

By the Committee on Commerce; and Senators Fasano, Haridopolos, Richter, and Bennett

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1 A bill to be entitled
2 An act relating to Fast Track Economic Stimulus for
3 Small Businesses; establishing the New Markets
4 Development Program; amending s. 213.053, F.S.;
5 authorizing the Department of Revenue to disclose
6 information relating to certain tax credits to the
7 Office of Tourism, Trade, and Economic Development;
8 authorizing penalties for unlawful disclosure of the
9 information; amending s. 220.02, F.S.; revising the
10 order in which credits against the corporate income
11 tax or franchise tax must be applied; amending s.
12 220.013, F.S.; revising the definition of the term
13 "adjusted federal income" to include the amount of
14 certain tax credits; creating s. 288.991, F.S.;
15 providing a short title; creating s. 288.9912, F.S.;
16 encouraging capital investment in certain communities
17 to create and retain jobs through the use of tax
18 credits; creating s. 288.9913, F.S.; providing
19 definitions; creating s. 288.9914, F.S.; requiring the
20 Office of Tourism, Trade, and Economic Development to
21 identify industries in which certain investments may
22 be made; providing for a waiver of the limitation;
23 requiring a qualified community development entity to
24 submit an application for approval of an investment as
25 a qualified investment; requiring the Office of
26 Tourism, Trade, and Economic Development to review and
27 approve or deny the applications; providing for
28 partial approval of applications under certain
29 circumstances; requiring a qualified community

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30 development entity to issue a qualified investment
31 within a certain time period; requiring a qualified
32 community development entity to report the issuance of
33 a qualified investment within a certain time period;
34 creating s. 288.9915, F.S.; prohibiting certain
35 interest payments on certain qualified investments for
36 a certain time period; requiring qualified community
37 development entities to maintain certain records;
38 limiting the amount of low-income community
39 investments that may be received by a qualified active
40 low-income community business; creating s. 288.9916,
41 F.S.; creating the new markets tax credit; specifying
42 the amount of the credit; specifying certain tax years
43 in which the tax credit may be used; requiring certain
44 insurance companies to apply the tax credit against
45 certain taxes; limiting transferability of the tax
46 credit; creating s. 288.9917, F.S.; requiring a
47 qualified community development entity to submit
48 certain reports to the Office of Tourism, Trade, and
49 Economic Development after a credit allowance date;
50 requiring the Office of Tourism, Trade, and Economic
51 Development to certify the tax credit amount that may
52 be taken by a taxpayer; creating s. 288.9918, F.S.;
53 requiring a qualified community development entity to
54 submit annual reports to the Office of Tourism, Trade,
55 and Economic Development; creating s. 288.9919, F.S.;
56 subjecting qualified community development entities to
57 audits under the State Single Audit Act; authorizing
58 the Office of Tourism, Trade, and Economic Development

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59 to conduct examinations to verify compliance with the
60 New Markets Development Program Act; creating s.
61 288.9920, F.S.; authorizing the Office of Tourism,
62 Trade, and Economic Development to recapture tax
63 credits under certain circumstances; requiring the
64 Office of Tourism, Trade, and Economic Development to
65 issue a proposed notice of recapture; providing an
66 opportunity to cure a deficiency prior to recapture;
67 authorizing penalties for submitting fraudulent
68 information to the Office of Tourism, Trade, and
69 Economic Development; creating s. 288.9921, F.S.;
70 authorizing the Office of Tourism, Trade, and Economic
71 Development to adopt rules; creating s. 288.9922,
72 F.S.; providing for the expiration of the New Markets
73 Development Program Act on a certain date; providing
74 an effective date.

75

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

77

78 Section 1. Subsection (19) is added to section 213.053,
79 Florida Statutes, to read:

80 213.053 Confidentiality and information sharing.—

81 (19) The department may disclose information relative to
82 tax credits taken by a taxpayer pursuant to s. 288.9916 to the
83 Office of Tourism, Trade, and Economic Development or its
84 employees or agents. Such employees must be identified in
85 writing by the office to the department. All information
86 disclosed under this subsection is subject to the same
87 requirements of confidentiality and the same penalties for

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88 violation of the requirements as the department.

