By the Committee on Commerce and Consumer Services; and Senator Saunders

577-1061-05

A bill to be entitled

An act relating to the community contribution tax credit; amending s. 212.08, F.S.; increasing the amount of available annual community contribution tax credits; requiring the Office of Tourism, Trade, and Economic Development to reserve portions of certain annual tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities for certain households; providing requirements, criteria, and limitations; extending an expiration date; 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 donations made to eligible sponsors for projects that provide homeownership opportunities for certain households; extending an expiration date; 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 donations made to eligible sponsors for projects that provide homeownership opportunities for certain households; providing requirements, criteria, and limitations; extending an expiration date; amending s. 624.5105, F.S.; increasing the amount of available annual community contribution tax credits; limiting application of certain retaliatory tax provisions under certain circumstances; revising tax credit eligibility criteria; requiring the Office of Tourism, Trade, and Economic Development to reserve portions of certain annual tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities for certain households; providing requirements, criteria, and limitations; extending an expiration date; providing an effective date.

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

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

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

(5) EXEMPTIONS; ACCOUNT OF USE.--

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

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

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

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

c. A ~~No~~ person may not ~~shall~~ receive more than $200,000 in annual tax credits for all approved community contributions made in any one year;

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

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

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

2. Eligibility requirements.--

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

(I) Cash or other liquid assets;

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

(II) Real property;

(III) Goods or inventory; or

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

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

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

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

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

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

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

(I) A community action program;

(II) 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;

(III) A neighborhood housing services corporation;

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

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

(VI) The Florida Industrial Development Corporation;

(VII) A historic preservation district agency or organization;

(VIII) A regional workforce board;

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

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

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

(XII) Units of local government;

(XIII) Units of state government; or

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

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

d. The project must be located in an area designated an enterprise zone or a Front Porch Florida Community pursuant to s. 20.18(6), unless the project increases access to high-speed broadband capability for rural communities with enterprise zones but is physically located outside the designated rural zone boundaries. Any project designed to construct or rehabilitate housing for low-income or very-low-income households as defined in s. 420.0971(19) and (28) is exempt from the area requirement of this sub-subparagraph.

<u>e.(I) The Office of Tourism, Trade, and Economic Development shall reserve 80 percent of the available annual tax credits for donations made to eligible sponsors for</u>

projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) for the first 6 months of the fiscal year. If less than 80 percent of the annual tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities for low-income or very-low-income households are approved within the first 6 months of the fiscal year, the office may approve the balance of available credits for donations made to eligible sponsors for projects other than those that provide homeownership opportunities for low-income or very-low-income households.

(II) The office shall reserve 20 percent of the available annual tax credits for donations made to eligible sponsors for projects other than those that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) for the first 6 months of the fiscal year. If less than 20 percent of the annual tax credits for donations made to eligible sponsors for projects other than those that provide homeownership opportunities for low-income or very-low-income households are approved within the first 6 months of the fiscal year, the office may approve the balance of available credits for donations made to eligible sponsors for projects that provide homeownership opportunities for low-income or very-low-income households.

(III) If, during the first 10 business days of the state fiscal year, tax credit applications are received for less than 80 percent of available annual tax credits for approved projects that provide homeownership opportunities for low-income or very-low-income households, the office shall grant tax credits for those applications and shall grant

<u>remaining tax credits on a first-come, first-served basis for any subsequent applications for such projects received before the end of the first 6 months of the state fiscal year. If, during the first 10 business days of the state fiscal year, tax credit applications are received for more than 80 percent of available annual tax credits for approved projects that provide homeownership opportunities for low-income or very-low-income households, the office shall grant the tax credits for such applications as follows:</u>

<u>(A) If tax credit applications submitted for approved projects of an eligible sponsor do not exceed $200,000 in total, the credits shall be granted in full if the tax credit applications are approved and subject to sub-sub-subparagraph (I).</u>

<u>(B) If tax credit applications submitted for approved projects of an eligible sponsor exceed $200,000 in total, the amount of tax credits granted pursuant to sub-sub-sub-subparagraph (A) shall be subtracted from the amount of available tax credits pursuant to sub-sub-subparagraph (I), and the remaining credits shall be granted to each approved tax credit application on a pro rata basis.</u>

