

1                   A bill to be entitled  
2           An act relating to motorsports entertainment  
3           complexes; creating s. 212.094 F.S.; providing  
4           definitions; providing an exemption from the sales and  
5           use tax for building materials used in the  
6           construction, reconstruction, expansion, or renovation  
7           of certain certified motorsports entertainment  
8           complexes through a refund of previously paid taxes;  
9           providing procedures for applying for authority to  
10          earn a tax refund; providing procedures for certifying  
11          a refund for completed projects; providing procedures  
12          for applying for a refund; providing audit authority  
13          and procedures for recapturing refunds under specified  
14          circumstances; providing rulemaking authority;  
15          providing for specified reductions in certain local  
16          government half-cent sales tax distributions; creating  
17          s. 212.0943, F.S.; authorizing a motorsports  
18          entertainment complex to apply for a tax refund of  
19          sales and use taxes; limiting the expenditure of such  
20          funds provided to a certified applicant to specified  
21          public purposes; authorizing the Department of  
22          Economic Opportunity to audit the expenditure of such  
23          funds and to pursue recovery of improperly expended  
24          funds; creating s. 212.0944, F.S.; providing that a  
25          master developer of a certified motorsports  
26          entertainment complex is eligible for a sales tax  
27          refund of a specified percentage of any increase in  
28          sales tax collections within the complex over a

29 | specified base year; providing procedures,  
 30 | requirements, and limitations with respect to the  
 31 | acquisition and use of such tax refunds; limiting the  
 32 | availability of such refunds to a specified period;  
 33 | defining the term "master developer"; authorizing the  
 34 | Department of Economic Opportunity to audit the  
 35 | expenditure of such funds and to pursue recovery of  
 36 | improperly expended funds; amending s. 212.20, F.S.;  
 37 | providing that a certified motorsports entertainment  
 38 | complex applicant may not receive certain sales tax  
 39 | distributions in excess of the expenditures the  
 40 | applicant has made for specified public purposes;  
 41 | providing an effective date.

42 |

43 | Be It Enacted by the Legislature of the State of Florida:

44 |

45 | Section 1. Section 212.094, Florida Statutes, is created  
 46 | to read:

47 | 212.094 Motorsports entertainment complex; tax exemption  
 48 | for building material.-

49 | (1) DEFINITIONS.-For the purposes of this section, the  
 50 | term:

51 | (a) "Building materials" means materials, equipment, and  
 52 | tangible personal property that is used in or becomes a  
 53 | component part in the construction, reconstruction, expansion,  
 54 | or renovation of a motorsports entertainment complex.

55 | (b) "Motorsports entertainment complex" means a complex  
 56 | that includes a closed-course racing facility with at least

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57 50,000 fixed seats, together with any themed, ancillary business  
58 establishments and related mixed-use commercial development  
59 under common beneficial ownership as of the date of application  
60 under subsection (3).

61 (c) "Owner" means the beneficial owner or the master  
62 developer, as defined in s. 212.0944(6), of the motorsports  
63 entertainment complex.

64 (d) "Project" means the construction, reconstruction,  
65 expansion, or renovation of a motorsports entertainment complex  
66 during a specified 48-month period for a total cost of at least  
67 \$250 million incurred during the 48-month period. However, total  
68 cost shall not include the cost of any property previously owned  
69 or leased by the motorsports entertainment complex. For the  
70 purposes of this paragraph, total cost shall include all  
71 expenses incurred by the owner of a motorsports entertainment  
72 complex in connection with the construction, reconstruction,  
73 expansion, or renovation of a motorsports entertainment complex,  
74 including, but not limited to:

75 1. The costs of constructing, installing, equipping, and  
76 financing, including all obligations incurred for labor and  
77 obligations to contractors, subcontractors, builders, and  
78 materialmen.

79 2. The costs of architectural and engineering services,  
80 including test borings, surveys, estimates, plans and  
81 specifications, preliminary investigations, environmental  
82 mitigation, and supervision of construction, as well as the  
83 performance of all duties required by or consequent to the  
84 construction, installation, and equipping.

