

1                                   A bill to be entitled  
2           An act relating to economic development; amending s.  
3           212.08, F.S.; conforming provisions to the revision  
4           creating designated urban job tax credit areas; amending  
5           s. 212.097, F.S.; revising provisions providing for an  
6           urban job tax credit program to apply to designated urban  
7           job tax credit areas rather than high-crime areas;  
8           revising and providing definitions, eligibility criteria,  
9           application procedures and requirements, area  
10          characteristics and criteria, and area designation  
11          limitations; providing for tax credits to certain  
12          businesses; providing procedures and requirements for and  
13          limitations on tax credits; providing duties and  
14          responsibilities of the Office of Tourism, Trade, and  
15          Economic Development; providing for liability and a  
16          criminal penalty for fraudulent claim of the credit;  
17          providing limitations on corporations claiming the credit  
18          against certain taxes; authorizing the Department of  
19          Revenue to adopt rules and establish guidelines; providing  
20          for retention of the program and tax credit eligibility  
21          and amount by certain businesses for a certain time;  
22          providing for future repeal; amending ss. 220.1895 and  
23          288.99, F.S.; conforming provisions to the revision  
24          creating designated urban job tax credit areas; creating  
25          s. 290.0078, F.S.; authorizing Charlotte County or  
26          Charlotte County and the City of Punta Gorda to apply to  
27          the Office of Tourism, Trade, and Economic Development for

28 designation of an enterprise zone; providing requirements;  
 29 authorizing the office to designate an enterprise zone;  
 30 providing an effective date.

31  
 32 Be It Enacted by the Legislature of the State of Florida:

33  
 34 Section 1. Paragraph (o) of subsection (5) of section  
 35 212.08, Florida Statutes, is amended to read:

36 212.08 Sales, rental, use, consumption, distribution, and  
 37 storage tax; specified exemptions.--The sale at retail, the  
 38 rental, the use, the consumption, the distribution, and the  
 39 storage to be used or consumed in this state of the following  
 40 are hereby specifically exempt from the tax imposed by this  
 41 chapter.

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

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

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

45 a. "Building materials" means tangible personal property  
 46 that becomes a component part of a housing project or a mixed-  
 47 use project.

48 b. "Housing project" means the conversion of an existing  
 49 manufacturing or industrial building to housing units in a  
 50 designated ~~an~~ urban job tax credit ~~high-crime~~ area, enterprise  
 51 zone, empowerment zone, Front Porch Community, designated  
 52 brownfield area, or urban infill area and in which the developer  
 53 agrees to set aside at least 20 percent of the housing units in  
 54 the project for low-income and moderate-income persons or the

55 construction in a designated brownfield area of affordable  
56 housing for persons described in s. 420.0004(9), (10), or (14),  
57 or in s. 159.603(7).

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

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

69 2. Building materials used in the construction of a  
70 housing project or mixed-use project are exempt from the tax  
71 imposed by this chapter upon an affirmative showing to the  
72 satisfaction of the department that the requirements of this  
73 paragraph have been met. This exemption inures to the owner  
74 through a refund of previously paid taxes. To receive this  
75 refund, the owner must file an application under oath with the  
76 department which includes:

77 a. The name and address of the owner.

78 b. The address and assessment roll parcel number of the  
79 project for which a refund is sought.

80 c. A copy of the building permit issued for the project.

81 d. A certification by the local building code inspector  
82 that the project is substantially completed.

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

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

102 4. The department shall establish by rule an application  
103 form and criteria for establishing eligibility for exemption  
104 under this paragraph.

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

107 Section 2. Section 212.097, Florida Statutes, is amended  
108 to read:

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

111 212.097 Designated Urban Job Tax Credit Area Program.--

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

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

121 (b) "Eligible business" means any business entity located  
122 in a designated urban job tax credit area that is predominantly  
123 engaged in, or is headquarters for a business predominantly  
124 engaged in, activities usually provided for consideration by  
125 firms classified within the following standard industrial  
126 classifications: SIC 01-SIC 09 (agriculture, forestry, and  
127 fishing); SIC 20-SIC 39 (manufacturing); SIC 52-SIC 57 and SIC  
128 59 (retail); SIC 422 (public warehousing and storage); SIC 70  
129 (hotels and other lodging places); SIC 7391 (research and  
130 development); SIC 781 (motion picture production and allied  
131 services); SIC 7992 (public golf courses); SIC 7996 (amusement  
132 parks); and a targeted industry eligible for the qualified  
133 target industry business tax refund under s. 288.106. A call

