

CHAMBER ACTION

1 The Finance & Tax Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to economic development; amending s.
7 212.08, F.S.; conforming provisions to the revision
8 creating designated urban job tax credit areas; amending
9 s. 212.097, F.S.; revising provisions providing for an
10 urban job tax credit program to apply to designated urban
11 job tax credit areas rather than high-crime areas;
12 revising and providing definitions, eligibility criteria,
13 application procedures and requirements, area
14 characteristics and criteria, and area designation
15 limitations; providing for tax credits to certain
16 businesses; providing procedures and requirements for and
17 limitations on tax credits; providing duties and
18 responsibilities of the Office of Tourism, Trade, and
19 Economic Development; providing for liability and a
20 criminal penalty for fraudulent claim of the credit;
21 providing limitations on corporations claiming the credit
22 against certain taxes; authorizing the Department of
23 Revenue to adopt rules and establish guidelines; providing

HB 449 CS

2006
CS

24 for retention of the program and tax credit eligibility
 25 and amount by certain businesses for a certain time;
 26 providing for future repeal; amending ss. 220.1895 and
 27 288.99, F.S.; conforming provisions to the revision
 28 creating designated urban job tax credit areas; creating
 29 s. 290.0078, F.S.; authorizing Charlotte County or
 30 Charlotte County and the City of Punta Gorda to apply to
 31 the Office of Tourism, Trade, and Economic Development for
 32 designation of an enterprise zone; providing requirements;
 33 authorizing the office to designate an enterprise zone;
 34 providing an effective date.

35

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

37

38 Section 1. Paragraph (o) of subsection (5) of section
 39 212.08, Florida Statutes, is amended to read:

40 212.08 Sales, rental, use, consumption, distribution, and
 41 storage tax; specified exemptions.--The sale at retail, the
 42 rental, the use, the consumption, the distribution, and the
 43 storage to be used or consumed in this state of the following
 44 are hereby specifically exempt from the tax imposed by this
 45 chapter.

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

47 (o) Building materials in redevelopment projects.--

48 1. As used in this paragraph, the term:

49 a. "Building materials" means tangible personal property
 50 that becomes a component part of a housing project or a mixed-
 51 use project.

HB 449 CS

2006
CS

52 b. "Housing project" means the conversion of an existing
53 manufacturing or industrial building to housing units in a
54 designated ~~an~~ urban job tax credit ~~high-crime~~ area, enterprise
55 zone, empowerment zone, Front Porch Community, designated
56 brownfield area, or urban infill area and in which the developer
57 agrees to set aside at least 20 percent of the housing units in
58 the project for low-income and moderate-income persons or the
59 construction in a designated brownfield area of affordable
60 housing for persons described in s. 420.0004(9), (10), or (14),
61 or in s. 159.603(7).

62 c. "Mixed-use project" means the conversion of an existing
63 manufacturing or industrial building to mixed-use units that
64 include artists' studios, art and entertainment services, or
65 other compatible uses. A mixed-use project must be located in a
66 designated ~~an~~ urban job tax credit ~~high-crime~~ area, enterprise
67 zone, empowerment zone, Front Porch Community, designated
68 brownfield area, or urban infill area, and the developer must
69 agree to set aside at least 20 percent of the square footage of
70 the project for low-income and moderate-income housing.

71 d. "Substantially completed" has the same meaning as
72 provided in s. 192.042(1).

73 2. Building materials used in the construction of a
74 housing project or mixed-use project are exempt from the tax
75 imposed by this chapter upon an affirmative showing to the
76 satisfaction of the department that the requirements of this
77 paragraph have been met. This exemption inures to the owner
78 through a refund of previously paid taxes. To receive this

HB 449 CS

2006
CS

79 | refund, the owner must file an application under oath with the
80 | department which includes:

81 | a. The name and address of the owner.

82 | b. The address and assessment roll parcel number of the
83 | project for which a refund is sought.

84 | c. A copy of the building permit issued for the project.

