

By the Committees on Finance and Taxation; Comprehensive Planning; and Senators Saunders, Argenziano and Lynn

314-2680-04

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A bill to be entitled

An act relating to the community contribution tax credit; amending s. 212.08, F.S.; requiring the Office of Tourism, Trade, and Economic Development to reserve portions of certain annual tax credits for eligible sponsors of certain low-income housing projects; providing requirements, criteria, and limitations; amending s. 220.03, F.S.; revising a definition to delete a provision authorizing the office to reserve certain portions of available annual tax credits for certain low-income housing purposes; amending s. 220.183, F.S.; increasing the amount of available annual community contribution tax credits; revising eligibility criteria; requiring the Office of Tourism, Trade, and Economic Development to reserve portions of certain annual tax credits for eligible sponsors of certain low-income housing projects; providing requirements, criteria, and limitations; amending s. 624.5105, F.S.; increasing the amount of available annual community contribution tax credits; revising eligibility criteria; requiring the Office of Tourism, Trade, and Economic Development to reserve portions of certain annual tax credits for eligible sponsors of certain low-income housing projects; providing requirements, criteria, and limitations; providing an effective date.

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

2

3 Section 1. Paragraph (q) of subsection (5) of section
4 212.08, Florida Statutes, is amended to read:

5 212.08 Sales, rental, use, consumption, distribution,
6 and storage tax; specified exemptions.--The sale at retail,
7 the rental, the use, the consumption, the distribution, and
8 the storage to be used or consumed in this state of the
9 following are hereby specifically exempt from the tax imposed
10 by this chapter.

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

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

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

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

20 b. The credit shall be granted as a refund against
21 state sales and use taxes reported on returns and remitted in
22 the 12 months preceding the date of application to the
23 department for the credit as required in sub-subparagraph 3.c.
24 If the annual credit is not fully used through such refund
25 because of insufficient tax payments during the applicable
26 12-month period, the unused amount may be included in an
27 application for a refund made pursuant to sub-subparagraph
28 3.c. in subsequent years against the total tax payments made
29 for such year. Carryover credits may be applied for a 3-year
30 period without regard to any time limitation that would
31 otherwise apply under s. 215.26;

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

4 d. All proposals for the granting of the tax credit
5 shall require the prior approval of the Office of Tourism,
6 Trade, and Economic Development;

7 e. The total amount of tax credits which may be
8 granted for all programs approved under this paragraph, s.
9 220.183, and s. 624.5105 is ~~\$15~~\$10 million annually; and

10 f. A person who is eligible to receive the credit
11 provided for in this paragraph, s. 220.183, or s. 624.5105 may
12 receive the credit only under the one section of the person's
13 choice.

14 2. Eligibility requirements.--

15 a. A community contribution by a person must be in the
16 following form:

17 (I) Cash or other liquid assets;

18 (II) Real property;

19 (III) Goods or inventory; or

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

22 b. All community contributions must be reserved
23 exclusively for use in a project. As used in this
24 sub-subparagraph, the term "project" means any activity
25 undertaken by an eligible sponsor which is designed to
26 construct, improve, or substantially rehabilitate housing that
27 is affordable to low-income or very-low-income households as
28 defined in s. 420.9071(19) and (28); designed to provide
29 commercial, industrial, or public resources and facilities; or
30 designed to improve entrepreneurial and job-development
31 opportunities for low-income persons. A project may be the

1 investment necessary to increase access to high-speed
2 broadband capability in rural communities with enterprise
3 zones, including projects that result in improvements to
4 communications assets that are owned by a business. A project
5 may include the provision of museum educational programs and
6 materials that are directly related to any project approved
7 between January 1, 1996, and December 31, 1999, and located in
8 an enterprise zone as referenced in s. 290.00675. This
9 paragraph does not preclude projects that propose to construct
10 or rehabilitate housing for low-income or very-low-income
11 households on scattered sites. ~~The Office of Tourism, Trade,~~
12 ~~and Economic Development may reserve up to 50 percent of the~~
13 ~~available annual tax credits for housing for very low income~~
14 ~~households pursuant to s. 420.9071(28) for the first 6 months~~
15 ~~of the fiscal year.~~ With respect to housing, contributions may
16 be used to pay the following eligible low-income and
17 very-low-income housing-related activities:

