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CS/HB 627

2016 Legislature

1  
 2 An act relating to community contribution tax credits;  
 3 amending s. 220.03, F.S.; providing definitions  
 4 related to community contribution tax credits that may  
 5 apply to business firms against certain income tax  
 6 liabilities; amending s. 212.08, F.S.; providing  
 7 definitions related to community contribution tax  
 8 credits that may apply against sales and use tax  
 9 liabilities; amending s. 624.5105, F.S.; providing  
 10 definitions related to community contribution tax  
 11 credits that may apply against certain premium tax  
 12 liabilities; providing an effective date.

13  
 14 Be It Enacted by the Legislature of the State of Florida:

15  
 16 Section 1. Paragraph (d) of subsection (1) of section  
 17 220.03, F.S., is amended to read:

18 220.03 Definitions.—

19 (1) SPECIFIC TERMS.—When used in this code, and when not  
 20 otherwise distinctly expressed or manifestly incompatible with  
 21 the intent thereof, the following terms shall have the following  
 22 meanings:

23 (d) "Community Contribution" means the grant by a business  
 24 firm of any of the following items:

- 25 1. Cash or other liquid assets.  
 26 2. Real property, which for purposes of this subparagraph

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27 includes 100 percent ownership of a real property holding  
 28 company. The term "real property holding company" means a  
 29 Florida entity, such as a Florida limited liability company,  
 30 that:  
 31 a. Is wholly owned by the business firm.  
 32 b. Is the sole owner of real property, as defined in s.  
 33 192.001(12), located in the state.  
 34 c. Is disregarded as an entity for federal income tax  
 35 purposes pursuant to 26 C.F.R. s. 301.7701-3(b)(1)(ii).  
 36 d. At the time of contribution to an eligible sponsor, has  
 37 no material assets other than the real property and any other  
 38 property that qualifies as a community contribution.  
 39 3. Goods or inventory.  
 40 4. Other physical resources as identified by the  
 41 department.

42  
 43 This paragraph expires June 30, 2018.

44 Section 2. Paragraph (p) of subsection (5) of section  
 45 212.08, Florida Statutes, is amended to read:

46 212.08 Sales, rental, use, consumption, distribution, and  
 47 storage tax; specified exemptions.—The sale at retail, the  
 48 rental, the use, the consumption, the distribution, and the  
 49 storage to be used or consumed in this state of the following  
 50 are hereby specifically exempt from the tax imposed by this  
 51 chapter.

52 (5) EXEMPTIONS; ACCOUNT OF USE.—

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- 53 (p) Community contribution tax credit for donations.—
- 54 1. Authorization.—Persons who are registered with the
- 55 department under s. 212.18 to collect or remit sales or use tax
- 56 and who make donations to eligible sponsors are eligible for tax
- 57 credits against their state sales and use tax liabilities as
- 58 provided in this paragraph:
- 59 a. The credit shall be computed as 50 percent of the
- 60 person's approved annual community contribution.
- 61 b. The credit shall be granted as a refund against state
- 62 sales and use taxes reported on returns and remitted in the 12
- 63 months preceding the date of application to the department for
- 64 the credit as required in sub-subparagraph 3.c. If the annual
- 65 credit is not fully used through such refund because of
- 66 insufficient tax payments during the applicable 12-month period,
- 67 the unused amount may be included in an application for a refund
- 68 made pursuant to sub-subparagraph 3.c. in subsequent years
- 69 against the total tax payments made for such year. Carryover
- 70 credits may be applied for a 3-year period without regard to any
- 71 time limitation that would otherwise apply under s. 215.26.
- 72 c. A person may not receive more than \$200,000 in annual
- 73 tax credits for all approved community contributions made in any
- 74 one year.
- 75 d. All proposals for the granting of the tax credit
- 76 require the prior approval of the Department of Economic
- 77 Opportunity.
- 78 e. The total amount of tax credits which may be granted

