

By Senator Saunders

37-878-04

1                                   A bill to be entitled  
2           An act relating to community contribution tax  
3           credits; amending ss. 212.08 and 220.183, F.S.;  
4           increasing the annual limitation on the amount  
5           of such credits which may be granted against  
6           the sales and use tax, the corporate income  
7           tax, and insurance premium taxes; amending s.  
8           624.5105, F.S.; providing that an insurer  
9           claiming a credit is not subject to the  
10          retaliatory tax levied under s. 624.5091, F.S.;  
11          providing an effective date.

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

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15           Section 1. Paragraph (q) of subsection (5) of section  
16 212.08, Florida Statutes, is amended to read:

17           212.08 Sales, rental, use, consumption, distribution,  
18 and storage tax; specified exemptions.--The sale at retail,  
19 the rental, the use, the consumption, the distribution, and  
20 the storage to be used or consumed in this state of the  
21 following are hereby specifically exempt from the tax imposed  
22 by this chapter.

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

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

25           1. Authorization.--Beginning July 1, 2001, persons who  
26 are registered with the department under s. 212.18 to collect  
27 or remit sales or use tax and who make donations to eligible  
28 sponsors are eligible for tax credits against their state  
29 sales and use tax liabilities as provided in this paragraph:

30           a. The credit shall be computed as 50 percent of the  
31 person's approved annual community contribution;

1           b. The credit shall be granted as a refund against  
2 state sales and use taxes reported on returns and remitted in  
3 the 12 months preceding the date of application to the  
4 department for the credit as required in sub-subparagraph 3.c.  
5 If the annual credit is not fully used through such refund  
6 because of insufficient tax payments during the applicable  
7 12-month period, the unused amount may be included in an  
8 application for a refund made pursuant to sub-subparagraph  
9 3.c. in subsequent years against the total tax payments made  
10 for such year. Carryover credits may be applied for a 3-year  
11 period without regard to any time limitation that would  
12 otherwise apply under s. 215.26;

13           c. No person shall receive more than \$200,000 in  
14 annual tax credits for all approved community contributions  
15 made in any one year;

16           d. All proposals for the granting of the tax credit  
17 shall require the prior approval of the Office of Tourism,  
18 Trade, and Economic Development;

19           e. The total amount of tax credits which may be  
20 granted for all programs approved under this paragraph, s.  
21 220.183, and s. 624.5105 is \$15~~\$10~~ million annually; and

22           f. A person who is eligible to receive the credit  
23 provided for in this paragraph, s. 220.183, or s. 624.5105 may  
24 receive the credit only under the one section of the person's  
25 choice.

26           2. Eligibility requirements.--

27           a. A community contribution by a person must be in the  
28 following form:

29           (I) Cash or other liquid assets;

30           (II) Real property;

31           (III) Goods or inventory; or

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

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

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

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

3 (III) Administrative costs, including housing  
4 counseling and marketing fees, not to exceed 10 percent of the  
5 community contribution, directly related to low-income or  
6 very-low-income projects; and

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

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

16 (I) A community action program;

17 (II) A nonprofit community-based development  
18 organization whose mission is the provision of housing for  
19 low-income or very-low-income households or increasing  
20 entrepreneurial and job-development opportunities for  
21 low-income persons;

22 (III) A neighborhood housing services corporation;

23 (IV) A local housing authority created under chapter  
24 421;

25 (V) A community redevelopment agency created under s.  
26 163.356;

27 (VI) The Florida Industrial Development Corporation;

28 (VII) A historic preservation district agency or  
29 organization;

30 (VIII) A regional workforce board;

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1 (IX) A direct-support organization as provided in s.  
2 1009.983;

3 (X) An enterprise zone development agency created  
4 under s. 290.0056;

5 (XI) A community-based organization incorporated under  
6 chapter 617 which is recognized as educational, charitable, or  
7 scientific pursuant to s. 501(c)(3) of the Internal Revenue  
8 Code and whose bylaws and articles of incorporation include  
9 affordable housing, economic development, or community  
10 development as the primary mission of the corporation;

11 (XII) Units of local government;

12 (XIII) Units of state government; or

13 (XIV) Any other agency that the Office of Tourism,  
14 Trade, and Economic Development designates by rule.

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16 In no event may a contributing person have a financial  
17 interest in the eligible sponsor.

