

By the Committee on Community Affairs; and Senator Flores

578-02366-19

2019250c1

1 A bill to be entitled
2 An act relating to state housing tax credits; amending
3 s. 213.053, F.S.; authorizing the Department of
4 Revenue to provide information on taken state
5 workforce housing tax credits to the Florida Housing
6 Finance Corporation; amending ss. 220.02 and 220.13,
7 F.S.; conforming provisions to changes made by the
8 act; repealing s. 220.185, F.S., relating to the state
9 housing tax credit; amending s. 420.502, F.S.;
10 providing legislative intent; amending s. 420.503,
11 F.S.; defining the term "essential services
12 personnel"; conforming a cross-reference; amending s.
13 420.5093, F.S.; replacing provisions relating to the
14 State Housing Tax Credit Program with provisions
15 relating to the State Workforce Housing Tax Credit
16 Program; providing the purpose of the program;
17 providing for an insurance premium and retaliatory tax
18 credit to certain workforce housing developments;
19 requiring the corporation to administer the program;
20 specifying requirements, procedures, and authorized
21 actions of the corporation in determining eligibility
22 for, and awarding, tax credits; defining terms;
23 requiring the corporation to prepare a certain plan;
24 authorizing the corporation to adopt rules; requiring
25 the corporation to establish specified procedures for
26 agency awards; specifying application requirements;
27 specifying limits on, and criteria for determining,
28 final agency awards; specifying requirements for cost
29 certifications and eligibility statements; requiring

578-02366-19

2019250c1

30 the executive director of the Department of Revenue to
31 apply annual credit amounts to tax liabilities in a
32 certain manner; requiring that an extended workforce
33 housing commitment be in effect, under certain
34 circumstances, for a certain tax credit to be allowed;
35 defining the term "extended workforce housing
36 commitment"; requiring the corporation to establish
37 certain procedures; amending s. 624.509, F.S.;
38 specifying the order in which certain credits must be
39 taken against the premium tax; creating s. 624.51056,
40 F.S.; authorizing certain taxpayers to claim a credit
41 against the premium tax and retaliatory tax;
42 specifying a limitation on claiming the credit;
43 providing requirements for the eligibility statement;
44 requiring the corporation to make preliminary agency
45 awards in certain years; specifying the limit on such
46 awards; authorizing certain owners of eligible
47 workforce housing developments to distribute credit
48 amounts among its constituent taxpayers; specifying
49 requirements for such owners; providing for the
50 carryforward of unused tax credits for a specified
51 period; providing that unused credits may not be
52 refunded; providing that certain insurers are not
53 required to pay additional retaliatory tax; specifying
54 requirements and procedures for credit recapture;
55 providing applicability; reenacting s. 624.5091(1)(a),
56 F.S., relating to the retaliatory tax, to incorporate
57 the amendment made to s. 624.509, F.S., in a reference
58 thereto; providing an effective date.

578-02366-19

2019250c1

59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87

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

Section 1. Paragraph (cc) is added to subsection (8) of section 213.053, Florida Statutes, to read:

213.053 Confidentiality and information sharing.—

(8) Notwithstanding any other provision of this section, the department may provide:

(cc) Information relating to tax credits taken under s. 624.51056 to the Florida Housing Finance Corporation.

Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the agency. Such agencies, governmental or nongovernmental, shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

Section 2. Subsection (8) of section 220.02, Florida Statutes, is amended to read:

220.02 Legislative intent.—

(8) It is the intent of the Legislature that credits against either the corporate income tax or the franchise tax be applied in the following order: those enumerated in s. 631.828, those enumerated in s. 220.191, those enumerated in s. 220.181, those enumerated in s. 220.183, those enumerated in s. 220.182, those enumerated in s. 220.1895, those enumerated in s. 220.195, those enumerated in s. 220.184, those enumerated in s. 220.186, those enumerated in s. 220.1845, those enumerated in s. 220.19,

578-02366-19

2019250c1

88 ~~those enumerated in s. 220.185,~~ those enumerated in s. 220.1875,
89 those enumerated in s. 220.192, those enumerated in s. 220.193,
90 those enumerated in s. 288.9916, those enumerated in s.
91 220.1899, those enumerated in s. 220.194, and those enumerated
92 in s. 220.196.