85       3. The costs associated with the installation of fixtures  
86 and equipment; surveys, including archaeological and  
87 environmental surveys; site tests and inspections; subsurface  
88 site work and excavation; filling, grading, paving, and  
89 provisions for drainage, stormwater retention, and installation  
90 of utilities, including water, sewer, sewage treatment, gas,  
91 electricity, communications, and similar facilities; and offsite  
92 construction of utility extensions to the boundaries of the  
93 property.

94       (e) "Substantially completed" has the same meaning as  
95 provided in s. 192.042(1).

96       (f) "Unit of local government" has the same meaning as  
97 provided in s. 218.369.

98       (2) EXEMPTIONS; ACCOUNT OF USE.—

99       (a) Building materials used in a project that has been  
100 certified by the Department of Economic Opportunity under  
101 subsection (4) for the construction, reconstruction, expansion,  
102 or renovation of a motorsports entertainment complex are exempt  
103 from the state tax imposed by this chapter upon an affirmative  
104 showing to the satisfaction of the Department of Economic  
105 Opportunity that the items have been used for the construction,  
106 reconstruction, expansion, or renovation of a motorsports  
107 entertainment complex. This exemption inures to the owner of the  
108 motorsports entertainment complex who applies for certification  
109 under subsection (4) through a refund of previously paid state  
110 tax. To receive a refund, the owner of the motorsports  
111 entertainment complex must follow the procedures in this  
112 section.

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113 (b) If approved and certified under subsections (3) and  
114 (4), an owner of a motorsports entertainment complex may apply  
115 for a one-time nontransferable refund of sales tax paid for  
116 building materials used in that project.

117 (c) The refund is not available unless ordinances that  
118 recognize and commit to the funding provision in subsection (8)  
119 for a specified project are enacted by a majority of the members  
120 of the governing board of the county where the project is  
121 located and a majority of the members of the governing boards of  
122 any municipality where the project is located. For purposes of  
123 the funding provision in subsection (8), such a recognition and  
124 commitment by ordinance is binding and irrevocable upon the  
125 county and any municipality enacting the ordinance.

126 (3) APPLICATION.—

127 (a) In order to earn a tax refund, an owner of a  
128 motorsports entertainment complex must first submit an  
129 application to the Department of Economic Opportunity for  
130 approval of a project before beginning construction,  
131 reconstruction, expansion or renovation. The application must be  
132 filed by the date established by the Department of Economic  
133 Opportunity. In addition to any information that the Department  
134 of Economic Opportunity may require, the applicant must provide  
135 a complete description of the project that demonstrates to the  
136 Department of Economic Opportunity that the applicant is likely  
137 to complete the requirements in this section. The applicant must  
138 provide an affidavit certifying that all the information  
139 contained in the application is true and correct. The applicant  
140 must also provide the department with copies of the ordinances

141 required under paragraph (2) (c).

142 (b) Within 60 days after receipt of a completed  
143 application, the Department of Economic Opportunity must issue a  
144 notice of intent to deny or approve the project.

145 (4) CERTIFICATION.—Upon completion of a project, the owner  
146 of the motorsports entertainment complex who received approval  
147 for the project may apply to the Department of Economic  
148 Opportunity for certification of a refund.

149 (a) The application must include:

150 1. The name and physical in-state address of the  
151 motorsports entertainment complex.

152 2. A copy of the application and approval for the project.

153 3. An address and the applicable assessment roll parcel  
154 numbers for the motorsports entertainment complex for which a  
155 refund of previously paid taxes is being sought.

156 4. A copy of a valid building permit issued by the county  
157 or municipal building department for construction,  
158 reconstruction, expansion, or renovation of the motorsports  
159 entertainment complex.

