

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 1166

INTRODUCER: Commerce and Tourism Committee and Senator DiCeglie

SUBJECT: Main Street Historical Tourism and Revitalization Act

DATE: January 16, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Renner	McKay	CM	Fav/CS
2.			FT	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1166 creates the Main Street Historical Tourism and Revitalization Act, which provides a tax credit against corporate income taxes and insurance premium taxes for qualified expenses incurred in the rehabilitation of a certified historic structure.

The tax credit may not exceed 20 percent (up to a maximum of \$200,000) of qualified expenses incurred in the rehabilitation of a certified historic structure that has been approved by the National Park Service to receive federal historic rehabilitation tax credit, *or* 30 percent (up to a maximum of \$200,000) of the total qualified expenses incurred in the rehabilitation of such a structure that is located within a Florida Main Street or Orlando Main Streets Program.

Any unused amount may be carried forward for a period of up to five taxable years. Tax credits may also be sold or transferred. There is a limit of two transactions for the sale or transfer of all or part of a tax credit. However, qualified expenses may only be counted once in determining the amount of an available tax credit, and no more than one taxpayer may claim a tax credit for the same qualified expenses.

The annual state revenue loss may not exceed \$25 million in any fiscal year. A single entity or individual is authorized to receive up to \$1 million in tax credits cumulatively for a single development project. Tax credits purchased from another taxpayer or entity, and any carryover tax credits, may be used in addition to the \$1 million limit. If the annual amount exceeds \$25 million, applications must be rolled over and awarded the following fiscal year.

The Revenue Estimating Conference (REC) has not analyzed the bill. The REC analysis for a similar version of the bill in 2023 estimated that the bill would reduce recurring General Revenue Fund receipts in Fiscal Year 2023-2024 by \$39.3 million. Beginning in Fiscal Year 2024-2025, General Revenue Fund receipts were estimated to be reduced by \$39.7 million, cash and recurring.

The bill takes effect on July 1, 2024. The emergency rulemaking authority granted to the Department of Revenue takes effect upon the bill becoming a law.

II. Present Situation:

National Register of Historic Places

The National Register of Historic Places,¹ under the National Park Service, is “part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect America’s historic and archeological resources.”² The program reviews property nominations and lists eligible properties in the National Register; offers guidance on evaluating, documenting, and listing historic places; and helps qualified historic properties receive preservation benefits and incentives.³

Properties listed in the National Register are eligible for federal preservation tax credits. A 20 percent income tax credit is available for the rehabilitation of historic, income-producing buildings that are determined by the Secretary of the Interior, through the National Park Service, to be certified historic structures.⁴ The National Parks Service reports that each year, “approximately 1,200 projects are approved, leveraging nearly \$6 billion annually in private investment in the rehabilitation of historic buildings across the country.”⁵

In Florida, there are more than 1,700 properties and districts listed on the National Register. Nominations for those properties must be submitted to the National Park Service through the Florida Department of State’s Division of Resources, following a review and recommendation by the Florida National Register Review Board.⁶ The cumulative total of “Qualified Rehabilitation Expenses” (the value of items that can be written off by developers on their federal tax bill) for Florida projects over the most recent five-year period (FY 2018-2022) is \$252 million, resulting in \$50.4 million in federal tax credits.⁷

¹ 54 U.S.C. § 3021.

² U.S. Department of the Interior, National Park Service, National Register of Historic Places, *What is the National Register of Historic Places?*, <https://www.nps.gov/subjects/nationalregister/what-is-the-national-register.htm> (last visited Jan. 16, 2024).

³ *Id.*

⁴ U.S. Department of the Interior, National Park Service, *Technical Preservation Services*, <https://www.nps.gov/tps/tax-incentives.htm> (last visited Jan. 16, 2024).

⁵ U.S. Department of the Interior, National Park Service, Historic Preservation Tax Incentives, *About the Incentives*, <https://www.nps.gov/subjects/taxincentives/about.htm> (last visited Jan. 16, 2024).

