

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill grants OTTED rulemaking authority to implement provisions of the homeownership assistance tax credit program.

Ensure lower taxes: The bill will provide increased tax incentives for persons who donate to eligible sponsors for projects that provide homeownership opportunities for certain low income households, and for donations made to eligible sponsors for all other projects that qualify under the CCTC.

B. Present situation:

In 1980, the Florida Legislature established the Community Contribution Tax Credit Program (CCTC) to encourage private sector participation in revitalization projects located within enterprise zones or housing projects for low-income persons.¹ The program offers a tax incentive (a corporate income tax credit, insurance premium tax credit or a sales tax refund) equal to 50% of the amount donated up to \$200,000 annually, to sponsors who have been approved to participate in the program.

Eligible project sponsors under the program include a wide variety of community organizations, housing organizations, historic preservation organizations, units of state and local government, and regional workforce boards.²

Eligible projects include the construction, improvement, or rehabilitation of housing, commercial, industrial, or public facilities, and projects that promote entrepreneurial or job development opportunities for low-income persons.

OTTED is responsible for administering the program by reviewing sponsor's project proposals and tax credit applications. To date, 167 sponsors/projects have been approved to participate in the program. After the applicant receives approval for community contribution tax credits, the applicant must claim the credit from the Department of Revenue (DOR). Unused credits against corporate income taxes and insurance premium taxes may be carried forward for 5 years. Unused credits against sales taxes may be carried forward for 3 years.

The Florida Legislature has amended the dollar cap and the expiration date of the program on numerous occasions. The program began with a \$3 million dollar per year cap and is currently at a \$12 million per year cap. The expiration of the program has been extended from 2005 to a current expiration date of June 30, 2015.

According to OTTED, Habitat for Humanity is the primary recipient of donations for housing projects under the CCTC.

C. EFFECT OF PROPOSED CHANGES:

The bill separates the Community Contribution Tax Credit Program into two programs: the Community Tax Contribution Tax Credit Program (CCTC) and the Homeownership Assistance Contributions Tax Credit Program (HACTC). The bill sets the annual limitation for homeownership projects at \$10 million, and the annual limitation for projects that provide commercial, industrial, or public resources and facilities or improves entrepreneurial and job-development opportunities for low-income persons located in enterprise zones or Front Porch Florida Communities, is set at \$3 million. As a result, the bill increases the total available credits by \$1 million.

¹ See ss. 212.08(5)(q), 220.183 and 624.5105, F.S.

² OTTED maintains a list of approved sponsors.

The bill eliminates the requirement that OTTED grant additional tax credits that may become available after the first 6 months of the fiscal year to those sponsors who received a pro rata reduction that year and, if there are remaining credits, granting credits to those who applied after the 11th business day of the fiscal year on a first-come, first-served basis.

This bill strikes all references to affordable housing for certain low-income households from the community contribution tax credit program. Simultaneously, the bill creates new provisions, resembling those relating to CCTC, to establish a sales tax credit, corporate tax credit and insurance premium tax credit for homeownership assistance contributions against sales and use tax, corporate tax and insurance premium tax respectively.

The bill changes the definition of project, thereby removing from rental and multi-family projects from the either program.

The bill makes conforming changes and simplifies the allocation of available credits. Correspondingly, the bill re-designates the provisions of the statute.

C. SECTION DIRECTORY:

Section 1. Amends s. 14.2015(2)(f)1., F.S., to make conforming changes.

Section 2. Amends s. 212.08(5)(q), F.S., to reduce availability of tax credits; remove all superfluous provisions; renumber sub-paragraphs; establish a new tax credit program; remove availability of remaining credits; conform cross-references; grant the office rulemaking authority; create a tax credit program; and provide an expiration date.

Section 3. Amends s. 220.02, F.S., to conform cross-references.

Section 4. Amends s. 220.03, F.S., to conform cross-references, remove definitions; and remove expiration date.

Section 5. Amends s. 220.03, F.S., to remove a definition; and remove expiration date.

Section 6. Amends ss. 220.183(1), 220.183(2) F.S., 220.183(3), F.S., 220.183(4), F.S., to provide cross-references, make conforming changes; grant the office rulemaking authority; and remove redundant language.

Section 7. Creates s. 220.1835, F.S., to provide tax credits against corporate income tax; provide an expiration date; grant DOR rulemaking authority; and make cross references.

