

By Senator Hukill

8-01036A-13

20131394

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,

8-01036A-13

20131394

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:

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

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

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
57 50,000 fixed seats, together with any themed, ancillary business
58 establishments and related mixed-use commercial development

8-01036A-13

20131394

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

8-01036A-13

20131394

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.

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.

8-01036A-13

20131394

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 board 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
132 be 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

8-01036A-13

20131394

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
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

8-01036A-13

20131394

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
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

8-01036A-13

20131394

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
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

8-01036A-13

20131394

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

8-01036A-13

20131394

262 taxes.-

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

269 (a) Paying for the construction, reconstruction, expansion,
270 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
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

8-01036A-13

20131394

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
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

8-01036A-13

20131394

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 the
323 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
337 been met.

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

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

348 (5) An applicant certified as a motorsports entertainment

8-01036A-13

20131394

349 complex may use funds provided under this section only for the
350 public purposes defined in s. 212.0943(2).

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

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

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

363 212.20 Funds collected, disposition; additional powers of
364 department; operational expense; refund of taxes adjudicated
365 unconstitutionally collected.—

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

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

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

377 2. After the distribution under subparagraph 1., 8.814

8-01036A-13

20131394

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

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

391 4. After the distributions under subparagraphs 1., 2., and
392 3., 2.0440 percent of the available proceeds shall be
393 transferred monthly to the Revenue Sharing Trust Fund for
394 Counties pursuant to s. 218.215.

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

8-01036A-13

20131394

407 received in combination from the Revenue Sharing Trust Fund for
408 Municipalities and the former Municipal Financial Assistance
409 Trust Fund in state fiscal year 1999-2000, each municipality
410 shall receive an amount proportionate to the amount it was due
411 in state fiscal year 1999-2000.

412 6. Of the remaining proceeds:

413 a. In each fiscal year, the sum of \$29,915,500 shall be
414 divided into as many equal parts as there are counties in the
415 state, and one part shall be distributed to each county. The
416 distribution among the several counties must begin each fiscal
417 year on or before January 5th and continue monthly for a total
418 of 4 months. If a local or special law required that any moneys
419 accruing to a county in fiscal year 1999-2000 under the then-
420 existing provisions of s. 550.135 be paid directly to the
421 district school board, special district, or a municipal
422 government, such payment must continue until the local or
423 special law is amended or repealed. The state covenants with
424 holders of bonds or other instruments of indebtedness issued by
425 local governments, special districts, or district school boards
426 before July 1, 2000, that it is not the intent of this
427 subparagraph to adversely affect the rights of those holders or
428 relieve local governments, special districts, or district school
429 boards of the duty to meet their obligations as a result of
430 previous pledges or assignments or trusts entered into which
431 obligated funds received from the distribution to county
432 governments under then-existing s. 550.135. This distribution
433 specifically is in lieu of funds distributed under s. 550.135
434 before July 1, 2000.

435 b. The department shall distribute \$166,667 monthly

8-01036A-13

20131394

436 pursuant to s. 288.1162 to each applicant certified as a
437 facility for a new or retained professional sports franchise
438 pursuant to s. 288.1162. Up to \$41,667 shall be distributed
439 monthly by the department to each certified applicant as defined
440 in s. 288.11621 for a facility for a spring training franchise.
441 However, not more than \$416,670 may be distributed monthly in
442 the aggregate to all certified applicants for facilities for
443 spring training franchises. Distributions begin 60 days after
444 such certification and continue for not more than 30 years,
445 except as otherwise provided in s. 288.11621. A certified
446 applicant identified in this sub-subparagraph may not receive
447 more in distributions than expended by the applicant for the
448 public purposes provided for in s. 288.1162(5), ~~or~~ s.
449 288.11621(3), or s. 212.0943.

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

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

8-01036A-13

20131394__

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

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