

26 | the United States to make certain information
27 | available for specified purposes; amending s. 220.02,
28 | F.S.; revising the order in which tax credits against
29 | the corporate income tax credit or the franchise tax
30 | are applied; amending s. 220.13, F.S.; revising the
31 | definition of the term "adjusted federal income";
32 | amending s. 624.509, F.S.; revising the order in which
33 | credits and deductions against the insurance premium
34 | tax are applied; authorizing the Department of Revenue
35 | to adopt emergency rules to implement certain
36 | provisions; providing for expiration of that
37 | authority; providing applicability; providing an
38 | effective date.

39 | WHEREAS, historic revitalization creates highly paid local
40 | construction jobs, and

41 | WHEREAS, historic rehabilitation increases the value of
42 | buildings and results in a growing state and local tax base, and

43 | WHEREAS, historic revitalization boosts heritage tourism
44 | and creates thriving downtowns that are attractive to main
45 | street businesses, and

46 | WHEREAS, reusing historic buildings creates affordable
47 | spaces for small business incubation, and

48 | WHEREAS, repurposing historic buildings saves resources and
49 | activates vacant spaces, and

50 | WHEREAS, historic rehabilitation projects leverage

51 | significant private investment, and

52 | WHEREAS, leveraging state tax incentives increases the
53 | effectiveness of federal Historic Preservation Tax Incentives
54 | and the Opportunity Zones Program to encourage the historic
55 | preservation of existing buildings, and

56 | WHEREAS, an increase in rehabilitation activity occurs when
57 | a state incentive is combined with federal Historic Preservation
58 | Tax Incentives, and

59 | WHEREAS, many historic buildings in this state need safety
60 | upgrades and other improvements that require both public and
61 | private investment to return these buildings as assets of their
62 | local communities, NOW, THEREFORE,

63 | Be It Enacted by the Legislature of the State of Florida:

64 |
65 | Section 1. Section 220.197, Florida Statutes, is created
66 | to read:

67 | 220.197 Main Street Historic Tourism and Revitalization
68 | Act; tax credits; reports.-

69 | (1) SHORT TITLE.—This act may be cited as the "Main Street
70 | Historic Tourism and Revitalization Act."

71 | (2) DEFINITIONS.—As used in this section, the term:

72 | (a) "Accredited Main Street Program" means an active
73 | Florida Main Street Program or the Orlando Main Streets program,
74 | provided that such program meets the Main Street America
75 | accreditation standards. An Accredited Main Street Program must:

76 1. Have broad-based community support for the commercial
 77 district revitalization process with strong support from the
 78 public and private sectors.

79 2. Have a developed vision and mission statement relevant
 80 to community conditions and to Main Street America's
 81 organizational stage.

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

83 4. Possess a historic preservation ethic.

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

85 6. Have an adequate operating budget.

86 7. Have a paid professional program manager.

87 8. Conduct a program of ongoing training for staff and
 88 volunteers.

89 9. Report key statistics.

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

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

96 1. Individually listed in the National Register of
 97 Historic Places; or

98 2. Located within a registered historic district and
 99 certified by the United States Secretary of the Interior as
 100 being of historic significance to the registered historic

101 district as set forth in 36 C.F.R. s. 67.2.

102 (c) "Certified rehabilitation" means the rehabilitation of
103 a certified historic structure that the United States Secretary
104 of the Interior has certified to the United States Secretary of
105 the Treasury as being consistent with the historic character of
106 the certified historic structure and, if applicable, consistent
107 with the registered historic district in which the certified
108 historic structure is located as set forth in 36 C.F.R. s. 67.2.

109 (d) "Division" means the Division of Historical Resources
110 of the Department of State.

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

115 (f) "Local program area" means the specific geographic
116 area in which an Accredited Main Street Program is conducted as
117 approved and maintained by the division or in which the Orlando
118 Main Streets program is conducted.

119 (g) "Long-term leasehold" means a leasehold in a
120 nonresidential real property for a term of 39 years or more or a
121 leasehold in a residential real property for a term of 27.5
122 years or more.

123 (h) "Main Street America" means a national network of
124 grassroots organizations revitalizing historic downtown areas
125 under the leadership of the National Main Street Center, Inc., a

126 subsidiary of the National Trust for Historic Preservation.

127 (i) "National Register of Historic Places" means the list
 128 of historic properties significant in American history,
 129 architecture, archeology, engineering, and culture maintained by
 130 the United States Secretary of the Interior as authorized in 54
 131 U.S.C. s. 3021.

