HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 15 Community Contribution Tax Credit Program
SPONSOR(S): Goodlette and others
TIED BILLS: **IDEN./SIM. BILLS:** HB 503, SB 202, SB 710

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Economic Development, Trade & Banking Committee		Sheheane	Carlson
2) Local Government Council			
3) Finance & Tax Committee			
4) Commerce Council			
5)			

SUMMARY ANALYSIS

The 1980 Legislature created the Community Contribution Tax Credit Program to encourage businesses to make donations to community redevelopment organizations for the purpose of revitalization projects.

The program authorizes businesses that make donations to approved organizations to claim a credit equal to 50 percent of the donation against the corporate income tax, franchise tax, sales or use tax, or insurance premium tax, upon approval by the Governor's Office of Tourism, Trade and Economic Development.

The combined total amount of tax credits that can be approved is $10 million annually. No individual business may receive more than $200,000 in tax credits per year. All revitalization projects, except those projects related to housing for low-income persons, must be in enterprise zones or a Front Porch Florida Community. The program is set to expire June 30, 2005.

This bill increases from $10 million to $15 million the total annual amount of tax credits that may be granted under the community contribution tax credit program, and increases, from 50 percent to 80 percent, the amount of available tax credits that must be reserved for businesses that contribute to housing projects for low-income and very-low-income households. The bill also revises the procedures governing the distribution of tax credits. Finally, the bill extends the operation of the community contribution tax program through June 30, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes- The bill provides tax credits to businesses participating in the Community Contribution Tax Incentive program.

Empower Families- The bill encourages businesses to contribute cash or other liquid assets, real property, goods or inventory, or other physical resources as identified by OTTED to the Community Contribution Tax Incentive program. The contributions go toward projects used to enhance low-income housing and create job-development opportunities for lo-income persons.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Community Contribution Tax Credit Program

The 1980 Legislature created the Community Contribution Tax Credit (CCTC) Program[1] to encourage businesses to make donations to community redevelopment organizations for the purpose of revitalization projects. Any business making a donation can take credits against the corporate income tax, franchise tax on banks and savings associations, the state sales tax, or the insurance premium tax.

The CCTC Program authorizes businesses that make donations to approved organizations to claim a credit equal to 50 percent of the donation against the corporate income tax[2], franchise tax[3], sales tax[4], or insurance premium tax[5]. The combined total amount of tax credits that can be approved is $10 million annually[6]. No individual business may receive more than $200,000 in tax credits per year[7]. All revitalization projects, except those projects related to housing for low-income persons, must be in enterprise zones or a Front Porch Florida Community[8].

Eligible sponsors or eligible contribution recipients to which donations can be made include:

• A community action program;

• A nonprofit community-based development organization whose mission is the provision of housing for low-income or very-low-income households or increasing entrepreneurial and job development opportunities for low-income persons;

• A neighborhood housing services corporation;

• A local housing authority created pursuant to chapter 421, F.S.;

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1 See s. 220.183, F.S.
2 See s. 220.11, F.S.
3 See s. 220.63, F.S.
4 See ch. 212, F.S.
5 See s. 624.509, and s. 624.5105, F.S.
6 See ss. 212.08(5)(q), 220.183 and 624.5105, F.S.
7 See s. 212.08(5)(q)1.c., F.S., s. 220.183(1)(b), F.S., and s. 624.5105(1)(b), F.S.
8 See s. 212.08(5)(q)2.d., F.S., s. 220.183(2)(d), F.S., and s. 624.5105(2)(d), F.S.

• A community redevelopment agency created pursuant to s. 163.356, F.S.;

• The Florida Industrial Development Corporation;

• An historic preservation district agency or organization;

• A regional workforce board;

• A direct-support organization as provided in s. 1009.983, F.S.;

• An enterprise zone development agency created pursuant to s. 290.0056, F.S.;

• A not-for-profit community-based organization whose bylaws and articles of incorporation include affordable housing, economic development, or community development as the primary mission of the corporation;

• Units of local government;

• Units of State Government; or

• Any other agency or organization as the Governor's Office of Tourism, Trade, and Economic Development (OTTED) may designate by rule[9].

