

By the Committee on Commerce and Consumer Services; and
Senator Saunders

577-1709-06

1 A bill to be entitled

2 An act relating to economic development;

3 amending s. 212.08, F.S.; conforming provisions

4 to the revision creating designated urban job

5 tax credit areas; amending s. 212.097, F.S.;

6 revising provisions providing for an urban job

7 tax credit program to apply to designated urban

8 job tax credit areas rather than high-crime

9 areas; revising and providing definitions,

10 eligibility criteria, application procedures

11 and requirements, and area characteristics and

12 criteria; amending s. 220.1895, F.S., to

13 conform; deleting an obsolete provision;

14 amending s. 288.99, F.S.; conforming provisions

15 to the revision creating designated urban job

16 tax credit areas; providing an effective date.

17

18 Be It Enacted by the Legislature of the State of Florida:

19

20 Section 1. Paragraph (o) of subsection (5) of section

21 212.08, Florida Statutes, is amended to read:

22 212.08 Sales, rental, use, consumption, distribution,

23 and storage tax; specified exemptions.--The sale at retail,

24 the rental, the use, the consumption, the distribution, and

25 the storage to be used or consumed in this state of the

26 following are hereby specifically exempt from the tax imposed

27 by this chapter.

28 (5) EXEMPTIONS; ACCOUNT OF USE.--

29 (o) Building materials in redevelopment projects.--

30 1. As used in this paragraph, the term:

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1 a. "Building materials" means tangible personal
2 property that becomes a component part of a housing project or
3 a mixed-use project.

4 b. "Housing project" means the conversion of an
5 existing manufacturing or industrial building to housing units
6 in a designated ~~an~~ urban job tax credit ~~high-crime~~ area,
7 enterprise zone, empowerment zone, Front Porch Community,
8 designated brownfield area, or urban infill area and in which
9 the developer agrees to set aside at least 20 percent of the
10 housing units in the project for low-income and
11 moderate-income persons or the construction in a designated
12 brownfield area of affordable housing for persons described in
13 s. 420.0004(9), (10), or (14), or in s. 159.603(7).

14 c. "Mixed-use project" means the conversion of an
15 existing manufacturing or industrial building to mixed-use
16 units that include artists' studios, art and entertainment
17 services, or other compatible uses. A mixed-use project must
18 be located in a designated ~~an~~ urban job tax credit ~~high-crime~~
19 area, enterprise zone, empowerment zone, Front Porch
20 Community, designated brownfield area, or urban infill area,
21 and the developer must agree to set aside at least 20 percent
22 of the square footage of the project for low-income and
23 moderate-income housing.

24 d. "Substantially completed" has the same meaning as
25 provided in s. 192.042(1).

26 2. Building materials used in the construction of a
27 housing project or mixed-use project are exempt from the tax
28 imposed by this chapter upon an affirmative showing to the
29 satisfaction of the department that the requirements of this
30 paragraph have been met. This exemption inures to the owner
31 through a refund of previously paid taxes. To receive this

1 refund, the owner must file an application under oath with the
2 department which includes:

3 a. The name and address of the owner.
4 b. The address and assessment roll parcel number of
5 the project for which a refund is sought.
6 c. A copy of the building permit issued for the
7 project.
8 d. A certification by the local building code
9 inspector that the project is substantially completed.
10 e. A sworn statement, under penalty of perjury, from
11 the general contractor licensed in this state with whom the
12 owner contracted to construct the project, which statement
13 lists the building materials used in the construction of the
14 project and the actual cost thereof, and the amount of sales
15 tax paid on these materials. If a general contractor was not
16 used, the owner shall provide this information in a sworn
17 statement, under penalty of perjury. Copies of invoices
18 evidencing payment of sales tax must be attached to the sworn
19 statement.

20 3. An application for a refund under this paragraph
21 must be submitted to the department within 6 months after the
22 date the project is deemed to be substantially completed by
23 the local building code inspector. Within 30 working days
24 after receipt of the application, the department shall
25 determine if it meets the requirements of this paragraph. A
26 refund approved pursuant to this paragraph shall be made
27 within 30 days after formal approval of the application by the
28 department. The provisions of s. 212.095 do not apply to any
29 refund application made under this paragraph.
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1 4. The department shall establish by rule an
2 application form and criteria for establishing eligibility for
3 exemption under this paragraph.

4 5. The exemption shall apply to purchases of materials
5 on or after July 1, 2000.

6 Section 2. Section 212.097, Florida Statutes, is
7 amended to read:

8 (Substantial rewording of section. See
9 s. 212.097, F.S., for present text.)