<u>(C) If, after the first 6 months of the fiscal year, additional credits become available pursuant to sub-sub-subparagraph (II), the office shall grant the tax credits by first granting to those who received a pro rata reduction up to the full amount of their request, 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.</u>

(IV) If, during the first 10 business days of the state fiscal year, tax credit applications are received for less than 20 percent of available annual tax credits for approved projects other than those that provide homeownership opportunities for low-income or very-low-income households, the office shall grant tax credits for those applications and shall grant remaining tax credits on a first-come, first-serve basis for any subsequent applications for such projects received before the end of the first 6 months of the state fiscal year. If, during the first 10 business days of the state fiscal year, tax credit applications are received for more than 20 percent of available annual tax credits for approved projects other than those that provide homeownership opportunities for low-income or very-low-income households, the office shall grant the tax credit to each approved tax credit application on a pro rata basis. If, after the first 6 months of the fiscal year, additional credits become available pursuant to sub-sub-subparagraph (I), the office shall grant the tax credits by first granting to those who received a pro rata reduction up to the full amount of their request, 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.

3. Application requirements.--

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

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

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

4. Administration.--

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

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

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

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

5. Expiration.--This paragraph expires June 30, <u>2015</u> ~~2005~~; however, any accrued credit carryover that is unused on that date may be used until the expiration of the 3-year carryover period for such credit.

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

220.03 Definitions.--

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

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

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

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

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

4. Removal of liens recorded against residential property by municipal, county, or special-district local governments when satisfaction of the lien is a necessary precedent to the transfer of the property to an eligible person, as defined in s. 420.9071(19) and (28), for the

purpose of promoting home ownership. Contributions for lien removal must be received from a nonrelated third party.

The provisions of this paragraph shall expire and be void on June 30, 2015 ~~2005~~.

Section 3. Paragraph (c) of subsection (1), paragraph (b) of subsection (2), and subsection (5) of section 220.183, Florida Statutes, are amended to read:

220.183 Community contribution tax credit.--

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

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

(2) ELIGIBILITY REQUIREMENTS.--

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

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

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

3. The office shall reserve 20 percent of the available annual tax credits for donations made to eligible sponsors for projects other than those that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) for the first 6 months of the fiscal year. If less than 20 percent of the annual tax credits for donations made to eligible sponsors for projects other than those that provide homeownership opportunities for low-income or very-low-income households are approved within the first 6 months of the fiscal year, the office may approve the balance of available credits for donations made to eligible sponsors for projects that provide homeownership opportunities for low-income or very-low-income households.

4. If, during the first 10 business days of the state fiscal year, tax credit applications are received for less than 80 percent of available annual tax credits for approved projects that provide homeownership opportunities for low-income or very-low-income households, the office shall grant tax credits for those applications and shall grant remaining tax credits on a first-come, first-serve basis for any subsequent applications for such projects received before the end of the first 6 months of the state fiscal year. If, during the first 10 business days of the state fiscal year, tax credit applications are received for more than 80 percent of available annual tax credits for approved projects that provide homeownership opportunities for low-income or very-low-income households, the office shall grant the tax credits to such applications as follows:

a. If tax credit applications submitted for approved projects of an eligible sponsor do not exceed $200,000 in total, the credits shall be granted in full if the tax credit applications are approved and subject to subparagraph 2.

b. If tax credit applications submitted for approved projects of an eligible sponsor exceed $200,000 in total, the amount of tax credits granted pursuant to sub-subparagraph a. shall be subtracted from the amount of available tax credits pursuant to subparagraph 2., and the remaining credits shall be granted to each approved tax credit application on a pro rata basis.

c. If, after the first 6 months of the fiscal year, additional credits become available pursuant to subparagraph 3., the office shall grant the tax credits by first granting to those who received a pro rata reduction up to the full amount of their request, 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.

5. If, during the first 10 business days of the state fiscal year, tax credit applications are received for less than 20 percent of available annual tax credits for approved projects other than those that provide homeownership opportunities for low-income or very-low-income households, the office shall grant tax credits for those applications and shall grant remaining tax credits on a first-come, first-serve basis for any subsequent applications for such projects received before the end of the first 6 months of the state fiscal year. If, during the first 10 business days of the state fiscal year, tax credit applications are received for more than 20 percent of available annual tax credits for

approved projects other than those that provide homeownership opportunities for low-income or very-low-income households, the office shall grant the tax credits to each approved tax credit application on a pro rata basis. If, after the first 6 months of the fiscal year, additional credits become available under subparagraph 2., the office shall grant the tax credits by first granting to those who received a pro rata reduction up to the full amount of their request, 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.

