

1                   A bill to be entitled  
2           An act relating to insurance premium and corporate income  
3           tax credits; providing definitions; providing that  
4           taxpayers who hold a qualified equity investment on a  
5           credit allowance date of the investment are entitled to a  
6           nonrefundable, nontransferable tax credit for the taxable  
7           year in which the credit allowance date falls; providing  
8           for calculating the amount of the tax credit; limiting the  
9           amount of the tax credit that may be redeemed in a fiscal  
10          year; providing for the redemption of tax credits earned  
11          by certain business entities and by the partners, members,  
12          or shareholders of those entities; authorizing a taxpayer  
13          to carry over any amount of the tax credit that the  
14          taxpayer is prohibited from redeeming in a taxable year to  
15          any subsequent taxable year; requiring the issuer of a  
16          qualified equity investment to certify to the Department  
17          of Revenue the anticipated dollar amount of investments to  
18          be made in this state during a specified period following  
19          the initial credit allowance date; requiring the  
20          department to limit the monetary amount of qualified  
21          equity investments to a level necessary to limit the use  
22          of tax credits to a specified amount in each fiscal year;  
23          providing a basis for such limitation; authorizing the  
24          department to adjust tax credits under certain  
25          circumstances; requiring the department to recapture tax  
26          credits from certain taxpayers under certain  
27          circumstances; requiring the department to adopt rules;  
28          requiring the department to administer the allocation of

29 tax credits for certain qualified investments in a  
 30 specified manner; providing an effective date.

31  
 32 Be It Enacted by the Legislature of the State of Florida:

33  
 34 Section 1. New markets development program.--

35 (1) As used in this section, the term:

36 (a) "Adjusted purchase price" means the product of the  
 37 amount paid to the issuer of a qualified equity investment for  
 38 such qualified equity investment and a fraction the numerator of  
 39 which is the dollar amount of qualified low-income community  
 40 investments held by the issuer in this state as of the credit  
 41 allowance date during the applicable tax year and the  
 42 denominator of which is the total dollar amount of qualified  
 43 low-income community investments held by the issuer as of the  
 44 credit allowance date during the applicable tax year.

45 (b) "Applicable percentage" means zero percent for the  
 46 first credit allowance date and 8.33 percent for each of the  
 47 next six credit allowance dates.

48 (c) "Credit allowance date" means:

- 49 1. The date on which any qualified equity investment is  
 50 initially made; and  
 51 2. The first anniversary date after the initial investment  
 52 date.

53 (d) "Long-term debt security" means any debt instrument  
 54 issued by a qualified community development entity, at par value  
 55 or a premium, having an original maturity date of at least 7  
 56 years following the date of its issuance, with no acceleration

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57 of repayment, amortization, or prepayment features before its  
58 original maturity date, and having no distribution, payment, or  
59 interest features related to the profitability of the qualified  
60 community development entity or the performance of the qualified  
61 community development entity's investment portfolio. This  
62 paragraph does not limit the holder's ability to accelerate  
63 payments on the debt instrument in situations in which the  
64 issuer has defaulted on covenants designed to ensure compliance  
65 with this section or s. 45D of the Internal Revenue Code of  
66 1986, as amended.

67 (e) "Qualified active low-income community business" has  
68 the same meaning as in s. 45D of the Internal Revenue Code of  
69 1986, as amended. Any business that derives or projects to  
70 derive 15 percent or more of its annual revenue from the rental  
71 or sale of real estate is not a qualified active low-income  
72 community business.

73 (f) "Qualified community development entity" has the same  
74 meaning as in s. 45D of the Internal Revenue Code of 1986, as  
75 amended, if such entity has entered into an allocation agreement  
76 with the Community Development Financial Institutions Fund of  
77 the United States Treasury Department with respect to credits  
78 authorized by s. 45D of the Internal Revenue Code of 1986, as  
79 amended.

80 (g) "Qualified equity investment" means any equity  
81 investment or long-term debt security issued by a qualified  
82 community development entity that was a qualified equity  
83 investment when in the possession of a prior holder or:

84 1. Is acquired on or after July 1, 2007, at its original

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85 issuance solely in exchange for cash;

86 2. Has at least 85 percent of its cash purchase price used  
87 by the issuer to make qualified low-income community  
88 investments; and

89 3. Is designated by the issuer as a qualified equity  
90 investment pursuant to this section, regardless of whether it  
91 also has been designated as a qualified equity investment under  
92 s. 45D of the Internal Revenue Code of 1986, as amended.

