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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2023	.	
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The Committee on Finance and Tax (DiCeglie) recommended the following:

Senate Amendment (with title amendment)

Delete lines 138 - 367

and insert:

(k) "Placed in service" means the time that property is first placed by the taxpayer in a condition or state of readiness and availability for a specifically assigned function, whether for use in a trade or business, for the production of income, or in a tax-exempt activity.

(l) "Qualified expenses" means rehabilitation expenditures



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11 incurred in this state which qualify for the credit under 26
12 U.S.C. s. 47.

13 (m) "Registered historic district" means a district listed
14 in the National Register of Historic Places or a district:

15 1. Designated under general law or local ordinance and
16 certified by the United States Secretary of the Interior as
17 meeting criteria that will substantially achieve the purposes of
18 preserving and rehabilitating buildings of historic significance
19 to the district; and

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

23 (n) "Taxpayer" has the same meaning as in s. 220.03(1)(z),
24 but also includes an insurer subject to the insurance premium
25 tax under s. 624.509.

26 (3) ELIGIBILITY.—

27 (a) To receive a tax credit under this section, an
28 applicant must apply to the division, no later than 6 months
29 after the date the certified historic structure is placed in
30 service, for a tax credit for qualified expenses in the amount
31 and under the conditions and limitations provided in this
32 section. The applicant must provide the division with all of the
33 following:

34 1. Documentation showing that:

35 a. The rehabilitation is a certified rehabilitation;

36 b. The structure is a certified historic structure, is
37 income-producing, is located within this state, and is placed
38 into service on or after January 1, 2024;

39 c. The applicant had an ownership or a long-term leasehold



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40 interest in the certified historic structure in the year during
41 which the certified historic structure was placed into service;

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

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

45 f. The applicant received a tax credit for the qualified
46 expenses under 26 U.S.C. s. 47.

47 2. An official certificate of eligibility from the
48 division, signed by the State Historic Preservation Officer or
49 the Deputy State Historic Preservation Officer, attesting that
50 the project has been approved by the National Park Service. The
51 attestation must identify if the project is located within a
52 local program area.

53 3. National Park Service Form 10-168c (Rev. 2019), titled
54 "Historic Preservation Certification Application-Part 3-Request
55 for Certification of Completed Work," or a similar form, signed
56 by an officer of the National Park Service, attesting that the
57 completed rehabilitation meets the United States Secretary of
58 the Interior's Standards for Rehabilitation and is consistent
59 with the historic character of the property and, if applicable,
60 the district in which the completed rehabilitation is located.
61 The form may be obtained from the National Park Service.

62 4. The dates during which the certified historic structure
63 was rehabilitated, the date the certified historic structure was
64 placed into service after the certified rehabilitation was
65 completed, and evidence that the certified historic structure
66 was placed into service after the certified rehabilitation was
67 completed.

68 5. A list of total qualified expenses incurred in



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69 rehabilitating the certified historic structure. For certified
70 rehabilitations with qualified expenses that exceed \$750,000,
71 the applicant must submit an audited cost report issued by a
72 certified public accountant which itemizes the qualified
73 expenses incurred in rehabilitating the certified historic
74 structure. An applicant may submit an audited cost report issued
75 by a certified public accountant which was created for purposes
76 of applying for a federal historic rehabilitation tax credit and
77 which includes all of the qualified expenses incurred in
78 rehabilitating the certified historic structure.

79 6. An attestation of the total qualified expenses incurred
80 by the applicant in rehabilitating the certified historic
81 structure.

82 7. The information required to be reported by the
83 department in subsection (8) to enable the department to compile
84 its annual report.

85
86 This paragraph may not be construed to restrict an applicant
87 from making an application with the division before the
88 certified historic structure is placed in service. However, a
89 final determination on eligibility may not be made until the
90 certified historic structure is placed in service.

91 (b) Within 90 days after receipt of the information
92 required under paragraph (a) or the certified historic structure
93 is placed in service, whichever is later, the division shall
94 approve or deny the application. If approved, the division must
95 provide a letter of certification to the applicant consistent
96 with any restrictions imposed. If the division denies any part
97 of the requested credit, the division must inform the applicant



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98 of the grounds for the denial. The division must submit a copy
99 of the certification and the information provided by the
100 applicant to the department within 10 days after the division's
101 approval.

102 (4) CERTIFIED REHABILITATION TAX CREDIT.—For taxable years
103 beginning on or after January 1, 2024, there is allowed a credit
104 against any tax due for a taxable year under this chapter after
105 the application of any other allowable credits by the taxpayer
106 in an amount equal to:

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

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

116
117 The tax credit may be used to offset the corporate income tax
118 imposed under this chapter and the insurance premium tax imposed
119 in s. 624.509. An insurer claiming a credit against insurance
120 premium tax liability under this section may not be required to
121 pay any additional retaliatory tax levied pursuant to s.
122 624.5091 as a result of claiming such credit. Section 624.5091
123 does not limit such credit in any manner.

