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LEGISLATIVE ACTION

Senate

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House

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Floor: NC/2R

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03/08/2016 04:29 PM

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Senator Smith moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (d) of subsection (1) of section  
220.03, Florida Statutes, is amended to read:

220.03 Definitions.—

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



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12 (d) "Community contribution" means the grant by a business  
13 firm of any of the following items:

14 1. Cash or other liquid assets.

15 2. Real property, which for purposes of this subparagraph  
16 includes 100 percent ownership of a real property holding  
17 company. The term "real property holding company" means a  
18 Florida entity, such as a Florida limited liability company,  
19 that:

20 a. Is wholly owned by the business firm.

21 b. Is the sole owner of real property, as defined in s.  
22 192.001(12), located in the state.

23 c. Is disregarded as an entity for federal income tax  
24 purposes pursuant to 26 C.F.R. s. 301.7701-3(b)(1)(ii).

25 d. At the time of contribution to an eligible sponsor, has  
26 no material assets other than the real property and any other  
27 property that qualifies as a community contribution.

28 3. Goods or inventory.

29 4. Other physical resources as identified by the  
30 department.

31

32 This paragraph expires June 30, 2018.

33 Section 2. Paragraph (p) of subsection (5) of section  
34 212.08, Florida Statutes, is amended to read:

35 212.08 Sales, rental, use, consumption, distribution, and  
36 storage tax; specified exemptions.—The sale at retail, the  
37 rental, the use, the consumption, the distribution, and the  
38 storage to be used or consumed in this state of the following  
39 are hereby specifically exempt from the tax imposed by this  
40 chapter.



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41 (5) EXEMPTIONS; ACCOUNT OF USE.—

42 (p) *Community contribution tax credit for donations.*—

43 1. Authorization.—Persons who are registered with the  
44 department under s. 212.18 to collect or remit sales or use tax  
45 and who make donations to eligible sponsors are eligible for tax  
46 credits against their state sales and use tax liabilities as  
47 provided in this paragraph:

48 a. The credit shall be computed as 50 percent of the  
49 person's approved annual community contribution.

50 b. The credit shall be granted as a refund against state  
51 sales and use taxes reported on returns and remitted in the 12  
52 months preceding the date of application to the department for  
53 the credit as required in sub-subparagraph 3.c. If the annual  
54 credit is not fully used through such refund because of  
55 insufficient tax payments during the applicable 12-month period,  
56 the unused amount may be included in an application for a refund  
57 made pursuant to sub-subparagraph 3.c. in subsequent years  
58 against the total tax payments made for such year. Carryover  
59 credits may be applied for a 3-year period without regard to any  
60 time limitation that would otherwise apply under s. 215.26.

61 c. A person may not receive more than \$200,000 in annual  
62 tax credits for all approved community contributions made in any  
63 one year.

64 d. All proposals for the granting of the tax credit require  
65 the prior approval of the Department of Economic Opportunity.

66 e. The total amount of tax credits which may be granted for  
67 all programs approved under this paragraph, s. 220.183, and s.  
68 624.5105 is \$18.4 million in the 2015-2016 fiscal year, \$21.4  
69 million in the 2016-2017 fiscal year, and \$21.4 million in the



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70 2017-2018 fiscal year for projects that provide housing  
71 opportunities for persons with special needs or homeownership  
72 opportunities for low-income households or very-low-income  
73 households and \$3.5 million annually for all other projects. As  
74 used in this paragraph, the term "person with special needs" has  
75 the same meaning as in s. 420.0004 and the terms "low-income  
76 person," "low-income household," "very-low-income person," and  
77 "very-low-income household" have the same meanings as in s.  
78 420.9071.

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

82 2. Eligibility requirements.—

83 a. A community contribution by a person must be in the  
84 following form:

85 (I) Cash or other liquid assets;

86 (II) Real property, including 100 percent ownership of a  
87 real property holding company;

88 (III) Goods or inventory; or

89 (IV) Other physical resources identified by the Department  
90 of Economic Opportunity.

91  
92 For purposes of this subparagraph, the term "real property  
93 holding company" means a Florida entity, such as a Florida  
94 limited liability company, that is wholly owned by the person;  
95 is the sole owner of real property, as defined in s.  
96 192.001(12), located in the state; is disregarded as an entity  
97 for federal income tax purposes pursuant to 26 C.F.R. s.  
98 301.7701-3(b)(1)(ii); and at the time of contribution to an



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99 eligible sponsor, has no material assets other than the real  
100 property and any other property that qualifies as a community  
101 contribution.

