

1 A bill to be entitled
 2 An act relating to ad valorem taxation; amending s.
 3 192.001, F.S.; providing definitions of the terms
 4 "heavy equipment rental property," "mobile," "dealer
 5 of heavy equipment rental property," and "short-term
 6 rental," and revising the definition of the term
 7 "inventory," for purposes of provisions relating to
 8 the imposition of ad valorem taxes; amending ss.
 9 112.312, 192.042, 212.08, 220.03, and 624.5105, F.S.;
 10 conforming cross-references; providing an effective
 11 date.

12
 13 Be It Enacted by the Legislature of the State of Florida:
 14

15 Section 1. Subsections (8) through (19) of section
 16 192.001, Florida Statutes, are renumbered as subsections (9)
 17 through (20), respectively, a new subsection (8) is added to
 18 that section, and paragraph (c) of present subsection (11) of
 19 that section is amended, to read:

20 192.001 Definitions.—All definitions set out in chapters 1
 21 and 200 that are applicable to this chapter are included herein.
 22 In addition, the following definitions ~~shall~~ apply in the
 23 imposition of ad valorem taxes:

24 (8) "Heavy equipment rental property" means any mobile
 25 construction, earthmoving, or industrial equipment that is

26 | leased out by a dealer of heavy equipment rental property,
 27 | including attachments for the equipment or other ancillary
 28 | equipment or tools. As used in this subsection, the term
 29 | "mobile" means that the equipment is not permanently affixed to
 30 | real property and is moved between worksites. For purposes of
 31 | this chapter and chapter 196, the term "dealer of heavy
 32 | equipment rental property" means a person principally engaged in
 33 | the business of short-term rental of machinery and equipment as
 34 | described under North American Industrial Classification System
 35 | code 532412, as published by the Office of Management and
 36 | Budget, Executive Office of the President. As used in this
 37 | subsection, the term "short-term rental" means the leasing out
 38 | of equipment by a dealer of heavy equipment rental property for
 39 | a period of less than 1 year, for an undefined period, or under
 40 | a contract with unlimited terms.

41 | (12) ~~(11)~~ "Personal property," for the purposes of ad
 42 | valorem taxation, shall be divided into four categories as
 43 | follows:

44 | (c)1. "Inventory" means only those chattels consisting of
 45 | items commonly referred to as goods, wares, and merchandise (as
 46 | well as inventory) which are held for sale or lease to customers
 47 | in the ordinary course of business. Supplies and raw materials
 48 | shall be considered to be inventory only to the extent that they
 49 | are acquired for sale or lease to customers in the ordinary
 50 | course of business or will physically become a part of

51 merchandise intended for sale or lease to customers in the
52 ordinary course of business. Partially finished products which
53 when completed will be held for sale or lease to customers in
54 the ordinary course of business shall be deemed items of
55 inventory. All livestock and heavy equipment rental property
56 shall be considered inventory. Items of inventory held for lease
57 to customers in the ordinary course of business, rather than for
58 sale, shall be deemed inventory only prior to the initial lease
59 of such items. For the purposes of this section, fuels used in
60 the production of electricity shall be considered inventory.

61 2. "Inventory" also means construction and agricultural
62 equipment weighing 1,000 pounds or more that is returned to a
63 dealership under a rent-to-purchase option and held for sale to
64 customers in the ordinary course of business. This subparagraph
65 may not be considered in determining whether property that is
66 not construction and agricultural equipment weighing 1,000
67 pounds or more that is returned under a rent-to-purchase option
68 is inventory under subparagraph 1.

69 Section 2. Paragraph (c) of subsection (12) of section
70 112.312, Florida Statutes, is amended to read:

71 112.312 Definitions.—As used in this part and for purposes
72 of the provisions of s. 8, Art. II of the State Constitution,
73 unless the context otherwise requires:

74 (12)

75 (c) For ~~the~~ purposes of paragraph (a), the term

76 "intangible personal property" means property as defined in s.
 77 192.001(12)(b) ~~s. 192.001(11)(b)~~.

78 Section 3. Subsection (2) of section 192.042, Florida
 79 Statutes, is amended to read:

80 192.042 Date of assessment.—All property shall be assessed
 81 according to its just value as follows:

82 (2) Tangible personal property, on January 1, except
 83 construction work in progress shall have no value placed thereon
 84 until substantially completed as defined in s. 192.001(12)(d) ~~s.~~
 85 ~~192.001(11)(d)~~.