Section 8. Amends s. 624.5105, F.S., to make conforming changes; provide cross references; and remove redundant language.

Section 9. Creates s. 624.5108, F.S., to provide tax credits against insurance premium tax; provide an expiration date; grant DOR rulemaking authority; and make cross references.

Section 10. Amends s. 212.06, F.S., to make conforming changes.

Section 11. Amends s. 220.02, F.S., to make conforming changes.

Section 12. Amends s. 220.181, F.S., to make conforming changes.

Section 13. Amends s. 220.182, F.S., to make conforming changes.

Section 14. Amends s. 288.1045, F.S., to make conforming changes.

Section 15. Amends s. 288.106, F.S., to make conforming changes.

Section 16. Amends s. 290.00677, F.S., to make conforming changes.

Section 17. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues: None.
- 2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill increases the amount of tax credits available to persons for homeownership projects from \$9.4 million to \$10 million and for non-housing projects from \$2.6 million to \$3 million. This may have a positive but indeterminate impact on the number of low-income homes that are built each year and the projects sponsored in enterprise zones and Front Porch Florida Communities as they are likely to receive more contributions.

D. FISCAL COMMENTS:

The bill increases the cap by \$1 million, resulting in reduction of state revenue.

The table below shows the tax credits granted for housing projects and for other community development projects during the past ten years. There were significant tax credits unused for the first two years after the cap was increased to \$10 million, but since then the entire allocation has been used.

**COMMUNITY CONTRIBUTION TAX CREDIT PROGRAM
TAX CREDIT SUMMARY FY 1995/96 – FY 2005/06**

FISCAL YEAR	APPROVED apps.	HOUSING TAX CREDITS	COMMUNITY DEVELOPMENT TAX CREDITS	TOTAL CREDITS APPROVED	CREDITS REMAINING	ANNUAL ALLOCATION
1995/96	75	\$465,542	\$1,472,255	\$1,937,797	\$62,203	\$2,000,000
1996/97	69	\$1,043,256	\$1,018,947	\$2,062,203	-\$62,203	\$2,000,000
1997/98	81	\$1,348,500	\$651,500	\$2,000,000	\$0	\$2,000,000
1998/99	75	\$2,720,441	\$2,279,559	\$5,000,000	\$0	\$5,000,000
1999/00	198	\$3,764,283	\$1,302,178	\$5,066,461	\$4,933,539	\$10,000,000
2000/01	223	\$5,320,890	\$744,365	\$6,065,255	\$3,934,745	\$10,000,000
2001/02	322	\$9,484,489	\$515,464	\$9,999,953	\$47	\$10,000,000
2002/03	359	\$8,914,456	\$1,085,544	\$10,000,000	\$0	\$10,000,000
2003/04	285	\$8,622,769	\$1,377,231	\$10,000,000	\$0	\$10,000,000
2004/05	251	\$8,051,618	\$1,948,382	\$10,000,000	\$0	\$10,000,000
2005/06	285	\$9,558,883	\$2,441,117	\$12,000,000	\$0	\$12,000,000
10 YEAR TOTALS	2,223	\$59,295,127	\$14,836,542	\$74,131,669	\$8,868,331	\$83,000,000

Source: Created from data provided by OTTED.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not reduce the percentage of state tax shared with municipalities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill grants OTTED rulemaking authority for a new tax credit program for low income housing, which was formally part of the community contribution tax credit program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 4 and 5 both delete the definition of "project" from s. 220.03, F.S. This appears to be unnecessary.

The Office of Tourism, Trade & Economic Development expressed the following concerns regarding this bill:

- Projects that provide multi-family housing or projects that rehabilitate rental housing for low-income persons will no longer be eligible to participate in any program.
- There are no provisions to re-allocate tax credits that have not been approved after a certain amount of time from one program to another. Currently after 6 months, the tax credits are available to any type of project.
- As proposed, definitions of project and community contribution are deleted from the corporate tax section, as well as insurance premium tax section and referred to the sales tax section.

The Florida Department of Revenue expressed the following concerns regarding this bill:

- Striking the eligibility requirements and the application requirements for the community contribution tax credit from ss. 220.183, F.S. and 220.1835, F.S., and referring to ss. 212.08(5)(q), F.S. and 212.08(5)(r), F.S., for that information respectively, may cause confusion as to what those requirements are.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES