

1                   A bill to be entitled  
2           An act relating to fast track economic stimulus for small  
3           businesses; amending s. 213.053, F.S.; authorizing the  
4           Department of Revenue to share certain confidential  
5           taxpayer information with the Office of Tourism, Trade,  
6           and Economic Development; preserving certain  
7           confidentiality of such information; amending s. 220.02,  
8           F.S.; revising legislative intent with respect to the  
9           order of tax credits to include the New Markets  
10          Development Program tax credit; amending s. 220.13, F.S.;  
11          revising a definition; creating ss. 288.991-288.9922,  
12          F.S.; providing a short title; establishing the New  
13          Markets Development Program; providing a purpose;  
14          providing definitions; providing for a tax credit for  
15          making certain qualified equity investments; specifying a  
16          credit amount; providing for uses of the credit;  
17          prohibiting sale or transfer of such credits; authorizing  
18          allocation of the credit; specifying limitations on such  
19          credits; specifying application and certification  
20          requirements and procedures for the Office of Tourism,  
21          Trade, and Economic Development to qualify certain equity  
22          investments as eligible for tax credits; providing for  
23          application fees; providing duties and responsibilities of  
24          the Department of Revenue; limiting the amount of  
25          investments the office may certify; providing requirements  
26          and limitations on issuance of certified equity  
27          investments; providing for calculation of tax credits;  
28          limiting the amount of the tax credit that may be redeemed

29 | in a fiscal year; providing for carryover of unredeemed  
 30 | tax credits under certain circumstances; providing for  
 31 | redemption of tax credits; specifying how tax credits may  
 32 | be claimed by insurance companies; requiring the  
 33 | calculations to be certified and accompanied by audited  
 34 | financial statements and notarized affidavits; providing  
 35 | requirements for recapture of tax credits under certain  
 36 | circumstances; requiring notice of proposed recapture;  
 37 | providing requirements for compliance and audits of  
 38 | qualified equity investments; providing annual reporting  
 39 | requirements for certain community development entities;  
 40 | providing annual reporting requirements for the office;  
 41 | authorizing the office to conduct certain examinations;  
 42 | authorizing the office to revoke or modify tax credit  
 43 | authorizations under certain circumstances; providing for  
 44 | taxpayer liability for reimbursement of fraudulently  
 45 | claimed tax credits; providing penalties; authorizing the  
 46 | office and the department to adopt rules; providing for  
 47 | future repeal of the tax credit program; providing an  
 48 | effective date.

49 |  
 50 | Be It Enacted by the Legislature of the State of Florida:

51 |  
 52 | Section 1. Subsection (19) is added to section 213.053,  
 53 | Florida Statutes, to read:

54 | 213.053 Confidentiality and information sharing.--

55 | (19) The department may disclose information relative to  
 56 | tax credits taken by a taxpayer pursuant to s. 288.9916 to the

57 Office of Tourism, Trade, and Economic Development or its  
 58 employees or agents. Such employees must be identified in  
 59 writing by the office to the department. All information  
 60 disclosed under this subsection is subject to the same  
 61 requirements of confidentiality and the same penalties for  
 62 violation of the requirements as the department.

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

65 220.02 Legislative intent.--

66 (8) It is the intent of the Legislature that credits  
 67 against either the corporate income tax or the franchise tax be  
 68 applied in the following order: those enumerated in s. 631.828,  
 69 those enumerated in s. 220.191, those enumerated in s. 220.181,  
 70 those enumerated in s. 220.183, those enumerated in s. 220.182,  
 71 those enumerated in s. 220.1895, those enumerated in s. 221.02,  
 72 those enumerated in s. 220.184, those enumerated in s. 220.186,  
 73 those enumerated in s. 220.1845, those enumerated in s. 220.19,  
 74 those enumerated in s. 220.185, those enumerated in s. 220.187,  
 75 those enumerated in s. 220.192, ~~and~~ those enumerated in s.  
 76 220.193, and those enumerated in s. 288.9916.

77 Section 3. Paragraph (a) of subsection (1) of section  
 78 220.13, Florida Statutes, is amended to read:

79 220.13 "Adjusted federal income" defined.--

80 (1) The term "adjusted federal income" means an amount  
 81 equal to the taxpayer's taxable income as defined in subsection  
 82 (2), or such taxable income of more than one taxpayer as  
 83 provided in s. 220.131, for the taxable year, adjusted as  
 84 follows:

85 (a) *Additions.*--There shall be added to such taxable  
 86 income:

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

92 2. The amount of interest which is excluded from taxable  
 93 income under s. 103(a) of the Internal Revenue Code or any other  
 94 federal law, less the associated expenses disallowed in the  
 95 computation of taxable income under s. 265 of the Internal  
 96 Revenue Code or any other law, excluding 60 percent of any  
 97 amounts included in alternative minimum taxable income, as  
 98 defined in s. 55(b)(2) of the Internal Revenue Code, if the  
 99 taxpayer pays tax under s. 220.11(3).

