

By Senator Rodriguez

39-01155A-22

20221310__

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

39-01155A-22

20221310__

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:

39-01155A-22

20221310__

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

39-01155A-22

20221310__

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

39-01155A-22

20221310__

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

39-01155A-22

20221310__

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

39-01155A-22

20221310__

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

39-01155A-22

20221310__

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

39-01155A-22

20221310__

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

39-01155A-22

20221310__

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

39-01155A-22

20221310__

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

39-01155A-22

20221310__

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.