93 Section 3. Paragraph (a) of subsection (1) of section
94 220.13, Florida Statutes, is amended to read:

95 220.13 "Adjusted federal income" defined.—

96 (1) The term "adjusted federal income" means an amount
97 equal to the taxpayer's taxable income as defined in subsection
98 (2), or such taxable income of more than one taxpayer as
99 provided in s. 220.131, for the taxable year, adjusted as
100 follows:

101 (a) *Additions.*—There shall be added to such taxable income:

102 1.a. The amount of any tax upon or measured by income,
103 excluding taxes based on gross receipts or revenues, paid or
104 accrued as a liability to the District of Columbia or any state
105 of the United States which is deductible from gross income in
106 the computation of taxable income for the taxable year.

107 b. Notwithstanding sub-subparagraph a., if a credit taken
108 under s. 220.1875 is added to taxable income in a previous
109 taxable year under subparagraph 10. ~~11.~~ and is taken as a
110 deduction for federal tax purposes in the current taxable year,
111 the amount of the deduction allowed shall not be added to
112 taxable income in the current year. The exception in this sub-
113 subparagraph is intended to ensure that the credit under s.
114 220.1875 is added in the applicable taxable year and does not
115 result in a duplicate addition in a subsequent year.

116 2. The amount of interest which is excluded from taxable

578-02366-19

2019250c1

117 income under s. 103(a) of the Internal Revenue Code or any other
118 federal law, less the associated expenses disallowed in the
119 computation of taxable income under s. 265 of the Internal
120 Revenue Code or any other law, excluding 60 percent of any
121 amounts included in alternative minimum taxable income, as
122 defined in s. 55(b)(2) of the Internal Revenue Code, if the
123 taxpayer pays tax under s. 220.11(3).

124 3. In the case of a regulated investment company or real
125 estate investment trust, an amount equal to the excess of the
126 net long-term capital gain for the taxable year over the amount
127 of the capital gain dividends attributable to the taxable year.

128 4. That portion of the wages or salaries paid or incurred
129 for the taxable year which is equal to the amount of the credit
130 allowable for the taxable year under s. 220.181. This
131 subparagraph shall expire on the date specified in s. 290.016
132 for the expiration of the Florida Enterprise Zone Act.

133 5. That portion of the ad valorem school taxes paid or
134 incurred for the taxable year which is equal to the amount of
135 the credit allowable for the taxable year under s. 220.182. This
136 subparagraph shall expire on the date specified in s. 290.016
137 for the expiration of the Florida Enterprise Zone Act.

138 6. The amount taken as a credit under s. 220.195 which is
139 deductible from gross income in the computation of taxable
140 income for the taxable year.

141 7. That portion of assessments to fund a guaranty
142 association incurred for the taxable year which is equal to the
143 amount of the credit allowable for the taxable year.

144 8. In the case of a nonprofit corporation which holds a
145 pari-mutuel permit and which is exempt from federal income tax

578-02366-19

2019250c1

146 as a farmers' cooperative, an amount equal to the excess of the
147 gross income attributable to the pari-mutuel operations over the
148 attributable expenses for the taxable year.

149 9. The amount taken as a credit for the taxable year under
150 s. 220.1895.

151 ~~10. Up to nine percent of the eligible basis of any~~
152 ~~designated project which is equal to the credit allowable for~~
153 ~~the taxable year under s. 220.185.~~

154 10.11. The amount taken as a credit for the taxable year
155 under s. 220.1875. The addition in this subparagraph is intended
156 to ensure that the same amount is not allowed for the tax
157 purposes of this state as both a deduction from income and a
158 credit against the tax. This addition is not intended to result
159 in adding the same expense back to income more than once.