86 Section 4. Paragraphs (g) and (p) of subsection (5) of
 87 section 212.08, Florida Statutes, are amended to read:

88 212.08 Sales, rental, use, consumption, distribution, and
 89 storage tax; specified exemptions.—The sale at retail, the
 90 rental, the use, the consumption, the distribution, and the
 91 storage to be used or consumed in this state of the following
 92 are hereby specifically exempt from the tax imposed by this
 93 chapter.

94 (5) EXEMPTIONS; ACCOUNT OF USE.—

95 (g) *Building materials used in the rehabilitation of real*
 96 *property located in an enterprise zone.—*

97 1. Building materials used in the rehabilitation of real
 98 property located in an enterprise zone are exempt from the tax
 99 imposed by this chapter upon an affirmative showing to the
 100 satisfaction of the department that the items have been used for

101 the rehabilitation of real property located in an enterprise
102 zone. Except as provided in subparagraph 2., this exemption
103 inures to the owner, lessee, or lessor at the time the real
104 property is rehabilitated, but only through a refund of
105 previously paid taxes. To receive a refund pursuant to this
106 paragraph, the owner, lessee, or lessor of the rehabilitated
107 real property must file an application under oath with the
108 governing body or enterprise zone development agency having
109 jurisdiction over the enterprise zone where the business is
110 located, as applicable. A single application for a refund may be
111 submitted for multiple, contiguous parcels that were part of a
112 single parcel that was divided as part of the rehabilitation of
113 the property. All other requirements of this paragraph apply to
114 each parcel on an individual basis. The application must
115 include:

- 116 a. The name and address of the person claiming the refund.
- 117 b. An address and assessment roll parcel number of the
118 rehabilitated real property for which a refund of previously
119 paid taxes is being sought.
- 120 c. A description of the improvements made to accomplish
121 the rehabilitation of the real property.
- 122 d. A copy of a valid building permit issued by the county
123 or municipal building department for the rehabilitation of the
124 real property.
- 125 e. A sworn statement, under penalty of perjury, from the

126 | general contractor licensed in this state with whom the
127 | applicant contracted to make the improvements necessary to
128 | rehabilitate the real property, which lists the building
129 | materials used to rehabilitate the real property, the actual
130 | cost of the building materials, and the amount of sales tax paid
131 | in this state on the building materials. If a general contractor
132 | was not used, the applicant, not a general contractor, shall
133 | make the sworn statement required by this sub-subparagraph.
134 | Copies of the invoices that evidence the purchase of the
135 | building materials used in the rehabilitation and the payment of
136 | sales tax on the building materials must be attached to the
137 | sworn statement provided by the general contractor or by the
138 | applicant. Unless the actual cost of building materials used in
139 | the rehabilitation of real property and the payment of sales
140 | taxes is documented by a general contractor or by the applicant
141 | in this manner, the cost of the building materials is deemed to
142 | be an amount equal to 40 percent of the increase in assessed
143 | value for ad valorem tax purposes.

144 | f. The identifying number assigned pursuant to s. 290.0065
145 | to the enterprise zone in which the rehabilitated real property
146 | is located.

147 | g. A certification by the local building code inspector
148 | that the improvements necessary to rehabilitate the real
149 | property are substantially completed.

150 | h. A statement of whether the business is a small business

151 as defined by s. 288.703.

152 i. If applicable, the name and address of each permanent
153 employee of the business, including, for each employee who is a
154 resident of an enterprise zone, the identifying number assigned
155 pursuant to s. 290.0065 to the enterprise zone in which the
156 employee resides.

157 2. This exemption inures to a municipality, county, other
158 governmental unit or agency, or nonprofit community-based
159 organization through a refund of previously paid taxes if the
160 building materials used in the rehabilitation are paid for from
161 the funds of a community development block grant, State Housing
162 Initiatives Partnership Program, or similar grant or loan
163 program. To receive a refund, a municipality, county, other
164 governmental unit or agency, or nonprofit community-based
165 organization must file an application that includes the same
166 information required in subparagraph 1. In addition, the
167 application must include a sworn statement signed by the chief
168 executive officer of the municipality, county, other
169 governmental unit or agency, or nonprofit community-based
170 organization seeking a refund which states that the building
171 materials for which a refund is sought were funded by a
172 community development block grant, State Housing Initiatives
173 Partnership Program, or similar grant or loan program.

