~allow the dealer to keep the certificate on file. The program~~
 2497 ~~manager must inform a dealer that keeps the certificate on file~~
 2498 ~~if the program manager no longer qualifies for the exemption.~~
 2499 ~~The department may adopt rules to administer this paragraph,~~
 2500 ~~including rules determining the format of the certificate.~~

2501 ~~(8) PARTIAL EXEMPTIONS; VESSELS ENGAGED IN INTERSTATE OR~~
 2502 ~~FOREIGN COMMERCE.—~~

2503 ~~(a) The sale or use of vessels and parts thereof used to~~
 2504 ~~transport persons or property in interstate or foreign commerce,~~
 2505 ~~including commercial fishing vessels, is subject to the taxes~~
 2506 ~~imposed in this chapter only to the extent provided herein. The~~
 2507 ~~basis of the tax shall be the ratio of intrastate mileage to~~
 2508 ~~interstate or foreign mileage traveled by the carrier's vessels~~
 2509 ~~which were used in interstate or foreign commerce and which had~~
 2510 ~~at least some Florida mileage during the previous fiscal year.~~
 2511 ~~The ratio would be determined at the close of the carrier's~~
 2512 ~~fiscal year. However, during the fiscal year in which the vessel~~
 2513 ~~begins its initial operations in this state, the vessel's~~
 2514 ~~mileage apportionment factor may be determined on the basis of~~
 2515 ~~an estimated ratio of anticipated miles in this state to~~
 2516 ~~anticipated total miles for that year and, subsequently,~~
 2517 ~~additional tax shall be paid on the vessel, or a refund may be~~
 2518 ~~applied for, on the basis of the actual ratio of the vessel's~~

HB 907

2012

2519 ~~miles in this state to its total miles for that year. This ratio~~
2520 ~~shall be applied each month to the total Florida purchases of~~
2521 ~~such vessels and parts thereof which are used in Florida to~~
2522 ~~establish that portion of the total used and consumed in~~
2523 ~~intrastate movement and subject to the tax at the applicable~~
2524 ~~rate. The basis for imposition of any discretionary surtax shall~~
2525 ~~be as set forth in s. 212.054. Items, appropriate to carry out~~
2526 ~~the purposes for which a vessel is designed or equipped and~~
2527 ~~used, purchased by the owner, operator, or agent of a vessel for~~
2528 ~~use on board such vessel shall be deemed to be parts of the~~
2529 ~~vessel upon which the same are used or consumed. Vessels and~~
2530 ~~parts thereof used to transport persons or property in~~
2531 ~~interstate and foreign commerce are hereby determined to be~~
2532 ~~susceptible to a distinct and separate classification for~~
2533 ~~taxation under the provisions of this chapter. Vessels and parts~~
2534 ~~thereof used exclusively in intrastate commerce do not qualify~~
2535 ~~for the proration of tax.~~

2536 ~~(b) The partial exemption provided for in this subsection~~
2537 ~~shall not be allowed unless the purchaser signs an affidavit~~
2538 ~~stating that the item or items to be partially exempted are for~~
2539 ~~the exclusive use designated herein and setting forth the extent~~
2540 ~~of such partial exemption. Any person furnishing a false~~
2541 ~~affidavit to such effect for the purpose of evading payment of~~
2542 ~~any tax imposed under this chapter is subject to the penalties~~
2543 ~~set forth in s. 212.12 and as otherwise provided by law.~~

2544 ~~(c) It is the intent of the Legislature that neither~~
2545 ~~subsection (4) nor this subsection shall be construed as~~
2546 ~~imposing the tax provided by this chapter on vessels used as~~

HB 907

2012

2547 ~~common carriers, contract carriers, or private carriers, engaged~~
 2548 ~~in interstate or foreign commerce, except to the extent provided~~
 2549 ~~by the pro rata formula provided in subsection (4) and in~~
 2550 ~~paragraph (a).~~

