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By the Committee on Commerce and Tourism; and Senator DiCeglie

577-02151-24 20241166c1

A bill to be entitled An act relating to the Florida Main Street Program and historic preservation tax credits; creating s. 220.197, F.S.; providing a short title; defining terms; specifying eligibility requirements for receiving specified tax credits; specifying requirements for the Department of Revenue relating to approving and denying certain applications and granting credits; specifying requirements for such tax credits; requiring that applications be rolled forward in certain circumstances; authorizing the carryforward, sale, and transfer of such tax credits; providing a limitation; authorizing the department to perform certain audits and examinations; specifying requirements for taxpayers; authorizing the department to issue a notice of deficiency under certain circumstances; providing penalties; requiring the department to submit specified annual reports to the Legislature; providing duties of the department; authorizing the department to adopt rules; amending s. 213.053, F.S.; authorizing the department to make certain information available to the Division of Historical Resources and the Secretary of the United States Department of the Interior for specified purposes; amending s. 220.02, F.S.; revising the order in which tax credits against the corporate income tax or the franchise tax are applied; amending s. 220.13, F.S.; revising the definition of the term "adjusted federal income"; amending s. 624.509, F.S.; revising

the order in which tax credits and deductions against the insurance premium tax are applied; creating s. 624.5095, F.S.; authorizing certain tax credits to be used against a specified tax; providing applicability; providing construction; authorizing the Department of Revenue to adopt emergency rules for a specified timeframe; providing for expiration of such authority; providing applicability; providing effective dates.

WHEREAS, historic revitalization creates highly paid local construction jobs, and

WHEREAS, historic rehabilitation increases the value of buildings and results in a growing state and local tax base, and

WHEREAS, historic revitalization boosts heritage tourism and creates thriving downtowns that are attractive to main street businesses, and

WHEREAS, reusing historic buildings creates affordable spaces for small business incubation, and

WHEREAS, repurposing historic buildings saves resources and activates vacant spaces, and

WHEREAS, historic rehabilitation projects leverage significant private investment, and

WHEREAS, leveraging state tax incentives increases the effectiveness of federal Historic Preservation Tax Incentives and the Opportunity Zones Program to encourage the historic preservation of existing buildings, and

WHEREAS, an increase in rehabilitation activity occurs when a state incentive is combined with federal Historic Preservation Tax Incentives, and

WHEREAS, many historic buildings in this state need safety upgrades and other improvements that require both public and private investment to return these buildings as assets of their local communities, NOW, THEREFORE,

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

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Section 1. Section 220.197, Florida Statutes, is created to read:

220.197 Main Street Historical Tourism and Revitalization Act; tax credits; reports.—

- (1) SHORT TITLE.—This act may be cited as the "Main Street Historical Tourism and Revitalization Act."
 - (2) DEFINITIONS.—As used in this section, the term:
- (a) "Active Main Street program" means an area participating under a recognized, coordinated Main Street

 America licensed program or the Orlando Main Streets program. An Active Main Street program must:
- 1. Have broad-based community support for the commercial district revitalization process with strong support from the public and private sectors.
- 2. Have a developed vision and mission statement relevant to community conditions.
 - 3. Have a comprehensive work plan.
 - 4. Possess a historic preservation ethic.
 - 5. Have an active board of directors and committees.
 - 6. Have an adequate operating budget.
 - 7. Have a paid professional program manager.
 - 8. Conduct a program of ongoing training for staff and

volunteers.

9. Report key statistics.

- 10. Be a current, designated Florida Main Street program.
- (b) "Affordable housing unit" means a housing unit that is affordable, as defined in s. 420.0004(3).
- (c) "Certified historic structure" means a building, including its structural components, as defined in 36 C.F.R. s. 67.2, which is of a character subject to the allowance for depreciation provided in s. 167 of the Internal Revenue Code of 1986, as amended, and which is:
- $\underline{\text{1. Individually listed in the National Register of Historic}}\\ \text{Places; or}$
- 2. Located within a registered historic district and certified by the United States Secretary of the Interior as being of historic significance to the registered historic district as set forth in 36 C.F.R. s. 67.2.
- (d) "Certified rehabilitation" means the rehabilitation of a certified historic structure that the United States Secretary of the Interior has certified to the United States Secretary of the Treasury as being consistent with the historic character of the certified historic structure and, if applicable, consistent with the registered historic district in which the certified historic structure is located as set forth in 36 C.F.R. s. 67.2.
- (e) "Division" means the Division of Historical Resources of the Department of State.
- (f) "Florida Main Street program" means a statewide historic preservation-based downtown revitalization assistance program created, maintained, and administered by the division under s. 267.031(5).

