HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 503 CS — Community Contribution Tax Credit
SPONSOR(S): Farkas
TIED BILLS: **IDEN./SIM. BILLS:** HB 15, CS/SB 202, SB 710

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Economic Development, Trade & Banking Committee	9 Y, 0 N, w/CS	Sheheane	Carlson
2) Local Government Council	6 Y, 0 N	Nelson	Hamby
3) Finance & Tax Committee			
4) Commerce Council			
5)			

SUMMARY ANALYSIS

The Community Contribution Tax Credit Program authorizes businesses that make donations to eligible sponsors who undertake certain community revitalization projects 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, and no individual business may receive more than $200,000 in tax credits per year. The program is set to expire June 30, 2005.

This bill increases from $10 million to $20 million the total annual amount of tax credits that may be granted under the Community Contribution Tax Credit Program, and requires that 60 percent of available tax credits be reserved for projects that provide homeownership opportunities for low-income and very-low-income Floridians. The bill also revises the procedures governing the distribution of tax credits. Finally, the bill extends the operation of the 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 Credit Program.

Empower Families -- The bill encourages businesses to contribute cash or other liquid assets, real property, goods or inventory, or other physical resources to eligible sponsors who undertake projects used to enhance low-income and very-low-income housing or create job-development opportunities for low-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. The CCTC Program authorizes businesses that make donations to eligible sponsors who undertake certain community revitalization projects 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]. All revitalization projects, except those projects related to housing for low-income persons, must be in enterprise zones or a Front Porch Florida Community[6].

The combined total amount of tax credits that can be approved is $10 million annually[7]. No individual business may receive more than $200,000 in tax credits per year[8]. Unused credits against corporate income taxes and insurance premium taxes may be carried forward for five years[9], and unused credits against sales taxes may be carried forward for three years[10]

Eligible sponsors to which donations can be made include:

• community action programs;

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

• neighborhood housing services corporations;

• local housing authorities created pursuant to ch. 421, F.S.;

• community redevelopment agencies created pursuant to s. 163.356, 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 s. 212.08(5)(q)2.d., F.S., s. 220.183(2)(d), F.S., and s. 624.5105(2)(d), F.S.
7 See ss. 212.08(5)(q), 220.183 and 624.5105, F.S.
8 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.
9 See ss. 220.183(1)(e) and 624.5105(1)(e), F.S.
10 See s. 212.08(5)(q)1.b. and 5., F.S.

• the Florida Industrial Development Corporation;

• historic preservation district agencies or organizations;

• regional workforce boards;

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

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

• not-for-profit community-based organizations 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 agencies or organizations as the Governor's Office of Tourism, Trade and Economic Development (OTTED) may designate by rule[11].

"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.

How Projects Are Defined

All contributions from a business must be exclusively used 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.

The Role of OTTED

OTTED is responsible for approving community contribution tax credits[12]. OTTED currently 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 six months of the fiscal year[13].

OTTED staff state that they do not exercise their 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.

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[11] 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.
[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.

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 percent 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 account for 19 percent and seven 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 have been 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.

Proposed Changes

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 $20 million.

The bill requires OTTED to reserve 60 percent of the available tax credits for projects that provide homeownership opportunities for low-income or very-low income households for the first two months of the fiscal year. However, if less than 60 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 homeownership opportunities for low-income or very-low-income households.

The bill requires OTTED to reserve 40 percent of the available annual tax credits for projects other than those that provide homeownership opportunities for low-income or very-low-income households for the first two months of the fiscal year. However, if less than 40 percent of these credits are approved within the first two months of the fiscal year, OTTED may approve the balance of available credits for projects that provide homeownership opportunities for low-income or very-low-income households.

The bill provides that if during the first 10 business days of the state fiscal year, OTTED receives tax credit applications for more than 60 percent of the available annual tax credits for projects that provide homeownership opportunities for low-income or very-low-income households, applications submitted for approved projects of an eligible sponsor that do not exceed $200,000 in total will be granted in full. If tax credit applications submitted for approved projects of an eligible sponsor exceed a total of $200,000, the remaining available tax credits will be approved on a pro rata basis. If, after the first two months of the fiscal year, additional credits become available for projects other than those that provide homeownership opportunities for low-income and very-low-income households, OTTED is directed to grant the tax credits by first increasing the credits of those who received a pro rata reduction up to the full amount and, if there are remaining credits, granting credits to those who applied on or after the 11th business day of 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 40 percent of the available tax credits for projects other than those that provide homeownership opportunities for low-income and very-low-income households, OTTED shall grant the tax credits on a pro rata basis. If, after the first two 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 up to the full amount 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.

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. Deletes a provision authorizing OTTED to reserve portions of available tax credits for housing for very-low-income households. Provides the process for approval of tax credit proposals. Extends the expiration date for the program.

Section 2: Amends s. 220.03, F.S., to delete 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 homeownership opportunities for certain households. Provides the process for approval of tax credit proposals. 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 requiring OTTED to reserve portions of certain annual tax credits for donations made to sponsors for projects that provide homeownership opportunities for certain households. Provides the process for approval of tax credit proposals. Extends the expiration date for the program.

Section 5: Provides that the act shall take effect July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The Revenue Estimating Conference adopted an impact estimate (in millions of dollars) on February 4, 2005. The figures have been adjusted to account for the change in the effective date of the bill to July 1, 2005:

	FY 2005-06	FY 2006-07
General Revenue – Sales	(13.0)	(14.2)
General Revenue – Corporate	(3.6)	(4.0)
State Trust	(insignificant)	(insignificant)
Total State Impact	(16.6)	(18.2)

2. Expenditures:

   The bill has no effect on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The Revenue Estimating Conference adopted an impact estimate (in millions of dollars) on February 4, 2005. The figures have been adjusted to account for the change in the effective date of the bill to July 1, 2005.

	FY 2005-06	FY 2006-07
Revenue Sharing	(.4)	(.5)
Local Gov't Half Cent	(1.1)	(1.3)
Total Local Impact	(1.5)	(1.8)

2. Expenditures:

The bill is not expected to impact local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive impact on local economies by spurring construction of housing for low and very-low income Floridians.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds, or reduce the percentage of a state tax shared with cities or counties. The bill reduces the authority that cities or counties have to raise revenues in the aggregate, but the reduction is 1.1 million, and therefore fiscally insignificant. As a result, the bill appears to be exempt from s. 18(b), art. V, of the Florida Constitution.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not authorize or require any rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill appears to use the language “fiscal year” and “state fiscal year” interchangeably. The Sponsor may want to amend the bill using uniform terms.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

In its meeting on February 22, 2005, the Economic Development, Trade and Banking Committee adopted a strike all amendment to the bill. The amendment:

- corrects a technical error regarding tax credit applications submitted by eligible sponsors;
- provides that applications up to $200,000 will be paid in full and applications exceeding $200,000 will be granted on a pro rata basis under certain circumstances;
- provides that if additional credits become available after the first two months of the fiscal year, OTTED may grant the full amount of credits to applicants who received a pro rata reduction;

- changes the effective date to July 1, 2005; and
- makes various technical corrections.