

ENROLLED

HB 5505, Engrossed 1

2012 Legislature

1
2 An act relating to the Department of Financial
3 Services; amending s. 440.02, F.S.; redefining the
4 term "employee" for purposes of workers' compensation;
5 amending s. 440.05, F.S.; revising requirements for
6 submitting a notice of election of exemption; revising
7 duties of the Department of Financial Services
8 relating to the expiration of certificates of
9 exemption; expanding applicability of requirements
10 relating to certificates of exemption; repealing s.
11 440.59, F.S., relating to the duty of the Department
12 of Financial Services to make an annual report on the
13 administration of ch. 440, F.S., the Workers'
14 Compensation Law, to specified officials; amending s.
15 516.031, F.S.; revising the amount that a lender may
16 impose as a delinquency charge; amending s. 560.1092,
17 F.S.; deleting a provision that provides for the
18 deposit of funds collected from money services
19 business licensees; amending s. 560.144, F.S.;
20 requiring examination fees to be paid directly to the
21 Office of Financial Regulation; providing for the
22 deposit of certain proceeds; providing for the
23 establishment of the Florida Insurance Premium Tax
24 Prepayment Program, to be administered by the State
25 Board of Administration, to help fund the Florida
26 Hurricane Catastrophe Fund; providing definitions;
27 providing the duties of the State Board of
28 Administration with respect to the program; providing

ENROLLED

HB 5505, Engrossed 1

2012 Legislature

29 | for the selection of a program manager; providing
30 | manager duties; providing that an insurer who prepays
31 | its insurance premium taxes shall be issued a
32 | certificate representing tax credits against future
33 | taxes; providing for the use and transfer of such
34 | credits; requiring a manager report; providing
35 | effective dates.

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

38 |
39 | Section 1. Paragraph (b) of subsection (15) of section
40 | 440.02, Florida Statutes, is amended to read:

41 | 440.02 Definitions.—When used in this chapter, unless the
42 | context clearly requires otherwise, the following terms shall
43 | have the following meanings:

44 | (15)

45 | (b) "Employee" includes any person who is an officer of a
46 | corporation and who performs services for remuneration for such
47 | corporation within this state, whether or not such services are
48 | continuous.

49 | 1. Any officer of a corporation may elect to be exempt
50 | from this chapter by filing ~~written~~ notice of the election with
51 | the department as provided in s. 440.05.

52 | 2. As to officers of a corporation who are engaged in the
53 | construction industry, no more than three officers of a
54 | corporation or of any group of affiliated corporations may elect
55 | to be exempt from this chapter by filing ~~written~~ notice of the
56 | election with the department as provided in s. 440.05. Officers

ENROLLED

HB 5505, Engrossed 1

2012 Legislature

57 | must be shareholders, each owning at least 10 percent of the
58 | stock of such corporation and listed as an officer of such
59 | corporation with the Division of Corporations of the Department
60 | of State, in order to elect exemptions under this chapter. For
61 | purposes of this subparagraph, the term "affiliated" means and
62 | includes one or more corporations or entities, any one of which
63 | is a corporation engaged in the construction industry, under the
64 | same or substantially the same control of a group of business
65 | entities which are connected or associated so that one entity
66 | controls or has the power to control each of the other business
67 | entities. The term "affiliated" includes, but is not limited to,
68 | the officers, directors, executives, shareholders active in
69 | management, employees, and agents of the affiliated corporation.
70 | The ownership by one business entity of a controlling interest
71 | in another business entity or a pooling of equipment or income
72 | among business entities shall be prima facie evidence that one
73 | business is affiliated with the other.

74 | 3. An officer of a corporation who elects to be exempt
75 | from this chapter by filing a ~~written~~ notice of the election
76 | with the department as provided in s. 440.05 is not an employee.

77 |
78 | Services are presumed to have been rendered to the corporation
79 | if the officer is compensated by other than dividends upon
80 | shares of stock of the corporation which the officer owns.

