

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 Appropriations

BILL: CS/CS/SB 868

INTRODUCER: Appropriations Committee; Finance and Tax Committee; and Senator Smith

SUBJECT: Community Contribution Tax Credits

DATE: March 3, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Favorable
2.	Babin	Diez-Arguelles	FT	Fav/CS
3.	Babin	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 868 requires community redevelopment agencies within a county as defined in s. 125.011(1), F.S., to expend five percent of their revenues annually to support youth centers if more than 50 percent of the persons under 18 years of age living in the community redevelopment area are in families below the federal poverty level.

The bill provides that a donation of real property under the Community Contribution Tax Credit Program includes the transfer of a 100-percent ownership interest of a real property holding company. The bill defines “real property holding company” to mean a Florida entity, such as a Florida limited liability company, which:

- Is wholly owned by the person making the contribution;
- Is the sole owner of real property located in this state;
- Is disregarded as an entity separate from its owner for federal income tax purposes; and
- At the time of the contribution to an eligible sponsor, has no material assets other than the real property and any other property that qualifies as a community contribution.

The bill is effective July 1, 2016.

II. Present Situation:

Community Redevelopment Act

The Community Redevelopment Act of 1969¹ authorizes a county or municipality to create a community redevelopment area (CRA) as a means of redeveloping slums and blighted areas. To carry out the purposes and provisions of the Act, counties and municipalities are authorized to undertake the following activities within a CRA:

- Enter into contracts;
- Disseminate information;
- Acquire property within a slum or blighted area by voluntary methods;
- Demolish and remove buildings and improvements;
- Construct improvements; and
- Dispose of property at fair value.²

Counties and municipalities are prohibited from exercising the community redevelopment authority provided by the Act until they adopt an ordinance that declares an area to be a slum or a blighted area.³

A “blighted area” is defined as an area in which there are a substantial number of deteriorated, or deteriorating structures, in which conditions, as indicated by government-maintained statistics or other studies, are leading to economic distress or endanger life or property, and in which two or more of the following factors are present:

- Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities;
- Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the five years prior to the finding of such conditions;
- Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- Unsanitary or unsafe conditions;
- Deterioration of site or other improvements;
- Inadequate and outdated building density patterns;
- Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality;
- Tax or special assessment delinquency exceeding the fair value of the land;
- Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality;
- Incidence of crime in the area higher than in the remainder of the county or municipality;
- Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality;
- A greater number of violations of the Florida Building Code in the area than the number of violations recorded in the remainder of the county or municipality;

¹ Chapter 163, part III, F.S.

² Section 163.370, F.S.

³ Sections 163.355(1) and 163.360(1), F.S.

- Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or
- Governmentally owned property with adverse environmental conditions caused by a public or private entity.⁴

A “blighted area” also includes any area in which at least one of the factors identified above is present and all affected taxing authorities agree,⁵ either by inter-local agreement or agreements with the agency or by resolution, that the area is blighted.⁶

The Redevelopment Trust Fund

A CRA is not permitted to levy or collect taxes; however, the local governing body is permitted to establish a redevelopment trust fund that is funded through tax increment financing (TIF).⁷ The TIF procedure requires taxing authorities annually to appropriate an amount to the redevelopment trust fund by January 1. The increment revenue amount is calculated annually as 95 percent of the difference between:

- The amount of ad valorem taxes levied in a given year by each taxing authority, exclusive of debt service millage, on taxable real property within the CRA; and
- The amount of ad valorem taxes which would have been produced at the current-year millage rate, exclusive of debt-service millage, on the total assessed value of taxable property in the CRA immediately prior to establishment of the CRA trust fund.

Thus, as property values in the CRA grow the tax increment increases and is available to finance or refinance redevelopment activities undertaken by the community redevelopment agency.

A community redevelopment agency may expend funds in the redevelopment trust fund for:

- Administrative and overhead expenses necessary or incidental to the implementation of a community redevelopment plan adopted by the agency.
- Expenses of redevelopment planning, surveys, and financial analysis, including the reimbursement of the governing body or the community redevelopment agency for such expenses incurred before the redevelopment plan was approved and adopted.
- The acquisition of real property in the redevelopment area.
- The clearance and preparation of any redevelopment area for redevelopment and relocation of site occupants within or outside the community redevelopment area as provided in s. 163.370.
- The repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of indebtedness.
- All expenses incidental to or connected with the issuance, sale, redemption, retirement, or purchase of bonds, bond anticipation notes, or other form of indebtedness, including funding of any reserve, redemption, or other fund or account provided for in the ordinance or resolution authorizing such bonds, notes, or other form of indebtedness.

⁴ Section 163.340(8), F.S.

⁵ These include all taxing authorities that are required to contribute to the redevelopment trust fund pursuant to s. 163.387(2)(a), F.S. See s. 163.340(8), F.S.

⁶ Section 163.340(8), F.S.

⁷ Section 163.387(1), F.S.

