

By Senator Cowin

11-835-00

See HB 741

1 A bill to be entitled

2 An act relating to corporate income tax;

3 creating s. 220.1855, F.S.; providing findings

4 and purpose; authorizing a credit against such

5 tax equal to a percentage of the costs of

6 rehabilitation of a historic building used for

7 commercial purposes; providing requirements and

8 limitations; requiring certification with

9 respect to the period during which the property

10 was used for a commercial purpose; providing

11 for carryover of the credit; providing

12 eligibility requirements for historic buildings

13 and improvements thereto; providing application

14 requirements; requiring a resolution by the

15 local government; providing duties of the

16 Division of Historical Resources, Department of

17 State, and Department of Revenue regarding

18 administration and monitoring of exemptions;

19 amending s. 220.02, F.S.; providing order of

20 credits against the tax; amending s. 220.13,

21 F.S., which provides for the determination of

22 adjusted federal income, to provide for the

23 addition of rehabilitation costs equal to the

24 credit under s. 220.1855 to a taxpayer's

25 taxable income; providing an effective date.

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

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29 Section 1. Section 220.1855, Florida Statutes, is

30 created to read:

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1 220.1855 Credit for rehabilitation of historic
2 buildings.--

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

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

9 1. Providing leadership in the preservation of the
10 state's historic resources.

11 2. Contributing to the preservation of non-state-owned
12 historic resources and giving encouragement to organizations
13 and individuals undertaking preservation by private means.

14 3. Fostering conditions, using measures that include
15 financial and technical assistance, for a harmonious
16 coexistence of society and state historic resources.

17 4. Encouraging the public and private preservation and
18 utilization of elements of the state's historically built
19 environment.

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

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

29 (2) POLICY AND PURPOSE.--It is the policy of this
30 state to encourage private corporations to invest in the
31 adaptive reuse and preservation of historic buildings. The

1 purpose of this section is to establish a program that
2 provides incentives for such investment by granting state
3 corporate income tax credits to corporations that participate
4 in the program.

5 (3) AUTHORIZATION TO GRANT HISTORIC BUILDINGS
6 INVESTMENT TAX CREDITS; LIMITATIONS.--

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

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

16 (c) The total amount of tax credits which may be
17 granted for all projects approved under this section is \$1
18 million annually.

19 (d) All proposals for the granting of tax credits
20 under this section require the prior approval of the
21 Department of State.

22 (e) Any corporate tax return that is required to be
23 filed under this chapter for any period within 1 year after
24 the date of completion must include a certification by the
25 corporate taxpayer stating the period during such taxable year
26 during which the historic property was used for a commercial
27 purpose. The amount of the approved credit which may be
28 claimed for such taxable year shall be computed based on the
29 percentage such period of commercial use occurred within the
30 12-month period following the date of completion.

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

10 (g) No expenditure prior to January 1, 2001, shall
11 count as a qualified rehabilitation expenditure, which is
12 defined as any amount properly chargeable to capital accounts
13 in connection with the rehabilitation of a qualified historic
14 building.

15 (h) It is the responsibility of the taxpayer to
16 affirmatively demonstrate to the satisfaction of the
17 Department of Revenue that it meets the requirements of this
18 section.

19 (4) ELIGIBILITY.--

20 (a) Any project undertaken pursuant to this section
21 must be used for a commercial purpose.

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

24 1. Is listed in the National Register of Historic
25 Places pursuant to the National Historic Preservation Act of
26 1966, as amended;

27 2. Is a contributing property to a National Register
28 Historic District; or

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

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

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

5 2. Be a substantial rehabilitation, with qualified
6 expenditures exceeding the greater of \$5,000 or the adjusted
7 basis of the building. The adjusted basis is the actual cost
8 of the property minus the cost of the land, plus any capital
9 improvement already made, minus any depreciation already
10 taken. The Department of State shall determine whether or not
11 an improvement qualifies as a substantial rehabilitation.

12 3. Be completed within a 24-month period following
13 approval of written architectural plans and specifications.

