

ACT #2021 - 372

1 HB340
2 204817-4
3 By Representative Faulkner
4 RFD: Ways and Means Education
5 First Read: 04-FEB-21



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2 ENROLLED, An Act,

3 To amend Section 40-9-14.1 of the Code of Alabama
4 1975, relating to certificates of exemption from sales and use
5 tax for governmental entities and their contractors for the
6 purchase of construction materials for use on construction
7 projects for the governmental entities; to include any
8 contract for the construction of highways, roads, or bridges
9 entered into after January 1, 2022, in the contracts required
10 to be granted a certificate of exemption by the Department of
11 Revenue for the purchase of construction materials to become a
12 part of the project.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Section 40-9-14.1 of the Code of Alabama
15 1975, is amended to read as follows:

16 "§40-9-14.1.

17 "(a) For the purposes of this section, the term
18 governmental entity means the State of Alabama and its
19 political subdivisions, including a county, a municipality,
20 an industrial or economic development board or authority, and
21 any public water or sewer authority, district, system, or
22 board that otherwise is sales and use tax exempt. A
23 governmental entity shall also include an educational
24 institution of any of the foregoing Alabama political
25 subdivisions including a public college or university, a

1 county or city board of education, and the State Board of
2 Education.

3 "(b) (1) The Department of Revenue shall issue a
4 certificate of exemption to the governmental entity for each
5 tax exempt project.

6 "(2) The Department of Revenue shall grant a
7 certificate of exemption from state and local sales and use
8 taxes to any contractor licensed by the State Licensing Board
9 for General Contractors, or any subcontractor working under
10 the same contract, for the purchase of building materials,
11 construction materials and supplies, and other tangible
12 personal property that becomes part of the structure that is
13 the subject of a written contract for the construction of a
14 building or other project, ~~not to include any contract for the~~
15 ~~construction of any highway, road, or bridge,~~ for and on
16 behalf of a governmental entity which is exempt from the
17 payment of sales and use taxes.

18 "(c) The use of a certificate of exemption for the
19 purchase of tangible personal property pursuant to this
20 section shall include only tangible personal property that
21 becomes part of the structure that is the subject of the
22 construction contract. Any contractor or subcontractor
23 purchasing any tangible personal property pursuant to a
24 certificate of exemption shall maintain an accurate cost

1 accounting of the purchase and use of the property in the
2 construction of the project.

3 "(d) A contractor who has an exemption from sales
4 and use tax for the purchase of materials to use on a
5 government project shall file, in a manner as prescribed by
6 the department, reports of all exempt purchases. The reports
7 shall be filed as a prerequisite to renewal of a certificate
8 of exemption.

9 "(e) (1) The department may assess any contractor or
10 subcontractor with state and local sales or use taxes on any
11 item purchased with a certificate of exemption not properly
12 accounted for and reported as required.

13 "(2) Any contractor or subcontractor who
14 intentionally uses a certificate of exemption in violation of
15 this section shall, in addition to the actual sales or use tax
16 liability due, be subject to a civil penalty levied by the
17 department in the amount of not less than a minimum of two
18 thousand dollars (\$2,000) or two times any state and local
19 sales or use tax due for the property and, based on the
20 contractor's or subcontractor's willful misuse of the
21 certificate of exemption, may be barred from the use of any
22 certificate of exemption on any project for up to two years.

23 "(f) The department may adopt rules to implement
24 this section in order to effectuate the purposes of this

1 section and to provide for accurate accounting and enforcement
2 of this section.

3 "(g) In bidding the work on a tax exempt project,
4 the bid form shall provide for an accounting for the tax
5 savings.

6 "(h) The intent of this section is to lower the
7 administrative cost for the governmental entity, contractor,
8 and subcontractor for public works projects. It is not the
9 intent of this section to change the basis for determining
10 professional services from fair market value, which may
11 include sales and use taxes.

12 "(i) Except as provided for a contract for the
13 construction of a highway, road, or bridge as provided below,
14 this ~~This~~ section shall be operative for contracts entered
15 into with governmental entities as defined in subsection (a),
16 not including public water or sewer authorities, districts,
17 systems, or boards that otherwise are sales and use tax
18 exempt, on January 1, 2014, or thereafter, and shall not apply
19 to any contract entered into prior to January 1, 2014. This
20 section shall be operative for contracts entered into with
21 public water or sewer authorities, districts, systems, or
22 boards that otherwise are sales and use tax exempt on January
23 1, 2019, and thereafter, and shall not apply to any contract
24 entered into with such entities prior to January 1, 2019. In
25 addition, this section shall not apply to any contract change

1 orders or contract extensions, including revised,
2 renegotiated, or altered contracts, when the original contract
3 was entered into prior to January 1, 2014, with a governmental
4 entity. Nor shall this section apply to any contract change
5 orders or contract extensions, including revised,
6 renegotiated, or altered contracts with any public water or
7 sewer authority, district, system, or board that otherwise is
8 sales and use tax exempt, when the original contract was
9 entered into prior to January 1, 2019. This section shall be
10 operative for any contracts with a governmental entity defined
11 in subsection (a) for the construction of a highway, road, or
12 bridge entered into on or after January 1, 2022, and shall not
13 apply to any contracts for the construction of a highway,
14 road, or bridge entered into prior to January 1, 2022, nor
15 shall this section apply to any contract change order or
16 contract extensions, including revised, renegotiated, or
17 altered contracts, when the original contract was entered into
18 prior to January 1, 2022.

19 "(j) The Department of Revenue may adopt rules to
20 implement this section."

21 Section 2. This act shall become effective October
22 1, 2021, following its passage and approval by the Governor,
23 or its otherwise becoming law.

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Mac McClatchey

Speaker of the House of Representatives

[Signature]

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 11-MAR-21.

Jeff Woodard
Clerk

Senate

29-APR-21

Passed

APPROVED

5.6.2021

TIME

3:50 pm

Kay Ivey
GOVERNOR

Alabama Secretary Of State

Act Num....: 2021-372
Bill Num....: H-340

Recv'd 05/06/21 06:02pmSLF

SPONSOR Ray Fentz
 DIST. NO. 46
 PONSORS

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HOUSE ACTION

DATE: 2-1 2008
 RD 1 RFD WJMC

REPORT OF STANDING COMMITTEE

This bill having been referred by the House to its standing committee on ways and means Education was acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be Passed, w/amend(s) 0 w/sub 0 this 21st day of February, 20 08.
Bill Cook, Chairperson

DATE: 2:24 2008
 RF RD 2 CAL

DATE: 20
 RE-REFERRED RE-COMMITTED
 Committee _____

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 340.
 YEARS 07 NAYS 0
 JEFF WOODARD,
 Clerk

SENATE ACTION

DATE: 3-26 2008
 RD 1 RFD FATE

This Bill was referred to the Standing Committee of the Senate on FATE and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amd(s) _____ w/sub _____ w/eng sub _____ by a vote of _____ nays 0 abstain 0 this 21st day of April, 20 08.
[Signature], Chairperson

DATE: 4-22 2008
 RF FAU RD 2 CAL

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 340.
 YEARS 26 NAYS 0
 PATRICK HARRIS,
 Secretary

DATE: 4-29-08 RD 3 at length
 PASSED PASSED AS AMENDED

YEAS 26 NAYS 0
 And was ordered returned forthwith to the House.
 PATRICK HARRIS,
 Secretary

DATE: 20
 INDEFINITELY POSTPONED YEARS NAYS

DATE: 20
 RECONSIDERED YEARS NAYS