SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1828

SPONSOR: Comprehensive Planning Committee and Senator Fasano

SUBJECT: Community Contribution Tax Credits

DATE: April 18, 2003 REVISED: 4/22/03

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cooper	Yeatman	CP	Fav/CS
2.	Fournier	Johansen	FT	Fav/1 amendment
3.			ATD	
4.			AP	
5.				
6.				

I. Summary:

The CS provides that, during the first 6 months of the fiscal year, no more than 50 percent of the approved community contribution tax credits against the corporate income tax may be granted to businesses contributing to qualified entities constructing or rehabilitating low and very-low-income housing.

This bill amends s. 220.183 of the Florida Statutes.

II. Present Situation:

Community Contribution Tax Credit Program

Finding that deterioration of housing and commercial facilities both evidences and contributes to the economic decline in Florida communities, the Legislature in 1980 created the Community Contribution Tax Credit Program in s. 220.183, F.S., to encourage businesses to make donations toward revitalization projects undertaken by redevelopment organizations.[1] The credits are available as credits against the corporate income tax, franchise tax on banks and savings associations, the state sales tax, and the insurance premium tax pursuant to ss. 220.183 and 624.1505, F.S., respectively.

The program authorizes corporations that make donations to approved organizations to claim a credit equal to 50 percent of the donation against corporate income tax,[2] franchise tax,[3] sales

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[1] Ch. 80-249, L.O.F. Other tax incentives currently available to businesses located in and employing residents of enterprise zones include sales tax exemptions for building materials, business equipment, and electrical energy, and job tax credits.
[2] Levied pursuant to s. 220.11, F.S.
[3] Levied pursuant to s. 220.63, F.S. The franchise tax is generally considered a part of the corporate income tax.

tax,[4] or insurance premium tax.[5] Under ss. 212.08(5)(q), 220.183 and 624.5105, F.S., the combined total amount of tax credits that may be approved is $10 million annually. An individual business may receive no more than $200,000 in tax credits per year. All projects, except those related to housing for low-income persons and certain projects designed to increase access to high-speed broadband capabilities, must be located in enterprise zones or a Front Porch Florida Community.

“Eligible sponsors” or eligible contribution recipients are:

- A community action program;
- A nonprofit community-based development organization whose mission is the provision of housing for low-income or very-low-income households or increasing entrepreneurial and job-development opportunities for low-income persons;
- A neighborhood housing services corporation;
- A local housing authority, created pursuant to chapter 421, F.S.;
- A community redevelopment agency, created pursuant to s. 163.356, F.S.;
- The Florida Industrial Development Corporation;
- An historic preservation district agency or organization;
- A regional workforce board;
- A direct-support organization as provided in s. 1009.983, F.S.;
- An enterprise zone development agency created pursuant to s. 290.0056, F.S.;
- A not-for-profit community-based organization whose bylaws and articles of incorporation include affordable housing, economic development, or community development as the primary mission of the corporation;
- Units of local government;
- Units of state government; or
- Such other agency as the Office of Tourism, Trade, and Economic Development (OTTED) may, from time to time, designate by rule.

Eligible projects include any activity undertaken by an eligible sponsor which is designed to construct, improve, or substantially rehabilitate housing that is affordable to low-income or very-low-income households; provide commercial, industrial, or public resources and facilities; or improve entrepreneurial and job-development opportunities for low-income persons.

In addition, a project may be the investment necessary to increase access to high-speed broadband capability in rural communities with enterprise zones, including projects that result in improvements to communication assets that are owned by a business; or a project which provides museum educational programs and materials that are directly related to any project approved between January 1, 1996, and December 31, 1999, and located in an enterprise zone.

Section 220.03(1)(d), F.S., defines “community contribution” as the grant by a business firm of cash or other liquid assets, real property, goods, or inventory, and other physical resources as identified by the Department of Revenue.

[4] Levied pursuant to ch. 212, F.S.
[5] Levied pursuant to ss. 624.509 & 510, F.S.

OTTED is responsible for approving tax credits under s. 220.183, F.S. Section 220.183(2)(b), F.S. authorized OTTED to reserve up to 50 percent of the available annual tax credits for housing for very-low-income households pursuant to s. 420.9071(28), F.S., for the first 6 months of the fiscal year.

