

House Bill No. 7055

An act relating to enterprise zones; amending s. 195.099, F.S.; reenacting a periodic review requirement; providing for future expiration; amending s. 220.03, F.S.; revising a definition; amending s. 212.08, F.S.; limiting the exemption by refund of certain taxes for rehabilitation of certain property in an enterprise zone; providing an exception; providing for retroactive application; amending s. 212.096, F.S.; revising definitions; revising an information requirement for claiming an enterprise zone jobs tax credit; amending s. 220.13, F.S.; reenacting a definitional provision; providing for future expiration of provisions relating to enterprise zone credits; amending s. 220.181, F.S.; revising certain criteria for granting an enterprise zone jobs tax credit; amending s. 290.0055, F.S.; providing a meeting notice requirement for a governing body adopting an enterprise zone boundary change resolution; creating s. 290.0072, F.S.; authorizing the City of Winter Haven to apply to the Office of Tourism, Trade, and Economic Development for designation of an enterprise zone; providing requirements for the area of the enterprise zone; requiring the office to establish the effective date of the enterprise zone; providing an effective date.

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

Section 1. Subsection (1) of section 195.099, Florida Statutes, is reenacted and amended to read:

195.099 Periodic review.—

(1)(a) The department shall periodically review the assessments of new, rebuilt, and expanded business reported according to s. 193.077(3), to ensure parity of level of assessment with other classifications of property.

(b) ~~The provisions of This subsection shall expire and be void on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act June 30, 2005.~~

Section 2. Paragraph (ff) of subsection (1) of section 220.03, Florida Statutes, is amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(ff) “New job has been created” means that, on the date of application, the total number of full-time jobs is greater than the total was has increased in an enterprise zone from the average of the previous 12 months prior to that date, as demonstrated to the department by a business located in the enterprise zone.

Section 3. Paragraph (g) 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.—

(g) Building materials used in the rehabilitation of real property located in an enterprise zone.—

1. Building materials used in the rehabilitation of real property located in an enterprise zone shall be exempt from the tax imposed by this chapter upon an affirmative showing to the satisfaction of the department that the items have been used for the rehabilitation of real property located in an enterprise zone. Except as provided in subparagraph 2., this exemption inures to the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone only through a refund of previously paid taxes. To receive a refund pursuant to this paragraph, the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone must file an application under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, which includes:

- a. The name and address of the person claiming the refund.
- b. An address and assessment roll parcel number of the rehabilitated real property in an enterprise zone for which a refund of previously paid taxes is being sought.
- c. A description of the improvements made to accomplish the rehabilitation of the real property.
- d. A copy of the building permit issued for the rehabilitation of the real property.
- e. A sworn statement, under the penalty of perjury, from the general contractor licensed in this state with whom the applicant contracted to make the improvements necessary to accomplish the rehabilitation of the real property, which statement lists the building materials used in the rehabilitation of the real property, the actual cost of the building materials, and the amount of sales tax paid in this state on the building materials. In the event that a general contractor has not been used, the applicant shall provide this information in a sworn statement, under the penalty of perjury. Copies of the invoices which evidence the purchase of the building materials used in such rehabilitation and the payment of sales tax on the building materials shall be attached to the sworn statement provided by the general contractor or by the applicant. Unless the actual cost of building materials used in the rehabilitation of real property and the payment of sales taxes due thereon is documented by a general contractor or by the applicant in this manner,

the cost of such building materials shall be an amount equal to 40 percent of the increase in assessed value for ad valorem tax purposes.

f. The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the rehabilitated real property is located.

g. A certification by the local building code inspector that the improvements necessary to accomplish the rehabilitation of the real property are substantially completed.

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

i. 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.

2. This exemption inures to a city, county, other governmental agency, or nonprofit community-based organization through a refund of previously paid taxes if the building materials used in the rehabilitation of real property located in an enterprise zone are paid for from the funds of a community development block grant, State Housing Initiatives Partnership Program, or similar grant or loan program. To receive a refund pursuant to this paragraph, a city, county, other governmental agency, or nonprofit community-based organization must file an application which includes the same information required to be provided in subparagraph 1. by an owner, lessee, or lessor of rehabilitated real property. In addition, the application must include a sworn statement signed by the chief executive officer of the city, county, other governmental agency, or nonprofit community-based organization seeking a refund which states that the building materials for which a refund is sought were paid for from the funds of a community development block grant, State Housing Initiatives Partnership Program, or similar grant or loan program.