(5) EXPIRATION.--The provisions of this section, except paragraph (1)(e), shall expire and be void on June 30, 2015 ~~2005~~.

Section 4. Paragraph (c) of subsection (1) and subsection (6) of section 624.5105, Florida Statutes, are amended, paragraph (f) is added to subsection (1), and paragraph (e) is added to subsection (2) of that section, to read:

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

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

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

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

(2) ELIGIBILITY REQUIREMENTS.--

(e)1. The Office of Tourism, Trade, and Economic Development shall reserve 80 percent of the available annual tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities for low-income or very-low-income households under s. 420.9071(19) and (28) for the first 6 months of the fiscal year. If less than 80 percent of the annual tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities for low-income or very-low-income households are approved within the first 6 months of the fiscal year, the office may approve the balance of available credits for donations made to eligible sponsors for projects other than those that provide homeownership opportunities for low-income or very-low-income households.

2. The office shall reserve 20 percent of the available annual tax credits for donations made to eligible sponsors for projects other than those that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) for the first 6 months of the fiscal year. If less than 20 percent of the annual tax credits for donations made to eligible sponsors for projects other than those that provide homeownership opportunities for low-income or very-low-income households are approved within the first 6 months of the fiscal year, the office may approve the balance of available credits for donations made to eligible sponsors for projects that provide homeownership opportunities for low-income or very-low-income households.

3. If, during the first 10 business days of the state fiscal year, tax credit applications are received for less than 80 percent of available annual tax credits for approved projects that provide homeownership opportunities for low-income or very-low-income households, the office shall grant tax credits for those applications and shall grant remaining tax credits on a first-come, first-serve basis for any subsequent applications for such projects received before the end of the first 6 months of the state fiscal year. If, during the first 10 business days of the state fiscal year, tax credit applications are received for more than 80 percent of available annual tax credits for approved projects that provide homeownership opportunities for low-income or very-low-income households, the office shall grant the tax credits for such applications as follows:

a. If tax credit applications submitted for approved projects of an eligible sponsor do not exceed $200,000 in total, the credits shall be granted in full if the tax credit applications are approved and subject to the provisions of subparagraph 1.

b. If tax credit applications submitted for approved projects of an eligible sponsor exceed $200,000 in total, the amount of tax credits granted pursuant to sub-subparagraph a. shall be subtracted from the amount of available tax credits pursuant to subparagraph 1., and the remaining credits shall be granted to each approved tax credit application on a pro rata basis.

c. If, after the first 6 months of the fiscal year, additional credits become available under subparagraph 2., the office shall grant the tax credits by first granting to those who received a pro rata reduction up to the full amount of their request, 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.

4. If, during the first 10 business days of the state fiscal year, tax credit applications are received for less than 20 percent of available annual tax credits for approved projects other than those that provide homeownership opportunities for low-income or very-low-income households, the office shall grant tax credits for those applications and shall grant remaining tax credits on a first-come, first-serve basis for any subsequent applications for such projects received before the end of the first 6 months of the state fiscal year. If, during the first 10 business days of the state fiscal year, tax credit applications are received for more than 20 percent of available annual tax credits for approved projects other than those that provide homeownership opportunities for low-income or very-low-income households, the office shall grant the tax credits to each approved tax credit application on a pro rata basis. If, after the first 6 months of the fiscal year, additional credits become available under subparagraph 1., the office shall grant the tax credits by first granting to those who received a pro rata reduction up to the full amount of their request, 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.

(6) EXPIRATION.--The provisions of this section, except paragraph (1)(e), shall expire and be void on June 30, 2015 ~~2005~~.

Section 5. This act shall take effect June 29, 2005.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 202

The committee substitute differs from the original bill by: (1) reserving for 6 months, rather than 2 months, the initial 80/20 split of available tax credits between low-income homeownership projects and the other types of eligible projects; and (2) further specifying the fund distribution priorities for tax credits.