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

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

22 (III) Administrative costs, including housing
23 counseling and marketing fees, not to exceed 10 percent of the
24 community contribution, directly related to low-income or
25 very-low-income projects; and

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

3 | c. The project must be undertaken by an "eligible
4 | sponsor," which includes:

5 | (I) A community action program;

6 | (II) A nonprofit community-based development
7 | organization whose mission is the provision of housing for
8 | low-income or very-low-income households or increasing
9 | entrepreneurial and job-development opportunities for
10 | low-income persons;

11 | (III) A neighborhood housing services corporation;

12 | (IV) A local housing authority created under chapter
13 | 421;

14 | (V) A community redevelopment agency created under s.
15 | 163.356;

16 | (VI) The Florida Industrial Development Corporation;

17 | (VII) A historic preservation district agency or
18 | organization;

19 | (VIII) A regional workforce board;

20 | (IX) A direct-support organization as provided in s.
21 | 1009.983;

22 | (X) An enterprise zone development agency created
23 | under s. 290.0056;

24 | (XI) A community-based organization incorporated under
25 | chapter 617 which is recognized as educational, charitable, or
26 | scientific pursuant to s. 501(c)(3) of the Internal Revenue
27 | Code and whose bylaws and articles of incorporation include
28 | affordable housing, economic development, or community
29 | development as the primary mission of the corporation;

30 | (XII) Units of local government;

31 | (XIII) Units of state government; or

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

3
4 In no event may a contributing person have a financial
5 interest in the eligible sponsor.

6 d. The project must be located in an area designated
7 an enterprise zone or a Front Porch Florida Community pursuant
8 to s. 14.2015(9)(b), unless the project increases access to
9 high-speed broadband capability for rural communities with
10 enterprise zones but is physically located outside the
11 designated rural zone boundaries. Any project designed to
12 construct or rehabilitate housing for low-income or
13 very-low-income households as defined in s. 420.0971(19) and
14 (28) is exempt from the area requirement of this
15 sub-subparagraph.

16 e.(I) The Office of Tourism, Trade, and Economic
17 Development shall reserve 80 percent of the available annual
18 tax credits for donations made to eligible sponsors for
19 projects that provide homeownership opportunities to
20 low-income or very-low-income households pursuant to s.
21 420.9071(19) and (28) for the first 2 months of the fiscal
22 year. If less than 80 percent of the annual tax credits for
23 donations made to eligible sponsors for projects for
24 low-income or very-low-income households are approved within
25 the first 2 months of the fiscal year, the office may approve
26 the balance of available credits for donations made to
27 eligible sponsors for projects other than those that provide
28 homeownership opportunities for low-income or very-low-income
29 households.

30 (II) The office shall reserve 20 percent of the
31 available annual tax credits for donations made to eligible

1 sponsors for projects other than those that provide
2 homeownership opportunities for low-income or very-low-income
3 households pursuant to s. 420.9071(19) and (28) for the first
4 2 months of the fiscal year. If less than 20 percent of the
5 annual tax credits for donations made to eligible sponsors for
6 projects other than those that provide homeownership
7 opportunities for low-income or very-low-income households are
8 approved within the first 2 months of the fiscal year, the
9 office may approve the balance of available credits for
10 donations made to eligible sponsors for projects that provide
11 homeownership opportunities for low-income or very-low-income
12 households.

13 (III) If, during the first 10 business days of the
14 state fiscal year, tax credit applications are received for
15 more than 80 percent of available annual tax credits from
16 eligible sponsors for projects that provide homeownership
17 opportunities for low-income or very-low-income households,
18 the office shall grant the tax credits for such applications
19 as follows:

20 (A) If an eligible sponsor submits tax credit
21 applications which in total do not exceed \$200,000, the
22 credits shall be granted in full if the tax credit
23 applications are approved and subject to the provisions of
24 sub-sub-subparagraph (I).

25 (B) If an eligible sponsor submits tax credit
26 applications which, in total, equal or exceed \$200,000, the
27 amount of tax credit granted pursuant to
28 sub-sub-sub-subparagraph (A) shall be subtracted from the
29 amount of available tax credits pursuant to
30 sub-sub-subparagraph (I), and the remaining credits shall be
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1 granted to each approved tax credit application on a pro rata
2 basis.