174 3. Within 10 working days after receipt of an application,
175 the governing body or enterprise zone development agency shall

176 review the application to determine if it contains all the
177 information required by subparagraph 1. or subparagraph 2. and
178 meets the criteria set out in this paragraph. The governing body
179 or agency shall certify all applications that contain the
180 required information and are eligible to receive a refund. If
181 applicable, the governing body or agency shall also certify if
182 20 percent of the employees of the business are residents of an
183 enterprise zone, excluding temporary and part-time employees.
184 The certification must be in writing, and a copy of the
185 certification shall be transmitted to the executive director of
186 the department. The applicant is responsible for forwarding a
187 certified application to the department within the time
188 specified in subparagraph 4.

189 4. An application for a refund must be submitted to the
190 department within 6 months after the rehabilitation of the
191 property is deemed to be substantially completed by the local
192 building code inspector or by November 1 after the rehabilitated
193 property is first subject to assessment.

194 5. Only one exemption through a refund of previously paid
195 taxes for the rehabilitation of real property is permitted for
196 any single parcel of property unless there is a change in
197 ownership, a new lessor, or a new lessee of the real property. A
198 refund may not be granted unless the amount to be refunded
199 exceeds \$500. A refund may not exceed the lesser of 97 percent
200 of the Florida sales or use tax paid on the cost of the building

201 materials used in the rehabilitation of the real property as
202 determined pursuant to sub-subparagraph 1.e. or \$5,000, or, if
203 at least 20 percent of the employees of the business are
204 residents of an enterprise zone, excluding temporary and part-
205 time employees, the amount of refund may not exceed the lesser
206 of 97 percent of the sales tax paid on the cost of the building
207 materials or \$10,000. A refund shall be made within 30 days
208 after formal approval by the department of the application for
209 the refund.

210 6. The department shall adopt rules governing the manner
211 and form of refund applications and may establish guidelines as
212 to the requisites for an affirmative showing of qualification
213 for exemption under this paragraph.

214 7. The department shall deduct an amount equal to 10
215 percent of each refund granted under this paragraph from the
216 amount transferred into the Local Government Half-cent Sales Tax
217 Clearing Trust Fund pursuant to s. 212.20 for the county area in
218 which the rehabilitated real property is located and shall
219 transfer that amount to the General Revenue Fund.

220 8. For the purposes of the exemption provided in this
221 paragraph, the term:

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

224 b. "Real property" has the same meaning as provided in s.
225 192.001(13) ~~s. 192.001(12)~~, except that the term does not

226 | include a condominium parcel or condominium property as defined
 227 | in s. 718.103.

228 | c. "Rehabilitation of real property" means the
 229 | reconstruction, renovation, restoration, rehabilitation,
 230 | construction, or expansion of improvements to real property.

231 | d. "Substantially completed" has the same meaning as
 232 | provided in s. 192.042(1).

233 | 9. This paragraph expires on the date specified in s.
 234 | 290.016 for the expiration of the Florida Enterprise Zone Act.

235 | (p) *Community contribution tax credit for donations.*—

236 | 1. Authorization.—Persons who are registered with the
 237 | department under s. 212.18 to collect or remit sales or use tax
 238 | and who make donations to eligible sponsors are eligible for tax
 239 | credits against their state sales and use tax liabilities as
 240 | provided in this paragraph:

241 | a. The credit shall be computed as 50 percent of the
 242 | person's approved annual community contribution.

243 | b. The credit shall be granted as a refund against state
 244 | sales and use taxes reported on returns and remitted in the 12
 245 | months preceding the date of application to the department for
 246 | the credit as required in sub-subparagraph 3.c. If the annual
 247 | credit is not fully used through such refund because of
 248 | insufficient tax payments during the applicable 12-month period,
 249 | the unused amount may be included in an application for a refund
 250 | made pursuant to sub-subparagraph 3.c. in subsequent years

251 against the total tax payments made for such year. Carryover
252 credits may be applied for a 3-year period without regard to any
253 time limitation that would otherwise apply under s. 215.26.

