

By the Committee on Commerce, Economic Opportunities, and Consumer Services; and Senator Wise

310-1960-03

1                                   A bill to be entitled  
2           An act relating to community contribution tax  
3           credits; amending ss. 212.08, 220.183, F.S.;  
4           increasing the annual limitation on the amount  
5           of such credits which may be granted against  
6           sales and use tax, corporate income tax, and  
7           insurance premium taxes; amending s. 220.03,  
8           F.S.; requiring 10 percent of the community  
9           contribution tax credits to be reserved for  
10          certain museum educational programs and  
11          materials; amending s. 624.5105, F.S.;  
12          providing that an insurer claiming a credit is  
13          not subject to additional retaliatory tax;  
14          providing an effective date.

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

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18           Section 1. Paragraph (q) of subsection (5) of section  
19 212.08, Florida Statutes, is amended to read:

20           212.08 Sales, rental, use, consumption, distribution,  
21 and storage tax; specified exemptions.--The sale at retail,  
22 the rental, the use, the consumption, the distribution, and  
23 the storage to be used or consumed in this state of the  
24 following are hereby specifically exempt from the tax imposed  
25 by this chapter.

26           (5) EXEMPTIONS; ACCOUNT OF USE.--

27           (q) Community contribution tax credit for donations.--

28           1. Authorization.--Beginning July 1, 2001, persons who  
29 are registered with the department under s. 212.18 to collect  
30 or remit sales or use tax and who make donations to eligible  
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1 sponsors are eligible for tax credits against their state  
2 sales and use tax liabilities as provided in this paragraph:  
3       a. The credit shall be computed as 50 percent of the  
4 person's approved annual community contribution;  
5       b. The credit shall be granted as a refund against  
6 state sales and use taxes reported on returns and remitted in  
7 the 12 months preceding the date of application to the  
8 department for the credit as required in sub-subparagraph 3.c.  
9 If the annual credit is not fully used through such refund  
10 because of insufficient tax payments during the applicable  
11 12-month period, the unused amount may be included in an  
12 application for a refund made pursuant to sub-subparagraph  
13 3.c. in subsequent years against the total tax payments made  
14 for such year. Carryover credits may be applied for a 3-year  
15 period without regard to any time limitation that would  
16 otherwise apply under s. 215.26;  
17       c. No person shall receive more than \$200,000 in  
18 annual tax credits for all approved community contributions  
19 made in any one year;  
20       d. All proposals for the granting of the tax credit  
21 shall require the prior approval of the Office of Tourism,  
22 Trade, and Economic Development;  
23       e. The total amount of tax credits which may be  
24 granted for all programs approved under this paragraph, s.  
25 220.183, and s. 624.5105 is \$20~~\$10~~ million annually; and  
26       f. A person who is eligible to receive the credit  
27 provided for in this paragraph, s. 220.183, or s. 624.5105 may  
28 receive the credit only under the one section of the person's  
29 choice.  
30       2. Eligibility requirements.--  
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1           a. A community contribution by a person must be in the  
2 following form:

3           (I) Cash or other liquid assets;

4           (II) Real property;

5           (III) Goods or inventory; or

6           (IV) Other physical resources as identified by the  
7 Office of Tourism, Trade, and Economic Development.

8           b. All community contributions must be reserved  
9 exclusively for use in a project. As used in this  
10 sub-subparagraph, the term "project" means any activity  
11 undertaken by an eligible sponsor which is designed to  
12 construct, improve, or substantially rehabilitate housing that  
13 is affordable to low-income or very-low-income households as  
14 defined in s. 420.9071(19) and (28); designed to provide  
15 commercial, industrial, or public resources and facilities; or  
16 designed to improve entrepreneurial and job-development  
17 opportunities for low-income persons. A project may be the  
18 investment necessary to increase access to high-speed  
19 broadband capability in rural communities with enterprise  
20 zones, including projects that result in improvements to  
21 communications assets that are owned by a business. A project  
22 may include the provision of museum educational programs and  
23 materials that are directly related to any project approved  
24 between January 1, 1996, and December 31, 1999, and located in  
25 an enterprise zone as referenced in s. 290.00675. This  
26 paragraph does not preclude projects that propose to construct  
27 or rehabilitate housing for low-income or very-low-income  
28 households on scattered sites. The Office of Tourism, Trade,  
29 and Economic Development may reserve up to 50 percent of the  
30 available annual tax credits for housing for very-low-income  
31 households pursuant to s. 420.9071(28) for the first 6 months

1 of the fiscal year. The Office of Tourism, Trade, and Economic  
2 Development shall reserve 10 percent of the annual tax credits  
3 for the provision of museum educational programs and materials  
4 that are directly related to any project approved between  
5 January 1, 1996, and December 31, 1999, and located in an  
6 enterprise zone as referenced in s. 290.00675.With respect to  
7 housing, contributions may be used to pay the following  
8 eligible low-income and very-low-income housing-related  
9 activities:

