

By Senator Bennett

21-1515A-07

1 A bill to be entitled

2 An act relating to premium and corporate income

3 tax credits; providing definitions; providing

4 that taxpayers who hold a qualified equity

5 investment on a credit allowance date of the

6 investment are entitled to a nonrefundable,

7 nontransferable tax credit for the taxable year

8 during which the credit allowance date falls;

9 providing for calculating the amount of the tax

10 credit; limiting the amount of the tax credit

11 which may be redeemed in a fiscal year;

12 providing for the redemption of tax credits

13 earned by certain business entities and by the

14 partners, members, or shareholders of those

15 entities; authorizing a taxpayer to carry over

16 any amount of the tax credit which the taxpayer

17 is prohibited from redeeming in a taxable year

18 to any subsequent taxable year; requiring the

19 issuer of a qualified equity investment to

20 certify to the Department of Revenue the

21 anticipated dollar amount of investments to be

22 made in this state during a specified period

23 following the initial credit allowance date;

24 requiring the department to limit the monetary

25 amount of qualified equity investments to a

26 level necessary to limit the use of tax credits

27 to a specified amount in each fiscal year;

28 providing a basis for such limitation;

29 authorizing the department to adjust tax

30 credits under certain circumstances; requiring

31 the department to recapture tax credits from

1 certain taxpayers under certain circumstances;
2 requiring the department to adopt rules;
3 requiring the department to administer the
4 allocation of tax credits for certain qualified
5 investments in a specified manner; providing an
6 effective date.
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8 Be It Enacted by the Legislature of the State of Florida:
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10 Section 1. New markets development program.--

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

12 (a) "Adjusted purchase price" means the product of the
13 amount paid to the issuer of a qualified equity investment for
14 such qualified equity investment and a fraction whose
15 numerator is the dollar amount of qualified low-income
16 community investments held by the issuer in this state as of
17 the credit allowance date during the applicable tax year, and
18 whose denominator is the total dollar amount of qualified
19 low-income community investments held by the issuer as of the
20 credit allowance date during the applicable tax year.

21 (b) "Applicable percentage" means zero percent for the
22 first credit allowance date and 8.33 percent for each of the
23 next six credit allowance dates.

24 (c) "Credit allowance date" means:

25 1. The date on which any qualified equity investment is
26 initially made; and

27 2. The first anniversary date after the initial
28 investment date.

29 (d) "Qualified community development entity" has the
30 same meaning as in s. 45D of the Internal Revenue Code of
31 1986, as amended, if such entity has entered into an

1 allocation agreement with the Community Development Financial
2 Institutions Fund of the United States Treasury Department
3 with respect to credits authorized by s. 45D of the Internal
4 Revenue Code of 1986, as amended.

5 (e) "Long-term debt security" means any debt
6 instrument issued by a qualified community development entity,
7 at par value or a premium, having an original maturity date of
8 at least 7 years following the date of its issuance, with no
9 acceleration of repayment, amortization, or prepayment
10 features before its original maturity date, and having no
11 distribution, payment, or interest features related to the
12 profitability of the qualified community development entity or
13 the performance of the qualified community development
14 entity's investment portfolio. This paragraph does not limit
15 the holder's ability to accelerate payments on the debt
16 instrument in situations where the issuer has defaulted on
17 covenants designed to ensure compliance with this section or
18 s. 45D of the Internal Revenue Code of 1986, as amended.

19 (f) "Qualified active low-income community business"
20 has the same meaning as in s. 45D of the Internal Revenue Code
21 of 1986, as amended. Any business that derives or projects to
22 derive 15 percent or more of its annual revenue from the
23 rental or sale of real estate is not a qualified active
24 low-income community business.

25 (g) "Qualified equity investment" means any equity
26 investment or long-term debt security issued by a qualified
27 community development entity which was a qualified equity
28 investment when in the possession of a prior holder or:

29 1. Is acquired on or after July 1, 2007, at its
30 original issuance solely in exchange for cash;

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

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

8 (h) "Qualified low-income community investment" means
9 any capital or equity investment in or loan to any qualified
10 active low-income community business. With respect to any one
11 qualified active low-income community business, on a
12 collective basis with all of its affiliates, the maximum
13 amount of investment which any qualified community development
14 entity, on an aggregate basis with all of its affiliates, may
15 use for the calculation of any numerator described in
16 paragraph (a) shall be \$10 million. For purposes of
17 calculating the amount of qualified low-income community
18 investments held by an issuer, an investment shall be deemed
19 to be held by an issuer, even if the investment has been sold
20 or repaid, if the issuer reinvests an amount equal to the
21 capital returned to or recovered by the issuer from the
22 original investment, exclusive of any profits realized, in
23 another qualified low-income community investment within 12
24 months after receipt of such capital. An issuer is not
25 required to reinvest capital returned from qualified
26 low-income community investments after the sixth anniversary
27 of the issuance of the qualified equity investment for which
28 the proceeds were used to make the qualified low-income
29 community investment. The qualified low-income community
30 investment shall be deemed to be held by the issuer through
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1 the seventh anniversary of the qualified equity investment's
2 issuance.