160 5. A sworn statement, under penalty of perjury, from the  
161 general contractor licensed in this state with whom the  
162 applicant contracted to construct, reconstruct, or renovate the  
163 motorsports entertainment complex, which lists the building  
164 materials used to construct, reconstruct, or renovate the  
165 motorsports entertainment complex, the actual cost of the  
166 building materials, and the amount of sales and use tax paid in  
167 this state on the building materials. If a general contractor  
168 was not used, the applicant, not a general contractor, must make

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169 the sworn statement required under this subparagraph. Copies of  
170 invoices that evidence the purchase of the building materials  
171 used in the construction, reconstruction, or renovation of the  
172 motorsports entertainment complex and the payment of sales and  
173 use tax on the building materials must be attached to the sworn  
174 statement provided by the general contractor or by the  
175 applicant.

176 6. A certification by the local building code inspector  
177 that the construction, reconstruction, expansion, or renovation  
178 of the motorsports entertainment complex is substantially  
179 complete.

180 7. A detailed accounting attested to by a certified public  
181 accountant licensed in this state that the total amount expended  
182 by the applicant towards the construction, reconstruction,  
183 expansion, or renovation of the motorsports entertainment  
184 complex during a 48-month period is greater than \$250 million.

185 (b) Within 90 working days after receipt of an application  
186 for certification, the Department of Economic Opportunity must  
187 review the application to determine if it includes all the  
188 information and meets all the criteria required under this  
189 section. The department shall certify all applications that  
190 contain the required information and are found to be eligible to  
191 receive a refund under this section.

192 (5) REFUND.—An application for a refund must be submitted  
193 to the department within 6 months after certification for the  
194 refund is obtained under subsection (4).

195 (6) AUDIT AUTHORITY; RECAPTURE OF REFUNDS.—

196 (a) In addition to its existing audit and investigative

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197 authority, the department may perform any additional financial  
198 and technical audits and investigations, including examining the  
199 accounts, books, and financial records of the tax refund  
200 applicant, which are necessary for verifying the accuracy of the  
201 refund request and to ensure compliance with this section. If  
202 requested by the department, the Department of Economic  
203 Opportunity must provide technical assistance for any technical  
204 audits or examinations performed under this subsection.

205 (b) Grounds for forfeiture of previously claimed refunds  
206 approved under this section exist if the department determines,  
207 as a result of an audit or examination, or from information  
208 received from the Department of Economic Opportunity, that a  
209 taxpayer received tax refunds for which the taxpayer was not  
210 entitled.

211 (c) The Department of Economic Opportunity may revoke or  
212 modify a certification granting eligibility for a tax refund if  
213 it finds that the taxpayer made a false statement or  
214 representation in any application, record, report, plan, or  
215 other document filed in an attempt to receive a tax refund under  
216 this section. The Department of Economic Opportunity shall  
217 immediately notify the department of any revoked or modified  
218 orders affecting previously granted tax refunds.

219 (d) The department may assess an additional tax, penalty,  
220 or interest pursuant to s. 95.091.

221 (7) RULES.—

222 (a) The Department of Economic Opportunity shall adopt  
223 rules to administer this section, including rules relating to  
224 application forms required under subsections (3) and (4), and

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225 the application and certification procedures, guidelines, and  
226 requirements necessary to administer this section.

227 (b) The department may adopt rules to administer this  
228 section, including rules relating to the forms required to claim  
229 a tax refund under this section, the requirements and basis for  
230 establishing an entitlement to a refund, and the examination and  
231 audit procedures required to administer this section.

232 (8) REDUCTIONS IN DISTRIBUTIONS.—The department shall  
233 reduce by an amount equal to 10 percent of each refund granted  
234 under this section the combined local government half-cent sales  
235 tax to be distributed, pursuant to s. 218.61, to each unit of  
236 local government that enacted ordinances pursuant to paragraph  
237 (2) (c) and such reductions shall be prorated over a 12-month  
238 period.

239 (a) For refunds issued pursuant to this section on or  
240 before June 30 of a given calendar year, the reductions required  
241 under this subsection shall begin in the first month of the  
242 local fiscal year that follows such refund being issued.

243 (b) For refunds issued pursuant to this section after June  
244 30 of a given calendar year, the reductions required under this  
245 subsection shall begin in the first month of the second local  
246 fiscal year that follows such refund being issued.