89 Section 2. Subsection (8) of section 220.02, Florida
90 Statutes, is amended to read:

91 220.02 Legislative intent.—

92 (8) It is the intent of the Legislature that credits
93 against either the corporate income tax or the franchise tax be
94 applied in the following order: those enumerated in s. 631.828,
95 those enumerated in s. 220.191, those enumerated in s. 220.181,
96 those enumerated in s. 220.183, those enumerated in s. 220.182,
97 those enumerated in s. 220.1895, those enumerated in s. 221.02,
98 those enumerated in s. 220.184, those enumerated in s. 220.186,
99 those enumerated in s. 220.1845, those enumerated in s. 220.19,
100 those enumerated in s. 220.185, those enumerated in s. 220.187,
101 those enumerated in s. 220.192, ~~and~~ those enumerated in s.
102 220.193 and those enumerated in s. 288.9916.

103 Section 3. Paragraph (a) of subsection (1) of section
104 220.13, Florida Statutes, is amended to read:

105 220.13 "Adjusted federal income" defined.—

106 (1) The term "adjusted federal income" means an amount
107 equal to the taxpayer's taxable income as defined in subsection
108 (2), or such taxable income of more than one taxpayer as
109 provided in s. 220.131, for the taxable year, adjusted as
110 follows:

111 (a) *Additions.*—There shall be added to such taxable income:

112 1. The amount of any tax upon or measured by income,
113 excluding taxes based on gross receipts or revenues, paid or
114 accrued as a liability to the District of Columbia or any state
115 of the United States which is deductible from gross income in
116 the computation of taxable income for the taxable year.

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117 2. The amount of interest which is excluded from taxable
118 income under s. 103(a) of the Internal Revenue Code or any other
119 federal law, less the associated expenses disallowed in the
120 computation of taxable income under s. 265 of the Internal
121 Revenue Code or any other law, excluding 60 percent of any
122 amounts included in alternative minimum taxable income, as
123 defined in s. 55(b)(2) of the Internal Revenue Code, if the
124 taxpayer pays tax under s. 220.11(3).

125 3. In the case of a regulated investment company or real
126 estate investment trust, an amount equal to the excess of the
127 net long-term capital gain for the taxable year over the amount
128 of the capital gain dividends attributable to the taxable year.

129 4. That portion of the wages or salaries paid or incurred
130 for the taxable year which is equal to the amount of the credit
131 allowable for the taxable year under s. 220.181. This
132 subparagraph shall expire on the date specified in s. 290.016
133 for the expiration of the Florida Enterprise Zone Act.

134 5. That portion of the ad valorem school taxes paid or
135 incurred for the taxable year which is equal to the amount of
136 the credit allowable for the taxable year under s. 220.182. This
137 subparagraph shall expire on the date specified in s. 290.016
138 for the expiration of the Florida Enterprise Zone Act.

139 6. The amount of emergency excise tax paid or accrued as a
140 liability to this state under chapter 221 which tax is
141 deductible from gross income in the computation of taxable
142 income for the taxable year.

143 7. That portion of assessments to fund a guaranty
144 association incurred for the taxable year which is equal to the
145 amount of the credit allowable for the taxable year.

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146 8. In the case of a nonprofit corporation which holds a
147 pari-mutuel permit and which is exempt from federal income tax
148 as a farmers' cooperative, an amount equal to the excess of the
149 gross income attributable to the pari-mutuel operations over the
150 attributable expenses for the taxable year.

151 9. The amount taken as a credit for the taxable year under
152 s. 220.1895.

153 10. Up to nine percent of the eligible basis of any
154 designated project which is equal to the credit allowable for
155 the taxable year under s. 220.185.

156 11. The amount taken as a credit for the taxable year under
157 s. 220.187.

