

By Senator Smith

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1 A bill to be entitled
2 An act relating to community contribution tax credits;
3 amending s. 212.08, F.S.; specifying that ownership
4 interests in a real property holding company are an
5 eligible form of community contribution for the
6 purpose of a certain sales and use tax credit for
7 donations; defining a term; amending s. 220.03, F.S.;
8 revising the term "community contribution" to include
9 ownership interests in a real property holding
10 company; defining a term; amending s. 624.5105, F.S.;
11 specifying that ownership interests in a real property
12 holding company are an eligible form of community
13 contribution for the purpose of a certain tax credit
14 for donations by insurers; defining a term; providing
15 an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Paragraph (p) of subsection (5) of section
20 212.08, Florida Statutes, is amended to read:

21 212.08 Sales, rental, use, consumption, distribution, and
22 storage tax; specified exemptions.—The sale at retail, the
23 rental, the use, the consumption, the distribution, and the
24 storage to be used or consumed in this state of the following
25 are hereby specifically exempt from the tax imposed by this
26 chapter.

27 (5) EXEMPTIONS; ACCOUNT OF USE.—

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

29 1. Authorization.—Persons who are registered with the

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30 department under s. 212.18 to collect or remit sales or use tax
31 and who make donations to eligible sponsors are eligible for tax
32 credits against their state sales and use tax liabilities as
33 provided in this paragraph:

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

36 b. The credit shall be granted as a refund against state
37 sales and use taxes reported on returns and remitted in the 12
38 months preceding the date of application to the department for
39 the credit as required in sub-subparagraph 3.c. If the annual
40 credit is not fully used through such refund because of
41 insufficient tax payments during the applicable 12-month period,
42 the unused amount may be included in an application for a refund
43 made pursuant to sub-subparagraph 3.c. in subsequent years
44 against the total tax payments made for such year. Carryover
45 credits may be applied for a 3-year period without regard to any
46 time limitation that would otherwise apply under s. 215.26.

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

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

52 e. The total amount of tax credits which may be granted for
53 all programs approved under this paragraph, s. 220.183, and s.
54 624.5105 is \$18.4 million in the 2015-2016 fiscal year, \$21.4
55 million in the 2016-2017 fiscal year, and \$21.4 million in the
56 2017-2018 fiscal year for projects that provide housing
57 opportunities for persons with special needs or homeownership
58 opportunities for low-income households or very-low-income

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59 households and \$3.5 million annually for all other projects. As
 60 used in this paragraph, the term "person with special needs" has
 61 the same meaning as in s. 420.0004 and the terms "low-income
 62 person," "low-income household," "very-low-income person," and
 63 "very-low-income household" have the same meanings as in s.
 64 420.9071.

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

68 2. Eligibility requirements.—

69 a. A community contribution by a person must be in any of
 70 the following forms ~~form~~:

71 (I) Cash or other liquid assets.‡

72 (II) Real property, including ownership interests in a real
 73 property holding company. For purposes of this sub-sub-
 74 subparagraph, the term "real property holding company" means an
 75 entity organized under the laws of this state which:

76 (A) Is wholly owned by the person;

77 (B) Is the sole owner of real property, as defined in s.
 78 192.001(12), located in this state;

79 (C) Is disregarded as an entity separate from its owner for
 80 federal income tax purposes pursuant to 26 C.F.R. s. 301.7701-
 81 3(b)(1)(ii); and

82 (D) At the time of contribution to an eligible sponsor, has
 83 no material assets other than the real property and any other
 84 property that qualifies as a community contribution.‡

85 (III) Goods or inventory.‡~~or~~

86 (IV) Other physical resources identified by the Department
 87 of Economic Opportunity.

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

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

116 (II) Down payment and closing costs for persons with

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117 special needs, low-income persons, and very-low-income persons;

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

122 (IV) Removal of liens recorded against residential property
123 by municipal, county, or special district local governments if
124 satisfaction of the lien is a necessary precedent to the
125 transfer of the property to a low-income person or very-low-
126 income person for the purpose of promoting home ownership.
127 Contributions for lien removal must be received from a
128 nonrelated third party.

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

131 (I) A community action program;

132 (II) A nonprofit community-based development organization
133 whose mission is the provision of housing for persons with
134 special needs, low-income households, or very-low-income
135 households or increasing entrepreneurial and job-development
136 opportunities for low-income persons;

137 (III) A neighborhood housing services corporation;

138 (IV) A local housing authority created under chapter 421;

139 (V) A community redevelopment agency created under s.
140 163.356;

141 (VI) A historic preservation district agency or
142 organization;

143 (VII) A regional workforce board;

144 (VIII) A direct-support organization as provided in s.
145 1009.983;

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146 (IX) An enterprise zone development agency created under s.
147 290.0056;

148 (X) A community-based organization incorporated under
149 chapter 617 which is recognized as educational, charitable, or
150 scientific pursuant to s. 501(c)(3) of the Internal Revenue Code
151 and whose bylaws and articles of incorporation include
152 affordable housing, economic development, or community
153 development as the primary mission of the corporation;

154 (XI) Units of local government;

155 (XII) Units of state government; or

156 (XIII) Any other agency that the Department of Economic
157 Opportunity designates by rule.

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159 A contributing person may not have a financial interest in the
160 eligible sponsor.

161 d. The project must be located in an area which was in an
162 enterprise zone designated pursuant to chapter 290 as of May 1,
163 2015, or a Front Porch Florida Community, unless the project
164 increases access to high-speed broadband capability in a rural
165 community that had an enterprise zone designated pursuant to
166 chapter 290 as of May 1, 2015, but is physically located outside
167 the designated rural zone boundaries. Any project designed to
168 construct or rehabilitate housing for low-income households or
169 very-low-income households or housing opportunities for persons
170 with special needs is exempt from the area requirement of this
171 sub-subparagraph.

