

By Senator Cowin

11-715-99

1 A bill to be entitled
2 An act relating to the corporate income tax;
3 creating s. 220.185, F.S.; providing
4 legislative findings and purpose; authorizing a
5 credit against the tax in an amount equal to a
6 percentage of the costs of rehabilitation of a
7 historic building used for commercial purposes;
8 providing requirements and limitations;
9 requiring certification with respect to the
10 period during which the property was used for a
11 commercial purpose; providing for carryover of
12 the credit; providing eligibility requirements
13 for historic buildings and improvements
14 thereto; providing application requirements;
15 requiring a resolution by the local government;
16 providing duties of the Division of Historical
17 Resources, Department of State, and the
18 Department of Revenue regarding administration
19 and monitoring of exemptions; amending s.
20 220.02, F.S.; providing the order of priority
21 of various credits against the tax; amending s.
22 220.13, F.S., relating to the determination of
23 adjusted federal income; providing for the
24 addition of rehabilitation costs equal to the
25 credit granted under s. 220.185, F.S., to a
26 taxpayer's taxable income; providing an
27 effective date.
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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Section 220.185, Florida Statutes, is
2 created to read:

3 220.185 Credit for rehabilitation of historic
4 buildings.--

5 (1) LEGISLATIVE FINDINGS.--The Legislature finds that:

6 (a) The abundant and valuable heritage reflected in
7 the many historic properties around the state is significant
8 and worthy of conservation and preservation. Chapter 267
9 clearly provides that the policy of this state regarding its
10 nonrenewable historic resources is to include:

11 1. Providing leadership in the preservation of the
12 state's historic resources.

13 2. Contributing to the preservation of non-state-owned
14 historic resources and giving encouragement to individuals and
15 organizations that undertake preservation through private
16 means.

17 3. Fostering, through measures that include financial
18 and technical assistance, conditions that promote a harmonious
19 coexistence of society and state historic resources.

20 4. Encouraging the public and private preservation and
21 utilization of elements of the state's historically built
22 environment.

23 (b) Many historic buildings in this state could be
24 rehabilitated in a manner that reflects their heritage and
25 could thereafter be used for commercial purposes, thereby
26 facilitating and promoting investment in and preservation of
27 these valuable historical resources.

28 (c) In order to encourage and promote private
29 investment in historic buildings, it is necessary to establish
30 a program that provides incentives significant enough to
31 encourage participation.

1 (2) POLICY AND PURPOSE.--It is the policy of this
2 state to encourage private corporations to invest in the
3 adaptive reuse and preservation of historic buildings. The
4 purpose of this section is to establish a program that
5 provides incentives for such investment by granting state
6 corporate income tax credits to corporations that participate
7 in the program.

8 (3) AUTHORIZATION TO GRANT HISTORIC BUILDINGS
9 INVESTMENT TAX CREDITS; LIMITATIONS.--

10 (a) A credit is allowed to a corporate taxpayer
11 against any tax due for a taxable year under this chapter in
12 an amount equal to 50 percent of the costs of substantial
13 rehabilitation and preservation of a historic building that is
14 to be used for commercial purposes during the year following
15 the completion of the project.

16 (b) A taxpayer may not receive more than \$200,000 in
17 tax credits for a rehabilitation project approved under this
18 section.

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

22 (d) An application for a tax credit under this section
23 must be approved by the Department of State before such a
24 credit is granted.

25 (e) Any corporate tax return that is required to be
26 filed under this chapter for any period within 1 year after
27 the rehabilitation of the building has been completed must
28 include a certified statement by the corporate taxpayer of the
29 period of the taxable year during which the historic property
30 was used for a commercial purpose. The amount of the approved
31 credit that may be claimed for the taxable year must be

1 computed based on the percentage of the 12-month period
2 following the date of completion for which the property was
3 used commercially.

