

1 HB419
2 150466-6
3 By Representative DeMarco
4 RFD: Ways and Means Education
5 First Read: 07-MAR-13

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2 ENROLLED, An Act,

3 Relating to construction projects of the State of
4 Alabama, counties, municipalities, local boards of education,
5 industrial development boards, and other governmental entities
6 which are exempt from the payment of sales and use taxes on
7 the purchase of building materials and construction materials
8 to be included in construction projects of the governmental
9 entity; to provide for the Department of Revenue to grant
10 certificates of exemption from sales and use taxes to
11 contractors and subcontractors licensed by the State Licensing
12 Board for General Contractors for the purchase of building
13 materials and construction materials to be used in the
14 construction of a building or other project for the
15 governmental entity, with the exception of any highway, road,
16 or bridge project; to provide for accounting for purchases and
17 enforcement for violation of the act; and to authorize the
18 Department of Revenue to adopt rules to implement the act.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. (a) For the purposes of this act, the
21 ~~term "governmental entity" means any governmental entity or a~~
22 ~~political subdivision, department, or agency of a governmental~~
23 ~~entity or a board, commission, or authority of a governmental~~
24 ~~entity which is tax exempt from sales and use taxes by virtue~~
25 ~~of its governmental status, including, but not limited to, all~~

1 ~~of the following: The State of Alabama, a county, a~~
2 ~~municipality, an industrial or economic development board or~~
3 ~~authority, and an educational institution of any of the~~
4 ~~foregoing including a public college or university, a county~~
5 term "governmental entity" means the State of Alabama and its
6 political subdivisions, including a county, a municipality,
7 and an industrial or economic development board or authority.
8 A governmental entity shall also include an educational
9 institution of any of the foregoing Alabama political
10 subdivisions including a public college or university, a
11 county or city board of education, and the State Board of
12 Education.

13 (b) (1) The Department of Revenue shall issue a
14 certificate of exemption to the governmental entity for each
15 tax exempt project.

16 ~~(b) (2)~~ (2) The Department of Revenue shall grant a
17 certificate of exemption from state and local sales and use
18 taxes to any contractor licensed by the State Licensing Board
19 for General Contractors, or any subcontractor working under
20 the same contract, for the purchase of building materials,
21 construction materials and supplies, and other tangible
22 personal property that becomes part of the structure that is
23 the subject of a written contract for the construction of a
24 building or other project, not to include any contract for the
25 construction of any highway, road, or bridge, for and on

1 behalf of a governmental entity which is exempt from the
2 payment of sales and use taxes.

3 (c) The use of a certificate of exemption for the
4 purchase of tangible personal property pursuant to this
5 section shall include only tangible personal property that
6 becomes part of the structure that is the subject of the
7 construction contract. Any contractor or subcontractor
8 purchasing any tangible personal property pursuant to a
9 certificate of exemption shall maintain an accurate cost
10 accounting of the purchase and use of the property in the
11 construction of the project.

12 (d) A contractor who has an exemption from sales and
13 use tax for the purchase of materials to use on a government
14 project shall file, in a manner as prescribed by the
15 department, ~~an annual report~~ reports of all exempt purchases.
16 The ~~annual report~~ reports shall be filed as a prerequisite to
17 renewal of a certificate of exemption.

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

22 (2) Any contractor or subcontractor who
23 intentionally uses a certificate of exemption in violation of
24 this act shall, in addition to the actual sales or use tax
25 liability due, be subject to a civil penalty levied by the

1 department in the amount of not less than a minimum of two
2 thousand dollars (\$2,000) or two times any state and local
3 sales or use tax due for the property and, based on the
4 contractor's or subcontractor's willful misuse of the
5 certificate of exemption, may be barred from the use of any
6 certificate of exemption on any project for up to two years.

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

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

12 (h) The intent of this act is to lower the
13 administrative cost for the governmental entity, contractor,
14 and subcontractor for public works projects. It is not the
15 intent of this act to change the basis for determining
16 professional services from fair market value, which may
17 include sales and use taxes.

18 Section 2. This act shall be operative for contracts
19 entered into ~~October 1, 2013~~ January 1, 2014, or thereafter,
20 and shall not apply to any contract entered into prior to
21 January 1, 2014. In addition, this act shall not apply to any
22 contract change orders or contract extensions, including
23 revised, renegotiated, or altered contracts, when the original
24 contract was entered into prior to January 1, 2014. The

1 Department of Revenue may adopt rules to implement this act
2 after the effective date of this act.

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

5 Section 4. This act shall become effective October
6 1, 2013, following its passage and approval by the Governor,
7 or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 09-APR-13, as amended.

Jeff Woodard
Clerk

Senate

07-MAY-13

Amended and Passed

House

09-MAY-13

Concurred in Sen-
ate Amendment