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

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

152 (d) "New business" means any eligible business first  
153 beginning operation on a site in a designated urban job tax  
154 credit area and clearly separate from any other commercial or  
155 business operation of the business entity within a designated  
156 urban job tax credit area. A business entity that operated an  
157 eligible business within a designated urban job tax credit area  
158 within the 48 months before the period provided for application  
159 by subsection (2) is not considered a new business.

160       (e) "Office" means the Office of Tourism, Trade, and  
161 Economic Development.

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

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

175           1. Public services such as water and wastewater,  
176 transportation, schools, and recreation are already available or  
177 are scheduled to be provided in an adopted 5-year schedule of  
178 capital improvements.

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

182           3. The area exhibits a proportion of properties that are  
183 substandard, overcrowded, dilapidated, vacant or abandoned, or  
184 functionally obsolete which is higher than the average for the  
185 local government.

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

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

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

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

203 (a) The local government seeking designation must adopt a  
204 resolution prior to the date of application for designation  
205 that:

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

211 2. Determines that the rehabilitation, conservation, or  
212 redevelopment, or a combination of rehabilitation, conservation,



213 or redevelopment, of such an urban area is necessary in the  
214 interest of the health, safety, and welfare of the residents of  
215 such county or municipality, or such county and one or more  
216 municipalities.

217 3. Determines that the revitalization of such an urban  
218 area can occur if the public sector or private sector can be  
219 induced to invest resources in productive enterprises that build  
220 or rebuild the economic viability of the area.

221 (b) The local government seeking designation demonstrates  
222 to the office that the area:

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

226 b. Has more than 20 percent of its residents or families  
227 living below the federal standard of poverty for individuals or  
228 a family of four.

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

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

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

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

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

240 d. With respect to at least 25 percent of tax or special  
241 assessment delinquencies, the amount of the delinquency exceeds  
242 the fair value of the land.

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

245 (d) The selected area does not exceed the following  
246 mileage limitation:

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

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

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

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

263 (4) A municipality, or a county and one or more  
264 municipalities together, may not nominate more than one urban  
265 area. However, any county as defined in s. 125.011(1) may not  
266 nominate more than three urban areas.

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

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

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

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

296 (8) For any new eligible business receiving a credit  
297 pursuant to subsection (6) or any existing eligible business  
298 receiving a credit pursuant to subsection (7), an additional  
299 \$500 credit shall be provided for any qualified employee who is  
300 a welfare transition program participant. Such employee must be  
301 employed on the credit application date and must have been  
302 employed less than 1 year. This credit shall be in addition to  
303 other credits pursuant to this section. Appropriate  
304 documentation concerning the eligibility of an employee for the  
305 additional credit under this subsection must be submitted as  
306 determined by the department.

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

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

320        (c) The maximum credit amount that may be approved during  
321 any calendar year is \$5 million. The Department of Revenue, in  
322 conjunction with the office, shall notify the governing bodies  
323 in areas designated under this section when the \$5 million  
324 maximum amount has been reached. Applications must be considered  
325 for approval in the order in which they are received without  
326 regard to whether the credit is for a new or existing business.  
327 This limitation applies to the value of the credit as contained  
328 in approved applications. Approved credits may be taken in the  
329 time and manner allowed pursuant to this section.

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

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

338        (12) It is the responsibility of each business to  
339 affirmatively demonstrate to the satisfaction of the Department  
340 of Revenue that the business meets the requirements of this  
341 section.

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

347       (14) A corporation may take the credit under this section  
348 against its corporate income tax liability as provided in s.  
349 220.1895. However, a corporation that applies its job tax credit  
350 against the tax imposed by chapter 220 may not receive the  
351 credit provided for in this section. A credit may be taken  
352 against only one tax.

353       (15) The department shall adopt rules pursuant to ss.  
354 120.536(1) and 120.54 governing the manner and form of  
355 applications for credit and may establish guidelines concerning  
356 the requisites for an affirmative showing of qualification for  
357 the credit under this section.

