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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/03/2022	.	
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	.	

The Committee on Finance and Tax (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 220.197, Florida Statutes, is created to
read:

220.197 The Main Street Historic Tourism and Revitalization
Act; tax credits; reports.-

(1) SHORT TITLE.-This act may be cited as the "Main Street
Historic Tourism and Revitalization Act."



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11 (2) DEFINITIONS.—As used in this section, the term:

12 (a) "Accredited Main Street Program" means an active
13 Florida Main Street Program or the Orlando Main Streets program,
14 provided that such program meets the Main Street America
15 accreditation standards. An Accredited Main Street Program must:

16 1. Have broad-based community support for the commercial
17 district revitalization process with strong support from the
18 public and private sectors.

19 2. Have a developed vision and mission statement relevant
20 to community conditions and to Main Street America's
21 organizational stage.

22 3. Have a comprehensive Main Street America work plan.

23 4. Possess a historic preservation ethic.

24 5. Have an active board of directors and committees.

25 6. Have an adequate operating budget.

26 7. Have a paid professional program manager.

27 8. Conduct a program of ongoing training for staff and
28 volunteers.

29 9. Report key statistics.

30 10. Be a current member of Main Street America.

31 (b) "Certified historic structure" means a building and its
32 structural components as defined in 36 C.F.R. s. 67.2 which is
33 of a character subject to the allowance for depreciation
34 provided in s. 167 of the Internal Revenue Code of 1986, as
35 amended, and which is:

36 1. Individually listed in the National Register of Historic
37 Places; or

38 2. Located within a registered historic district and
39 certified by the United States Secretary of the Interior as



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40 being of historic significance to the registered historic
41 district as set forth in 36 C.F.R. s. 67.2.

42 (c) "Certified rehabilitation" means the rehabilitation of
43 a certified historic structure that the United States Secretary
44 of the Interior has certified to the United States Secretary of
45 the Treasury as being consistent with the historic character of
46 the certified historic structure and, if applicable, consistent
47 with the registered historic district in which the certified
48 historic structure is located as set forth in 36 C.F.R. s. 67.2.

49 (d) "Division" means the Division of Historical Resources
50 of the Department of State.

51 (e) "Florida Main Street Program" means a statewide
52 historic preservation-based downtown revitalization assistance
53 program created, maintained, and administered by the division
54 under s. 267.031(5).

55 (f) "Local program area" means the specific geographic area
56 in which an Accredited Main Street Program is conducted as
57 approved and maintained by the division or in which the Orlando
58 Main Streets program is conducted.

59 (g) "Long-term leasehold" means a leasehold in a
60 nonresidential real property for a term of 39 years or more or a
61 leasehold in a residential real property for a term of 27.5
62 years or more.

63 (h) "Main Street America" means a national network of
64 grassroots organizations revitalizing historic downtown areas
65 under the leadership of the National Main Street Center, Inc., a
66 subsidiary of the National Trust for Historic Preservation.

67 (i) "National Register of Historic Places" means the list
68 of historic properties significant in American history,



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69 architecture, archeology, engineering, and culture maintained by
70 the United States Secretary of the Interior as authorized in 54
71 U.S.C. s. 3021.

72 (j) "Orlando Main Streets" means a historic preservation-
73 based district revitalization program administered by the City
74 of Orlando.

75 (k) "Qualified expenses" means rehabilitation expenditures
76 qualifying for the credit under 26 U.S.C. s. 47 incurred in this
77 state.

78 (1) "Registered historic district" means a district listed
79 in the National Register of Historic Places or a district:

80 1. Designated under general law or local ordinance and
81 certified by the United States Secretary of the Interior as
82 meeting criteria that will substantially achieve the purposes of
83 preserving and rehabilitating buildings of historic significance
84 to the district; and

85 2. Certified by the United States Secretary of the Interior
86 as meeting substantially all of the requirements for listing a
87 district in the National Register of Historic Places.

88 (3) ELIGIBILITY FOR TAX CREDIT.—For taxable years beginning
89 on or after January 1, 2023, there is allowed a credit against
90 any tax due for a taxable year under this chapter after the
91 application of any other allowable credits by the taxpayer.