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

104 4. That portion of the wages or salaries paid or incurred  
 105 for the taxable year which is equal to the amount of the credit  
 106 allowable for the taxable year under s. 220.181. This  
 107 subparagraph shall expire on the date specified in s. 290.016  
 108 for the expiration of the Florida Enterprise Zone Act.

109 5. That portion of the ad valorem school taxes paid or  
 110 incurred for the taxable year which is equal to the amount of  
 111 the credit allowable for the taxable year under s. 220.182. This  
 112 subparagraph shall expire on the date specified in s. 290.016

113 for the expiration of the Florida Enterprise Zone Act.

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

118 7. That portion of assessments to fund a guaranty  
119 association incurred for the taxable year which is equal to the  
120 amount of the credit allowable for the taxable year.

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

126 9. The amount taken as a credit for the taxable year under  
127 s. 220.1895.

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

131 11. The amount taken as a credit for the taxable year  
132 under s. 220.187.

133 12. The amount taken as a credit for the taxable year  
134 under s. 220.192.

135 13. The amount taken as a credit for the taxable year  
136 under s. 220.193.

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

140 15. Any amount allowable as a deduction for federal income

141 tax purposes under s. 167 or s. 168 of the Internal Revenue Code  
 142 of 1986, as amended, for the taxable year to the extent that  
 143 such amount includes bonus depreciation allowable as deduction  
 144 under s. 168(k).

145 16. Any portion of a qualified investment, as defined in  
 146 s. 288.9913, which is claimed as a deduction by the taxpayer and  
 147 taken as a credit against income tax pursuant to s. 288.9916.

148 Section 4. Section 288.991, Florida Statutes, is created  
 149 to read:

150 288.991 Short title.--Sections 288.991-288.9922 may be  
 151 cited as the "New Markets Development Program Act."

152 Section 5. Section 288.9912, Florida Statutes, is created  
 153 to read:

154 288.9912 New Markets Development Program; purpose.--The  
 155 New Markets Development Program is established to encourage  
 156 capital investment in rural and urban low-income communities by  
 157 allowing taxpayers to earn credits against specified taxes by  
 158 investing in qualified community development entities that make  
 159 qualified low-income community investments in qualified active  
 160 low-income community businesses to create and retain jobs.

161 Section 6. Section 288.9913, Florida Statutes, is created  
 162 to read:

163 288.9913 Definitions.--As used in ss. 288.991-288.9922,  
 164 the term:

165 (1) "Credit allowance date" means:

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

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

168 (2) "Department" means the Department of Revenue.

169       (3) "Long-term debt security" means a debt instrument  
170 issued by a qualified community development entity at par value  
171 or a premium which has a maturity date of at least 7 years  
172 following the date of its issuance, with no acceleration of  
173 repayment, amortization, or prepayment features prior to its  
174 original maturity date, except in instances of default.

175       (4) "Low-income community" means any population census  
176 tract within the state where:

177       1. The poverty rate of such tract is at least 20 percent;  
178 or

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

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

183       b. Located within a metropolitan area, the median family  
184 income for such tract does not exceed 80 percent of the greater  
185 of the statewide median family income or the metropolitan area  
186 median income.

187       (5) "Office" means the Office of Tourism, Trade, and  
188 Economic Development.

189       (6) "Purchase price" means the amount of cash paid to a  
190 qualified community development entity in exchange for a  
191 qualified investment.

192       (7) "Qualified active low-income community business" means  
193 a corporation, including a nonprofit corporation, or partnership  
194 that:

195       (a)1. Derives at least 50 percent of its total gross  
196 income from the active conduct of business within any low-income

