

1 A bill to be entitled
 2 An act relating to 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 the amount of tax credits; authorizing the
 9 carryforward, sale, and transfer of tax credits;
 10 providing the Department of Revenue audit and
 11 examination powers for specified purposes related to
 12 certified rehabilitation expenses; requiring the
 13 return of forfeited tax credits under certain
 14 circumstances; requiring the department to provide
 15 specified annual reports to the Legislature; providing
 16 duties of the department; authorizing the department
 17 to adopt rules; providing an effective date.

18
 19 WHEREAS, historic revitalization creates highly paid local
 20 construction jobs, and

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

23 WHEREAS, historic revitalization boosts heritage tourism
 24 and creates thriving downtowns that are attractive to main
 25 street businesses, and

26 WHEREAS, reusing historic buildings creates affordable
 27 spaces for small business incubation, and

28 WHEREAS, repurposing historic buildings saves resources and
 29 activates vacant spaces, and

30 WHEREAS, historic rehabilitation projects leverage
 31 significant private investment, and

32 WHEREAS, leveraging state tax incentives increases the
 33 effectiveness of federal Historic Preservation Tax Incentives
 34 and the Opportunity Zones Program to encourage the historic
 35 preservation of existing buildings, and

36 WHEREAS, an increase in rehabilitation activity occurs when
 37 a state incentive is combined with federal Historic Preservation
 38 Tax Incentives, and

39 WHEREAS, many historic buildings in the state need safety
 40 upgrades and other improvements that require both public and
 41 private investment to return these buildings as assets of their
 42 local communities, NOW, THEREFORE,

43
 44 Be It Enacted by the Legislature of the State of Florida:

45
 46 Section 1. Section 220.197, Florida Statutes, is created
 47 to read:

48 220.197 The Main Street Historic Tourism and
 49 Revitalization Act; tax credits; reports.-

50 (1) SHORT TITLE.-This act may be cited as the "Main Street

51 Historic Tourism and Revitalization Act."

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

53 (a) "Accredited Main Street Program" means an active

54 Florida Main Street Program that meets Main Street America

55 accreditation standards. An Accredited Main Street Program must:

56 1. Have broad-based community support for the commercial

57 district revitalization process with strong support from the

58 public and private sectors.

59 2. Have a developed vision and mission statement relevant

60 to community conditions and to Main Street America's

61 organizational stage.

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

63 4. Possess an historic preservation ethic.

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

65 6. Have an adequate operating budget.

66 7. Have a paid professional program manager.

67 8. Conduct a program of ongoing training for staff and

68 volunteers.

69 9. Report key statistics.

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

71 (b) "Certified historic structure" means a building and

72 its structural components as defined in 36 C.F.R s. 67.2 that is

73 of a character subject to the allowance for depreciation

74 provided in s. 167 of the Internal Revenue Code of 1986, as

75 amended, and that is:

76 1. Individually listed in the National Register of
 77 Historic Places; or

78 2. Located within a registered historic district and
 79 certified by the United States Secretary of the Interior as
 80 being of historic significance to the registered historic
 81 district as set forth in 36 C.F.R. s. 67.2.

82 (c) "Certified rehabilitation" means the rehabilitation of
 83 a certified historic structure that the United States Secretary
 84 of the Interior has certified to the United States Secretary of
 85 the Treasury as being consistent with the historic character of
 86 the certified historic structure and, if applicable, consistent
 87 with the registered historic district in which the certified
 88 historic structure is located as set forth in 36 C.F.R. s. 67.2.

89 (d) "Division" means the Division of Historical Resources
 90 of the Department of State.

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

95 (f) "Local program area" means the specific geographic
 96 area in which an Accredited Main Street Program is conducted as
 97 approved and maintained by the division.

98 (g) "Main Street America" means a national network of
 99 grassroots organizations revitalizing historic downtown areas
 100 under the leadership of the National Main Street Center, Inc., a

101 subsidiary of the National Trust for Historic Preservation.

102 (h) "National Register of Historic Places" means the list
 103 of historic properties significant in American history,
 104 architecture, archeology, engineering, and culture maintained by
 105 the United States Secretary of the Interior as authorized in 54
 106 U.S.C s. 3021.

107 (i) "Qualified expenses" means qualified rehabilitation
 108 expenditures as defined in 26 U.S.C. s. 47(c)(2) and structural
 109 components as defined in 26 C.F.R. s. 1.48-1(e)(2) at the time
 110 of project certification by the United States Secretary of the
 111 Interior and the United States Internal Revenue Service.