85 | d. A certification by the local building code inspector
86 | that the project is substantially completed.

87 | e. A sworn statement, under penalty of perjury, from the
88 | general contractor licensed in this state with whom the owner
89 | contracted to construct the project, which statement lists the
90 | building materials used in the construction of the project and
91 | the actual cost thereof, and the amount of sales tax paid on
92 | these materials. If a general contractor was not used, the owner
93 | shall provide this information in a sworn statement, under
94 | penalty of perjury. Copies of invoices evidencing payment of
95 | sales tax must be attached to the sworn statement.

96 | 3. An application for a refund under this paragraph must
97 | be submitted to the department within 6 months after the date
98 | the project is deemed to be substantially completed by the local
99 | building code inspector. Within 30 working days after receipt of
100 | the application, the department shall determine if it meets the
101 | requirements of this paragraph. A refund approved pursuant to
102 | this paragraph shall be made within 30 days after formal
103 | approval of the application by the department. The provisions of
104 | s. 212.095 do not apply to any refund application made under
105 | this paragraph.

HB 449 CS

2006
CS

106 4. The department shall establish by rule an application
107 form and criteria for establishing eligibility for exemption
108 under this paragraph.

109 5. The exemption shall apply to purchases of materials on
110 or after July 1, 2000.

111 Section 2. Section 212.097, Florida Statutes, is amended
112 to read:

113 (Substantial rewording of section. See
114 s. 212.097, F.S., for current text.)

115 212.097 Designated Urban Job Tax Credit Area Program.--

116 (1) As used in this section, the term:

117 (a) "Designated urban job tax credit area" means an area
118 designated by the Office of Tourism, Trade, and Economic
119 Development pursuant to subsection (5). Such an area includes an
120 area designated as a federal empowerment zone pursuant to the
121 Taxpayer Relief Act of 1997 or the Community Tax Relief Act of
122 2000. A designated urban job tax credit area shall retain its
123 designation for a period of 5 years after the date of
124 designation.

125 (b) "Eligible business" means any business entity located
126 in a designated urban job tax credit area that is predominantly
127 engaged in, or is headquarters for a business predominantly
128 engaged in, activities usually provided for consideration by
129 firms classified within the following standard industrial
130 classifications: SIC 01-SIC 09 (agriculture, forestry, and
131 fishing); SIC 20-SIC 39 (manufacturing); SIC 52-SIC 57 and SIC
132 59 (retail); SIC 422 (public warehousing and storage); SIC 70
133 (hotels and other lodging places); SIC 7391 (research and

134 development); SIC 781 (motion picture production and allied
135 services); SIC 7992 (public golf courses); SIC 7996 (amusement
136 parks); and a targeted industry eligible for the qualified
137 target industry business tax refund under s. 288.106. A call
138 center or similar customer service operation that services a
139 multistate market or international market is also an eligible
140 business. Excluded from eligible receipts are receipts from
141 retail sales, except such receipts for hotels (retail)
142 classified in SIC 52-SIC 57 and SIC 59 and other lodging places
143 classified in SIC 70, public golf courses classified in SIC
144 7992, and amusement parks classified in SIC 7996. For purposes
145 of this paragraph, the term "predominantly" means that more than
146 50 percent of the business's gross receipts from all sources is
147 generated by those activities usually provided for consideration
148 by firms in the specified standard industrial classification.
149 The determination of whether the business is located in a
150 designated urban job tax credit area must be based on the date
151 of application for the credit under this section. Commonly owned
152 and controlled entities are to be considered a single business
153 entity.

154 (c) "Existing business" means any eligible business that
155 does not meet the criteria for a new business.

156 (d) "New business" means any eligible business first
157 beginning operation on a site in a designated urban job tax
158 credit area and clearly separate from any other commercial or
159 business operation of the business entity within a designated
160 urban job tax credit area. A business entity that operated an
161 eligible business within a designated urban job tax credit area

162 within the 48 months before the period provided for application
163 by subsection (2) is not considered a new business.

