

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 100 percent ownership of a real property holding
 28 company. The term "real property holding company" means a
 29 Florida entity, such as a Florida limited liability company,
 30 that:
 31 a. Is wholly owned by the business firm.
 32 b. Is the sole owner of real property, as defined in s.
 33 192.001(12), located in the state.
 34 c. Is disregarded as an entity for federal income tax
 35 purposes pursuant to 26 C.F.R. s. 301.7701-3(b)(1)(ii).
 36 d. At the time of contribution to an eligible sponsor, has
 37 no material assets other than the real property and any other
 38 property that qualifies as a community contribution.
 39 3. Goods or inventory.
 40 4. Other physical resources as identified by the
 41 department.

42
 43 This paragraph expires June 30, 2018.

44 Section 2. Paragraph (p) of subsection (5) of section
 45 212.08, Florida Statutes, is amended to read:

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

52 (5) EXEMPTIONS; ACCOUNT OF USE.—

53 (p) Community contribution tax credit for donations.—

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

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

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

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

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

78 e. The total amount of tax credits which may be granted

79 | for all programs approved under this paragraph, s. 220.183, and
 80 | s. 624.5105 is \$18.4 million in the 2015-2016 fiscal year, \$21.4
 81 | million in the 2016-2017 fiscal year, and \$21.4 million in the
 82 | 2017-2018 fiscal year for projects that provide housing
 83 | opportunities for persons with special needs or homeownership
 84 | opportunities for low-income households or very-low-income
 85 | households and \$3.5 million annually for all other projects. As
 86 | used in this paragraph, the term "person with special needs" has
 87 | the same meaning as in s. 420.0004 and the terms "low-income
 88 | person," "low-income household," "very-low-income person," and
 89 | "very-low-income household" have the same meanings as in s.
 90 | 420.9071.

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

94 | 2. Eligibility requirements.—

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

97 | (I) Cash or other liquid assets;

98 | (II) Real property, including 100 percent ownership of a
 99 | real property holding company;

100 | (III) Goods or inventory; or

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

103 |

104 | For purposes of this subparagraph, the term "real property

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

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

131 and December 31, 1999, and located in an area which was in an
 132 enterprise zone designated pursuant to s. 290.0065 as of May 1,
 133 2015. This paragraph does not preclude projects that propose to
 134 construct or rehabilitate housing for low-income households or
 135 very-low-income households on scattered sites or housing
 136 opportunities for persons with special needs. With respect to
 137 housing, contributions may be used to pay the following eligible
 138 special needs, low-income, and very-low-income housing-related
 139 activities:

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

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

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

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

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

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

183 Opportunity designates by rule.

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

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

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

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

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

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

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

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

244 3. Application requirements.—

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

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

261 application for tax credit. The person must submit a separate
262 tax credit application to the Department of Economic Opportunity
263 for each individual contribution that it makes to each
264 individual project.

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

272 4. Administration.—

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

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

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

286 d. The Department of Economic Opportunity shall, in

287 consultation with the statewide and regional housing and
288 financial intermediaries, market the availability of the
289 community contribution tax credit program to community-based
290 organizations.

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

295 Section 3. Paragraph (a) of subsection (5) of section
296 624.5105, Florida Statutes, is amended to read:

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

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

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

303 1. Cash or other liquid assets.

304 2. Real property, including 100 percent ownership of a
305 real property holding company.

306 3. Goods or inventory.

307 4. Other physical resources which are identified by the
308 department.

309
310 For purposes of this paragraph, the term "real property holding
311 company" means a Florida entity, such as a Florida limited
312 liability company, that is wholly owned by the insurer; is the

313 sole owner of real property, as defined in s. 192.001(12),
314 located in the state; is disregarded as an entity for federal
315 income tax purposes pursuant to 26 C.F.R. s. 301.7701-
316 3(b)(1)(ii); and at the time of contribution to an eligible
317 sponsor, has no material assets other than the real property and
318 any other property that qualifies as a community contribution.

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