Section 420.9071(28), F.S., defines "very-low-income household" as:

> . . . one or more natural persons or a family that has a total annual gross household income that does not exceed 50 percent of the median annual income adjusted for family size for households within the metropolitan statistical area, the county, or the non-metropolitan median for the state, whichever is greatest.

OTTED reports that they do not exercise this authorized discretion to reserve funds for very-low-income housing projects. In addition, they do not distinguish between low-income and very-low-income projects when qualifying projects. Credits are allocated on a ‘first come, first serve’ basis.

In recent years, the credits have been claimed within the first quarter of the fiscal year. In FY 02/03, OTTED reports that 90 percent of the $10 million allocated for the program went to businesses contributing to eligible sponsors providing housing to low-income persons. TABLE 1 summarizes the allocation distribution for the past eight years.

TABLE 1
Community Contribution Tax Credit Program -
Tax Credit Summary

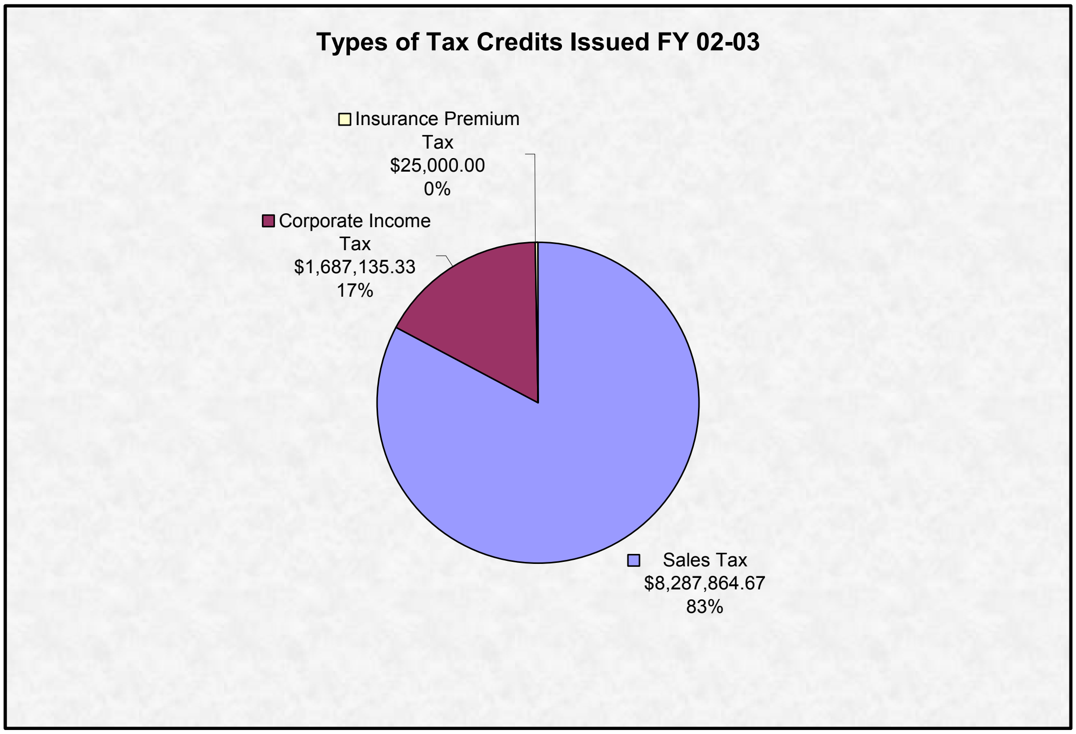
Fiscal Year	Project Category	Donations	Tax Credits
2002/03	Community Development	79	$1,085,544
	Low Income Housing	280	$8,914,455
2001/02	Community Development	54	$515,464
	Low Income Housing	236	$9,484,489
2000/01	Community Development	40	$744,365
	Low Income Housing	183	$5,320,890
1999/00	Community Development	62	$1,302,178
	Low Income Housing	136	$3,764,282
1998/99	Community Development	78	$2,279,558
	Low Income Housing	92	$2,720,441
1997/98	Community Development	22	$651,500
	Low Income Housing	47	$1,348,500
1996/97	Community Development	43	$1,018,947
	Low Income Housing	38	$1,043,256
1995/96	Community Development	51	$1,472,254
	Low Income Housing	24	$465,542

The Community Contribution Tax Credit Program is set to expire on June 30, 2005.