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

365       Section 3. Section 220.1895, Florida Statutes, is amended  
366 to read:

367       220.1895 Rural Job Tax Credit and Designated Urban High-  
368 Crime Area Job Tax Credit.--There shall be allowed a credit  
369 against the tax imposed by this chapter amounts approved by the  
370 Office of Tourism, Trade, and Economic Development pursuant to  
371 the Rural Job Tax Credit Program in s. 212.098 and the  
372 Designated Urban High Crime Area Job Tax Credit Area Program in  
373 s. 212.097. A corporation that uses its credit against the tax

374 imposed by this chapter may not take the credit against the tax  
 375 imposed by chapter 212. If any credit granted under this section  
 376 is not fully used in the first year for which it becomes  
 377 available, the unused amount may be carried forward for a period  
 378 not to exceed 5 years. The carryover may be used in a subsequent  
 379 year when the tax imposed by this chapter for such year exceeds  
 380 the credit for such year under this section after applying the  
 381 other credits and unused credit carryovers in the order provided  
 382 in s. 220.02(8).

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

385 288.99 Certified Capital Company Act.--

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

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

401 (j) "Qualified business" means the Digital Divide Trust  
402 Fund established under the State of Florida Technology Office or  
403 a business that meets the following conditions as evidenced by  
404 documentation required by commission rule:

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

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

413 3. At the time a certified capital company makes an  
414 initial investment in a business, the business certifies in an  
415 affidavit that:

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

422 b. The business plan for the business projects that the  
423 business is reasonably expected to achieve in excess of \$25  
424 million in sales revenue within 5 years after the initial  
425 investment, or the business is located in a designated Front  
426 Porch community, enterprise zone, designated urban job tax



427 credit ~~high-crime~~ area, rural job tax credit county, or  
428 nationally recognized historic district;

429 c. The business will maintain its headquarters in this  
430 state for the next 10 years and any new manufacturing facility  
431 financed by a qualified investment will remain in this state for  
432 the next 10 years, or the business is located in a designated  
433 Front Porch community, enterprise zone, designated urban job tax  
434 credit ~~high-crime~~ area, rural job tax credit county, or  
435 nationally recognized historic district; and

436 d. The business has fewer than 200 employees and at least  
437 75 percent of the employees are employed in this state. For  
438 purposes of this subsection, the term also includes the Florida  
439 Black Business Investment Board, any entity majority owned by  
440 the Florida Black Business Investment Board, or any entity in  
441 which the Florida Black Business Investment Board holds a  
442 majority voting interest on the board of directors.

443 4. The term does not include:

444 a. Any business predominantly engaged in retail sales,  
445 real estate development, insurance, banking, lending, or oil and  
446 gas exploration.

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

449 c. Any company that has no historical revenues and either  
450 has no specific business plan or purpose or has indicated that  
451 its business plan is solely to engage in a merger or acquisition  
452 with any unidentified company or other entity.

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

458 Section 5. Section 290.0078, Florida Statutes, is created  
459 to read:

460 290.0078 Enterprise zone designation for Charlotte County  
461 or Charlotte County and the City of Punta Gorda.--Charlotte  
462 County or Charlotte County and the City of Punta Gorda may apply  
463 to the Office of Tourism, Trade, and Economic Development for  
464 designation of one enterprise zone encompassing an area not to  
465 exceed 10 square miles. The enterprise zone shall be located in  
466 an area encompassing the Charlotte County Airport Authority  
467 property and bounded by U.S. Highway 17 to the north and Jones  
468 Loop Road to the south. The application must be submitted by  
469 December 31, 2006, and must comply with the requirements of s.  
470 290.0055, with the exception of s. 290.0055(4)(c).  
471 Notwithstanding the provisions of s. 290.0065 limiting the total  
472 number of enterprise zones designated and the number of  
473 enterprise zones within a population category, the Office of  
474 Tourism, Trade, and Economic Development may designate one  
475 enterprise zone under this section. The Office of Tourism,  
476 Trade, and Economic Development shall establish the initial  
477 effective date of the enterprise zone designated pursuant to  
478 this section.

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