

By the Committee on Finance and Tax; and Senator Rodriguez

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1 A bill to be entitled
2 An act relating to the Florida Main Street Program and
3 historic preservation tax credits; creating s.
4 220.197, F.S.; providing a short title; defining
5 terms; specifying eligibility requirements for
6 receiving specified tax credits for taxpayers that
7 rehabilitate certified historic structures; specifying
8 requirements for taxpayers claiming or transferring
9 specified tax credits; specifying requirements for the
10 Division of Historical Resources of the Department of
11 State for evaluating and certifying applications for
12 specified tax credits; specifying the amount of tax
13 credits; providing construction; authorizing the
14 carryforward, sale, and transfer of tax credits;
15 providing the Department of Revenue and the division
16 audit and examination powers for specified purposes
17 related to certified rehabilitation expenses;
18 requiring the return of forfeited tax credits under
19 certain circumstances; providing penalties; requiring
20 the Department of Revenue to provide specified annual
21 reports to the Legislature; providing duties of the
22 Department of Revenue; authorizing the Department of
23 Revenue and the division to adopt rules; amending s.
24 213.053, F.S.; authorizing the Department of Revenue
25 and the Secretary of the Department of the Interior of
26 the United States to make certain information
27 available for specified purposes; amending s. 220.02,
28 F.S.; revising the order in which tax credits against
29 the corporate income tax credit or the franchise tax

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30 are applied; amending s. 220.13, F.S.; revising the
31 definition of the term "adjusted federal income";
32 amending s. 624.509, F.S.; revising the order in which
33 credits and deductions against the insurance premium
34 tax are applied; authorizing the Department of Revenue
35 to adopt emergency rules to implement certain
36 provisions; providing for expiration of that
37 authority; providing applicability; providing an
38 effective date.

39
40 WHEREAS, historic revitalization creates highly paid local
41 construction jobs, and

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

44 WHEREAS, historic revitalization boosts heritage tourism
45 and creates thriving downtowns that are attractive to main
46 street businesses, and

47 WHEREAS, reusing historic buildings creates affordable
48 spaces for small business incubation, and

49 WHEREAS, repurposing historic buildings saves resources and
50 activates vacant spaces, and

51 WHEREAS, historic rehabilitation projects leverage
52 significant private investment, and

53 WHEREAS, leveraging state tax incentives increases the
54 effectiveness of federal Historic Preservation Tax Incentives
55 and the Opportunity Zones Program to encourage the historic
56 preservation of existing buildings, and

57 WHEREAS, an increase in rehabilitation activity occurs when
58 a state incentive is combined with federal Historic Preservation

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59 Tax Incentives, and

60 WHEREAS, many historic buildings in this state need safety
61 upgrades and other improvements that require both public and
62 private investment to return these buildings as assets of their
63 local communities, NOW, THEREFORE,

64
65 Be It Enacted by the Legislature of the State of Florida:

66
67 Section 1. Section 220.197, Florida Statutes, is created to
68 read:

69 220.197 Main Street Historic Tourism and Revitalization
70 Act; tax credits; reports.-

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

73 (2) DEFINITIONS.-As used in this section, the term:

74 (a) "Accredited Main Street Program" means an active
75 Florida Main Street Program or the Orlando Main Streets program,
76 provided that such program meets the Main Street America
77 accreditation standards. An Accredited Main Street Program must:

78 1. Have broad-based community support for the commercial
79 district revitalization process with strong support from the
80 public and private sectors.

81 2. Have a developed vision and mission statement relevant
82 to community conditions and to Main Street America's
83 organizational stage.

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

85 4. Possess a historic preservation ethic.

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

87 6. Have an adequate operating budget.

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88 7. Have a paid professional program manager.

89 8. Conduct a program of ongoing training for staff and
90 volunteers.

91 9. Report key statistics.