4 (f) If a tax credit granted under this section is not
5 fully used in any one year because of insufficient tax
6 liability on the part of the taxpayer, the unused portion of
7 the credit may be carried forward for a period not to exceed 5
8 years. The carryover credit may be used in a subsequent year
9 when the tax imposed by this chapter for that year exceeds the
10 credit for that year under this section after applying the
11 other credits and unused credit carryovers in the order
12 provided in s. 220.02(10).

13 (g) As used in this section, the term "qualified
14 rehabilitation expenditure" means an amount that was expended
15 after December 30, 1999, and that is properly chargeable to
16 capital accounts in connection with the rehabilitation of a
17 qualified historic building.

18 (h) It is the responsibility of the taxpayer to
19 affirmatively demonstrate to the satisfaction of the
20 Department of Revenue that it meets the requirements of this
21 section.

22 (4) ELIGIBILITY.--

23 (a) Any project undertaken under this section must be
24 used for a commercial purpose.

25 (b) A historic building qualifies for this program if
26 the property at the time the exemption is granted:

27 1. Is listed in the National Register of Historic
28 Places pursuant to the National Historic Preservation Act of
29 1966, as amended;

30 2. Is a contributing property to a National Register
31 Historic District; or

1 3. Is designated as a historic property, or as a
2 contributing property to a historic district, under the terms
3 of a local preservation ordinance.

4 (c) In order for an improvement to a historic property
5 to qualify the property for exemption, the improvement must:

6 1. Be consistent with the United States Secretary of
7 the Interior's Standards for Rehabilitation.

8 2. Be a substantial rehabilitation, for which the
9 qualified expenditures exceed the greater of \$5,000 or the
10 adjusted basis of the building. As used in this subparagraph,
11 the term "adjusted basis" means the actual cost of the
12 property minus the cost of the land, plus any capital
13 improvement already made, minus any depreciation already
14 taken. The Department of Revenue shall determine whether or
15 not an improvement qualifies as a substantial rehabilitation.

16 4. Be determined by the Division of Historical
17 Resources of the Department of State to meet criteria
18 established in rules adopted by the Department of State.

19 (5) APPLICATION.--Proposals to participate in the
20 program established under this section must be submitted to
21 the Division of Historical Resources of the Department of
22 State in accordance with rules adopted by the Department of
23 State. A proposal must contain a resolution by the local
24 governmental unit in which the property is located which
25 certifies that the proposal is consistent with local plans and
26 regulations.

27 (6) ADMINISTRATION.--

28 (a) The Department of State shall adopt all rules that
29 are necessary for administering this section, including rules
30 for the approval or disapproval of proposals.

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1 (b) The decision of the Secretary of State must be in
2 writing, and, if approved, the proposal must state the amount
3 of credit allowed to the business firm. A copy of the decision
4 must be transmitted to the executive director of the
5 Department of Revenue, who shall apply the tax credit to the
6 tax liability of the taxpayer.

7 (c) The Division of Historical Resources shall
8 periodically monitor all projects in a manner consistent with
9 available resources to ensure that resources are used in
10 accordance with this section; however, each project must be
11 reviewed upon the completion of rehabilitation.

12 (d) The Department of Revenue shall adopt any rules
13 that are necessary to ensure the orderly implementation and
14 administration of this section.

15 Section 2. Subsection (10) of section 220.02, Florida
16 Statutes, 1998 Supplement, as amended by section 11 of chapter
17 98-132, Laws of Florida, is amended to read:

18 220.02 Legislative intent.--

19 (10) It is the intent of the Legislature that credits
20 against either the corporate income tax or the franchise tax
21 be applied in the following order: those enumerated in s.
22 220.18, those enumerated in s. 631.828, those enumerated in s.
23 220.191, those enumerated in s. 220.181, those enumerated in
24 s. 220.183, those enumerated in s. 220.182, those enumerated
25 in s. 220.1895, those enumerated in s. 221.02, those
26 enumerated in s. 220.184, those enumerated in s. 220.186,
27 those enumerated in s. 220.188, those enumerated in s.
28 220.1845, ~~and~~ those enumerated in s. 220.19, and those
29 enumerated in s. 220.185.

