

By Senator Rodriguez

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1                                   A bill to be entitled  
2       An act relating to the Florida Main Street Program and  
3       historic preservation tax credits; creating s.  
4       220.197, F.S.; providing a short title; defining  
5       terms; specifying eligibility requirements for  
6       receiving specified tax credits for taxpayers that  
7       rehabilitate certified historic structures; specifying  
8       requirements for claiming or transferring specified  
9       tax credits; specifying the amount of tax credits;  
10      authorizing the carryforward, sale, and transfer of  
11      tax credits; providing the Department of Revenue audit  
12      and examination powers for specified purposes related  
13      to certified rehabilitation expenses; requiring the  
14      return of forfeited tax credits under certain  
15      circumstances; providing penalties; requiring the  
16      department to provide specified annual reports to the  
17      Legislature; providing duties of the department;  
18      authorizing the department to adopt rules; providing  
19      an effective date.  
20  
21      WHEREAS, historic revitalization creates highly paid local  
22      construction jobs, and  
23      WHEREAS, historic rehabilitation increases the value of  
24      buildings and results in a growing state and local tax base, and  
25      WHEREAS, historic revitalization boosts heritage tourism  
26      and creates thriving downtowns that are attractive to main  
27      street businesses, and  
28      WHEREAS, reusing historic buildings creates affordable  
29      spaces for small business incubation, and

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30 WHEREAS, repurposing historic buildings saves resources and  
31 activates vacant spaces, and

32 WHEREAS, historic rehabilitation projects leverage  
33 significant private investment, and

34 WHEREAS, leveraging state tax incentives increases the  
35 effectiveness of federal Historic Preservation Tax Incentives  
36 and the Opportunity Zones Program to encourage the historic  
37 preservation of existing buildings, and

38 WHEREAS, an increase in rehabilitation activity occurs when  
39 a state incentive is combined with federal Historic Preservation  
40 Tax Incentives, and

41 WHEREAS, many historic buildings in the state need safety  
42 upgrades and other improvements that require both public and  
43 private investment to return these buildings as assets of their  
44 local communities, NOW, THEREFORE,

45

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

47

48 Section 1. Section 220.197, Florida Statutes, is created to  
49 read:

50 220.197 The Main Street Historic Tourism and Revitalization  
51 Act; tax credits; reports.-

52 (1) SHORT TITLE.-This act may be cited as the "Main Street  
53 Historic Tourism and Revitalization Act."

54 (2) DEFINITIONS.-As used in this section, the term:

55 (a) "Accredited Main Street Program" means an active  
56 Florida Main Street Program or the Orlando Main Streets program,  
57 provided that such program meets the Main Street America  
58 accreditation standards. An Accredited Main Street Program must:

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59       1. Have broad-based community support for the commercial  
60 district revitalization process with strong support from the  
61 public and private sectors.

62       2. Have a developed vision and mission statement relevant  
63 to community conditions and to Main Street America's  
64 organizational stage.

65       3. Have a comprehensive Main Street America work plan.

66       4. Possess a historic preservation ethic.

67       5. Have an active board of directors and committees.

68       6. Have an adequate operating budget.

69       7. Have a paid professional program manager.

70       8. Conduct a program of ongoing training for staff and  
71 volunteers.

72       9. Report key statistics.

73       10. Be a current member of Main Street America.

74       (b) "Certified historic structure" means a building and its  
75 structural components as defined in 36 C.F.R. s. 67.2 which is  
76 of a character subject to the allowance for depreciation  
77 provided in s. 167 of the Internal Revenue Code of 1986, as  
78 amended, and which is:

79       1. Individually listed in the National Register of Historic  
80 Places; or

81       2. Located within a registered historic district and  
82 certified by the United States Secretary of the Interior as  
83 being of historic significance to the registered historic  
84 district as set forth in 36 C.F.R. s. 67.2.