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

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

98 1. Individually listed in the National Register of Historic
99 Places; or

100 2. Located within a registered historic district and
101 certified by the United States Secretary of the Interior as
102 being of historic significance to the registered historic
103 district as set forth in 36 C.F.R. s. 67.2.

104 (c) "Certified rehabilitation" means the rehabilitation of
105 a certified historic structure that the United States Secretary
106 of the Interior has certified to the United States Secretary of
107 the Treasury as being consistent with the historic character of
108 the certified historic structure and, if applicable, consistent
109 with the registered historic district in which the certified
110 historic structure is located as set forth in 36 C.F.R. s. 67.2.

111 (d) "Division" means the Division of Historical Resources
112 of the Department of State.

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

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117 (f) "Local program area" means the specific geographic area
118 in which an Accredited Main Street Program is conducted as
119 approved and maintained by the division or in which the Orlando
120 Main Streets program is conducted.

121 (g) "Long-term leasehold" means a leasehold in a
122 nonresidential real property for a term of 39 years or more or a
123 leasehold in a residential real property for a term of 27.5
124 years or more.

125 (h) "Main Street America" means a national network of
126 grassroots organizations revitalizing historic downtown areas
127 under the leadership of the National Main Street Center, Inc., a
128 subsidiary of the National Trust for Historic Preservation.

129 (i) "National Register of Historic Places" means the list
130 of historic properties significant in American history,
131 architecture, archeology, engineering, and culture maintained by
132 the United States Secretary of the Interior as authorized in 54
133 U.S.C. s. 3021.

134 (j) "Orlando Main Streets" means a historic preservation-
135 based district revitalization program administered by the City
136 of Orlando.

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

140 (l) "Registered historic district" means a district listed
141 in the National Register of Historic Places or a district:

142 1. Designated under general law or local ordinance and
143 certified by the United States Secretary of the Interior as
144 meeting criteria that will substantially achieve the purposes of
145 preserving and rehabilitating buildings of historic significance

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146 to the district; and

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

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

154 (a) To claim and receive a tax credit under this section, a
155 taxpayer must apply to the division for a tax credit for
156 qualified expenses in the amount and under the conditions and
157 limitations provided in this section against the tax due for a
158 taxable year under this chapter and must provide the division
159 with all of the following:

160 1. Documentation showing that:

161 a. The rehabilitation is a certified rehabilitation;

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

165 c. The taxpayer had an ownership or a long-term leasehold
166 interest in the certified historic structure in the year during
167 which the certified historic structure was placed into service
168 after the certified rehabilitation was completed;

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

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

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

174 2. An official certificate of eligibility from the

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175 division, signed by the State Historic Preservation Officer or
176 the Deputy State Historic Preservation Officer, attesting that
177 the project has been approved by the National Park Service and
178 confirming that the project is located within a local program
179 area.

180 3. National Park Service Form 10-168c (Rev. 2019), titled
181 "Historic Preservation Certification Application-Part 3-Request
182 for Certification of Completed Work," or a similar form, signed
183 by an officer of the National Park Service, attesting that the
184 completed rehabilitation meets the United States Secretary of
185 the Interior's Standards for Rehabilitation and is consistent
186 with the historic character of the property and, if applicable,
187 the district in which the completed rehabilitation is located.
188 The form may be obtained through the National Park Service.

189 4. An identification of the dates during which the
190 certified historic structure was rehabilitated, the date the
191 certified historic structure was placed in service after the
192 certified rehabilitation was completed, and evidence that the
193 certified historic structure was placed in service after the
194 certified rehabilitation was completed.

195 5. A list of total qualified expenses incurred by the
196 taxpayer in rehabilitating the certified historic structure. For
197 certified rehabilitations with qualified expenses that exceed
198 \$750,000, the taxpayer must submit an audited cost report issued
199 by a certified public accountant which itemizes the qualified
200 expenses incurred in rehabilitating the certified historic
201 structure. A taxpayer may submit an audited cost report issued
202 by a certified public accountant which was created for purposes
203 of applying for a federal historic rehabilitation tax credit and

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204 which includes all of the qualified expenses incurred in
205 rehabilitating the certified historic structure.

