

By the Committee on Finance and Tax; and Senator Smith

593-03609-16

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1 A bill to be entitled  
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  
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.

593-03609-16

2016868c1

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.—

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

593-03609-16

2016868c1

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 require  
76 the prior approval of the Department of Economic Opportunity.

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

90 f. A person who is eligible to receive the credit provided

593-03609-16

2016868c1

91 in this paragraph, s. 220.183, or s. 624.5105 may receive the  
92 credit only under one section of the person's choice.

93 2. Eligibility requirements.—

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

96 (I) Cash or other liquid assets;

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

99 (III) Goods or inventory; or

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

102

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

113 b. All community contributions must be reserved exclusively  
114 for use in a project. As used in this sub-subparagraph, the term  
115 "project" means activity undertaken by an eligible sponsor which  
116 is designed to construct, improve, or substantially rehabilitate  
117 housing that is affordable to low-income households or very-low-  
118 income households; designed to provide housing opportunities for  
119 persons with special needs; designed to provide commercial,

593-03609-16

2016868c1

120 industrial, or public resources and facilities; or designed to  
121 improve entrepreneurial and job-development opportunities for  
122 low-income persons. A project may be the investment necessary to  
123 increase access to high-speed broadband capability in a rural  
124 community that had an enterprise zone designated pursuant to  
125 chapter 290 as of May 1, 2015, including projects that result in  
126 improvements to communications assets that are owned by a  
127 business. A project may include the provision of museum  
128 educational programs and materials that are directly related to  
129 a project approved between January 1, 1996, and December 31,  
130 1999, and located in an area which was in an enterprise zone  
131 designated pursuant to s. 290.0065 as of May 1, 2015. This  
132 paragraph does not preclude projects that propose to construct  
133 or rehabilitate housing for low-income households or very-low-  
134 income households on scattered sites or housing opportunities  
135 for persons with special needs. With respect to housing,  
136 contributions may be used to pay the following eligible special  
137 needs, low-income, and very-low-income housing-related  
138 activities:

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

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

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

147 (IV) Removal of liens recorded against residential property  
148 by municipal, county, or special district local governments if

593-03609-16

2016868c1

149 satisfaction of the lien is a necessary precedent to the  
150 transfer of the property to a low-income person or very-low-  
151 income person for the purpose of promoting home ownership.  
152 Contributions for lien removal must be received from a  
153 nonrelated third party.

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

156 (I) A community action program;

157 (II) A nonprofit community-based development organization  
158 whose mission is the provision of housing for persons with  
159 special needs, low-income households, or very-low-income  
160 households or increasing entrepreneurial and job-development  
161 opportunities for low-income persons;

162 (III) A neighborhood housing services corporation;

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

164 (V) A community redevelopment agency created under s.  
165 163.356;

166 (VI) A historic preservation district agency or  
167 organization;

168 (VII) A regional workforce board;

169 (VIII) A direct-support organization as provided in s.  
170 1009.983;

171 (IX) An enterprise zone development agency created under s.  
172 290.0056;

173 (X) A community-based organization incorporated under  
174 chapter 617 which is recognized as educational, charitable, or  
175 scientific pursuant to s. 501(c)(3) of the Internal Revenue Code  
176 and whose bylaws and articles of incorporation include  
177 affordable housing, economic development, or community

593-03609-16

2016868c1

178 development as the primary mission of the corporation;

179 (XI) Units of local government;

180 (XII) Units of state government; or

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

183  
184 A contributing person may not have a financial interest in the  
185 eligible sponsor.

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

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

593-03609-16

2016868c1

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

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

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

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



593-03609-16

2016868c1

236 eligible tax credit applications for projects other than those  
237 that provide housing opportunities for persons with special  
238 needs or homeownership opportunities for low-income households  
239 or very-low-income households are received for more than the  
240 annual tax credits available for those projects, the Department  
241 of Economic Opportunity shall grant the tax credits for those  
242 applications on a pro rata basis.

243 3. Application requirements.-

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

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

264 c. A person who has received notification from the

593-03609-16

2016868c1

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

271 4. Administration.—

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

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

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

285 d. The Department of Economic Opportunity shall, in  
286 consultation with the statewide and regional housing and  
287 financial intermediaries, market the availability of the  
288 community contribution tax credit program to community-based  
289 organizations.

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

593-03609-16

2016868c1

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

296 624.5105 Community contribution tax credit; authorization;  
297 limitations; eligibility and application requirements;  
298 administration; definitions; expiration.—

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

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

302 1. Cash or other liquid assets.

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

305 3. Goods or inventory.

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

308

309 For purposes of this paragraph, the term "real property holding  
310 company" means a Florida entity, such as a Florida limited  
311 liability company, that is wholly owned by the insurer; is the  
312 sole owner of real property, as defined in s. 192.001(12),  
313 located in the state; is disregarded as an entity for federal  
314 income tax purposes pursuant to 26 C.F.R. s. 301.7701-  
315 3(b)(1)(ii); and at the time of contribution to an eligible  
316 sponsor, has no material assets other than the real property and  
317 any other property that qualifies as a community contribution.

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