2551 ~~(9) PARTIAL EXEMPTIONS; RAILROADS AND MOTOR VEHICLES~~
 2552 ~~ENGAGED IN INTERSTATE OR FOREIGN COMMERCE.~~

2553 ~~(a) Railroads that are licensed as common carriers by the~~
 2554 ~~Surface Transportation Board and parts thereof used to transport~~
 2555 ~~persons or property in interstate or foreign commerce are~~
 2556 ~~subject to tax imposed in this chapter only to the extent~~
 2557 ~~provided herein. The basis of the tax shall be the ratio of~~
 2558 ~~intrastate mileage to interstate or foreign mileage traveled by~~
 2559 ~~the carrier during the previous fiscal year of the carrier. Such~~
 2560 ~~ratio is to be determined at the close of the carrier's fiscal~~
 2561 ~~year. However, during the fiscal year in which the railroad~~
 2562 ~~begins its initial operations in this state, the railroad's~~
 2563 ~~mileage apportionment factor may be determined on the basis of~~
 2564 ~~an estimated ratio of anticipated miles in this state to~~
 2565 ~~anticipated total miles for that year and, subsequently,~~
 2566 ~~additional tax shall be paid on the railroad, or a refund may be~~
 2567 ~~applied for, on the basis of the actual ratio of the railroad's~~
 2568 ~~miles in this state to its total miles for that year. This ratio~~
 2569 ~~shall be applied each month to the purchases of the railroad in~~
 2570 ~~this state which are used in this state to establish that~~
 2571 ~~portion of the total used and consumed in intrastate movement~~
 2572 ~~and subject to tax under this chapter. The basis for imposition~~
 2573 ~~of any discretionary surtax is set forth in s. 212.054.~~
 2574 ~~Railroads that are licensed as common carriers by the Surface~~

2575 ~~Transportation Board and parts thereof used to transport persons~~
 2576 ~~or property in interstate and foreign commerce are hereby~~
 2577 ~~determined to be susceptible to a distinct and separate~~
 2578 ~~classification for taxation under the provisions of this~~
 2579 ~~chapter.~~

2580 ~~(b) Motor vehicles that are engaged in interstate commerce~~
 2581 ~~as common carriers, and parts thereof, used to transport persons~~
 2582 ~~or property in interstate or foreign commerce are subject to tax~~
 2583 ~~imposed in this chapter only to the extent provided herein. The~~
 2584 ~~basis of the tax shall be the ratio of intrastate mileage to~~
 2585 ~~interstate or foreign mileage traveled by the carrier's motor~~
 2586 ~~vehicles which were used in interstate or foreign commerce and~~
 2587 ~~which had at least some Florida mileage during the previous~~
 2588 ~~fiscal year of the carrier. Such ratio is to be determined at~~
 2589 ~~the close of the carrier's fiscal year. However, during the~~
 2590 ~~fiscal year in which the carrier begins its initial operations~~
 2591 ~~in this state, the carrier's mileage apportionment factor may be~~
 2592 ~~determined on the basis of an estimated ratio of anticipated~~
 2593 ~~miles in this state to anticipated total miles for that year~~
 2594 ~~and, subsequently, additional tax shall be paid on the carrier,~~
 2595 ~~or a refund may be applied for, on the basis of the actual ratio~~
 2596 ~~of the carrier's miles in this state to its total miles for that~~
 2597 ~~year. This ratio shall be applied each month to the purchases in~~
 2598 ~~this state of such motor vehicles and parts thereof which are~~
 2599 ~~used in this state to establish that portion of the total used~~
 2600 ~~and consumed in intrastate movement and subject to tax under~~
 2601 ~~this chapter. The basis for imposition of any discretionary~~
 2602 ~~surtax is set forth in s. 212.054. Motor vehicles that are~~

HB 907

2012

2603 ~~engaged in interstate commerce, and parts thereof, used to~~
 2604 ~~transport persons or property in interstate and foreign commerce~~
 2605 ~~are hereby determined to be susceptible to a distinct and~~
 2606 ~~separate classification for taxation under the provisions of~~
 2607 ~~this chapter. Motor vehicles and parts thereof used exclusively~~
 2608 ~~in intrastate commerce do not qualify for the proration of tax.~~
 2609 ~~For purposes of this paragraph, parts of a motor vehicle engaged~~
 2610 ~~in interstate commerce include a separate tank not connected to~~
 2611 ~~the fuel supply system of the motor vehicle into which diesel~~
 2612 ~~fuel is placed to operate a refrigeration unit or other~~
 2613 ~~equipment.~~

2614 ~~(10) PARTIAL EXEMPTION; MOTOR VEHICLE SOLD TO RESIDENT OF~~
 2615 ~~ANOTHER STATE.—~~

2616 ~~(a) The tax collected on the sale of a new or used motor~~
 2617 ~~vehicle in this state to a resident of another state shall be an~~
 2618 ~~amount equal to the sales tax which would be imposed on such~~
 2619 ~~sale under the laws of the state of which the purchaser is a~~
 2620 ~~resident, except that such tax shall not exceed the tax that~~
 2621 ~~would otherwise be imposed under this chapter. At the time of~~
 2622 ~~the sale, the purchaser shall execute a notarized statement of~~
 2623 ~~his or her intent to license the vehicle in the state of which~~
 2624 ~~the purchaser is a resident within 45 days of the sale and of~~
 2625 ~~the fact of the payment to the State of Florida of a sales tax~~
 2626 ~~in an amount equivalent to the sales tax of his or her state of~~
 2627 ~~residence and shall submit the statement to the appropriate~~
 2628 ~~sales tax collection agency in his or her state of residence.~~
 2629 ~~Nothing in this subsection shall be construed to require the~~
 2630 ~~removal of the vehicle from this state following the filing of~~