102       b. All community contributions must be reserved exclusively  
103 for use in a project. As used in this sub-subparagraph, the term  
104 "project" means activity undertaken by an eligible sponsor which  
105 is designed to construct, improve, or substantially rehabilitate  
106 housing that is affordable to low-income households or very-low-  
107 income households; designed to provide housing opportunities for  
108 persons with special needs; designed to provide commercial,  
109 industrial, or public resources and facilities; or designed to  
110 improve entrepreneurial and job-development opportunities for  
111 low-income persons. A project may be the investment necessary to  
112 increase access to high-speed broadband capability in a rural  
113 community that had an enterprise zone designated pursuant to  
114 chapter 290 as of May 1, 2015, including projects that result in  
115 improvements to communications assets that are owned by a  
116 business. A project may include the provision of museum  
117 educational programs and materials that are directly related to  
118 a project approved between January 1, 1996, and December 31,  
119 1999, and located in an area which was in an enterprise zone  
120 designated pursuant to s. 290.0065 as of May 1, 2015. This  
121 paragraph does not preclude projects that propose to construct  
122 or rehabilitate housing for low-income households or very-low-  
123 income households on scattered sites or housing opportunities  
124 for persons with special needs. With respect to housing,  
125 contributions may be used to pay the following eligible special  
126 needs, low-income, and very-low-income housing-related  
127 activities:



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128 (I) Project development impact and management fees for  
129 special needs, low-income, or very-low-income housing projects;  
130 (II) Down payment and closing costs for persons with  
131 special needs, low-income persons, and very-low-income persons;  
132 (III) Administrative costs, including housing counseling  
133 and marketing fees, not to exceed 10 percent of the community  
134 contribution, directly related to special needs, low-income, or  
135 very-low-income projects; and  
136 (IV) Removal of liens recorded against residential property  
137 by municipal, county, or special district local governments if  
138 satisfaction of the lien is a necessary precedent to the  
139 transfer of the property to a low-income person or very-low-  
140 income person for the purpose of promoting home ownership.  
141 Contributions for lien removal must be received from a  
142 nonrelated third party.  
143 c. The project must be undertaken by an "eligible sponsor,"  
144 which includes:  
145 (I) A community action program;  
146 (II) A nonprofit community-based development organization  
147 whose mission is the provision of housing for persons with  
148 special needs, low-income households, or very-low-income  
149 households or increasing entrepreneurial and job-development  
150 opportunities for low-income persons;  
151 (III) A neighborhood housing services corporation;  
152 (IV) A local housing authority created under chapter 421;  
153 (V) A community redevelopment agency created under s.  
154 163.356;  
155 (VI) A historic preservation district agency or  
156 organization;



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- 157 (VII) A regional workforce board;
- 158 (VIII) A direct-support organization as provided in s.
- 159 1009.983;
- 160 (IX) An enterprise zone development agency created under s.
- 161 290.0056;
- 162 (X) A community-based organization incorporated under
- 163 chapter 617 which is recognized as educational, charitable, or
- 164 scientific pursuant to s. 501(c)(3) of the Internal Revenue Code
- 165 and whose bylaws and articles of incorporation include
- 166 affordable housing, economic development, or community
- 167 development as the primary mission of the corporation;
- 168 (XI) Units of local government;
- 169 (XII) Units of state government; or
- 170 (XIII) Any other agency that the Department of Economic
- 171 Opportunity designates by rule.

172  
173 A contributing person may not have a financial interest in the  
174 eligible sponsor.

175 d. The project must be located in an area which was in an  
176 enterprise zone designated pursuant to chapter 290 as of May 1,  
177 2015, or a Front Porch Florida Community, unless the project  
178 increases access to high-speed broadband capability in a rural  
179 community that had an enterprise zone designated pursuant to  
180 chapter 290 as of May 1, 2015, but is physically located outside  
181 the designated rural zone boundaries. Any project designed to  
182 construct or rehabilitate housing for low-income households or  
183 very-low-income households or housing opportunities for persons  
184 with special needs is exempt from the area requirement of this  
185 sub-subparagraph.



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186 e.(I) If, during the first 10 business days of the state  
187 fiscal year, eligible tax credit applications for projects that  
188 provide housing opportunities for persons with special needs or  
189 homeownership opportunities for low-income households or very-  
190 low-income households are received for less than the annual tax  
191 credits available for those projects, the Department of Economic  
192 Opportunity shall grant tax credits for those applications and  
193 grant remaining tax credits on a first-come, first-served basis  
194 for subsequent eligible applications received before the end of  
195 the state fiscal year. If, during the first 10 business days of  
196 the state fiscal year, eligible tax credit applications for  
197 projects that provide housing opportunities for persons with  
198 special needs or homeownership opportunities for low-income  
199 households or very-low-income households are received for more  
200 than the annual tax credits available for those projects, the  
201 Department of Economic Opportunity shall grant the tax credits  
202 for those applications as follows:

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

207 (B) If tax credit applications submitted for approved  
208 projects of an eligible sponsor exceed \$200,000 in total, the  
209 amount of tax credits granted pursuant to sub-sub-sub-  
210 subparagraph (A) shall be subtracted from the amount of  
211 available tax credits, and the remaining credits shall be  
212 granted to each approved tax credit application on a pro rata  
213 basis.