132 (j) "Orlando Main Streets" means a historic preservation-
 133 based district revitalization program administered by the City
 134 of Orlando.

135 (k) "Qualified expenses" means rehabilitation expenditures
 136 that qualify for the credit under 26 U.S.C. s. 47 incurred in
 137 this state.

138 (l) "Registered historic district" means a district listed
 139 in the National Register of Historic Places or a district:

140 1. Designated under general law or local ordinance and
 141 certified by the United States Secretary of the Interior as
 142 meeting criteria that will substantially achieve the purposes of
 143 preserving and rehabilitating buildings of historic significance
 144 to the district; and

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

148 (3) ELIGIBILITY FOR TAX CREDIT.—For taxable years
 149 beginning on or after January 1, 2023, there is allowed a credit
 150 against any tax due for a taxable year under this chapter after

151 the application of any other allowable credits by the taxpayer.

152 (a) To claim and receive a tax credit under this section,
153 a taxpayer must apply to the division for a tax credit for
154 qualified expenses in the amount and under the conditions and
155 limitations provided in this section against the tax due for a
156 taxable year under this chapter and must provide the division
157 with all of the following:

158 1. Documentation showing that:

159 a. The rehabilitation is a certified rehabilitation;

160 b. The structure is a certified historic structure, is
161 income-producing, is located within this state, and is
162 rehabilitated and placed in service on or after January 1, 2023;

163 c. The taxpayer had an ownership or a long-term leasehold
164 interest in the certified historic structure in the year during
165 which the certified historic structure was placed into service
166 after the certified rehabilitation was completed;

167 d. The total amount of qualified expenses incurred in
168 rehabilitating the certified historic structure exceeded \$5,000;

169 e. The qualified expenses were incurred in this state; and

170 f. The taxpayer received a tax credit for the qualified
171 expenses under 26 U.S.C. s. 47.

172 2. An official certificate of eligibility from the
173 division, signed by the State Historic Preservation Officer or
174 the Deputy State Historic Preservation Officer, attesting that
175 the project has been approved by the National Park Service and

176 confirming that the project is located within a local program
177 area.

178 3. National Park Service Form 10-168c (Rev. 2019), titled
179 "Historic Preservation Certification Application-Part 3-Request
180 for Certification of Completed Work," or a similar form, signed
181 by an officer of the National Park Service, attesting that the
182 completed rehabilitation meets the United States Secretary of
183 the Interior's Standards for Rehabilitation and is consistent
184 with the historic character of the property and, if applicable,
185 the district in which the completed rehabilitation is located.
186 The form may be obtained through the National Park Service.

187 4. An identification of the dates during which the
188 certified historic structure was rehabilitated, the date the
189 certified historic structure was placed in service after the
190 certified rehabilitation was completed, and evidence that the
191 certified historic structure was placed in service after the
192 certified rehabilitation was completed.

193 5. A list of total qualified expenses incurred by the
194 taxpayer in rehabilitating the certified historic structure. For
195 certified rehabilitations with qualified expenses that exceed
196 \$750,000, the taxpayer must submit an audited cost report issued
197 by a certified public accountant which itemizes the qualified
198 expenses incurred in rehabilitating the certified historic
199 structure. A taxpayer may submit an audited cost report issued
200 by a certified public accountant which was created for purposes

201 of applying for a federal historic rehabilitation tax credit and
 202 which includes all of the qualified expenses incurred in
 203 rehabilitating the certified historic structure.

204 6. An attestation of the total qualified expenses incurred
 205 by the taxpayer in rehabilitating the certified historic
 206 structure.

207 7. The information required to be reported by the
 208 department in subsection (8) to enable the department to compile
 209 its annual report.

210 (b) Within 60 days after receipt of the information
 211 required under paragraph (a), the division shall evaluate the
 212 application and recommend the applicant for certification or
 213 denial. The division must approve or deny the application within
 214 30 days after receiving the recommendation. If approved, the
 215 division must provide a letter of certification to the applicant
 216 consistent with any restrictions imposed. If the division denies
 217 any part of the requested credit, the division must inform the
 218 applicant of the grounds for the denial. The division must
 219 submit a copy of the certification and the information provided
 220 by the taxpayer to the department within 10 days after the
 221 division's approval.

222 (4) AMOUNT OF TAX CREDIT.—The total tax credit claimed
 223 annually may not exceed the amount of tax due after any other
 224 applicable tax credits and may not exceed the following:

225 (a) Twenty percent of the total qualified expenses

226 incurred in this state in rehabilitating a certified historic
227 structure that has been approved by the National Park Service to
228 receive the federal historic rehabilitation tax credit; or

229 (b) Thirty percent of the total qualified expenses
230 incurred in this state in rehabilitating a certified historic
231 structure that has been approved by the National Park Service to
232 receive the federal historic rehabilitation tax credit and that
233 is located within a local program area.