164 (e) "Office" means the Office of Tourism, Trade, and
165 Economic Development.

166 (f) "Qualified employee" means any employee of an eligible
167 business who performs duties in connection with the operations
168 of the business on a regular, full-time basis for an average of
169 at least 36 hours per week for at least 3 months within the
170 designated urban job tax credit area in which the eligible
171 business is located. An owner or partner of the eligible
172 business is not a qualified employee. The term also includes an
173 employee leased from an employee leasing company licensed under
174 chapter 468 if such employee has been continuously leased to the
175 employer for an average of at least 36 hours per week for more
176 than 6 months.

177 (g) "Urban infill and redevelopment area" means an area or
178 areas designated by a local government in which:

179 1. Public services such as water and wastewater,
180 transportation, schools, and recreation are already available or
181 are scheduled to be provided in an adopted 5-year schedule of
182 capital improvements.

183 2. The area, or one or more neighborhoods within the area,
184 suffers from pervasive poverty, unemployment, and general
185 distress as described in s. 290.0058.

186 3. The area exhibits a proportion of properties that are
187 substandard, overcrowded, dilapidated, vacant or abandoned, or
188 functionally obsolete which is higher than the average for the
189 local government.

190 4. More than 50 percent of the area is within 1/4 mile of
 191 a transit stop, or a sufficient number of such transit stops
 192 will be made available concurrent with the designation.

193 5. The area includes or is adjacent to community
 194 redevelopment areas, brownfields, enterprise zones, or Main
 195 Street programs or has been designated by the state or Federal
 196 Government as an urban redevelopment, revitalization, or infill
 197 area under empowerment zone, enterprise community, or brownfield
 198 showcase community programs or similar programs.

199 (2) A county or municipality, or a county and one or more
 200 municipalities together, may apply to the office for the
 201 designation of an area as a designated urban job tax credit area
 202 in accordance with subsection (3). Applications must be received
 203 by the office no later than April 30, 2007, and every 5 years
 204 thereafter.

205 (3) In order for an area to qualify as a designated urban
 206 job tax credit area, the following requirements must be met:

207 (a) The local government seeking designation must adopt a
 208 resolution prior to the date of application for designation
 209 that:

210 1. Finds that an urban area exists in such county or
 211 municipality, or in both the county and one or more
 212 municipalities, that chronically exhibits extreme and
 213 unacceptable levels of poverty, unemployment, physical
 214 deterioration, and economic disinvestment.

215 2. Determines that the rehabilitation, conservation, or
 216 redevelopment, or a combination of rehabilitation, conservation,
 217 or redevelopment, of such an urban area is necessary in the

218 interest of the health, safety, and welfare of the residents of
219 such county or municipality, or such county and one or more
220 municipalities.

221 3. Determines that the revitalization of such an urban
222 area can occur if the public sector or private sector can be
223 induced to invest resources in productive enterprises that build
224 or rebuild the economic viability of the area.

225 (b) The local government seeking designation demonstrates
226 to the office that the area:

227 1.a. Has at least 40 percent of its residents earning
228 wages on an annual basis that are equal to or less than the
229 annual wage of a person who is earning minimum wage; or

230 b. Has more than 20 percent of its residents or families
231 living below the federal standard of poverty for individuals or
232 a family of four.

233 2. Has an unemployment rate at least 3 percentage points
234 higher than the state's unemployment rate.

235 3. Has an arrest rate higher than the state's average rate
236 for such crimes as drug sale, drug possession, prostitution,
237 vandalism, and civil disturbances, as recorded by the total
238 crime index of the Department of Law Enforcement.

239 4.a. Has 50 percent or more of its residents who rent;

240 b. Has property values that are within the lower 50
241 percent of the county's assessed property values;

242 c. Has more than 5 percent of its commercial buildings
243 currently vacant or condemned within the previous 24 months; or

244 d. With respect to at least 25 percent of tax or special
 245 assessment delinquencies, the amount of the delinquency exceeds
 246 the fair value of the land.