172 e.(I) If, during the first 10 business days of the state
173 fiscal year, eligible tax credit applications for projects that
174 provide housing opportunities for persons with special needs or

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175 homeownership opportunities for low-income households or very-
176 low-income households are received for less than the annual tax
177 credits available for those projects, the Department of Economic
178 Opportunity shall grant tax credits for those applications and
179 grant remaining tax credits on a first-come, first-served basis
180 for subsequent eligible applications received before the end of
181 the state fiscal year. If, during the first 10 business days of
182 the state fiscal year, eligible tax credit applications for
183 projects that provide housing opportunities for persons with
184 special needs or homeownership opportunities for low-income
185 households or very-low-income households are received for more
186 than the annual tax credits available for those projects, the
187 Department of Economic Opportunity shall grant the tax credits
188 for those applications as follows:

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

193 (B) If tax credit applications submitted for approved
194 projects of an eligible sponsor exceed \$200,000 in total, the
195 amount of tax credits granted pursuant to sub-sub-sub-
196 subparagraph (A) shall be subtracted from the amount of
197 available tax credits, and the remaining credits shall be
198 granted to each approved tax credit application on a pro rata
199 basis.

200 (II) If, during the first 10 business days of the state
201 fiscal year, eligible tax credit applications for projects other
202 than those that provide housing opportunities for persons with
203 special needs or homeownership opportunities for low-income

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204 households or very-low-income households are received for less
205 than the annual tax credits available for those projects, the
206 Department of Economic Opportunity shall grant tax credits for
207 those applications and shall grant remaining tax credits on a
208 first-come, first-served basis for subsequent eligible
209 applications received before the end of the state fiscal year.
210 If, during the first 10 business days of the state fiscal year,
211 eligible tax credit applications for projects other than those
212 that provide housing opportunities for persons with special
213 needs or homeownership opportunities for low-income households
214 or very-low-income households are received for more than the
215 annual tax credits available for those projects, the Department
216 of Economic Opportunity shall grant the tax credits for those
217 applications on a pro rata basis.

218 3. Application requirements.-

219 a. An eligible sponsor seeking to participate in this
220 program must submit a proposal to the Department of Economic
221 Opportunity which sets forth the name of the sponsor, a
222 description of the project, and the area in which the project is
223 located, together with such supporting information as is
224 prescribed by rule. The proposal must also contain a resolution
225 from the local governmental unit in which the project is located
226 certifying that the project is consistent with local plans and
227 regulations.

228 b. A person seeking to participate in this program must
229 submit an application for tax credit to the Department of
230 Economic Opportunity which sets forth the name of the sponsor, a
231 description of the project, and the type, value, and purpose of
232 the contribution. The sponsor shall verify, in writing, the

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233 terms of the application and indicate its receipt of the
234 contribution, and such verification must accompany the
235 application for tax credit. The person must submit a separate
236 tax credit application to the Department of Economic Opportunity
237 for each individual contribution that it makes to each
238 individual project.

239 c. A person who has received notification from the
240 Department of Economic Opportunity that a tax credit has been
241 approved must apply to the department to receive the refund.
242 Application must be made on the form prescribed for claiming
243 refunds of sales and use taxes and be accompanied by a copy of
244 the notification. A person may submit only one application for
245 refund to the department within a 12-month period.

246 4. Administration.—

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

250 b. The decision of the Department of Economic Opportunity
251 must be in writing, and, if approved, the notification shall
252 state the maximum credit allowable to the person. Upon approval,
253 the Department of Economic Opportunity shall transmit a copy of
254 the decision to the department.

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

260 d. The Department of Economic Opportunity shall, in
261 consultation with the statewide and regional housing and

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262 financial intermediaries, market the availability of the
263 community contribution tax credit program to community-based
264 organizations.

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

269 Section 2. Paragraph (d) of subsection (1) of section
270 220.03, Florida Statutes, is amended to read:

271 220.03 Definitions.—

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

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

278 1. Cash or other liquid assets.

279 2. Real property, including ownership interests in a real
280 property holding company. For purposes of this subparagraph, the
281 term "real property holding company" means an entity organized
282 under the laws of this state which:

283 a. Is wholly owned by the business firm.

284 b. Is the sole owner of real property, as defined in s.
285 192.001(12), located in this state.

286 c. Is disregarded as an entity separate from its owner for
287 federal income tax purposes pursuant to 26 C.F.R. s. 301.7701-
288 3(b)(1)(ii).

289 d. At the time of contribution to an eligible sponsor, has
290 no material assets other than the real property and any other

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291 property that qualifies as a community contribution.

292 3. Goods or inventory.

293 4. Other physical resources as identified by the
294 department.

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296 This paragraph expires June 30, 2018.

297 Section 3. Paragraph (a) of subsection (5) of section
298 624.5105, Florida Statutes, is amended to read:

299 624.5105 Community contribution tax credit; authorization;
300 limitations; eligibility and application requirements;
301 administration; definitions; expiration.—

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

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

305 1. Cash or other liquid assets.

306 2. Real property, including ownership interests in a real
307 property holding company. For purposes of this subparagraph, the
308 term "real property holding company" means an entity organized
309 under the laws of this state which:

310 a. Is wholly owned by the insurer;

311 b. Is the sole owner of real property, as defined in s.
312 192.001(12), located in the state;

313 c. Is disregarded as an entity separate from its owner for
314 federal income tax purposes pursuant to 26 C.F.R. s. 301.7701-
315 3(b)(1)(ii); and

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

319 3. Goods or inventory.

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320 4. Other physical resources which are identified by the
321 department.

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