18 d. The project must be located in an area designated  
19 an enterprise zone or a Front Porch Florida Community pursuant  
20 to s. 14.2015(9)(b), unless the project increases access to  
21 high-speed broadband capability for rural communities with  
22 enterprise zones but is physically located outside the  
23 designated rural zone boundaries. Any project designed to  
24 construct or rehabilitate housing for low-income or  
25 very-low-income households as defined in s. 420.0971(19) and  
26 (28) is exempt from the area requirement of this  
27 sub-subparagraph.

28 3. Application requirements.--

29 a. Any eligible sponsor seeking to participate in this  
30 program must submit a proposal to the Office of Tourism,  
31 Trade, and Economic Development which sets forth the name of

1 the sponsor, a description of the project, and the area in  
2 which the project is located, together with such supporting  
3 information as is prescribed by rule. The proposal must also  
4 contain a resolution from the local governmental unit in which  
5 the project is located certifying that the project is  
6 consistent with local plans and regulations.

7         b. Any person seeking to participate in this program  
8 must submit an application for tax credit to the Office of  
9 Tourism, Trade, and Economic Development which sets forth the  
10 name of the sponsor, a description of the project, and the  
11 type, value, and purpose of the contribution. The sponsor  
12 shall verify the terms of the application and indicate its  
13 receipt of the contribution, which verification must be in  
14 writing and accompany the application for tax credit. The  
15 person must submit a separate tax credit application to the  
16 office for each individual contribution that it makes to each  
17 individual project.

18         c. Any person who has received notification from the  
19 Office of Tourism, Trade, and Economic Development that a tax  
20 credit has been approved must apply to the department to  
21 receive the refund. Application must be made on the form  
22 prescribed for claiming refunds of sales and use taxes and be  
23 accompanied by a copy of the notification. A person may submit  
24 only one application for refund to the department within any  
25 12-month period.

26         4. Administration.--

27         a. The Office of Tourism, Trade, and Economic  
28 Development may adopt rules pursuant to ss. 120.536(1) and  
29 120.54 necessary to administer this paragraph, including rules  
30 for the approval or disapproval of proposals by a person.

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1           b. The decision of the Office of Tourism, Trade, and  
2 Economic Development must be in writing, and, if approved, the  
3 notification shall state the maximum credit allowable to the  
4 person. Upon approval, the office shall transmit a copy of the  
5 decision to the Department of Revenue.

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

11           d. The Office of Tourism, Trade, and Economic  
12 Development shall, in consultation with the Department of  
13 Community Affairs, the Florida Housing Finance Corporation,  
14 and the statewide and regional housing and financial  
15 intermediaries, market the availability of the community  
16 contribution tax credit program to community-based  
17 organizations.

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

22           Section 2. Paragraph (c) of subsection (1) of section  
23 220.183, Florida Statutes, is amended to read:

24           220.183 Community contribution tax credit.--

25           (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX  
26 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM  
27 SPENDING.--

28           (c) The total amount of tax credit which may be  
29 granted for all programs approved under this section, s.  
30 212.08(5)(q), and s. 624.5105 is \$15~~\$10~~ million annually.

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1           Section 3. Paragraph (c) of subsection (1) of section  
2 624.5105, Florida Statutes, is amended, and paragraph (f) is  
3 added to that subsection, to read:

4           624.5105 Community contribution tax credit;  
5 authorization; limitations; eligibility and application  
6 requirements; administration; definitions; expiration.--

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

8           (c) The total amount of tax credit which may be  
9 granted for all programs approved under this section and ss.  
10 212.08(5)(q) and s. 220.183 is \$15\$10 million annually.

11           (f) An insurer that claims a credit against  
12 premium-tax liability earned by making a community  
13 contribution under this section need not pay any additional  
14 retaliatory tax levied under s. 624.5091 as a result of  
15 claiming such a credit, and s. 624.5091 does not limit such a  
16 credit in any manner.

17           Section 4. This act shall take effect July 1, 2004.

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20 SENATE SUMMARY

21 Increases the annual limitation on the amount of  
22 community contribution tax credits which may be granted  
23 against the sales and use tax, the corporate income tax,  
24 and insurance premium taxes. Providing that an insurer  
25 that claims a community contribution tax credit is not  
26 subject to a retaliatory tax levied under s. 624.5091,  
27 F.S.  
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