247 (c) The selected area has a continuous boundary or
 248 consists of not more than three noncontiguous parcels.

249 (d) The selected area does not exceed the following
 250 mileage limitation:

251 1. For areas having a total population of 150,000 persons
 252 or more, the selected area does not exceed 20 square miles and
 253 is within 10 miles of the urban infill and redevelopment area of
 254 a city.

255 2. For areas having a total population of 50,000 persons
 256 or more but fewer than 150,000 persons, the selected area does
 257 not exceed 10 square miles and is within 7.5 miles of the urban
 258 infill and redevelopment area of a city.

259 3. For areas having a total population of 20,000 persons
 260 or more but fewer than 50,000 persons, the selected area does
 261 not exceed 5 square miles and is within 5 miles of the urban
 262 infill and redevelopment area of a city.

263 4. For areas having a total population of fewer than
 264 20,000 persons, the selected area does not exceed 3 square miles
 265 and is within 3 miles of the urban infill and redevelopment area
 266 of a city.

267 (4) A municipality, or a county and one or more
 268 municipalities together, may not nominate more than one urban
 269 area. However, any county as defined in s. 125.011(1) may not
 270 nominate more than three urban areas.

271 (5) On June 30, 2007, and every 5 years thereafter, the
272 office may designate no more than 30 areas that meet the
273 requirements of subsection (3). If there are more than 30
274 applications in any year, the office shall rank the areas by
275 level of distress and designate the 30 areas with the most need.

276 (6) A new eligible business may apply for a tax credit
277 under this subsection once at any time during its first year of
278 operation. A new eligible business in a designated urban job tax
279 credit area that has at least 10 qualified employees on the date
280 of application shall receive a \$1,000 tax credit for each such
281 employee.

282 (7) An existing eligible business may apply for a tax
283 credit under this subsection at any time and is entitled to such
284 credit except as restricted by this subsection. An existing
285 eligible business in a designated urban job tax credit area that
286 on the date of application has at least five more qualified
287 employees than the business had 1 year prior to the business's
288 date of application shall receive a \$1,000 credit for each such
289 additional employee. An existing eligible business may apply for
290 the credit under this subsection no more than once in any 12-
291 month period. Any existing eligible business that received a
292 credit under subsection (6) may not apply for the credit under
293 this subsection sooner than 12 months after the application date
294 for the credit under subsection (6). To be eligible for a tax
295 credit under this subsection, the number of qualified employees
296 employed 1 year prior to the application date must be no lower
297 than the number of qualified employees on the application date

298 on which a credit under this section was based for any previous
 299 application, including an application under subsection (6).

300 (8) For any new eligible business receiving a credit
 301 pursuant to subsection (6) or any existing eligible business
 302 receiving a credit pursuant to subsection (7), an additional
 303 \$500 credit shall be provided for any qualified employee who is
 304 a welfare transition program participant. Such employee must be
 305 employed on the credit application date and must have been
 306 employed less than 1 year. This credit shall be in addition to
 307 other credits pursuant to this section. Appropriate
 308 documentation concerning the eligibility of an employee for the
 309 additional credit under this subsection must be submitted as
 310 determined by the department.

311 (9) (a) In order to claim the credit provided by this
 312 section, an eligible business must file under oath with the
 313 office a statement that includes the name and address of the
 314 eligible business and any other information that is required to
 315 process the application.

316 (b) Within 30 working days after receipt of an application
 317 for the credit, the office shall review the application to
 318 determine whether it contains all the information required by
 319 this subsection and meets the criteria specified in this
 320 section. Subject to the provisions of paragraph (c), the office
 321 shall approve all applications that contain the information
 322 required by this subsection and meet the criteria specified in
 323 this section as eligible to receive the credit.