197 community for any taxable year;  
 198 2. Uses a substantial portion of its tangible property,  
 199 whether owned or leased, within any low-income community for any  
 200 taxable year;  
 201 3. Performs a substantial portion of its services through  
 202 its employees in a low-income community for any taxable year;  
 203 4. Attributes less than 5 percent of the average of the  
 204 aggregate unadjusted bases of the property of the entity to  
 205 collectibles, as defined in 26 U.S.C. s. 408(m)(2), other than  
 206 collectibles that are held primarily for sale to customers in  
 207 the ordinary course of the business for any taxable year; and  
 208 5. Attributes less than 5 percent of the average of the  
 209 aggregate unadjusted bases of the property of the entity to  
 210 nonqualified financial property, as defined in 26 U.S.C. s.  
 211 1397C(e), for any taxable year.  
 212 (b) Is reasonably expected by a qualified community  
 213 development entity at the time of an investment to continue to  
 214 satisfy the requirements of paragraphs (a), (c), and (d) for the  
 215 duration of the investment.  
 216 (c) Satisfies the requirements of paragraphs (a) and (b),  
 217 but does not:  
 218 1. Derive or project to derive 15 percent or more of its  
 219 annual revenue from the rental or sale of real estate;  
 220 2. Engage predominantly in the development or holding of  
 221 intangibles for sale or license;  
 222 3. Operate a private or commercial golf course, country  
 223 club, massage parlor, hot tub facility, suntan facility,  
 224 racetrack, gambling facility, or a store the principal business



225 of which is the sale of alcoholic beverages for consumption off  
 226 premises; or

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

230 (d) Will create or retain jobs that pay an average wage of  
 231 at least 115 percent of the federal poverty income guidelines  
 232 for a family of four.

233 (8) "Qualified community development entity" means an  
 234 entity that:

235 (a) Is certified by the Secretary of the United States  
 236 Department of the Treasury as a qualified community development  
 237 entity under 26 U.S.C. s. 45D; and

238 (b) Has entered into, or is controlled by an entity that  
 239 has entered into, an allocation agreement with the Community  
 240 Development Financial Institutions Fund of the United States  
 241 Department of the Treasury with respect to tax credits under 26  
 242 U.S.C. s. 45D and is authorized to serve businesses in this  
 243 state under the agreement.

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

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

248 (b) Is designated by the qualified community development  
 249 entity as a qualified investment under this paragraph and is  
 250 approved by the office as a qualified investment.

251 (10) "Qualified low-income community investment" means a  
 252 capital or equity investment in, or loan to, any qualified

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253 active low-income community business.

254 Section 7. Section 288.9914, Florida Statutes, is created  
255 to read:

256 288.9914 Certification of qualified investments;  
257 investment issuance reporting.--

258 (1) ELIGIBLE INDUSTRIES.--

259 (a) The office, in consultation with Enterprise Florida,  
260 Inc., shall designate industries using the North American  
261 Industry Classification System which are eligible to receive  
262 low-income community investments. The designated industries must  
263 be those industries that have the greatest potential to create  
264 strong positive impacts on or benefits to the state, regional,  
265 and local economies.

266 (b) A qualified community development entity may not make  
267 a qualified low-income community investment in a business unless  
268 the principal activities of the business are within an eligible  
269 industry. The office may waive this limitation if the office  
270 determines that the investment will have a positive impact on a  
271 community.

272 (2) APPLICATION.--A qualified community development entity  
273 must submit an application to the office to approve a proposed  
274 investment as a qualified investment. The application must  
275 include:

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

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

280 (c) A copy of an allocation agreement executed by the

281 entity, or its controlling entity, and the Community Development  
 282 Financial Institutions Fund, which authorizes the entity to  
 283 serve businesses in this state.

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

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

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

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

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

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

297 (j) The entity's plans for the development of  
 298 relationships with community-based organizations, local  
 299 community development offices and organizations, and economic  
 300 development organizations. The entity must also explain steps it  
 301 has taken to implement its plans to develop these relationships.

302 (k) A statement that the entity will not invest in a  
 303 qualified active low-income community business unless the  
 304 business will create or retain jobs that pay an average wage of  
 305 at least 115 percent of the federal poverty income guidelines  
 306 for a family of four.

307 (3) REVIEW.--

308 (a) The office shall review applications to approve an

309 investment as a qualified investment in the order received. The  
310 office shall approve or deny an application within 30 days after  
311 receipt.

312 (b) If the office intends to deny the application, the  
313 office shall inform the applicant of the basis of the proposed  
314 denial. The applicant shall have 15 days after it receives the  
315 notice of the intent to deny the application to submit a revised  
316 application to the office. The office shall issue a final order  
317 approving or denying the revised application within 30 days  
318 after receipt.

319 (c) The office may not approve a cumulative amount of  
320 qualified investments that may result in the claim of more than  
321 \$97.5 million in tax credits during the existence of the program  
322 or more than \$20 million in tax credits in a single fiscal year.  
323 However, the potential for a taxpayer to carry forward an unused  
324 tax credit may not be considered in calculating the annual  
325 limit.