247 (c) An amount equal to the reductions required under this  
248 subsection shall be transferred monthly from the Local  
249 Government Half-cent Sales Tax Clearing Trust Fund to the  
250 General Revenue Fund. Each affected unit of local government's  
251 share of the reduction shall be in proportion to that unit of  
252 local government's respective local government half-cent sales

253 tax distributions absent the provisions of this paragraph.

254 (d) Within 14 days after issuance of a refund pursuant to  
 255 this section, the department shall provide written notice to  
 256 each unit of local government subject to the reduced  
 257 distribution provisions of this subsection with the amounts and  
 258 timing of the forthcoming reductions in distributions.

259 Section 2. Section 212.0943, Florida Statutes, is created  
 260 to read:

261 212.0943 Motorsports entertainment complex; refund of  
 262 taxes.-

263 (1) Beginning July 1, 2013, a motorsports entertainment  
 264 complex as defined in s. 212.094(1), may apply for funds  
 265 provided under s. 212.20(d)6.b.

266 (2) An applicant certified as a motorsports entertainment  
 267 complex under s. 212.094(4) may use funds provided under s.  
 268 212.20(d)6.b. only for the following public purposes:

269 (a) Paying for the construction, reconstruction,  
 270 expansion, or renovation of a motorsports entertainment complex.

271 (b) Paying debt service reserve funds, arbitrage rebate  
 272 obligations, or other amounts payable with respect to bonds  
 273 issued for the construction, reconstruction, expansion, or  
 274 renovation of the motorsports entertainment complex or for the  
 275 reimbursement of such costs or the refinancing of bonds issued  
 276 for such purposes.

277 (c) Paying for construction, reconstruction, expansion, or  
 278 renovation of transportation or other infrastructure  
 279 improvements related to, necessary for, or appurtenant to the  
 280 motorsports entertainment complex, including, without

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281 limitation, paying debt service reserve funds, arbitrage rebate  
282 obligations, or other amounts payable with respect to bonds  
283 issued for the construction, reconstruction, expansion, or  
284 renovation of such transportation or other infrastructure  
285 improvements, and for the reimbursement of such costs or the  
286 refinancing of bonds issued for such purposes.

287 (d) Paying for programs of advertising and promotion of or  
288 related to the motorsports entertainment complex or the  
289 municipality in which the motorsports entertainment complex is  
290 located, and the county if the motorsports entertainment complex  
291 is located in an unincorporated area, if such programs of  
292 advertising and promotion are designed to increase paid  
293 attendance at the motorsports entertainment complex or increase  
294 tourism in or promote the economic development of the community  
295 in which the motorsports entertainment complex is located.

296 (3) As provided in s. 212.094(6), the Department of  
297 Economic Opportunity may audit to verify that distributions  
298 pursuant to this section have been expended as required. If the  
299 Department of Economic Opportunity determines that the  
300 distributions have not been expended as required, it may pursue  
301 recovery of such funds pursuant to the laws and rules governing  
302 the assessment of taxes.

303 Section 3. Section 212.0944, Florida Statutes, is created  
304 to read:

305 212.0944 Motorsports entertainment complex; escrow of  
306 taxes.-

307 (1) The master developer of a motorsports entertainment  
308 complex certified under s. 212.094(4) shall be eligible for a

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309 refund of 50 percent of sales taxes imposed by this chapter on  
310 any sales made within a certified motorsports entertainment  
311 complex, as defined in s. 212.094(1), the amount of which  
312 exceeds the total amount of sales tax collected and remitted by  
313 the motorsports entertainment complex during the 12-month period  
314 before the date of an application submitted under s. 212.094(3).  
315 For purposes of this section, such 12-month period shall be  
316 considered the base year.