112 (j) "Registered historic district" means a district listed
 113 in the National Register of Historic Places or a district:

114 1. Designated under general law or local ordinance and
 115 certified by the United States Secretary of the Interior as
 116 containing criteria that will substantially achieve the purposes
 117 of preserving and rehabilitating buildings of historic
 118 significance to the district; and

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

122 (3) ELIGIBILITY FOR TAX CREDIT.—To claim and receive a tax
 123 credit under this section, a taxpayer must first apply to the
 124 department for a tax credit for qualified expenses in the amount
 125 and under the conditions and limitations provided in this

126 section against the tax due for a taxable year under this
127 chapter and must document that:

128 (a) The rehabilitation is a certified rehabilitation.

129 (b) The structure is a certified historic structure, is
130 income-producing, is located within the state, and was
131 rehabilitated and placed into service on or after July 1, 2022.

132 (c) The taxpayer had an ownership interest in the
133 certified historic structure in the year during which the
134 certified historic structure was placed into service after the
135 certified rehabilitation was completed.

136 (d) The total amount of qualified expenses incurred in
137 rehabilitating the certified historic structure exceeded \$5,000.

138 (4) TAX CREDIT FILING REQUIREMENTS.—Before claiming or
139 transferring a tax credit under this section, the taxpayer must
140 provide the department with the following information:

141 (a) An official certificate of eligibility from the
142 division signed by the State Historic Preservation Officer or
143 the Deputy State Historic Preservation Officer attesting that
144 the project has been approved by the National Park Service and
145 confirming whether the project is or is not located within a
146 Main Street local program area.

147 (b) National Park Service Form 10-168e (Rev. 2019), titled
148 "Historic Preservation Certification Application-Request for
149 Certification of Completed Work-Part 3," signed by the National
150 Park Service attesting that the completed rehabilitation meets

151 the United States Secretary of the Interior's Standards for
152 Rehabilitation and is consistent with the historic character of
153 the property and, if applicable, the district in which the
154 completed rehabilitation is located. The form may be obtained
155 through the National Park Service.

156 (c) An identification of the dates during which the
157 certified historic structure was rehabilitated, the date the
158 certified historic structure was first placed into service after
159 the certified rehabilitation was completed, and evidence that
160 the certified historic structure was placed into service after
161 the certified rehabilitation was completed.

162 (d) A list of total qualified expenses incurred by the
163 taxpayer in rehabilitating the certified historic structure. For
164 certified rehabilitations with qualified expenses that exceeded
165 \$750,000, the taxpayer must submit an audited cost report issued
166 by a certified public accountant that itemizes the qualified
167 expenses incurred in rehabilitating the certified historic
168 structure as provided in s. 215.97.

169 (e) An attestation of the total qualified expenses
170 incurred by the taxpayer in rehabilitating the certified
171 historic structure.

172 (f) A completed Form F-1120, titled "Florida Corporate
173 Income/Franchise Tax Return," or other appropriate tax form
174 issued by the department for insurance premium tax reporting.

175 (g) The information required to be reported by the

176 department in subsection (9) to enable the department to compile
177 its annual report.

178 (5) AMOUNT OF TAX CREDIT.—The total tax credit claimed
179 annually may not exceed the amount of tax due after any other
180 applicable tax credits and may not exceed the following:

181 (a) Twenty percent of the total qualified expenses
182 incurred in rehabilitating a certified historic structure that
183 has been approved by the National Park Service to receive the
184 federal historic rehabilitation tax credit; or

185 (b) Thirty percent of the total qualified expenses
186 incurred in rehabilitating a certified historic structure that
187 has been approved by the National Park Service to receive the
188 federal historic rehabilitation tax credit and that is located
189 within a local program area of an Accredited Main Street
190 Program.

191
192 The tax credit may be used to offset the corporate income tax
193 imposed in s. 220.11 and the insurance premium tax imposed in s.
194 624.509.

195 (6) CARRYFORWARD OF TAX CREDIT.—

196 (a) If a taxpayer is eligible for a tax credit that
197 exceeds taxes owed, the taxpayer may carry the unused tax credit
198 forward for a period of up to 10 years.

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

201 (7) SALE OR TRANSFER OF TAX CREDIT.—

202 (a) A taxpayer that incurs qualified expenses may sell or

203 transfer all or part of the tax credit that may otherwise be

204 claimed to another taxpayer.

205 (b) A taxpayer to which all or part of the tax credit is

206 sold or transferred may sell or transfer all or part of the tax

207 credit that may otherwise be claimed to another taxpayer.