10 212.097 Designated Urban Job Tax Credit Area
11 Program.--

12 (1) As used in this section, the term:

13 (a) "Designated urban job tax credit area" means an
14 area designated by the Office of Tourism, Trade, and Economic
15 Development pursuant to subsection (5). Such an area includes
16 an area designated as a federal empowerment zone pursuant to
17 the Taxpayer Relief Act of 1997 or the Community Tax Relief
18 Act of 2000. A designated urban job tax credit area shall
19 retain its designation for a period of 5 years following the
20 date of designation.

21 (b) "Eligible business" means any business entity that
22 is located in a designated urban job tax credit area and that
23 is predominantly engaged in, or is headquarters for a business
24 predominantly engaged in, activities usually provided for
25 consideration by firms classified within the following
26 standard industrial classifications: SIC 01-SIC 09
27 (agriculture, forestry, and fishing); SIC 20-SIC 39
28 (manufacturing); SIC 52-SIC 57 and SIC 59 (retail); SIC 422
29 (public warehousing and storage); SIC 70 (hotels and other
30 lodging places); SIC 7391 (research and development); SIC 781
31 (motion picture production and allied services); SIC 7992

1 (public golf courses); SIC 7996 (amusement parks); and a
2 targeted industry eligible for the qualified target industry
3 business tax refund under s. 288.106. A call center or similar
4 customer service operation that services a multistate market
5 or international market is also an eligible business. Excluded
6 from eligible receipts are receipts from retail sales, except
7 such receipts for SIC 52-SIC 57 and SIC 59 (retail) hotels and
8 other lodging places classified in SIC 70, public golf courses
9 in SIC 7992, and amusement parks in SIC 7996. For purposes of
10 this paragraph, the term "predominantly" means that more than
11 50 percent of the business's gross receipts from all sources
12 is generated by those activities usually provided for
13 consideration by firms in the specified standard industrial
14 classification. The determination of whether the business is
15 located in a designated urban job tax credit area must be
16 based on the date of application for the credit under this
17 section. Commonly owned and controlled entities are considered
18 a single business entity.

19 (c) "Existing business" means any eligible business
20 that does not meet the criteria for a new business.

21 (d) "New business" means any eligible business first
22 beginning operation on a site in a designated urban job tax
23 credit area and clearly separate from any other commercial or
24 business operation of the business entity within a designated
25 urban job tax credit area. A business entity that operated an
26 eligible business within a designated urban job tax credit
27 area within the 48 months before the period provided for
28 application by subsection (2) is not considered a new
29 business.

30 (e) "Office" means the Office of Tourism, Trade, and
31 Economic Development.

1 (f) "Qualified employee" means any employee of an
2 eligible business who performs duties in connection with the
3 operations of the business on a regular, full-time basis for
4 an average of at least 36 hours per week for at least 3 months
5 within the designated urban job tax credit area in which the
6 eligible business is located. An owner or partner of the
7 eligible business is not a qualified employee. The term also
8 includes an employee leased from an employee leasing company
9 licensed under chapter 468, if such employee has been
10 continuously leased to the employer for an average of at least
11 36 hours per week for more than 6 months.

12 (g) "Urban infill and redevelopment area" means an
13 area or areas designated by a local government where:

14 1. Public services such as water and wastewater,
15 transportation, schools, and recreation are already available
16 or are scheduled to be provided in an adopted 5-year schedule
17 of capital improvements;

18 2. The area, or one or more neighborhoods within the
19 area, suffers from pervasive poverty, unemployment, and
20 general distress as defined by s. 290.0058;

21 3. The area exhibits a proportion of properties that
22 are substandard, overcrowded, dilapidated, vacant or
23 abandoned, or functionally obsolete which is higher than the
24 average for the local government;

25 4. More than 50 percent of the area is within 1/4 mile
26 of a transit stop, or a sufficient number of such transit
27 stops will be made available concurrent with the designation;

28 and

29 5. The area includes or is adjacent to community
30 redevelopment areas, brownfields, enterprise zones, or Main
31 Street programs, or has been designated by the state or

1 Federal Government as an urban redevelopment, revitalization,
2 or infill area under empowerment zone, enterprise community,
3 or brownfield showcase community programs or similar programs.

4 (2) A county or municipality, or a county and one or
5 more municipalities together, may apply to the office for the
6 designation of an area as a designated urban job tax credit
7 area in accordance with subsection (3). Applications must be
8 received by the office no later than April 30 of 2007 and
9 every 5 years thereafter.

10 (3) In order for an area to qualify as a designated
11 urban job tax credit area, the following requirements must be
12 met:

13 (a) The local government seeking designation must
14 adopt a resolution prior to the date of application for
15 designation which:

16 1. Finds that an urban area exists in such county or
17 municipality, or in both the county and one or more
18 municipalities, which chronically exhibits extreme and
19 unacceptable levels of poverty, unemployment, physical
20 deterioration, and economic disinvestment.