92 (a) To claim and receive a tax credit under this section, a
93 taxpayer must apply to the division for a tax credit for
94 qualified expenses in the amount and under the conditions and
95 limitations provided in this section against the tax due for a
96 taxable year under this chapter and must provide the division
97 with all of the following:



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98 1. Documentation showing that:

99 a. The rehabilitation is a certified rehabilitation;

100 b. The structure is a certified historic structure, is
101 income-producing, is located within this state, and is
102 rehabilitated and placed in service on or after January 1, 2023;

103 c. The taxpayer had an ownership or a long-term leasehold
104 interest in the certified historic structure in the year during
105 which the certified historic structure was placed into service
106 after the certified rehabilitation was completed;

107 d. The total amount of qualified expenses incurred in
108 rehabilitating the certified historic structure exceeded \$5,000;

109 e. The qualified expenses were incurred in this state; and

110 f. The taxpayer received a tax credit for the qualified
111 expenses under 26 U.S.C. s. 47.

112 2. An official certificate of eligibility from the
113 division, signed by the State Historic Preservation Officer or
114 the Deputy State Historic Preservation Officer, attesting that
115 the project has been approved by the National Park Service and
116 confirming that the project is located within a local program
117 area.

118 3. National Park Service Form 10-168c (Rev. 2019), titled
119 "Historic Preservation Certification Application-Part 3-Request
120 for Certification of Completed Work," or a similar form, signed
121 by an officer of the National Park Service, attesting that the
122 completed rehabilitation meets the United States Secretary of
123 the Interior's Standards for Rehabilitation and is consistent
124 with the historic character of the property and, if applicable,
125 the district in which the completed rehabilitation is located.
126 The form may be obtained through the National Park Service.



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127 4. An identification of the dates during which the
128 certified historic structure was rehabilitated, the date the
129 certified historic structure was placed in service after the
130 certified rehabilitation was completed, and evidence that the
131 certified historic structure was placed in service after the
132 certified rehabilitation was completed.

133 5. A list of total qualified expenses incurred by the
134 taxpayer in rehabilitating the certified historic structure. For
135 certified rehabilitations with qualified expenses that exceed
136 \$750,000, the taxpayer must submit an audited cost report issued
137 by a certified public accountant which itemizes the qualified
138 expenses incurred in rehabilitating the certified historic
139 structure. A taxpayer may submit an audited cost report issued
140 by a certified public accountant which was created for purposes
141 of applying for a federal historic rehabilitation tax credit and
142 which includes all of the qualified expenses incurred in
143 rehabilitating the certified historic structure.

144 6. An attestation of the total qualified expenses incurred
145 by the taxpayer in rehabilitating the certified historic
146 structure.

147 7. The information required to be reported by the
148 department in subsection (8) to enable the department to compile
149 its annual report.

150 (b) Within 60 days after receipt of the information
151 required under paragraph (a), the division shall evaluate the
152 application and recommend the applicant for certification or
153 denial. The division must approve or deny the application within
154 30 days after receiving the recommendation. If approved, the
155 division must provide a letter of certification to the applicant



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156 consistent with any restrictions imposed. If the division denies
157 any part of the requested credit, the division must inform the
158 applicant of the grounds for the denial. The division must
159 submit a copy of the certification and the information provided
160 by the taxpayer to the department within 10 days after the
161 division's approval.

162 (4) AMOUNT OF TAX CREDIT.—The total tax credit claimed
163 annually may not exceed the amount of tax due after any other
164 applicable tax credits and may not exceed the following:

165 (a) Twenty percent of the total qualified expenses incurred
166 in this state in rehabilitating a certified historic structure
167 that has been approved by the National Park Service to receive
168 the federal historic rehabilitation tax credit; or

169 (b) Thirty percent of the total qualified expenses incurred
170 in this state in rehabilitating a certified historic structure
171 that has been approved by the National Park Service to receive
172 the federal historic rehabilitation tax credit and that is
173 located within a local program area.