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(g) "Local program area" means the specific geographic area in which an Active Main Street program is conducted as approved and maintained by the division or in which the Orlando Main Streets program is conducted.

- (h) "Long-term leasehold" means a leasehold in a nonresidential real property for a term of 39 years or more or a leasehold in a residential real property for a term of 27.5 years or more.
- (i) "National Register of Historic Places" means the list of historic properties significant in American history, architecture, archeology, engineering, and culture maintained by the United States Secretary of the Interior as authorized in 54 U.S.C. s. 302101.
- (j) "Orlando Main Streets program" means a historic preservation-based district revitalization program administered by the City of Orlando.
- (k) "Placed in service" means when the property is placed in a condition or state of readiness and availability for a specifically assigned function. A building is placed in service when the appropriate work has been completed which would allow for occupancy of either the entire building or some identifiable portion of the building as detailed in Treasury Regulation 1.46-3(d).
- (1) "Qualified expenses" means rehabilitation expenditures that qualify for the credit under 26 U.S.C. s. 47 incurred in this state.
- (m) "Registered historic district" means a district listed
 in the National Register of Historic Places or a district:
 - 1. Designated under general law or local ordinance and

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certified by the United States Secretary of the Interior as meeting criteria that will substantially achieve the purposes of preserving and rehabilitating buildings of historic significance to the district; and

- 2. Certified by the United States Secretary of the Interior as meeting substantially all of the requirements for listing a district in the National Register of Historic Places.
- (3) ELIGIBILITY FOR TAX CREDIT.—For taxable years beginning on or after January 1, 2025, there is allowed a credit against any tax due for a taxable year under this chapter after the application of any other allowable credits by the taxpayer.
- (a) To claim and receive a tax credit under this section, a taxpayer must submit an application to the department for a tax credit for qualified expenses in the amount and under the conditions and limitations provided in this section against the tax due for a taxable year under this chapter and must provide the department with all of the following:
- 1. An official certificate of eligibility from the division, signed by the State Historic Preservation Officer or the Deputy State Historic Preservation Officer, attesting that the project has been approved by the National Park Service and indicating whether the project is located within a local program area in this state.
- 2. National Park Service Form 10-168c (Rev. 2023), titled "Historic Preservation Certification Application Part 3-Request for Certification of Completed Work," or a similar form, signed by an officer of the National Park Service, attesting that the completed rehabilitation meets the United States Secretary of the Interior's Standards for Rehabilitation and is consistent

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with the historic character of the property and, if applicable, the district in which the completed rehabilitation is located.

The form may be obtained through the National Park Service.

- 3. An identification of the dates during which the certified historic structure was rehabilitated and the date on which the certified historic structure was placed in service.
- 4. Documentation that the taxpayer had an ownership or a long-term leasehold interest in the certified historic structure in the year during which such structure was placed in service after the certified rehabilitation was completed.
- 5. A list of total qualified expenses incurred by the taxpayer in rehabilitating the certified historic structure. The taxpayer must submit an audited cost report issued by a certified public accountant which itemizes the qualified expenses incurred in rehabilitating the certified historic structure.
- 6. An attestation of the total qualified expenses incurred in this state by the taxpayer in rehabilitating the certified historic structure in this state.
- 7. The information required to be reported by the department in subsection (8) to enable the department to compile its annual report.
- (b) Within 60 days after receipt of the information required under paragraph (a), the department must approve or deny the application. If approved, the department must provide a letter of certification to the taxpayer consistent with any restrictions imposed. If the department denies any part of the requested credit, the department must inform the taxpayer of the grounds for the denial.

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- (4) AMOUNT AND DISTRIBUTION OF TAX CREDIT.-
- (a) The total tax credit claimed annually may not exceed the amount of tax due after any other applicable tax credits and may not exceed the following:
- 1. Twenty percent, up to a maximum of \$200,000, of the total qualified expenses incurred in this state in rehabilitating at least one certified historic structure that has been approved by the National Park Service to receive the federal historic rehabilitation tax credit; or
- 2. Thirty percent, up to a maximum of \$200,000, of the total qualified expenses incurred in this state in rehabilitating at least one certified historic structure that has been approved by the National Park Service to receive the federal historic rehabilitation tax credit and that is located within a local program area in this state.
- (b) The tax credit may be used to offset the corporate income tax imposed in s. 220.11 and the insurance premium tax imposed in s. 624.509. An insurer claiming a credit against insurance premium tax liability under this section may not be required to pay any additional retaliatory tax levied pursuant to s. 624.5091 as a result of claiming such credit. Section 624.5091 does not limit such credit in any manner.
- (c) The combined total amount of tax credits that may be granted for all taxpayers under this section is \$25 million per state fiscal year.
- (d) A taxpayer may not receive more than \$1 million in tax credits for a single development project, even if such credits are accrued over multiple tax years. However, additional tax credits purchased from another taxpayer or entity, and carryover

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233 tax credits from a prior tax year, may be used by such taxpayer
234 if the additional tax credits were accrued from a different
235 development project.

