

CHAPTER 2011-97

House Bill No. 4033

An act relating to the Florida Industrial Development Corporation; repealing provisions of chapter 289, F.S., relating to the Florida Industrial Development Corporation; amending ss. 212.08, 220.183, 220.62, 440.491, and 658.67, F.S.; deleting references to conform to changes made by the act; providing an effective date.

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

Section 1. Sections 289.011, 289.021, 289.031, 289.041, 289.051, 289.061, 289.071, 289.081, 289.091, 289.101, 289.111, 289.121, 289.131, 289.141, 289.151, 289.161, 289.171, 289.181, 289.191, and 289.201, Florida Statutes, are repealed.

Section 2. Paragraph (p) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(p) Community contribution tax credit for donations.—

1. Authorization.—Persons who are registered with the department under s. 212.18 to collect or remit sales or use tax and who make donations to eligible sponsors are eligible for tax credits against their state sales and use tax liabilities as provided in this paragraph:

a. The credit shall be computed as 50 percent of the person's approved annual community contribution.

b. The credit shall be granted as a refund against state sales and use taxes reported on returns and remitted in the 12 months preceding the date of application to the department for the credit as required in sub-subparagraph 3.c. If the annual credit is not fully used through such refund because of insufficient tax payments during the applicable 12-month period, the unused amount may be included in an application for a refund made pursuant to sub-subparagraph 3.c. in subsequent years against the total tax payments made for such year. Carryover credits may be applied for a 3-year period without regard to any time limitation that would otherwise apply under s. 215.26.

c. A person may not receive more than \$200,000 in annual tax credits for all approved community contributions made in any one year.

d. All proposals for the granting of the tax credit require the prior approval of the Office of Tourism, Trade, and Economic Development.

e. The total amount of tax credits which may be granted for all programs approved under this paragraph, s. 220.183, and s. 624.5105 is \$10.5 million annually for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) and \$3.5 million annually for all other projects.

f. A person who is eligible to receive the credit provided for in this paragraph, s. 220.183, or s. 624.5105 may receive the credit only under the one section of the person's choice.

2. Eligibility requirements.—

a. A community contribution by a person must be in the following form:

(I) Cash or other liquid assets;

(II) Real property;

(III) Goods or inventory; or

(IV) Other physical resources as identified by the Office of Tourism, Trade, and Economic Development.

b. All community contributions must be reserved exclusively for use in a project. As used in this sub-subparagraph, the term "project" means any activity undertaken by an eligible sponsor which is designed 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); designed to provide commercial, industrial, or public resources and facilities; or designed to improve entrepreneurial and job-development opportunities for low-income persons. A project may be the investment necessary to increase access to high-speed broadband capability in rural communities with enterprise zones, including projects that result in improvements to communications assets that are owned by a business. A project may include the provision of museum educational programs and materials that are directly related to any project approved between January 1, 1996, and December 31, 1999, and located in an enterprise zone designated pursuant to s. 290.0065. This paragraph does not preclude projects that propose to construct or rehabilitate housing for low-income or very-low-income households on scattered sites. With respect to housing, contributions may be used to pay the following eligible low-income and very-low-income housing-related activities:

(I) Project development impact and management fees for low-income or very-low-income housing projects;

(II) Down payment and closing costs for eligible persons, as defined in s. 420.9071(19) and (28);

(III) Administrative costs, including housing counseling and marketing fees, not to exceed 10 percent of the community contribution, directly related to low-income or very-low-income projects; and

(IV) Removal of liens recorded against residential property by municipal, county, or special district local governments when satisfaction of the lien is a necessary precedent to the transfer of the property to an eligible person, as defined in s. 420.9071(19) and (28), for the purpose of promoting home ownership. Contributions for lien removal must be received from a nonrelated third party.

c. The project must be undertaken by an “eligible sponsor,” which includes:

(I) A community action program;

(II) A nonprofit community-based development organization whose mission is the provision of housing for low-income or very-low-income households or increasing entrepreneurial and job-development opportunities for low-income persons;

(III) A neighborhood housing services corporation;

(IV) A local housing authority created under chapter 421;

(V) A community redevelopment agency created under s. 163.356;

~~(VI) The Florida Industrial Development Corporation;~~

(VI)~~(VII)~~ A historic preservation district agency or organization;

(VII)~~(VIII)~~ A regional workforce board;

(VIII)~~(IX)~~ A direct-support organization as provided in s. 1009.983;

(IX)~~(X)~~ An enterprise zone development agency created under s. 290.0056;

(X)~~(XI)~~ A community-based organization incorporated under chapter 617 which is recognized as educational, charitable, or scientific pursuant to s. 501(c)(3) of the Internal Revenue Code and whose bylaws and articles of incorporation include affordable housing, economic development, or community development as the primary mission of the corporation;

(XI)~~(XII)~~ Units of local government;

(XII)~~(XIII)~~ Units of state government; or

(XIII)(XIV) Any other agency that the Office of Tourism, Trade, and Economic Development designates by rule.

