

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Committee on Finance & Taxation offered the following:

**Amendment (with title amendment)**

On page 1, between lines 21 and 22, of the bill

insert:

Section 4. Paragraph (h) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

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

(5) EXEMPTIONS; ACCOUNT OF USE.--

(h) Business property used in an enterprise zone.--

1. Beginning July 1, 1995, business property purchased for use by businesses located in an enterprise zone which is subsequently used in an enterprise zone shall be exempt from the tax imposed by this chapter. This exemption inures to the business only through a refund of previously paid taxes. A

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1 refund shall be authorized upon an affirmative showing by the  
2 taxpayer to the satisfaction of the department that the  
3 requirements of this paragraph have been met.

4           2. To receive a refund, the business must file under  
5 oath with the governing body or enterprise zone development  
6 agency having jurisdiction over the enterprise zone where the  
7 business is located, as applicable, an application which  
8 includes:

9           a. The name and address of the business claiming the  
10 refund.

11           b. The identifying number assigned pursuant to s.  
12 290.0065 to the enterprise zone in which the business is  
13 located.

14           c. A specific description of the property for which a  
15 refund is sought, including its serial number or other  
16 permanent identification number.

17           d. The location of the property.

18           e. The sales invoice or other proof of purchase of the  
19 property, showing the amount of sales tax paid, the date of  
20 purchase, and the name and address of the sales tax dealer  
21 from whom the property was purchased.

22           f. Whether the business is a small business as defined  
23 by s. 288.703(1).

24           g. If applicable, the name and address of each  
25 permanent employee of the business, including, for each  
26 employee who is a resident of an enterprise zone, the  
27 identifying number assigned pursuant to s. 290.0065 to the  
28 enterprise zone in which the employee resides.

29           3. Within 10 working days after receipt of an  
30 application, the governing body or enterprise zone development  
31 agency shall review the application to determine if it

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1 contains all the information required pursuant to subparagraph  
2 2. and meets the criteria set out in this paragraph. The  
3 governing body or agency shall certify all applications that  
4 contain the information required pursuant to subparagraph 2.  
5 and meet the criteria set out in this paragraph as eligible to  
6 receive a refund. If applicable, the governing body or agency  
7 shall also certify if 20 percent of the employees of the  
8 business are residents of an enterprise zone, excluding  
9 temporary and part-time employees. The certification shall be  
10 in writing, and a copy of the certification shall be  
11 transmitted to the executive director of the Department of  
12 Revenue. The business shall be responsible for forwarding a  
13 certified application to the department within the time  
14 specified in subparagraph 4.

15 4. An application for a refund pursuant to this  
16 paragraph must be submitted to the department within 6 months  
17 after the business property is purchased.

18 5. The provisions of s. 212.095 do not apply to any  
19 refund application made pursuant to this paragraph. The amount  
20 refunded on purchases of business property under this  
21 paragraph shall be the lesser of 97 percent of the sales tax  
22 paid on such business property or \$5,000, or, if no less than  
23 20 percent of the employees of the business are residents of  
24 an enterprise zone, excluding temporary and part-time  
25 employees, the amount refunded on purchases of business  
26 property under this paragraph shall be the lesser of 97  
27 percent of the sales tax paid on such business property or  
28 \$10,000. A refund approved pursuant to this paragraph shall be  
29 made within 30 days of formal approval by the department of  
30 the application for the refund. No refund shall be granted  
31 under this paragraph unless the amount to be refunded exceeds

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1 \$100 in sales tax paid on purchases made within a 60-day time  
2 period.

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

7 7. If the department determines that the business  
8 property is used outside an enterprise zone within 3 years  
9 from the date of purchase, the amount of taxes refunded to the  
10 business purchasing such business property shall immediately  
11 be due and payable to the department by the business, together  
12 with the appropriate interest and penalty, computed from the  
13 date of purchase, in the manner provided by this chapter.

