

**As Introduced**

**130th General Assembly  
Regular Session  
2013-2014**

**H. B. No. 408**

**Representatives Sears, Amstutz**

**Cosponsors: Representatives Burkley, Duffey, Ruhl, McGregor, Baker,  
Stebelton, Sprague, Brenner, Derickson, Romanchuk, Smith, Schuring**

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**A B I L L**

To amend section 5747.98 and to enact section 5747.78 1  
of the Revised Code to authorize an income tax 2  
credit for donations to the permanent endowment 3  
fund of an eligible community foundation. 4

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 5747.98 be amended and section 5  
5747.78 of the Revised Code be enacted to read as follows: 6

**Sec. 5747.78.** (A)(1) "Eligible community foundation" means a 7  
qualified community foundation as defined in section 2109.303 of 8  
the Revised Code that has been accredited by the community 9  
foundations national standards board. 10

(2) "Authorized donation" means a donation authorized by the 11  
department of taxation and made to a permanent endowment fund of 12  
an eligible community foundation within sixty days after the date 13  
of authorization by the department. 14

(3) "Donation" means an irrevocable gift of cash or publicly 15  
traded securities. 16

(4) "Permanent endowment fund" means a fund that is held in 17

perpetuity by an eligible community foundation, that is used for 18  
the benefit of charitable causes in this state, and that has an 19  
annual spending rate of five per cent or less. 20

(B) A nonrefundable credit is allowed against the tax imposed 21  
by section 5747.02 of the Revised Code for a taxpayer that makes 22  
an authorized donation to a permanent endowment fund of an 23  
eligible community foundation in a taxable year beginning on or 24  
after January 1, 2014. The credit shall equal the lesser of twenty 25  
per cent of the amount of the authorized donation made during the 26  
taxable year or ten thousand dollars in the case of an individual 27  
return or twenty thousand dollars in the case of a joint return. 28

The credit shall be claimed in the order required under 29  
section 5747.98 of the Revised Code. The amount of the credit may 30  
not exceed the tax otherwise due after allowing for all other 31  
credits in that order. The taxpayer may carry forward any balance 32  
of the credit in excess of the amount claimed for up to five 33  
ensuing taxable years, and shall deduct any amount claimed for 34  
such a year from the amount claimed in any ensuing year. 35

(C) Before making a donation, a taxpayer shall apply to the 36  
department of taxation for authorization of the donation in the 37  
manner prescribed by the department. The department shall approve 38  
or deny the application and shall issue written notice of the 39  
department's decision to the taxpayer within twenty days after 40  
receiving the application. The department shall review 41  
applications in the order in which the applications are received. 42

The department shall approve an application if the taxpayer 43  
agrees to make a donation to a permanent endowment fund of an 44  
eligible community foundation, and if the total annual credit 45  
limit has not been reached. If the application is approved, the 46  
department's notice shall indicate the amount of the credit 47  
authorized. If the donation is not received by the intended 48  
recipient eligible community foundation within sixty days after 49

the date of the approval, the eligible community foundation shall 50  
so notify the department, and the department shall deduct the 51  
amount of the authorized credit from the total amount of credits 52  
the agency has authorized for the purpose of determining whether 53  
the total annual credit limit has been reached. If the donation is 54  
received within sixty days after the date of approval, the 55  
recipient eligible community foundation shall issue a receipt to 56  
the taxpayer. For the purposes of this division, the "total annual 57  
credit limit" equals twenty million dollars each calendar year. 58

(D) The department of taxation is authorized to charge a 59  
reasonable fee for the filing of an application under division (C) 60  
of this section to defray the costs of processing the application 61  
and administering this section. 62

(E) The department of taxation shall adopt rules as necessary 63  
to implement this section. 64

**Sec. 5747.98.** (A) To provide a uniform procedure for 65  
calculating the amount of tax due under section 5747.02 of the 66  
Revised Code, a taxpayer shall claim any credits to which the 67  
taxpayer is entitled in the following order: 68

(1) The retirement income credit under division (B) of 69  
section 5747.055 of the Revised Code; 70

(2) The senior citizen credit under division (C) of section 71  
5747.05 of the Revised Code; 72

(3) The lump sum distribution credit under division (D) of 73  
section 5747.05 of the Revised Code; 74

(4) The dependent care credit under section 5747.054 of the 75  
Revised Code; 76

(5) The lump sum retirement income credit under division (C) 77  
of section 5747.055 of the Revised Code; 78

(6) The lump sum retirement income credit under division (D) 79

of section 5747.055 of the Revised Code;	80
(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	81 82
(8) The low-income credit under section 5747.056 of the Revised Code;	83 84
(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	85 86
(10) The campaign contribution credit under section 5747.29 of the Revised Code;	87 88
(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	89 90
(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	91 92
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	93 94
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	95 96
(15) The earned income credit under section 5747.71 of the Revised Code;	97 98
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	99 100
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	101 102
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	103 104
(19) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	105 106
(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;	107 108

(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	109 110 111
(22) The job training credit under section 5747.39 of the Revised Code;	112 113
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	114 115
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	116 117
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	118 119
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	120 121
(27) <u>The credit for donations to a permanent endowment fund of an eligible community foundation under section 5747.78 of the Revised Code;</u>	122 123 124
<u>(28)</u> The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	125 126
<del>(28)</del> <u>(29)</u> The small business investment credit under section 5747.81 of the Revised Code;	127 128
<del>(29)</del> <u>(30)</u> The enterprise zone credits under section 5709.65 of the Revised Code;	129 130
<del>(30)</del> <u>(31)</u> The research and development credit under section 5747.331 of the Revised Code;	131 132
<del>(31)</del> <u>(32)</u> The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	133 134
<del>(32)</del> <u>(33)</u> The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	135 136
<del>(33)</del> <u>(34)</u> The refundable jobs creation credit or job retention	137

credit under division (A) of section 5747.058 of the Revised Code;	138
<del>(34)</del> <u>(35)</u> The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	139 140
<del>(35)</del> <u>(36)</u> The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	141 142 143
<del>(36)</del> <u>(37)</u> The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	144 145 146
<del>(37)</del> <u>(38)</u> The refundable motion picture production credit under section 5747.66 of the Revised Code.	147 148
<del>(38)</del> <u>(39)</u> The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code.	149 150 151
(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.	152 153 154 155 156 157 158 159 160 161
<b>Section 2.</b> That existing section 5747.98 of the Revised Code is hereby repealed.	162 163