158 12. The amount taken as a credit for the taxable year under
159 s. 220.192.

160 13. The amount taken as a credit for the taxable year under
161 s. 220.193.

162 14. Any amount in excess of \$25,000 allowable as a
163 deduction for federal income tax purposes under s. 179 of the
164 Internal Revenue Code of 1986, as amended, for the taxable year.

165 15. Any amount allowable as a deduction for federal income
166 tax purposes under s. 167 or s. 168 of the Internal Revenue Code
167 of 1986, as amended, for the taxable year to the extent that
168 such amount includes bonus depreciation allowable as deduction
169 under s. 168(k).

170 16. Any portion of a qualified investment, as defined in s.
171 288.9913, which is claimed as a deduction by the taxpayer and
172 taken as a credit against income tax pursuant to s.288.9913.

173 Section 4. Section 288.991, Florida Statutes, is created to
174 read:

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175 288.991 Short title.—Sections 288.991 through 288.9922 may
176 be cited as the “New Markets Development Program Act.”

177 Section 5. Section 288.9912, Florida Statutes, is created
178 to read:

179 288.9912 New Markets Development Program; purpose.—The New
180 Markets Development Program is established to encourage capital
181 investment in rural and urban low-income communities by allowing
182 taxpayers to earn credits against specified taxes by investing
183 in qualified community development entities that make qualified
184 low-income community investments in qualified active low-income
185 community businesses to create and retain jobs.

186 Section 6. Section 288.9913, Florida Statutes, is created
187 to read:

188 288.9913 Definitions.—As used in sections 288.991 through
189 288.9922, the term:

190 (1) “Credit allowance date” means:

191 (a) The date on which a qualified investment is made; and

192 (b) Each of the six anniversaries of that date.

193 (2) “Department” means the Department of Revenue.

194 (3) “Long-term debt security” means a debt instrument
195 issued by a qualified community development entity at par value
196 or a premium which has a maturity date of at least 7 years
197 following the date of its issuance, with no acceleration of
198 repayment, amortization, or prepayment features prior to its
199 original maturity date, except in instances of default.

200 (4) “Low-income community” means any population census
201 tract within the State of Florida where:

202 1. The poverty rate of such tract is at least 20 percent;

203 or

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204 2. In the case of a tract that is:

205 a. Not located within a metropolitan area, the median
206 family income for such tract does not exceed 80 percent of the
207 statewide median family income; or

208 b. Located within a metropolitan area, the median family
209 income for such a tract does not exceed 80 percent of the
210 greater of the statewide median family income or the
211 metropolitan area median income.

212 (5) "Office" means the Office of Tourism, Trade, and
213 Economic Development.

214 (6) "Purchase price" means the amount of cash paid to a
215 qualified community development entity in exchange for a
216 qualified investment.

217 (7) "Qualified active low-income community business" means
218 a corporation, including a nonprofit corporation, or partnership
219 that:

220 (a)1. Derives at least 50 percent of its total gross income
221 from the active conduct of business within any low-income
222 community for any taxable year;

223 2. Uses a substantial portion of its tangible property,
224 whether owned or leased, within any low-income community for any
225 taxable year;

226 3. Performs a substantial portion of its services through
227 its employees in a low-income community for any taxable year;

228 4. Attributes less than 5 percent of the average of the
229 aggregate unadjusted bases of the property of the entity to
230 collectibles, as defined in 26 U.S.C. s. 408(m)(2), other than
231 collectibles that are held primarily for sale to customers in
232 the ordinary course of the business for any taxable year; and

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233 5. Attributes less than 5 percent of the average of the
234 aggregate unadjusted bases of the property of the entity to
235 nonqualified financial property, as defined in 26 U.S.C. s.
236 1397C(e), for any taxable year.

237 (b) Is reasonably expected by a qualified community
238 development entity at the time of an investment to continue to
239 satisfy the requirements of paragraphs (a), (b), (c), and (d)
240 for the duration of the investment.