214 (II) If, during the first 10 business days of the state





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215 fiscal year, eligible tax credit applications for projects other  
216 than those that provide housing opportunities for persons with  
217 special needs or homeownership opportunities for low-income  
218 households or very-low-income households are received for less  
219 than the annual tax credits available for those projects, the  
220 Department of Economic Opportunity shall grant tax credits for  
221 those applications and shall grant remaining tax credits on a  
222 first-come, first-served basis for subsequent eligible  
223 applications received before the end of the state fiscal year.  
224 If, during the first 10 business days of the state fiscal year,  
225 eligible tax credit applications for projects other than those  
226 that provide housing opportunities for persons with special  
227 needs or homeownership opportunities for low-income households  
228 or very-low-income households are received for more than the  
229 annual tax credits available for those projects, the Department  
230 of Economic Opportunity shall grant the tax credits for those  
231 applications on a pro rata basis.

232 3. Application requirements.—

233 a. An eligible sponsor seeking to participate in this  
234 program must submit a proposal to the Department of Economic  
235 Opportunity which sets forth the name of the sponsor, a  
236 description of the project, and the area in which the project is  
237 located, together with such supporting information as is  
238 prescribed by rule. The proposal must also contain a resolution  
239 from the local governmental unit in which the project is located  
240 certifying that the project is consistent with local plans and  
241 regulations.

242 b. A person seeking to participate in this program must  
243 submit an application for tax credit to the Department of



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244 Economic Opportunity which sets forth the name of the sponsor, a  
245 description of the project, and the type, value, and purpose of  
246 the contribution. The sponsor shall verify, in writing, the  
247 terms of the application and indicate its receipt of the  
248 contribution, and such verification must accompany the  
249 application for tax credit. The person must submit a separate  
250 tax credit application to the Department of Economic Opportunity  
251 for each individual contribution that it makes to each  
252 individual project.

253       c. A person who has received notification from the  
254 Department of Economic Opportunity that a tax credit has been  
255 approved must apply to the department to receive the refund.  
256 Application must be made on the form prescribed for claiming  
257 refunds of sales and use taxes and be accompanied by a copy of  
258 the notification. A person may submit only one application for  
259 refund to the department within a 12-month period.

260       4. Administration.—

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

264       b. The decision of the Department of Economic Opportunity  
265 must be in writing, and, if approved, the notification shall  
266 state the maximum credit allowable to the person. Upon approval,  
267 the Department of Economic Opportunity shall transmit a copy of  
268 the decision to the department.

269       c. The Department of Economic Opportunity shall  
270 periodically monitor all projects in a manner consistent with  
271 available resources to ensure that resources are used in  
272 accordance with this paragraph; however, each project must be



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273 reviewed at least once every 2 years.

274 d. The Department of Economic Opportunity shall, in  
275 consultation with the statewide and regional housing and  
276 financial intermediaries, market the availability of the  
277 community contribution tax credit program to community-based  
278 organizations.

279 5. Expiration.—This paragraph expires June 30, 2018;  
280 however, any accrued credit carryover that is unused on that  
281 date may be used until the expiration of the 3-year carryover  
282 period for such credit.

283 Section 3. Paragraph (a) of subsection (5) of section  
284 624.5105, Florida Statutes, is amended to read:

285 624.5105 Community contribution tax credit; authorization;  
286 limitations; eligibility and application requirements;  
287 administration; definitions; expiration.—

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

289 (a) "Community contribution" means the grant by an insurer  
290 of any of the following items:

291 1. Cash or other liquid assets.

292 2. Real property, including 100 percent ownership of a real  
293 property holding company.

294 3. Goods or inventory.

295 4. Other physical resources which are identified by the  
296 department.

297  
298 For purposes of this paragraph, the term "real property holding  
299 company" means a Florida entity, such as a Florida limited  
300 liability company, that is wholly owned by the insurer; is the  
301 sole owner of real property, as defined in s. 192.001(12),



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302 located in the state; is disregarded as an entity for federal  
303 income tax purposes pursuant to 26 C.F.R. s. 301.7701-  
304 3(b)(1)(ii); and at the time of contribution to an eligible  
305 sponsor, has no material assets other than the real property and  
306 any other property that qualifies as a community contribution.

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

309 ===== T I T L E A M E N D M E N T =====

310 And the title is amended as follows:

311 Delete everything before the enacting clause  
312 and insert:

313 A bill to be entitled  
314 An act relating to community contribution tax credits;  
315 amending s. 220.03, F.S.; revising the definition of  
316 the term "community contribution"; amending s. 212.08,  
317 F.S.; revising and providing definitions related to  
318 community contribution tax credits that may apply  
319 against sales and use tax liabilities; amending s.  
320 624.5105, F.S.; revising and providing definitions  
321 related to community contribution tax credits that may  
322 apply against certain premium tax liabilities;  
323 providing an effective date.