



ACT #2023 - 526

1 ZEXGKR-2

2 By Senators Roberts, Shelnett

3 RFD: Fiscal Responsibility and Economic Development

4 First Read: 03-May-23

5 2023 Regular Session





SB292 Enrolled

1 Enrolled, An Act,

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

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

16 §40-9-14.3

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

25 (b) (1) The Department of Revenue shall issue a
26 certificate of exemption to the statutorily exempt entity for
27 each tax exempt project.

28 (2) The Department of Revenue shall grant a certificate



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29 of exemption from state and local sales and use taxes to any
30 contractor licensed by the State Licensing Board for General
31 Contractors, or any subcontractor working under the same
32 contract, for the purchase of building materials, construction
33 materials and supplies, and other tangible personal property
34 that becomes part of the structure that is the subject of a
35 written contract for the construction of a building or other
36 project for and on behalf of a statutorily exempt entity that
37 is exempt from the payment of sales and use taxes.

38 (c) The use of a certificate of exemption for the
39 purchase of tangible personal property pursuant to this
40 section shall include only tangible personal property that
41 becomes part of the structure that is the subject of the
42 construction contract. Any contractor or subcontractor
43 purchasing any tangible personal property pursuant to a
44 certificate of exemption shall maintain an accurate cost
45 accounting of the purchase and use of the property in the
46 construction of the project.

47 (d) A contractor who has an exemption from sales and
48 use tax for the purchase of materials to use on a statutorily
49 exempt entity project shall file, in a manner as prescribed by
50 the department, reports of all exempt purchases. The reports
51 shall be filed as a prerequisite to renewal of a certificate
52 of exemption.

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



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57 (2) Any contractor or subcontractor who intentionally
58 uses a certificate of exemption in violation of this section,
59 in addition to the actual sales or use tax liability due,
60 shall be subject to a civil penalty levied by the department
61 in the amount of two times any state and local sales or use
62 tax due for the property not less than two thousand dollars
63 (\$2,000) and, based on the contractor's or subcontractor's
64 willful misuse of the certificate of exemption, may be barred
65 from the use of any certificate of exemption on any project
66 for up to two years.

67 (f) The department may adopt rules to implement this
68 section in order to effectuate the purposes of this section
69 and to provide for accurate accounting and enforcement of this
70 section.

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

73 (h) The intent of this section is to lower the
74 administrative cost for the statutorily exempt entity,
75 contractor, and subcontractor for construction projects on
76 behalf of a statutorily exempt entity. It is not the intent of
77 this section to change the basis for determining professional
78 services from fair market value, which may include sales and
79 use taxes.

80 (i) This section shall be operative for any contracts
81 with a statutorily exempt entity entered into on or after
82 January 1, 2024, and shall not apply to any contracts entered
83 into prior to January 1, 2024, nor shall this section apply to
84 any contract change order or contract extensions, including



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85 revised, renegotiated, or altered contracts, when the original
86 contract was entered into prior to January 1, 2024.

87 Section 2. This act shall become effective immediately
88 following its passage and approval by the Governor, or its
89 otherwise becoming law.



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[Handwritten Signature]

President and Presiding Officer of the Senate

[Handwritten Signature]

Speaker of the House of Representatives

SB292

Senate 16-May-23

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris,
Secretary.

House of Representatives

Passed: 31-May-23

By: Senator Roberts

APPROVED 6-14-2023

TIME 9:30 am

[Handwritten Signature: Kay Ivey]

GOVERNOR

Alabama Secretary Of State

Act Num....: 2023-526
Bill Num...: S-292

Recv'd 06/15/23 09:58amSLF

SPONSOR
 HARRIS
 SPONSORS
 Treadwell

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SENATE ACTION

DATE: 5-3 2023
 RD 1 RFD FRED

I hereby certify that the notice & proof is attached to the Bill, SB _____ as required in the General Acts of Alabama, 1975 Act No. 919.
PATRICK HARRIS,
 Secretary

This Bill was referred to the Standing Committee of the Senate on FRED
 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) 0 w/sub 0 w/eng sub 0
 years 13 nays 0 abstain 0
 this 10th day of May, 2023
Janlan Judis, Chairperson

DATE: 5-7 2023
 RF FRED 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, SB 297
 years 29 nays 0 abstain 0
PATRICK HARRIS,
 Secretary

DATE: 5-16-23 RD 3 at length
 PASSED PASSED AS AMENDED
 years 34 nays 0 abstain 0
 And was ordered sent forthwith to the House.
PATRICK HARRIS

HOUSE ACTION

DATE: 5-16 2023
 RD 1 RFD WNAME

REPORT OF STANDING COMMITTEE
 This bill having been referred by the House to its standing committee on
Ways & Means Education
 was acted upon by such Committee in session, and returned therefrom to the House with the recommendation that it be Passed,
 w/amd(s) _____ w/sub _____
 this 17th day of May, 2023.
May Barrett, Chairperson

DATE: 5-17 2023
 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, SB 292.
 YEARS _____ NAYS _____
JOHN TREADWELL