

By: Villarreal

H.B. No. 2338

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the refund of the sales taxes imposed on real property
3 repair and remodeling services for certain energy efficient
4 facilities.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter I, Chapter 151, Tax Code, is amended
7 by adding Section 151.4295 to read as follows:

8 Sec. 151.4295. TAX REFUND FOR CERTAIN ENERGY EFFICIENT
9 FACILITIES. (a) The owner of a facility designated as "Energy Star"
10 by the United States Environmental Protection Agency may apply to
11 the comptroller for and receive a refund in an amount equal to the
12 amount paid by the owner for taxes imposed by this chapter on real
13 property repair and remodeling services performed on the facility
14 in the 18 months preceding the 12-month period in which the
15 facility's energy usage data formed the basis of the designation.

16 (b) The owner of a facility designated as "Designed to Earn
17 the Energy Star" by the United States Environmental Protection
18 Agency may apply to the comptroller for and receive a refund in an
19 amount equal to the amount paid by the owner for taxes imposed by
20 this chapter on real property repair and remodeling services
21 performed on the facility in the 18 months immediately following
22 the date of the facility's designation.

23 (c) The owner of a facility that meets the energy usage
24 requirements of this subsection may apply to the comptroller for

1 and receive a refund in an amount equal to the amount paid by the
2 owner for taxes imposed by this chapter on real property repair and
3 remodeling services performed on the facility in the 18 months
4 preceding the completion of the real property repair and remodeling
5 services. To qualify for a refund under this subsection, a facility
6 must consume at least 25 percent less energy, measured in thousands
7 of British thermal units, in the 12-month period immediately
8 following the completion of the real property repair and remodeling
9 services than the facility consumed in the 12-month period
10 preceding the start of the real property repair and remodeling
11 services. An applicant for a refund under this subsection must
12 include a certification by a registered architect or licensed
13 engineer on a form prescribed by the comptroller of the energy usage
14 data used to qualify for the refund. The applicant shall maintain
15 copies of the energy records supporting the application for a
16 period of 10 years after the application is submitted and allow the
17 comptroller to examine the records on request.

18 (d) The comptroller may require an applicant under this
19 section to provide copies of invoices showing amounts of taxes paid
20 that are claimed for refund and documentation from the United
21 States Environmental Protection Agency establishing the existence
22 of a facility's designation. For a facility designated as
23 "Designed to Earn the Energy Star," the comptroller may also
24 require a certification by a registered architect on a form
25 prescribed by the comptroller that the project receiving the
26 designation was completed in accordance with the requirements to
27 achieve an Energy Star rating at or above the 75th percentile.

1 (e) Taxes paid on construction materials are not eligible
2 for refund under this section.

3 (f) A reference in this section to the United States
4 Environmental Protection Agency's "Energy Star" or "Designed to
5 Earn the Energy Star" designation includes a successor to that
6 agency or designation.

7 SECTION 2. (a) The change in law made by this Act does not
8 affect tax liability accruing before the effective date of this
9 Act. That liability continues in effect as if this Act had not been
10 enacted, and the former law is continued in effect for the
11 collection of taxes due and for civil and criminal enforcement of
12 the liability for those taxes.

13 (b) The change in law made by this Act does not establish an
14 entitlement to a refund of taxes paid before the effective date of
15 this Act.

16 SECTION 3. This Act takes effect September 1, 2009.