160 ~~11.12.~~ The amount taken as a credit for the taxable year
161 under s. 220.192.

162 ~~12.13.~~ The amount taken as a credit for the taxable year
163 under s. 220.193.

164 ~~13.14.~~ Any portion of a qualified investment, as defined in
165 s. 288.9913, which is claimed as a deduction by the taxpayer and
166 taken as a credit against income tax pursuant to s. 288.9916.

167 ~~14.15.~~ The costs to acquire a tax credit pursuant to s.
168 288.1254(5) that are deducted from or otherwise reduce federal
169 taxable income for the taxable year.

170 ~~15.16.~~ The amount taken as a credit for the taxable year
171 pursuant to s. 220.194.

172 16.17. The amount taken as a credit for the taxable year
173 under s. 220.196. The addition in this subparagraph is intended
174 to ensure that the same amount is not allowed for the tax

578-02366-19

2019250c1

175 purposes of this state as both a deduction from income and a
 176 credit against the tax. The addition is not intended to result
 177 in adding the same expense back to income more than once.

178 Section 4. Section 220.185, Florida Statutes, is repealed.

179 Section 5. Present subsections (5) through (8) of section
 180 420.502, Florida Statutes, are redesignated as subsections (6)
 181 through (9), respectively, and a new subsection (5) is added to
 182 that section, to read:

183 420.502 Legislative findings.—It is hereby found and
 184 declared as follows:

185 (5) It is necessary to create a state housing finance
 186 strategy to provide affordable workforce housing opportunities
 187 to essential services personnel. The lack of affordable
 188 workforce housing has been exacerbated by an increasing
 189 population, rising interest rates, surging median home values,
 190 and the shortage of lower-cost housing units. As this state's
 191 population continues to grow, essential services personnel vital
 192 to this state's economy are unable to live in the communities
 193 where they serve, creating transportation congestion and
 194 hindering their quality of life and community engagement.

195 Section 6. Present subsections (18) through (42) of section
 196 420.503, Florida Statutes, are redesignated as subsections (19)
 197 through (43), respectively, a new subsection (18) is added to
 198 that section, and subsection (15) of that section is amended, to
 199 read:

200 420.503 Definitions.—As used in this part, the term:

201 (15) "Elderly" means persons 62 years of age or older;
 202 however, this definition does not prohibit housing from being
 203 deemed housing for the elderly as defined in subsection (20)

578-02366-19

2019250c1

204 ~~(19)~~ if such housing otherwise meets the requirements of
205 subsection (20) ~~(19)~~.

206 (18) "Essential services personnel" means natural persons
207 or families whose total annual household income is at or below
208 120 percent of the area median income, adjusted for household
209 size, and at least one of whom is employed as police and fire
210 personnel, child care workers, teachers and education personnel,
211 health care personnel, or service workers.

212 Section 7. Section 420.5093, Florida Statutes, is amended
213 to read:

214 420.5093 State Workforce Housing Tax Credit Program.—

215 (1) There is created the State Workforce Housing Tax Credit
216 Program for the purpose ~~purposes~~ of stimulating creative private
217 sector initiatives to increase the supply of workforce
218 affordable housing in this state. The corporation shall
219 administer the program. Tax credits must be awarded through
220 competitive solicitation and may be awarded in conjunction with
221 other corporation financing, including low-income housing tax
222 credits, SAIL funding, or tax-exempt bonds ~~urban areas,~~
223 ~~including specifically housing for the elderly, and to provide~~
224 ~~associated commercial facilities associated with such housing~~
225 ~~facilities.~~

226 (2) As used in this section, the term:

227 (a) "Annual credit amount" means an amount equal to one-
228 tenth of a preliminary or final agency award to an eligible
229 workforce housing development which may be claimed by the
230 eligible workforce housing development in each year of the
231 credit period.