In no event may a contributing person have a financial interest in the eligible sponsor.

d. The project must be located in an area designated an enterprise zone or a Front Porch Florida Community pursuant to s. 20.18(6), unless the project increases access to high-speed broadband capability for rural communities with enterprise zones but is physically located outside the designated rural zone boundaries. Any project designed to construct or rehabilitate housing for low-income or very-low-income households as defined in s. 420.9071(19) and (28) is exempt from the area requirement of this sub-subparagraph.

e.(I) If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for less than the annual tax credits available for those projects, the Office of Tourism, Trade, and Economic Development shall grant tax credits for those applications and shall grant remaining tax credits on a first-come, first-served basis for any subsequent eligible applications received before the end of the state fiscal year. If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for more than the annual tax credits available for those projects, the office shall grant the tax credits for those applications as follows:

(A) If tax credit applications submitted for approved projects of an eligible sponsor do not exceed \$200,000 in total, the credits shall be granted in full if the tax credit applications are approved.

(B) If tax credit applications submitted for approved projects of an eligible sponsor exceed \$200,000 in total, the amount of tax credits granted pursuant to sub-sub-sub-subparagraph (A) shall be subtracted from the amount of available tax credits, and the remaining credits shall be granted to each approved tax credit application on a pro rata basis.

(II) If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects other than those that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for less than the annual tax credits available for those projects, the office shall grant tax credits for those applications and shall grant remaining tax credits on a first-come, first-served basis for any subsequent eligible applications received before the end of the state fiscal year. If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects other than those that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28) are received for more than the annual

tax credits available for those projects, the office shall grant the tax credits for those applications on a pro rata basis.

3. Application requirements.—

a. Any eligible sponsor seeking to participate in this program must submit a proposal to the Office of Tourism, Trade, and Economic Development which sets forth the name of the sponsor, a description of the project, and the area in which the project is located, together with such supporting information as is prescribed by rule. The proposal must also contain a resolution from the local governmental unit in which the project is located certifying that the project is consistent with local plans and regulations.

b. Any person seeking to participate in this program must submit an application for tax credit to the office which sets forth the name of the sponsor, a description of the project, and the type, value, and purpose of the contribution. The sponsor shall 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. The person must submit a separate tax credit application to the office for each individual contribution that it makes to each individual project.

c. Any person who has received notification from the office that a tax credit has been approved must apply to the department to receive the refund. Application must be made on the form prescribed for claiming refunds of sales and use taxes and be accompanied by a copy of the notification. A person may submit only one application for refund to the department within any 12-month period.

4. Administration.—

a. The Office of Tourism, Trade, and Economic Development may adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to administer this paragraph, including rules for the approval or disapproval of proposals by a person.

b. The decision of the office must be in writing, and, if approved, the notification shall state the maximum credit allowable to the person. Upon approval, the office shall transmit a copy of the decision to the Department of Revenue.

c. The office shall periodically monitor all projects in a manner consistent with available resources to ensure that resources are used in accordance with this paragraph; however, each project must be reviewed at least once every 2 years.

d. The office shall, in consultation with the Department of Community Affairs and the statewide and regional housing and financial intermediaries, market the availability of the community contribution tax credit program to community-based organizations.

5. Expiration.—This paragraph expires June 30, 2015; however, any accrued credit carryover that is unused on that date may be used until the expiration of the 3-year carryover period for such credit.