14 Notwithstanding this subparagraph, business property used  
15 exclusively in:

- 16 a. Licensed commercial fishing vessels,  
17 b. Fishing guide boats, or  
18 c. Ecotourism guide boats

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20 that leave and return to a fixed location within an area  
21 designated under s. 370.28 are eligible for the exemption  
22 provided under this paragraph if all requirements of this  
23 paragraph are met. Such vessels and boats must be owned by a  
24 business that is eligible to receive the exemption provided  
25 under this paragraph. This exemption does not apply to the  
26 purchase of a vessel or boat.

27 8. The department shall deduct an amount equal to 10  
28 percent of each refund granted under the provisions of this  
29 paragraph from the amount transferred into the Local  
30 Government Half-cent Sales Tax Clearing Trust Fund pursuant to  
31 s. 212.20 for the county area in which the business property

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1 is located and shall transfer that amount to the General  
2 Revenue Fund.

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

7 a. Property classified as 3-year property under s.  
8 168(c) (2) (A) of the Internal Revenue Code of 1954, as amended;

9 b. Industrial machinery and equipment as defined in  
10 sub-subparagraph (b)6.a. and eligible for exemption under  
11 paragraph (b); and

12 c. Building materials as defined in sub-subparagraph  
13 (g)8.a.

14 10. The provisions of this paragraph shall expire and  
15 be void on December 31, 2005.

16 Section 2. Subsection (4) of section 370.28, Florida  
17 Statutes, is amended, and subsection (5) is added to that  
18 section to read:

19 370.28 Enterprise zone designation; communities  
20 adversely impacted by net limitations.--

21 (4) Notwithstanding the enterprise zone residency  
22 requirements set out in ss. 212.096(1) (c) and 220.03(1) (q),  
23 businesses located in enterprise zones designated pursuant to  
24 this section may receive the credit provided under s. 212.096  
25 or s. 220.181 for hiring any person within the jurisdiction of  
26 the county within which nominating community of such  
27 enterprise zone is located. All other provisions of ss.  
28 212.096, 220.03(1) (q), and 220.181 apply to such businesses.  
29 Notwithstanding the requirement specified in ss.  
30 212.08(5) (g)5. and (h)5. and (15) (a) and 220.182(1) (b) that no  
31 less than 20 percent of a business's employees, excluding

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1 temporary and part-time employees, must be residents of an  
2 enterprise zone for the business to qualify for the maximum  
3 exemption or credit provided in ss. 212.08(5)(g) and (h) and  
4 (15) and 220.182, a business that is located in an enterprise  
5 zone designated pursuant to this section shall be qualified  
6 for those maximum exemptions or credits if no less than 20  
7 percent of such employees of the business are residents of the  
8 jurisdiction of the county within which the enterprise zone is  
9 located. All other provisions of ss. 212.08(5)(g) and (h) and  
10 (15) and 220.182 apply to such business.

11 (5) Notwithstanding the time limitations contained in  
12 chapters 212 and 220, a business eligible to receive tax  
13 credits under this section from January 1, 1997, to June 1,  
14 1998, must submit an application for the tax credits by  
15 December 1, 1998. All other requirements of the enterprise  
16 zone program apply to such a business.

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19 ===== T I T L E A M E N D M E N T =====

20 And the title is amended as follows:

21 On page 1, line 3,

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23 after the semicolon insert:

24 amending s. 212.08, F.S.; exempting certain  
25 property based in enterprise zones from the  
26 sales tax under certain circumstances; amending  
27 s. 370.28, F.S.; providing that a business  
28 located in an enterprise zone in a community  
29 impacted by net limitations is eligible for the  
30 maximum sales tax exemption for building  
31 materials used in the rehabilitation of real

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1           property in an enterprise zone, for business  
2           property used in an enterprise zone, and for  
3           electrical energy used in an enterprise zone,  
4           and the maximum enterprise zone property tax  
5           credit against the corporate income tax, if a  
6           specified percentage of its employees are  
7           residents of the jurisdiction of the county,  
8           rather than of the enterprise zone; requiring  
9           businesses eligible to receive certain tax  
10          credits to apply for such credits by a time  
11          certain;

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