254 c. A person may not receive more than \$200,000 in annual
255 tax credits for all approved community contributions made in any
256 one year.

257 d. All proposals for the granting of the tax credit
258 require the prior approval of the Department of Economic
259 Opportunity.

260 e. The total amount of tax credits which may be granted
261 for all programs approved under this paragraph, s. 220.183, and
262 s. 624.5105 is \$21.4 million in the 2017-2018 fiscal year and
263 \$10.5 million in each fiscal year thereafter for projects that
264 provide housing opportunities for persons with special needs or
265 homeownership opportunities for low-income households or very-
266 low-income households and \$3.5 million each fiscal year for all
267 other projects. As used in this paragraph, the term "person with
268 special needs" has the same meaning as in s. 420.0004 and the
269 terms "low-income person," "low-income household," "very-low-
270 income person," and "very-low-income household" have the same
271 meanings as in s. 420.9071.

272 f. A person who is eligible to receive the credit provided
273 in this paragraph, s. 220.183, or s. 624.5105 may receive the
274 credit only under one section of the person's choice.

275 2. Eligibility requirements.—

276 a. A community contribution by a person must be in the
 277 following form:

- 278 (I) Cash or other liquid assets;
- 279 (II) Real property, including 100 percent ownership of a
 280 real property holding company;
- 281 (III) Goods or inventory; or
- 282 (IV) Other physical resources identified by the Department
 283 of Economic Opportunity.

284
 285 For purposes of this sub-subparagraph, the term "real property
 286 holding company" means a Florida entity, such as a Florida
 287 limited liability company, that is wholly owned by the person;
 288 is the sole owner of real property, as defined in s. 192.001(13)
 289 ~~s. 192.001(12)~~, located in the state; is disregarded as an
 290 entity for federal income tax purposes pursuant to 26 C.F.R. s.
 291 301.7701-3(b)(1)(ii); and at the time of contribution to an
 292 eligible sponsor, has no material assets other than the real
 293 property and any other property that qualifies as a community
 294 contribution.

295 b. All community contributions must be reserved
 296 exclusively for use in a project. As used in this sub-
 297 subparagraph, the term "project" means activity undertaken by an
 298 eligible sponsor which is designed to construct, improve, or
 299 substantially rehabilitate housing that is affordable to low-
 300 income households or very-low-income households; designed to

301 provide housing opportunities for persons with special needs;
302 designed to provide commercial, industrial, or public resources
303 and facilities; or designed to improve entrepreneurial and job-
304 development opportunities for low-income persons. A project may
305 be the investment necessary to increase access to high-speed
306 broadband capability in a rural community that had an enterprise
307 zone designated pursuant to chapter 290 as of May 1, 2015,
308 including projects that result in improvements to communications
309 assets that are owned by a business. A project may include the
310 provision of museum educational programs and materials that are
311 directly related to a project approved between January 1, 1996,
312 and December 31, 1999, and located in an area which was in an
313 enterprise zone designated pursuant to s. 290.0065 as of May 1,
314 2015. This paragraph does not preclude projects that propose to
315 construct or rehabilitate housing for low-income households or
316 very-low-income households on scattered sites or housing
317 opportunities for persons with special needs. With respect to
318 housing, contributions may be used to pay the following eligible
319 special needs, low-income, and very-low-income housing-related
320 activities:

321 (I) Project development impact and management fees for
322 special needs, low-income, or very-low-income housing projects;

323 (II) Down payment and closing costs for persons with
324 special needs, low-income persons, and very-low-income persons;

325 (III) Administrative costs, including housing counseling

326 and marketing fees, not to exceed 10 percent of the community
 327 contribution, directly related to special needs, low-income, or
 328 very-low-income projects; and

329 (IV) Removal of liens recorded against residential
 330 property by municipal, county, or special district local
 331 governments if satisfaction of the lien is a necessary precedent
 332 to the transfer of the property to a low-income person or very-
 333 low-income person for the purpose of promoting home ownership.
 334 Contributions for lien removal must be received from a
 335 nonrelated third party.