- (e) The department shall award the tax credits on a first-come, first-served basis.
- (f) If the annual amount of approved tax credits exceeds the maximum provided in paragraph (c), applications must be rolled forward to be granted by the department during the following fiscal year.
 - (5) CARRYFORWARD OF TAX CREDIT.-
- (a) If a taxpayer is eligible for a tax credit that exceeds taxes owed, the taxpayer may carry the unused tax credit forward for a period of up to 5 taxable years.
- (b) A carryforward is considered the remaining portion of a tax credit that cannot be claimed in the current tax year.
 - (6) SALE OR TRANSFER OF TAX CREDIT.-
- (a) A taxpayer that incurs qualified expenses may sell or transfer all or part of the tax credit that may otherwise be claimed to another taxpayer.
- (b) A taxpayer to which all or part of the tax credit is sold or transferred may sell or transfer all or part of the tax credit that may otherwise be claimed to another taxpayer.
- (c) A taxpayer that sells or transfers a tax credit to another taxpayer must provide a copy of the certificate of eligibility together with the audited cost report to the purchaser or transferee.
- (d) Qualified expenses may be counted only once in determining the amount of an available tax credit, and more than one taxpayer may not claim a tax credit for the same qualified

expenses.

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(e) There is a limit of two transactions for the sale or transfer of all or part of a tax credit.

- 1. A taxpayer that sells or transfers a tax credit under this subsection and the purchaser or transferee shall jointly submit written notice of the sale or transfer to the department on a form adopted by the department no later than the 30th day after the date of the sale or transfer. The notice must include all of the following:
 - a. The date of the sale or transfer.
 - b. The amount of the tax credit sold or transferred.
- c. The name and federal tax identification number of the taxpayer that sold or transferred the tax credit and the purchaser or transferee.
- d. The amount of the tax credit owned by the taxpayer before the sale or transfer and the amount the selling or transferring taxpayer retained, if any, after the sale or transfer.
- 2. The sale or transfer of a tax credit under this subsection does not extend the period for which a tax credit may be carried forward and does not increase the total amount of the tax credit that may be claimed.
- 3. If a taxpayer claims a tax credit for qualified expenses, another taxpayer may not use the same expenses as the basis for claiming a tax credit.
- 4. Notwithstanding the requirements of this subsection, a tax credit earned by, purchased by, or transferred to a partnership, limited liability company, S corporation, or other pass-through entity may be allocated to the partners, members,

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or shareholders of that entity and claimed under this section in accordance with any agreement among the partners, members, or shareholders and without regard to the ownership interest of the partners, members, or shareholders in the rehabilitated certified historic structure.

- (f) If the tax credit is reduced due to a determination, examination, or audit by the department, the tax deficiency must be recovered from the taxpayer that sold or transferred the tax credit or the purchaser or transferree that claimed the tax credit up to the amount of the tax credit taken.
- (g) Any subsequent deficiencies shall be assessed against the purchaser or transferee that claimed the tax credit or, in the case of multiple succeeding entities, in the order of tax credit succession.
- (7) AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX CREDITS; FRAUDULENT CLAIMS.—
- (a) The department may perform any additional financial and technical audits and examinations, including examining the accounts, books, or records of the taxpayer, to verify the legitimacy of the qualified expenses included in a tax credit return and to ensure compliance with this section. If requested by the department, the division must provide technical assistance for any technical audits or examinations performed under this subsection.
- (b) It is grounds for forfeiture of previously claimed and received tax credits if the department determines, as a result of an audit or information received from the division, the division, or the United States Department of the Interior or Internal Revenue Service, that a taxpayer received a tax credit

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pursuant to this section to which the taxpayer was not entitled.

In the case of fraud, the taxpayer may not claim any future tax credits under this section.