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79 | for all programs approved under this paragraph, s. 220.183, and  
 80 | s. 624.5105 is \$18.4 million in the 2015-2016 fiscal year, \$21.4  
 81 | million in the 2016-2017 fiscal year, and \$21.4 million in the  
 82 | 2017-2018 fiscal year for projects that provide housing  
 83 | opportunities for persons with special needs or homeownership  
 84 | opportunities for low-income households or very-low-income  
 85 | households and \$3.5 million annually for all other projects. As  
 86 | used in this paragraph, the term "person with special needs" has  
 87 | the same meaning as in s. 420.0004 and the terms "low-income  
 88 | person," "low-income household," "very-low-income person," and  
 89 | "very-low-income household" have the same meanings as in s.  
 90 | 420.9071.

91 | f. A person who is eligible to receive the credit provided  
 92 | in this paragraph, s. 220.183, or s. 624.5105 may receive the  
 93 | credit only under one section of the person's choice.

94 | 2. Eligibility requirements.—

95 | a. A community contribution by a person must be in the  
 96 | following form:

97 | (I) Cash or other liquid assets;

98 | (II) Real property, including 100 percent ownership of a  
 99 | real property holding company;

100 | (III) Goods or inventory; or

101 | (IV) Other physical resources identified by the Department  
 102 | of Economic Opportunity.

103 |

104 | For purposes of this subparagraph, the term "real property

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105 holding company" means a Florida entity, such as a Florida  
106 limited liability company, that is wholly owned by the person;  
107 is the sole owner of real property, as defined in s.  
108 192.001(12), located in the state; is disregarded as an entity  
109 for federal income tax purposes pursuant to 26 C.F.R. s.  
110 301.7701-3(b)(1)(ii); and at the time of contribution to an  
111 eligible sponsor, has no material assets other than the real  
112 property and any other property that qualifies as a community  
113 contribution.

114 b. All community contributions must be reserved  
115 exclusively for use in a project. As used in this sub-  
116 subparagraph, the term "project" means activity undertaken by an  
117 eligible sponsor which is designed to construct, improve, or  
118 substantially rehabilitate housing that is affordable to low-  
119 income households or very-low-income households; designed to  
120 provide housing opportunities for persons with special needs;  
121 designed to provide commercial, industrial, or public resources  
122 and facilities; or designed to improve entrepreneurial and job-  
123 development opportunities for low-income persons. A project may  
124 be the investment necessary to increase access to high-speed  
125 broadband capability in a rural community that had an enterprise  
126 zone designated pursuant to chapter 290 as of May 1, 2015,  
127 including projects that result in improvements to communications  
128 assets that are owned by a business. A project may include the  
129 provision of museum educational programs and materials that are  
130 directly related to a project approved between January 1, 1996,

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131 and December 31, 1999, and located in an area which was in an  
 132 enterprise zone designated pursuant to s. 290.0065 as of May 1,  
 133 2015. This paragraph does not preclude projects that propose to  
 134 construct or rehabilitate housing for low-income households or  
 135 very-low-income households on scattered sites or housing  
 136 opportunities for persons with special needs. With respect to  
 137 housing, contributions may be used to pay the following eligible  
 138 special needs, low-income, and very-low-income housing-related  
 139 activities:

140 (I) Project development impact and management fees for  
 141 special needs, low-income, or very-low-income housing projects;

142 (II) Down payment and closing costs for persons with  
 143 special needs, low-income persons, and very-low-income persons;

144 (III) Administrative costs, including housing counseling  
 145 and marketing fees, not to exceed 10 percent of the community  
 146 contribution, directly related to special needs, low-income, or  
 147 very-low-income projects; and

148 (IV) Removal of liens recorded against residential  
 149 property by municipal, county, or special district local  
 150 governments if satisfaction of the lien is a necessary precedent  
 151 to the transfer of the property to a low-income person or very-  
 152 low-income person for the purpose of promoting home ownership.  
 153 Contributions for lien removal must be received from a  
 154 nonrelated third party.

