

2019 Regular Session

HOUSE BILL NO. 556

BY REPRESENTATIVE HODGES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/TAX REBATES: Establishes a state sales and use tax rebate for purchases of materials used to elevate homesteads above the base flood elevation

1 AN ACT

2 To enact R.S. 47:305.72, relative to sales and use tax; to authorize a rebate of state sales and
3 use taxes for certain purchases of materials used for structure elevation; to provide
4 for definitions; to establish procedures for applying for rebates; to provide for the
5 payment of rebates; to provide for eligibility requirements; to require the
6 promulgation of rules; to provide for an effective date; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:305.72 is hereby enacted to read as follows:

10 §305.72. Rebates; state sales and use taxes; materials and supplies used to elevate
11 new homesteads

12 A. The sales and use tax imposed by the state of Louisiana on purchases of
13 materials and supplies used to elevate new homesteads, hereinafter referred to as
14 "structure elevation", by a homeowner or contractor on behalf of a homeowner shall
15 be eligible for a rebate in accordance with the provisions of this Section. The rebate
16 shall apply to the state sales and use taxes on the materials and supplies required for
17 structure elevation when the structure is elevated at least one foot above base flood
18 elevation, as established by the Federal Emergency Management Agency or local
19 ordinance, whichever base flood elevation is higher.

20 B. For purposes of this Section, the following terms shall have the following
21 meanings unless the context indicates otherwise:

1 (1) "Base flood elevation" shall mean the regulatory requirement for the
2 elevation or floodproofing of structures.

3 (2) "Department" shall mean the Department of Revenue.

4 (3) "Elevation certificate" shall mean a certificate completed by a state
5 licensed professional land surveyor, professional engineer, or registered architect that
6 verifies the elevation data of a structure on a property relative to the ground level.

7 (4) "Materials and supplies" shall mean and include purchases of items of
8 tangible personal property such as fill materials, including dirt and concrete,
9 extension materials for foundation walls, wire mesh for reinforcement of concrete
10 slab, steel reinforcement bars for footings or horizontal reinforcement, bricks,
11 concrete blocks, piers, posts, and columns, utilized to raise a new homestead above
12 base flood elevation. Materials and supplies shall also include but not be limited to
13 methods used to elevate or extend foundation walls, elevate on slab-on-grade
14 foundations, elevate by abandoning the lower enclosed area, and elevate on an open
15 foundation.

16 (5) "Structure elevation" shall mean purchases of materials and supplies
17 necessary to physically raise a homestead to the base flood elevation or higher.
18 Structure elevation shall not include purchases of materials and supplies acquired
19 with funds from federal or state grant funds or proceeds from the National Flood
20 Insurance Program's Increased Cost of Compliance coverage.

21 C. The purchaser shall submit the elevation certificate to the parish permit
22 office in the parish where the structure is located. The parish permit office shall
23 ensure the structure elevation is at least one foot above the required base flood
24 elevation and certify and file the elevation certificate. The purchaser shall obtain a
25 copy of the certified elevation certificate from the parish permit office. If the parish
26 permit office does not have the capability to certify that the structure's elevation is
27 at least one foot above the required base flood elevation, then a licensed professional
28 land surveyor may provide the certification required pursuant to the provisions of
29 this Subsection on forms prescribed by the secretary of the Department of Revenue.

1 D. Requests for rebates of state sales and use tax pursuant to this Section
2 shall be processed by the department as follows:

3 (1) Qualifying purchases of materials and supplies used to elevate a new
4 homestead made on or after July 1, 2019, shall be eligible for the rebate and shall be
5 included in the application for payment of the rebate of state sales and use taxes.

6 (2) A properly completed rebate request shall be submitted to the department
7 on forms provided by the department. For purposes of this Section, a properly
8 completed rebate request shall mean a rebate request that includes the general
9 information required on the rebate request form that is signed by the rebate applicant
10 which includes a copy of each invoice or itemized proof of payment of the materials
11 and supplies used for the structure elevation, and the certified elevation certificate.
12 The request shall be submitted electronically unless the secretary of the department
13 grants permission to submit the request in an alternate form.

