

1 A bill to be entitled
2 An act relating to credits against taxes;
3 amending s. 220.02, F.S.; providing the order
4 of credits against the corporate income tax or
5 franchise tax; amending s. 220.03, F.S.;
6 revising the definition of "child care facility
7 startup costs" and defining "operation of a
8 child care facility"; amending s. 220.12, F.S.;
9 revising the definition of a taxpayer's net
10 income for corporate income tax purposes to
11 delete the deduction of child care facility
12 startup costs; creating s. 220.19, F.S.;
13 authorizing a credit against the corporate
14 income tax for child care facility startup
15 costs and operation, and for payment of an
16 employee's child care costs; providing
17 limitations; requiring a recipient to refund a
18 portion of tax credits received under certain
19 conditions; providing eligibility and
20 application requirements; providing for
21 administration by the Department of Revenue;
22 providing for future expiration; defining
23 "corporation"; creating s. 624.5107, F.S.;
24 authorizing a credit against insurance premium
25 taxes for child care facility startup costs and
26 operation, and for payment of an employee's
27 child care costs; providing definitions;
28 providing limitations; requiring a recipient to
29 refund a portion of tax credits received under
30 certain conditions; providing eligibility and
31 application requirements; providing for

1 administration by the Department of Revenue;
2 providing for future expiration; providing an
3 effective date.
4

5 Be It Enacted by the Legislature of the State of Florida:
6

7 Section 1. Subsection (10) of section 220.02, Florida
8 Statutes, is amended to read:

9 220.02 Legislative intent.--

10 (10) It is the intent of the Legislature that credits
11 against either the corporate income tax or the franchise tax
12 be applied in the following order: those enumerated in s.
13 ~~220.68, those enumerated in s. 631.719(1), those enumerated in~~
14 ~~s. 631.705,~~ those enumerated in s. 220.18, those enumerated in
15 s. 631.828, those enumerated in s. 220.181, those enumerated
16 in s. 220.183, those enumerated in s. 220.182, those
17 enumerated in s. 220.1895, those enumerated in s. 221.02,
18 those enumerated in s. 220.184, those enumerated in s.
19 220.186, ~~and~~ those enumerated in s. 220.188, and those
20 enumerated in s. 220.19.

21 Section 2. Paragraph (cc) of subsection (1) of section
22 220.03, Florida Statutes, is amended, and paragraph (gg) is
23 added to said subsection, to read:

24 220.03 Definitions.--

25 (1) SPECIFIC TERMS.--When used in this code, and when
26 not otherwise distinctly expressed or manifestly incompatible
27 with the intent thereof, the following terms shall have the
28 following meanings:

29 (cc) "Child care facility startup costs" means
30 expenditures for substantial renovation, equipment, including
31 playground equipment and kitchen appliances and cooking

1 equipment, ~~and~~ real property, including land and improvements,
2 and for reduction of debt, made in connection with used to
3 ~~establish~~ a child care facility as defined by s. 402.302(4),
4 or any facility providing daily care to children who are
5 mildly ill, which is located in this the state on the
6 taxpayer's premises or within 5 miles of the employees'
7 ~~workplace~~ and used ~~exclusively~~ by the employees of the
8 taxpayer.

9 (gg) "Operation of a child care facility" means
10 operation of a child care facility as defined by s. 402.302,
11 or any facility providing daily care to children who are
12 mildly ill, which is located in this state within 5 miles of
13 at least one place of business of the taxpayer and which is
14 used by the employees of the taxpayer.

15 Section 3. Section 220.12, Florida Statutes, is
16 amended to read:

17 220.12 "Net income" defined.--For purposes of this
18 code, a taxpayer's net income for a taxable year shall be its
19 adjusted federal income, or that share of its adjusted federal
20 income for such year which is apportioned to this state under
21 s. 220.15, plus nonbusiness income allocated to this state
22 pursuant to s. 220.16, ~~less child care facility startup costs~~
23 ~~as defined by s. 220.03(1)(dd),~~less the exemption allowed by
24 s. 220.14.