Section 3. Paragraph (c) of subsection (2) of section 220.183, Florida Statutes, is amended to read:

220.183 Community contribution tax credit.—

(2) ELIGIBILITY REQUIREMENTS.—

(c) The project must be undertaken by an “eligible sponsor,” defined here as:

1. A community action program;
2. A nonprofit community-based development organization whose mission is the provision of housing for low-income or very-low-income households or increasing entrepreneurial and job-development opportunities for low-income persons;
3. A neighborhood housing services corporation;
4. A local housing authority, created pursuant to chapter 421;
5. A community redevelopment agency, created pursuant to s. 163.356;
- ~~6. The Florida Industrial Development Corporation;~~
- 6.7. An historic preservation district agency or organization;
- 7.8. A regional workforce board;
- 8.9. A direct-support organization as provided in s. 1009.983;
- 9.10. An enterprise zone development agency created pursuant to s. 290.0056;
- 10.11. A community-based organization incorporated under chapter 617 which is recognized as educational, charitable, or scientific pursuant to s. 501(c)(3) of the Internal Revenue Code and whose bylaws and articles of incorporation include affordable housing, economic development, or community development as the primary mission of the corporation;
- 11.12. Units of local government;
- 12.13. Units of state government; or
- 13.14. Such other agency as the Office of Tourism, Trade, and Economic Development may, from time to time, designate by rule.

In no event shall a contributing business firm have a financial interest in the eligible sponsor.

Section 4. Subsection (1) of section 220.62, Florida Statutes, is amended to read:

220.62 Definitions.—For purposes of this part:

(1) The term “bank” means a bank holding company registered under the Bank Holding Company Act of 1956 of the United States, 12 U.S.C. ss. 1841-1849, as amended, or a bank or trust company incorporated and doing business under the laws of the United States (including laws relating to the District of Columbia), of any state, or of any territory, a substantial part of the business of which consists of receiving deposits and making loans and discounts or of exercising fiduciary powers similar to those permitted to national banks under authority of the Comptroller of the Currency and which is subject by law to supervision and examination by state, territorial, or federal authority having supervision over banking institutions. The term “bank” also includes any banking association, corporation, or other similar organization organized and operated under the laws of any foreign country, which banking association, corporation, or other organization is also operating in this state pursuant to chapter 663, ~~and further includes any corporation organized under chapter 289.~~

Section 5. Paragraph (b) of subsection (5) of section 440.491, Florida Statutes, is amended to read:

440.491 Reemployment of injured workers; rehabilitation.—

(5) MEDICAL CARE COORDINATION AND REEMPLOYMENT SERVICES.—

(b) If the rehabilitation provider concludes that training and education are necessary to return the employee to suitable gainful employment, or if the employee has not returned to suitable gainful employment within 180 days after referral for reemployment services or receives \$2,500 in reemployment services, whichever comes first, the carrier must discontinue reemployment services and refer the employee to the department for a vocational evaluation. Notwithstanding any provision of ~~chapter 289 or~~ chapter 627, the cost of a reemployment assessment and the first \$2,500 in reemployment services to an injured employee must not be treated as loss adjustment expense for workers’ compensation ratemaking purposes.

Section 6. Subsection (4) of section 658.67, Florida Statutes, is amended to read:

658.67 Investment powers and limitations.—A bank may invest its funds, and a trust company may invest its corporate funds, subject to the following definitions, restrictions, and limitations:

(4) INVESTMENTS SUBJECT TO LIMITATION OF TEN PERCENT OR LESS OF CAPITAL ACCOUNTS.—

(a) Up to 10 percent of the capital accounts of the purchasing bank or trust company may be used to invest in any single issue of industrial development bonds issued for the benefit of a specified corporation.

(b) Up to an aggregate of 10 percent of the capital accounts of the purchasing bank or trust company may be used to invest in tax lien certificates.

(c) Up to 5 percent of the capital accounts of the purchasing bank or trust company may be used to invest in or purchase bonds or other evidences of indebtedness of the State of Israel.

(d) Up to 2 percent of the capital accounts of the purchasing bank or trust company may be used to invest in the stock of a community corporation organized to promote the physical, social, or moral well-being of the members of the community where the bank or trust company is located.

~~(e) Up to 1 percent of the capital accounts of the purchasing bank or trust company may be used to invest in the stock of the Florida Industrial Development Corporation.~~

(e)(f) Up to 1 percent of the capital accounts of the purchasing bank or trust company may be used to invest in the stock of the Housing Development Corporation of Florida. The purchasing bank or trust company may thereafter deal in the securities or other evidences of debt of such corporation as provided for in chapter 420.

(f)(g) Up to 10 percent of the capital accounts of a bank or trust company may be invested in any capital participation instrument or evidence of indebtedness issued by the Florida Black Business Investment Board pursuant to the Florida Small and Minority Business Assistance Act.

Section 7. This act shall take effect July 1, 2011.

Approved by the Governor May 31, 2011.

Filed in Office Secretary of State May 31, 2011.