324 (c) The maximum credit amount that may be approved during
 325 any calendar year is \$5 million. The Department of Revenue, in

326 conjunction with the office, shall notify the governing bodies
327 in areas designated under this section when the \$5 million
328 maximum amount has been reached. Applications must be considered
329 for approval in the order in which they are received without
330 regard to whether the credit is for a new or existing business.
331 This limitation applies to the value of the credit as contained
332 in approved applications. Approved credits may be taken in the
333 time and manner allowed pursuant to this section.

334 (10) If the application is insufficient to support the
335 credit authorized in this section, the office shall deny the
336 credit and notify the business of the denial. The business may
337 reapply for the credit within 3 months after such notification.

338 (11) If the credit provided under this section is greater
339 than can be taken on a single tax return, excess amounts may be
340 taken as credits on any tax return submitted within 12 months
341 after the approval of the application by the department.

342 (12) It is the responsibility of each business to
343 affirmatively demonstrate to the satisfaction of the Department
344 of Revenue that the business meets the requirements of this
345 section.

346 (13) Any person who fraudulently claims the credit
347 provided by this section is liable for repayment of the credit
348 plus a mandatory penalty of 100 percent of the credit and
349 commits a misdemeanor of the second degree, punishable as
350 provided in s. 775.082 or s. 775.083.

351 (14) A corporation may take the credit under this section
352 against its corporate income tax liability as provided in s.
353 220.1895. However, a corporation that applies its job tax credit

HB 449 CS

2006
CS

354 against the tax imposed by chapter 220 may not receive the
 355 credit provided for in this section. A credit may be taken
 356 against only one tax.

357 (15) The department shall adopt rules pursuant to ss.
 358 120.536(1) and 120.54 governing the manner and form of
 359 applications for credit and may establish guidelines concerning
 360 the requisites for an affirmative showing of qualification for
 361 the credit under this section.

362 (16) Notwithstanding subsections (6), (7), and (8), an
 363 eligible business located in an area designated under this
 364 section as of June 30, 2006, shall retain its program and tax
 365 credit eligibility and amount through June 30, 2012, if the
 366 business complies with the job creation requirements of this
 367 section in effect on that date. This subsection is repealed July
 368 1, 2012.

369 Section 3. Section 220.1895, Florida Statutes, is amended
 370 to read:

371 220.1895 Rural Job Tax Credit and Designated Urban High-
 372 ~~Crime Area~~ Job Tax Credit.--There shall be allowed a credit
 373 against the tax imposed by this chapter amounts approved by the
 374 Office of Tourism, Trade, and Economic Development pursuant to
 375 the Rural Job Tax Credit Program in s. 212.098 and the
 376 Designated Urban High-~~Crime Area~~ Job Tax Credit Area Program in
 377 s. 212.097. A corporation that uses its credit against the tax
 378 imposed by this chapter may not take the credit against the tax
 379 imposed by chapter 212. If any credit granted under this section
 380 is not fully used in the first year for which it becomes
 381 available, the unused amount may be carried forward for a period

HB 449 CS

2006
CS

382 | not to exceed 5 years. The carryover may be used in a subsequent
 383 | year when the tax imposed by this chapter for such year exceeds
 384 | the credit for such year under this section after applying the
 385 | other credits and unused credit carryovers in the order provided
 386 | in s. 220.02(8).

387 | Section 4. Subsection (2) and paragraph (j) of subsection
 388 | (3) of section 288.99, Florida Statutes, are amended to read:

389 | 288.99 Certified Capital Company Act.--

390 | (2) PURPOSE.--The primary purpose of this act is to
 391 | stimulate a substantial increase in venture capital investments
 392 | in this state by providing an incentive for insurance companies
 393 | to invest in certified capital companies in this state which, in
 394 | turn, will make investments in new businesses or in expanding
 395 | businesses, including minority-owned or minority-operated
 396 | businesses and businesses located in a designated Front Porch
 397 | community, enterprise zone, designated urban job tax credit
 398 | ~~high-crime~~ area, rural job tax credit county, or nationally
 399 | recognized historic district. The increase in investment capital
 400 | flowing into new or expanding businesses is intended to
 401 | contribute to employment growth, create jobs which exceed the
 402 | average wage for the county in which the jobs are created, and
 403 | expand or diversify the economic base of this state.