HB 907

2012

2631 ~~an intent to license the vehicle in the purchaser's home state~~
 2632 ~~if the purchaser licenses the vehicle in his or her home state~~
 2633 ~~within 45 days after the date of sale.~~

2634 ~~(b) Notwithstanding the partial exemption allowed in~~
 2635 ~~paragraph (a), a vehicle is subject to this state's sales tax at~~
 2636 ~~the applicable state sales tax rate plus authorized surtaxes~~
 2637 ~~when the vehicle is purchased by a nonresident corporation or~~
 2638 ~~partnership and:~~

2639 ~~1. An officer of the corporation is a resident of this~~
 2640 ~~state;~~

2641 ~~2. A stockholder of the corporation who owns at least 10~~
 2642 ~~percent of the corporation is a resident of this state; or~~

2643 ~~3. A partner in the partnership who has at least 10~~
 2644 ~~percent ownership is a resident of this state.~~

2645
 2646 ~~However, if the vehicle is removed from this state within 45~~
 2647 ~~days after purchase and remains outside the state for a minimum~~
 2648 ~~of 180 days, the vehicle may qualify for the partial exemption~~
 2649 ~~allowed in paragraph (a) despite the residency of owners or~~
 2650 ~~stockholders of the purchasing entity.~~

2651 ~~(c) Nothing herein shall require the payment of tax to the~~
 2652 ~~State of Florida for assessments made prior to July 1, 2001, if~~
 2653 ~~the tax imposed by this section has been paid to the state in~~
 2654 ~~which the vehicle was licensed and the department has assessed a~~
 2655 ~~like amount of tax on the same transactions. This provision~~
 2656 ~~shall apply retroactively to assessments that have been~~
 2657 ~~protested prior to August 1, 1999, and have not been paid on the~~
 2658 ~~date this act takes effect.~~

2659 ~~(11) PARTIAL EXEMPTION; FLYABLE AIRCRAFT.~~

2660 ~~(a) The tax imposed on the sale by a manufacturer of~~

2661 ~~flyable aircraft, who designs such aircraft, which sale may~~

2662 ~~include necessary equipment and modifications placed on such~~

2663 ~~flyable aircraft prior to delivery by the manufacturer, shall be~~

2664 ~~an amount equal to the sales tax which would be imposed on such~~

2665 ~~sale under the laws of the state in which the aircraft will be~~

2666 ~~domiciled.~~

2667 ~~(b) This partial exemption applies only if the purchaser~~

2668 ~~is a resident of another state who will not use the aircraft in~~

2669 ~~this state, or if the purchaser is a resident of another state~~

2670 ~~and uses the aircraft in interstate or foreign commerce, or if~~

2671 ~~the purchaser is a resident of a foreign country.~~

2672 ~~(c) The maximum tax collectible under this subsection may~~

2673 ~~not exceed 6 percent of the sales price of such aircraft. No~~

2674 ~~Florida tax may be imposed on the sale of such aircraft if the~~

2675 ~~state in which the aircraft will be domiciled does not allow~~

2676 ~~Florida sales or use tax to be credited against its sales or use~~

2677 ~~tax. Furthermore, no tax may be imposed on the sale of such~~

2678 ~~aircraft if the state in which the aircraft will be domiciled~~

2679 ~~has enacted a sales and use tax exemption for flyable aircraft~~

2680 ~~or if the aircraft will be domiciled outside the United States.~~

2681 ~~(d) The purchaser shall execute a sworn affidavit~~

2682 ~~attesting that he or she is not a resident of this state and~~

2683 ~~stating where the aircraft will be domiciled. If the aircraft is~~

2684 ~~subsequently used in this state within 6 months of the time of~~

2685 ~~purchase, in violation of the intent of this subsection, the~~

2686 ~~purchaser shall be liable for payment of the full use tax~~

HB 907

2012

2687 ~~imposed by this chapter and shall be subject to the penalty~~
 2688 ~~imposed by s. 212.12(2), which penalty shall be mandatory.~~
 2689 ~~Notwithstanding the provisions of this paragraph, the owner of~~
 2690 ~~an aircraft purchased pursuant to this subsection may permit the~~
 2691 ~~aircraft to be returned to this state for repairs within 6~~
 2692 ~~months after the date of sale without the aircraft being in~~
 2693 ~~violation of the law and without incurring liability for payment~~
 2694 ~~of tax or penalty on the purchase price of the aircraft, so long~~
 2695 ~~as the aircraft is removed from this state within 20 days after~~
 2696 ~~the completion of the repairs and such removal can be proven by~~
 2697 ~~invoices for fuel, tie-down, or hangar charges issued by out-of-~~
 2698 ~~state vendors or suppliers or similar documentation.~~