3 (i) "Tax credit" means a credit against the tax
4 imposed by ss. 220.11 and 624.509, Florida Statutes.

5 (j) "Taxpayer" means any individual or entity subject
6 to the tax imposed by ss. 220.11 and 624.509, Florida
7 Statutes.

8 (2) A taxpayer holding a qualified equity investment
9 on a credit allowance date of such qualified equity investment
10 is entitled to a tax credit during the taxable year, including
11 the credit allowance date. The tax credit amount is equal to
12 the applicable percentage of the adjusted purchase price paid
13 to the issuer of such qualified equity investment. The amount
14 of the tax credit which may be redeemed in any tax year may
15 not exceed the amount of the taxpayer's state tax liability
16 for such tax year. A tax credit authorized under this section
17 is not refundable or transferable. Tax credits earned by a
18 partnership, limited liability company, S corporation, or
19 other "pass-through" entity may be allocated to the partners,
20 members, or shareholders of such entity for their direct
21 redemption in accordance with the provisions of any agreement
22 among the partners, members, or shareholders. Any amount of
23 tax credit which the taxpayer is prohibited by this section
24 from redeeming in a taxable year may be carried forward to any
25 of the taxpayer's subsequent taxable years. The amount of tax
26 credits which may be allocated by the Department of Revenue
27 under this section in each fiscal year may not exceed \$15
28 million. The Department of Revenue shall limit the monetary
29 amount of qualified equity investments authorized under this
30 section to a level necessary to limit use of tax credits to no
31 more than \$15 million of tax credits in any fiscal year. Such

1 limitations on qualified equity investments shall be based
2 solely on the anticipated use of credits without regard for
3 the potential of taxpayers to carry forward tax credits to
4 later tax years.

5 (3) The issuer of the qualified equity investment must
6 certify to the department the anticipated dollar amount of
7 such investments to be made in this state during the first
8 12-month period following the initial credit allowance date.

9 On the second credit allowance date, if the actual dollar
10 amount of the investments is different than the amount
11 estimated, the department shall adjust the credits arising on
12 the second allowance date to account for the difference.

13 (4) The department shall recapture the tax credit
14 allowed under this section with respect to the qualified
15 equity investment if:

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

20 (b) The issuer redeems or makes any principal
21 repayment with respect to a qualified equity investment before
22 the seventh anniversary of the issuance of the qualified
23 equity investment; or

24 (c) The qualified community development entity fails
25 to maintain at least 85 percent of the proceeds of the
26 qualified equity investment in qualified low-income community
27 investments in Florida at any time before the seventh
28 anniversary of the issuance of the qualified equity
29 investment.

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

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

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

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12 SENATE SUMMARY

13 Provides that taxpayers who hold a qualified equity
14 investment on a credit allowance date of the investment
15 are entitled to a nonrefundable, nontransferable tax
16 credit for the taxable year during which the credit
17 allowance date falls. Provides for the calculation of the
18 amount of the tax credit. Limits the amount of the tax
19 credit that may be redeemed in a fiscal year. Provides
20 for redemption of tax credits earned by certain business
21 entities and by the partners, members, or shareholders of
22 those entities. Authorizes a taxpayer to carry over any
23 amount of the tax credit that the taxpayer is prohibited
24 from redeeming in a taxable year to any subsequent
25 taxable year. Requires the issuer of a qualified equity
26 investment to certify certain information to the
27 Department of Revenue. Requires the department to limit
28 the monetary amount of qualified equity investments to a
29 level necessary to limit the use of tax credits to a
30 specified amount in each fiscal year. Authorizes the
31 department to adjust tax credits under certain
circumstances. Requires the department to recapture tax
credits from certain taxpayers under certain
circumstances. Requires the department to adopt rules.
Requires the department to administer the allocation of
tax credits for certain qualified investments in a
specified manner.