232 (b) "Applicable fraction" means a fraction, the numerator

578-02366-19

2019250c1

233 of which is the number of workforce housing units in the
234 eligible workforce housing development and the denominator of
235 which is the number of residential rental units in the eligible
236 workforce housing development.

237 (c) "Area median income" means the most recent calculation
238 of median family income for the relevant geographic area as
239 published by the United States Department of Housing and Urban
240 Development.

241 (d) "Compliance period" means, with respect to any building
242 that is, or is part of, an eligible workforce housing
243 development, the period of 10 calendar years beginning with the
244 first calendar year of the credit period.

245 (e) "Credit period" means, with respect to any building
246 that is, or is part of, an eligible workforce housing
247 development, the period of 10 calendar years beginning with the
248 calendar year in which each eligible workforce housing
249 residential building is placed in service.

250 (f) "Eligibility statement" means a statement issued by the
251 corporation which certifies that a workforce housing residential
252 building is an eligible workforce housing development. A
253 separate eligibility statement must be issued for each building
254 in a multiple building project. Each eligibility statement must
255 provide:

256 1. The calendar year in which the workforce housing
257 residential building in the eligible workforce housing
258 development was placed in service;

259 2. The credit amount of the final agency award to the
260 eligible workforce housing building;

261 3. The maximum qualified basis taken into account in

578-02366-19

2019250c1

262 determining the credit amount;

263 4. Sufficient information to identify the eligible
264 workforce housing building and the owner of the eligible
265 workforce housing development; and

266 5. Such other information as the corporation, in
267 consultation with the Department of Revenue, determines is
268 necessary or desirable.

269 (g) "Eligible basis" of an eligible workforce housing
270 development means the total of the adjusted basis of each
271 building of such eligible workforce housing development as of
272 the close of the first year of the credit period for each
273 building.

274 (h) "Eligible workforce housing development" means a
275 building or group of buildings located in this state in which at
276 least 60 percent of the residential units in the building are
277 rent-restricted workforce housing units.

278 (i) "Final agency award" means the allocation of a 10-year
279 stream of state workforce housing tax credits to an eligible
280 workforce housing development by the corporation, as stated on
281 the eligibility statement or on an amended eligibility
282 statement. A final agency award cannot exceed the preliminary
283 agency award.

284 (j) "Imputed income limitation applicable to the unit"
285 means the income limitation that applies to individuals
286 occupying the unit if the number of individuals occupying the
287 unit is:

288 1. In the case of a unit that does not have a separate
289 bedroom, one; or

290 2. In the case of a unit that has one or more separate

578-02366-19

2019250c1

291 bedrooms, one and one half for each separate bedroom.

292 (k) "Preliminary agency award" means the allocation of a
293 10-year stream of state workforce housing tax credits to an
294 eligible workforce housing development by the corporation's
295 board of directors as part of a competitive solicitation
296 process.

297 (l) "Qualified basis" of an eligible workforce housing
298 development means the eligible basis multiplied by the
299 applicable fraction.

300 (m) "Rent-restricted" means that the gross rent for a
301 residential unit may not exceed 30 percent of the imputed income
302 limitation applicable to the unit.

303 (n) "Workforce housing unit" means a residential unit in an
304 eligible workforce housing development which is affordable to
305 natural persons or families whose total annual household income
306 is at or below 90 percent of the area median income, adjusted
307 for household size; or is at or below 120 percent of the area
308 median income, adjusted for household size, in:

309 1. Areas of critical state concern designated under s.
310 380.05, for which the Legislature has declared its intent to
311 provide affordable housing; and

312 2. Areas that were designated as areas of critical state
313 concern for at least 20 consecutive years before removal of the
314 designation.

315 (3)~~(2)~~ The Florida Housing Finance corporation shall
316 determine those qualified projects which workforce housing
317 developments are shall be considered designated projects under
318 s. ~~220.185~~ and eligible for the insurance premium tax credit
319 under s. 624.51056 corporate tax credit under that section. The

578-02366-19

2019250c1

320 corporation may exercise all powers necessary to administer the
321 awarding of a preliminary and final agency award and the
322 distribution of the tax credits. The corporation shall ensure
323 that at least 50 percent of annual credits under this section
324 are awarded to units that will only be income-restricted to
325 natural persons or families whose total annual household income
326 is below 90 percent of the area median income ~~establish~~
327 ~~procedures necessary for proper allocation and distribution of~~
328 ~~state housing tax credits, including the establishment of~~
329 ~~criteria for any single-family or commercial component of a~~
330 ~~project, and may exercise all powers necessary to administer the~~
331 ~~allocation of such credits. The board of directors of the~~
332 ~~corporation shall administer the allocation procedures and~~
333 ~~determine allocations on behalf of the corporation. The~~
334 ~~corporation shall prepare a an annual plan, which must be~~
335 ~~approved by the Governor,~~ containing general guidelines for
336 preliminary and final agency awards to eligible workforce
337 housing developments ~~the allocation and distribution of credits~~
338 ~~to designated projects.~~

339 (4)(3) The corporation may adopt rules necessary to
340 administer this section. The corporation shall establish ~~adopt~~
341 ~~allocation~~ procedures for agency awards consistent with s.
342 624.51056 and this section which ~~that~~ will ensure the maximum
343 use of available tax credits ~~in order~~ to encourage development
344 of workforce low-income housing and ~~associated mixed-use~~
345 ~~projects in urban areas, taking into consideration the~~
346 ~~timeliness of the application, the location of the proposed~~
347 ~~project, the relative need in the area of revitalization and~~
348 ~~low-income housing and the availability of such housing, the~~

578-02366-19

2019250c1

349 ~~economic feasibility of the project, and the ability of the~~
350 ~~applicant to proceed to completion of the project in the~~
351 ~~calendar year for which the credit is sought. To the extent~~
352 ~~practicable, these procedures must be similar to or consistent~~
353 ~~with the procedures established under s. 42 of the Internal~~
354 ~~Revenue Code relating to low-income housing tax credits. To the~~
355 ~~extent permitted under 42 U.S.C. ss. 3601-3619 and regulations~~
356 ~~promulgated thereunder, the corporation shall ensure that~~
357 ~~projects awarded credits under this section set aside at least~~
358 ~~30 percent of their units to be rented by families with~~
359 ~~essential services personnel as defined in s. 420.503(18).~~

360 ~~(5) (a) (4) (a)~~ A taxpayer wishing ~~who wishes~~ to participate
361 in the State Workforce Housing Tax Credit Program must submit to
362 the corporation an application for a preliminary agency award
363 ~~tax credit to the corporation~~. The application must ~~shall~~
364 identify the proposed workforce housing development ~~project~~ and
365 its location and must include evidence that the proposed
366 development ~~project~~ is an eligible workforce housing development
367 ~~a qualified project as defined in s. 220.185~~. The corporation
368 may request any information from an applicant which is necessary
369 to allow ~~enable~~ the corporation to make a preliminary or final
370 agency award under ~~tax credit allocations according to the~~
371 ~~guidelines set forth in~~ subsection (3).

372 (b) The final agency award may not exceed 9 percent of the
373 qualified basis of each residential building in an eligible
374 workforce housing development. The credit amount of the final
375 agency award to any residential building in an eligible
376 workforce housing development may not exceed the amount that the
377 corporation determines is necessary for the eligible workforce

578-02366-19

2019250c1

378 housing development's financial feasibility and its viability as
379 an eligible workforce housing development throughout the credit
380 period. In determining the final agency award, the corporation
381 shall specify the qualified basis that may be taken into account
382 under this section with respect to each residential building in
383 the eligible workforce housing development ~~The corporation's~~
384 ~~approval of an applicant as a designated project shall be in~~
385 ~~writing and shall include a statement of the maximum credit~~
386 ~~allowable to the applicant. A copy of this approval shall be~~
387 ~~transmitted to the executive director of the Department of~~
388 ~~Revenue, who shall apply the tax credit to the tax liability of~~
389 ~~the applicant.~~