21 2. Determines that the rehabilitation, conservation,
22 or redevelopment, or a combination thereof, of such an urban
23 area is necessary in the interest of the health, safety, and
24 welfare of the residents of such county or municipality, or
25 such county and one or more municipalities.

26 3. Determines that the revitalization of such an urban
27 area can occur if the public sector or private sector can be
28 induced to invest its own resources in productive enterprises
29 that build or rebuild the economic viability of the area.

30 (b) The local government seeking designation
31 demonstrates to the office that the area:

1 1.a. Has at least 40 percent of its residents earning
2 wages on an annual basis which are equal to or less than the
3 annual wage of a person who is earning minimum wage; or
4 b. Has more than 20 percent of its residents or
5 families living below the federal standard of poverty for
6 individuals or a family of four;
7 2. Has an unemployment rate at least 3 percentage
8 points higher than the state's unemployment rate;
9 3. Has an arrest rate higher than the state's average
10 rate for crimes such as drug sale, drug possession,
11 prostitution, vandalism, and civil disturbances, as recorded
12 by the total crime index of the Department of Law Enforcement;
13 and
14 4.a. Has 50 percent or more of its residents who rent;
15 b. Has property values that are within the lower 50
16 percent of the county's assessed property values;
17 c. Has more than 5 percent of its commercial buildings
18 currently vacant or condemned within the previous 24 months;
19 or
20 d. With respect to at least 25 percent of tax or
21 special-assessment delinquencies, the amount of the
22 delinquency exceeds the fair value of the land.
23 (c) The selected area has a continuous boundary or
24 consists of not more than three noncontiguous parcels.
25 (d) The selected area does not exceed the following
26 mileage limitation:
27 1. For areas having a total population of 150,000
28 persons or more, the selected area does not exceed 20 square
29 miles and is within 10 miles of the urban infill and
30 redevelopment area of a municipality.
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1 2. For areas having a total population of 50,000
2 persons or more, but fewer than 150,000 persons, the selected
3 area does not exceed 10 square miles and is within 7.5 miles
4 of the urban infill and redevelopment area of a municipality.

5 3. For areas having a total population of 20,000
6 persons or more, but fewer than 50,000 persons, the selected
7 area does not exceed 5 square miles and is within 5 miles of
8 the urban infill and redevelopment area of a municipality.

9 4. For areas having a total population of fewer than
10 20,000 persons, the selected area does not exceed 3 square
11 miles and is within 3 miles of the urban infill and
12 redevelopment area of a municipality.

13 (4) A municipality, or a county and one or more
14 municipalities together, may not nominate more than one urban
15 area. However, any county as defined by s. 125.011(1) may
16 nominate no more than three urban areas.

17 (5) On June 30, 2007, and every 5 years thereafter,
18 the office may designate no more than 30 areas that meet the
19 requirements of subsection (3). If there are more than 30
20 applications in any year, the office shall rank the areas by
21 level of distress and designate the 30 areas having the
22 highest level of distress.

23 (6) A new eligible business may apply for a tax credit
24 under this subsection once at any time during its first year
25 of operation. A new eligible business in a designated urban
26 job tax credit area which has at least 10 qualified employees
27 on the date of application shall receive a \$1,000 tax credit
28 for each such employee.

29 (7) An existing eligible business may apply for a tax
30 credit under this subsection at any time it is entitled to
31 such credit, except as restricted by this subsection. An

1 existing eligible business in a designated urban job tax
2 credit area which, on the date of application, has at least
3 five more qualified employees than it had 1 year prior to its
4 date of application shall receive a \$1,000 credit for each
5 such additional employee. An existing eligible business may
6 apply for the credit under this subsection no more than once
7 in any 12-month period. Any existing eligible business that
8 has received a credit under subsection (6) may not apply for
9 the credit under this subsection sooner than 12 months after
10 the application date for the credit under subsection (6). To
11 be eligible for a tax credit under this subsection, the number
12 of qualified employees employed 1 year prior to the
13 application date must be no lower than the number of qualified
14 employees on the application date on which a credit under this
15 section was based for any previous application, including an
16 application under subsection (6).

17 (8) For any new eligible business receiving a credit
18 pursuant to subsection (6), an additional \$500 credit shall be
19 provided for any qualified employee who is a
20 welfare-transition-program participant. For any existing
21 eligible business receiving a credit pursuant to subsection
22 (7), an additional \$500 credit shall be provided for any
23 qualified employee who is a welfare-transition-program
24 participant. Such employee must be employed on the application
25 date and have been employed less than 1 year. This credit
26 shall be in addition to other credits pursuant to this
27 section. Appropriate documentation concerning the eligibility
28 of an employee for this credit must be submitted as determined
29 by the department.

30 (9)(a) In order to claim this credit, an eligible
31 business must file under oath with the office a statement that

1 includes the name and address of the eligible business and any
2 other information that is required to process the application.