124 (5) CARRYFORWARD OF TAX CREDIT.—

125 (a) If a tax credit exceeds the amount of tax owed, the
126 taxpayer may carry forward the unused tax credit for a period of



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127 up to 5 taxable years.

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

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

131 (a) All or part of the tax credit may be sold or
132 transferred.

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

136 (c) A taxpayer that sells or transfers a tax credit to
137 another taxpayer must provide a copy of the certificate of
138 eligibility provided under subparagraph (3) (a)2. together with
139 the audited cost report, if applicable, to the purchaser or
140 transferee.

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

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

147 (f)1. No later than the 30th day after the date of a sale
148 or transfer, the seller or transferor and the purchaser or
149 transferee shall jointly submit written notice of the sale or
150 transfer to the department on a form prescribed by the
151 department. The notice must include all of the following:

152 a. The date of the sale or transfer.

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

154 c. The name and federal tax identification number of the
155 seller or transferor of the tax credit and the purchaser or



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156 transferee.

157 d. The amount of the tax credit owned by the seller or
158 transferor before the sale or transfer and the amount the seller
159 or transferor retained, if any, after the sale or transfer.

160 2. The sale or transfer of a tax credit under this
161 subsection does not extend the period for which a tax credit may
162 be carried forward and does not increase the total amount of the
163 tax credit that may be claimed.

164 3. If a taxpayer claims a tax credit for qualified
165 expenses, another taxpayer may not use the same expenses as the
166 basis for claiming a tax credit.

167 4. Notwithstanding the requirements of this subsection, a
168 tax credit earned by, purchased by, or transferred to a
169 partnership, limited liability company, S corporation, or other
170 pass-through taxpayer may be allocated to the partners, members,
171 or shareholders of that taxpayer in accordance with any
172 agreement among the partners, members, or shareholders and
173 without regard to the ownership interest of the partners,
174 members, or shareholders in the rehabilitated certified historic
175 structure.

176 (g) If the tax credit is reduced due to a determination,
177 examination, or audit by the department, the tax deficiency
178 shall be recovered from the taxpayer that sold or transferred
179 the tax credit or the purchaser or transferee that claimed the
180 tax credit up to the amount of the tax credit taken.

181 (h) Any subsequent deficiencies shall be assessed against
182 the purchaser or transferee that claimed the tax credit or, in
183 the case of multiple succeeding entities, in the order of tax
184 credit succession.



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

187 (a) The department, with assistance from the division, may
188 perform any additional financial and technical audits and
189 examinations, including examining the accounts, books, or
190 records of the tax credit applicant, to verify the legitimacy of
191 the qualified expenses included in a tax credit return and to
192 ensure compliance with this section. If requested by the
193 department, the division must provide technical assistance for
194 any technical audits or examinations performed under this
195 subsection.

196 (b) It is grounds for forfeiture of previously claimed and
197 received tax credits if the department determines, as a result
198 of an audit or information received from the division or the
199 United States Department of the Interior, that an applicant or a
200 taxpayer received a tax credit pursuant to this section to which
201 the taxpayer was not entitled. In the case of fraud, the
202 taxpayer may not claim any future tax credits under this
203 section.

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

207 (d) The taxpayer shall file with the department an amended
208 tax return or such other report as the department prescribes and
209 shall pay any required tax within 60 days after the taxpayer
210 receives notification from the United States Internal Revenue
211 Service that a previously approved tax credit has been revoked
212 or modified, if uncontested, or within 60 days after a final
213 order is issued following proceedings involving a contested



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214 revocation or modification order.

215 (e) A notice of deficiency may be issued by the department
216 at any time within 5 years after the date on which the taxpayer
217 receives notification from the United States Internal Revenue
218 Service that a previously approved tax credit has been revoked
219 or modified. If a taxpayer fails to notify the department of any
220 change in its tax credit claimed, a notice of deficiency may be
221 issued at any time. In either case, the amount of any proposed
222 assessment set forth in such notice of deficiency is limited to
223 the amount of the tax credit claimed.

224 (f) A taxpayer that fails to report and timely pay any tax
225 due as a result of the forfeiture of its tax credit violates
226 this section and is subject to applicable penalties and
227 interest.

228 (8) ANNUAL REPORT.—Based on the applications submitted and
229 approved, the department shall submit a report by December 1 of
230 each year to the President of the Senate and the Speaker of the
231 House of Representatives which identifies, in the aggregate, all
232 of the following:

233 (a) The number of employees hired during construction
234 phases.

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

237 (c) The number of affordable housing units created or
238 preserved. As used in this paragraph, the term "affordable" has
239 the same meaning as in s. 420.0004.

240 (d) The property values before and after the certified
241 rehabilitations.

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



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

244 (b) Adopt any necessary forms required to claim a tax

245

246 ===== T I T L E A M E N D M E N T =====

247 And the title is amended as follows:

248 Delete line 14

249 and insert:

250 the allowable amounts of tax credits; providing