

1 A bill to be entitled
 2 An act relating to community contribution tax credits;
 3 amending s. 220.03, F.S.; providing definitions
 4 related to community contribution tax credits that may
 5 apply to business firms against certain income tax
 6 liabilities; amending s. 212.08, F.S.; providing
 7 definitions related to community contribution tax
 8 credits that may apply against sales and use tax
 9 liabilities; amending s. 624.5105, F.S.; providing
 10 definitions related to community contribution tax
 11 credits that may apply against certain premium tax
 12 liabilities; providing an effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Paragraph (d) of subsection (1) of section
 17 220.03, F.S., is amended to read:

18 220.03 Definitions.—

19 (1) SPECIFIC TERMS.—When used in this code, and when not
 20 otherwise distinctly expressed or manifestly incompatible with
 21 the intent thereof, the following terms shall have the following
 22 meanings:

23 (d) "Community Contribution" means the grant by a business
 24 firm of any of the following items:

- 25 1. Cash or other liquid assets.
- 26 2. Real property, which for purposes of this subparagraph

27 includes ownership interests in a real property holding company.
 28 The term "real property holding company" means a Florida entity,
 29 such as a Florida limited liability company, that:

- 30 a. Is wholly owned by the business firm.
- 31 b. Is the sole owner of real property, as defined in s.
 32 192.001(12), located in the state.
- 33 c. Is disregarded as an entity for federal income tax
 34 purposes pursuant to 26 C.F.R. s. 301.7701-3(b)(1)(ii).
- 35 d. At the time of contribution to an eligible sponsor, has
 36 no material assets other than the real property and any other
 37 property that qualifies as a community contribution.

- 38 3. Goods or inventory.
- 39 4. Other physical resources as identified by the
 40 department.

41
 42 This paragraph expires June 30, 2018.

43 Section 2. Paragraph (p) of subsection (5) of section
 44 212.08, Florida Statutes, is amended to read:

45 212.08 Sales, rental, use, consumption, distribution, and
 46 storage tax; specified exemptions.—The sale at retail, the
 47 rental, the use, the consumption, the distribution, and the
 48 storage to be used or consumed in this state of the following
 49 are hereby specifically exempt from the tax imposed by this
 50 chapter.

- 51 (5) EXEMPTIONS; ACCOUNT OF USE.—
- 52 (p) Community contribution tax credit for donations.—

53 1. Authorization.—Persons who are registered with the
54 department under s. 212.18 to collect or remit sales or use tax
55 and who make donations to eligible sponsors are eligible for tax
56 credits against their state sales and use tax liabilities as
57 provided in this paragraph:

58 a. The credit shall be computed as 50 percent of the
59 person's approved annual community contribution.

60 b. The credit shall be granted as a refund against state
61 sales and use taxes reported on returns and remitted in the 12
62 months preceding the date of application to the department for
63 the credit as required in sub-subparagraph 3.c. If the annual
64 credit is not fully used through such refund because of
65 insufficient tax payments during the applicable 12-month period,
66 the unused amount may be included in an application for a refund
67 made pursuant to sub-subparagraph 3.c. in subsequent years
68 against the total tax payments made for such year. Carryover
69 credits may be applied for a 3-year period without regard to any
70 time limitation that would otherwise apply under s. 215.26.

71 c. A person may not receive more than \$200,000 in annual
72 tax credits for all approved community contributions made in any
73 one year.

74 d. All proposals for the granting of the tax credit
75 require the prior approval of the Department of Economic
76 Opportunity.

77 e. The total amount of tax credits which may be granted
78 for all programs approved under this paragraph, s. 220.183, and

79 s. 624.5105 is \$18.4 million in the 2015-2016 fiscal year, \$21.4
80 million in the 2016-2017 fiscal year, and \$21.4 million in the
81 2017-2018 fiscal year for projects that provide housing
82 opportunities for persons with special needs or homeownership
83 opportunities for low-income households or very-low-income
84 households and \$3.5 million annually for all other projects. As
85 used in this paragraph, the term "person with special needs" has
86 the same meaning as in s. 420.0004 and the terms "low-income
87 person," "low-income household," "very-low-income person," and
88 "very-low-income household" have the same meanings as in s.
89 420.9071.

90 f. A person who is eligible to receive the credit provided
91 in this paragraph, s. 220.183, or s. 624.5105 may receive the
92 credit only under one section of the person's choice.

93 2. Eligibility requirements.—

94 a. A community contribution by a person must be in the
95 following form:

96 (I) Cash or other liquid assets;

97 (II) Real property, including ownership interests in a
98 real property holding company;

99 (III) Goods or inventory; or

100 (IV) Other physical resources identified by the Department
101 of Economic Opportunity.