317 (2) The measurement period shall be a 12-month period  
318 starting with the first full month after the submission of the  
319 application under s. 212.094(3). During the 12-month measurement  
320 period after the base year, any businesses within the  
321 motorsports entertainment complex that collect sales tax on any  
322 sales within the motorsports entertainment complex, must file  
323 the appropriate sales and use tax returns, and remit the tax due  
324 under applicable statutes. Within 60 days after the end of the  
325 12-month measurement period, the master developer shall submit a  
326 refund request, supported by the previously filed sales and use  
327 tax returns for any businesses within the motorsports  
328 entertainment complex, for the incremental sales tax collected  
329 and remitted related to any sales within the motorsports  
330 entertainment complex for the 12-month measurement period as  
331 compared to the base year, with such refund payment made within  
332 60 days to the master developer. The refund provided in this  
333 section shall be available only to the master developer and only  
334 by a refund of previously paid tax and shall be provided upon an  
335 affirmative showing to the satisfaction of the Department of  
336 Economic Opportunity that the requirements of this section have

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337 | been met.

338 |       (3) The master developer shall require each tenant,  
339 | lessee, or other third party within the motorsports  
340 | entertainment complex to provide the master developer all  
341 | documents, returns, or other information necessary to verify the  
342 | amount of sales tax eligible for the sales tax refund under this  
343 | section.

344 |       (4) The tax refund provided under this section shall renew  
345 | each twelve-month period for a total of 30 years and for each  
346 | subsequent 12-month measurement period, the sales and use tax  
347 | collected and remitted shall be compared to the sales and use  
348 | tax collected and remitted during the original base year.

349 |       (5) An applicant certified as a motorsports entertainment  
350 | complex may use funds provided under this section only for the  
351 | public purposes defined in s. 212.0943(2).

352 |       (6) As used in this section, the term "master developer"  
353 | means the primary developer of a motorsports entertainment  
354 | complex.

355 |       (7) As provided in s. 212.094(6), the Department of  
356 | Economic Opportunity may audit to verify that the distributions  
357 | pursuant to this section have been expended as required. If the  
358 | Department of Economic Opportunity determines that the  
359 | distributions have not been expended as required, it may pursue  
360 | recovery of such funds pursuant to the laws and rules governing  
361 | the assessment of taxes.

362 |       Section 4. Paragraph (d) of subsection (6) of section  
363 | 212.20, Florida Statutes, is amended to read:

364 |       212.20 Funds collected, disposition; additional powers of

365 department; operational expense; refund of taxes adjudicated  
366 unconstitutionally collected.—

367 (6) Distribution of all proceeds under this chapter and s.  
368 202.18(1)(b) and (2)(b) shall be as follows:

369 (d) The proceeds of all other taxes and fees imposed  
370 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)  
371 and (2)(b) shall be distributed as follows:

372 1. In any fiscal year, the greater of \$500 million, minus  
373 an amount equal to 4.6 percent of the proceeds of the taxes  
374 collected pursuant to chapter 201, or 5.2 percent of all other  
375 taxes and fees imposed pursuant to this chapter or remitted  
376 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in  
377 monthly installments into the General Revenue Fund.

378 2. After the distribution under subparagraph 1., 8.814  
379 percent of the amount remitted by a sales tax dealer located  
380 within a participating county pursuant to s. 218.61 shall be  
381 transferred into the Local Government Half-cent Sales Tax  
382 Clearing Trust Fund. Beginning July 1, 2003, the amount to be  
383 transferred shall be reduced by 0.1 percent, and the department  
384 shall distribute this amount to the Public Employees Relations  
385 Commission Trust Fund less \$5,000 each month, which shall be  
386 added to the amount calculated in subparagraph 3. and  
387 distributed accordingly.

388 3. After the distribution under subparagraphs 1. and 2.,  
389 0.095 percent shall be transferred to the Local Government Half-  
390 cent Sales Tax Clearing Trust Fund and distributed pursuant to  
391 s. 218.65.

392 4. After the distributions under subparagraphs 1., 2., and

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393 3., 2.0440 percent of the available proceeds shall be  
394 transferred monthly to the Revenue Sharing Trust Fund for  
395 Counties pursuant to s. 218.215.

