

1 HB419
2 150466-5
3 By Representative DeMarco
4 RFD: Ways and Means Education
5 First Read: 07-MAR-13

1 entity or a board, commission, or authority of a governmental
2 entity which is tax exempt from sales and use taxes by virtue
3 of its governmental status, including, but not limited to, all
4 of the following: The State of Alabama, a county, a
5 municipality, an industrial or economic development board or
6 authority, and an educational institution of any of the
7 foregoing including a public college or university, a county
8 or city board of education, and the State Board of Education.

9 (b) The Department of Revenue shall grant a
10 certificate of exemption from state and local sales and use
11 taxes to any contractor licensed by the State Licensing Board
12 for General Contractors, or any subcontractor working under
13 the same contract, for the purchase of building materials,
14 construction materials and supplies, and other tangible
15 personal property that becomes part of the structure that is
16 the subject of a written contract for the construction of a
17 building or other project, not to include any contract for the
18 construction of any highway, road, or bridge, for and on
19 behalf of a governmental entity which is exempt from the
20 payment of sales and use taxes.

21 (c) The use of a certificate of exemption for the
22 purchase of tangible personal property pursuant to this
23 section shall include only tangible personal property that
24 becomes part of the structure that is the subject of the
25 construction contract. Any contractor or subcontractor
26 purchasing any tangible personal property pursuant to a
27 certificate of exemption shall maintain an accurate cost

1 accounting of the purchase and use of the property in the
2 construction of the project.

3 (d) A contractor who has an exemption from sales and
4 use tax for the purchase of materials to use on a government
5 project shall file, in a manner as prescribed by the
6 department, an annual report of all exempt purchases. The
7 annual report shall be filed as a prerequisite to renewal of a
8 certificate of exemption.

9 (e) (1) The department may assess any contractor or
10 subcontractor with state and local sales or use taxes on any
11 item purchased with a certificate of exemption not properly
12 accounted for and reported as required.

13 (2) Any contractor or subcontractor who
14 intentionally uses a certificate of exemption in violation of
15 this act shall, in addition to the actual sales or use tax
16 liability due, be subject to a civil penalty levied by the
17 department in the amount of not less than a minimum of two
18 thousand dollars (\$2,000) or two times any state and local
19 sales or use tax due for the property and, based on the
20 contractor's or subcontractor's willful misuse of the
21 certificate of exemption, may be barred from the use of any
22 certificate of exemption on any project for up to two years.

23 (f) The department may adopt rules to implement this
24 act in order to effectuate the purposes of this act and to
25 provide for accurate accounting and enforcement of this act.

26 (g) In bidding the work on a tax exempt project, the
27 bid form shall provide for an accounting for the tax savings.

1 (h) The intent of this act is to lower the
2 administrative cost for the governmental entity, contractor,
3 and subcontractor for public works projects. It is not the
4 intent of this act to change the basis for determining
5 professional services from fair market value, which may
6 include sales and use taxes.

7 Section 2. This act shall be operative for contracts
8 entered into October 1, 2013, or thereafter. The Department of
9 Revenue may adopt rules to implement this act after the
10 effective date of this act.

11 Section 3. All laws or parts of laws which conflict
12 with this act are repealed.

13 Section 4. This act shall become effective October
14 1, 2013, following its passage and approval by the Governor,
15 or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Ways and Means
Education..... 07-MAR-13

Read for the second time and placed
on the calendar with 1 substitute
and..... 20-MAR-13

Read for the third time and passed
as amended..... 09-APR-13

Yeas 89, Nays 6, Abstains 0

Jeff Woodard
Clerk