93 (h) "Qualified low-income community investment" means any  
94 capital or equity investment in or loan to any qualified active  
95 low-income community business. With respect to any one qualified  
96 active low-income community business, on a collective basis with  
97 all of its affiliates, the maximum amount of investment that any  
98 qualified community development entity, on an aggregate basis  
99 with all of its affiliates, may use for the calculation of any  
100 numerator described in paragraph (a) shall be \$10 million. For  
101 purposes of calculating the amount of qualified low-income  
102 community investments held by an issuer, an investment shall be  
103 deemed to be held by an issuer, even if the investment has been  
104 sold or repaid, if the issuer reinvests an amount equal to the  
105 capital returned to or recovered by the issuer from the original  
106 investment, exclusive of any profits realized, in another  
107 qualified low-income community investment within 12 months after  
108 receipt of such capital. An issuer is not required to reinvest  
109 capital returned from qualified low-income community investments  
110 after the sixth anniversary of the issuance of the qualified  
111 equity investment for which the proceeds were used to make the  
112 qualified low-income community investment. The qualified low-

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113 income community investment shall be deemed to be held by the  
114 issuer through the seventh anniversary of the qualified equity  
115 investment's issuance.

116 (i) "Tax credit" means a credit against the taxes imposed  
117 by ss. 220.11 and 624.509, Florida Statutes.

118 (j) "Taxpayer" means any individual or entity subject to  
119 the taxes imposed by ss. 220.11 and 624.509, Florida Statutes.

120 (2) A taxpayer holding a qualified equity investment on a  
121 credit allowance date of such qualified equity investment is  
122 entitled to a tax credit during the taxable year, including the  
123 credit allowance date. The tax credit amount is equal to the  
124 applicable percentage of the adjusted purchase price paid to the  
125 issuer of such qualified equity investment. The amount of the  
126 tax credit that may be redeemed in any tax year may not exceed  
127 the amount of the taxpayer's state tax liability for such tax  
128 year. A tax credit authorized under this section is not  
129 refundable or transferable. Tax credits earned by a partnership,  
130 limited liability company, S corporation, or other "pass-  
131 through" entity may be allocated to the partners, members, or  
132 shareholders of such entity for their direct redemption in  
133 accordance with the provisions of any agreement among the  
134 partners, members, or shareholders. Any amount of tax credit  
135 that the taxpayer is prohibited by this section from redeeming  
136 in a taxable year may be carried forward to any of the  
137 taxpayer's subsequent taxable years. The amount of tax credits  
138 that may be allocated by the Department of Revenue under this  
139 section in each fiscal year may not exceed \$15 million. The  
140 Department of Revenue shall limit the monetary amount of

141 qualified equity investments authorized under this section to a  
142 level necessary to limit use of tax credits to no more than \$15  
143 million of tax credits in any fiscal year. Such limitations on  
144 qualified equity investments shall be based solely on the  
145 anticipated use of credits without regard for the potential of  
146 taxpayers to carry forward tax credits to later tax years.

147 (3) The issuer of the qualified equity investment must  
148 certify to the department the anticipated dollar amount of such  
149 investments to be made in this state during the first 12-month  
150 period following the initial credit allowance date. On the  
151 second credit allowance date, if the actual dollar amount of the  
152 investments is different from the amount estimated, the  
153 department shall adjust the credits arising on the second  
154 allowance date to account for the difference.

155 (4) The department shall recapture the tax credit allowed  
156 under this section with respect to the qualified equity  
157 investment if:

158 (a) Any amount of the federal tax credit available with  
159 respect to a qualified equity investment that is eligible for a  
160 tax credit under this section is recaptured under s. 45D of the  
161 Internal Revenue Code of 1986, as amended;

162 (b) The issuer redeems or makes any principal repayment  
163 with respect to a qualified equity investment before the seventh  
164 anniversary of the issuance of the qualified equity investment;  
165 or

166 (c) The qualified community development entity fails to  
167 maintain at least 85 percent of the proceeds of the qualified  
168 equity investment in qualified low-income community investments

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169 in Florida at any time before the seventh anniversary of the  
170 issuance of the qualified equity investment.

171

172 Any tax credit that is subject to recapture shall be recaptured  
173 from the taxpayer who claimed the tax credit on a tax return.

174 (5) The department shall adopt rules to administer this  
175 section, including recapture provisions on a scaled proportional  
176 basis, and to administer the allocation of tax credits issued  
177 for qualified equity investments, which shall be conducted on a  
178 first-come, first-served basis.

179 Section 2. This act shall take effect July 1, 2007.