Other Program Statistics

According to the Office of Tourism, Trade, and Economic Development, most of the community contribution tax credits are used against sales taxes, as shown in Chart 1 below.

Chart 1

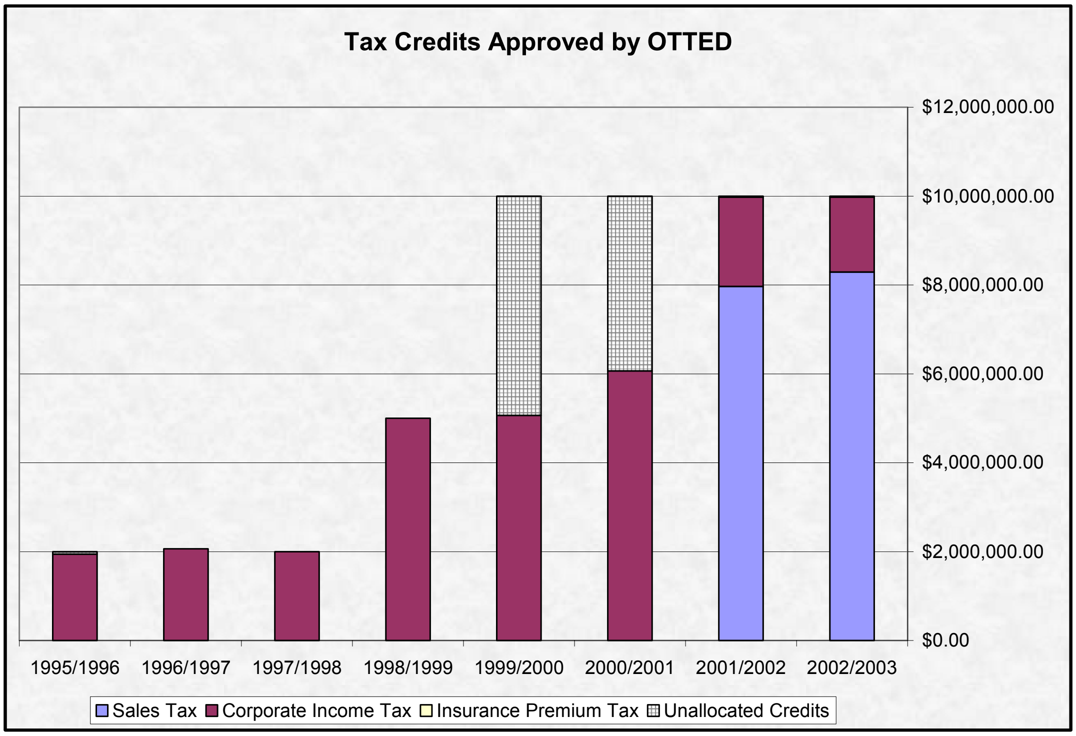


Source: Created by Staff of the Senate Commerce, Economic Opportunity and Consumer Services Committee from data provided by the Office of Tourism, Trade, and Economic Development

The amount of tax credits available under the community contribution tax credit program has increased since 1995. From FY 1995-1996 through FY 1997-1998, $2 million in annual tax credits were available. For FY 1998-1999, $5 million in annual tax credits were available. From FY 1999-2000 to the present, $10 million in annual tax credits are available. Since the community contribution tax credit program was expanded to authorize tax credits against sales or use taxes in FY 2001-2002, the majority of the $10 million in credits allocated have been used to offset those taxes. See Chart 2.