⁶ Florida Department of State, Division of Historical Resources, *National Register of Historic Places*, <https://dos.myflorida.com/historical/preservation/national-register/> (last visited Jan. 16, 2024).

⁷ U.S. Department of the Interior, National Park Service, Historic Preservation Tax Incentives, *2022 Annual Report*, <https://www.nps.gov/subjects/taxincentives/upload/report-2022-annual.pdf> (last visited Jan. 16, 2024).

Main Street America

Main Street America, a program under the National Main Street Center,⁸ is a network of grassroots organizations that “revitalizes older and historic commercial districts to build vibrant neighborhoods and thriving economies.”⁹ The program offers community-based revitalization initiatives to transform downtowns. In order to be designated as either an affiliate or accredited member of Main Street America, a community must first become a member of the National Main Street Center and meet certain requirements.¹⁰ Main Street America has coordinating programs that are organized at the state, county, and city level which partner with the National Main Street Center to provide support and training to Main Street America communities.

Florida has two coordinating programs: Florida Main Street America located in Tallahassee and Orlando Main Streets located in Orlando.¹¹ Florida Main Street is administered by the Division of Historical Resources (division) under the Florida Department of State (DOS).¹² Fifty-five Florida Main Streets and 12 Orlando Main Streets have received technical assistance toward the goal of revitalizing historic downtowns and encouraging economic development.¹³

Florida Initiatives

Currently, Florida does not offer a program that provides corporate income tax credits to offset the costs of rehabilitating historic properties. The Historic Preservation Grant Program, administered by the division, provides grants for the preservation and protection of the state’s historic and archaeological sites and properties. However, any property owned by private individuals or for-profit corporations are ineligible for such grants.¹⁴

Florida’s constitution grants any county or municipality the authority to offer ad valorem tax exemptions to owners of historic properties making preservation improvements.¹⁵ Codified in the Florida Statutes under three sections, residential and commercial properties improved in a manner consistent with historic preservation standards are eligible for an exemption of up to 100 percent of the value of the improvement made to the property.¹⁶ Generally, the property must be either individually listed in the National Register of Historic Places; be a contributing property to a national-register-listed district; or be designated as a historic property, or as a contributing property to a historic district. If the property is used for a governmental,

⁸ The National Main Street Center was established in 1980 as a program of the National Trust for Historic Preservation as a way to address issues facing aging and historic downtowns. The Center launched the Main Street America program in 2015. See Main Street America, *About Us*, <https://www.mainstreet.org/aboutus> (last visited Jan. 16, 2024).

⁹ Main Street America, *About Us*, <https://www.mainstreet.org/aboutus> (last visited Jan. 16, 2024).

¹⁰ Main Street America, *Designation*, https://higherlogicdownload.s3.amazonaws.com/NMSC/390e0055-2395-4d3b-af60-81b53974430d/UploadedImages/Main_Street_America_Tier_System_Overview_-_2021_July_Update.pdf (last visited Jan. 16, 2024).

¹¹ Main Street America, *Coordinating Programs*, https://higherlogicdownload.s3.amazonaws.com/NMSC/390e0055-2395-4d3b-af60-81b53974430d/UploadedImages/The_Programs/2020_Coordinating_Program_List.pdf (last visited Jan. 16, 2024).

¹² Section 267.031(5), F.S.

¹³ Visit Florida, *Florida Main Street Programs Have Stories to Tell*, <https://www.visitflorida.com/travel-ideas/articles/florida-main-street/> (last visited Jan. 16, 2024).

¹⁴ Section 267.0617(2), F.S.

¹⁵ Art. VII, s. 3, Fla. Const.