81 | Section 2. Subsections (3) and (6) of section 440.05,
82 | Florida Statutes, are amended to read:

83 | 440.05 Election of exemption; revocation of election;
84 | notice; certification.-

ENROLLED

HB 5505, Engrossed 1

2012 Legislature

85 (3) Each officer of a corporation who is engaged in the
86 construction industry and who elects an exemption from this
87 chapter or who, after electing such exemption, revokes that
88 exemption, must electronically submit ~~mail~~ a ~~written~~ notice to
89 such effect to the department on a form prescribed by the
90 department. ~~The notice of election to be exempt from the~~
91 ~~provisions of this chapter must be notarized and under oath.~~ The
92 notice of election to be exempt which is electronically
93 submitted to the department by the officer of a corporation who
94 is allowed to claim an exemption as provided by this chapter
95 must list the name, federal tax identification number, date of
96 birth, Florida driver license number or Florida identification
97 card ~~social security~~ number, all certified or registered
98 licenses issued pursuant to chapter 489 held by the person
99 seeking the exemption, ~~a copy of relevant documentation as to~~
100 ~~employment status filed with the Internal Revenue Service as~~
101 ~~specified by the department, a copy of the relevant occupational~~
102 ~~license in the primary jurisdiction of the business, and the~~
103 registration number of the corporation filed with the Division
104 of Corporations of the Department of State, and the percentage
105 of ownership ~~along with a copy of the stock certificate~~
106 evidencing the required ownership under this chapter. The notice
107 of election to be exempt must identify each corporation that
108 employs the person electing the exemption and must list the
109 social security number or federal tax identification number of
110 each such employer and the additional documentation required by
111 this section. In addition, the notice of election to be exempt
112 must provide that the officer electing an exemption is not

ENROLLED

HB 5505, Engrossed 1

2012 Legislature

113 entitled to benefits under this chapter, must provide that the
114 election does not exceed exemption limits for officers provided
115 in s. 440.02, and must certify that any employees of the
116 corporation whose officer elects an exemption are covered by
117 workers' compensation insurance. Upon receipt of the notice of
118 the election to be exempt, receipt of all application fees, and
119 a determination by the department that the notice meets the
120 requirements of this subsection, the department shall issue a
121 certification of the election to the officer, unless the
122 department determines that the information contained in the
123 notice is invalid. The department shall revoke a certificate of
124 election to be exempt from coverage upon a determination by the
125 department that the person does not meet the requirements for
126 exemption or that the information contained in the notice of
127 election to be exempt is invalid. The certificate of election
128 must list the name of the corporation listed in the request for
129 exemption. A new certificate of election must be obtained each
130 time the person is employed by a new or different corporation
131 that is not listed on the certificate of election. A copy of the
132 certificate of election must be sent to each workers'
133 compensation carrier identified in the request for exemption.
134 Upon filing a notice of revocation of election, an officer who
135 is a subcontractor or an officer of a corporate subcontractor
136 must notify her or his contractor. Upon revocation of a
137 certificate of election of exemption by the department, the
138 department shall notify the workers' compensation carriers
139 identified in the request for exemption.

ENROLLED

HB 5505, Engrossed 1

2012 Legislature

140 (6) A construction industry certificate of election to be
 141 exempt which is issued in accordance with this section shall be
 142 valid for 2 years after the effective date stated thereon. Both
 143 the effective date and the expiration date must be listed on the
 144 face of the certificate by the department. The construction
 145 industry certificate must expire at midnight, 2 years from its
 146 issue date, as noted on the face of the exemption certificate. A
 147 construction industry certificate of election to be exempt may
 148 be revoked before its expiration by the officer for whom it was
 149 issued or by the department for the reasons stated in this
 150 section. At least 60 days before ~~prior to~~ the expiration date of
 151 a construction industry certificate of exemption ~~issued after~~
 152 ~~December 1, 1998~~, the department shall send notice of the
 153 expiration date ~~and an application for renewal~~ to the
 154 certificateholder at the address on the certificate or to the e-
 155 mail address on file with the department.

156 Section 3. Effective January 1, 2013, subsection (6) of
 157 section 440.05, Florida Statutes, as amended by this act, is
 158 amended to read:

159 440.05 Election of exemption; revocation of election;
 160 notice; certification.-

161 (6) A ~~construction industry~~ certificate of election to be
 162 exempt which is issued on or after January 1, 2013, in
 163 accordance with this section shall be valid for 2 years after
 164 the effective date stated thereon. Both the effective date and
 165 the expiration date must be listed on the face of the
 166 certificate by the department. The ~~construction industry~~
 167 certificate must expire at midnight, 2 years from its issue

ENROLLED

HB 5505, Engrossed 1

2012 Legislature

168 date, as noted on the face of the exemption certificate. A
169 ~~construction industry~~ certificate of election to be exempt may
170 be revoked before its expiration by the officer for whom it was
171 issued or by the department for the reasons stated in this
172 section. At least 60 days before the expiration date of a
173 ~~construction industry~~ certificate of exemption, the department
174 shall send notice of the expiration date to the
175 certificateholder at the address on the certificate or to the e-
176 mail address on file with the department.

177 Section 4. Section 440.59, Florida Statutes, is repealed.

178 Section 5. Paragraph (a) of subsection (3) of section
179 516.031, Florida Statutes, is amended to read:

180 516.031 Finance charge; maximum rates.—

181 (3) OTHER CHARGES.—

182 (a) In addition to the interest, delinquency, and
183 insurance charges herein provided for, no further or other
184 charges or amount whatsoever for any examination, service,
185 commission, or other thing or otherwise shall be directly or
186 indirectly charged, contracted for, or received as a condition
187 to the grant of a loan, except:

188 1. An amount not to exceed \$25 to reimburse a portion of
189 the costs for investigating the character and credit of the
190 person applying for the loan;

191 2. An annual fee of \$25 on the anniversary date of each
192 line-of-credit account;

193 3. Charges paid for brokerage fee on a loan or line of
194 credit of more than \$10,000, title insurance, and the appraisal

ENROLLED

HB 5505, Engrossed 1

2012 Legislature

195 of real property offered as security when paid to a third party
 196 and supported by an actual expenditure;

197 4. Intangible personal property tax on the loan note or
 198 obligation when secured by a lien on real property;

199 5. The documentary excise tax and lawful fees, if any,
 200 actually and necessarily paid out by the licensee to any public
 201 officer for filing, recording, or releasing in any public office
 202 any instrument securing the loan, which fees may be collected
 203 when the loan is made or at any time thereafter;

204 6. The premium payable for any insurance in lieu of
 205 perfecting any security interest otherwise required by the
 206 licensee in connection with the loan, if the premium does not
 207 exceed the fees which would otherwise be payable, which premium
 208 may be collected when the loan is made or at any time
 209 thereafter;

210 7. Actual and reasonable attorney's fees and court costs
 211 as determined by the court in which suit is filed;

212 8. Actual and commercially reasonable expenses of
 213 repossession, storing, repairing and placing in condition for
 214 sale, and selling of any property pledged as security; or

215 9. A delinquency charge not to exceed \$10 for each payment
 216 in default for a period of not less than 10 days, if the charge
 217 is agreed upon, in writing, between the parties before imposing
 218 the charge. Such delinquency charge shall be adjusted annually
 219 on July 1 by the Chief Financial Officer to correspond to the
 220 percentage, if any, by which the Consumer Price Index (CPI) for
 221 Urban Wage Earners and Clerical Workers for the most recent
 222 calendar year exceeds the CPI for the calendar year immediately

ENROLLED
 HB 5505, Engrossed 1

2012 Legislature

223 preceding. The adjusted charge shall be rounded to the nearest
 224 hundredth of a dollar.

225
 226 Any charges, including interest, in excess of the combined total
 227 of all charges authorized and permitted by this chapter
 228 constitute a violation of chapter 687 governing interest and
 229 usury, and the penalties of that chapter apply. In the event of
 230 a bona fide error, the licensee shall refund or credit the
 231 borrower with the amount of the overcharge immediately but
 232 within 20 days from the discovery of such error.