174
175 The tax credit may be used to offset the corporate income tax
176 imposed in s. 220.11 and the insurance premium tax imposed in s.
177 624.509. An insurer claiming a credit against insurance premium
178 tax liability under this section may not be required to pay any
179 additional retaliatory tax levied pursuant to s. 624.5091 as a
180 result of claiming such credit. Section 624.5091 does not limit
181 such credit in any manner.

182 (5) CARRYFORWARD OF TAX CREDIT.—

183 (a) If a taxpayer is eligible for a tax credit that exceeds
184 taxes owed, the taxpayer may carry the unused tax credit forward



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185 for a period of up to 5 taxable years.

186 (b) A carryforward is considered the remaining portion of a
187 tax credit that cannot be claimed in the current tax year.

188 (6) SALE OR TRANSFER OF TAX CREDIT.—

189 (a) A taxpayer that incurs qualified expenses may sell or
190 transfer all or part of the tax credit that may otherwise be
191 claimed to another taxpayer.

192 (b) A taxpayer to which all or part of the tax credit is
193 sold or transferred may sell or transfer all or part of the tax
194 credit that may otherwise be claimed to another taxpayer.

195 (c) A taxpayer that sells or transfers a tax credit to
196 another taxpayer must provide a copy of the certificate of
197 eligibility together with the audited cost report to the
198 purchaser or transferee.

199 (d) Qualified expenses may be counted only once in
200 determining the amount of an available tax credit, and more than
201 one taxpayer may not claim a tax credit for the same qualified
202 expenses.

203 (e) There is no limit on the total number of transactions
204 for the sale or transfer of all or part of a tax credit.

205 (f)1. A taxpayer that sells or transfers a tax credit under
206 this subsection and the purchaser or transferee shall jointly
207 submit written notice of the sale or transfer to the department
208 on a form adopted by the department no later than the 30th day
209 after the date of the sale or transfer. The notice must include
210 all of the following:

211 a. The date of the sale or transfer.

212 b. The amount of the tax credit sold or transferred.

213 c. The name and federal tax identification number of the



214 taxpayer that sold or transferred the tax credit and the
215 purchaser or transferee.

216 d. The amount of the tax credit owned by the taxpayer
217 before the sale or transfer and the amount the selling or
218 transferring taxpayer retained, if any, after the sale or
219 transfer.

220 2. The sale or transfer of a tax credit under this
221 subsection does not extend the period for which a tax credit may
222 be carried forward and does not increase the total amount of the
223 tax credit that may be claimed.

224 3. If a taxpayer claims a tax credit for qualified
225 expenses, another taxpayer may not use the same expenses as the
226 basis for claiming a tax credit.

227 4. Notwithstanding the requirements of this subsection, a
228 tax credit earned by, purchased by, or transferred to a
229 partnership, limited liability company, S corporation, or other
230 pass-through taxpayer may be allocated to the partners, members,
231 or shareholders of that taxpayer and claimed under this section
232 in accordance with any agreement among the partners, members, or
233 shareholders and without regard to the ownership interest of the
234 partners, members, or shareholders in the rehabilitated
235 certified historic structure.

236 (g) If the tax credit is reduced due to a determination,
237 examination, or audit by the department, the tax deficiency
238 shall be recovered from the taxpayer that sold or transferred
239 the tax credit or the purchaser or transferee that claimed the
240 tax credit up to the amount of the tax credit taken.

241 (h) Any subsequent deficiencies shall be assessed against
242 the purchaser or transferee that claimed the tax credit or, in



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243 the case of multiple succeeding entities, in the order of tax
244 credit succession.

245 (7) AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX
246 CREDITS; FRAUDULENT CLAIMS.—

247 (a) The department, with assistance from the division, may
248 perform any additional financial and technical audits and
249 examinations, including examining the accounts, books, or
250 records of the tax credit applicant, to verify the legitimacy of
251 the qualified expenses included in a tax credit return and to
252 ensure compliance with this section. If requested by the
253 department, the division must provide technical assistance for
254 any technical audits or examinations performed under this
255 subsection.