- (c) The taxpayer must return forfeited tax credits to the department, and such funds shall be paid into the General Revenue Fund.
- (d) The taxpayer shall file with the department an amended tax return or such other report as the department prescribes and shall pay any required tax within 60 days after the taxpayer receives notification from the United States Internal Revenue Service that a previously approved tax credit has been revoked or modified, if uncontested, or within 60 days after a final order is issued following proceedings involving a contested revocation or modification order.
- (e) A notice of deficiency may be issued by the department at any time within 5 years after the date on which the taxpayer receives notification from the United States Internal Revenue Service that a previously approved tax credit has been revoked or modified. If a taxpayer fails to notify the department of any change in its tax credit claimed, a notice of deficiency may be issued at any time. In either case, the amount of any proposed assessment set forth in such notice of deficiency is limited to the amount of any deficiency resulting under this section from the recomputation of the taxpayer's tax for the taxable year.
- (f) A taxpayer that fails to report and timely pay any tax due as a result of the forfeiture of its tax credit violates this section and is subject to applicable penalties and interest.
 - (8) ANNUAL REPORT.—Based on the applications submitted and

Florida Statutes, to read:

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577-02151-24 20241166c1 349 approved, the department must submit a report by December 1 of 350 each year to the President of the Senate and the Speaker of the 351 House of Representatives that identifies, in the aggregate, all 352 of the following: 353 (a) The number of people employed during the construction 354 phases of the certified rehabilitation who worked to complete 355 the project, including contractors and subcontractors. 356 (b) The use of each newly rehabilitated building and the 357 number of additional people employed for ongoing operations 358 after the certified historic structure is placed in service. 359 (c) The number of affordable housing units created or 360 preserved. 361 (d) The property values before and after the certified 362 rehabilitations. 363 (9) DEPARTMENT DUTIES.—The department shall: 364 (a) Establish or amend any necessary forms required to 365 claim a tax credit under this section. 366 (b) Provide administrative guidelines and procedures 367 required to administer this section, including rules 368 establishing an entitlement to and sale or transfer of a tax 369 credit under this section. 370 (c) Provide examination and audit procedures required to 371 administer this section. 372 (10) RULES.—The department may adopt rules to administer 373 this section. 374 Section 2. Subsection (26) is added to section 213.053, 375

(26) The department may make available to the Division of

213.053 Confidentiality and information sharing.-

577-02151-24 20241166c1 378 Historical Resources of the Department of State and the 379 Secretary of the United States Department of the Interior or his 380 or her delegate, exclusively for official purposes, information 381 for the purposes of administering the Main Street Historical 382 Tourism and Revitalization Act pursuant to s. 220.197. 383 Section 3. Subsection (8) of section 220.02, Florida 384 Statutes, is amended to read: 385 220.02 Legislative intent.-386 (8) It is the intent of the Legislature that credits 387 against either the corporate income tax or the franchise tax be 388 applied in the following order: those enumerated in s. 631.828, 389 those enumerated in s. 220.191, those enumerated in s. 220.181, 390 those enumerated in s. 220.183, those enumerated in s. 220.182, those enumerated in s. 220.1895, those enumerated in s. 220.195, 391 those enumerated in s. 220.184, those enumerated in s. 220.186, 392 393 those enumerated in s. 220.1845, those enumerated in s. 220.19, 394 those enumerated in s. 220.185, those enumerated in s. 220.1875, 395 those enumerated in s. 220.1876, those enumerated in s. 396 220.1877, those enumerated in s. 220.1878, those enumerated in 397 s. 220.193, those enumerated in former s. 288.9916, those 398 enumerated in former s. 220.1899, those enumerated in former s. 399 220.194, those enumerated in s. 220.196, those enumerated in s. 400 220.198, those enumerated in s. 220.1915, those enumerated in s. 401 220.199, and those enumerated in s. 220.1991, and those 402 enumerated in s. 220.197. 403 Section 4. Paragraph (a) of subsection (1) of section 404 220.13, Florida Statutes, is amended to read: 405 220.13 "Adjusted federal income" defined .-406 (1) The term "adjusted federal income" means an amount

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equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

- (a) Additions.—There shall be added to such taxable income:
- 1.a. The amount of any tax upon or measured by income, excluding taxes based on gross receipts or revenues, paid or accrued as a liability to the District of Columbia or any state of the United States which is deductible from gross income in the computation of taxable income for the taxable year.
- b. Notwithstanding sub-subparagraph a., if a credit taken under s. 220.1875, s. 220.1876, s. 220.1877, or s. 220.1878 is added to taxable income in a previous taxable year under subparagraph 11. and is taken as a deduction for federal tax purposes in the current taxable year, the amount of the deduction allowed shall not be added to taxable income in the current year. The exception in this sub-subparagraph is intended to ensure that the credit under s. 220.1875, s. 220.1876, s. 220.1877, or s. 220.1878 is added in the applicable taxable year and does not result in a duplicate addition in a subsequent year.
- 2. The amount of interest which is excluded from taxable income under s. 103(a) of the Internal Revenue Code or any other federal law, less the associated expenses disallowed in the computation of taxable income under s. 265 of the Internal Revenue Code or any other law, excluding 60 percent of any amounts included in alternative minimum taxable income, as defined in s. 55(b)(2) of the Internal Revenue Code, if the taxpayer pays tax under s. 220.11(3).

