

By Senator DiCeglie

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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; providing a credit against the state corporate
6 income tax and the insurance premium tax for qualified
7 expenses in rehabilitating certain historic
8 structures; specifying eligibility requirements for
9 the tax credit; specifying requirements for taxpayers
10 claiming or transferring tax credits; specifying
11 requirements for the Division of Historical Resources
12 of the Department of State for evaluating and
13 certifying applications for tax credits; specifying
14 limits on the amount of tax credits; providing
15 construction; authorizing the carryforward, sale, and
16 transfer of tax credits subject to certain
17 requirements and limitations; providing the Department
18 of Revenue and the division audit and examination
19 powers for specified purposes; requiring the return of
20 forfeited tax credits under certain circumstances;
21 providing penalties; requiring the Department of
22 Revenue to provide specified annual reports to the
23 Legislature; providing duties of the Department of
24 Revenue; authorizing the Department of Revenue and the
25 division to adopt rules; amending s. 213.053, F.S.;
26 authorizing the Department of Revenue to make certain
27 information available to the division and the Federal
28 Government for a specified purpose; amending s.
29 220.02, F.S.; specifying the order in which the credit

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30 is applied against the corporate income tax or
31 franchise tax; amending s. 220.13, F.S.; requiring the
32 addition of amounts taken for the credit to taxable
33 income; amending s. 624.509, F.S.; specifying the
34 order in which the credit is applied against the
35 insurance premium tax; authorizing the Department of
36 Revenue to adopt emergency rules; providing for
37 expiration of that authority; providing applicability;
38 providing effective dates.

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 meet all of the following criteria:

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

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

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

86 4. Possess a historic preservation ethic.

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

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88 6. Have an adequate operating budget.
89 7. Have a paid professional program manager.
90 8. Conduct a program of ongoing training for staff and
91 volunteers.

92 9. Report key statistics.

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

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

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

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

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

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

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

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117 under s. 267.031(5).

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

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

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

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

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

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

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

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

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146 preserving and rehabilitating buildings of historic significance
147 to the district; and

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

151 (3) ELIGIBILITY FOR TAX CREDIT.—For taxable years beginning
152 on or after January 1, 2024, there is allowed a credit against
153 any tax due for a taxable year under this chapter after the
154 application of any other allowable credits by the taxpayer.

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

161 1. Documentation showing that:

162 a. The rehabilitation is a certified rehabilitation;

163 b. The structure is a certified historic structure, is
164 income-producing, is located within this state, and is
165 rehabilitated and placed into service on or after January 1,
166 2024;

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

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

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

174 f. The taxpayer received a tax credit for the qualified

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175 expenses under 26 U.S.C. s. 47.

176 2. An official certificate of eligibility from the
177 division, signed by the State Historic Preservation Officer or
178 the Deputy State Historic Preservation Officer, attesting that
179 the project has been approved by the National Park Service and
180 confirming that the project is located within a local program
181 area.

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

191 4. The dates during which the certified historic structure
192 was rehabilitated, the date the certified historic structure was
193 placed into service after the certified rehabilitation was
194 completed, and evidence that the certified historic structure
195 was placed into service after the certified rehabilitation was
196 completed.

197 5. A list of total qualified expenses incurred by the
198 taxpayer in rehabilitating the certified historic structure. For
199 certified rehabilitations with qualified expenses that exceed
200 \$750,000, the taxpayer must submit an audited cost report issued
201 by a certified public accountant which itemizes the qualified
202 expenses incurred in rehabilitating the certified historic
203 structure. A taxpayer may submit an audited cost report issued

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204 by a certified public accountant which was created for purposes
205 of applying for a federal historic rehabilitation tax credit and
206 which includes all of the qualified expenses incurred in
207 rehabilitating the certified historic structure.

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

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

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

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

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

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

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

246 (5) CARRYFORWARD OF TAX CREDIT.—

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

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

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

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

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

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

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262 purchaser or transferee.

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

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

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

275 a. The date of the sale or transfer.

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

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

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

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

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

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291 4. Notwithstanding the requirements of this subsection, a
292 tax credit earned by, purchased by, or transferred to a
293 partnership, limited liability company, S corporation, or other
294 pass-through taxpayer may be allocated to the partners, members,
295 or shareholders of that taxpayer and claimed under this section
296 in accordance with any agreement among the partners, members, or
297 shareholders and without regard to the ownership interest of the
298 partners, members, or shareholders in the rehabilitated
299 certified historic structure.

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

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

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

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

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320 (b) It is grounds for forfeiture of previously claimed and
321 received tax credits if the department determines, as a result
322 of an audit or information received from the division or the
323 United States Department of the Interior, that a taxpayer
324 received a tax credit pursuant to this section to which the
325 taxpayer was not entitled. In the case of fraud, the taxpayer
326 may not claim any future tax credits under this section.

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

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

338 (e) A notice of deficiency may be issued by the department
339 at any time within 5 years after the date on which the taxpayer
340 receives notification from the United States Internal Revenue
341 Service that a previously approved tax credit has been revoked
342 or modified. If a taxpayer fails to notify the department of any
343 change in its tax credit claimed, a notice of deficiency may be
344 issued at any time. In either case, the amount of any proposed
345 assessment set forth in such notice of deficiency is limited to
346 the amount of any deficiency resulting under this section from
347 the precomputation of the taxpayer's tax for the taxable year.

348 (f) A taxpayer that fails to report and timely pay any tax

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349 due as a result of the forfeiture of its tax credit violates
350 this section and is subject to applicable penalties and
351 interest.

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

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

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

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

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

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

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

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

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

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

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

377 Section 2. Subsection (24) is added to section 213.053,

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378 Florida Statutes, to read:

379 213.053 Confidentiality and information sharing.-

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

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

388 220.02 Legislative intent.-

389 (8) It is the intent of the Legislature that credits
390 against either the corporate income tax or the franchise tax be
391 applied in the following order: those enumerated in s. 631.828,
392 those enumerated in s. 220.191, those enumerated in s. 220.181,
393 those enumerated in s. 220.183, those enumerated in s. 220.182,
394 those enumerated in s. 220.1895, those enumerated in s. 220.195,
395 those enumerated in s. 220.184, those enumerated in s. 220.186,
396 those enumerated in s. 220.1845, those enumerated in s. 220.19,
397 those enumerated in s. 220.185, those enumerated in s. 220.1875,
398 those enumerated in s. 220.1876, those enumerated in s.
399 220.1877, those enumerated in s. 220.193, those enumerated in s.
400 288.9916, those enumerated in s. 220.1899, those enumerated in
401 s. 220.194, those enumerated in s. 220.196, those enumerated in
402 s. 220.198, ~~and~~ those enumerated in s. 220.1915, and those
403 enumerated in s. 220.197.

404 Section 4. Paragraph (a) of subsection (1) of section
405 220.13, Florida Statutes, is amended to read:

406 220.13 "Adjusted federal income" defined.-

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407 (1) The term "adjusted federal income" means an amount
408 equal to the taxpayer's taxable income as defined in subsection
409 (2), or such taxable income of more than one taxpayer as
410 provided in s. 220.131, for the taxable year, adjusted as
411 follows:

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

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

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

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

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

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

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

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

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

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

461 9. The amount taken as a credit for the taxable year under
462 s. 220.1895.

463 10. Up to nine percent of the eligible basis of any
464 designated project which is equal to the credit allowable for

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465 the taxable year under s. 220.185.

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

473 12. The amount taken as a credit for the taxable year under
474 s. 220.193.

475 13. Any portion of a qualified investment, as defined in s.
476 288.9913, which is claimed as a deduction by the taxpayer and
477 taken as a credit against income tax pursuant to s. 288.9916.

478 14. The costs to acquire a tax credit pursuant to s.
479 288.1254(5) that are deducted from or otherwise reduce federal
480 taxable income for the taxable year.

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

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

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

491 18. The amount taken as a credit for the taxable year
492 pursuant to s. 220.1915.

493 19. The amount taken as a credit for the taxable year

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494 pursuant to s. 220.197.

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

497 624.509 Premium tax; rate and computation.—

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

506 Section 6. (1) The Department of Revenue may, and all
507 conditions are deemed met to, adopt emergency rules under s.
508 120.54(4), Florida Statutes, for the purpose of implementing the
509 Main Street Historic Tourism and Revitalization Act.

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

514 (3) This section shall take effect upon this act becoming a
515 law and expires July 1, 2024.

516 Section 7. This act applies to taxable years beginning, and
517 for qualified expenses incurred, on or after January 1, 2024.

518 Section 8. Except as otherwise expressly provided in this
519 act and except for this section, which shall take effect upon
520 this act becoming a law, this act shall take effect January 1,
521 2024.