256 (b) It is grounds for forfeiture of previously claimed and
257 received tax credits if the department determines, as a result
258 of an audit or information received from the division or the
259 United States Department of the Interior, that a taxpayer
260 received a tax credit pursuant to this section to which the
261 taxpayer was not entitled. In the case of fraud, the taxpayer
262 may not claim any future tax credits under this section.

263 (c) The taxpayer must return forfeited tax credits to the
264 department, and such funds shall be paid into the General
265 Revenue Fund.

266 (d) The taxpayer shall file with the department an amended
267 tax return or such other report as the department prescribes and
268 shall pay any required tax within 60 days after the taxpayer
269 receives notification from the United States Internal Revenue
270 Service that a previously approved tax credit has been revoked
271 or modified, if uncontested, or within 60 days after a final



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272 order is issued following proceedings involving a contested
273 revocation or modification order.

274 (e) A notice of deficiency may be issued by the department
275 at any time within 5 years after the date on which the taxpayer
276 receives notification from the United States Internal Revenue
277 Service that a previously approved tax credit has been revoked
278 or modified.

279 (f) If a taxpayer fails to notify the department of any
280 change in its tax credit claimed, a notice of deficiency may be
281 issued at any time. In either case, the amount of any proposed
282 assessment set forth in such notice of deficiency is limited to
283 the amount of any deficiency resulting under this section from
284 the precomputation of the taxpayer's tax for the taxable year.

285 (g) A taxpayer that fails to report and timely pay any tax
286 due as a result of the forfeiture of its tax credit violates
287 this section and is subject to applicable penalties and
288 interest.

289 (8) ANNUAL REPORTS.—Based on the applications submitted and
290 approved, the department must submit a report by December 1 of
291 each year to the President of the Senate and the Speaker of the
292 House of Representatives that identifies, in the aggregate, all
293 of the following:

294 (a) The number of employees hired during construction
295 phases.

296 (b) The use of each newly rehabilitated building and the
297 expected number of employees hired.

298 (c) The number of affordable housing units created or
299 preserved.

300 (d) The property values before and after the certified



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301 rehabilitations.

302 (9) DEPARTMENT DUTIES.—The department shall:

303 (a) Establish a cooperative agreement with the division.

304 (b) Establish any necessary forms required to claim a tax
305 credit under this section.

306 (c) Provide administrative guidelines and procedures
307 required to administer this section, including rules
308 establishing an entitlement to and sale or transfer of a tax
309 credit under this section.

310 (d) Provide examination and audit procedures required to
311 administer this section.

312 (10) RULES.—The department and the division may adopt rules
313 to administer this section.

314 Section 2. Subsection (23) is added to section 213.053,
315 Florida Statutes, to read:

316 213.053 Confidentiality and information sharing.—

317 (23) The department may make available to the Division of
318 Historical Resources of the Department of State and the
319 Secretary of the Department of the Interior of the United States
320 or his or her delegate, exclusively for official purposes,
321 information for the purposes of administering the Main Street
322 Historic Tourism and Revitalization Act pursuant to s. 220.197.

323 Section 3. Subsection (8) of section 220.02, Florida
324 Statutes, is amended to read:

325 220.02 Legislative intent.—

326 (8) It is the intent of the Legislature that credits
327 against either the corporate income tax or the franchise tax be
328 applied in the following order: those enumerated in s. 631.828,
329 those enumerated in s. 220.191, those enumerated in s. 220.181,



330 those enumerated in s. 220.183, those enumerated in s. 220.182,
331 those enumerated in s. 220.1895, those enumerated in s. 220.195,
332 those enumerated in s. 220.184, those enumerated in s. 220.186,
333 those enumerated in s. 220.1845, those enumerated in s. 220.19,
334 those enumerated in s. 220.185, those enumerated in s. 220.1875,
335 those enumerated in s. 220.1876, those enumerated in s.
336 220.1877, those enumerated in s. 220.193, those enumerated in s.
337 288.9916, those enumerated in s. 220.1899, those enumerated in
338 s. 220.194, those enumerated in s. 220.196, ~~and~~ those enumerated
339 in s. 220.198, and those enumerated in s. 220.197.