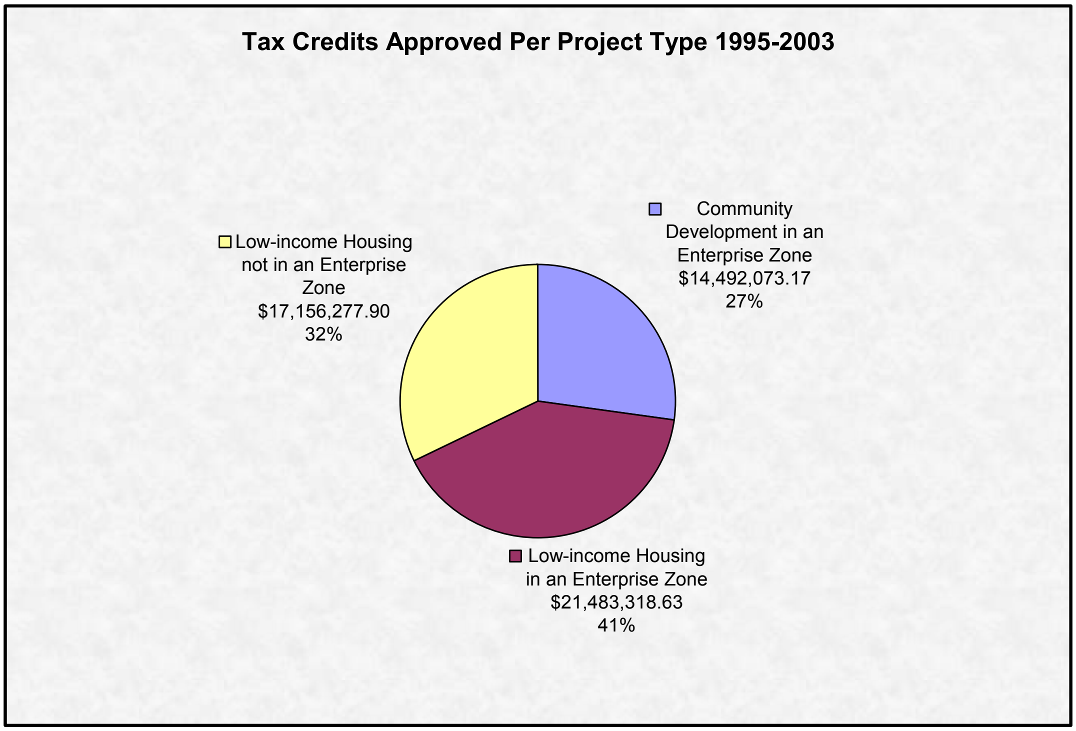
Since 1995, most community contribution tax credits have been made to low-income housing projects. In Chart 3, the category "community development in an enterprise zone" includes projects that construct or rehabilitate commercial, industrial, or public facilities. Examples of community development include: community centers, museums, parks, day care centers, and the PACE Center for Girls.

Chart 2



Source: Created by Staff of the Senate Commerce, Economic Opportunity and Consumer Services Committee from data provided by the Office of Tourism, Trade, and Economic Development

Chart 3



Source: Created by Staff of the Senate Commerce, Economic Opportunity and Consumer Services Committee from data provided by the Office of Tourism, Trade, and Economic Development

III. Effect of Proposed Changes:

Section 1 of the CS amends s. 220.183(2), F.S., to specify that OTTED may reserve no more than 50 percent of the available annual community contribution tax credits for businesses contributing to qualified entities constructing or rehabilitating low and very-low-income housing. However, if businesses contributing to qualified non-housing entities do not claim the credits within the first 6 months of the fiscal year, the credits become available for businesses contributing for qualified housing programs.

Section 2 provides that the CS will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

This bill limits the amount of corporate income tax credits available for businesses that contribute to housing projects for low-income and very-low-income households.

B. Private Sector Impact:

Corporations that contribute to projects that provide housing for low-income and very-low-income households may be unable to claim tax credits for such contributions.

C. Government Sector Impact:

OTTED will be required to revise their processes to ensure that no more than 50 percent of the available annual corporate income tax credits are allocated to projects that provide housing for low-income and very-low-income households.

VI. Technical Deficiencies:

Since the community contribution tax credit may be taken against the sales and use tax (s. 212.08(5)(q), F.S.) and the insurance premium tax (s. 624.5015, F.S.), to ensure that the intent of this bill is carried out, these sections should also be amended to limit contributions to projects that provide low- income and very low-income housing in the first 6 months of the year.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Finance and Taxation:
Amends ss. 212.08 and 624.5105, F.S., conforming those sections to the changes made by the bill in s. 220.183, F.S. (WITH TITLE AMENDMENT)