

**SB292 INTRODUCED**



1 ZEXGKR-1

2 By Senators Roberts, Shelnett

3 RFD: Fiscal Responsibility and Economic Development

4 First Read: 03-May-23

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6 2023 Regular Session



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SYNOPSIS:

This bill would provide for the Department of Revenue to grant certificates of exemption from sales and use taxes to contractors and subcontractors licensed by the State Licensing Board for General Contractors for the purchase of building materials and construction materials to be use in the construction of a project for an entity that is exempt by law from paying sales and use taxes.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to taxation and revenue; to provide for the Department of Revenue to grant certificates of exemption from sales and use taxes to contractors and subcontractors licensed by the State Licensing Board for General Contractors for the purchase of building materials and construction materials to be used in the construction of a building or other project for an entity statutorily exempt from paying sales and use taxes; and to provide for accounting for purchases and enforcement for violations.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:



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29           Section 1. Section 40-9-14.3 is added to the Code of  
30 Alabama 1975, to read as follows:

31           §40-9-14.3

32           (a) For the purposes of this section, the term  
33 "statutorily exempt entity" means any person or company, as  
34 those terms are defined under Section 40-23-1, that has been  
35 granted a statutory exemption from the payment of Alabama  
36 sales and use taxes levied pursuant to Chapter 23, including  
37 any person or company listed in Article 1, Chapter 9 of Title  
38 40. The term does not include any governmental entity, as  
39 defined in Section 40-9-14.1(a).

40           (b) (1) The Department of Revenue shall issue a  
41 certificate of exemption to the statutorily exempt entity for  
42 each tax exempt project.

43           (2) The Department of Revenue shall grant a certificate  
44 of exemption from state and local sales and use taxes to any  
45 contractor licensed by the State Licensing Board for General  
46 Contractors, or any subcontractor working under the same  
47 contract, for the purchase of building materials, construction  
48 materials and supplies, and other tangible personal property  
49 that becomes part of the structure that is the subject of a  
50 written contract for the construction of a building or other  
51 project for and on behalf of a statutorily exempt entity that  
52 is exempt from the payment of sales and use taxes.

53           (c) The use of a certificate of exemption for the  
54 purchase of tangible personal property pursuant to this  
55 section shall include only tangible personal property that  
56 becomes part of the structure that is the subject of the



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57 construction contract. Any contractor or subcontractor  
58 purchasing any tangible personal property pursuant to a  
59 certificate of exemption shall maintain an accurate cost  
60 accounting of the purchase and use of the property in the  
61 construction of the project.

62 (d) A contractor who has an exemption from sales and  
63 use tax for the purchase of materials to use on a statutorily  
64 exempt entity project shall file, in a manner as prescribed by  
65 the department, reports of all exempt purchases. The reports  
66 shall be filed as a prerequisite to renewal of a certificate  
67 of exemption.

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

72 (2) Any contractor or subcontractor who intentionally  
73 uses a certificate of exemption in violation of this section,  
74 in addition to the actual sales or use tax liability due,  
75 shall be subject to a civil penalty levied by the department  
76 in the amount of two times any state and local sales or use  
77 tax due for the property not less than two thousand dollars  
78 (\$2,000) and, based on the contractor's or subcontractor's  
79 willful misuse of the certificate of exemption, may be barred  
80 from the use of any certificate of exemption on any project  
81 for up to two years.

82 (f) The department may adopt rules to implement this  
83 section in order to effectuate the purposes of this section  
84 and to provide for accurate accounting and enforcement of this



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85 section.

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

88 (h) The intent of this section is to lower the  
89 administrative cost for the statutorily exempt entity,  
90 contractor, and subcontractor for construction projects on  
91 behalf of a statutorily exempt entity. It is not the intent of  
92 this section to change the basis for determining professional  
93 services from fair market value, which may include sales and  
94 use taxes.

95 (i) This section shall be operative for any contracts  
96 with a statutorily exempt entity entered into on or after  
97 January 1, 2024, and shall not apply to any contracts entered  
98 into prior to January 1, 2024, nor shall this section apply to  
99 any contract change order or contract extensions, including  
100 revised, renegotiated, or altered contracts, when the original  
101 contract was entered into prior to January 1, 2024.

102 Section 2. This act shall become effective immediately  
103 following its passage and approval by the Governor, or its  
104 otherwise becoming law.