340 Section 4. Paragraph (a) of subsection (1) of section
341 220.13, Florida Statutes, is amended to read:

342 220.13 "Adjusted federal income" defined.—

343 (1) The term "adjusted federal income" means an amount
344 equal to the taxpayer's taxable income as defined in subsection
345 (2), or such taxable income of more than one taxpayer as
346 provided in s. 220.131, for the taxable year, adjusted as
347 follows:

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

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

354 b. Notwithstanding sub-subparagraph a., if a credit taken
355 under s. 220.1875, s. 220.1876, or s. 220.1877 is added to
356 taxable income in a previous taxable year under subparagraph 11.
357 and is taken as a deduction for federal tax purposes in the
358 current taxable year, the amount of the deduction allowed shall



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359 not be added to taxable income in the current year. The
360 exception in this sub-subparagraph is intended to ensure that
361 the credit under s. 220.1875, s. 220.1876, or s. 220.1877 is
362 added in the applicable taxable year and does not result in a
363 duplicate addition in a subsequent year.

364 2. The amount of interest which is excluded from taxable
365 income under s. 103(a) of the Internal Revenue Code or any other
366 federal law, less the associated expenses disallowed in the
367 computation of taxable income under s. 265 of the Internal
368 Revenue Code or any other law, excluding 60 percent of any
369 amounts included in alternative minimum taxable income, as
370 defined in s. 55(b)(2) of the Internal Revenue Code, if the
371 taxpayer pays tax under s. 220.11(3).

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

376 4. That portion of the wages or salaries paid or incurred
377 for the taxable year which is equal to the amount of the credit
378 allowable for the taxable year under s. 220.181. This
379 subparagraph shall expire on the date specified in s. 290.016
380 for the expiration of the Florida Enterprise Zone Act.

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

386 6. The amount taken as a credit under s. 220.195 which is
387 deductible from gross income in the computation of taxable



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388 income for the taxable year.

389 7. That portion of assessments to fund a guaranty
390 association incurred for the taxable year which is equal to the
391 amount of the credit allowable for the taxable year.

392 8. In the case of a nonprofit corporation which holds a
393 pari-mutuel permit and which is exempt from federal income tax
394 as a farmers' cooperative, an amount equal to the excess of the
395 gross income attributable to the pari-mutuel operations over the
396 attributable expenses for the taxable year.

397 9. The amount taken as a credit for the taxable year under
398 s. 220.1895.

399 10. Up to nine percent of the eligible basis of any
400 designated project which is equal to the credit allowable for
401 the taxable year under s. 220.185.

402 11. Any amount taken as a credit for the taxable year under
403 s. 220.1875, s. 220.1876, or s. 220.1877. The addition in this
404 subparagraph is intended to ensure that the same amount is not
405 allowed for the tax purposes of this state as both a deduction
406 from income and a credit against the tax. This addition is not
407 intended to result in adding the same expense back to income
408 more than once.

409 12. The amount taken as a credit for the taxable year under
410 s. 220.193.

411 13. Any portion of a qualified investment, as defined in s.
412 288.9913, which is claimed as a deduction by the taxpayer and
413 taken as a credit against income tax pursuant to s. 288.9916.

414 14. The costs to acquire a tax credit pursuant to s.
415 288.1254(5) that are deducted from or otherwise reduce federal
416 taxable income for the taxable year.



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417 15. The amount taken as a credit for the taxable year
418 pursuant to s. 220.194.

419 16. The amount taken as a credit for the taxable year under
420 s. 220.196. The addition in this subparagraph is intended to
421 ensure that the same amount is not allowed for the tax purposes
422 of this state as both a deduction from income and a credit
423 against the tax. The addition is not intended to result in
424 adding the same expense back to income more than once.

425 17. The amount taken as a credit for the taxable year
426 pursuant to s. 220.198.

427 18. The amount taken as a credit for the taxable year
428 pursuant to s. 220.197.