206 6. An attestation of the total qualified expenses incurred
207 by the taxpayer in rehabilitating the certified historic
208 structure.

209 7. The information required to be reported by the
210 department in subsection (8) to enable the department to compile
211 its annual report.

212 (b) Within 60 days after receipt of the information
213 required under paragraph (a), the division shall evaluate the
214 application and recommend the applicant for certification or
215 denial. The division must approve or deny the application within
216 30 days after receiving the recommendation. If approved, the
217 division must provide a letter of certification to the applicant
218 consistent with any restrictions imposed. If the division denies
219 any part of the requested credit, the division must inform the
220 applicant of the grounds for the denial. The division must
221 submit a copy of the certification and the information provided
222 by the taxpayer to the department within 10 days after the
223 division's approval.

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

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

231 (b) Thirty percent of the total qualified expenses incurred
232 in this state in rehabilitating a certified historic structure

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233 that has been approved by the National Park Service to receive
234 the federal historic rehabilitation tax credit and that is
235 located within a local program area.

236
237 The tax credit may be used to offset the corporate income tax
238 imposed in s. 220.11 and the insurance premium tax imposed in s.
239 624.509. An insurer claiming a credit against insurance premium
240 tax liability under this section may not be required to pay any
241 additional retaliatory tax levied pursuant to s. 624.5091 as a
242 result of claiming such credit. Section 624.5091 does not limit
243 such credit in any manner.

244 (5) CARRYFORWARD OF TAX CREDIT.—

245 (a) If a taxpayer is eligible for a tax credit that exceeds
246 taxes owed, the taxpayer may carry the unused tax credit forward
247 for a period of up to 5 taxable years.

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

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

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

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

257 (c) A taxpayer that sells or transfers a tax credit to
258 another taxpayer must provide a copy of the certificate of
259 eligibility together with the audited cost report to the
260 purchaser or transferee.

261 (d) Qualified expenses may be counted only once in

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262 determining the amount of an available tax credit, and more than
263 one taxpayer may not claim a tax credit for the same qualified
264 expenses.

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

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

273 a. The date of the sale or transfer.

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

275 c. The name and federal tax identification number of the
276 taxpayer that sold or transferred the tax credit and the
277 purchaser or transferee.

278 d. The amount of the tax credit owned by the taxpayer
279 before the sale or transfer and the amount the selling or
280 transferring taxpayer retained, if any, after the sale or
281 transfer.

282 2. The sale or transfer of a tax credit under this
283 subsection does not extend the period for which a tax credit may
284 be carried forward and does not increase the total amount of the
285 tax credit that may be claimed.

286 3. If a taxpayer claims a tax credit for qualified
287 expenses, another taxpayer may not use the same expenses as the
288 basis for claiming a tax credit.

289 4. Notwithstanding the requirements of this subsection, a
290 tax credit earned by, purchased by, or transferred to a

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291 partnership, limited liability company, S corporation, or other
292 pass-through taxpayer may be allocated to the partners, members,
293 or shareholders of that taxpayer and claimed under this section
294 in accordance with any agreement among the partners, members, or
295 shareholders and without regard to the ownership interest of the
296 partners, members, or shareholders in the rehabilitated
297 certified historic structure.

298 (g) If the tax credit is reduced due to a determination,
299 examination, or audit by the department, the tax deficiency
300 shall be recovered from the taxpayer that sold or transferred
301 the tax credit or the purchaser or transferee that claimed the
302 tax credit up to the amount of the tax credit taken.

303 (h) Any subsequent deficiencies shall be assessed against
304 the purchaser or transferee that claimed the tax credit or, in
305 the case of multiple succeeding entities, in the order of tax
306 credit succession.