233 Section 6. Subsections (3) and (4) of section 560.1092,
 234 Florida Statutes, are renumbered as subsections (2) and (3),
 235 respectively, and present subsection (2) of that section is
 236 amended to read:

237 560.1092 Examination expenses.—

238 ~~(2) All moneys collected from licensees for examinations~~
 239 ~~shall be deposited into the Regulatory Trust Fund, and the~~
 240 ~~office may make deposits into such fund from moneys appropriated~~
 241 ~~for the operation of the office.~~

242 Section 7. Section 560.144, Florida Statutes, is amended
 243 to read:

244 560.144 Deposit of fees and assessments.—License
 245 application fees, license renewal fees, late payment penalties,
 246 civil penalties, administrative fines, examination fees, and
 247 other fees, costs, or penalties provided for in this chapter
 248 shall be paid directly to the office. Proceeds from part II of
 249 this chapter shall be deposited into the Financial Institutions'
 250 Regulatory Trust Fund. Proceeds from part III of this chapter

ENROLLED

HB 5505, Engrossed 1

2012 Legislature

251 ~~shall be deposited, which shall deposit such proceeds~~ into the
 252 Regulatory Trust Fund ~~and use the proceeds to pay the costs of~~
 253 ~~the office as necessary to carry out its responsibilities under~~
 254 ~~this chapter.~~

255 Section 8. Florida Insurance Premium Tax Prepayment
 256 Program.—The Governor may direct the State Board of
 257 Administration to create the Florida Insurance Premium Tax
 258 Prepayment Program for the purpose of creating an additional
 259 funding mechanism for the Florida Hurricane Catastrophe Fund.

260 (1) DEFINITIONS.—As used in this section, the term:

261 (a) "Affiliate" means:

262 1. A person who directly or indirectly:

263 a. Beneficially owns 10 percent or more of the outstanding
 264 voting securities or other ownership interests of the other
 265 person, whether through rights, options, convertible interests,
 266 or otherwise; or

267 b. Controls or holds power to vote 10 percent or more of
 268 the outstanding voting securities or other ownership interests
 269 of the other person;

270 2. A person with 10 percent or more of the outstanding
 271 voting securities or other ownership interests, of which are
 272 directly or indirectly:

273 a. Beneficially owned by the other person, whether through
 274 rights, options, convertible interest, or otherwise; or

275 b. Controlled or held with power to vote by the other
 276 person;

277 3. A partnership in which the other person is a general
 278 partner; or

ENROLLED

HB 5505, Engrossed 1

2012 Legislature

279 4. An officer, employee, or agent of the other person, or
 280 an immediate family member of the officer, employee, or agent.

281 (b) "Certificate" means an instrument issued by the state
 282 as authorized by the program in exchange for the prepayment of
 283 insurance premium taxes by purchasers which does not extend
 284 beyond the 11th calendar year following the calendar year of the
 285 fund allocation date to which the certificate relates, except as
 286 otherwise provided in paragraph (4) (d).

287 (c) "Corporation" means the Florida Hurricane Catastrophe
 288 Fund Finance Corporation.

289 (d) "Full tax credit amount" means the aggregate stated
 290 amount of all certificates issued by the state to purchasers
 291 evidencing prepayment of the purchaser's premium taxes.

292 (e) "Fund" means the Florida Hurricane Catastrophe Fund.

293 (f) "Fund allocation date" means the date on which the
 294 state board receives premium tax prepayments from purchasers in
 295 return for the issuance of the certificates that entitle the
 296 purchasers to receive an allocation of the full tax credit
 297 amount authorized by the program.

298 (g) "Manager" means a person, including its principals,
 299 partners, subsidiaries, affiliates, or subcontractors,
 300 designated pursuant to the program to arrange for the sale of
 301 certificates and the receipt of prepayments of insurance premium
 302 taxes.

303 (h) "Manager costs" means a fee of up to 150 basis points,
 304 as determined by the state board, of the stated amount of the
 305 certificates issued and sold for all of the manager's costs
 306 related to configuring and selling the certificates.

ENROLLED

HB 5505, Engrossed 1

2012 Legislature

307 (i) "Person" means any natural person, corporation,
 308 limited liability company, partnership, joint venture, trust,
 309 incorporated or unincorporated association, joint stock company,
 310 governmental agency or political subdivision thereof, or other
 311 entity of any kind.