102
103 For purposes of this subparagraph, the term "real property
104 holding company" means a Florida entity, such as a Florida

105 limited liability company, that is wholly owned by the person;
106 is the sole owner of real property, as defined in s.
107 192.001(12), located in the state; is disregarded as an entity
108 for federal income tax purposes pursuant to 26 C.F.R. s.
109 301.7701-3(b)(1)(ii); and at the time of contribution to an
110 eligible sponsor, has no material assets other than the real
111 property and any other property that qualifies as a community
112 contribution.

113 b. All community contributions must be reserved
114 exclusively for use in a project. As used in this sub-
115 subparagraph, the term "project" means activity undertaken by an
116 eligible sponsor which is designed to construct, improve, or
117 substantially rehabilitate housing that is affordable to low-
118 income households or very-low-income households; designed to
119 provide housing opportunities for persons with special needs;
120 designed to provide commercial, industrial, or public resources
121 and facilities; or designed to improve entrepreneurial and job-
122 development opportunities for low-income persons. A project may
123 be the investment necessary to increase access to high-speed
124 broadband capability in a rural community that had an enterprise
125 zone designated pursuant to chapter 290 as of May 1, 2015,
126 including projects that result in improvements to communications
127 assets that are owned by a business. A project may include the
128 provision of museum educational programs and materials that are
129 directly related to a project approved between January 1, 1996,
130 and December 31, 1999, and located in an area which was in an

131 enterprise zone designated pursuant to s. 290.0065 as of May 1,
132 2015. This paragraph does not preclude projects that propose to
133 construct or rehabilitate housing for low-income households or
134 very-low-income households on scattered sites or housing
135 opportunities for persons with special needs. With respect to
136 housing, contributions may be used to pay the following eligible
137 special needs, low-income, and very-low-income housing-related
138 activities:

139 (I) Project development impact and management fees for
140 special needs, low-income, or very-low-income housing projects;

141 (II) Down payment and closing costs for persons with
142 special needs, low-income persons, and very-low-income persons;

143 (III) Administrative costs, including housing counseling
144 and marketing fees, not to exceed 10 percent of the community
145 contribution, directly related to special needs, low-income, or
146 very-low-income projects; and

147 (IV) Removal of liens recorded against residential
148 property by municipal, county, or special district local
149 governments if satisfaction of the lien is a necessary precedent
150 to the transfer of the property to a low-income person or very-
151 low-income person for the purpose of promoting home ownership.
152 Contributions for lien removal must be received from a
153 nonrelated third party.

154 c. The project must be undertaken by an "eligible
155 sponsor," which includes:

156 (I) A community action program;

- 157 (II) A nonprofit community-based development organization
 158 whose mission is the provision of housing for persons with
 159 specials needs, low-income households, or very-low-income
 160 households or increasing entrepreneurial and job-development
 161 opportunities for low-income persons;
- 162 (III) A neighborhood housing services corporation;
- 163 (IV) A local housing authority created under chapter 421;
- 164 (V) A community redevelopment agency created under s.
 165 163.356;
- 166 (VI) A historic preservation district agency or
 167 organization;
- 168 (VII) A regional workforce board;
- 169 (VIII) A direct-support organization as provided in s.
 170 1009.983;
- 171 (IX) An enterprise zone development agency created under
 172 s. 290.0056;
- 173 (X) A community-based organization incorporated under
 174 chapter 617 which is recognized as educational, charitable, or
 175 scientific pursuant to s. 501(c)(3) of the Internal Revenue Code
 176 and whose bylaws and articles of incorporation include
 177 affordable housing, economic development, or community
 178 development as the primary mission of the corporation;
- 179 (XI) Units of local government;
- 180 (XII) Units of state government; or
- 181 (XIII) Any other agency that the Department of Economic
 182 Opportunity designates by rule.

183
184 A contributing person may not have a financial interest in the
185 eligible sponsor.

186 d. The project must be located in an area which was in an
187 enterprise zone designated pursuant to chapter 290 as of May 1,
188 2015, or a Front Porch Florida Community, unless the project
189 increases access to high-speed broadband capability in a rural
190 community that had an enterprise zone designated pursuant to
191 chapter 290 as of May 1, 2015, but is physically located outside
192 the designated rural zone boundaries. Any project designed to
193 construct or rehabilitate housing for low-income households or
194 very-low-income households or housing opportunities for persons
195 with special needs is exempt from the area requirement of this
196 sub-subparagraph.

197 e.(I) If, during the first 10 business days of the state
198 fiscal year, eligible tax credit applications for projects that
199 provide housing opportunities for persons with special needs or
200 homeownership opportunities for low-income households or very-
201 low-income households are received for less than the annual tax
202 credits available for those projects, the Department of Economic
203 Opportunity shall grant tax credits for those applications and
204 grant remaining tax credits on a first-come, first-served basis
205 for subsequent eligible applications received before the end of
206 the state fiscal year. If, during the first 10 business days of
207 the state fiscal year, eligible tax credit applications for
208 projects that provide housing opportunities for persons with

209 special needs or homeownership opportunities for low-income
210 households or very-low-income households are received for more
211 than the annual tax credits available for those projects, the
212 Department of Economic Opportunity shall grant the tax credits
213 for those applications as follows:

214 (A) If tax credit applications submitted for approved
215 projects of an eligible sponsor do not exceed \$200,000 in total,
216 the credits shall be granted in full if the tax credit
217 applications are approved.