25 Section 4. Section 220.19, Florida Statutes, is
26 created to read:

27 220.19 Child care tax credits.--

28 (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.--

29 (a)1. A credit of 50 percent of the startup costs of
30 child care facilities operated by a corporation for its
31 employees is allowed against any tax due for a taxable year

1 under this chapter. A credit against such tax is also allowed
2 for the operation of a child care facility by a corporation
3 for its employees, which credit is in the amount of \$50 per
4 month for each child enrolled in the facility.

5 2. A credit is allowed against any tax due for a
6 taxable year under this chapter for any taxpayer that makes
7 payments directly to a child care facility as defined by s.
8 402.302 which is licensed in accordance with s. 402.305, or to
9 any facility providing daily care to children who are mildly
10 ill, which payments are made in the name of and for the
11 benefit of an employee of the taxpayer in this state whose
12 child attends the child care facility during the employee's
13 working hours. The credit shall be an amount equal to 50
14 percent of the amount of such child care payments.

15 (b) A corporation may not receive more than \$50,000 in
16 annual tax credits for all approved child care costs that the
17 corporation incurs in any one year.

18 (c) The total amount of tax credits which may be
19 granted for all programs approved under this section and s.
20 624.5107 is \$2 million annually.

21 (d) An application for tax credit under this section
22 must be approved by the executive director of the department.

23 (e) If the credit granted under this section is not
24 fully used in any one year because of insufficient tax
25 liability on the part of the corporation, the unused amount
26 may be carried forward for a period not to exceed 5 years.
27 The carryover credit may be used in a subsequent year when the
28 tax imposed by this chapter for that year exceeds the credit
29 for which the corporation is eligible in that year under this
30 section after applying the other credits and unused carryovers
31 in the order provided by s. 220.02(10).

1 (f) If a corporation receives a credit for child care
2 facility startup costs, and the facility fails to operate for
3 at least 5 years, a pro rata share of the credit must be
4 repaid, in accordance with the formula: $A = C \times (1 - (N/60))$,
5 where:

6 1. "A" is the amount in dollars of the required
7 repayment.

8 2. "C" is the total credits taken by the corporation
9 for child care facility startup costs.

10 3. "N" is the number of months the facility was in
11 operation.

12
13 This repayment requirement is inapplicable if the corporation
14 goes out of business or can demonstrate to the department that
15 its employees no longer want to have a child care facility.

16 (g) A taxpayer that files a consolidated return in
17 this state as a member of an affiliated group under s.
18 220.131(1) may be allowed the credit on a consolidated return
19 basis.

20 (h) A taxpayer that is eligible to receive credit
21 under s. 624.5107 is ineligible to receive credit under this
22 section.

23 (2) ELIGIBILITY REQUIREMENTS.--

24 (a) A child care facility with respect to which a
25 corporation claims a child care tax credit must be a child
26 care facility as defined by s. 402.302 and must be licensed in
27 accordance with s. 402.305, or must be a facility providing
28 daily care to children who are mildly ill.

29 (b) The services of a child care facility for which a
30 corporation claims a child care tax credit under subparagraph
31 (1)(a)1. must be available to all employees of the

1 corporation, or must be allocated on a first-come,
2 first-served basis, and must be used by employees of the
3 taxpayer.

4 (c) Two or more corporations may join together to
5 start and to operate a child care facility according to the
6 provisions of this section. If two or more corporations choose
7 to jointly operate a child care facility, or cause a
8 not-for-profit corporation to operate the child care facility,
9 the corporations must file a joint application or the
10 not-for-profit corporation may file the application with the
11 department, pursuant to subsection (3), setting forth their
12 proposal. The participating corporations may proportion the
13 annual child care costs credits in any manner they choose as
14 appropriate, but no jointly operated corporate child care
15 facility established under this section may receive more than
16 \$50,000 in annual tax credits for all approved child care
17 costs that the participating corporations incur in any one
18 year.