234
235 The tax credit may be used to offset the corporate income tax
236 imposed in s. 220.11 and the insurance premium tax imposed in s.
237 624.509. An insurer claiming a credit against insurance premium
238 tax liability under this section may not be required to pay any
239 additional retaliatory tax levied pursuant to s. 624.5091 as a
240 result of claiming such credit. Section 624.5091 does not limit
241 such credit in any manner.

242 (5) CARRYFORWARD OF TAX CREDIT.—

243 (a) If a taxpayer is eligible for a tax credit that
244 exceeds taxes owed, the taxpayer may carry the unused tax credit
245 forward for a period of up to 5 taxable years.

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

248 (6) SALE OR TRANSFER OF TAX CREDIT.—

249 (a) A taxpayer that incurs qualified expenses may sell or
250 transfer all or part of the tax credit that may otherwise be

251 claimed to another taxpayer.

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

255 (c) A taxpayer that sells or transfers a tax credit to
256 another taxpayer must provide a copy of the certificate of
257 eligibility together with the audited cost report to the
258 purchaser or transferee.

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

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

265 (f)1. A taxpayer that sells or transfers a tax credit
266 under this subsection and the purchaser or transferee shall
267 jointly submit written notice of the sale or transfer to the
268 department on a form adopted by the department no later than the
269 30th day after the date of the sale or transfer. The notice must
270 include all of the following:

271 a. The date of the sale or transfer.

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

273 c. The name and federal tax identification number of the
274 taxpayer that sold or transferred the tax credit and the
275 purchaser or transferee.

276 d. The amount of the tax credit owned by the taxpayer
277 before the sale or transfer and the amount the selling or
278 transferring taxpayer retained, if any, after the sale or
279 transfer.

280 2. The sale or transfer of a tax credit under this
281 subsection does not extend the period for which a tax credit may
282 be carried forward and does not increase the total amount of the
283 tax credit that may be claimed.

284 3. If a taxpayer claims a tax credit for qualified
285 expenses, another taxpayer may not use the same expenses as the
286 basis for claiming a tax credit.

287 4. Notwithstanding the requirements of this subsection, a
288 tax credit earned by, purchased by, or transferred to a
289 partnership, limited liability company, S corporation, or other
290 pass-through taxpayer may be allocated to the partners, members,
291 or shareholders of that taxpayer and claimed under this section
292 in accordance with any agreement among the partners, members, or
293 shareholders and without regard to the ownership interest of the
294 partners, members, or shareholders in the rehabilitated
295 certified historic structure.

296 (g) If the tax credit is reduced due to a determination,
297 examination, or audit by the department, the tax deficiency
298 shall be recovered from the taxpayer that sold or transferred
299 the tax credit or the purchaser or transferee that claimed the
300 tax credit up to the amount of the tax credit taken.

301 (h) Any subsequent deficiencies shall be assessed against
302 the purchaser or transferee that claimed the tax credit or, in
303 the case of multiple succeeding entities, in the order of tax
304 credit succession.

305 (7) AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX
306 CREDITS; FRAUDULENT CLAIMS.—

307 (a) The department, with assistance from the division, may
308 perform any additional financial and technical audits and
309 examinations, including examining the accounts, books, or
310 records of the tax credit applicant, to verify the legitimacy of
311 the qualified expenses included in a tax credit return and to
312 ensure compliance with this section. If requested by the
313 department, the division must provide technical assistance for
314 any technical audits or examinations performed under this
315 subsection.

316 (b) It is grounds for forfeiture of previously claimed and
317 received tax credits if the department determines, as a result
318 of an audit or information received from the division or the
319 United States Department of the Interior, that a taxpayer
320 received a tax credit pursuant to this section to which the
321 taxpayer was not entitled. In the case of fraud, the taxpayer
322 may not claim any future tax credits under this section.

323 (c) The taxpayer must return forfeited tax credits to the
324 department, and such funds shall be paid into the General
325 Revenue Fund.

326 (d) The taxpayer shall file with the department an amended
327 tax return or such other report as the department prescribes and
328 shall pay any required tax within 60 days after the taxpayer
329 receives notification from the United States Internal Revenue
330 Service that a previously approved tax credit has been revoked
331 or modified, if uncontested, or within 60 days after a final
332 order is issued following proceedings involving a contested
333 revocation or modification order.