218 (B) If tax credit applications submitted for approved
219 projects of an eligible sponsor exceed \$200,000 in total, the
220 amount of tax credits granted pursuant to sub-sub-sub-
221 subparagraph (A) shall be subtracted from the amount of
222 available tax credits, and the remaining credits shall be
223 granted to each approved tax credit application on a pro rata
224 basis.

225 (II) If, during the first 10 business days of the state
226 fiscal year, eligible tax credit applications for projects other
227 than those that provide housing opportunities for persons with
228 special needs or homeownership opportunities for low-income
229 households or very-low-income households are received for less
230 than the annual tax credits available for those projects, the
231 Department of Economic Opportunity shall grant tax credits for
232 those applications and shall grant remaining tax credits on a
233 first-come, first-served basis for subsequent eligible
234 applications received before the end of the state fiscal year.

235 If, during the first 10 business days of the state fiscal year,
236 eligible tax credit applications for projects other than those
237 that provide housing opportunities for persons with special
238 needs or homeownership opportunities for low-income households
239 or very-low-income households are received for more than the
240 annual tax credits available for those projects, the Department
241 of Economic Opportunity shall grant the tax credits for those
242 applications on a pro rata basis.

243 3. Application requirements.—

244 a. An eligible sponsor seeking to participate in this
245 program must submit a proposal to the Department of Economic
246 Opportunity which sets forth the name of the sponsor, a
247 description of the project, and the area in which the project is
248 located, together with such supporting information as is
249 prescribed by rule. The proposal must also contain a resolution
250 from the local governmental unit in which the project is located
251 certifying that the project is consistent with local plans and
252 regulations.

253 b. A person seeking to participate in this program must
254 submit an application for tax credit to the Department of
255 Economic Opportunity which sets forth the name of the sponsor, a
256 description of the project, and the type, value, and purpose of
257 the contribution. The sponsor shall verify, in writing, the
258 terms of the application and indicate its receipt of the
259 contribution, and such verification must accompany the
260 application for tax credit. The person must submit a separate

261 tax credit application to the Department of Economic Opportunity
262 for each individual contribution that it makes to each
263 individual project.

264 c. A person who has received notification from the
265 Department of Economic Opportunity that a tax credit has been
266 approved must apply to the department to receive the refund.
267 Application must be made on the form prescribed for claiming
268 refunds of sales and use taxes and be accompanied by a copy of
269 the notification. A person may submit only one application for
270 refund to the department within a 12-month period.

271 4. Administration.—

272 a. The Department of Economic Opportunity may adopt rules
273 necessary to administer this paragraph, including rules for the
274 approval or disapproval of proposals by a person.

275 b. The decision of the Department of Economic Opportunity
276 must be in writing, and, if approved, the notification shall
277 state the maximum credit allowable to the person. Upon approval,
278 the Department of Economic Opportunity shall transmit a copy of
279 the decision to the department.

280 c. The Department of Economic Opportunity shall
281 periodically monitor all projects in a manner consistent with
282 available resources to ensure that resources are used in
283 accordance with this paragraph; however, each project must be
284 reviewed at least once every 2 years.

285 d. The Department of Economic Opportunity shall, in
286 consultation with the statewide and regional housing and

287 financial intermediaries, market the availability of the
 288 community contribution tax credit program to community-based
 289 organizations.

290 5. Expiration.—This paragraph expires June 30, 2018;
 291 however, any accrued credit carryover that is unused on that
 292 date may be used until the expiration of the 3-year carryover
 293 period for such credit.

294 Section 3. Paragraph (a) of subsection (5) of section
 295 624.5105, Florida Statutes, is amended to read:

296 624.5105 Community contribution tax credit; authorization;
 297 limitations; eligibility and application requirements;
 298 administration; definitions; expiration.—

299 (5) DEFINITIONS.—As used in this section, the term:

300 (a) "Community contribution" means the grant by an insurer
 301 of any of the following items:

- 302 1. Cash or other liquid assets.
- 303 2. Real property, including ownership interests in a real
 304 property holding company.
- 305 3. Goods or inventory.
- 306 4. Other physical resources which are identified by the
 307 department.

308
 309 For purposes of this paragraph, the term "real property holding
 310 company" means a Florida entity, such as a Florida limited
 311 liability company, that is wholly owned by the insurer; is the
 312 sole owner of real property, as defined in s. 192.001(12),

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313 located in the state; is disregarded as an entity for federal
314 income tax purposes pursuant to 26 C.F.R. s. 301.7701-
315 3(b)(1)(ii); and at the time of contribution to an eligible
316 sponsor, has no material assets other than the real property and
317 any other property that qualifies as a community contribution.

318 Section 4. This act shall take effect July 1, 2016.