- The development of affordable housing within the community redevelopment area.
- The development of community policing innovations.⁸

Community Contribution Tax Credit Program

In 1980, the Legislature established the Community Contribution Tax Credit Program (CCTCP) to encourage private sector participation in community revitalization and housing projects.⁹ The CCTCP offers tax credits to businesses or persons (donors) that make certain contributions to eligible projects undertaken by approved CCTCP sponsors.¹⁰

Eligible sponsors under the CCTCP include a wide variety of organizations and entities, including community development agencies, housing organizations, historic preservation organizations, units of state and local government, regional workforce boards, and any other agency that the Department of Economic Opportunity (DEO) designates by rule.¹¹ There are currently 122 approved sponsors in Florida.¹²

Eligible projects include activities undertaken by an eligible sponsor that are designed to accomplish one of the following purposes:

- To construct, improve, or substantially rehabilitate housing that is affordable to low-income or very-low-income households as defined in s. 420.9071(19) and (28), F.S.;
- To provide housing opportunities for persons with special needs as defined in s. 420.0004, F.S.;
- To provide commercial, industrial, or public resources and facilities; or
- To improve entrepreneurial and job-development opportunities for low-income persons.¹³

Additionally, eligible projects must be located in an area previously designated as an enterprise zone pursuant to ch. 290, F.S., as of May 1, 2015, or a Front Porch Florida Community.¹⁴

However, the law permits the following three exceptions:

- Any project designed to construct or rehabilitate housing for low-income households or very-low-income households as those terms are defined in s. 420.9071, F.S.;¹⁵
- Any project designed to construct or rehabilitate housing opportunities for persons with special needs as defined in s. 420.0004, F.S.;¹⁶ and
- Any project designed to provide increased access to high-speed broadband capabilities that includes coverage of an area designated as a rural enterprise zone as of May 1, 2015.¹⁷

⁸ Section 163.387(6), F.S.

⁹ Chapter 80-249, Laws of Fla.

¹⁰ See ss. 212.08(5)(p); 220.183; and 624.5105, F.S. The contributing taxpayer may not have a financial interest in the eligible sponsor.

¹¹ See ss. 212.08(5)(p)2.c.; 220.183(2)(c); and 624.5105(2)(c), F.S.

¹² Department of Economic Opportunity, *House Bill 627/Senate Bill 868 Fiscal Analysis*, page 3, (Dec. 2, 2015) (on file with the Senate Committee on Finance and Tax).

¹³ Sections 212.08(5)(p)2.b.; 220.183(2)(b); 624.5105(2)(b); and 220.03(1)(t), F.S.

¹⁴ Sections 212.08(p)2.d.; 220.183(2)(d); and 624.5102(2)(d), F.S.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* The infrastructure of such projects may be located in any area of a rural county (inside or outside of the zone).

Any eligible sponsor wishing to participate in the program must submit a proposal to DEO, which sets forth the sponsor, the project, the area in which the project is located, and any supporting information as may be prescribed by rule.¹⁸ The proposal must also contain a resolution from the local governmental unit in which it is located certifying that the project is consistent with local plans and regulations.¹⁹

Contributions to eligible projects may only be in the form of cash or other liquid assets, real property, goods or inventory, or other physical resources as identified by DEO.²⁰ If the donation is of real property, it must be made directly from the donor to the eligible sponsor via a deed.²¹ Donors wishing to participate in the program must submit an application for a tax credit to DEO.²² The application sets forth the sponsor, project, and the type, value, and purpose of the contribution.²³ The sponsor must verify the terms of the application and indicate its receipt of the contribution, which verification must be in writing and accompany the application for tax credit.²⁴

Once DEO approves a taxpayer's application for a community contribution tax credit under the program, the donor must claim the credit from the Department of Revenue.²⁵ The credit is calculated as 50 percent of the donor's annual contribution, but a taxpayer may not receive more than \$200,000 in credits in any one year.²⁶ The donor may use the credit against corporate income tax, insurance premium tax, or as a refund against sales tax.²⁷ Unused credits against corporate income taxes and insurance premium taxes may be carried forward for five years.²⁸ Unused credits against sales taxes may be carried forward for three years.²⁹

The DEO may approve \$18.4 million in Fiscal Year 2015-2016; \$21.4 million in Fiscal Year 2016-2017; and \$21.4 million in Fiscal Year 2017-2018 for projects that provide housing opportunities for persons with special needs or homeownership opportunities for low or very-low income households. The DEO may approve \$3.5 million in those same fiscal years for all other types of eligible projects.³⁰

As of December 2015, in Fiscal Year 2015-2016, DEO has approved approximately \$11.2 million of the \$18.4 million available for tax credits for homeownership projects and housing projects for persons with special needs.³¹ Approximately \$3.6 million worth of tax credits were

¹⁸ Sections 212.08(5)(p)3.a.; 220.183(3)(a); and 624.5105(3)(a), F.S.

¹⁹ *Id.*

²⁰ Sections 212.08(5)(p)2.a.; 220.183(2)(a); 624.5105(5)(a); and 220.03(1)(d), F.S.

²¹ *See* s. 192.001(12), F.S., for the definition of real property.