390 (c) The corporation shall establish procedures for the
391 owner of an eligible workforce housing development to provide a
392 cost certification demonstrating that the final agency award
393 does not exceed 9 percent of the qualified basis of each
394 residential building in the eligible workforce housing
395 development. Once such cost certification is accepted and
396 approved by the corporation, the corporation shall issue to the
397 owner of the eligible workforce housing development an
398 eligibility statement for each residential building. The
399 corporation shall transmit a copy of the eligibility statement
400 to the executive director of the Department of Revenue, who
401 shall apply the annual credit amount to the tax liability of the
402 owner of the eligible workforce housing development or its
403 constituent taxpayers as specified in s. 624.51056.

404 (d) A tax credit in the amount of the annual credit amount
405 is not allowed for any year with respect to a residential
406 building in an eligible workforce housing development unless an

578-02366-19

2019250c1

407 extended workforce housing commitment is in effect as of the end
408 of the calendar year. As used in this paragraph, the term
409 "extended workforce housing commitment" means an agreement
410 between the taxpayer and the Florida Housing Finance Corporation
411 which is substantially similar to the agreement specified in 26
412 U.S.C. s. 42(h)(6)(B).

413 (6) The corporation shall establish such procedures as it
414 deems necessary for monitoring an eligible workforce housing
415 development's compliance with this section, including
416 habitability standards, and for notifying the executive director
417 of the Department of Revenue of any noncompliance of which it
418 becomes aware.

419 ~~(5) For purposes of implementing this program and assessing~~
420 ~~the property for ad valorem taxation under s. 193.011, neither~~
421 ~~the tax credits nor financing generated by tax credits shall be~~
422 ~~considered as income to the property, and the actual rental~~
423 ~~income from rent-restricted units in a state housing tax credit~~
424 ~~development shall be recognized by the property appraiser. In~~
425 ~~considering or using the market or cost approaches under s.~~
426 ~~193.011, neither the costs paid for by tax credits nor the costs~~
427 ~~paid for by additional financing proceeds received because the~~
428 ~~property is in the program shall be included in the valuation.~~

429 ~~(6) For the further purpose of implementing this program in~~
430 ~~Florida and in assessing the property for ad valorem taxation~~
431 ~~under s. 193.011, any extended low income housing agreement and~~
432 ~~all amendments and supplements thereto which are recorded and~~
433 ~~filed in the official public records of the county where the~~
434 ~~property is located shall be deemed a land use regulation during~~
435 ~~the term of any such agreement, amendment, or supplement.~~

578-02366-19

2019250c1

436 ~~(7) The corporation is authorized to expend fees received~~
437 ~~in conjunction with the allocation of state housing tax credits~~
438 ~~only for the purpose of administration of the program, including~~
439 ~~private legal services which relate to interpretation of s. 42~~
440 ~~of the Internal Revenue Code.~~

441 Section 8. Subsection (7) of section 624.509, Florida
442 Statutes, is amended to read:

443 624.509 Premium tax; rate and computation.—

444 (7) Credits and deductions against the tax imposed by this
445 section shall be taken in the following order: deductions for
446 assessments made pursuant to s. 440.51; credits for taxes paid
447 under ss. 175.101 and 185.08; credits for income taxes paid
448 under chapter 220 and the credit allowed under subsection (5),
449 as these credits are limited by subsection (6); the credit
450 allowed under s. 624.51055; the credit allowed under s.
451 624.51056; all other available credits and deductions.