10 (I) Project development impact and management fees for  
11 low-income or very-low-income housing projects;

12 (II) Down payment and closing costs for eligible  
13 persons, as defined in s. 420.9071(19) and (28);

14 (III) Administrative costs, including housing  
15 counseling and marketing fees, not to exceed 10 percent of the  
16 community contribution, directly related to low-income or  
17 very-low-income projects; and

18 (IV) Removal of liens recorded against residential  
19 property by municipal, county, or special district local  
20 governments when satisfaction of the lien is a necessary  
21 precedent to the transfer of the property to an eligible  
22 person, as defined in s. 420.9071(19) and (28), for the  
23 purpose of promoting home ownership. Contributions for lien  
24 removal must be received from a nonrelated third party.

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

27 (I) A community action program;

28 (II) A nonprofit community-based development  
29 organization whose mission is the provision of housing for  
30 low-income or very-low-income households or increasing  
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1 entrepreneurial and job-development opportunities for  
2 low-income persons;  
3 (III) A neighborhood housing services corporation;  
4 (IV) A local housing authority created under chapter  
5 421;  
6 (V) A community redevelopment agency created under s.  
7 163.356;  
8 (VI) The Florida Industrial Development Corporation;  
9 (VII) A historic preservation district agency or  
10 organization;  
11 (VIII) A regional workforce board;  
12 (IX) A direct-support organization as provided in s.  
13 1009.983;  
14 (X) An enterprise zone development agency created  
15 under s. 290.0056;  
16 (XI) A community-based organization incorporated under  
17 chapter 617 which is recognized as educational, charitable, or  
18 scientific pursuant to s. 501(c)(3) of the Internal Revenue  
19 Code and whose bylaws and articles of incorporation include  
20 affordable housing, economic development, or community  
21 development as the primary mission of the corporation;  
22 (XII) Units of local government;  
23 (XIII) Units of state government; or  
24 (XIV) Any other agency that the Office of Tourism,  
25 Trade, and Economic Development designates by rule.  
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27 In no event may a contributing person have a financial  
28 interest in the eligible sponsor.  
29 d. The project must be located in an area designated  
30 an enterprise zone or a Front Porch Florida Community pursuant  
31 to s. 14.2015(9)(b), unless the project increases access to

1 high-speed broadband capability for rural communities with  
2 enterprise zones but is physically located outside the  
3 designated rural zone boundaries. Any project designed to  
4 construct or rehabilitate housing for low-income or  
5 very-low-income households as defined in s. 420.0971(19) and  
6 (28) is exempt from the area requirement of this  
7 sub-subparagraph.

8 3. Application requirements.--

9 a. Any eligible sponsor seeking to participate in this  
10 program must submit a proposal to the Office of Tourism,  
11 Trade, and Economic Development which sets forth the name of  
12 the sponsor, a description of the project, and the area in  
13 which the project is located, together with such supporting  
14 information as is prescribed by rule. The proposal must also  
15 contain a resolution from the local governmental unit in which  
16 the project is located certifying that the project is  
17 consistent with local plans and regulations.

18 b. Any person seeking to participate in this program  
19 must submit an application for tax credit to the Office of  
20 Tourism, Trade, and Economic Development which sets forth the  
21 name of the sponsor, a description of the project, and the  
22 type, value, and purpose of the contribution. The sponsor  
23 shall verify the terms of the application and indicate its  
24 receipt of the contribution, which verification must be in  
25 writing and accompany the application for tax credit. The  
26 person must submit a separate tax credit application to the  
27 office for each individual contribution that it makes to each  
28 individual project.

29 c. Any person who has received notification from the  
30 Office of Tourism, Trade, and Economic Development that a tax  
31 credit has been approved must apply to the department to

1 receive the refund. Application must be made on the form  
2 prescribed for claiming refunds of sales and use taxes and be  
3 accompanied by a copy of the notification. A person may submit  
4 only one application for refund to the department within any  
5 12-month period.

6 4. Administration.--

7 a. The Office of Tourism, Trade, and Economic  
8 Development may adopt rules pursuant to ss. 120.536(1) and  
9 120.54 necessary to administer this paragraph, including rules  
10 for the approval or disapproval of proposals by a person.

11 b. The decision of the Office of Tourism, Trade, and  
12 Economic Development must be in writing, and, if approved, the  
13 notification shall state the maximum credit allowable to the  
14 person. Upon approval, the office shall transmit a copy of the  
15 decision to the Department of Revenue.

16 c. The Office of Tourism, Trade, and Economic  
17 Development shall periodically monitor all projects in a  
18 manner consistent with available resources to ensure that  
19 resources are used in accordance with this paragraph; however,  
20 each project must be reviewed at least once every 2 years.

21 d. The Office of Tourism, Trade, and Economic  
22 Development shall, in consultation with the Department of  
23 Community Affairs, the Florida Housing Finance Corporation,  
24 and the statewide and regional housing and financial  
25 intermediaries, market the availability of the community  
26 contribution tax credit program to community-based  
27 organizations.

