

CHAPTER 98-220

House Bill No. 3225

An act relating to economic development; providing an appropriation to the Office of Tourism, Trade, and Economic Development for the Technological Research and Development Authority; authorizing tax credits to a certain business; amending s. 212.08, F.S.; exempting certain property based in enterprise zones from the sales tax under certain circumstances; amending s. 370.28, F.S.; providing that a business located in an enterprise zone in a community impacted by net limitations is eligible for the maximum sales tax exemption for building materials used in the rehabilitation of real property in an enterprise zone, for business property used in an enterprise zone, and for electrical energy used in an enterprise zone, and the maximum enterprise zone property tax credit against the corporate income tax, if a specified percentage of its employees are residents of the jurisdiction of the county, rather than of the enterprise zone; requiring businesses eligible to receive certain tax credits to apply for such credits by a time certain; amending s. 290.0065, F.S.; providing for amendment of the boundaries of an enterprise zone designated pursuant to s. 290.0065(5)(b), F.S., upon application by the county to the Office of Tourism, Trade, and Economic Development; authorizing the Office of Tourism, Trade, and Economic Development to amend the boundaries of certain enterprise zones upon request from certain counties; providing restrictions; providing for repeal; amending s. 290.0055, F.S.; providing extended date for application to amend certain boundary lines; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) Notwithstanding the provisions of chapters 212 and 220, Florida Statutes, a business that was purchased in February, 1992, within an existing enterprise zone in Tampa, is entitled to all the enterprise zone incentives available at that time through the program's expiration in 1994. The business may claim any incentive to which it would have been entitled had the program not expired.

(2) Notwithstanding the time limitations contained in chapters 212 and 220, Florida Statutes, under the enterprise zone program which expired in 1994, a business eligible to receive tax credits under this section must submit an application for the tax credits by December 1, 1998. All other requirements of the enterprise zone program apply to such a business.

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

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

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

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

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

d. The location of the property.

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

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

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

3. Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required pursuant to subparagraph 2. and meets the criteria set out in this paragraph. The governing body or agency shall certify all applications that contain the information required pursuant to subparagraph 2. and meet the criteria set out in this paragraph as eligible to receive a refund. If applicable, the governing body or agency shall also certify if 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees. The certification shall be in writing, and a copy of the certification shall be transmitted to the executive director of the Department of Revenue. The business shall be responsible for forwarding a certified application to the department within the time specified in subparagraph 4.

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

5. The provisions of s. 212.095 do not apply to any refund application made pursuant to this paragraph. The amount refunded on purchases of business property under this paragraph shall be the lesser of 97 percent of the sales tax paid on such business property or \$5,000, or, if no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the amount refunded on purchases of business property under this paragraph shall be the lesser of 97 percent of the sales tax paid on such business property or \$10,000. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund. No refund shall be granted under this paragraph unless the amount to be refunded exceeds \$100 in sales tax paid on purchases made within a 60-day time period.

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

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

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

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

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

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

- a. Property classified as 3-year property under s. 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;
- b. Industrial machinery and equipment as defined in sub-subparagraph (b)6.a. and eligible for exemption under paragraph (b); and
- c. Building materials as defined in sub-subparagraph (g)8.a.

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

Section 3. Subsection (4) of section 370.28, Florida Statutes, is amended, and subsection (5) is added to that section to read:

370.28 Enterprise zone designation; communities adversely impacted by net limitations.—

(4) Notwithstanding the enterprise zone residency requirements set out in ss. 212.096(1)(c) and 220.03(1)(q), businesses located in enterprise zones designated pursuant to this section may receive the credit provided under s. 212.096 or s. 220.181 for hiring any person within the jurisdiction of the county within which nominating community of such enterprise zone is located. All other provisions of ss. 212.096, 220.03(1)(q), and 220.181 apply to such businesses. Notwithstanding the requirement specified in ss. 212.08(5)(g)5. and (h)5. and (15)(a) and 220.182(1)(b) that no less than 20 percent of a business' employees, excluding temporary and part-time employees, must be residents of an enterprise zone for the business to qualify for the maximum exemption or credit provided in ss. 212.08(5)(g) and (h) and (15) and 220.182, a business that is located in an enterprise zone designated pursuant to this section shall be qualified for those maximum exemptions or credits if no less than 20 percent of such employees of the business are residents of the jurisdiction of the county within which the enterprise zone is located. All other provisions of ss. 212.08(5)(g) and (h) and (15) and 220.182 apply to such business.

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

Section 4. Subsection (11) is added to section 290.0065, Florida Statutes, to read:

290.0065 State designation of enterprise zones.—

(11) Before December 31, 1998, the governing body of a county in which an enterprise zone designated pursuant to paragraph (5)(b) is located may apply to the Office of Tourism, Trade, and Economic Development to amend the boundaries of the enterprise zone for the purpose of replacing areas not suitable for development. The Office of Tourism, Trade, and Economic Development shall approve the application if it does not increase the overall size of the enterprise zone. Except that upon the request of the governing

body of a home rule charter county, or any county the government of which has been consolidated with the government of one or more municipalities in accordance with s. 9, Art. VIII of the Constitution of 1885, as preserved by s. 6(e), Art. VIII of the State Constitution as revised in 1968 and subsequently amended, the Office of Tourism, Trade, and Economic Development may amend the boundaries of an area designated as an enterprise zone upon the receipt of a resolution adopted by such governing body describing the amended boundaries, so long as the added area does not increase the overall size of the expanded zone more than its original size or 20 square miles, whichever is larger, and is consistent with the categories, criteria, and limitations imposed by s. 290.0055.

Section 5. Subsection (7) of section 290.0055, Florida Statutes, is amended to read:

290.0055 Local nominating procedure.—

(7) Before June 30, ~~1999~~ 1998, the governing body of any county operating under home rule charter adopted pursuant to s. 10, s. 11, or s. 24, Art. VIII of the Constitution of 1885, as preserved by s. 6(e), Art. VIII of the Constitution of 1968, with a population of at least 2 million persons, may apply to the Office of Tourism, Trade, and Economic Development to amend the boundary lines of an enterprise zone within the county for the purpose of increasing by no more than 80 acres the noncontiguous area of the enterprise zone located closest to the path where the center of the August 24, 1992, storm known as Hurricane Andrew crossed land. The Office of Tourism, Trade, and Economic Development shall approve an application made pursuant to this subsection if it is consistent with the categories, criteria, and limitations imposed by this section upon the establishment of such enterprise zone.

Section 6. There is appropriated from the General Revenue Fund to the Office of Tourism, Trade, and Economic Development the sum of \$1.2 million for fiscal year 1998-1999 to be administered by Enterprise Florida and used for grants-in-aid to the Technological Research and Development Authority.

Section 7. This act shall take effect July 1, 1998.

Became a law without the Governor's approval May 24, 1998.

Filed in Office Secretary of State May 22, 1998.