2699 ~~(12) PARTIAL EXEMPTION; MASTER TAPES, RECORDS, FILMS, OR~~
 2700 ~~VIDEO TAPES.—~~

2701 ~~(a) There are exempt from the taxes imposed by this~~
 2702 ~~chapter the gross receipts from the sale or lease of, and the~~
 2703 ~~storage, use, or other consumption in this state of, master~~
 2704 ~~tapes or master records embodying sound, or master films or~~
 2705 ~~master video tapes; except that amounts paid to recording~~
 2706 ~~studios or motion picture or television studios for the tangible~~
 2707 ~~elements of such master tapes, records, films, or video tapes~~
 2708 ~~are taxable as otherwise provided in this chapter. This~~
 2709 ~~exemption will inure to the taxpayer upon presentation of the~~
 2710 ~~certificate of exemption issued to the taxpayer under the~~
 2711 ~~provisions of s. 288.1258.~~

2712 ~~(b) For the purposes of this subsection, the term:~~

2713 ~~1. "Amounts paid for the tangible elements" does not~~
 2714 ~~include any amounts paid for the copyrightable, artistic, or~~

2715 ~~other intangible elements of such master tapes, records, films,~~
 2716 ~~or video tapes, whether designated as royalties or otherwise,~~
 2717 ~~including, but not limited to, services rendered in producing,~~
 2718 ~~fabricating, processing, or imprinting tangible personal~~
 2719 ~~property or any other services or production expenses in~~
 2720 ~~connection therewith which may otherwise be construed as~~
 2721 ~~constituting a "sale" under s. 212.02.~~

2722 ~~2. "Master films or master video tapes" means films or~~
 2723 ~~video tapes utilized by the motion picture and television~~
 2724 ~~production industries in making visual images for reproduction.~~

2725 ~~3. "Master tapes or master records embodying sound" means~~
 2726 ~~tapes, records, and other devices utilized by the recording~~
 2727 ~~industry in making recordings embodying sound.~~

2728 ~~4. "Motion picture or television studio" means a facility~~
 2729 ~~in which film or video tape productions or parts of productions~~
 2730 ~~are made and which contains the necessary equipment and~~
 2731 ~~personnel for this purpose and includes a mobile unit or vehicle~~
 2732 ~~that is equipped in much the same manner as a stationary studio~~
 2733 ~~and used in the making of film or video tape productions.~~

2734 ~~5. "Recording studio" means a place where, by means of~~
 2735 ~~mechanical or electronic devices, voices, music, or other sounds~~
 2736 ~~are transmitted to tapes, records, or other devices capable of~~
 2737 ~~reproducing sound.~~

2738 ~~6. "Recording industry" means any person engaged in an~~
 2739 ~~occupation or business of making recordings embodying sound for~~
 2740 ~~a livelihood or for a profit.~~

2741 ~~7. "Motion picture or television production industry"~~
 2742 ~~means any person engaged in an occupation or business for a~~

2743 ~~livelihood or for profit of making visual motion picture or~~
 2744 ~~television visual images for showing on screen or television for~~
 2745 ~~theatrical, commercial, advertising, or educational purposes.~~

2746 ~~(13) No transactions shall be exempt from the tax imposed~~
 2747 ~~by this chapter except those expressly exempted herein. All laws~~
 2748 ~~granting tax exemptions, to the extent they may be inconsistent~~
 2749 ~~or in conflict with this chapter, including, but not limited to,~~
 2750 ~~the following designated laws, shall yield to and be superseded~~
 2751 ~~by the provisions of this subsection: ss. 125.019, 153.76,~~
 2752 ~~154.2331, 159.15, 159.31, 159.50, 159.708, 163.385, 163.395,~~
 2753 ~~215.76, 243.33, 315.11, 348.65, 348.762, 349.13, 403.1834,~~
 2754 ~~616.07, and 623.09, and the following Laws of Florida, acts of~~
 2755 ~~the year indicated: s. 31, chapter 30843, 1955; s. 19, chapter~~
 2756 ~~30845, 1955; s. 12, chapter 30927, 1955; s. 8, chapter 31179,~~
 2757 ~~1955; s. 15, chapter 31263, 1955; s. 13, chapter 31343, 1955; s.~~
 2758 ~~16, chapter 59-1653; s. 13, chapter 59-1356; s. 12, chapter 61-~~
 2759 ~~2261; s. 19, chapter 61-2754; s. 10, chapter 61-2686; s. 11,~~
 2760 ~~chapter 63-1643; s. 11, chapter 65-1274; s. 16, chapter 67-1446;~~
 2761 ~~and s. 10, chapter 67-1681. This subsection does not supersede~~
 2762 ~~the authority of a local government to adopt financial and local~~
 2763 ~~government incentives pursuant to s. 163.2517.~~