404 | (3) DEFINITIONS.--As used in this section, the term:

405 | (j) "Qualified business" means the Digital Divide Trust
 406 | Fund established under the State of Florida Technology Office or
 407 | a business that meets the following conditions as evidenced by
 408 | documentation required by commission rule:

HB 449 CS

2006
CS

409 1. The business is headquartered in this state and its
410 principal business operations are located in this state or at
411 least 75 percent of the employees are employed in the state.

412 2. At the time a certified capital company makes an
413 initial investment in a business, the business would qualify for
414 investment under 13 C.F.R. s. 121.301(c), which is involved in
415 manufacturing, processing or assembling products, conducting
416 research and development, or providing services.

417 3. At the time a certified capital company makes an
418 initial investment in a business, the business certifies in an
419 affidavit that:

420 a. The business is unable to obtain conventional
421 financing, which means that the business has failed in an
422 attempt to obtain funding for a loan from a bank or other
423 commercial lender or that the business cannot reasonably be
424 expected to qualify for such financing under the standards of
425 commercial lending;

426 b. The business plan for the business projects that the
427 business is reasonably expected to achieve in excess of \$25
428 million in sales revenue within 5 years after the initial
429 investment, or the business is located in a designated Front
430 Porch community, enterprise zone, designated urban job tax
431 credit ~~high-crime~~ area, rural job tax credit county, or
432 nationally recognized historic district;

433 c. The business will maintain its headquarters in this
434 state for the next 10 years and any new manufacturing facility
435 financed by a qualified investment will remain in this state for
436 the next 10 years, or the business is located in a designated

HB 449 CS

2006
CS

437 Front Porch community, enterprise zone, designated urban job tax
438 credit ~~high-crime~~ area, rural job tax credit county, or
439 nationally recognized historic district; and

440 d. The business has fewer than 200 employees and at least
441 75 percent of the employees are employed in this state. For
442 purposes of this subsection, the term also includes the Florida
443 Black Business Investment Board, any entity majority owned by
444 the Florida Black Business Investment Board, or any entity in
445 which the Florida Black Business Investment Board holds a
446 majority voting interest on the board of directors.

447 4. The term does not include:

448 a. Any business predominantly engaged in retail sales,
449 real estate development, insurance, banking, lending, or oil and
450 gas exploration.

451 b. Any business predominantly engaged in professional
452 services provided by accountants, lawyers, or physicians.

453 c. Any company that has no historical revenues and either
454 has no specific business plan or purpose or has indicated that
455 its business plan is solely to engage in a merger or acquisition
456 with any unidentified company or other entity.

457 d. Any company that has a strategic plan to grow through
458 the acquisition of firms with substantially similar business
459 which would result in the planned net loss of Florida-based jobs
460 over a 12-month period after the acquisition as determined by
461 the office.

462 Section 5. Section 290.0078, Florida Statutes, is created
463 to read:

HB 449 CS

2006
CS

464 290.0078 Enterprise zone designation for Charlotte County
465 or Charlotte County and the City of Punta Gorda.--Charlotte
466 County or Charlotte County and the City of Punta Gorda may apply
467 to the Office of Tourism, Trade, and Economic Development for
468 designation of one enterprise zone encompassing an area not to
469 exceed 20 square miles. The application must be submitted by
470 December 31, 2006, and must comply with the requirements of s.
471 290.0055, with the exception of s. 290.0055(4)(c).
472 Notwithstanding the provisions of s. 290.0065 limiting the total
473 number of enterprise zones designated and the number of
474 enterprise zones within a population category, the Office of
475 Tourism, Trade, and Economic Development may designate one
476 enterprise zone under this section. The Office of Tourism,
477 Trade, and Economic Development shall establish the initial
478 effective date of the enterprise zone designated pursuant to
479 this section.

480 Section 6. This act shall take effect July 1, 2006.