326 (4) APPROVAL.--

327 (a) The office shall provide a copy of the final order  
328 approving an investment as a qualified investment to the  
329 qualified community development entity and to the department.  
330 The notice shall include the identity of the taxpayers who are  
331 eligible to claim the tax credits and the amount that may be  
332 claimed by each taxpayer.

333 (b) The office shall approve an application for part of  
334 the amount of the proposed investment if the amount of tax  
335 credits available are insufficient.

336 (c) If more than one application is found to comply with

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337 subsection (3) on the same day and the amount of tax credits  
338 available are insufficient for all of the applications, the tax  
339 credits available to each applicant shall be in proportion to  
340 the proposed purchase price to the total purchase price of all  
341 of the proposed investments.

342 (5) DURATION OF APPROVAL.--The qualified community  
343 development entity must issue the qualified investment in  
344 exchange for cash within 60 days after it receives the order  
345 approving an investment as a qualified investment, otherwise the  
346 order is void.

347 (6) REPORT OF ISSUANCE OF A QUALIFIED INVESTMENT.--The  
348 qualified community development entity must provide the office  
349 with evidence of the receipt of the cash in exchange for the  
350 qualified investment within 30 business days after receipt.

351 Section 8. Section 288.9915, Florida Statutes, is created  
352 to read:

353 288.9915 Use of proceeds from qualified investments;  
354 recordkeeping.--

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

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

362 (3) A qualified active low-income community business,  
363 including its affiliates, may not receive more than \$10 million  
364 in qualified low-income community investments under the New

365 Markets Development Program Act.

366 Section 9. Section 288.9916, Florida Statutes, is created  
367 to read:

368 288.9916 New markets tax credit.--

369 (1) A person or entity that makes a qualified investment  
370 earns a vested tax credit pursuant to the New Markets  
371 Development Program Act against taxes under s. 220.11 or s.  
372 624.509 equal to 39 percent of the purchase price of the  
373 qualified investment. The holder of a qualified investment may  
374 claim the tax credit as follows:

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

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

381 (c) A taxpayer may not claim a tax credit in excess of the  
382 taxpayer's tax liability. If the credit granted pursuant to this  
383 section is not fully used in any single year because of  
384 insufficient tax liability on the part of the taxpayer, the  
385 unused amount may be carried forward for a period not to exceed  
386 5 years. The carryover credit may be used in a subsequent year  
387 when the tax imposed for such year exceeds the credit for such  
388 year, after applying the other credits and unused credit  
389 carryovers in the order provided in s. 220.02(8). Carryover  
390 credit amounts shall be treated as unused credits for purposes  
391 of the transfer of unused credits pursuant to paragraph (2)(b).

392 (d) An insurance company that is subject to the insurance

393 premium tax under s. 624.509 must apply the tax credit against  
394 the insurance premium tax. An insurer that claims a credit  
395 against premium tax liability earned by making a qualified  
396 investment under this section is not required to pay any  
397 additional retaliatory tax levied pursuant to s. 624.5091 as a  
398 result of claiming the tax credit. If the credit granted  
399 pursuant to this section is not fully used in any single year  
400 because of insufficient tax liability on the part of the  
401 taxpayer, the unused amount may be carried forward for a period  
402 not to exceed 5 years. The carryover credit may be used in a  
403 subsequent year when the tax imposed for such year exceeds the  
404 credit for such year, after applying the other credits and  
405 unused credit carryovers in the order provided in s. 220.02(8).  
406 Carryover credit amounts shall be treated as unused credits for  
407 purposes of the transfer of unused credits pursuant to paragraph  
408 (2) (b) .

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

411 (a) A partner, member, or shareholder of a partnership,  
412 limited liability company, S-corporation, or other "pass-  
413 through" entity may claim the tax credit pursuant to an  
414 agreement among the partners, members, or shareholders. Any  
415 change in the allocation of a tax credit under the agreement  
416 must be reported to the office and to the department.

417 (b) Eligibility to claim a tax credit transfers to  
418 subsequent purchasers of a qualified investment. Such transfers  
419 must be reported to the office and to the department along with  
420 the identity, tax identification number, and tax credit amount

421 allocated to a taxpayer pursuant to paragraph (a). The notice of  
 422 transfer also must state whether unused tax credits are being  
 423 transferred and the amount of unused tax credits being  
 424 transferred.

425 Section 10. Section 288.9917, Florida Statutes, is created  
 426 to read:

427 288.9917 Community development entity reporting after a  
 428 credit allowance date; certification of tax credit amount.--

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

432 (a) A list of all qualified active low-income community  
 433 businesses in which a qualified low-income community investment  
 434 was made since the last credit allowance date. The list shall  
 435 also describe the type and amount of investment in each business  
 436 and the address of the principal location of each business. The  
 437 list must be verified by the chief executive officer of the  
 438 community development entity.