2764 ~~(14) TECHNICAL ASSISTANCE ADVISORY COMMITTEE.—The~~
 2765 ~~department shall establish a technical assistance advisory~~
 2766 ~~committee with public and private sector members, including~~
 2767 ~~representatives of both manufacturers and retailers, to advise~~
 2768 ~~the Department of Revenue and the Department of Health in~~
 2769 ~~determining the taxability of specific products and product~~
 2770 ~~lines pursuant to subsection (1) and paragraph (2) (a). In~~

2771 ~~determining taxability and in preparing a list of specific~~
 2772 ~~products and product lines that are or are not taxable, the~~
 2773 ~~committee shall not be subject to the provisions of chapter 120.~~
 2774 ~~Private sector members shall not be compensated for serving on~~
 2775 ~~the committee.~~

2776 ~~(15) ELECTRICAL ENERGY USED IN AN ENTERPRISE ZONE.—~~

2777 ~~(a) Beginning July 1, 1995, charges for electrical energy~~
 2778 ~~used by a qualified business at a fixed location in an~~
 2779 ~~enterprise zone in a municipality which has enacted an ordinance~~
 2780 ~~pursuant to s. 166.231(8) which provides for exemption of~~
 2781 ~~municipal utility taxes on such businesses or in an enterprise~~
 2782 ~~zone jointly authorized by a county and a municipality which has~~
 2783 ~~enacted an ordinance pursuant to s. 166.231(8) which provides~~
 2784 ~~for exemption of municipal utility taxes on such businesses~~
 2785 ~~shall receive an exemption equal to 50 percent of the tax~~
 2786 ~~imposed by this chapter, or, if no less than 20 percent of the~~
 2787 ~~employees of the business are residents of an enterprise zone,~~
 2788 ~~excluding temporary and part-time employees, the exemption shall~~
 2789 ~~be equal to 100 percent of the tax imposed by this chapter. A~~
 2790 ~~qualified business may receive such exemption for a period of 5~~
 2791 ~~years from the billing period beginning not more than 30 days~~
 2792 ~~following notification to the applicable utility company by the~~
 2793 ~~department that an exemption has been authorized pursuant to~~
 2794 ~~this subsection and s. 166.231(8).~~

2795 ~~(b) To receive this exemption, a business must file an~~
 2796 ~~application, with the enterprise zone development agency having~~
 2797 ~~jurisdiction over the enterprise zone where the business is~~
 2798 ~~located, on a form provided by the department for the purposes~~

HB 907

2012

2799 ~~of this subsection and s. 166.231(8). The application shall be~~
 2800 ~~made under oath and shall include:~~

- 2801 ~~1. The name and location of the business.~~
- 2802 ~~2. The identifying number assigned pursuant to s. 290.0065~~
 2803 ~~to the enterprise zone in which the business is located.~~
- 2804 ~~3. The date on which electrical service is to be first~~
 2805 ~~initiated to the business.~~
- 2806 ~~4. The name and mailing address of the entity from which~~
 2807 ~~electrical energy is to be purchased.~~
- 2808 ~~5. The date of the application.~~
- 2809 ~~6. The name of the city in which the business is located.~~
- 2810 ~~7. If applicable, the name and address of each permanent~~
 2811 ~~employee of the business including, for each employee who is a~~
 2812 ~~resident of an enterprise zone, the identifying number assigned~~
 2813 ~~pursuant to s. 290.0065 to the enterprise zone in which the~~
 2814 ~~employee resides.~~
- 2815 ~~8. Whether the business is a small business as defined by~~
 2816 ~~s. 288.703.~~

