

HOUSE BILL 1

By Moore

AN ACT to amend Tennessee Code Annotated, Title 67,
Chapter 6, relative to taxation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-6-396, is amended by deleting the section in its entirety and by substituting instead the following:

§ 67-6-396.

(a) For purposes of this section:

(1) "Claimant" means any natural person receiving disaster assistance through the federal emergency management agency (FEMA) as a result of a disaster occurring between May 1, 2010 and May 8, 2010;

(2) "Major appliance" means any water heater, dishwasher, washer, dryer, refrigerator, freezer, stove, range, oven, cook top, microwave, vacuum, or fan that is used in the claimant's primary residence to replace an appliance that was damaged or destroyed in a disaster occurring between May 1, 2010, and May 8, 2010; provided, that the sales price per item is three thousand two hundred dollars (\$3,200) or less;

(3) "Residential building supplies" means any of the following items if used in the claimant's primary residence and reasonably determined by the department to be for purposes of restoration, repair, replacement, or rebuilding due to a disaster occurring between May 1, 2010, and May 8, 2010; provided, that the sales price per item is five hundred dollars (\$500) or less:

(A) Cleaning and disinfecting materials as determined by the department;

(B) Trash bags, boxes, construction tools, and hardware as determined by the department;

(C) Sheetrock, drywall, insulation, paint and paint materials, flooring, and other necessary building materials as determined by the department; and

(4) "Residential furniture" means furniture commonly used in a residential dwelling as determined by the department that is used in the claimant's primary residence to replace furniture that was damaged or destroyed in a disaster occurring between May 1, 2010, and May 8, 2010; provided, that the sales price per item is three thousand two hundred dollars (\$3,200) or less.

(b)

(1) Except as otherwise provided in this section, a claimant shall be entitled to a refund equal to the total amount of Tennessee state and local sales and use tax paid by the claimant to one (1) or more retailers as a result of the claimant's purchases of major appliances, residential furniture, or residential building supplies from such retailers; provided, that such purchases occur between 12:01 a.m. on October 1, 2010, and 11:59 p.m. on April 30, 2011.

(2) The total amount refunded under this section in connection with any one (1) residence shall not exceed two thousand five hundred dollars (\$2,500).

(c) To receive a refund under this section, a claimant shall file a single application with the department on or before May 31, 2011, that shall include the aggregate amount requested by the claimant in connection with all eligible purchases described in subsection (b). Only one (1) application per residence shall be allowed. Notwithstanding any provision of § 67-1-1802, such refund shall be made by the department directly to the claimant and shall not be made by the retailer to the claimant. All applications for refund shall be submitted as prescribed by the department and shall include satisfactory proof of receipt of federal disaster assistance, eligible purchases, and Tennessee taxes paid on such purchases, and any other information or documentation that the department may require, including, but not limited to, store receipts and copies of payment documents such as checks, credit card receipts, or a sworn statement under penalty of perjury to support any purchases made using cash. The department shall develop guidelines concerning the administration of this section, which shall be posted on the web site of the department. The commissioner is granted broad discretion to administer the refund process in a manner that the commissioner deems necessary to quickly, efficiently, and accurately carry out the purposes of this section.

(d) Any claimant who previously filed an application with the department on or before November 30, 2010 to receive a refund of Tennessee state and local sales and use tax paid by the claimant as a result of the claimant's eligible purchases occurring between 12:01 a.m. on May 1, 2010, and 11:59 p.m. on September 30, 2010, as this section existed before this act became effective, may file an application under this section.

(e) The department may assess a civil penalty not to exceed twenty-five thousand dollars (\$25,000) against any person that knowingly files a false or fraudulent application for refund under this section. Any claimant that is assessed a penalty under this subsection (d) shall be entitled to the remedies provided in § 67-1-1801.

(f) It is the intent of the general assembly to appropriate a sum sufficient for the purpose of this section from the reserve for revenue fluctuations in the general appropriations act. All refunds under this section shall be paid from the state's general fund and nothing in this section shall be construed to reduce the amount of sales and use tax payable to local governments.

(g) This section is repealed July 1, 2012.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.