

HB 953

2012

1 A bill to be entitled
2 An act relating to tax exemptions for building
3 materials; amending s. 212.08, F.S.; providing that a
4 copy of any valid permit issued by the county or
5 municipal building department for rehabilitation of
6 real property in an enterprise zone satisfies the
7 requirement that a valid permit be included as part of
8 an application for a refund of the sales and use tax
9 on building materials; clarifying that the exemption
10 for building materials used in an enterprise zone
11 applies to the use tax and not just the sales tax;
12 revising the definition of the term "building
13 materials" to expand the scope of the sales or use tax
14 exemption to include building materials that become a
15 component part of housing project or mixed-use project
16 developments; revising the definition of the term
17 "housing project" to include the conversion of other
18 buildings for purposes of redevelopment; revising the
19 definition of the term "mixed-use project" to include
20 the conversion of other buildings for purposes of
21 redevelopment and expand the required square footage
22 set aside by the developer to include certain housing
23 construction in a designated brownfield area;
24 clarifying that the exemption for building materials
25 in redevelopment projects applies to the use tax and
26 not just the sales tax; specifying that copies of
27 other documents reflecting payment of the sales or use
28 tax, not just invoices evidencing payment of the tax,

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

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29 | satisfy certain requirements relating to the filing of
 30 | an application for refund of sales or use tax paid on
 31 | building materials in redevelopment projects;
 32 | providing an effective date.

33 |
 34 | Be It Enacted by the Legislature of the State of Florida:

35 |
 36 | Section 1. Paragraphs (g) and (o) of subsection (5) of
 37 | section 212.08, Florida Statutes, are amended to read:

38 | 212.08 Sales, rental, use, consumption, distribution, and
 39 | storage tax; specified exemptions.—The sale at retail, the
 40 | rental, the use, the consumption, the distribution, and the
 41 | storage to be used or consumed in this state of the following
 42 | are hereby specifically exempt from the tax imposed by this
 43 | chapter.

44 | (5) EXEMPTIONS; ACCOUNT OF USE.—

45 | (g) Building materials used in the rehabilitation of real
 46 | property located in an enterprise zone.—

47 | 1. Building materials used in the rehabilitation of real
 48 | property located in an enterprise zone are exempt from the tax
 49 | imposed by this chapter upon an affirmative showing to the
 50 | satisfaction of the department that the items have been used for
 51 | the rehabilitation of real property located in an enterprise
 52 | zone. Except as provided in subparagraph 2., this exemption
 53 | inures to the owner, lessee, or lessor at the time the real
 54 | property is rehabilitated, but only through a refund of
 55 | previously paid taxes. To receive a refund pursuant to this
 56 | paragraph, the owner, lessee, or lessor of the rehabilitated

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57 | real property must file an application under oath with the
58 | governing body or enterprise zone development agency having
59 | jurisdiction over the enterprise zone where the business is
60 | located, as applicable. A single application for a refund may be
61 | submitted for multiple, contiguous parcels that were part of a
62 | single parcel that was divided as part of the rehabilitation of
63 | the property. All other requirements of this paragraph apply to
64 | each parcel on an individual basis. The application must
65 | include:

66 | a. The name and address of the person claiming the refund.

67 | b. An address and assessment roll parcel number of the
68 | rehabilitated real property for which a refund of previously
69 | paid taxes is being sought.

70 | c. A description of the improvements made to accomplish
71 | the rehabilitation of the real property.

72 | d. A copy of a valid ~~building~~ permit issued by the county
73 | or municipal building department for the rehabilitation of the
74 | real property.