2817 ~~(c) Within 10 working days after receipt of an~~
 2818 ~~application, the enterprise zone development agency shall review~~
 2819 ~~the application to determine if it contains all information~~
 2820 ~~required pursuant to paragraph (b) and meets the criteria set~~
 2821 ~~out in this subsection. The agency shall certify all~~
 2822 ~~applications that contain the information required pursuant to~~
 2823 ~~paragraph (b) and meet the criteria set out in this subsection~~
 2824 ~~as eligible to receive an exemption. If applicable, the agency~~
 2825 ~~shall also certify if 20 percent of the employees of the~~
 2826 ~~business are residents of an enterprise zone, excluding~~

2827 ~~temporary and part-time employees. The certification shall be in~~
 2828 ~~writing, and a copy of the certification shall be transmitted to~~
 2829 ~~the executive director of the Department of Revenue. The~~
 2830 ~~applicant shall be responsible for forwarding a certified~~
 2831 ~~application to the department within 6 months after the~~
 2832 ~~occurrence of the appropriate qualifying provision set out in~~
 2833 ~~paragraph (f).~~

2834 ~~(d) If, in a subsequent audit conducted by the department,~~
 2835 ~~it is determined that the business did not meet the criteria~~
 2836 ~~mandated in this subsection, the amount of taxes exempted shall~~
 2837 ~~immediately be due and payable to the department by the~~
 2838 ~~business, together with the appropriate interest and penalty,~~
 2839 ~~computed from the due date of each bill for the electrical~~
 2840 ~~energy purchased as exempt under this subsection, in the manner~~
 2841 ~~prescribed by this chapter.~~

2842 ~~(e) The department shall adopt rules governing~~
 2843 ~~applications for, issuance of, and the form of applications for~~
 2844 ~~the exemption authorized in this subsection and provisions for~~
 2845 ~~recapture of taxes exempted under this subsection, and the~~
 2846 ~~department may establish guidelines as to qualifications for~~
 2847 ~~exemption.~~

2848 ~~(f) For the purpose of the exemption provided in this~~
 2849 ~~subsection, the term "qualified business" means a business which~~
 2850 ~~is:~~

- 2851 ~~1. First occupying a new structure to which electrical~~
 2852 ~~service, other than that used for construction purposes, has not~~
 2853 ~~been previously provided or furnished;~~
- 2854 ~~2. Newly occupying an existing, remodeled, renovated, or~~

2855 ~~rehabilitated structure to which electrical service, other than~~
 2856 ~~that used for remodeling, renovation, or rehabilitation of the~~
 2857 ~~structure, has not been provided or furnished in the three~~
 2858 ~~preceding billing periods; or~~

2859 ~~3. Occupying a new, remodeled, rebuilt, renovated, or~~
 2860 ~~rehabilitated structure for which a refund has been granted~~
 2861 ~~pursuant to paragraph (5) (g).~~

2862 ~~(g) This subsection expires on the date specified in s.~~
 2863 ~~290.016 for the expiration of the Florida Enterprise Zone Act,~~
 2864 ~~except that:~~

2865 ~~1. Paragraph (d) shall not expire; and~~

2866 ~~2. Any qualified business which has been granted an~~
 2867 ~~exemption under this subsection prior to that date shall be~~
 2868 ~~allowed the full benefit of this exemption as if this subsection~~
 2869 ~~had not expired on that date.~~

2870 ~~(16) EXEMPTIONS; SPACE ACTIVITIES.—~~

2871 ~~(a) There shall be exempt from the tax imposed by this~~
 2872 ~~chapter:~~

2873 ~~1. The sale, lease, use, storage, consumption, or~~
 2874 ~~distribution in this state of any orbital space facility, space~~
 2875 ~~propulsion system, or space vehicle, satellite, or station of~~
 2876 ~~any kind possessing space flight capacity, including the~~
 2877 ~~components thereof.~~

2878 ~~2. The sale, lease, use, storage, consumption, or~~
 2879 ~~distribution in this state of tangible personal property placed~~
 2880 ~~on or used aboard any orbital space facility, space propulsion~~
 2881 ~~system, or space vehicle, satellite, or station of any kind,~~
 2882 ~~irrespective of whether such tangible personal property is~~

2883 ~~returned to this state for subsequent use, storage, or~~
 2884 ~~consumption in any manner. This exemption is not affected by the~~
 2885 ~~failure of a launch to occur, or the destruction of a launch~~
 2886 ~~vehicle or any components thereof.~~

2887 ~~(b) This subsection shall be strictly construed and~~
 2888 ~~enforced.~~

2889 ~~(17) EXEMPTIONS; CERTAIN GOVERNMENT CONTRACTORS.—~~

2890 ~~(a) Subject to paragraph (d), the tax imposed by this~~
 2891 ~~chapter does not apply to the sale to or use by a government~~
 2892 ~~contractor of overhead materials. The term "government~~
 2893 ~~contractor" includes prime contractors and subcontractors.~~