396 5. After the distributions under subparagraphs 1., 2., and  
397 3., 1.3409 percent of the available proceeds shall be  
398 transferred monthly to the Revenue Sharing Trust Fund for  
399 Municipalities pursuant to s. 218.215. If the total revenue to  
400 be distributed pursuant to this subparagraph is at least as  
401 great as the amount due from the Revenue Sharing Trust Fund for  
402 Municipalities and the former Municipal Financial Assistance  
403 Trust Fund in state fiscal year 1999-2000, no municipality shall  
404 receive less than the amount due from the Revenue Sharing Trust  
405 Fund for Municipalities and the former Municipal Financial  
406 Assistance Trust Fund in state fiscal year 1999-2000. If the  
407 total proceeds to be distributed are less than the amount  
408 received in combination from the Revenue Sharing Trust Fund for  
409 Municipalities and the former Municipal Financial Assistance  
410 Trust Fund in state fiscal year 1999-2000, each municipality  
411 shall receive an amount proportionate to the amount it was due  
412 in state fiscal year 1999-2000.

413 6. Of the remaining proceeds:

414 a. In each fiscal year, the sum of \$29,915,500 shall be  
415 divided into as many equal parts as there are counties in the  
416 state, and one part shall be distributed to each county. The  
417 distribution among the several counties must begin each fiscal  
418 year on or before January 5th and continue monthly for a total  
419 of 4 months. If a local or special law required that any moneys  
420 accruing to a county in fiscal year 1999-2000 under the then-

421 existing provisions of s. 550.135 be paid directly to the  
422 district school board, special district, or a municipal  
423 government, such payment must continue until the local or  
424 special law is amended or repealed. The state covenants with  
425 holders of bonds or other instruments of indebtedness issued by  
426 local governments, special districts, or district school boards  
427 before July 1, 2000, that it is not the intent of this  
428 subparagraph to adversely affect the rights of those holders or  
429 relieve local governments, special districts, or district school  
430 boards of the duty to meet their obligations as a result of  
431 previous pledges or assignments or trusts entered into which  
432 obligated funds received from the distribution to county  
433 governments under then-existing s. 550.135. This distribution  
434 specifically is in lieu of funds distributed under s. 550.135  
435 before July 1, 2000.

436       b. The department shall distribute \$166,667 monthly  
437 pursuant to s. 288.1162 to each applicant certified as a  
438 facility for a new or retained professional sports franchise  
439 pursuant to s. 288.1162. Up to \$41,667 shall be distributed  
440 monthly by the department to each certified applicant as defined  
441 in s. 288.11621 for a facility for a spring training franchise.  
442 However, not more than \$416,670 may be distributed monthly in  
443 the aggregate to all certified applicants for facilities for  
444 spring training franchises. Distributions begin 60 days after  
445 such certification and continue for not more than 30 years,  
446 except as otherwise provided in s. 288.11621. A certified  
447 applicant identified in this sub-subparagraph may not receive  
448 more in distributions than expended by the applicant for the

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449 public purposes provided for in s. 288.1162(5), ~~or~~ s.  
450 288.11621(3), or s. 212.0943.

451 c. Beginning 30 days after notice by the Department of  
452 Economic Opportunity to the Department of Revenue that an  
453 applicant has been certified as the professional golf hall of  
454 fame pursuant to s. 288.1168 and is open to the public, \$166,667  
455 shall be distributed monthly, for up to 300 months, to the  
456 applicant.

457 d. Beginning 30 days after notice by the Department of  
458 Economic Opportunity to the Department of Revenue that the  
459 applicant has been certified as the International Game Fish  
460 Association World Center facility pursuant to s. 288.1169, and  
461 the facility is open to the public, \$83,333 shall be distributed  
462 monthly, for up to 168 months, to the applicant. This  
463 distribution is subject to reduction pursuant to s. 288.1169. A  
464 lump sum payment of \$999,996 shall be made, after certification  
465 and before July 1, 2000.

466 7. All other proceeds must remain in the General Revenue  
467 Fund.

468 Section 5. This act shall take effect July 1, 2013.