334 (e) A notice of deficiency may be issued by the department
335 at any time within 5 years after the date on which the taxpayer
336 receives notification from the United States Internal Revenue
337 Service that a previously approved tax credit has been revoked
338 or modified.

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

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

349 (8) ANNUAL REPORTS.—Based on the applications submitted
350 and approved, the department must submit a report by December 1

351 of each year to the President of the Senate and the Speaker of
352 the House of Representatives that identifies, in the aggregate,
353 all of the following:

354 (a) The number of employees hired during construction
355 phases.

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

358 (c) The number of affordable housing units created or
359 preserved.

360 (d) The property values before and after the certified
361 rehabilitations.

362 (9) DEPARTMENT DUTIES.—The department shall:

363 (a) Establish a cooperative agreement with the division.

364 (b) Establish any necessary forms required to claim a tax
365 credit under this section.

366 (c) Provide administrative guidelines and procedures
367 required to administer this section, including rules
368 establishing an entitlement to and sale or transfer of a tax
369 credit under this section.

370 (d) Provide examination and audit procedures required to
371 administer this section.

372 (10) RULES.—The department and the division may adopt
373 rules to administer this section.

374 Section 2. Subsection (23) is added to section 213.053,
375 Florida Statutes, to read:

376 213.053 Confidentiality and information sharing.—
 377 (23) The department may make available to the Division of
 378 Historical Resources of the Department of State and the
 379 Secretary of the Department of the Interior of the United States
 380 or his or her delegate, exclusively for official purposes,
 381 information for the purposes of administering the Main Street
 382 Historic Tourism and Revitalization Act pursuant to s. 220.197.

383 Section 3. Subsection (8) of section 220.02, Florida
 384 Statutes, is amended to read:

385 220.02 Legislative intent.—

386 (8) It is the intent of the Legislature that credits against
 387 either the corporate income tax or the franchise tax be applied
 388 in the following order: those enumerated in s. 631.828, those
 389 enumerated in s. 220.191, those enumerated in s. 220.181, those
 390 enumerated in s. 220.183, those enumerated in s. 220.182, those
 391 enumerated in s. 220.1895, those enumerated in s. 220.195, those
 392 enumerated in s. 220.184, those enumerated in s. 220.186, those
 393 enumerated in s. 220.1845, those enumerated in s. 220.19, those
 394 enumerated in s. 220.185, those enumerated in s. 220.1875, those
 395 enumerated in s. 220.1876, those enumerated in s. 220.1877,
 396 those enumerated in s. 220.193, those enumerated in s. 288.9916,
 397 those enumerated in s. 220.1899, those enumerated in s. 220.194,
 398 those enumerated in s. 220.196, ~~and~~ those enumerated in s.
 399 220.198, and those enumerated in s. 220.197.

400 Section 4. Paragraph (a) of subsection (1) of section

401 220.13, Florida Statutes, is amended to read:

402 220.13 "Adjusted federal income" defined.—

403 (1) The term "adjusted federal income" means an amount
 404 equal to the taxpayer's taxable income as defined in subsection
 405 (2), or such taxable income of more than one taxpayer as
 406 provided in s. 220.131, for the taxable year, adjusted as
 407 follows:

408 (a) *Additions.*—There shall be added to such taxable
 409 income:

410 1.a. The amount of any tax upon or measured by income,
 411 excluding taxes based on gross receipts or revenues, paid or
 412 accrued as a liability to the District of Columbia or any state
 413 of the United States which is deductible from gross income in
 414 the computation of taxable income for the taxable year.

415 b. Notwithstanding sub-subparagraph a., if a credit taken
 416 under s. 220.1875, s. 220.1876, or s. 220.1877 is added to
 417 taxable income in a previous taxable year under subparagraph 11.
 418 and is taken as a deduction for federal tax purposes in the
 419 current taxable year, the amount of the deduction allowed shall
 420 not be added to taxable income in the current year. The
 421 exception in this sub-subparagraph is intended to ensure that
 422 the credit under s. 220.1875, s. 220.1876, or s. 220.1877 is
 423 added in the applicable taxable year and does not result in a
 424 duplicate addition in a subsequent year.

425 2. The amount of interest which is excluded from taxable

426 income under s. 103(a) of the Internal Revenue Code or any other
427 federal law, less the associated expenses disallowed in the
428 computation of taxable income under s. 265 of the Internal
429 Revenue Code or any other law, excluding 60 percent of any
430 amounts included in alternative minimum taxable income, as
431 defined in s. 55(b)(2) of the Internal Revenue Code, if the
432 taxpayer pays tax under s. 220.11(3).