439 (b) Bank records, wire transfer records, or similar  
 440 documents that provide evidence of the qualified low-income  
 441 community investments made since the last credit allowance date.

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

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

448 (2) The office shall certify in writing to the qualified



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449 community development entity and to the department the amount of  
450 the tax credit authorized for each taxpayer eligible to claim  
451 the tax credit in the tax year containing the last credit  
452 allowance date.

453 Section 11. Section 288.9918, Florida Statutes, is created  
454 to read:

455 288.9918 Annual reporting by a community development  
456 entity.--A community development entity that has issued a  
457 qualified investment shall submit an annual report to the office  
458 by April 30 after the end of each year which includes a credit  
459 allowance date. The report shall include:

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

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

466 (3) The names of the counties in which the qualified  
467 active low-income businesses are located which received  
468 qualified low-income community investments.

469 (4) The number of jobs created and retained by qualified  
470 active low-income community businesses receiving qualified low-  
471 income community investments, including verification that the  
472 average wages paid meet or exceed 115 percent of the federal  
473 poverty income guidelines for a family of four.

474 (5) A description of the relationships that the entity has  
475 established with community-based organizations and local  
476 community development offices and organizations and a summary of

477 the outcomes resulting from those relationships.

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

481 Section 12. Section 288.9919, Florida Statutes, is created  
 482 to read:

483 288.9919 Audits and examinations; penalties.--

484 (1) AUDITS.--A community development entity that issues an  
 485 investment approved by the office as a qualified investment  
 486 shall be deemed a recipient of state financial assistance under  
 487 s. 215.97, the Florida Single Audit Act. However, an entity that  
 488 makes a qualified investment or receives a qualified low-income  
 489 community investment is not a subrecipient for the purposes of  
 490 s. 215.97.

491 (2) EXAMINATIONS.--The office may conduct examinations to  
 492 verify compliance with the New Markets Development Program Act.

493 Section 13. Section 288.9920, Florida Statutes, is created  
 494 to read:

495 288.9920 Recapture and penalties.--

496 (1) Notwithstanding s. 95.091, the office shall direct the  
 497 department, at any time before December 31, 2022, to recapture  
 498 all or a portion of a tax credit authorized pursuant to the New  
 499 Markets Development Program Act if one or more of the following  
 500 occur:

501 (a) The Federal Government recaptures any portion of the  
 502 federal new markets tax credit. The recapture by the department  
 503 shall equal the recapture by the Federal Government.

504 (b) The qualified community development entity redeems or

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505 makes a principal repayment on a qualified investment before the  
506 final allowance date. The recapture by the department shall  
507 equal the redemption or principal repayment divided by the  
508 purchase price and multiplied by the tax credit authorized to a  
509 taxpayer for the qualified investment.

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

514 2. The qualified community development entity fails to  
515 maintain 85 percent of the purchase price in qualified low-  
516 income community investments until the last credit allowance  
517 date for a qualified investment.

518  
519 For the purposes of this paragraph, an investment by a qualified  
520 community development entity includes principal recovered from  
521 an investment for 12 months after its recovery or principal  
522 recovered after the sixth credit allowance date. Principal held  
523 for longer than 12 months or recovered before the sixth credit  
524 allowance date is not an investment unless it is reinvested in a  
525 qualified low-income community investment.

526 (d) The qualified community development entity fails to  
527 provide the office with information, reports, or documentation  
528 required by the New Markets Development Program Act.

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

531 (2) The office shall provide notice to the qualified  
532 community development entity and the department of a proposed

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533 recapture of a tax credit. The entity shall have 90 days  
534 following the receipt of the notice to cure a deficiency  
535 identified in the notice and avoid recapture. The department  
536 shall issue a final order of recapture if the entity fails to  
537 cure a deficiency within the 90-day period. The final order of  
538 recapture shall be provided to the entity, the department, and a  
539 taxpayer otherwise authorized to claim the tax credit.  
540 Recaptured funds shall be deposited into the General Revenue  
541 Fund.

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

548 Section 14. Section 288.9921, Florida Statutes, is created  
549 to read:

550 288.9921 Rulemaking.--The office and the department may  
551 adopt rules pursuant to ss. 120.536(1) and 120.54 to administer  
552 ss. 288.991-288.9920.

553 Section 15. Section 288.9922, Florida Statutes, is created  
554 to read:

555 288.9922 Expiration of the New Markets Development Program  
556 Act.--Sections 288.991-288.9921 and this section expire December  
557 31, 2022.

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