

## CHAMBER ACTION

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1 The Commerce Council recommends the following:

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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

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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.

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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

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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.

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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

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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

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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.

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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

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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

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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

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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:

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



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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:

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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 10 square miles. The enterprise zone shall be located in  
 470 an area encompassing the Charlotte County Airport Authority  
 471 property and bounded by U.S. Highway 17 to the north and Jones  
 472 Loop Road to the south. The application must be submitted by  
 473 December 31, 2006, and must comply with the requirements of s.  
 474 290.0055, with the exception of s. 290.0055(4)(c).  
 475 Notwithstanding the provisions of s. 290.0065 limiting the total  
 476 number of enterprise zones designated and the number of  
 477 enterprise zones within a population category, the Office of  
 478 Tourism, Trade, and Economic Development may designate one  
 479 enterprise zone under this section. The Office of Tourism,  
 480 Trade, and Economic Development shall establish the initial  
 481 effective date of the enterprise zone designated pursuant to  
 482 this section.

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