85       (c) "Certified rehabilitation" means the rehabilitation of  
86 a certified historic structure that the United States Secretary  
87 of the Interior has certified to the United States Secretary of

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88 the Treasury as being consistent with the historic character of  
89 the certified historic structure and, if applicable, consistent  
90 with the registered historic district in which the certified  
91 historic structure is located as set forth in 36 C.F.R. s. 67.2.

92 (d) "Division" means the Division of Historical Resources  
93 of the Department of State.

94 (e) "Florida Main Street Program" means a statewide  
95 historic preservation-based downtown revitalization assistance  
96 program created, maintained, and administered by the division  
97 under s. 267.031(5).

98 (f) "Local program area" means the specific geographic area  
99 in which an Accredited Main Street Program is conducted as  
100 approved and maintained by the division or in which the Orlando  
101 Main Streets program is conducted.

102 (g) "Main Street America" means a national network of  
103 grassroots organizations revitalizing historic downtown areas  
104 under the leadership of the National Main Street Center, Inc., a  
105 subsidiary of the National Trust for Historic Preservation.

106 (h) "National Register of Historic Places" means the list  
107 of historic properties significant in American history,  
108 architecture, archeology, engineering, and culture maintained by  
109 the United States Secretary of the Interior as authorized in 54  
110 U.S.C. s. 3021.

111 (i) "Orlando Main Streets" means a historic preservation-  
112 based district revitalization program administered by the City  
113 of Orlando.

114 (j) "Qualified expenses" means qualified rehabilitation  
115 expenditures as defined in 26 U.S.C. s. 47(c)(2) and structural  
116 components as defined in 26 C.F.R. s. 1.48-1(e)(2) at the time

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117 of project certification by the United States Secretary of the  
118 Interior and the United States Internal Revenue Service.

119 (k) "Registered historic district" means a district listed  
120 in the National Register of Historic Places or a district:

121 1. Designated under general law or local ordinance and  
122 certified by the United States Secretary of the Interior as  
123 containing criteria that will substantially achieve the purposes  
124 of preserving and rehabilitating buildings of historic  
125 significance to the district; and

126 2. Certified by the United States Secretary of the Interior  
127 as meeting substantially all of the requirements for listing a  
128 district in the National Register of Historic Places.

129 (3) ELIGIBILITY FOR TAX CREDIT.—To claim and receive a tax  
130 credit under this section, a taxpayer must first apply to the  
131 department for a tax credit for qualified expenses in the amount  
132 and under the conditions and limitations provided in this  
133 section against the tax due for a taxable year under this  
134 chapter and must document that:

135 (a) The rehabilitation is a certified rehabilitation.

136 (b) The structure is a certified historic structure, is  
137 income-producing, is located within the state, and was  
138 rehabilitated and placed into service on or after July 1, 2022.

139 (c) The taxpayer had an ownership interest in the certified  
140 historic structure in the year during which the certified  
141 historic structure was placed into service after the certified  
142 rehabilitation was completed.

143 (d) The total amount of qualified expenses incurred in  
144 rehabilitating the certified historic structure exceeded \$5,000.

145 (4) TAX CREDIT FILING REQUIREMENTS.—Before claiming or

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146 transferring a tax credit under this section, the taxpayer must  
147 provide the department with the following information:

148 (a) An official certificate of eligibility from the  
149 division signed by the State Historic Preservation Officer or  
150 the Deputy State Historic Preservation Officer attesting that  
151 the project has been approved by the National Park Service and  
152 confirming whether the project is or is not located within a  
153 Main Street local program area.

154 (b) National Park Service Form 10-168c (Rev. 2019), titled  
155 "Historic Preservation Certification Application-Part 3-Request  
156 for Certification of Completed Work," signed by the National  
157 Park Service attesting that the completed rehabilitation meets  
158 the United States Secretary of the Interior's Standards for  
159 Rehabilitation and is consistent with the historic character of  
160 the property and, if applicable, the district in which the  
161 completed rehabilitation is located. The form may be obtained  
162 through the National Park Service.

163 (c) An identification of the dates during which the  
164 certified historic structure was rehabilitated, the date the  
165 certified historic structure was first placed into service after  
166 the certified rehabilitation was completed, and evidence that  
167 the certified historic structure was placed into service after  
168 the certified rehabilitation was completed.