19 (d) Child care payments for which a corporation claims
20 a credit under subparagraph (1)(a)2. shall not exceed the
21 amount charged by the child care facility to other children of
22 like age and abilities of persons not employed by the
23 corporation.

24 (3) APPLICATION REQUIREMENTS.--Any corporation that
25 wishes to participate in this program must submit to the
26 department an application for tax credit which sets forth the
27 proposal for establishing a child care facility for the use of
28 its employees or for payment of the cost of child care for its
29 employees. This application must state the anticipated
30 startup costs and the number of children to be enrolled, in
31 the case of credit claimed under subparagraph (1)(a)1., or the

1 number of children for whom child care costs will be paid, in
2 the case of credit claimed under subparagraph (1)(a)2.

3 (4) ADMINISTRATION.--

4 (a) The Department of Revenue may adopt all rules
5 pursuant to the Administrative Procedures Act to administer
6 this section, including rules for the approval or disapproval
7 of proposals submitted by corporations and rules to provide
8 for cooperative arrangements between for-profit and
9 not-for-profit corporations.

10 (b) The executive director's decision to approve or
11 disapprove a proposal must be in writing, and, if the proposal
12 is approved, the decision must state the maximum credit
13 allowable to the corporation.

14 (c) All approvals for the granting of the tax credit
15 require prior verification by the Department of Children and
16 Family Services or local licensing agency that the corporation
17 meets the licensure requirements as defined in s. 402.302 and
18 is currently licensed in accordance with s. 402.305, or is a
19 facility providing daily care to children who are mildly ill.

20 (d) Verification of the child care provider as an
21 approved facility must be in writing, and must be attached to
22 the credit application form submitted to the Department of
23 Revenue.

24 (5) EXPIRATION.--This section expires on June 30,
25 2008, except that paragraph (1)(e), which relates to carryover
26 credits, and paragraph (1)(f), which relates to repaying tax
27 credits in specified circumstances, do not expire on that
28 date.

29 (6) MEANING OF CORPORATION.--As used in this section,
30 the term "corporation" includes all general partnerships,
31 limited partnerships, unincorporated businesses, and all other

1 business entities which are owned or controlled by the parent
2 corporation.

3 Section 5. Section 624.5107, Florida Statutes, is
4 created to read:

5 624.5107 Child care tax credits; definitions;
6 authorization; limitations; eligibility and application
7 requirements; administration; expiration.--

8 (1) DEFINITIONS.--As used in this section:

9 (a) "Child care facility startup costs" means
10 expenditures for substantial renovation, equipment, including
11 playground equipment and kitchen appliances and cooking
12 equipment, real property, including land and improvements, and
13 for reduction of debt, made in connection with the
14 establishment of a child care facility as defined by s.
15 402.302, or any facility providing daily care to children who
16 are mildly ill, which is located in this state on the
17 insurer's premises and used by the employees of the insurer.

18 (b) "Operation of a child care facility" means
19 operation of a child care facility as defined by s. 402.302,
20 or any facility providing daily care to children who are
21 mildly ill, which is located in this state within 5 miles of
22 at least one place of business of the insurer and which is
23 used by the employees of the insurer.

24 (c) "Department" means the Department of Revenue.

25 (d) "Executive director" means the executive director
26 of the Department of Revenue.

27 (2) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.--

28 (a)1. A credit of 50 percent of the startup costs of
29 child care facilities operated by an insurer for its employees
30 is allowed against any tax due for a taxable year under s.
31 624.509 or s. 624.510. A credit against such tax is also

1 allowed for the operation of a child care facility by an
2 insurer for its employees, which credit is in the amount of
3 \$50 per month for each child enrolled in the facility.

4 2. A credit is allowed against any tax due for a
5 taxable year under s. 624.509 or s. 624.510 for any insurer
6 that makes payments directly to a child care facility as
7 defined by s. 402.302 which is licensed in accordance with s.
8 402.305, or to any facility providing daily care to children
9 who are mildly ill, which payments are made in the name of and
10 for the benefit of an employee of the insurer in this state
11 whose child attends the child care facility during the
12 employee's working hours. The credit shall be an amount equal
13 to 50 percent of the amount of such child care payments.