452 Section 9. Section 624.51056, Florida Statutes, is created
453 to read:

454 624.51056 State workforce housing tax credit.—

455 (1) AUTHORIZATION TO GRANT STATE WORKFORCE HOUSING TAX
456 CREDITS; LIMITATIONS.—

457 (a) A taxpayer owning an interest in one or more eligible
458 workforce housing developments who receives an eligibility
459 statement from the Florida Housing Finance Corporation pursuant
460 to s. 420.5093 may claim a tax credit against any tax due under
461 s. 624.509(1) or s. 624.5091 after deducting from the tax the
462 deductions for assessments made pursuant to s. 440.51; the
463 credits for taxes paid under ss. 175.101 and 185.08; the credits
464 for income taxes paid under chapter 220; the credit allowed

578-02366-19

2019250c1

465 under s. 624.509(5), as such credit is limited by s. 624.509(6);
466 and the credit allowed under s. 624.51055. The tax credits
467 issued pursuant to the eligibility statement may be claimed in
468 each year of the credit period only in amounts equal to the
469 annual credit amount, unless carried forward pursuant to
470 paragraph (d). The amount of the final agency award and each
471 annual credit amount must be stated on the eligibility
472 statement. A copy of the eligibility statement must be attached
473 to each tax return for which the taxpayer seeks to apply a tax
474 credit.

475 (b) The Florida Housing Finance Corporation shall make
476 preliminary agency awards in calendar year 2020, calendar year
477 2021, or calendar year 2022 as set forth in this paragraph. A
478 preliminary agency award may not be made after 2022. The maximum
479 aggregate credit amount of preliminary agency awards to eligible
480 workforce housing developments is \$50 million in 2020, \$50
481 million in 2021, and \$50 million in 2022. The limitation in this
482 paragraph on preliminary agency awards does not apply to the
483 annual credit amount claimed with respect to an eligible
484 workforce housing development for each year of the credit
485 period.

486 (c) If an owner of an eligible workforce housing
487 development which receives an eligibility statement is a
488 partnership, limited liability company, or corporation, the
489 owner may distribute the annual credit amount among its
490 partners, shareholders, members, or other constituent taxpayers
491 in any manner agreed to by such partners, shareholders, members,
492 or other constituent taxpayers with an insurance premium tax
493 liability. Each year of the credit period, the owner shall

578-02366-19

2019250c1

494 certify to the Department of Revenue the portion of the annual
495 credit amount distributed to each partner, shareholder, member,
496 or other constituent taxpayer as well as the name, address, and
497 federal taxpayer identification number of each partner,
498 shareholder, member, or other constituent taxpayer. Each
499 partner, shareholder, member, or other constituent taxpayer is
500 allowed to claim such portion of the annual credit amount
501 subject to the restrictions in this section. A copy of the
502 allocation of annual credit certification must be attached to
503 each tax return for which the partner, shareholder, member, or
504 other constituent taxpayer seeks to apply its allocated portion
505 of the owner's annual credit.

506 (d) Any amount of credit which exceeds the tax due for any
507 year may be carried forward as a tax credit against subsequent
508 years' insurance premium tax liability for up to 11 tax years
509 after the year in which the annual credit amount was available
510 to the taxpayer pursuant to paragraph (a). Such credit must be
511 applied first to the earliest years possible. Any amount of the
512 credit which is not used may not be refunded to the taxpayer.

513 (e) An insurer claiming a credit against premium tax
514 liability under this section is not required to pay any
515 additional retaliatory tax levied pursuant to s. 624.5091 as a
516 result of claiming such credit, and that section does not limit
517 such credit.

518 (2) CREDIT RECAPTURE.—

519 (a) As of the close of any year in the compliance period,
520 if the amount of the qualified basis of any building with
521 respect to the taxpayer is less than the amount of the qualified
522 basis as of the close of the preceding year, the Florida Housing

578-02366-19

2019250c1

523 Finance Corporation shall proportionally reduce the credit
524 allowable with respect to such year by the percentage reduction
525 in the qualified basis. The Florida Housing Finance Corporation
526 shall notify the taxpayer in writing of any modification of the
527 credit and transmit a copy of such notification to the executive
528 director of the Department of Revenue.