¹⁶ See ss. 196.1961, 196.1997, and 196.1998, F.S.

not-for-profit, or commercial purpose, it must be open to the public on a regular basis. Additionally, property used for governmental or nonprofit purposes are eligible to have the entire value of the property exempted.¹⁷

Corporate Income Tax

Florida levies a 5.5 percent tax on certain income of corporations and financial institutions doing business in Florida.¹⁸ Florida utilizes the taxable income determined for federal income tax purposes as a starting point to determine the total amount of Florida corporate income tax due.¹⁹ This means that a corporation paying taxes in Florida generally receives the same benefits from deductions allowed when determining taxable income for federal tax purposes as it does when determining taxable income for state taxation purposes.

Insurance Premium Tax

Florida imposes a 1.75 percent tax on most Florida insurance premiums, a 1 percent tax on annuity premiums; and a 1.6 percent tax on self-insurers.²⁰ Insurance premium taxes are paid by insurance companies and remitted to the Department of Revenue (DOR). The revenues are distributed to General Revenue. In addition, some insurers pay a retaliatory tax to the extent the insurer's state of domicile would impose a greater tax burden than Florida imposes.

III. Effect of Proposed Changes:

The bill creates the Main Street Historical Tourism and Revitalization Act which provides a tax credit against corporate income tax and insurance premium tax for qualified expenses²¹ incurred in the rehabilitation of a certified historic structure.²²

Eligibility

For taxable years beginning on or after January 1, 2025, a credit is allowed against any tax due for a taxable year after the application of any other allowable credits by the taxpayer. An applicant must submit an application to the DOS to receive a tax credit and must provide the following:

- An official certificate of eligibility from the division attesting that the project has been approved by the National Park Service and indicating whether the project is located within a local program area in the state;

¹⁷ Section 196.1998, F.S.

¹⁸ Section 220.11(2), F.S.

¹⁹ Section 220.12, F.S.

²⁰ Section 624.509, F.S., and s. 624.4621, F.S.

²¹ The bill defines “qualified expenses” as qualified rehabilitation expenditures (defined in 26 U.S.C., §47(c)(2)) and structural components that were incurred in Florida (defined in 26 C.F.R., § 1.48-1(e)(2)) at the time of project certification by the U.S. Secretary of the Interior and the U.S. Internal Revenue Service (IRS).

²² The bill defines a “certified historic structure” as a building and its structural components which is of a character subject to the allowance for depreciation provided in s. 167 of the Internal Revenue Code and which is listed on the National Register of Historic Places or located within a registered historic district and certified by the U.S. Secretary of the Interior as being of historic significance to the registered historic district.

- National Park Service Form 10-168c, signed by the National Park Service attesting that the completed rehabilitation meets the U.S. Secretary of the Interior's Standards for Rehabilitation and is consistent with the historic character of the property and, if applicable, the district in which the completed rehabilitation is located;
- List of all the dates during which the structure was rehabilitated, the date the structure was first placed into service after certified rehabilitation²³ was completed, and evidence that the structure was placed in service;
- Documentation that the taxpayer had an ownership or a long-term leasehold interest in the certified historic structure in the year during which the structure was placed in service after the certified rehabilitation was completed;
- A list of total qualified expenses incurred in this state by the taxpayer in rehabilitating the certified historic structure. The applicant must submit an audited cost report that itemizes the qualified expenses incurred in rehabilitating the structure;
- An attestation of the total qualified expenses incurred in this state by the taxpayer for rehabilitating the certified historic structure in this state; and
- The information required to be reported by the DOR to enable the DOR to compile its annual report based on the tax credit applications submitted and approved.

Within 60 days after receipt of the information detailed above the DOR must approve or deny the submitted application. If approved, the DOR must provide a letter to the taxpayer. If the taxpayer is denied, the DOR must inform the taxpayer of the grounds for denial.

Tax Credit Amount

The total tax credit claimed annually may not exceed the amount of tax due after any other applicable tax credits and may not exceed the following:

- Twenty percent (up to a maximum of \$200,000) of the total qualified expenses incurred for rehabilitating one or more certified historic structures that have been approved by the National Park Service to receive the federal historic rehabilitation tax credit; or
- Thirty percent (up to a maximum of \$200,000) of the total qualified expenses incurred for rehabilitating one or more certified historic structures that have been approved by the National Park Service to receive the federal historic rehabilitation tax credit and that are located within a local program area of an Accredited Main Street Program.

The bill prohibits the annual state revenue loss from exceeding \$25 million in any fiscal year. If the annual amount exceeds \$25 million, applications must be rolled forward and awarded by the DOR during the following fiscal year.

A single entity or individual is prohibited from receiving more than \$1 million in tax credits cumulatively for a single development project, even if the credits have accrued over multiple tax years. Tax credits purchased from another taxpayer or entity, and carryover tax credits from a prior tax year, may be used in addition to the \$1 million limit, if the additional tax credits were

²³ The bill defines "certified rehabilitation" as the rehabilitation of a certified historic structure that the U.S. Secretary of the Interior has certified to the U.S. Secretary of the Treasury as being consistent with the historic character of the certified historic structure and, if applicable, consistent with the registered historic district in which the structure is located. *See* 36 C.F.R., § 67.2

accrued from a different development project. The DOR must award the credits on a first-come, first-served basis.

If a taxpayer is eligible for a tax credit that exceeds taxes owed, the taxpayer may carry the unused tax credit forward for a period of up to five taxable years.

Sale or Transfer of Tax Credit

The bill provides that there is a limit of two transactions for the sale or transfer of all or part of a tax credit. However, qualified expenses may only be counted once in determining the amount of an available tax credit, and no more than one taxpayer may claim a tax credit for the same qualified expenses.

A taxpayer that sells or transfers a tax credit and the purchaser or transferee must jointly submit written notice of the sale or transfer to the DOR no later than the 30th day after the date of the sale or transfer. The notice must include the following information:

- The date of the sale or transfer;
- The amount of the tax credit sold or transferred;
- The name and federal tax identification number of the taxpayer that sold or transferred the tax credit and the name and federal tax identification number of the purchaser or transferee; and
- The amount of the tax credit owed by the taxpayer before the sale or transfer and the amount the selling or transferring taxpayer retained, if any, after the sale or transfer.

The sale or transfer of a tax credit does not extend the period for which a tax credit may be carried forward and does not increase the total amount of the tax credit that may be claimed.

A tax credit earned, purchased, or transferred to a partnership, limited liability company, S corporation, or other pass-through entity may be allocated to the partners, members, or shareholders of that entity and claimed without regard to the ownership interest of the partners, members, or shareholders in the rehabilitated certified historic structure.

If the tax credit is reduced due to a determination, examination, or audit by the DOR, the tax deficiency must be recovered from the taxpayer that sold or transferred the tax credit or the purchaser or transferee that claimed the tax credit up to the amount of the tax credit taken. Any subsequent deficiencies must be assessed against the purchaser or transferee that claimed the tax credit, or in the case of multiple succeeding entities, in the order of tax credit succession.

DOR and Division Audit Authority

The DOR is authorized to perform additional financial and technical audits and examinations, including examining the accounts, books, or records of the taxpayer, to verify the legitimacy of the qualified expenses included in a tax credit return and to ensure compliance. The division must provide technical assistance for any technical audits or examinations if requested by the DOR.

It is grounds for forfeiture of previously claimed and received tax credits if the DOR determines that a taxpayer received a tax credit to which the taxpayer was not entitled. The taxpayer must return the forfeited tax credits to the DOR, which will then be paid into the General Revenue Fund.

The taxpayer must file an amended tax return and pay any required tax within 60 days after the taxpayer receives notification from the IRS that a previously approved tax credit has been revoked or modified, if uncontested, or within 60 days after a final order is issued following proceedings involving a contested revocation or modification order.

The DOR may issue a notice of deficiency at any time within five years after the date on which the taxpayer receives notification from the IRS that a previously approved tax credit has been revoked or modified.

The DOR may issue a notice of deficiency at any time if the taxpayer fails to notify the DOR of any change in its tax credit claimed. The amount of any proposed assessment in the notice of deficiency is limited to the amount of any deficiency resulting from the recomputation of the taxpayer's tax for the taxable year. Furthermore, a taxpayer is subject to applicable penalties and interest for failing to report and timely paying any tax due as a result of the forfeiture of its tax credit.

Other Provisions

The DOR must provide a report annually by December 1, which identifies, in the aggregate, the number of people employed during construction phases of the certified rehabilitation; the use of each newly rehabilitated building and the number of additional people employed for ongoing operations after the certified historic structure is placed in service, the expected number of people employed during construction phases of the certified rehabilitation who worked to complete the project, including contractors and subcontractors; the number of affordable housing units created or preserved, and the property values before and after the certified rehabilitations.

The DOR must also establish or amend any necessary forms required to claim a tax credit; provide administrative guidelines and procedures required to administer the Act, including rules establishing an entitlement to and sale or transfer of a tax credit; and provide examination and audit procedures required to administer the Act.

The DOR and the division are granted rulemaking authority and the DOR is granted additional emergency rulemaking authority to administer the Act.

The DOR is authorized to make available to the division and the Secretary of the Department of the Interior of the United States information relating to the Act.

The bill makes conforming changes.

The bill creates s. 624.5095, F.S., to specify that tax credits may be used to offset the insurance premium tax. The certified rehabilitation can either be completed by the insurer or the insurer may purchase the tax credits from a different entity that accrued or purchased the tax credits. An

insurer claiming a credit against the insurance premium tax liability is not required to pay any additional retaliatory tax as a result of claiming such credit.

The bill applies to taxable years beginning on or after January 1, 2025.

The bill takes effect on July 1, 2024. The emergency rulemaking authority granted to the DOR takes effect upon the bill becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18 of the Florida Constitution requires a two-thirds vote of the membership of each house of the Legislature to pass legislation requiring counties and municipalities to spend funds, limiting their ability to raise revenue, or reducing the percentage of a state tax shared with them. This bill does not require counties or municipalities to spend funds, limit their authority to raise revenue, or reduce the percentage of a state tax shared with them as specified in Article VII, section 18 of the Florida Constitution. Therefore, the provisions of Article VII, section 18 of the Florida Constitution do not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise a state tax or fee. Therefore, the requirements of Article VII, section 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) has not analyzed the bill. The REC analysis for a similar version of the bill in 2023 estimated that the bill would reduce recurring General Revenue Fund receipts in Fiscal Year 2023-2024 by \$39.3 million. Beginning in Fiscal Year 2024-2025, General Revenue Fund receipts were estimated to be reduced by \$39.7 million, cash and recurring.

B. Private Sector Impact:

Taxpayers who have ownership interest in a certified historic structure in the year during which the structure was placed into service after the certified rehabilitation was complete may be eligible to receive a tax credit to offset corporate income taxes and insurance premium taxes for qualified expenses incurred in the rehabilitation of the certified historic structure.

C. Government Sector Impact:

For a prior version of the bill in 2023, the DOR determined that \$91,488 in non-recurring funds would be necessary to implement the bill. The funds would be used to update the state's tax software system and modify necessary forms.²⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 212.053, 220.02, 220.13, and 624.509, of the Florida Statutes.

This bill creates sections 220.197 and 624.5095 of the Florida Statutes.

IX. Additional Information:

- A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism on Jan. 16, 2024:

The amendment conforms to the House bill.

- B. Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

²⁴ Florida Department of Revenue, *Senate Bill 288 Bill Analysis* (Feb. 01, 2023) (on file with Senate Committee on Commerce & Tourism).