28 5. Expiration.--This paragraph expires June 30, 2005;  
29 however, any accrued credit carryover that is unused on that  
30 date may be used until the expiration of the 3-year carryover  
31 period for such credit.

1           Section 2. Paragraph (t) of subsection (1) of section  
2 220.03, Florida Statutes, is amended to read:

3           220.03 Definitions.--

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

8           (t) "Project" means any activity undertaken by an  
9 eligible sponsor, as defined in s. 220.183(2)(c), which is  
10 designed to construct, improve, or substantially rehabilitate  
11 housing that is affordable to low-income or very-low-income  
12 households as defined in s. 420.9071(19) and (28); designed to  
13 provide commercial, industrial, or public resources and  
14 facilities; or designed to improve entrepreneurial and  
15 job-development opportunities for low-income persons. A  
16 project may be the investment necessary to increase access to  
17 high-speed broadband capability in rural communities with  
18 enterprise zones, including projects that result in  
19 improvements to communications assets that are owned by a  
20 business. A project may include the provision of museum  
21 educational programs and materials that are directly related  
22 to any project approved between January 1, 1996, and December  
23 31, 1999, and located in an enterprise zone as referenced in  
24 s. 290.00675. This paragraph does not preclude projects that  
25 propose to construct or rehabilitate low-income or  
26 very-low-income housing on scattered sites. The Office of  
27 Tourism, Trade, and Economic Development may reserve up to 50  
28 percent of the available annual tax credits under s. 220.181  
29 for housing for very-low-income households pursuant to s.  
30 420.9071(28) for the first 6 months of the fiscal year. The  
31 Office of Tourism, Trade, and Economic Development shall



1 reserve 10 percent of the annual tax credits for the provision  
2 of museum educational programs and materials that are directly  
3 related to any project approved between January 1, 1996, and  
4 December 31, 1999, and located in an enterprise zone as  
5 referenced in s. 290.00675.With respect to housing,

6 contributions may be used to pay the following eligible  
7 project-related activities:

8 1. Project development, impact, and management fees  
9 for low-income or very-low-income housing projects;

10 2. Down payment and closing costs for eligible  
11 persons, as defined in s. 420.9071(19) and (28);

12 3. Administrative costs, including housing counseling  
13 and marketing fees, not to exceed 10 percent of the community  
14 contribution, directly related to low-income or  
15 very-low-income projects; and

16 4. Removal of liens recorded against residential  
17 property by municipal, county, or special-district local  
18 governments when satisfaction of the lien is a necessary  
19 precedent to the transfer of the property to an eligible  
20 person, as defined in s. 420.9071(19) and (28), for the  
21 purpose of promoting home ownership. Contributions for lien  
22 removal must be received from a nonrelated third party.

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24 The provisions of this paragraph shall expire and be void on  
25 June 30, 2005.

26 Section 3. Paragraph (c) of subsection (1) of section  
27 220.183, Florida Statutes, is amended to read:

28 220.183 Community contribution tax credit.--

29 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX  
30 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM  
31 SPENDING.--

1 (c) The total amount of tax credit which may be  
2 granted for all programs approved under this section, s.  
3 212.08(5)(q), and s. 624.5105 is ~~\$20\$10~~ million annually.

4 Section 4. Paragraph (c) of subsection (1) of section  
5 624.5105, Florida Statutes, is amended, and paragraph (f) is  
6 added to that subsection, to read:

7 624.5105 Community contribution tax credit;  
8 authorization; limitations; eligibility and application  
9 requirements; administration; definitions; expiration.--

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

11 (c) The total amount of tax credit which may be  
12 granted for all programs approved under this section and ss.  
13 212.08(5)(q) and s. 220.183 is ~~\$20\$10~~ million annually.

14 (f) An insurer claiming a credit against premium tax  
15 liability earned by making a community contribution under this  
16 section is not required to pay any additional retaliatory tax  
17 levied pursuant to s. 624.5091 as a result of claiming such  
18 credit. Because credits under this section are available to an  
19 insurer, s. 624.5091 does not limit such credit in any manner.

20 Section 5. This act shall take effect July 1, 2003.  
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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   Senate Bill 116

4 The committee substitute differs from Senate Bill 116 by:

- 5 1)    reserving 10 percent of the annual tax credits under the  
6       community contribution tax credit program for certain  
7       museum educational programs and materials;  
8 2)    specifying that certain insurers that make community  
9       contributions are not subject to additional retaliatory  
10      taxes;  
11 3)    revising the sales and use tax statute to conform it to  
12      the bill's increase in the total amount of tax credits  
13      available under the program; and  
14 4)    expanding a statutory cross reference to make clear that  
15      the annual limit on the total amount of tax credits  
16      applies across all of the tax sources covered under the  
17      program.