14 (3)(a) Application for the payment of the rebate of state sales and use taxes
15 granted pursuant to this Section shall be filed no later than six months after the
16 completion of the project. Within sixty days of receipt of a properly completed
17 rebate request, the department shall rebate eighty percent of the total amount claimed
18 for rebate in the rebate request. Within six months of the date of filing the rebate
19 request, the department shall audit the rebate request. During the six-month period,
20 the department shall disallow items determined to be ineligible for rebate. Within
21 ten business days following the expiration of the six-month period, the department
22 shall rebate the remaining twenty percent of the amount claimed on the rebate
23 request less any amounts properly disallowed during the six-month audit period. The
24 department shall make the rebates from the current collections of the taxes collected
25 pursuant to Chapters 2, 2-A, or 2-B of Subtitle II of Title 47 of the Louisiana Revised
26 Statutes of 1950, as amended. Any sales and use tax rebate issued pursuant to this
27 Section shall be subject to subsequent audit by the department, and any rebate
28 amount determined to be in excess of the amount that should have been allowed shall
29 be subject to collection by the department.

1 (b) Failure of the Department of Revenue to timely pay rebates as provided
2 in this Subsection shall entitle the taxpayer to interest, which shall begin to accrue
3 six months after the completed rebate request is received at the rate established
4 pursuant to the provisions of R.S. 13:4202. Payments of interest authorized
5 according to the provisions of this Subsection shall be made from the current
6 collections of taxes collected pursuant to Chapters 2, 2-A, or 2-B of Subtitle II of
7 Title 47 of the Louisiana Revised Statutes of 1950, as amended.

8 E. The secretary of the department shall promulgate rules and regulations in
9 accordance with the Administrative Procedure Act as are necessary to implement the
10 provisions of this Section, including rules to provide for the form and manner for
11 claiming a rebate and the establishment of a method for the review of invoices, proof
12 of payment, elevation certificates, and other documentation submitted with the
13 requests for rebate that the secretary of the department deems necessary.

14 Section 2. This Act shall become effective on July 1, 2019.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 556 Reengrossed 2019 Regular Session Hodges

Abstract: Authorizes a rebate of state sales and use taxes paid on materials and supplies used to elevate new homesteads at least one foot above the base flood elevation requirement as established by the Federal Emergency Management Agency (FEMA) or local ordinances.

Proposed law authorizes a rebate of state sales and use taxes paid by a homeowner or contractor on behalf of a homeowner for the purchase of materials and supplies purchased on or after July 1, 2019, used to elevate new homesteads. The structure elevation must be at least one foot above the FEMA or local ordinance requirements to be eligible for the rebate.

Proposed law defines "base flood elevation" as the regulatory requirement for the elevation or floodproofing of structures.

Proposed law defines "elevation certificate" as a certificate completed by a state licensed professional land surveyor, professional engineer, or registered architect that verifies the elevation data of a structure on a property relative to the ground level.

Proposed law defines "materials and supplies" as tangible personal property such as fill materials, including dirt and concrete, extension materials for foundation walls, wire mesh for reinforcement, bricks, concrete blocks, piers, posts, and columns. Proposed law further

defines "materials and supplies" to include methods used to elevate or extend foundation walls, elevate on slab-on-grade foundations, elevate by abandoning the lower enclosed area, and elevate on an open foundation.

Proposed law defines "structure elevation" as purchases of materials and supplies necessary to physically raise a new homestead to the base flood elevation or higher. However, structure elevation shall not include purchases of materials and supplies acquired with funds from federal or state grants or proceeds from federal programs.

Proposed law requires the parish permit office to ensure the structure elevation is at least one foot above the base flood elevation and certify and file the elevation certificate. However, if the parish permit office does not have the capability to certify the structure's elevation then a licensed professional land surveyor may provide the certification.

Proposed law requires that application for the payment of the rebate be filed no later than six months after the completion of the project. Further, proposed law requires that within 60 days of receiving the rebate request that the Dept. of Revenue rebate 80% of the amount claimed in the request. After six months, the Dept. of Revenue shall rebate the remaining 20% of eligible state sales tax.

Proposed law authorizes the Dept. of Revenue to promulgate rules and regulations to implement the provisions of proposed law.

Effective July 1, 2019.

(Adds R.S. 47:305.72)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Clarify that the rebate applies to new homes.
2. Define "materials and supplies" for purposes of the rebate established in proposed law.
3. Allow a licensed land surveyor to provide certification of the structure's elevation in parishes where the parish permit board does not have the capability to issue the certificate.
4. Clarify that qualifying purchases of materials and supplies must be made on or after July 1, 2019, and are applicable to purchases for new homes.
5. Excludes materials and supplies purchased with state or federal grant funds from being eligible for the rebate.

The House Floor Amendments to the engrossed bill:

1. Change that the purchaser shall submit the elevation certificate to the parish permit office instead of parish permit board.
2. Clarify the National Flood Insurance Program's Increased Cost of Compliance is an insurance coverage instead of a program.