529 (b) In addition to its existing audit and investigation
530 authority, the Department of Revenue may perform any additional
531 financial and technical audits and investigations, including
532 examining the accounts, books, and records of the tax credit
533 applicant, which are necessary to verify the accuracy of the
534 return and to ensure compliance with this section. If requested
535 by the Department of Revenue, the Florida Housing Finance
536 Corporation must provide technical assistance for any technical
537 audits or examinations performed under this subsection.

538 (c) If the Department of Revenue determines as a result of
539 an audit or examination, or from information received from the
540 Florida Housing Finance Corporation, that a taxpayer received
541 tax credits pursuant to this section to which the taxpayer was
542 not entitled, the previously claimed and received tax credits
543 are subject to forfeiture.

544 (d) The Florida Housing Finance Corporation may revoke or
545 modify any eligibility statement or agency award granting
546 eligibility for tax credits under this section if it is
547 discovered that the tax credit applicant submitted any false
548 statement, representation, or certification in any application,
549 record, report, plan, or other document filed in an attempt to
550 receive tax credits under this section. The Florida Housing
551 Finance Corporation shall immediately notify the Department of

578-02366-19

2019250c1

552 Revenue of any revoked or modified orders affecting a previously
553 issued eligibility statement. Additionally, the taxpayer must
554 notify the Department of Revenue of any change in its tax credit
555 claimed.

556 (e) The taxpayer shall file with the Department of Revenue
557 an amended return or such other report as the Department of
558 Revenue prescribes by rule and shall pay any required tax and
559 interest within 60 days after the taxpayer received notification
560 from the Florida Housing Finance Corporation that previously
561 approved tax credits have been revoked or modified. If the
562 revocation or modification order is contested, the taxpayer must
563 file an amended return or other report as provided in this
564 paragraph within 60 days after a final order is issued after
565 proceedings.

566 (f) A notice of deficiency may be issued by the Department
567 of Revenue at any time within 3 years after the taxpayer
568 receives formal notification from the Florida Housing Finance
569 Corporation that previously approved tax credits have been
570 revoked or modified. If a taxpayer fails to notify the
571 Department of Revenue of any changes to its tax credit claimed,
572 a notice of deficiency may be issued at any time.

573 (3) APPLICABILITY.—This section applies to tax years
574 beginning on or after January 1, 2020.

575 Section 10. For the purpose of incorporating the amendment
576 made by this act to section 624.509, Florida Statutes, in a
577 reference thereto, paragraph (a) of subsection (1) of section
578 624.5091, Florida Statutes, is reenacted to read:

579 624.5091 Retaliatory provision, insurers.—

580 (1) (a) When by or pursuant to the laws of any other state

578-02366-19

2019250c1

581 or foreign country any taxes, licenses, and other fees, in the
582 aggregate, and any fines, penalties, deposit requirements, or
583 other material obligations, prohibitions, or restrictions are or
584 would be imposed upon Florida insurers or upon the agents or
585 representatives of such insurers, which are in excess of such
586 taxes, licenses, and other fees, in the aggregate, or which are
587 in excess of the fines, penalties, deposit requirements, or
588 other obligations, prohibitions, or restrictions directly
589 imposed upon similar insurers, or upon the agents or
590 representatives of such insurers, of such other state or country
591 under the statutes of this state, so long as such laws of such
592 other state or country continue in force or are so applied, the
593 same taxes, licenses, and other fees, in the aggregate, or
594 fines, penalties, deposit requirements, or other material
595 obligations, prohibitions, or restrictions of whatever kind
596 shall be imposed by the Department of Revenue upon the insurers,
597 or upon the agents or representatives of such insurers, of such
598 other state or country doing business or seeking to do business
599 in this state. In determining the taxes to be imposed under this
600 section, 80 percent and a portion of the remaining 20 percent as
601 provided in paragraph (b) of the credit provided by s.
602 624.509(5), as limited by s. 624.509(6) and further determined
603 by s. 624.509(7), shall not be taken into consideration.

604 Section 11. This act shall take effect July 1, 2019.