3 (C) If, after the first 2 months of the fiscal year,
4 additional credits become available pursuant to
5 sub-sub-subparagraph (II), the office shall grant the tax
6 credits by first increasing the credit of those who received a
7 pro rata reduction and, if there are remaining credits,
8 granting credits to those who applied on or after the 11th
9 business day of the state fiscal year on a first-come,
10 first-served basis.

11 (IV) If, during the first 10 business days of the
12 state fiscal year, tax credit applications are received for
13 more than 20 percent of available annual tax credits from
14 eligible sponsors for projects other than those that provide
15 homeownership opportunities for low-income or very-low-income
16 households, the office shall grant the tax credits to each
17 approved tax credit application on a pro rata basis. If, after
18 the first 2 months of the fiscal year, additional credits
19 become available pursuant to sub-sub-subparagraph (I), the
20 office shall grant the tax credits by first increasing the
21 credit of those who received a pro rata reduction and, if
22 there are remaining credits, granting credits to those who
23 applied on or after the 11th business day of the state fiscal
24 year on a first-come, first-served basis.

25 3. Application requirements.--

26 a. Any eligible sponsor seeking to participate in this
27 program must submit a proposal to the Office of Tourism,
28 Trade, and Economic Development which sets forth the name of
29 the sponsor, a description of the project, and the area in
30 which the project is located, together with such supporting
31 information as is prescribed by rule. The proposal must also

1 contain a resolution from the local governmental unit in which
2 the project is located certifying that the project is
3 consistent with local plans and regulations.

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

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

23 4. Administration.--

24 a. The Office of Tourism, Trade, and Economic
25 Development may adopt rules pursuant to ss. 120.536(1) and
26 120.54 necessary to administer this paragraph, including rules
27 for the approval or disapproval of proposals by a person.

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

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

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

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

19 Section 2. Paragraph (t) of subsection (1) of section
20 220.03, Florida Statutes, is amended to read:

21 220.03 Definitions.--

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

26 (t) "Project" means any activity undertaken by an
27 eligible sponsor, as defined in s. 220.183(2)(c), which is
28 designed to construct, improve, or substantially rehabilitate
29 housing that is affordable to low-income or very-low-income
30 households as defined in s. 420.9071(19) and (28); designed to
31 provide commercial, industrial, or public resources and

1 facilities; or designed to improve entrepreneurial and
2 job-development opportunities for low-income persons. A
3 project may be the investment necessary to increase access to
4 high-speed broadband capability in rural communities with
5 enterprise zones, including projects that result in
6 improvements to communications assets that are owned by a
7 business. A project may include the provision of museum
8 educational programs and materials that are directly related
9 to any project approved between January 1, 1996, and December
10 31, 1999, and located in an enterprise zone as referenced in
11 s. 290.00675. This paragraph does not preclude projects that
12 propose to construct or rehabilitate low-income or
13 very-low-income housing on scattered sites. ~~The Office of~~
14 ~~Tourism, Trade, and Economic Development may reserve up to 50~~
15 ~~percent of the available annual tax credits under s. 220.181~~
16 ~~for housing for very low income households pursuant to s.~~
17 ~~420.9071(28) for the first 6 months of the fiscal year.~~ With
18 respect to housing, contributions may be used to pay the
19 following eligible project-related activities:

- 20 1. Project development, impact, and management fees
21 for low-income or very-low-income housing projects;
- 22 2. Down payment and closing costs for eligible
23 persons, as defined in s. 420.9071(19) and (28);
- 24 3. Administrative costs, including housing counseling
25 and marketing fees, not to exceed 10 percent of the community
26 contribution, directly related to low-income or
27 very-low-income projects; and
- 28 4. Removal of liens recorded against residential
29 property by municipal, county, or special-district local
30 governments when satisfaction of the lien is a necessary
31 precedent to the transfer of the property to an eligible

1 person, as defined in s. 420.9071(19) and (28), for the
2 purpose of promoting home ownership. Contributions for lien
3 removal must be received from a nonrelated third party.
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5 The provisions of this paragraph shall expire and be void on
6 June 30, 2005.