429 Section 5. Subsection (7) of section 624.509, Florida
430 Statutes, is amended to read:

431 624.509 Premium tax; rate and computation.—

432 (7) Credits and deductions against the tax imposed by this
433 section shall be taken in the following order: deductions for
434 assessments made pursuant to s. 440.51; credits for taxes paid
435 under ss. 175.101 and 185.08; credits for income taxes paid
436 under chapter 220 and the credit allowed under subsection (5),
437 as these credits are limited by subsection (6); the credit
438 allowed under s. 624.51057; the credit allowed under s. 220.197;
439 and all other available credits and deductions.

440 Section 6. (1) The Department of Revenue may, and all
441 conditions are deemed met to, adopt emergency rules under s.
442 120.54(4), Florida Statutes, for the purpose of implementing
443 provisions related to the Main Street Historic Tourism and
444 Revitalization Act.

445 (2) Notwithstanding any other law, emergency rules adopted



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446 under this section are effective for 6 months after adoption and
447 may be renewed during the pendency of procedures to adopt
448 permanent rules addressing the subject of the emergency rules.

449 (3) This section shall take effect upon this act becoming a
450 law and expires July 1, 2023.

451 Section 7. This act applies to taxable years beginning and
452 for qualified expenses incurred on or after January 1, 2023.

453 Section 8. This act shall take effect January 1, 2023.

454
455 ===== T I T L E A M E N D M E N T =====

456 And the title is amended as follows:

457 Delete everything before the enacting clause
458 and insert:

459 A bill to be entitled
460 An act relating to the Florida Main Street Program and
461 historic preservation tax credits; creating s.
462 220.197, F.S.; providing a short title; defining
463 terms; specifying eligibility requirements for
464 receiving specified tax credits for taxpayers that
465 rehabilitate certified historic structures; specifying
466 requirements for taxpayers claiming or transferring
467 specified tax credits; specifying requirements for the
468 Division of Historical Resources of the Department of
469 State for evaluating and certifying applications for
470 specified tax credits; specifying the amount of tax
471 credits; providing construction; authorizing the
472 carryforward, sale, and transfer of tax credits;
473 providing the Department of Revenue and the division
474 audit and examination powers for specified purposes



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475 related to certified rehabilitation expenses;
476 requiring the return of forfeited tax credits under
477 certain circumstances; providing penalties; requiring
478 the Department of Revenue to provide specified annual
479 reports to the Legislature; providing duties of the
480 Department of Revenue; authorizing the Department of
481 Revenue and the division to adopt rules; amending s.
482 213.053, F.S.; authorizing the Department of Revenue
483 and the Secretary of the Department of the Interior of
484 the United States to make certain information
485 available for specified purposes; amending s. 220.02,
486 F.S.; revising the order in which tax credits against
487 the corporate income tax credit or the franchise tax
488 are applied; amending 220.13, F.S.; revising the
489 definition of the term "adjusted federal income";
490 amending s. 624.509, F.S.; revising the order in which
491 credits and deductions against the insurance premium
492 tax are applied; authorizing the Department of Revenue
493 to adopt emergency rules to implement certain
494 provisions; providing for expiration of that
495 authority; providing applicability; providing an
496 effective date.

497
498 WHEREAS, historic revitalization creates highly paid local
499 construction jobs, and

500 WHEREAS, historic rehabilitation increases the value of
501 buildings and results in a growing state and local tax base, and

502 WHEREAS, historic revitalization boosts heritage tourism
503 and creates thriving downtowns that are attractive to main



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504 street businesses, and

505 WHEREAS, reusing historic buildings creates affordable
506 spaces for small business incubation, and

507 WHEREAS, repurposing historic buildings saves resources and
508 activates vacant spaces, and

509 WHEREAS, historic rehabilitation projects leverage
510 significant private investment, and

511 WHEREAS, leveraging state tax incentives increases the
512 effectiveness of federal Historic Preservation Tax Incentives
513 and the Opportunity Zones Program to encourage the historic
514 preservation of existing buildings, and

515 WHEREAS, an increase in rehabilitation activity occurs when
516 a state incentive is combined with federal Historic Preservation
517 Tax Incentives, and

518 WHEREAS, many historic buildings in this state need safety
519 upgrades and other improvements that require both public and
520 private investment to return these buildings as assets of their
521 local communities, NOW, THEREFORE,