241 (c) Satisfies the requirements of paragraph (a) and
242 paragraph (b), but does not:

243 1. Derive or project to derive 15 percent or more of its
244 annual revenue from the rental or sale of real estate;

245 2. Engage predominantly in the development or holding of
246 intangibles for sale or license;

247 3. Operate a private or commercial golf course, country
248 club, massage parlor, hot tub facility, suntan facility,
249 racetrack, gambling facility, or a store, the principal business
250 of which is the sale of alcoholic beverages for consumption off
251 premises; or

252 4. Engage principally in farming and owns or leases assets
253 the sum of the aggregate unadjusted bases or the fair market
254 value of which exceeds \$500,000.

255 (d) Will create or retain jobs that pay an average wage of
256 at least 115 percent of the federal poverty guideline for a
257 family of four.

258 (8) "Qualified community development entity" means an
259 entity that:

260 (a) Is certified by the United States Department of the
261 Treasury as a qualified community development entity under 26

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262 U.S.C. s. 45D; and

263 (b) Has entered into, or is controlled by an entity that
264 has entered into, an allocation agreement with the Community
265 Development Financial Institutions Fund of the United States
266 Department of the Treasury with respect to tax credits under 26
267 U.S.C. 45D and is authorized to serve businesses in this state
268 under the agreement.

269 (9) "Qualified investment" means an equity investment in,
270 or a long-term debt security issued by, a qualified community
271 development entity that:

272 (a) Is issued solely in exchange for cash; and

273 (b) Is designated by the qualified community development
274 entity as a qualified investment under this paragraph and is
275 approved by the office as a qualified investment.

276 (10) "Qualified low-income community investment" means a
277 capital or equity investment in, or loan to, any qualified
278 active low-income community business.

279 Section 7. Section 288.9914, Florida Statutes, is created
280 to read:

281 288.9914 Certification of qualified investments; investment
282 issuance reporting.—

283 (1) ELIGIBLE INDUSTRIES.—

284 (a) The office, in consultation with Enterprise Florida,
285 Inc., shall designate industries using the North American
286 Industry Classification System which are eligible to receive
287 low-income community investments. The designated industries must
288 be those industries that have the greatest potential to create
289 strong positive impacts on or benefits to the state, regional,
290 and local economies.

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291 (b) A qualified community development entity may not make a
292 qualified low-income community investment in a business unless
293 the principal activities of the business are within an eligible
294 industry. The office may waive this limitation if the office
295 determines that the investment will have a positive impact on a
296 community.

297 (2) APPLICATION.—A qualified community development entity
298 must submit an application to the office to approve a proposed
299 investment as a qualified investment. The application must
300 include:

301 (a) The name, address, and tax identification number of the
302 qualified community development entity.

303 (b) Proof of certification as a qualified community
304 development entity under 26 U.S.C. s. 45D.

305 (c) A copy of an allocation agreement executed by the
306 entity, or its controlling entity, and the Community Development
307 Financial Institutions Fund, which authorizes the entity to
308 serve businesses in this state.

309 (d) A verified statement by the chief executive officer of
310 the entity that the allocation agreement remains in effect.

311 (e) A description of the proposed amount, structure, and
312 purchaser of an equity investment or long-term debt security.

313 (f) The name and tax identification number of any person
314 authorized to claim a tax credit earned as a result of the
315 purchase of the proposed qualified investment.

316 (g) A detailed explanation of the proposed use of the
317 proceeds from a proposed qualified investment.

318 (h) A nonrefundable application fee of \$1,000, payable to
319 the office.

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320 (i) A statement that the entity will invest only in the
321 industries designated by the office.

322 (j) The entity's plans for the development of relationships
323 with community-based organizations, local community development
324 offices and organizations, and economic development
325 organizations. The entity must also explain steps it has taken
326 to implement its plans to develop these relationships.

327 (k) A statement that the entity will not invest in a
328 qualified active low-income community business unless the
329 business will create or retain jobs that pay an average wage of
330 at least 115 percent of the federal poverty guideline for a
331 family of four.