75 | e. A sworn statement, under penalty of perjury, from the
76 | general contractor licensed in this state with whom the
77 | applicant contracted to make the improvements necessary to
78 | rehabilitate the real property, which lists the building
79 | materials used to rehabilitate the real property, the actual
80 | cost of the building materials, and the amount of sales or use
81 | tax paid in this state on the building materials. If a general
82 | contractor was not used, the applicant, not a general
83 | contractor, shall make the sworn statement required by this sub-
84 | subparagraph. Copies of the invoices that evidence the purchase

85 of the building materials used in the rehabilitation and the
86 payment of sales or use tax on the building materials must be
87 attached to the sworn statement provided by the general
88 contractor or by the applicant. Unless the actual cost of
89 building materials used in the rehabilitation of real property
90 and the payment of sales or use taxes is documented by a general
91 contractor or by the applicant in this manner, the cost of the
92 building materials is deemed to be an amount equal to 40 percent
93 of the increase in assessed value for ad valorem tax purposes.

94 f. The identifying number assigned pursuant to s. 290.0065
95 to the enterprise zone in which the rehabilitated real property
96 is located.

97 g. A certification by the local building code inspector
98 that the improvements necessary to rehabilitate the real
99 property are substantially completed.

100 h. A statement of whether the business is a small business
101 as defined by s. 288.703.

102 i. If applicable, the name and address of each permanent
103 employee of the business, including, for each employee who is a
104 resident of an enterprise zone, the identifying number assigned
105 pursuant to s. 290.0065 to the enterprise zone in which the
106 employee resides.

107 2. This exemption inures to a municipality, county, other
108 governmental unit or agency, or nonprofit community-based
109 organization through a refund of previously paid taxes if the
110 building materials used in the rehabilitation are paid for from
111 the funds of a community development block grant, State Housing
112 Initiatives Partnership Program, or similar grant or loan

113 program. To receive a refund, a municipality, county, other
114 governmental unit or agency, or nonprofit community-based
115 organization must file an application that includes the same
116 information required in subparagraph 1. In addition, the
117 application must include a sworn statement signed by the chief
118 executive officer of the municipality, county, other
119 governmental unit or agency, or nonprofit community-based
120 organization seeking a refund which states that the building
121 materials for which a refund is sought were funded by a
122 community development block grant, State Housing Initiatives
123 Partnership Program, or similar grant or loan program.

124 3. Within 10 working days after receipt of an application,
125 the governing body or enterprise zone development agency shall
126 review the application to determine if it contains all the
127 information required by subparagraph 1. or subparagraph 2. and
128 meets the criteria set out in this paragraph. The governing body
129 or agency shall certify all applications that contain the
130 required information and are eligible to receive a refund. If
131 applicable, the governing body or agency shall also certify if
132 20 percent of the employees of the business are residents of an
133 enterprise zone, excluding temporary and part-time employees.
134 The certification must be in writing, and a copy of the
135 certification shall be transmitted to the executive director of
136 the department. The applicant is responsible for forwarding a
137 certified application to the department within the time
138 specified in subparagraph 4.

139 4. An application for a refund must be submitted to the
140 department within 6 months after the rehabilitation of the

141 property is deemed to be substantially completed by the local
142 building code inspector or by November 1 after the rehabilitated
143 property is first subject to assessment.

144 5. Only one exemption through a refund of previously paid
145 taxes for the rehabilitation of real property is permitted for
146 any single parcel of property unless there is a change in
147 ownership, a new lessor, or a new lessee of the real property. A
148 refund may not be granted unless the amount to be refunded
149 exceeds \$500. A refund may not exceed the lesser of 97 percent
150 of the Florida sales or use tax paid on the cost of the building
151 materials used in the rehabilitation of the real property as
152 determined pursuant to sub-subparagraph 1.e. or \$5,000, or, if
153 at least 20 percent of the employees of the business are
154 residents of an enterprise zone, excluding temporary and part-
155 time employees, the amount of refund may not exceed the lesser
156 of 97 percent of the sales or use tax paid on the cost of the
157 building materials or \$10,000. A refund shall be made within 30
158 days after formal approval by the department of the application
159 for the refund.

