

SENATE BILL 2232

By Crowe

AN ACT to amend Tennessee Code Annotated, Title 9;  
Title 58 and Title 67, relative to disaster relief.

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

SECTION 1. Tennessee Code Annotated, Section 58-2-101, is amended by adding the following language as a new, appropriately designated subdivision:

( ) "Local disaster relief fund" or "the fund" means the fund established by § 58-2-111 for the purpose of making refunds of sales taxes to eligible claimants pursuant to § 67-6-397;

SECTION 2. Tennessee Code Annotated, Title 58, Chapter 2, Part 1, is amended by adding the following new section:

**58-2-111.**

(a) Upon the governor or the governor's designee's declaration of a state of emergency or declaration of disaster pursuant to § 58-2-107, the state treasurer shall allocate funds not to exceed eight million five hundred thousand dollars (\$8,500,000) from the revenue fluctuation reserve and deposit the funds into the local disaster relief fund established by this section. All monies in the fund shall be used solely for the purposes of making refunds of sales taxes to claimants pursuant to § 67-6-397.

(b) There is created a special agency account in the state general fund to be known as the "local disaster relief fund," referred to in this chapter as "the fund".

(c) The fund shall be composed of:

(1) Funds from the reserve for revenue fluctuations deposited in such amounts as determined by the treasurer pursuant to this section; and

(2) Gifts, grants and other donations received.

(d) Any fund balance remaining unexpended at the end of a fiscal year in the fund shall be carried forward into the subsequent fiscal year.

(e) Interest accruing on investments and deposits of the fund shall be carried forward into the subsequent fiscal year.

(f) Unless otherwise specified in this section, funds in amounts determined by the state treasurer that are held in the revenue fluctuation reserve shall be deposited in the fund. No part of the fund shall be diverted to the general fund or any other public fund.

(g) Moneys in the fund shall only be expended in accordance with the provisions of this part.

(h) The treasurer, in consultation with the department of revenue and the director of TEMA, may promulgate rules establishing the maximum amount of funds to be deposited in the fund for each emergency event or disaster. All such rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(i) The treasurer shall maintain an accounting of receipts and disbursements for the fund.

SECTION 3. Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by adding the following new section:

**67-6-397:**

(a) For purposes of this section:

(1) "Claimant" means any natural person:

(A) Whose primary residence was damaged or destroyed as a result of a disaster occurring within an eligible local government in which the governor or the governor's designee declares a state of emergency or makes a disaster declaration pursuant to § 58-2-107; and

(B) Who is not receiving disaster assistance through the federal emergency management agency (FEMA) for repair, replacement, or construction of the person's primary residence;

(2) "Disaster" has the same meaning as defined in § 58-2-101;

(3) "Eligible local government" means any county, city, town, metropolitan government or other political subdivision of this state that does not meet the threshold requirements for eligibility under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. §§ 5121, et seq.), as determined by the commissioner of revenue, in consultation with the director of the Tennessee emergency management agency (TEMA);

(4) "Major appliance" means any water heater, dishwasher, washer, dryer, refrigerator, freezer, stove, range, oven, cooktop, 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 within an eligible local government; provided, that the sales price per item is three thousand two hundred dollars (\$ 3,200) or less;

(5) "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 within an eligible local government; 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; and

(C) Roofing shingles, roofing paper, gutters, downspouts, vents, doors, windows, sheetrock, drywall, insulation, paint and paint materials, flooring, and other necessary building materials, as determined by the department; and

(6) "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 within an eligible local government; provided, that the sales price per item is three thousand two hundred dollars (\$ 3,200) or less.

(b) 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 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)

(1) To receive a refund under this section, a claimant may file only one (1) disaster claim for refund with the department, and shall file such claim for refund within one (1) year from the date on which the governor or the governor's designee declares a state of emergency or makes a disaster declaration pursuant to § 58-2-107 regarding an eligible local government.

(2) The claimant must also certify on the disaster claim for refund form that purchases for which the refund is claimed were to replace, repair or restore property damaged in a disaster occurring within an eligible local government.

(3) 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.

(4) Each claimant shall keep and preserve suitable records of the purchases for which a refund is claimed pursuant to this section, including 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. Such records must be kept and preserved for a period of three (3) years from December 31 of the year in which the disaster claim for refund was filed. Such records shall be open to the inspection of the commissioner, or the duly authorized delegates of the commissioner, at all reasonable hours.

(5) The commissioner of revenue has the authority to conduct audits or require the filing of additional information necessary to substantiate the amount of any refund due to the claimant.

(d) 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.

(e) All refunds under this section shall be paid from the local disaster relief fund established by § 58-2-111 and nothing in this section shall be construed to reduce the amount of sales and use tax payable to local governments.

(f) The department of revenue is authorized to promulgate rules to prescribe procedures and to otherwise effectuate the purposes of this act. All such rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 4. This act shall not be construed to be an appropriation of funds and no funds shall be obligated or expended pursuant to this act unless such funds are specifically appropriated by the general appropriations act.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to any disaster occurring in Tennessee on or after January 1, 2014.