3 (b) Within 30 working days after receipt of an
4 application for credit, the office shall review the
5 application to determine whether it contains all the
6 information required by this subsection and meets the criteria
7 set out in this section. Subject to the provisions of
8 paragraph (c), the office shall approve all applications that
9 contain the information required by this subsection and meet
10 the criteria set out in this section as eligible to receive a
11 credit.

12 (c) The maximum credit amount that may be approved
13 during any calendar year is \$5 million. The Department of
14 Revenue, in conjunction with the office, shall notify the
15 governing bodies in areas designated under this section when
16 the \$5-million-maximum amount has been reached. Applications
17 must be considered for approval in the order in which they are
18 received without regard to whether the credit is for a new or
19 existing business. This limitation applies to the value of the
20 credit as contained in approved applications. Approved credits
21 may be taken in the time and manner allowed pursuant to this
22 section.

23 (10) If the application is insufficient to support the
24 credit authorized in this section, the office shall deny the
25 credit and notify the business of that fact. The business may
26 reapply for this credit within 3 months after such
27 notification.

28 (11) If the credit under this section is greater than
29 can be taken on a single tax return, excess amounts may be
30 taken as credits on any tax return submitted within 12 months
31 after the approval of the application by the department.

1 (12) It is the responsibility of each business to
2 affirmatively demonstrate to the satisfaction of the
3 Department of Revenue that it meets the requirements of this
4 section.

5 (13) Any person who fraudulently claims this credit is
6 liable for repayment of the credit plus a mandatory penalty of
7 100 percent of the credit and is guilty of a misdemeanor of
8 the second degree, punishable as provided in s. 775.082 or s.
9 775.083.

10 (14) A corporation may take the credit under this
11 section against its corporate income tax liability, as
12 provided in s. 220.1895. However, a corporation that applies
13 its job tax credit against the tax imposed by chapter 220 may
14 not receive the credit provided for in this section. A credit
15 may be taken against only one tax.

16 (15) The department shall adopt rules governing the
17 manner and form of applications for credit and may establish
18 guidelines concerning the requisites for an affirmative
19 showing of qualification for the credit under this section.

20 (16) Notwithstanding subsections (6), (7), and (8), an
21 eligible business located in an area designated under this act
22 as of June 30, 2006, shall retain its program and tax credit
23 eligibility through June 30, 2012, if the business complies
24 with the job-creation requirements. This subsection expires
25 July 1, 2012.

26 Section 3. Section 220.1895, Florida Statutes, is
27 amended to read:

28 220.1895 Rural Job Tax Credit and Designated Urban
29 ~~High Crime Area~~ Job Tax Credit.--There shall be allowed a
30 credit against the tax imposed by this chapter amounts
31 approved by the Office of Tourism, Trade, and Economic

1 Development pursuant to the Rural Job Tax Credit Program in s.
2 212.098 and the Designated Urban ~~High Crime Area~~ Job Tax
3 Credit Area Program in s. 212.097. A corporation that uses its
4 credit against the tax imposed by this chapter may not take
5 the credit against the tax imposed by chapter 212. If any
6 credit granted under this section is not fully used in the
7 first year for which it becomes available, the unused amount
8 may be carried forward for a period not to exceed 5 years. The
9 carryover may be used in a subsequent year when the tax
10 imposed by this chapter for such year exceeds the credit for
11 such year under this section after applying the other credits
12 and unused credit carryovers in the order provided in s.
13 220.02(8).

14 Section 4. Subsection (2) of section 288.99, Florida
15 Statutes, is amended to read:

16 288.99 Certified Capital Company Act.--

17 (2) PURPOSE.--The primary purpose of this act is to
18 stimulate a substantial increase in venture capital
19 investments in this state by providing an incentive for
20 insurance companies to invest in certified capital companies
21 in this state which, in turn, will make investments in new
22 businesses or in expanding businesses, including
23 minority-owned or minority-operated businesses and businesses
24 located in a designated Front Porch community, enterprise
25 zone, designated urban job tax credit ~~high crime~~ area, rural
26 job tax credit county, or nationally recognized historic
27 district. The increase in investment capital flowing into new
28 or expanding businesses is intended to contribute to
29 employment growth, create jobs which exceed the average wage
30 for the county in which the jobs are created, and expand or
31 diversify the economic base of this state.

1 Section 5. This act shall take effect July 1, 2006.
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3 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
4 COMMITTEE SUBSTITUTE FOR
5 Senate Bill 624

6 The committee substitute differs from the bill in the
7 following ways:

- 8 - Re-organizes s. 212.097, F.S., for clarity.
- 9 - Provides application (April 30, 2007) and designation
10 (June 30, 2007) deadlines, to help the Office of Tourism,
11 Trade, and Economic Development administer the program.
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