312 (j) "Premium tax year" means the 12-month period used
 313 under state law to measure an insurer's premium tax liability,
 314 which begins on January 1 of each calendar year and ends on the
 315 following December 31 of such calendar year.

316 (k) "Premium taxes" means the taxes imposed pursuant to
 317 ss. 624.509 and 624.5091, Florida Statutes, and chapter 220,
 318 Florida Statutes.

319 (l) "Principal" means:

- 320 1. A senior officer or director of a corporation;
- 321 2. An individual manager of a limited liability company or
 322 a principal of an entity manager;
- 323 3. An individual general partner of a partnership or
 324 limited partnership or a principal of an entity that serves as a
 325 general partner; or
- 326 4. An individual in a position of similar authority in an
 327 entity not specifically named in this paragraph.

328 (m) "Program" means the Florida Insurance Premium Tax
 329 Prepayment Program.

330 (n) "Purchaser" means an insurer authorized to transact
 331 insurance in this state which has a liability for insurance
 332 premium taxes under ss. 624.509 and 624.5091, Florida Statutes,
 333 or corporate income and excise taxes under chapter 220, Florida

ENROLLED

HB 5505, Engrossed 1

2012 Legislature

334 Statutes, which prepays its insurance premium taxes or corporate
 335 and excise taxes as provided under the program.

336 (o) "State board" or "board" means the State Board of
 337 Administration.

338 (p) "Tax credits" means credits against insurance premium
 339 tax liability under ss. 624.509 and 624.5091, Florida Statutes,
 340 and corporate income and emergency excise tax liability under
 341 chapter 220, Florida Statutes, arising from the prepayment of an
 342 insurer's insurance premium taxes as authorized under the
 343 program.

344 (2) STATE BOARD OF ADMINISTRATION DUTIES.—Upon receiving
 345 direction from the Governor to create the program, the state
 346 board shall administer the program, and shall have the following
 347 powers and duties necessary or proper to conduct the program,
 348 including, but not limited to:

349 (a) Making and executing contracts and other necessary
 350 instruments.

351 (b) Authorizing the issuance and sale of up to \$1.5
 352 billion in certificates to offset insurance premium tax
 353 liability under ss. 624.509 and 624.5091, Florida Statutes, or
 354 corporate income and emergency excise tax liability under
 355 chapter 220, Florida Statutes.

356 (c) Arranging for the sale of the certificates. The funds
 357 derived from the sale of the certificates shall be deposited
 358 into a separate account established within the state board as
 359 provided in paragraph (d).

360 (d) Simultaneously with the deposit of sale proceeds of
 361 the certificates as provided in paragraph (c), loaning such

ENROLLED

HB 5505, Engrossed 1

2012 Legislature

362 proceeds to the fund or the corporation, as determined by board
363 based on the recommendations of the manager. Such loan shall be
364 memorialized in a written statement by the board and filed with
365 the board and the corporation, setting forth the terms and
366 details of the loan, including, but not limited to, the rate of
367 interest, if any, to be borne by the loan; the dates for the
368 payment of principal and interest, if any, on the loan; the
369 principal amortization schedule for the loan; and sources and
370 priority of payments for the loan, all of which must be in
371 accordance with s. 215.555, Florida Statutes; and all
372 outstanding obligations associated with or relating to the fund.
373 In determining the terms and details of the loan, the state
374 board must reasonably protect the interests of the state to have
375 the loan fully repaid in a timely manner and design the schedule
376 of loan repayments in each state fiscal year to equal the amount
377 of tax credits that are expected to be applied to reduce state
378 tax liabilities in such fiscal year. If the state board deems it
379 helpful, the corporation may execute such agreements as the
380 board prepares and presents to the corporation relating to or
381 associated with the loan. The state board and the corporation
382 are each granted such duties, rights, and powers as may be
383 necessary or helpful in carrying out the purposes of this
384 paragraph. The loan must be repaid in accordance with its terms.
385 Loan repayments received by the board shall be transferred to
386 the State Treasury for deposit into the General Revenue Fund
387 within 5 days after receipt.