336 c. The project must be undertaken by an "eligible
 337 sponsor," which includes:

338 (I) A community action program;

339 (II) A nonprofit community-based development organization
 340 whose mission is the provision of housing for persons with
 341 special needs, low-income households, or very-low-income
 342 households or increasing entrepreneurial and job-development
 343 opportunities for low-income persons;

344 (III) A neighborhood housing services corporation;

345 (IV) A local housing authority created under chapter 421;

346 (V) A community redevelopment agency created under s.
 347 163.356;

348 (VI) A historic preservation district agency or
 349 organization;

350 (VII) A local workforce development board;

351 (VIII) A direct-support organization as provided in s.
 352 1009.983;

353 (IX) An enterprise zone development agency created under
 354 s. 290.0056;

355 (X) A community-based organization incorporated under
 356 chapter 617 which is recognized as educational, charitable, or
 357 scientific pursuant to s. 501(c)(3) of the Internal Revenue Code
 358 and whose bylaws and articles of incorporation include
 359 affordable housing, economic development, or community
 360 development as the primary mission of the corporation;

361 (XI) Units of local government;

362 (XII) Units of state government; or

363 (XIII) Any other agency that the Department of Economic
 364 Opportunity designates by rule.

365

366 A contributing person may not have a financial interest in the
 367 eligible sponsor.

368 d. The project must be located in an area which was in an
 369 enterprise zone designated pursuant to chapter 290 as of May 1,
 370 2015, or a Front Porch Florida Community, unless the project
 371 increases access to high-speed broadband capability in a rural
 372 community that had an enterprise zone designated pursuant to
 373 chapter 290 as of May 1, 2015, but is physically located outside
 374 the designated rural zone boundaries. Any project designed to
 375 construct or rehabilitate housing for low-income households or

376 very-low-income households or housing opportunities for persons
377 with special needs is exempt from the area requirement of this
378 sub-subparagraph.

379 e.(I) If, during the first 10 business days of the state
380 fiscal year, eligible tax credit applications for projects that
381 provide housing opportunities for persons with special needs or
382 homeownership opportunities for low-income households or very-
383 low-income households are received for less than the annual tax
384 credits available for those projects, the Department of Economic
385 Opportunity shall grant tax credits for those applications and
386 grant remaining tax credits on a first-come, first-served basis
387 for subsequent eligible applications received before the end of
388 the state fiscal year. If, during the first 10 business days of
389 the state fiscal year, eligible tax credit applications for
390 projects that provide housing opportunities for persons with
391 special needs or homeownership opportunities for low-income
392 households or very-low-income households are received for more
393 than the annual tax credits available for those projects, the
394 Department of Economic Opportunity shall grant the tax credits
395 for those applications as follows:

396 (A) If tax credit applications submitted for approved
397 projects of an eligible sponsor do not exceed \$200,000 in total,
398 the credits shall be granted in full if the tax credit
399 applications are approved.

400 (B) If tax credit applications submitted for approved

401 projects of an eligible sponsor exceed \$200,000 in total, the
402 amount of tax credits granted pursuant to sub-sub-sub-
403 subparagraph (A) shall be subtracted from the amount of
404 available tax credits, and the remaining credits shall be
405 granted to each approved tax credit application on a pro rata
406 basis.

407 (II) If, during the first 10 business days of the state
408 fiscal year, eligible tax credit applications for projects other
409 than those that provide housing opportunities for persons with
410 special needs or homeownership opportunities for low-income
411 households or very-low-income households are received for less
412 than the annual tax credits available for those projects, the
413 Department of Economic Opportunity shall grant tax credits for
414 those applications and shall grant remaining tax credits on a
415 first-come, first-served basis for subsequent eligible
416 applications received before the end of the state fiscal year.
417 If, during the first 10 business days of the state fiscal year,
418 eligible tax credit applications for projects other than those
419 that provide housing opportunities for persons with special
420 needs or homeownership opportunities for low-income households
421 or very-low-income households are received for more than the
422 annual tax credits available for those projects, the Department
423 of Economic Opportunity shall grant the tax credits for those
424 applications on a pro rata basis.

425 3. Application requirements.—

426 a. An eligible sponsor seeking to participate in this
427 program must submit a proposal to the Department of Economic
428 Opportunity which sets forth the name of the sponsor, a
429 description of the project, and the area in which the project is
430 located, together with such supporting information as is
431 prescribed by rule. The proposal must also contain a resolution
432 from the local governmental unit in which the project is located
433 certifying that the project is consistent with local plans and
434 regulations.