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

309 (a) The department, with assistance from the division, may
310 perform any additional financial and technical audits and
311 examinations, including examining the accounts, books, or
312 records of the tax credit applicant, to verify the legitimacy of
313 the qualified expenses included in a tax credit return and to
314 ensure compliance with this section. If requested by the
315 department, the division must provide technical assistance for
316 any technical audits or examinations performed under this
317 subsection.

318 (b) It is grounds for forfeiture of previously claimed and
319 received tax credits if the department determines, as a result

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320 of an audit or information received from the division or the
321 United States Department of the Interior, that a taxpayer
322 received a tax credit pursuant to this section to which the
323 taxpayer was not entitled. In the case of fraud, the taxpayer
324 may not claim any future tax credits under this section.

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

328 (d) The taxpayer shall file with the department an amended
329 tax return or such other report as the department prescribes and
330 shall pay any required tax within 60 days after the taxpayer
331 receives notification from the United States Internal Revenue
332 Service that a previously approved tax credit has been revoked
333 or modified, if uncontested, or within 60 days after a final
334 order is issued following proceedings involving a contested
335 revocation or modification order.

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

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

347 (g) A taxpayer that fails to report and timely pay any tax
348 due as a result of the forfeiture of its tax credit violates

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349 this section and is subject to applicable penalties and
350 interest.

351 (8) ANNUAL REPORTS.—Based on the applications submitted and
352 approved, the department must submit a report by December 1 of
353 each year to the President of the Senate and the Speaker of the
354 House of Representatives that identifies, in the aggregate, all
355 of the following:

356 (a) The number of employees hired during construction
357 phases.

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

360 (c) The number of affordable housing units created or
361 preserved.

362 (d) The property values before and after the certified
363 rehabilitations.

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

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

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

368 (c) Provide administrative guidelines and procedures
369 required to administer this section, including rules
370 establishing an entitlement to and sale or transfer of a tax
371 credit under this section.

372 (d) Provide examination and audit procedures required to
373 administer this section.

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

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

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378 213.053 Confidentiality and information sharing.-

379 (23) The department may make available to the Division of
380 Historical Resources of the Department of State and the
381 Secretary of the Department of the Interior of the United States
382 or his or her delegate, exclusively for official purposes,
383 information for the purposes of administering the Main Street
384 Historic Tourism and Revitalization Act pursuant to s. 220.197.

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

387 220.02 Legislative intent.-

388 (8) It is the intent of the Legislature that credits
389 against either the corporate income tax or the franchise tax be
390 applied in the following order: those enumerated in s. 631.828,
391 those enumerated in s. 220.191, those enumerated in s. 220.181,
392 those enumerated in s. 220.183, those enumerated in s. 220.182,
393 those enumerated in s. 220.1895, those enumerated in s. 220.195,
394 those enumerated in s. 220.184, those enumerated in s. 220.186,
395 those enumerated in s. 220.1845, those enumerated in s. 220.19,
396 those enumerated in s. 220.185, those enumerated in s. 220.1875,
397 those enumerated in s. 220.1876, those enumerated in s.
398 220.1877, those enumerated in s. 220.193, those enumerated in s.
399 288.9916, those enumerated in s. 220.1899, those enumerated in
400 s. 220.194, those enumerated in s. 220.196, ~~and~~ those enumerated
401 in s. 220.198, and those enumerated in s. 220.197.