388 (e) Soliciting proposals and selecting a manager in
389 accordance with subsection (3), and contracting for such other

ENROLLED

HB 5505, Engrossed 1

2012 Legislature

390 services as deemed necessary or useful by the board for
 391 structuring the program and implementing the sale of
 392 certificates, and paying the manager costs thereof from the
 393 proceeds of the sale of the certificates.

394 (f) Reviewing and approving or disapproving proposals from
 395 prospective purchasers solicited and structured by the manager,
 396 agreeing or disagreeing with the recommendation of the manager
 397 to sell the certificates to the purchasers in a public or
 398 private sale, approving or disapproving the price or prices to
 399 be paid by purchasers for the certificates, determining the form
 400 and denominations of the certificates, and determining such
 401 other administrative details regarding the certificates as
 402 deemed useful by the state board. All such determinations,
 403 together with such other matters deemed appropriate by the state
 404 board, shall be memorialized in a written statement by the board
 405 and filed with the state board and the corporation.

406 (g) Determining the amount of the tax credits evidenced by
 407 the certificates, the calendar years to which the tax credits
 408 apply, and the amount of tax credits applicable to each calendar
 409 year subject to the following:

410 1. The aggregate amount of tax credits evidenced by the
 411 certificates may not exceed \$1.5 billion;

412 2. The calendar years to which the tax credits apply shall
 413 be any of the calendar years 2012 through 2023, inclusive, as
 414 determined by the board;

415 3. The aggregate amount of the tax credits applicable to
 416 any individual calendar year may not exceed \$150 million; and

ENROLLED

HB 5505, Engrossed 1

2012 Legislature

417 4. In recognition of the time value of money, the sale
418 price of any certificate shall be less than the future tax
419 credit evidenced by the certificate, as determined by the board.

420 (h) The Department of Revenue must notify the fund and the
421 corporation by June 30 of each year of the total amount of tax
422 credits under the program applied against premium taxes for the
423 preceding premium tax year.

424 (3) MANAGER APPLICATION AND DESIGNATION; FUND ALLOCATION
425 DATE.—

426 (a) Within 30 days after receiving directions from the
427 Governor, the state board, based upon the recommendation of the
428 Division of Bond Finance, shall select one manager to be the
429 exclusive manager for all purposes under the program and provide
430 a statement of the services to be provided, which may include
431 the services contained in paragraph (d); the time and date for
432 the receipt of proposals and of the public opening; and all of
433 the terms and conditions applicable to the designation of the
434 manager, including the criteria contained in paragraph (b).

435 (b) An applicant for manager must demonstrate in its
436 response to the request for proposals that it meets all of the
437 following criteria:

438 1. Have experience in structuring and marketing notes
439 repaid all or in part with insurance premium tax credits. If a
440 subcontractor is used to meet the requirements of this
441 subsection, the subcontractor must have been authorized to do
442 business in this state on or before January 1, 2012.

ENROLLED
 HB 5505, Engrossed 1

2012 Legislature

443 2. Have experience during the previous calendar year with
 444 underwriting and marketing Florida state and local government
 445 securities.

446 3. Has more than \$5 billion in equity capital.

447 4. Have experience during the previous calendar year in
 448 managing a minimum of 50 state and local government financing
 449 transactions nationwide, each in excess of \$50 million.

450 (c) The fund allocation date may not be later than 120
 451 days following the designation of the manager.

452 (d) The state board may require the manager to provide all
 453 of the following services:

454 1. Before the board determines the aggregate amount of tax
 455 credits applicable to any single calendar year, the manager must
 456 estimate the amounts of and the dates for payments of the
 457 principal and interest, if any, on the loan provided in
 458 paragraph (2) (d) such that all such payments:

459 a. Are consistent with s. 215.555, Florida Statutes, and
 460 all outstanding obligations associated with or relating to the
 461 fund; and

462 b. Are estimated to offset in each state fiscal year the
 463 amount of state revenues expected not to be collected due to the
 464 sale of the certificates.

465 2. To assist the state board in structuring the program in
 466 a manner complying with the provisions of this section.

467 3. Such additional services relating to the duties of the
 468 board as the board shall reasonably determine and set forth in
 469 the statement of services referenced in paragraph (a).