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 1. or 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 1. or 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 applicant 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 rehabilitation of the property is deemed to be substantially completed by the local building code

inspector or by September 1 after the rehabilitated property is first subject to assessment.

5. The provisions of s. 212.095 do not apply to any refund application made pursuant to this paragraph. Not more than one exemption through a refund of previously paid taxes for the rehabilitation of real property shall be permitted for any single parcel of property unless there is a change in ownership, a new lessor, or a new lessee of the real property. No refund shall be granted pursuant to this paragraph unless the amount to be refunded exceeds \$500. No refund granted pursuant to this paragraph shall exceed the lesser of 97 percent of the Florida sales or use tax paid on the cost of the building materials used in the rehabilitation of the real property as determined pursuant to sub-subparagraph 1.e. 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 of refund granted pursuant to this paragraph shall not exceed the lesser of 97 percent of the sales tax paid on the cost of such building materials 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. This subparagraph shall apply retroactively to July 1, 2005.

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. 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 rehabilitated real property is located and shall transfer that amount to the General Revenue Fund.

8. For the purposes of the exemption provided in this paragraph:

a. "Building materials" means tangible personal property which becomes a component part of improvements to real property.

b. "Real property" has the same meaning as provided in s. 192.001(12).

c. "Rehabilitation of real property" means the reconstruction, renovation, restoration, rehabilitation, construction, or expansion of improvements to real property.

d. "Substantially completed" has the same meaning as provided in s. 192.042(1).

9. This paragraph expires on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.

Section 4. Paragraphs (a) and (e) of subsection (1) and paragraph (e) of subsection (3) of section 212.096, Florida Statutes, are amended to read:

212.096 Sales, rental, storage, use tax; enterprise zone jobs credit against sales tax.—

(1) For the purposes of the credit provided in this section:

(a) “Eligible business” means any sole proprietorship, firm, partnership, corporation, bank, savings association, estate, trust, business trust, receiver, syndicate, or other group or combination, or successor business, located in an enterprise zone. The business must demonstrate to the department that, on the date of application, the total number of full-time jobs defined under paragraph (d) is greater than the total was ~~has increased from the average of the previous 12 months prior to that date.~~ An eligible business does not include any business which has claimed the credit permitted under s. 220.181 for any new business employee first beginning employment with the business after July 1, 1995.

(e) “New job has been created” means that, on the date of application, the total number of full-time jobs is greater than the total was ~~has increased in an enterprise zone from the average of the previous 12 months prior to that date,~~ as demonstrated to the department by a business located in the enterprise zone.

A person shall be deemed to be employed if the person performs duties in connection with the operations of the business on a regular, full-time basis, provided the person is performing such duties for an average of at least 36 hours per week each month. The person must be performing such duties at a business site located in the enterprise zone.

(3) In order to claim this credit, an eligible 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, a statement which includes:

(e) Demonstration to the department that, on the date of application, the total number of full-time jobs defined under paragraph (1)(d) is greater than the total was ~~has increased in an enterprise zone from the average of the previous 12 months prior to that date.~~

Section 5. Paragraph (a) of subsection (1) of section 220.13, Florida Statutes, is reenacted and amended to read:

220.13 “Adjusted federal income” defined.—

(1) The term “adjusted federal income” means an amount equal to the taxpayer’s taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(a) Additions.—There shall be added to such taxable income:

1. The amount of any tax upon or measured by income, excluding taxes based on gross receipts or revenues, paid or accrued as a liability to the District of Columbia or any state of the United States which is deductible from gross income in the computation of taxable income for the taxable year.

2. The amount of interest which is excluded from taxable income under s. 103(a) of the Internal Revenue Code or any other federal law, less the

associated expenses disallowed in the computation of taxable income under s. 265 of the Internal Revenue Code or any other law, excluding 60 percent of any amounts included in alternative minimum taxable income, as defined in s. 55(b)(2) of the Internal Revenue Code, if the taxpayer pays tax under s. 220.11(3).