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

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

25 (6) ADMINISTRATION.--

26 (a) The Department of State may adopt rules pursuant
27 to ss. 120.536(1) and 120.54 to administer this section,
28 including rules for the approval or disapproval of proposals.

29 (b) The decision of the Secretary of State shall be in
30 writing, and, if approved, the proposal shall state the amount
31 of credit allowed to the business firm. A copy of the

1 decision shall be transmitted to the executive director of the
2 Department of Revenue, who shall apply such credit to the tax
3 liability of the taxpayer.

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

9 (d) The Department of Revenue shall adopt rules to
10 implement the procedures taxpayers must use to claim the
11 corporate income tax credit for the rehabilitation of historic
12 buildings authorized by this section. These rules must
13 specify the manner in which the department will apply the
14 credit to a taxpayer's corporate income tax liability, the
15 manner in which unused portions of the tax credit may be
16 carried forward, and procedures for determining whether the
17 claim for a tax credit meets all the requirements of this
18 section.

19 Section 2. Subsection (10) of section 220.02, Florida
20 Statutes, as amended by chapter 99-378, Laws of Florida, is
21 amended to read:

22 220.02 Legislative intent.--

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

1 220.1845, those enumerated in s. 220.19, ~~and~~ those enumerated
2 in s. 220.185, and those enumerated in s. 220.1855.

3 Section 3. Paragraph (a) of subsection (1) of section
4 220.13, Florida Statutes, is amended to read:

5 220.13 "Adjusted federal income" defined.--

6 (1) The term "adjusted federal income" means an amount
7 equal to the taxpayer's taxable income as defined in
8 subsection (2), or such taxable income of more than one
9 taxpayer as provided in s. 220.131, for the taxable year,
10 adjusted as follows:

11 (a) Additions.--There shall be added to such taxable
12 income:

13 1. The amount of any tax upon or measured by income,
14 excluding taxes based on gross receipts or revenues, paid or
15 accrued as a liability to the District of Columbia or any
16 state of the United States which is deductible from gross
17 income in the computation of taxable income for the taxable
18 year.

19 2. The amount of interest which is excluded from
20 taxable income under s. 103(a) of the Internal Revenue Code or
21 any other federal law, less the associated expenses disallowed
22 in the computation of taxable income under s. 265 of the
23 Internal Revenue Code or any other law, excluding 60 percent
24 of any amounts included in alternative minimum taxable income,
25 as defined in s. 55(b)(2) of the Internal Revenue Code, if the
26 taxpayer pays tax under s. 220.11(3).

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

1 4. That portion of the wages or salaries paid or
2 incurred for the taxable year which is equal to the amount of
3 the credit allowable for the taxable year under s. 220.181.
4 The provisions of this subparagraph shall expire and be void
5 on June 30, 2005.

6 5. That portion of the ad valorem school taxes paid or
7 incurred for the taxable year which is equal to the amount of
8 the credit allowable for the taxable year under s. 220.182.
9 The provisions of this subparagraph shall expire and be void
10 on June 30, 2005.

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

15 7. That portion of assessments to fund a guaranty
16 association incurred for the taxable year which is equal to
17 the amount of the credit allowable for the taxable year.

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

23 9. The amount taken as a credit for the taxable year
24 under s. 220.1895.

25 10. Up to nine percent of the eligible basis of any
26 designated project which is equal to the credit allowable for
27 the taxable year under s. 220.185.

28 11. That portion of the substantial rehabilitation and
29 preservation costs which is paid for the taxable year which is
30 equal to the credit allowable for the taxable year under s.
31 220.1855.

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Section 4. This act shall take effect January 1, 2001.

LEGISLATIVE SUMMARY

Provides a credit against the corporate income tax equal to a percentage of the costs of rehabilitation of a historic building used for commercial purposes. Provides requirements and limitations. Provides for carryover of the credit. Provides eligibility requirements for historic buildings and improvements thereto. Provides application requirements and requires a resolution by the local government. Provides duties of the Division of Historical Resources, Department of State, and Department of Revenue regarding administration and monitoring of exemptions.