435 b. A person seeking to participate in this program must
436 submit an application for tax credit to the Department of
437 Economic Opportunity which sets forth the name of the sponsor, a
438 description of the project, and the type, value, and purpose of
439 the contribution. The sponsor shall verify, in writing, the
440 terms of the application and indicate its receipt of the
441 contribution, and such verification must accompany the
442 application for tax credit. The person must submit a separate
443 tax credit application to the Department of Economic Opportunity
444 for each individual contribution that it makes to each
445 individual project.

446 c. A person who has received notification from the
447 Department of Economic Opportunity that a tax credit has been
448 approved must apply to the department to receive the refund.
449 Application must be made on the form prescribed for claiming
450 refunds of sales and use taxes and be accompanied by a copy of

451 the notification. A person may submit only one application for
452 refund to the department within a 12-month period.

453 4. Administration.—

454 a. The Department of Economic Opportunity may adopt rules
455 necessary to administer this paragraph, including rules for the
456 approval or disapproval of proposals by a person.

457 b. The decision of the Department of Economic Opportunity
458 must be in writing, and, if approved, the notification shall
459 state the maximum credit allowable to the person. Upon approval,
460 the Department of Economic Opportunity shall transmit a copy of
461 the decision to the department.

462 c. The Department of Economic Opportunity shall
463 periodically monitor all projects in a manner consistent with
464 available resources to ensure that resources are used in
465 accordance with this paragraph; however, each project must be
466 reviewed at least once every 2 years.

467 d. The Department of Economic Opportunity shall, in
468 consultation with the statewide and regional housing and
469 financial intermediaries, market the availability of the
470 community contribution tax credit program to community-based
471 organizations.

472 Section 5. Paragraph (d) of subsection (1) of section
473 220.03, Florida Statutes, is amended to read:

474 220.03 Definitions.—

475 (1) SPECIFIC TERMS.—When used in this code, and when not

476 otherwise distinctly expressed or manifestly incompatible with
 477 the intent thereof, the following terms shall have the following
 478 meanings:

479 (d) "Community Contribution" means the grant by a business
 480 firm of any of the following items:

- 481 1. Cash or other liquid assets.
- 482 2. Real property, which for purposes of this subparagraph
 483 includes 100 percent ownership of a real property holding
 484 company. The term "real property holding company" means a
 485 Florida entity, such as a Florida limited liability company,
 486 that:

- 487 a. Is wholly owned by the business firm.
- 488 b. Is the sole owner of real property, as defined in s.
 489 192.001(13) ~~s. 192.001(12)~~, located in the state.
- 490 c. Is disregarded as an entity for federal income tax
 491 purposes pursuant to 26 C.F.R. s. 301.7701-3(b)(1)(ii).
- 492 d. At the time of contribution to an eligible sponsor, has
 493 no material assets other than the real property and any other
 494 property that qualifies as a community contribution.

- 495 3. Goods or inventory.
- 496 4. Other physical resources as identified by the
 497 department.

498 Section 6. Paragraph (a) of subsection (5) of section
 499 624.5105, Florida Statutes, is amended to read:

500 624.5105 Community contribution tax credit; authorization;

501 limitations; eligibility and application requirements;
 502 administration; definitions; expiration.—

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

504 (a) "Community contribution" means the grant by an insurer
 505 of any of the following items:

- 506 1. Cash or other liquid assets.
- 507 2. Real property, including 100 percent ownership of a
 508 real property holding company.
- 509 3. Goods or inventory.
- 510 4. Other physical resources which are identified by the
 511 department.

512
 513 For purposes of this paragraph, the term "real property holding
 514 company" means a Florida entity, such as a Florida limited
 515 liability company, that is wholly owned by the insurer; is the
 516 sole owner of real property, as defined in s. 192.001(13) ~~s.~~
 517 ~~192.001(12)~~, located in the state; is disregarded as an entity
 518 for federal income tax purposes pursuant to 26 C.F.R. s.
 519 301.7701-3(b)(1)(ii); and at the time of contribution to an
 520 eligible sponsor, has no material assets other than the real
 521 property and any other property that qualifies as a community
 522 contribution.

523 Section 7. This act shall take effect July 1, 2018.