3. In the case of a regulated investment company or real estate investment trust, an amount equal to the excess of the net long-term capital gain for the taxable year over the amount of the capital gain dividends attributable to the taxable year.

4. That portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.181. ~~The provisions of This subparagraph shall expire and be void on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act June 30, 2005.~~

5. That portion of the ad valorem school taxes paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.182. ~~The provisions of This subparagraph shall expire and be void on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act June 30, 2005.~~

6. The amount of emergency excise tax paid or accrued as a liability to this state under chapter 221 which tax is deductible from gross income in the computation of taxable income for the taxable year.

7. That portion of assessments to fund a guaranty association incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year.

8. In the case of a nonprofit corporation which holds a pari-mutuel permit and which is exempt from federal income tax as a farmers' cooperative, an amount equal to the excess of the gross income attributable to the pari-mutuel operations over the attributable expenses for the taxable year.

9. The amount taken as a credit for the taxable year under s. 220.1895.

10. Up to nine percent of the eligible basis of any designated project which is equal to the credit allowable for the taxable year under s. 220.185.

11. The amount taken as a credit for the taxable year under s. 220.187.

Section 6. Paragraph (a) of subsection (1) and paragraph (f) of subsection (2) of section 220.181, Florida Statutes, are amended to read:

220.181 Enterprise zone jobs credit.—

(1)(a) There shall be allowed a credit against the tax imposed by this chapter to any business located in an enterprise zone which demonstrates to the department that, on the date of application, the total number of full-time jobs is greater than the total was ~~has increased from the average of the previous 12 months prior to that date~~. The credit shall be computed as 20 percent of the actual monthly wages paid in this state to each new employee

hired when a new job has been created, as defined under s. 220.03(1)(ff), unless the business is located in a rural enterprise zone, pursuant to s. 290.004(6), in which case the credit shall be 30 percent of the actual monthly wages paid. 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 credit shall be computed as 30 percent of the actual monthly wages paid in this state to each new employee hired when a new job has been created, unless the business is located in a rural enterprise zone, in which case the credit shall be 45 percent of the actual monthly wages paid, for a period of up to 24 consecutive months. If the new employee hired when a new job is created is a participant in the welfare transition program, the following credit shall be a percent of the actual monthly wages paid: 40 percent for \$4 above the hourly federal minimum wage rate; 41 percent for \$5 above the hourly federal minimum wage rate; 42 percent for \$6 above the hourly federal minimum wage rate; 43 percent for \$7 above the hourly federal minimum wage rate; and 44 percent for \$8 above the hourly federal minimum wage rate.

(2) When filing for an enterprise zone jobs credit, a 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, a statement which includes:

(f) Demonstration to the department that, on the date of application, the total number of full-time jobs is greater than the total was has increased from the average of the previous 12 months prior to that date.

Section 7. Paragraph (c) is added to subsection (6) of section 290.0055, Florida Statutes, to read:

290.0055 Local nominating procedure.—

(6)

(c) At least 90 days before adopting a resolution seeking a change in the boundary of an enterprise zone, the governing body shall include in a notice of the meeting at which the resolution will be considered an explanation that a change in the boundary of an enterprise zone will be considered and that the change may result in loss of enterprise zone eligibility for the area affected by the boundary change.

Section 8. Section 290.0072, Florida Statutes, is created to read:

290.0072 Enterprise zone designation for the City of Winter Haven.—The City of Winter Haven may apply to the Office of Tourism, Trade, and Economic Development for designation of one enterprise zone for an area within the City of Winter Haven, which zone shall encompass an area up to 5 square miles. Notwithstanding s. 290.0065 limiting the total number of enterprise zones designated and the number of enterprise zones within a population category, the Office of Tourism, Trade, and Economic Development may designate one enterprise zone under this section. The Office of Tourism, Trade, and Economic Development shall establish the initial effective date of the enterprise zone designated pursuant to this section.

Section 9. This act shall take effect upon becoming a law.

Approved by the Governor June 7, 2006.

Filed in Office Secretary of State June 7, 2006.