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

164 7. The department shall deduct an amount equal to 10
165 percent of each refund granted under this paragraph from the
166 amount transferred into the Local Government Half-cent Sales Tax
167 Clearing Trust Fund pursuant to s. 212.20 for the county area in
168 which the rehabilitated real property is located and shall

169 transfer that amount to the General Revenue Fund.

170 8. For the purposes of the exemption provided in this
171 paragraph, the term:

172 a. "Building materials" means tangible personal property
173 that becomes a component part of improvements to real property.

174 b. "Real property" has the same meaning as provided in s.
175 192.001(12), except that the term does not include a condominium
176 parcel or condominium property as defined in s. 718.103.

177 c. "Rehabilitation of real property" means the
178 reconstruction, renovation, restoration, rehabilitation,
179 construction, or expansion of improvements to real property.

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

182 9. This paragraph expires on the date specified in s.
183 290.016 for the expiration of the Florida Enterprise Zone Act.

184 (o) Building materials in redevelopment projects.—

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

186 a. "Building materials" means tangible personal property
187 that becomes a component part of a housing project or a mixed-
188 use project developments.

189 b. "Housing project" means the conversion of an existing
190 manufacturing, ~~or~~ industrial, or other building to housing units
191 in an urban high-crime area, enterprise zone, empowerment zone,
192 Front Porch Community, designated brownfield area, or urban
193 infill area and in which the developer agrees to set aside at
194 least 20 percent of the housing units in the project for low-
195 income and moderate-income persons or the construction in a
196 designated brownfield area of affordable housing for persons

197 described in s. 420.0004(9), (11), (12), or (17) or ~~in~~ s.
 198 159.603(7).

199 c. "Mixed-use project" means the conversion of an existing
 200 manufacturing, ~~or~~ industrial, or other building to mixed-use
 201 units that include artists' studios, art and entertainment
 202 services, or other compatible uses. A mixed-use project must be
 203 located in an urban high-crime area, enterprise zone,
 204 empowerment zone, Front Porch Community, designated brownfield
 205 area, or urban infill area, and the developer must agree to set
 206 aside at least 20 percent of the square footage of the project
 207 for low-income and moderate-income housing or the construction
 208 in a designated brownfield area of a mixed-use project housing
 209 for persons or occupants of units described in s. 420.0004(8),
 210 (10), (11), or (15) or s. 159.603(7).

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

213 2. Building materials used in the construction of a
 214 housing project or mixed-use project are exempt from the tax
 215 imposed by this chapter upon an affirmative showing to the
 216 satisfaction of the department that the requirements of this
 217 paragraph have been met. This exemption inures to the owner
 218 through a refund of previously paid taxes. To receive this
 219 refund, the owner must file an application under oath with the
 220 department which includes:

- 221 a. The name and address of the owner.
- 222 b. The address and assessment roll parcel number of the
- 223 project for which a refund is sought.
- 224 c. A copy of the building permit issued for the project.

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225 d. A certification by the local building code inspector
226 that the project is substantially completed.

227 e. A sworn statement, under penalty of perjury, from the
228 general contractor licensed in this state with whom the owner
229 contracted to construct the project, which statement lists the
230 building materials used in the construction of the project and
231 the actual cost thereof, and the amount of sales or use tax paid
232 on these materials. If a general contractor was not used, the
233 owner shall provide this information in a sworn statement, under
234 penalty of perjury. Copies of invoices evidencing or other
235 documents reflecting payment of sales or use tax must be
236 attached to the sworn statement.

237 3. An application for a refund under this paragraph must
238 be submitted to the department within 6 months after the date
239 the project is deemed to be substantially completed by the local
240 building code inspector. Within 30 working days after receipt of
241 the application, the department shall determine if it meets the
242 requirements of this paragraph. A refund approved pursuant to
243 this paragraph shall be made within 30 days after formal
244 approval of the application by the department.

245 4. The department shall establish by rule an application
246 form and criteria for establishing eligibility for exemption
247 under this paragraph.

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

250 Section 2. This act shall take effect July 1, 2012.