7 Section 3. Paragraph (c) of subsection (1) and
8 paragraph (b) of subsection (2) of section 220.183, Florida
9 Statutes, are amended to read:

10 220.183 Community contribution tax credit.--

11 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX
12 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM
13 SPENDING.--

14 (c) The total amount of tax credit which may be
15 granted for all programs approved under this section, s.
16 212.08(5)(q), and s. 624.5105 is ~~\$15~~\$10 million annually.

17 (2) ELIGIBILITY REQUIREMENTS.--

18 (b)1. All community contributions must be reserved
19 exclusively for use in projects as defined in s. 220.03(1)(t).

20 2. The Office of Tourism, Trade, and Economic
21 Development ~~shall may~~ reserve ~~80 up to 50~~ percent of the
22 available annual tax credits for housing for donations made to
23 eligible sponsors for projects that provide homeownership
24 opportunities for low-income or very-low-income households
25 pursuant to s. 420.9071(19) and (28) for the first ~~2~~ 6 months
26 of the fiscal year. If less than 80 percent of the annual tax
27 credits for donations made to eligible sponsors for projects
28 for low-income or very-low-income households are approved
29 within the first 2 months of the fiscal year, the office may
30 approve the balance of available credits for donations made to
31 eligible sponsors for projects other than those that provide

1 homeownership opportunities for low-income or very-low-income
2 households.

3 3. The office shall reserve 20 percent of the
4 available annual tax credits for donations made to eligible
5 sponsors for projects other than those that provide
6 homeownership opportunities for low-income or very-low-income
7 households pursuant to s. 420.9071(19) and (28) for the first
8 2 months of the fiscal year. If less than 20 percent of the
9 annual tax credits for donations made to eligible sponsors for
10 projects other than those that provide homeownership
11 opportunities for low-income or very-low-income households are
12 approved within the first 2 months of the fiscal year, the
13 office may approve the balance of available credits for
14 donations made to eligible sponsors for projects that provide
15 homeownership opportunities for low-income or very-low-income
16 households.

17 4. If, during the first 10 business days of the state
18 fiscal year, tax credit applications are received for more
19 than 80 percent of available annual tax credits from eligible
20 sponsors for projects that provide homeownership opportunities
21 for low-income or very-low-income households, the office shall
22 grant the tax credits to such applications as follows:

23 a. If an eligible sponsor submits tax credit
24 applications which in total do not exceed \$200,000, the
25 credits shall be granted in full if the tax credit
26 applications are approved and subject to the provisions of
27 subparagraph 2.

28 b. If an eligible sponsor submits tax credit
29 applications which in total equal or exceed \$200,000, the
30 amount of tax credits granted pursuant to sub-subparagraph a.
31 shall be subtracted from the amount of available tax credits

1 pursuant to subparagraph 2., and the remaining credits shall
2 be granted to each approved tax credit application on a pro
3 rata basis.

4 c. If, after the first 2 months of the fiscal year,
5 additional credits become available pursuant to subparagraph
6 3., the office shall grant the tax credits by first increasing
7 the credit of those who received a pro rata reduction and, if
8 there are remaining credits, granting credits to those who
9 applied on or after the 11th business day of the state fiscal
10 year on a first-come, first-served basis.

11 5. If, during the first 10 business days of the state
12 fiscal year, tax credit applications are received for more
13 than 20 percent of available annual tax credits from eligible
14 sponsors for projects other than those that provide
15 homeownership opportunities for low-income or very-low-income
16 households, the office shall grant the tax credits to each
17 approved tax credit application on a pro rata basis. If, after
18 the first 2 months of the fiscal year, additional credits
19 become available pursuant to subparagraph 2., the office shall
20 grant the tax credits by first increasing the credit of those
21 who received a pro rata reduction and, if there are remaining
22 credits, granting credits to those who applied on or after the
23 11th business day of the state fiscal year on a first-come,
24 first-served basis.