²² Sections 212.08(5)(p)3.b.; 220.183(3)(b); and 624.5105(3)(b), F.S. Taxpayers must submit separate applications for each individual contribution that it makes to each individual project. Sections 212.08(5)(p)3.c.; 220.183(3)(c); and 624.5105(3)(c), F.S.

²³ *Id.*

²⁴ *Id.*

²⁵ Sections 212.08(5)(p)4.; 220.183(4); and 624.5105(4), F.S.

²⁶ Sections 212.08(5)(p)1.; 220.183 (1)(a) and (b); and 624.5105(1), F.S.

²⁷ *See* ss. 212.08(5)(p); 220.183; and 624.5105, F.S. A donor may only apply the credits toward one tax obligation.

²⁸ Sections 220.183(1)(e); and 624.5105(e), F.S.

²⁹ Section 212.08(5)(p)1.b. and f., F.S.

³⁰ Sections 212.08(5)(p)1.e.; 220.183(1)(c); and 624.5105(1)(c), F.S.

³¹ Department of Economic Opportunity, *House Bill 627/Senate Bill 828 Fiscal Analysis* (Dec. 2, 2015) (on file with the Senate Committee on Finance and Tax).

requested for all other projects, resulting in a pro-rata approval rate of 95 percent of each tax credit application.³²

The CCTCP expires June 30, 2018.³³

III. Effect of Proposed Changes:

Section 1 amends s. 163.387, F.S., to require community redevelopment agencies located within a county as defined in s. 125.011(1), F.S., to expend annually no less than five percent of the redevelopment trust fund revenues to support youth centers if:

- More than 50 percent of the persons younger than 18 years of age living in the CRA are in families with incomes below the federal poverty level,
- The youth center requests support in writing, and
- The expenditures do not materially impair any bonds outstanding as of March 11, 2016.

Section 125.011(1), F.S., includes counties operating under a home rule charter adopted pursuant to ss. 10, 11, and 24 of Article VIII of the State Constitution of 1885. Currently, only Miami-Dade County meets this definition.

“Youth center” is defined to mean a facility that is owned and operated by a governmental entity or a corporation not for profit registered pursuant to chapter 617, the primary purpose of which is to provide year-round supplemental education programs, recreational and after-school activities, counseling and social and adult transitional programming and other services to children 5 to 18 years of age and adults 18 to 24 years of age; and that has operated for at least two years before its request for support from the community redevelopment agency. “Youth center” includes indoor recreational facilities, as defined in s. 402.302, which are owned and operated by a governmental entity or corporation not for profit registered pursuant to chapter 617. The term does not include public or private schools, child care facilities as defined in s. 402.302, or private prekindergarten providers as defined in s. 1002.51. The youth center must be open and accessible to the general public.

“Year-round” is defined to mean operating a minimum of 225 service days per year.

Section 2 amends s. 220.03, F.S., relating to corporate income tax, to provide that a donation of real property in the CCTCP includes the transfer of a 100-percent ownership interest of a real property holding company. The bill defines “real property holding company” to mean a Florida entity, such as a Florida limited liability company, which:

- Is wholly owned by the business firm;
- Is the sole owner of real property, as defined in s. 192.001(12), F.S., located in this state;
- Is disregarded as an entity separate from its owner for federal income tax purposes pursuant to 26 C.F.R. s. 301.7701-3(b)(1)(ii); and
- At the time of the contribution to an eligible sponsor, has no material assets other than the real property and any other property that qualifies as a community contribution.

³² *Id.*

³³ Sections 212.08(5)(p)5.; 220.183(5); and 624.5105(6), F.S.

Section 3 amends s. 212.08, F.S., relating to sales and use tax, to provide that the donation of real property in the CCTCP includes the transfer of a 100-percent ownership interest of a real property holding company. The same definition is used for the term “real property holding company” as stated in section 1 of the bill.

Section 4 amends s. 624.5105, F.S., relating to insurance premium tax, to provide that the donation of real property in the CCTCP includes the transfer of a 100-percent ownership interest of a real property holding company. The same definition is used for the term “real property holding company” as stated in section 1 of the bill.

Section 5 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimated that the provisions in CS/CS/SB 868 related to community contribution tax credits will have no fiscal impact on state funds.³⁴ Staff estimates that the provisions requiring the expenditure of redevelopment trust fund revenues to support youth centers will not have a fiscal impact on state funds.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The requirement to spend no less than five percent of the trust fund revenues on youth centers may require a CRA to adjust its community redevelopment plan.

³⁴ Revenue Estimating Conference Analysis, *House Bill 627/Senate Bill 868* (Dec. 12, 2015) (on file with the Senate Committee on Finance and Tax).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.387, 212.08, 220.03, and 624.5105.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Appropriations on March 3, 2016:

The CS/CS requires certain community redevelopment agencies to expend annually no less than five percent of redevelopment trust fund revenues to support youth center.

CS by Finance and Tax on February 16, 2016:

The CS clarifies that 100 percent of the ownership interest in the real property holding company must be contributed in order to qualify as a contribution of real property.

B. Amendments:

None.