How Projects Are Defined

All contributions from a business must be exclusively used for use in projects as defined in ss. 212.08(5)(q)2.b. or 220.03(1)(t), F.S. Such projects include activities by an eligible sponsor which are intended to construct, improve, or substantially rehabilitate housing affordable to low-income and very low-income households; provide commercial, industrial, or public resources and facilities; or improve entrepreneurial and job development opportunities for low-income persons.

In addition, a project may be an investment necessary to increase access to high-speed broadband capability in rural communities with enterprise zones, including projects that result in improvements to communication assets that are owned by a business; or a project which provides museum educational programs and materials that are directly related to any project approved between January 1, 1996, and December 31, 1999, and is located in an enterprise zone[10].

"Community contribution" is defined as a donation by a business firm of cash or other liquid assets, real property, goods, or inventory, and other physical resources as identified by OTTED[11].

The Role of OTTED

OTTED is responsible for approving tax credits[12]. OTTED is allowed to reserve up to 50 percent of the available annual tax credits for housing for very-low-income households as defined in s. 420.9071(28), F.S., for the first 6 months of the fiscal year[13].

"Very-low-income household" is defined as:
". . . one or more natural persons or a family that has a total annual gross household income that does not exceed 50 percent of the median annual income adjusted for family size for

[9] See s.212.08(5)(q)2.c., F.S., s. 220.183(2)(c), F.S., and s. 624.5105(2)(c), F.S.
[10] See s. 212.08(5)(9)2.b, F.S.
[11] See s. 212.08(5)(q)2.a., F.S.
[12] See ss. 212.08, 220.183, and 624.5105, F.S.
[13] See s.220.183(2)(b), F.S., and s. 212.08(5)(q)2.b.

households within the metropolitan statistical area, the county, or the non-metropolitan median for the state, whichever is greatest[14]."

OTTED staff state that they do not exercise this discretion to reserve funds for very-low-income housing projects. In addition, OTTED does not distinguish between low-income and very-low-income projects when approving projects. Credits, as reported by eligible sponsors, are allocated by OTTED on a "first come, first serve" basis.

In recent years, the credits have been claimed within the first quarter of the fiscal year. However, in FY 03-04 and 04-05, all tax credits were approved on the first day of the fiscal year. In FY 03-04, OTTED reports that 86 percent of the $10 million allocated for the program went to businesses contributing to eligible sponsors providing housing to low-income persons. In FY 04-05, 81% of the $10 million allocated for the program went to businesses contributing to eligible sponsors providing housing to low-income persons.

Other Program Statistics

According to the OTTED, in FY 04-05, 74 percent of the community contribution tax credits were taken against sales taxes. Tax credits for corporate income tax and insurance premium tax accounts for 19 percent and 7 percent respectively.

The total annual amount of tax credits available under the CCTC Program has increased since 1995. From FY 95-96 through FY 97-98, $2 million in annual tax credits were available. For FY 98-99, $5 million in annual tax credits were available. From FY 99-2000 to the present, $10 million in annual tax credits are available. Since the community contribution tax credit program was expanded to authorize refunds against sales taxes in FY 2001-2002, the majority of the $10 million allocation has been used to offset those taxes.

<u>Proposed Changes</u>

The bill extends the repeal date for the Community Contribution Tax Credit Program to June 30, 2015, and increases the total amount of tax credits which may be granted annually from $10 to $15 million.

The bill requires OTTED to reserve 80 percent of the available tax credits for projects that provide home ownership opportunities for low-income or very-low income households for the first two months of the fiscal year. This will codify the current levels of tax credit approvals. However, if less than 80 percent of the annual tax credits are approved during the first two months of the fiscal year, OTTED may approve the balance of available credits for donations made to eligible sponsors for projects other than those that provide home ownership opportunities for low-income or very-low-income households.

The bill requires OTTED to reserve 20 percent of the available annual tax credits for projects other than those that provide home ownership opportunities for low-income or very-low-income households for the first two months of the fiscal year. However, if less than 20 percent of these projects are approved within the first two months of the fiscal year, OTTED may approve the balance of available credits for projects that provide home ownership opportunities for low-income or very-low-income households.