169 (d) A list of total qualified expenses incurred by the  
170 taxpayer in rehabilitating the certified historic structure. For  
171 certified rehabilitations with qualified expenses that exceeded  
172 \$750,000, the taxpayer must submit an audited cost report issued  
173 by a certified public accountant that itemizes the qualified  
174 expenses incurred in rehabilitating the certified historic

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175 structure as provided in s. 215.97.

176 (e) An attestation of the total qualified expenses incurred  
177 by the taxpayer in rehabilitating the certified historic  
178 structure.

179 (f) A completed Form F-1120, titled "Florida Corporate  
180 Income/Franchise Tax Return," or other appropriate tax form  
181 issued by the department for insurance premium tax reporting.

182 (g) The information required to be reported by the  
183 department in subsection (9) to enable the department to compile  
184 its annual report.

185 (5) AMOUNT OF TAX CREDIT.—The total tax credit claimed  
186 annually may not exceed the amount of tax due after any other  
187 applicable tax credits and may not exceed the following:

188 (a) Twenty percent of the total qualified expenses incurred  
189 in rehabilitating a certified historic structure that has been  
190 approved by the National Park Service to receive the federal  
191 historic rehabilitation tax credit; or

192 (b) Thirty percent of the total qualified expenses incurred  
193 in rehabilitating a certified historic structure that has been  
194 approved by the National Park Service to receive the federal  
195 historic rehabilitation tax credit and that is located within a  
196 local program area of an Accredited Main Street Program.

197  
198 The tax credit may be used to offset the corporate income tax  
199 imposed in s. 220.11 and the insurance premium tax imposed in s.  
200 624.509.

201 (6) CARRYFORWARD OF TAX CREDIT.—

202 (a) If a taxpayer is eligible for a tax credit that exceeds  
203 taxes owed, the taxpayer may carry the unused tax credit forward

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204 for a period of up to 10 years.

205 (b) A carryforward is considered the remaining portion of a  
206 tax credit that cannot be claimed in the current tax year.

207 (7) SALE OR TRANSFER OF TAX CREDIT.—

208 (a) A taxpayer that incurs qualified expenses may sell or  
209 transfer all or part of the tax credit that may otherwise be  
210 claimed to another taxpayer.

211 (b) A taxpayer to which all or part of the tax credit is  
212 sold or transferred may sell or transfer all or part of the tax  
213 credit that may otherwise be claimed to another taxpayer.

214 (c) A taxpayer that sells or transfers a tax credit to  
215 another taxpayer must provide a copy of the certificate of  
216 eligibility together with the audited cost report to the  
217 purchaser or transferee.

218 (d) Qualified expenses may only be counted once in  
219 determining the amount of an available tax credit, and more than  
220 one taxpayer may not claim a tax credit for the same qualified  
221 expenses.

222 (e) There is no limit on the total number of transactions  
223 for the sale or transfer of all or part of a tax credit.

224 (f)1. A taxpayer that sells or transfers a tax credit under  
225 this subsection and the purchaser or transferee shall jointly  
226 submit written notice of the sale or transfer to the department  
227 on a form adopted by the department no later than the 30th day  
228 after the date of the sale or transfer. The notice must include  
229 all of the following:

230 a. The date of the sale or transfer.

231 b. The amount of the tax credit sold or transferred.

232 c. The name and federal tax identification number of the



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233 taxpayer that sold or transferred the tax credit and the  
234 purchaser or transferee.

235 d. The amount of the tax credit owed by the taxpayer before  
236 the sale or transfer and the amount the selling or transferring  
237 taxpayer retained, if any, after the sale or transfer.

238 2. The sale or transfer of a tax credit under this  
239 subsection does not extend the period for which a tax credit may  
240 be carried forward and does not increase the total amount of the  
241 tax credit that may be claimed.

242 3. If a taxpayer claims a tax credit for qualified  
243 expenses, another taxpayer may not use the same expenses as the  
244 basis for claiming a tax credit.