332 (3) REVIEW.—

333 (a) The office shall review applications to approve an
334 investment as a qualified investment in the order received. The
335 office shall approve or deny an application within 30 days after
336 receipt.

337 (b) If the office intends to deny the application, the
338 office shall inform the applicant of the basis of the proposed
339 denial. The applicant shall have 15 days after it receives the
340 notice of the intent to deny the application to submit a revised
341 application to the office. The office shall issue a final order
342 approving or denying the revised application within 30 days
343 after receipt.

344 (c) The office may not approve a cumulative amount of
345 qualified investments that may result in the claim of more than
346 \$97.5 million in tax credits during the existence of the program
347 or more than \$20 million in tax credits in a single state fiscal
348 year. However, the potential for a taxpayer to carry forward an

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349 unused tax credit may not be considered in calculating the
350 annual limit.

351 (4) APPROVAL.—

352 (a) The office shall provide a copy of the final order
353 approving an investment as a qualified investment to the
354 qualified community development entity and to the department.
355 The notice shall include the identity of the taxpayers who are
356 eligible to claim the tax credits and the amount that may be
357 claimed by each taxpayer.

358 (b) The office shall approve an application for part of the
359 amount of the proposed investment if the amount of tax credits
360 available are insufficient.

361 (c) If more than one application is found to comply with
362 subsection (3) on the same day and the amount of tax credits
363 available are insufficient for all of the applications, the tax
364 credits available to each applicant shall be in proportion to
365 the proposed purchase price to the total purchase price of all
366 of the proposed investments.

367 (5) DURATION OF APPROVAL.—The qualified community
368 development entity must issue the qualified investment in
369 exchange for cash within 60 days after it receives the order
370 approving an investment as a qualified investment, otherwise the
371 order is void.

372 (6) REPORT OF ISSUANCE OF A QUALIFIED INVESTMENT.—The
373 qualified community development entity must provide the office
374 with evidence of the receipt of the cash in exchange for the
375 qualified investment within 30 business days after receipt.

376 Section 8. Section 288.9915, Florida Statutes, is created
377 to read:

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378 288.9915 Use of proceeds from qualified investments;
379 recordkeeping.-

380 (1) A qualified community development entity may not make
381 cash interest payments on a long-term debt security that is a
382 qualified investment in excess of the entity's operating income
383 for 6 years following the issuance of the security.

384 (2) A qualified community development entity shall keep
385 detailed records showing the use of proceeds from qualified
386 investments to fund qualified low-income community investments.

387 (3) A qualified active low-income community business,
388 including its affiliates, may not receive more than \$10 million
389 in qualified low-income community investments under the New
390 Markets Development Program Act.

391 Section 9. Section 288.9916, Florida Statutes, is created
392 to read:

393 288.9916 New markets tax credit.-

394 (1) A person or entity that makes a qualified investment
395 earns a vested tax credit pursuant to the New Markets
396 Development Program Act against taxes under s. 220.11 or s.
397 624.509 equal to 39 percent of the purchase price of the
398 qualified investment. The holder of a qualified investment may
399 claim the tax credit as follows:

400 (a) The holder may apply 7 percent of the purchase price
401 against its tax liability in the tax year containing the third
402 credit allowance date.

403 (b) The holder may apply 8 percent of the purchase price
404 against its tax liability in the tax years containing the fourth
405 through seventh credit allowance dates.

406 (c) A taxpayer may not claim a tax credit in excess of the

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407 taxpayer's tax liability. If the credit granted pursuant to this
408 section is not fully used in any one year because of
409 insufficient tax liability on the part of the taxpayer, the
410 unused amount may be carried forward for a period not to exceed
411 5 years. The carryover credit may be used in a subsequent year
412 when the tax imposed for such year exceeds the credit for such
413 year, after applying the other credits and unused credit
414 carryovers in the order provided in s. 220.02(8). Carryover
415 credit amounts shall be treated as unused credits for purposes
416 of the transfer of unused credits pursuant to paragraph (2)(b).