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3. In the case of a regulated investment company or real estate investment trust, an amount equal to the excess of the net long-term capital gain for the taxable year over the amount of the capital gain dividends attributable to the taxable year.

- 4. That portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.181. This subparagraph shall expire on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.
- 5. That portion of the ad valorem school taxes paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.182. This subparagraph shall expire on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.
- 6. The amount taken as a credit under s. 220.195 which is deductible from gross income in the computation of taxable income for the taxable year.
- 7. That portion of assessments to fund a guaranty association incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year.
- 8. In the case of a nonprofit corporation which holds a pari-mutuel permit and which is exempt from federal income tax as a farmers' cooperative, an amount equal to the excess of the gross income attributable to the pari-mutuel operations over the attributable expenses for the taxable year.
- 9. The amount taken as a credit for the taxable year under $s.\ 220.1895.$
- 10. Up to nine percent of the eligible basis of any designated project which is equal to the credit allowable for

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the taxable year under s. 220.185.

- 11. Any amount taken as a credit for the taxable year under s. 220.1875, s. 220.1876, s. 220.1877, or s. 220.1878. The addition in this subparagraph is intended to ensure that the same amount is not allowed for the tax purposes of this state as both a deduction from income and a credit against the tax. This addition is not intended to result in adding the same expense back to income more than once.
- 12. The amount taken as a credit for the taxable year under s. 220.193.
- 13. The amount taken as a credit for the taxable year under s. 220.196. The addition in this subparagraph is intended to ensure that the same amount is not allowed for the tax purposes of this state as both a deduction from income and a credit against the tax. The addition is not intended to result in adding the same expense back to income more than once.
- 14. The amount taken as a credit for the taxable year pursuant to s. 220.198.
- 15. The amount taken as a credit for the taxable year pursuant to s. 220.1915.
- 16. The amount taken as a credit for the taxable year pursuant to s. 220.199.
- 17. The amount taken as a credit for the taxable year pursuant to s. 220.1991.
- 18. The amount taken as a credit for the taxable year pursuant to s. 220.197.
- Section 5. Subsection (7) of section 624.509, Florida Statutes, is amended to read:
 - 624.509 Premium tax; rate and computation.

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(7) Credits and deductions against the tax imposed by this section shall be taken in the following order: deductions for assessments made pursuant to s. 440.51; credits for taxes paid under ss. 175.101 and 185.08; credits for income taxes paid under chapter 220 and the credit allowed under subsection (5), as these credits are limited by subsection (6); the credit allowed under s. 624.51057; the credit allowed under s. 624.51058; the credit allowed under s. 624.5095; and all other available credits and deductions.

Section 6. Section 624.5095, Florida Statutes, is created to read:

624.5095 Premium tax credits related to historic preservation.—

- (1) Tax credits accrued through a certified rehabilitation as defined in s. 220.197 and 36 C.F.R. s. 67.2 may be used against any tax due for the taxable year under s. 624.509(1), as limited under s. 624.509(6).
- (2) The certified rehabilitation may either be completed by the insurer pursuant to s. 220.197 or the insurer may purchase the tax credit from a different entity that accrued or purchased the tax credit pursuant s. 220.197.
- (3) An insurer claiming a tax credit under this section is not required to pay any additional retaliatory tax levied pursuant to s. 624.5091 as a result of claiming such credit. The tax credit under this section is not limited by s. 624.5091.

Section 7. (1) The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules under s.

120.54(4), Florida Statutes, for the purpose of implementing the Main Street Historical Tourism and Revitalization Act.

577-02151-24 20241166c1 523 (2) Notwithstanding any other law, emergency rules adopted 524 under this section are effective for 6 months after adoption and 525 may be renewed during the pendency of procedures to adopt 526 permanent rules addressing the subject of the emergency rules. 527 (3) This section shall take effect upon this act becoming a 528 law and expires July 1, 2025. 529 Section 8. This act applies to taxable years beginning, and 530 for qualified expenses incurred, on or after January 1, 2025. 531 Section 9. Except as otherwise expressly provided in this 532 act and except for this section, which shall take effect upon

becoming a law, this act shall take effect July 1, 2024.