245 4. Notwithstanding the requirements of this subsection, a  
246 tax credit earned by, purchased by, or transferred to a  
247 partnership, limited liability company, S corporation, or other  
248 pass-through taxpayer may be allocated to the partners, members,  
249 or shareholders of that taxpayer and claimed under this section  
250 in accordance with any agreement among the partners, members, or  
251 shareholders and without regard to the ownership interest of the  
252 partners, members, or shareholders in the rehabilitated  
253 certified historic structure.

254 (g) If the tax credit is reduced due to a determination,  
255 examination, or audit by the department, the tax deficiency  
256 shall be recovered from the taxpayer that sold or transferred  
257 the tax credit or the purchaser or transferee that claimed the  
258 tax credit up to the amount of the tax credit taken.

259 (h) Any subsequent deficiencies shall be assessed against  
260 the purchaser or transferee that claimed the tax credit or, in  
261 the case of multiple succeeding entities, in the order of tax

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262 credit succession.

263 (8) AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX  
264 CREDITS; FRAUDULENT CLAIMS.—

265 (a) The department may perform any additional financial and  
266 technical audits and examinations, including examining the  
267 accounts, books, or records of the tax credit applicant, to  
268 verify the legitimacy of the qualified expenses included in a  
269 tax credit return and to ensure compliance with this section.

270 (b) It is grounds for forfeiture of previously claimed and  
271 received tax credits if the department determines, as a result  
272 of an audit or information received from the division or the  
273 United States Department of the Interior, that a taxpayer  
274 received a tax credit pursuant to this section to which the  
275 taxpayer was not entitled. In the case of fraud, the taxpayer  
276 may not claim any future tax credits under this section.

277 (c) The taxpayer must return forfeited tax credits to the  
278 department and such funds shall be paid into the General Revenue  
279 Fund.

280 (d) The taxpayer shall file with the department an amended  
281 tax return or such other report as the department prescribes and  
282 shall pay any required tax within 60 days after the taxpayer  
283 receives notification from the United States Internal Revenue  
284 Service that a previously approved tax credit has been revoked  
285 or modified, if uncontested, or within 60 days after a final  
286 order is issued following proceedings involving a contested  
287 revocation or modification order.

288 (e) A notice of deficiency may be issued by the department  
289 at any time within 5 years after the date on which the taxpayer  
290 receives notification from the United States Internal Revenue

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291 Service that a previously approved tax credit has been revoked  
292 or modified.

293 (f) If a taxpayer fails to notify the department of any  
294 change in its tax credit claimed, a notice of deficiency may be  
295 issued at any time. In either case, the amount of any proposed  
296 assessment set forth in such notice of deficiency is limited to  
297 the amount of any deficiency resulting under this section from  
298 the precomputation of the taxpayer's tax for the taxable year.

299 (g) A taxpayer that fails to report and timely pay any tax  
300 due as a result of the forfeiture of its tax credit violates  
301 this section and is subject to applicable penalties and  
302 interest.

303 (9) ANNUAL REPORTS.—Each year, based on the applications  
304 submitted and approved, the department must issue a report to  
305 the President of the Senate and the Speaker of the House of  
306 Representatives that identifies, in the aggregate, all of the  
307 following:

308 (a) The number of employees hired during construction  
309 phases.

310 (b) The use of each newly rehabilitated building and the  
311 expected number of employees hired.

312 (c) The number of affordable housing units created or  
313 preserved.

314 (d) The property values before and after the certified  
315 rehabilitations.

316 (10) DEPARTMENT DUTIES.—The department shall:

317 (a) Establish any necessary forms required to claim a tax  
318 credit under this section.

319 (b) Provide administrative guidelines and procedures

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320 required to administer this section, including rules  
321 establishing an entitlement to and sale or transfer of a tax  
322 credit under this section.

323 (c) Provide examination and audit procedures required to  
324 administer this section.

325 (11) RULES.—The department may adopt rules to administer  
326 this section.

327 Section 2. This act shall take effect July 1, 2022.