208 (c) A taxpayer that sells or transfers a tax credit to

209 another taxpayer must provide a copy of the certificate of

210 eligibility together with the audited cost report to the

211 purchaser or transferee.

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

213 determining the amount of an available tax credit, and more than

214 one taxpayer may not claim a tax credit for the same qualified

215 expenses.

216 (e) There is no limit on the total number of transactions

217 for the sale or transfer of all or part of a tax credit.

218 (f)1. A taxpayer that sells or transfers a tax credit

219 under this subsection and the purchaser or transferee shall

220 jointly submit written notice of the sale or transfer to the

221 department on a form adopted by the department no later than the

222 30th day after the date of the sale or transfer. The notice must

223 include all of the following:

224 a. The date of the sale or transfer.

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

226 c. The name and federal tax identification number of the
227 taxpayer that sold or transferred the tax credit and the
228 purchaser or transferee.

229 d. The amount of the tax credit owed by the taxpayer
230 before the sale or transfer and the amount the selling or
231 transferring taxpayer retained, if any, after the sale or
232 transfer.

233 2. The sale or transfer of a tax credit under this
234 subsection does not extend the period for which a tax credit may
235 be carried forward and does not increase the total amount of the
236 tax credit that may be claimed.

237 3. If a taxpayer claims a tax credit for qualified
238 expenses, another taxpayer may not use the same expenses as the
239 basis for claiming a tax credit.

240 4. Notwithstanding the requirements of this subsection, a
241 tax credit earned, purchased by, or transferred to a
242 partnership, limited liability company, S corporation, or other
243 pass-through taxpayer may be allocated to the partners, members,
244 or shareholders of that taxpayer and claimed under this section
245 in accordance with any agreement among the partners, members, or
246 shareholders and without regard to the ownership interest of the
247 partners, members, or shareholders in the rehabilitated
248 certified historic structure.

249 (g) If the tax credit is reduced due to a determination,
250 examination, or audit by the department, the tax deficiency shall

251 be recovered from the taxpayer that sold or transferred the tax
252 credit or the purchaser or transferee that claimed the tax
253 credit up to the amount of the tax credit taken.

254 (h) Any subsequent deficiencies shall be assessed against
255 the purchaser or transferee that claimed the tax credit or, in
256 the case of multiple succeeding entities, in the order of tax
257 credit succession.

258 (8) AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX
259 CREDITS; FRAUDULENT CLAIMS.—

260 (a) The department may perform any additional financial and
261 technical audits and examinations, including examining the
262 accounts, books, or records of the tax credit applicant, to
263 verify the legitimacy of the qualified expenses included in a
264 tax credit return and to ensure compliance with this section.

265 (b) It is grounds for forfeiture of previously claimed and
266 received tax credits if the department determines, as a result
267 of an audit or information received from the division or the
268 United States Department of the Interior, that a taxpayer
269 received a tax credit pursuant to this section to which the
270 taxpayer was not entitled. In the case of fraud, the taxpayer
271 may not claim any future tax credits under this section.

272 (c) The taxpayer must return forfeited tax credits to the
273 department and such funds shall be paid into the General Revenue
274 Fund.

275 (d) The taxpayer shall file with the department an amended

276 tax return or such other report as the department prescribes and
277 shall pay any required tax within 60 days after the taxpayer
278 receives notification from the United States Internal Revenue
279 Service that a previously approved tax credit has been revoked
280 or modified, if uncontested, or within 60 days after a final order
281 is issued following proceedings involving a contested revocation
282 or modification order.

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

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

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

298 (9) ANNUAL REPORTS.—Each year, based on the applications
299 submitted and approved, the department must issue a report to
300 the President of the Senate and the Speaker of the House of

301 Representatives that identifies, in the aggregate, all of the
 302 following:

303 (a) The number of employees hired during construction
 304 phases.

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

307 (c) The number of affordable housing units created or
 308 preserved.

309 (d) The property values before and after the certified
 310 rehabilitations.

311 (10) DEPARTMENT DUTIES.-The department shall:

312 (a) Establish any necessary forms required to claim a tax
 313 credit under this section.

314 (b) Provide administrative guidelines and procedures
 315 required to administer this section, including rules
 316 establishing an entitlement to and sale or transfer of a tax
 317 credit under this section.

318 (c) Provide examination and audit procedures required to
 319 administer this section.

320 (11) RULES.-The department may adopt rules to administer
 321 this section.

322 Section 2. This act shall take effect July 1, 2022.