25 Section 4. Paragraph (c) of subsection (1) of section
26 624.5105, Florida Statutes, is amended, and paragraph (e) is
27 added to subsection (2) of that section, to read:

28 624.5105 Community contribution tax credit;
29 authorization; limitations; eligibility and application
30 requirements; administration; definitions; expiration.--

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

1 (c) The total amount of tax credit which may be
2 granted for all programs approved under this section and ss.
3 212.08(5)(g) and ~~s.~~ 220.183 is ~~\$15~~^{\$10} million annually.

4 (2) ELIGIBILITY REQUIREMENTS.--

5 (e)1. The Office of Tourism, Trade, and Economic
6 Development shall reserve 80 percent of the available annual
7 tax credits for donations made to eligible sponsors for
8 projects that provide homeownership opportunities for
9 low-income or very-low-income households pursuant to s.
10 420.9071(19) and (28) for the first 2 months of the fiscal
11 year. If less than 80 percent of the annual tax credits for
12 donations made to eligible sponsors for projects that provide
13 homeownership opportunities for low-income or very-low-income
14 households are approved within the first 2 months of the
15 fiscal year, the office may approve the balance of available
16 credits for donations made to eligible sponsors for projects
17 other than those that provide homeownership opportunities for
18 low-income or very-low-income households.

19 2. The office shall reserve 20 percent of the
20 available annual tax credits for donations made to eligible
21 sponsors for projects other than those that provide
22 homeownership opportunities for low-income or very-low-income
23 households pursuant to s. 420.9071(19) and (28) for the first
24 2 months of the fiscal year. If less than 20 percent of the
25 annual tax credits for donations made to eligible sponsors for
26 projects other than those that provide homeownership
27 opportunities for low-income or very-low-income households are
28 approved within the first 2 months of the fiscal year, the
29 office may approve the balance of available credits for
30 donations made to eligible sponsors for projects that provide
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1 homeownership opportunities for low-income or very-low-income
2 households.

3 3. If, during the first 10 business days of the state
4 fiscal year, tax credit applications are received for more
5 than 80 percent of available annual tax credits from eligible
6 sponsors for projects that provide homeownership opportunities
7 for low-income or very-low-income households, the office shall
8 grant the tax credits to such applications as follows:

9 a. If an eligible sponsor submits tax credit
10 applications which in total do not exceed \$200,000, the
11 credits shall be granted in full if the tax credit
12 applications are approved and subject to the provisions of
13 subparagraph 1.

14 b. If an eligible sponsor submits tax credit
15 applications which in total equal or exceed \$200,000, the
16 amount of tax credits granted pursuant to sub-subparagraph a.
17 shall be subtracted from the amount of available tax credits
18 pursuant to subparagraph 1., and the remaining credits shall
19 be granted to each approved tax credit application on a pro
20 rata basis.

21 c. If, after the first 2 months of the fiscal year,
22 additional credits become available pursuant to subparagraph
23 2., the office shall grant the tax credits by first increasing
24 the credit of those who received a pro rata reduction and, if
25 there are remaining credits, granting credits to those who
26 applied on or after the 11th business day of the state fiscal
27 year on a first-come, first-served basis.

28 4. If, during the first 10 business days of the state
29 fiscal year, tax credit applications are received for more
30 than 20 percent of available annual tax credits from eligible
31 sponsors for projects other than those that provide

1 homeownership opportunities for low-income or very-low-income
2 households, the office shall grant the tax credits to each
3 approved tax credit application on a pro rata basis. If, after
4 the first 2 months of the fiscal year, additional credits
5 become available pursuant to subparagraph 1., the office shall
6 grant the tax credits by first increasing the credit of those
7 who received a pro rata reduction and, if there are remaining
8 credits, granting credits to those who applied on or after the
9 11th business day of the state fiscal year on a first-come,
10 first-served basis.

11 Section 5. This act shall take effect July 1, 2004.

12
13 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
14 COMMITTEE SUBSTITUTE FOR
15 CS/SB 330

16 This committee substitute does not change the current-law
17 expiration date for community contributions tax credits. It
18 increases from \$10 million to \$15 million the total annual
19 amount of tax credits that may be granted under the community
20 contribution tax credit program, and increases, from 50
21 percent to 80 percent, the amount of available tax credits to
22 be reserved for businesses that contribute to housing projects
23 for low-income and very-low-income households.
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