2894 ~~(b) As used in this subsection, the term "overhead~~
 2895 ~~materials" means all tangible personal property, other than~~
 2896 ~~qualifying property as defined in s. 212.02(14)(a) and~~
 2897 ~~electricity, which is used or consumed in the performance of a~~
 2898 ~~qualifying contract, title to which property vests in or passes~~
 2899 ~~to the government under the contract.~~

2900 ~~(c) As used in this subsection and in s. 212.02(14)(a),~~
 2901 ~~the term "qualifying contract" means a contract with the United~~
 2902 ~~States Department of Defense or the National Aeronautics and~~
 2903 ~~Space Administration, or a subcontract thereunder, but does not~~
 2904 ~~include a contract or subcontract for the repair, alteration,~~
 2905 ~~improvement, or construction of real property, except to the~~
 2906 ~~extent that purchases under such a contract would otherwise be~~
 2907 ~~exempt from the tax imposed by this chapter.~~

2908 ~~(d) The exemption provided in this subsection applies as~~
 2909 ~~follows:~~

2910 ~~1. Beginning July 1, 2000, the tax imposed by this chapter~~

2911 ~~shall be applicable to 60 percent of the sales price or cost~~
 2912 ~~price of such overhead materials.~~

2913 ~~2. Beginning July 1, 2001, the tax imposed by this chapter~~
 2914 ~~shall be applicable to 40 percent of the sales price or cost~~
 2915 ~~price of such overhead materials.~~

2916 ~~3. Beginning July 1, 2002, the tax imposed by this chapter~~
 2917 ~~shall be applicable to 20 percent of the sales price or cost~~
 2918 ~~price of such overhead materials.~~

2919 ~~4. Beginning July 1, 2003, the entire sales price or cost~~
 2920 ~~price of such overhead materials is exempt from the tax imposed~~
 2921 ~~by this chapter.~~

2922
 2923 ~~The exemption provided in this subsection does not apply to any~~
 2924 ~~part of the cost of overhead materials allocated to a contract~~
 2925 ~~that is not a qualifying contract.~~

2926 ~~(e) Possession by a seller of a resale certificate or~~
 2927 ~~direct pay permit relieves the seller from the responsibility of~~
 2928 ~~collecting the tax, and the department shall look solely to the~~
 2929 ~~contractor for recovery of such tax if it determines that the~~
 2930 ~~contractor was not entitled to the exemption. The contractor~~
 2931 ~~shall self-accrue and remit any applicable sales or use tax due~~
 2932 ~~with respect to overhead materials and with respect to costs~~
 2933 ~~allocable to contracts that are not qualifying contracts. The~~
 2934 ~~department may amend its rules to reflect the use of resale~~
 2935 ~~certificates and direct pay permits with respect to the~~
 2936 ~~exemption provided for in this subsection.~~

2937 ~~(f) This subsection is not an expression of legislative~~
 2938 ~~intent as to the applicability of any tax to any sale or use of~~

2939 ~~overhead materials prior to July 1, 1999. In addition, this~~
 2940 ~~subsection does not imply that transactions or costs that are~~
 2941 ~~not described in this subsection are taxable.~~

2942 ~~(18) MACHINERY AND EQUIPMENT USED PREDOMINANTLY FOR~~
 2943 ~~RESEARCH AND DEVELOPMENT.—~~

2944 ~~(a) Machinery and equipment used predominantly for~~
 2945 ~~research and development as defined in this subsection are~~
 2946 ~~exempt from the tax imposed by this chapter.~~

2947 ~~(b) For purposes of this subsection:~~

2948 ~~1. "Machinery and equipment" includes, but is not limited~~
 2949 ~~to, molds, dies, machine tooling, other appurtenances or~~
 2950 ~~accessories to machinery and equipment, testing and measuring~~
 2951 ~~equipment, test beds, computers, and software, whether purchased~~
 2952 ~~or self-fabricated, and, if self-fabricated, includes materials~~
 2953 ~~and labor for design, fabrication, and assembly.~~

2954 ~~2. "Predominantly" means at least 50 percent of the time.~~

2955 ~~3. "Research and development" means research that has one~~
 2956 ~~of the following as its ultimate goal:~~

2957 ~~a. Basic research in a scientific field of endeavor;~~

2958 ~~b. Advancing knowledge or technology in a scientific or~~
 2959 ~~technical field of endeavor;~~