470 (4) PURCHASER TAX CREDITS.—

ENROLLED

HB 5505, Engrossed 1

2012 Legislature

471 (a) Each purchaser that prepays its insurance premium
472 taxes shall earn vested tax credits against future taxes under
473 ss. 624.509 and 624.5091, Florida Statutes, and chapter 220,
474 Florida Statutes, equal to the stated amount of the certificates
475 issued to the purchasers and evidencing their prepayment of
476 insurance premium taxes in cash. The aggregate tax credits
477 available to purchasers in the form of certificates may not
478 exceed \$1.5 billion. Tax credits vest on the fund allocation
479 date.

480 (b) Each purchaser prepaying its insurance premium tax
481 obligation through the purchase of certificates authorized under
482 the program may:

483 1. Take the vested tax credits against purchaser's
484 insurance premium taxes or income taxes each premium tax year in
485 accordance with the terms of the certificate; and

486 2. Reduce its estimated payments of tax liability for each
487 year, on a quarterly and an annual basis, for which tax credits
488 are available to offset tax liability by all or part of the same
489 percentage as the percentage payment due on each estimated
490 payment date.

491 (c) The tax credits that are used by a purchaser with
492 respect to any year may not exceed the full tax liability of the
493 purchaser for that year.

494 (d) Notwithstanding any limitation set forth in any other
495 provision of the program, any tax credits that a purchaser is
496 permitted to use under paragraph (a) or paragraph (b), but is
497 unable to use because of paragraph (c), may be carried forward
498 until the end of the 10th year following the expiration date set

ENROLLED

HB 5505, Engrossed 1

2012 Legislature

499 forth in the certificate to which the tax credit relates and be
 500 used to offset the purchaser's liability in any subsequent year
 501 in which the purchaser has sufficient tax liability, including
 502 in a year in which the purchaser also uses tax credits that are
 503 allocated to that year pursuant to paragraph (b).

504 (e) A purchaser that has purchased certificates is not
 505 required to reduce the amount of tax liability included by the
 506 purchaser in connection with the ratemaking for a insurance
 507 contract written because of a reduction in the purchaser's
 508 assessment derived from the tax credits granted under the
 509 program.

510 (f) If the taxes that a purchaser does not pay by virtue
 511 of the tax credits purchased under this program would constitute
 512 a credit against another tax or assessment if paid, the insurer
 513 shall continue to earn the credit as though the tax credits
 514 evidenced by the certificates were paid by cash.

515 (g) A purchaser may transfer any certificate authorized
 516 under the program to another purchaser if the transferor
 517 delivers to the Commissioner of Insurance Regulation within 30
 518 days after the transfer a written notice indicating the name of
 519 the transferee, the stated amount of certificates being
 520 transferred, and the year or years to which the tax credits
 521 evidenced by the certificate are allocable as provided in
 522 paragraph (b) and such other information, if any, as required in
 523 the body of the certificate being transferred.

524 (h) A purchaser claiming a tax credit against its premium
 525 tax liability earned through the prepayment of insurance premium
 526 taxes evidenced by a certificate does not have to pay any

ENROLLED

HB 5505, Engrossed 1

2012 Legislature

527 additional retaliatory tax levied pursuant to s. 624.5091,
 528 Florida Statutes, as a result of claiming that tax credit.

529 (i) For statutory accounting purposes, a purchaser may
 530 treat the transferable tax credits as an admitted asset,
 531 pursuant to the National Association of Insurance Commissioners
 532 Accounting Practices and Procedures Manual and Statement of
 533 Statutory Accounting Principle No. 94.

534 (j) The general revenue service charge payable by a trust
 535 fund may not be reduced by the tax credits taken under this
 536 program.

537 (5) MANAGER REPORTS.—Within 30 days after the fund
 538 allocation date, the manager shall report all of the following
 539 to the state board and the Office of Insurance Regulation:

540 (a) The name of each purchaser from whom prepayment of
 541 insurance premium taxes was received, including the purchaser's
 542 identification number.

543 (b) The stated amount of certificates purchased by each
 544 purchaser.

545 (c) The date on which such purchase was made.

546 Section 9. Except as otherwise expressly provided in this
 547 act, this act shall take effect July 1, 2012.