The bill stipulates that if during the first 10 business days of the state fiscal year, OTTED receives tax credit applications for more than 80 percent of the available annual tax credits for housing projects, applications that do not exceed $200,000 will be granted in full. Thereafter, tax credit applications equal to or in excess of $200,000 will be approved on a pro rata basis. If, after the first 2 months of the fiscal year, additional non-housing credits become available, OTTED is directed to grant the tax credits by first increasing the credits of those who received a pro rata reduction and, if there are remaining credits, granting credits to those who applied on or after the 11th business day of

[14] <u>See</u> s. 420.9071(28), F.S.

the fiscal year on a first-come, first-served basis.

The bill provides that if, during the first 10 business days of the fiscal year, tax credit applications are received for more than 20 percent of the available tax credits for housing projects, OTTED shall grant the tax credits on a pro rata basis. If, after the first 2 months of the fiscal year, additional credits become available for housing projects, OTTED shall grant tax credits by first increasing the credit to those entities who received a pro rata reduction and, if there are remaining credits, granting credits to those who applied on or after the 11th business day of the state fiscal year on a first-come, first-served basis.

The bill also relieves insurance companies that claim the community contribution tax credit against their insurance premium tax from paying additional retaliatory tax resulting from having claimed the credit.

C. SECTION DIRECTORY:

Section 1: Amends s. 212.08, F.S., increasing the amount of available annual community contribution tax credits and requiring OTTED to reserve portions of certain annual tax credits for donations made to sponsors for projects that provide home ownership opportunities for certain households. Provides process for approval of tax credit proposals. Provides requirements, criteria, and limitations for such projects and extends the expiration date for the program.

Section 2: Amends s. 220.03, F.S., to remove a provision authorizing OTTED to reserve certain portions of available annual tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities for certain households. Extends the expiration date for the program.

Section 3: Amends s. 220.183, F.S., increasing the amount of available annual community contribution tax credits and requiring OTTED to reserve portions of certain annual tax credits for donations made to sponsors for projects that provide home ownership opportunities for certain households. Provides process for approval of tax credit proposals. Provides requirements, criteria, and limitations for such projects and extends the expiration date for the program.

Section 4: Amends s. 624.5105, F.S., increasing the amount of available annual community contribution tax credits and limiting application of retaliatory tax provisions under certain circumstances. Requires OTTED to reserve portions of certain annual tax credits for donations made to sponsors for projects that provide home ownership opportunities for certain households. Extends the expiration date for the program.

Section 5: Provides that the act shall take effect on June 29, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill will not have an effect on state revenue.

2. Expenditures:

   Representatives of OTTED report that the increase of $10 to $15 million in tax credits will be implemented within existing appropriations.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The Revenue Estimating Conference provides the fiscal impact of revisions to the Community Contribution Tax Credit Program. To date, the Conference has not reviewed this bill.

2. Expenditures:

   The Revenue Estimating Conference provides the fiscal impact of revisions to the Community Contribution Tax Credit Program. To date, the Conference has not reviewed this bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The Revenue Estimating Conference provides the fiscal impact of revisions to the Community Contribution Tax Credit Program. To date, the Conference has not reviewed this bill.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable because this bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

No exercise of rule-making authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill repeats a technical error regarding the differentiation of persons who submit tax credit applications and eligible sponsors who submit project approval applications. The bill only refers to tax credit applications received from “eligible sponsors.” This is incorrect and should be clarified to make the bill comport with current law.

The bill contains language that may present confusion regarding tax credits when the applications exceed 80% of available annual tax credits. The bill refers to applications which “in total do not exceed $200,000” and to applications which “in total equal or exceed $200,000” in determining how credits will be approved. It may be possible to have a case where the two applications could be in equal amounts. If there were two application requests for $200,000, there could be confusion as to the approval process.

The bill contains language directing OTTED to grant tax credits to those who received a pro rata reduction by first “increasing the credit of those who received a pro rata reduction” if additional funds become available after the first 2 months of the fiscal year. There is no language clarifying whether or not the applicant would receive an increase up to the original amount of their application, or if OTTED would have the authority to increase the credit up to any amount. This should be clarified.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

N/A