2960 ~~c. The development of a new product, whether or not the~~
 2961 ~~new product is offered for sale;~~

2962 ~~d. The improvement of an existing product, whether or not~~
 2963 ~~the improved product is offered for sale;~~

2964 ~~e. The development of new uses of an existing product,~~
 2965 ~~whether or not a new use is offered as a rationale to purchase~~
 2966 ~~the product; or~~

2967 ~~f. The design and development of prototypes, whether or~~
 2968 ~~not a resulting product is offered for sale.~~

2969
 2970 ~~The term "research and development" does not include ordinary~~
 2971 ~~testing or inspection of materials or products used for quality~~
 2972 ~~control, market research, efficiency surveys, consumer surveys,~~
 2973 ~~advertising and promotions, management studies, or research in~~
 2974 ~~connection with literary, historical, social science,~~
 2975 ~~psychological, or other similar nontechnical activities.~~

2976 ~~(c) The department may adopt rules pursuant to ss.~~
 2977 ~~120.536(1) and 120.54 that provide for administering and~~
 2978 ~~implementing this exemption.~~

2979 ~~(d) A person who claims the exemption provided in this~~
 2980 ~~subsection shall furnish the vendor of the machinery or~~
 2981 ~~equipment, including the vendor of materials and labor used in~~
 2982 ~~self-fabrication of the machinery or equipment, an affidavit~~
 2983 ~~stating that the item or items for which an exemption is claimed~~
 2984 ~~are machinery and equipment that will be used predominantly for~~
 2985 ~~research and development as required by this subsection. A~~
 2986 ~~purchaser who claims the exemption by refund shall include the~~
 2987 ~~affidavit with the refund application. The affidavit must~~
 2988 ~~contain the purchaser's name, address, sales and use tax~~
 2989 ~~registration number, and, if applicable, federal employer's~~
 2990 ~~identification number. Any person fraudulently furnishing an~~
 2991 ~~affidavit to the vendor for the purpose of evading payment of~~
 2992 ~~any tax imposed under this chapter shall be subject to the~~
 2993 ~~penalty set forth in s. 212.085 and as otherwise provided by~~
 2994 ~~law.~~

2995 ~~(e) In lieu of furnishing an affidavit, a purchaser~~
 2996 ~~claiming the exemption provided in this subsection who has a~~
 2997 ~~direct-pay permit may furnish the vendor with a copy of the~~
 2998 ~~direct-pay permit and shall maintain all documentation necessary~~
 2999 ~~to prove the exempt status of the purchases and fabrication~~
 3000 ~~activity.~~

3001 ~~(f) Purchasers shall maintain all documentation necessary~~
 3002 ~~to prove the exempt status of purchases and fabrication activity~~
 3003 ~~and make such documentation available for inspection pursuant to~~
 3004 ~~the requirements of s. 212.13(2).~~

3005 Section 4. (1) Effective July 1, 2015, ss. 212.051,
 3006 212.052, 212.0598, 212.0602, 212.0801, 212.0821, 212.09,
 3007 212.096, 212.097, and 212.098, Florida Statutes, are repealed.

3008 (2) Unless modified or reenacted as provided in s.
 3009 11.9035, Florida Statutes, effective July 1, 2015, any
 3010 exemption, deduction, or credit from the state sales and use tax
 3011 or any exclusion of sales and services from such tax granted by
 3012 the following is repealed:

3013 (a) Section 212.02, Florida Statutes, except rent on low-
 3014 income housing under s. 212.02(2), Florida Statutes.

3015 (b) Section 212.03, Florida Statutes, except rent charges
 3016 paid by long-term residents under s. 212.03(4), Florida
 3017 Statutes; rent charges paid by full-time students, by active
 3018 military personnel, and by permanent residents under s.
 3019 212.03(7)(a); Florida Statutes; rent charges in mobile home
 3020 parks under s. 212.03(7)(c), Florida Statutes; and rent charges
 3021 for living accommodations in migrant labor camps under s.
 3022 212.03(7)(d), Florida Statutes.

HB 907

2012

3023 (c) Section 212.031, Florida Statutes, except utility
3024 charges under s. 212.031(7), Florida Statutes.

3025 (d) Sections 212.04, 212.05, and 212.0506, Florida
3026 Statutes.

3027 (e) Sections 212.06 and 212.081, Florida Statutes, except
3028 any sale exempted by federal law or the United States
3029 Constitution.

3030 (f) Sections 212.0601, 212.07, 212.12, 212.20, and 376.75,
3031 Florida Statutes.

3032 Section 5. Except as otherwise expressly provided in this
3033 act, this act shall take effect July 1, 2012.