30 Section 3. Paragraph (a) of subsection (1) of section
31 220.13, Florida Statutes, 1998 Supplement, is amended to read:

1 220.13 "Adjusted federal income" defined.--
2 (1) The term "adjusted federal income" means an amount
3 equal to the taxpayer's taxable income as defined in
4 subsection (2), or such taxable income of more than one
5 taxpayer as provided in s. 220.131, for the taxable year,
6 adjusted as follows:
7 (a) Additions.--There shall be added to such taxable
8 income:
9 1. The amount of any tax upon or measured by income,
10 excluding taxes based on gross receipts or revenues, paid or
11 accrued as a liability to the District of Columbia or any
12 state of the United States which is deductible from gross
13 income in the computation of taxable income for the taxable
14 year.
15 2. The amount of interest which is excluded from
16 taxable income under s. 103(a) of the Internal Revenue Code or
17 any other federal law, less the associated expenses disallowed
18 in the computation of taxable income under s. 265 of the
19 Internal Revenue Code or any other law, excluding 60 percent
20 of any amounts included in alternative minimum taxable income,
21 as defined in s. 55(b)(2) of the Internal Revenue Code, if the
22 taxpayer pays tax under s. 220.11(3).
23 3. In the case of a regulated investment company or
24 real estate investment trust, an amount equal to the excess of
25 the net long-term capital gain for the taxable year over the
26 amount of the capital gain dividends attributable to the
27 taxable year.
28 4. That portion of the wages or salaries paid or
29 incurred for the taxable year which is equal to the amount of
30 the credit allowable for the taxable year under s. 220.181.
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1 The provisions of this subparagraph shall expire and be void
2 on June 30, 2005.

3 5. That portion of the ad valorem school taxes paid or
4 incurred for the taxable year which is equal to the amount of
5 the credit allowable for the taxable year under s. 220.182.

6 The provisions of this subparagraph shall expire and be void
7 on June 30, 2005.

8 6. The amount of emergency excise tax paid or accrued
9 as a liability to this state under chapter 221 which tax is
10 deductible from gross income in the computation of taxable
11 income for the taxable year.

12 7. That portion of assessments to fund a guaranty
13 association incurred for the taxable year which is equal to
14 the amount of the credit allowable for the taxable year.

15 8. In the case of a nonprofit corporation which holds
16 a pari-mutuel permit and which is exempt from federal income
17 tax as a farmers' cooperative, an amount equal to the excess
18 of the gross income attributable to the pari-mutuel operations
19 over the attributable expenses for the taxable year.

20 9. The amount taken as a credit for the taxable year
21 under s. 220.1895.

22 10. That portion of the substantial rehabilitation and
23 preservation costs which is paid for the taxable year and
24 which is equal to the credit allowable for the taxable year
25 under s. 220.185.

26 Section 4. This act shall take effect January 1, 2000.
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SENATE SUMMARY

Creates s. 220.185, F.S., authorizing a credit against the corporate income tax in an amount equal to a percentage of the costs of rehabilitation of a historic building used for commercial purposes. Provides legislative findings and purpose. Provides requirements and limitations. Requires certification with respect to the period during which the property was used for a commercial purpose. Provides for carryover of the credit. Provides ellgibility requirements for historic buildings and improvements thereto. Provides application requirements. Requires a resolution by the local government. Provides duties of the Division of Historical Resources, Department of State, and the Department of Revenue regarding administration and monitoring of exemptions. Provides the order of priority of various credits against the tax. Amends provisions relating to the determination of adjusted federal income by providing for the addition of rehabilitation costs equal to the credit granted under s. 220.185, F.S., to a taxpayer's taxable income.