433 3. In the case of a regulated investment company or real
434 estate investment trust, an amount equal to the excess of the
435 net long-term capital gain for the taxable year over the amount
436 of the capital gain dividends attributable to the taxable year.

437 4. That portion of the wages or salaries paid or incurred
438 for the taxable year which is equal to the amount of the credit
439 allowable for the taxable year under s. 220.181. This
440 subparagraph shall expire on the date specified in s. 290.016
441 for the expiration of the Florida Enterprise Zone Act.

442 5. That portion of the ad valorem school taxes paid or
443 incurred for the taxable year which is equal to the amount of
444 the credit allowable for the taxable year under s. 220.182. This
445 subparagraph shall expire on the date specified in s. 290.016
446 for the expiration of the Florida Enterprise Zone Act.

447 6. The amount taken as a credit under s. 220.195 which is
448 deductible from gross income in the computation of taxable
449 income for the taxable year.

450 7. That portion of assessments to fund a guaranty

451 association incurred for the taxable year which is equal to the
452 amount of the credit allowable for the taxable year.

453 8. In the case of a nonprofit corporation which holds a
454 pari-mutuel permit and which is exempt from federal income tax
455 as a farmers' cooperative, an amount equal to the excess of the
456 gross income attributable to the pari-mutuel operations over the
457 attributable expenses for the taxable year.

458 9. The amount taken as a credit for the taxable year under
459 s. 220.1895.

460 10. Up to nine percent of the eligible basis of any
461 designated project which is equal to the credit allowable for
462 the taxable year under s. 220.185.

463 11. Any amount taken as a credit for the taxable year
464 under s. 220.1875, s. 220.1876, or s. 220.1877. The addition in
465 this subparagraph is intended to ensure that the same amount is
466 not allowed for the tax purposes of this state as both a
467 deduction from income and a credit against the tax. This
468 addition is not intended to result in adding the same expense
469 back to income more than once.

470 12. The amount taken as a credit for the taxable year
471 under s. 220.193.

472 13. Any portion of a qualified investment, as defined in
473 s. 288.9913, which is claimed as a deduction by the taxpayer and
474 taken as a credit against income tax pursuant to s. 288.9916.

475 14. The costs to acquire a tax credit pursuant to s.

476 | 288.1254(5) that are deducted from or otherwise reduce federal
 477 | taxable income for the taxable year.

478 | 15. The amount taken as a credit for the taxable year
 479 | pursuant to s. 220.194.

480 | 16. The amount taken as a credit for the taxable year
 481 | under s. 220.196. The addition in this subparagraph is intended
 482 | to ensure that the same amount is not allowed for the tax
 483 | purposes of this state as both a deduction from income and a
 484 | credit against the tax. The addition is not intended to result
 485 | in adding the same expense back to income more than once.

486 | 17. The amount taken as a credit for the taxable year
 487 | pursuant to s. 220.198.

488 | 18. The amount taken as a credit for the taxable year
 489 | pursuant to s. 220.197.

490 | Section 5. Subsection (7) of section 624.509, Florida
 491 | Statutes, is amended to read:

492 | 624.509 Premium tax; rate and computation.—

493 | (7) Credits and deductions against the tax imposed by this
 494 | section shall be taken in the following order: deductions for
 495 | assessments made pursuant to s. 440.51; credits for taxes paid
 496 | under ss. 175.101 and 185.08; credits for income taxes paid
 497 | under chapter 220 and the credit allowed under subsection (5),
 498 | as these credits are limited by subsection (6); the credit
 499 | allowed under s. 624.51057; the credit allowed under s. 220.197;
 500 | and all other available credits and deductions.

501 Section 6. (1) The Department of Revenue may, and all
 502 conditions are deemed met to, adopt emergency rules under s.
 503 120.54(4), Florida Statutes, for the purpose of implementing
 504 provisions related to the Main Street Historic Tourism and
 505 Revitalization Act.

506 (2) Notwithstanding any other law, emergency rules adopted
 507 under this section are effective for 6 months after adoption and
 508 may be renewed during the pendency of procedures to adopt
 509 permanent rules addressing the subject of the emergency rules.

510 (3) This section shall take effect upon this act becoming
 511 a law and expires July 1, 2023.

512 Section 7. This act applies to taxable years beginning and
 513 for qualified expenses incurred on or after January 1, 2023.

514 Section 8. This act shall take effect January 1, 2023.