417 (d) An insurance company that is subject to the insurance
418 premium tax under s. 624.509 must apply the tax credit against
419 the insurance premium tax. An insurer that claims a credit
420 against premium-tax liability earned by making a qualified
421 investment under this section need not pay any additional
422 retaliatory tax levied under s. 642.5091, as a result of
423 claiming the tax credit. If the credit granted pursuant to this
424 section is not fully used in any one year because of
425 insufficient tax liability on the part of the taxpayer, the
426 unused amount may be carried forward for a period not to exceed
427 5 years. The carryover credit may be used in a subsequent year
428 when the tax imposed for such year exceeds the credit for such
429 year, after applying the other credits and unused credit
430 carryovers in the order provided in s. 220.02(8). Carryover
431 credit amounts shall be treated as unused credits for purposes
432 of the transfer of unused credits pursuant to section
433 288.9916(2)(b).

434 (2) A tax credit earned under this section may not be sold
435 or transferred, except as provided in this subsection.

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436 (a) A partner, member, or shareholder of a partnership,
437 limited liability company, S-corporation, or other "pass-
438 through" entity may claim the tax credit pursuant to an
439 agreement among the partners, members, or shareholders. Any
440 change in the allocation of a tax credit under the agreement
441 must be reported to the office and to the department.

442 (b) Eligibility to claim a tax credit transfers to
443 subsequent purchasers of a qualified investment. Such transfers
444 must be reported to the office and to the department along with
445 the identity, tax identification number, and tax credit amount
446 allocated to a taxpayer pursuant to paragraph (a). The notice of
447 transfer also must state whether unused tax credits are being
448 transferred and the amount of unused tax credits being
449 transferred.

450 Section 10. Section 288.9917, Florida Statutes, is created
451 to read:

452 288.9917 Community development entity reporting after a
453 credit allowance date; certification of tax credit amount.-

454 (1) A qualified community development entity that has
455 issued a qualified investment shall submit the following to the
456 office within 30 days after each credit allowance date:

457 (a) A list of all qualified active low-income community
458 businesses in which a qualified low-income community investment
459 was made since the last credit allowance date. The list shall
460 also describe the type and amount of investment in each business
461 and the address of the principal location of each business. The
462 list must be verified by the chief executive officer of the
463 community development entity.

464 (b) Bank records, wire transfer records, or similar

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465 documents that provide evidence of the qualified low-income
466 community investments made since the last credit allowance date.

467 (c) A verified statement by the chief financial or
468 accounting officer of the community development entity that no
469 redemption or principal repayment was made with respect to the
470 qualified investment since the previous credit allowance date.

471 (d) Information relating to the recapture of the federal
472 new markets tax credit since the last credit allowance date.

473 (2) The office shall certify in writing to the qualified
474 community development entity and to the department the amount of
475 the tax credit authorized for each taxpayer eligible to claim
476 the tax credit in the tax year containing the last credit
477 allowance date.

478 Section 11. Section 288.9918, Florida Statutes, is created
479 to read:

480 288.9918 Annual reporting by a community development
481 entity.—A community development entity that has issued a
482 qualified investment shall submit an annual report to the office
483 by April 30 after the end of each year which includes a credit
484 allowance date. The report shall include:

485 (1) The entity's annual financial statements for the
486 preceding tax year, audited by an independent certified public
487 accountant.

488 (2) The identity of the types of industries, identified by
489 the North American Industry Classification System Code, in which
490 qualified low-income community investments were made.

491 (3) The names of the counties in which the qualified active
492 low-income businesses are located which received qualified low-
493 income community investments.

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494 (4) The number of jobs created and retained by qualified
495 active low-income community businesses receiving qualified low-
496 income community investments, including a verification that the
497 average wages paid meet or exceed 115 percent of the federal
498 poverty guideline for a family of four.