14 (b) An insurer may not receive more than \$50,000 in
15 annual tax credits for all approved child care costs that the
16 insurer incurs in any one year.

17 (c) The total amount of tax credits which may be
18 granted for all programs approved under this section and s.
19 220.19 is \$2 million annually.

20 (d) An application for tax credit under this section
21 must be approved by the executive director.

22 (e) If the credit granted under this section is not
23 fully used in any one year because of insufficient tax
24 liability on the part of the insurer, the unused amount may be
25 carried forward for a period not to exceed 5 years. The
26 carryover credit may be used in a subsequent year when the tax
27 imposed by s. 624.509 or s. 624.510 for that year exceeds the
28 credit for which the insurer is eligible in that year under
29 this section.

30 (f) If an insurer receives a credit for child care
31 facility startup costs, and the facility fails to operate for

1 at least 5 years, a pro rata share of the credit must be
2 repaid, in accordance with the formula: $A = C \times (1 - (N/60))$,
3 where:

4 1. "A" is the amount in dollars of the required
5 repayment.

6 2. "C" is the total credits taken by the insurer for
7 child care facility startup costs.

8 3. "N" is the number of months the facility was in
9 operation.

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11 This repayment requirement is inapplicable if the insurer goes
12 out of business or can demonstrate to the department that its
13 employees no longer want to have a child care facility.

14 (3) ELIGIBILITY REQUIREMENTS.--

15 (a) A child care facility with respect to which an
16 insurer claims a child care tax credit must be a child care
17 facility as defined by s. 402.302 and must be licensed in
18 accordance with s. 402.305, or must be a facility providing
19 daily care to children who are mildly ill.

20 (b) The services of a child care facility for which an
21 insurer claims a child care tax credit under subparagraph
22 (2)(a)1. must be available to all employees of the insurer or
23 must be allocated on a first-come, first-served basis, and
24 must be used by employees of the insurer.

25 (c) Child care payments for which an insurer claims a
26 credit under subparagraph (2)(a)2. shall not exceed the amount
27 charged by the child care facility to other children of like
28 age and abilities of persons not employed by the insurer.

29 (4) APPLICATION REQUIREMENTS.--Any insurer that wishes
30 to participate in this program must submit to the department
31 an application for tax credit which sets forth the proposal

1 for establishing a child care facility for the use of its
2 employees or for payment of the cost of child care for its
3 employees. This application must state the anticipated startup
4 costs and the number of children to be enrolled, in the case
5 of credit claimed under subparagraph (2)(a)1., or the number
6 of children for whom child care costs will be paid, in the
7 case of credit claimed under subparagraph (2)(a)2.

8 (5) ADMINISTRATION.--

9 (a) The Department of Revenue may adopt all rules
10 pursuant to the Administrative Procedures Act to administer
11 this section, including rules for the approval or disapproval
12 of proposals submitted by insurers and rules to provide for
13 cooperative arrangements between for-profit and not-for-profit
14 entities.

15 (b) The executive director's decision to approve or
16 disapprove a proposal must be in writing, and, if the proposal
17 is approved, the decision must state the maximum credit
18 allowable to the insurer.

19 (c) All approvals for the granting of the tax credit
20 require prior verification by the Department of Children and
21 Family Services or local licensing agency that the insurer
22 meets the licensure requirements as defined in s. 402.302 and
23 is currently licensed in accordance with s. 402.305, or is a
24 facility providing daily care to children who are mildly ill.

25 (d) Verification of the child care provider as an
26 approved facility must be in writing, and must be attached to
27 the credit application form submitted to the Department of
28 Revenue.

29 (6) EXPIRATION.--This section expires on June 30,
30 2008, except that paragraph (2)(e), which relates to carryover
31 credits, and paragraph (2)(f), which relates to repaying tax

1 credits in specified circumstances, do not expire on that
2 date.

3 Section 6. This act shall take effect December 31,
4 1998.

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