

**SB292 ENROLLED**



1 ZEXGKR-2  
2 By Senators Roberts, Shelnutt  
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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President and Presiding Officer of the Senate

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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.

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House of Representatives  
Passed: 31-May-23

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By: Senator Roberts