402 Section 4. Paragraph (a) of subsection (1) of section
403 220.13, Florida Statutes, is amended to read:

404 220.13 "Adjusted federal income" defined.-

405 (1) The term "adjusted federal income" means an amount
406 equal to the taxpayer's taxable income as defined in subsection

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407 (2), or such taxable income of more than one taxpayer as
408 provided in s. 220.131, for the taxable year, adjusted as
409 follows:

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

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

416 b. Notwithstanding sub-subparagraph a., if a credit taken
417 under s. 220.1875, s. 220.1876, or s. 220.1877 is added to
418 taxable income in a previous taxable year under subparagraph 11.
419 and is taken as a deduction for federal tax purposes in the
420 current taxable year, the amount of the deduction allowed shall
421 not be added to taxable income in the current year. The
422 exception in this sub-subparagraph is intended to ensure that
423 the credit under s. 220.1875, s. 220.1876, or s. 220.1877 is
424 added in the applicable taxable year and does not result in a
425 duplicate addition in a subsequent year.

426 2. The amount of interest which is excluded from taxable
427 income under s. 103(a) of the Internal Revenue Code or any other
428 federal law, less the associated expenses disallowed in the
429 computation of taxable income under s. 265 of the Internal
430 Revenue Code or any other law, excluding 60 percent of any
431 amounts included in alternative minimum taxable income, as
432 defined in s. 55(b)(2) of the Internal Revenue Code, if the
433 taxpayer pays tax under s. 220.11(3).

434 3. In the case of a regulated investment company or real
435 estate investment trust, an amount equal to the excess of the

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436 net long-term capital gain for the taxable year over the amount
437 of the capital gain dividends attributable to the taxable year.

438 4. That portion of the wages or salaries paid or incurred
439 for the taxable year which is equal to the amount of the credit
440 allowable for the taxable year under s. 220.181. This
441 subparagraph shall expire on the date specified in s. 290.016
442 for the expiration of the Florida Enterprise Zone Act.

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

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

451 7. That portion of assessments to fund a guaranty
452 association incurred for the taxable year which is equal to the
453 amount of the credit allowable for the taxable year.

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

459 9. The amount taken as a credit for the taxable year under
460 s. 220.1895.

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

464 11. Any amount taken as a credit for the taxable year under

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465 s. 220.1875, s. 220.1876, or s. 220.1877. The addition in this
466 subparagraph is intended to ensure that the same amount is not
467 allowed for the tax purposes of this state as both a deduction
468 from income and a credit against the tax. This addition is not
469 intended to result in adding the same expense back to income
470 more than once.

471 12. The amount taken as a credit for the taxable year under
472 s. 220.193.

473 13. Any portion of a qualified investment, as defined in s.
474 288.9913, which is claimed as a deduction by the taxpayer and
475 taken as a credit against income tax pursuant to s. 288.9916.

476 14. The costs to acquire a tax credit pursuant to s.
477 288.1254(5) that are deducted from or otherwise reduce federal
478 taxable income for the taxable year.

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

481 16. The amount taken as a credit for the taxable year under
482 s. 220.196. The addition in this subparagraph is intended to
483 ensure that the same amount is not allowed for the tax purposes
484 of this state as both a deduction from income and a credit
485 against the tax. The addition is not intended to result in
486 adding the same expense back to income more than once.

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

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

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

493 624.509 Premium tax; rate and computation.-

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494 (7) Credits and deductions against the tax imposed by this
495 section shall be taken in the following order: deductions for
496 assessments made pursuant to s. 440.51; credits for taxes paid
497 under ss. 175.101 and 185.08; credits for income taxes paid
498 under chapter 220 and the credit allowed under subsection (5),
499 as these credits are limited by subsection (6); the credit
500 allowed under s. 624.51057; the credit allowed under s. 220.197;
501 and all other available credits and deductions.

502 Section 6. (1) The Department of Revenue may, and all
503 conditions are deemed met to, adopt emergency rules under s.
504 120.54(4), Florida Statutes, for the purpose of implementing
505 provisions related to the Main Street Historic Tourism and
506 Revitalization Act.

507 (2) Notwithstanding any other law, emergency rules adopted
508 under this section are effective for 6 months after adoption and
509 may be renewed during the pendency of procedures to adopt
510 permanent rules addressing the subject of the emergency rules.

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

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

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