155 c. The project must be undertaken by an "eligible  
 156 sponsor," which includes:

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- 157 (I) A community action program;
- 158 (II) A nonprofit community-based development organization
- 159 whose mission is the provision of housing for persons with
- 160 specials needs, low-income households, or very-low-income
- 161 households or increasing entrepreneurial and job-development
- 162 opportunities for low-income persons;
- 163 (III) A neighborhood housing services corporation;
- 164 (IV) A local housing authority created under chapter 421;
- 165 (V) A community redevelopment agency created under s.
- 166 163.356;
- 167 (VI) A historic preservation district agency or
- 168 organization;
- 169 (VII) A regional workforce board;
- 170 (VIII) A direct-support organization as provided in s.
- 171 1009.983;
- 172 (IX) An enterprise zone development agency created under
- 173 s. 290.0056;
- 174 (X) A community-based organization incorporated under
- 175 chapter 617 which is recognized as educational, charitable, or
- 176 scientific pursuant to s. 501(c)(3) of the Internal Revenue Code
- 177 and whose bylaws and articles of incorporation include
- 178 affordable housing, economic development, or community
- 179 development as the primary mission of the corporation;
- 180 (XI) Units of local government;
- 181 (XII) Units of state government; or
- 182 (XIII) Any other agency that the Department of Economic

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183 Opportunity designates by rule.

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185 A contributing person may not have a financial interest in the  
186 eligible sponsor.

187 d. The project must be located in an area which was in an  
188 enterprise zone designated pursuant to chapter 290 as of May 1,  
189 2015, or a Front Porch Florida Community, unless the project  
190 increases access to high-speed broadband capability in a rural  
191 community that had an enterprise zone designated pursuant to  
192 chapter 290 as of May 1, 2015, but is physically located outside  
193 the designated rural zone boundaries. Any project designed to  
194 construct or rehabilitate housing for low-income households or  
195 very-low-income households or housing opportunities for persons  
196 with special needs is exempt from the area requirement of this  
197 sub-subparagraph.

198 e.(I) If, during the first 10 business days of the state  
199 fiscal year, eligible tax credit applications for projects that  
200 provide housing opportunities for persons with special needs or  
201 homeownership opportunities for low-income households or very-  
202 low-income households are received for less than the annual tax  
203 credits available for those projects, the Department of Economic  
204 Opportunity shall grant tax credits for those applications and  
205 grant remaining tax credits on a first-come, first-served basis  
206 for subsequent eligible applications received before the end of  
207 the state fiscal year. If, during the first 10 business days of  
208 the state fiscal year, eligible tax credit applications for



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209 projects that provide housing opportunities for persons with  
210 special needs or homeownership opportunities for low-income  
211 households or very-low-income households are received for more  
212 than the annual tax credits available for those projects, the  
213 Department of Economic Opportunity shall grant the tax credits  
214 for those applications as follows:

215 (A) If tax credit applications submitted for approved  
216 projects of an eligible sponsor do not exceed \$200,000 in total,  
217 the credits shall be granted in full if the tax credit  
218 applications are approved.

219 (B) If tax credit applications submitted for approved  
220 projects of an eligible sponsor exceed \$200,000 in total, the  
221 amount of tax credits granted pursuant to sub-sub-sub-  
222 subparagraph (A) shall be subtracted from the amount of  
223 available tax credits, and the remaining credits shall be  
224 granted to each approved tax credit application on a pro rata  
225 basis.

226 (II) If, during the first 10 business days of the state  
227 fiscal year, eligible tax credit applications for projects other  
228 than those that provide housing opportunities for persons with  
229 special needs or homeownership opportunities for low-income  
230 households or very-low-income households are received for less  
231 than the annual tax credits available for those projects, the  
232 Department of Economic Opportunity shall grant tax credits for  
233 those applications and shall grant remaining tax credits on a  
234 first-come, first-served basis for subsequent eligible

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235 applications received before the end of the state fiscal year.  
236 If, during the first 10 business days of the state fiscal year,  
237 eligible tax credit applications for projects other than those  
238 that provide housing opportunities for persons with special  
239 needs or homeownership opportunities for low-income households  
240 or very-low-income households are received for more than the  
241 annual tax credits available for those projects, the Department  
242 of Economic Opportunity shall grant the tax credits for those  
243 applications on a pro rata basis.