499 (5) A description of the relationships that the entity has
500 established with community-based organizations, local community
501 development offices and organizations, and a summary of the
502 outcomes resulting from those relationships.

503 (6) Other information and documentation required by the
504 office to verify continued certification as a qualified
505 community development entity under 26 U.S.C. 45D.

506 Section 12. Section 288.9919, Florida Statutes, is created
507 to read:

508 288.9919 Audits and examinations; penalties.—

509 (1) AUDITS.—A qualified community development entity that
510 issues an investment approved by the office as a qualified
511 investment shall be deemed a recipient of state financial
512 assistance under s. 215.97, the Florida Single Audit Act.
513 However, an entity that makes a qualified investment or receives
514 a qualified low-income community investment is not a
515 subrecipient for the purposes of s. 215.97.

516 (2) EXAMINATIONS.—The office may conduct examinations to
517 verify compliance with the New Markets Development Program Act.

518 Section 13. Section 288.9920, Florida Statutes, is created
519 to read:

520 288.9920 Recapture and penalties.—

521 (1) Notwithstanding s. 95.091, the office shall direct the
522 department, at any time before December 31, 2022, to recapture

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523 all or a portion of a tax credit authorized pursuant to the New
524 Markets Development Program Act if one or more of the following
525 occurs:

526 (a) The Federal Government recaptures any portion of the
527 federal new markets tax credit. The recapture by the department
528 shall equal the recapture by the Federal Government.

529 (b) The qualified community development entity redeems or
530 makes a principal repayment on a qualified investment before the
531 final allowance date. The recapture by the department shall
532 equal the redemption or principal repayment divided by the
533 purchase price and multiplied by the tax credit authorized to a
534 taxpayer for the qualified investment.

535 (c)1. The qualified community development entity fails to
536 invest at least 85 percent of the purchase price in qualified
537 low-income community investments within 12 months after the
538 issuance of a qualified investment; or

539 2. The qualified community development entity fails to
540 maintain 85 percent of the purchase price in qualified low-
541 income community investments until the last credit allowance
542 date for a qualified investment.

543
544 For the purposes of this paragraph, an investment by a qualified
545 community development entity includes principal recovered from
546 an investment for 12 months after its recovery or principal
547 recovered after the sixth credit allowance date. Principal held
548 for longer than 12 months or recovered before the sixth credit
549 allowance date is not an investment unless it is reinvested in a
550 qualified low-income community investment.

551 (d) The qualified community development entity fails to

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552 provide the office with information, reports, or documentation
553 required by the New Markets Development Program Act.

554 (e) The office determines that a taxpayer received tax
555 credits to which the taxpayer was not entitled.

556 (2) The office shall provide notice to the qualified
557 community development entity and the department of a proposed
558 recapture of a tax credit. The entity shall have 90 days
559 following the receipt of the notice to cure a deficiency
560 identified in the notice and avoid recapture. The department
561 shall issue a final order of recapture if the entity fails to
562 cure a deficiency within the 90-day period. The final order of
563 recapture shall be provided to the entity, the department, and a
564 taxpayer otherwise authorized to claim the tax credit.
565 Recaptured funds shall be deposited into the General Revenue
566 Fund.

567 (3) An entity that submits fraudulent information to the
568 office is liable for the costs associated with the investigation
569 and prosecution of the fraudulent claim plus a penalty in an
570 amount equal to double the tax credits claimed by investors in
571 the entity's qualified investments. This penalty is in addition
572 to any other penalty that may be imposed by law.

573 Section 14. Section 288.9921, Florida Statutes, is created
574 to read:

575 288.9921 Rulemaking.—The office and the department may
576 adopt rules pursuant to ss. 120.536(1) and 120.54 to administer
577 this section.

578 Section 15. Section 288.9922, Florida Statutes, is created
579 to read:

580 288.9922 Expiration of the New Markets Development Program

577-02950-09

20091502c1

581 Act.—Sections 288.991 through 288.9922 expire on December 31,
582 2022.

583 Section 16. This act shall take effect July 1, 2009.