

1 HB419
2 146546-1
3 By Representative DeMarco
4 RFD: Ways and Means Education
5 First Read: 07-MAR-13

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8 SYNOPSIS: Under existing law, the State of Alabama, a
9 county, or a municipality, a local board of
10 education, a state or local industrial development
11 board or authority and other governmental entities
12 and political subdivisions of these entities are
13 generally exempt from the payment of sales and use
14 taxes on the purchase of building materials and
15 construction materials to be included in
16 construction projects of the governmental entity.
17 Under existing law, the governmental entity is
18 required to actually purchase, store, and pay for
19 construction materials to be used in a construction
20 project of the governmental entity in order for the
21 governmental entity to recognize the cost savings
22 on the tax exempt purchases. Under existing law, a
23 governmental entity normally requires bidders for
24 government construction projects to include the
25 costs of purchases as tax exempt purchases in bids
26 submitted on a project.

1 This bill would provide for the Department
2 of Revenue to grant certificates of exemption from
3 sales and use taxes to contractors and
4 subcontractors licensed by the State Licensing
5 Board for General Contractors for the purchase of
6 building materials and construction materials to be
7 used in the construction of a building or other
8 project, not to include a highway, road, or bridge
9 project, for a governmental entity which is exempt
10 from the payment of sales and use taxes. The bill
11 would provide for the accounting for purchases and
12 for enforcement for violations.

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14 A BILL
15 TO BE ENTITLED
16 AN ACT

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18 Relating to construction projects of the State of
19 Alabama, counties, municipalities, local boards of education,
20 industrial development boards, and other governmental entities
21 which are exempt from the payment of sales and use taxes on
22 the purchase of building materials and construction materials
23 to be included in construction projects of the governmental
24 entity; to provide for the Department of Revenue to grant
25 certificates of exemption from sales and use taxes to
26 contractors and subcontractors licensed by the State Licensing
27 Board for General Contractors for the purchase of building

1 materials and construction materials to be used in the
2 construction of a building or other project for the
3 governmental entity, with the exception of any highway, road,
4 or bridge project; to provide for accounting for purchases and
5 enforcement for violation of the act; and to authorize the
6 Department of Revenue to adopt rules to implement the act.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. (a) For the purposes of this act, the
9 term "governmental entity" means any governmental entity or a
10 political subdivision, department, or agency of a governmental
11 entity or a board, commission, or authority of a governmental
12 entity which is tax exempt from sales and use taxes by virtue
13 of its governmental status, including, but not limited to, all
14 of the following: The State of Alabama, a county, a
15 municipality, an industrial or economic development board or
16 authority, and an educational institution of any of the
17 foregoing including a public college or university, a county
18 or city board of education, and the State Board of Education.

19 (b) The Department of Revenue shall grant a
20 certificate of exemption from sales and use taxes to any
21 contractor or subcontractor licensed by the State Licensing
22 Board for General Contractors for the purchase of building
23 materials, construction materials and supplies, and other
24 tangible personal property to be used or included pursuant to
25 a written contract in the construction of a building or other
26 project, not to include any contract for the construction of
27 any highway, road, or bridge, for and on behalf of a

1 governmental entity which is exempt from the payment of sales
2 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 which is
6 directly used in the construction project. Any contractor or
7 subcontractor purchasing any tangible personal property
8 pursuant to a certificate of exemption shall maintain an
9 accurate cost accounting of the purchase and use of the
10 property in the construction of the project.

11 (d) (1) The department may assess any contractor or
12 subcontractor with sales or use taxes on any item purchased
13 with a certificate of exemption not properly accounted for.

14 (2) Any contractor or subcontractor who
15 intentionally uses a certificate of exemption in violation of
16 this act shall be subject to a civil penalty levied by the
17 department in the amount of two times any sale or use tax due
18 of the property and, based on the severity of the violation,
19 may be barred from the use of any certificate of exemption on
20 any project for up to two years.

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

24 Section 2. This act shall be operative October 1,
25 2013. The Department of Revenue may adopt rules to implement
26 this act after the effective date of this act.

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

3 Section 4. This act shall become effective
4 immediately following its passage and approval by the
5 Governor, or its otherwise becoming law.