244 3. Application requirements.—

245 a. An eligible sponsor seeking to participate in this  
246 program must submit a proposal to the Department of Economic  
247 Opportunity which sets forth the name of the sponsor, a  
248 description of the project, and the area in which the project is  
249 located, together with such supporting information as is  
250 prescribed by rule. The proposal must also contain a resolution  
251 from the local governmental unit in which the project is located  
252 certifying that the project is consistent with local plans and  
253 regulations.

254 b. A person seeking to participate in this program must  
255 submit an application for tax credit to the Department of  
256 Economic Opportunity which sets forth the name of the sponsor, a  
257 description of the project, and the type, value, and purpose of  
258 the contribution. The sponsor shall verify, in writing, the  
259 terms of the application and indicate its receipt of the  
260 contribution, and such verification must accompany the

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261 application for tax credit. The person must submit a separate  
262 tax credit application to the Department of Economic Opportunity  
263 for each individual contribution that it makes to each  
264 individual project.

265 c. A person who has received notification from the  
266 Department of Economic Opportunity that a tax credit has been  
267 approved must apply to the department to receive the refund.  
268 Application must be made on the form prescribed for claiming  
269 refunds of sales and use taxes and be accompanied by a copy of  
270 the notification. A person may submit only one application for  
271 refund to the department within a 12-month period.

272 4. Administration.—

273 a. The Department of Economic Opportunity may adopt rules  
274 necessary to administer this paragraph, including rules for the  
275 approval or disapproval of proposals by a person.

276 b. The decision of the Department of Economic Opportunity  
277 must be in writing, and, if approved, the notification shall  
278 state the maximum credit allowable to the person. Upon approval,  
279 the Department of Economic Opportunity shall transmit a copy of  
280 the decision to the department.

281 c. The Department of Economic Opportunity shall  
282 periodically monitor all projects in a manner consistent with  
283 available resources to ensure that resources are used in  
284 accordance with this paragraph; however, each project must be  
285 reviewed at least once every 2 years.

286 d. The Department of Economic Opportunity shall, in

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287 | consultation with the statewide and regional housing and  
 288 | financial intermediaries, market the availability of the  
 289 | community contribution tax credit program to community-based  
 290 | organizations.

291 |         5. Expiration.—This paragraph expires June 30, 2018;  
 292 | however, any accrued credit carryover that is unused on that  
 293 | date may be used until the expiration of the 3-year carryover  
 294 | period for such credit.

295 |         Section 3. Paragraph (a) of subsection (5) of section  
 296 | 624.5105, Florida Statutes, is amended to read:

297 |             624.5105 Community contribution tax credit; authorization;  
 298 | limitations; eligibility and application requirements;  
 299 | administration; definitions; expiration.—

300 |         (5) DEFINITIONS.—As used in this section, the term:

301 |             (a) "Community contribution" means the grant by an insurer  
 302 | of any of the following items:

303 |                 1. Cash or other liquid assets.

304 |                 2. Real property, including 100 percent ownership of a  
 305 | real property holding company.

306 |                 3. Goods or inventory.

307 |                 4. Other physical resources which are identified by the  
 308 | department.

309 |

310 | For purposes of this paragraph, the term "real property holding  
 311 | company" means a Florida entity, such as a Florida limited  
 312 | liability company, that is wholly owned by the insurer; is the

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313 sole owner of real property, as defined in s. 192.001(12),  
314 located in the state; is disregarded as an entity for federal  
315 income tax purposes pursuant to 26 C.F.R. s. 301.7701-  
316 3(b)(1)(ii); and at the time of contribution to an eligible  
317 sponsor, has no material assets other than the real property and  
318 any other property that qualifies as a community contribution.

319 Section 4. This act shall take effect July 1, 2016.