

## ENROLLED

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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

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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

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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:

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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

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- 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

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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.

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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

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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



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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)1. 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 2. 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; or

244 (b) Is Enterprise Florida, Inc., or an entity created by  
 245 Enterprise Florida, Inc.

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

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

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

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

256           Section 7. Section 288.9914, Florida Statutes, is created  
 257 to read:

258           288.9914 Certification of qualified investments;  
 259 investment issuance reporting.--

260           (1) ELIGIBLE INDUSTRIES.--

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

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

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

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

280           (b) Proof of certification as a qualified community

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281 development entity under 26 U.S.C. s. 45D.

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

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

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

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

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

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

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

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

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

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309 (3) REVIEW.--

310 (a) The office shall review applications to approve an  
311 investment as a qualified investment in the order received. The  
312 office shall approve or deny an application within 30 days after  
313 receipt.

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

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

328 (4) APPROVAL.--

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

335 (b) The office shall approve an application for part of  
336 the amount of the proposed investment if the amount of tax

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337 credits available are insufficient.

338 (c) If more than one application is found to comply with  
 339 subsection (3) on the same day and the amount of tax credits  
 340 available are insufficient for all of the applications, the tax  
 341 credits available to each applicant shall be in proportion to  
 342 the proposed purchase price to the total purchase price of all  
 343 of the proposed investments.

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

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

353 Section 8. Section 288.9915, Florida Statutes, is created  
 354 to read:

355 288.9915 Use of proceeds from qualified investments;  
 356 recordkeeping.--

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

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

364 (3) A qualified active low-income community business,

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365 including its affiliates, may not receive more than \$10 million  
366 in qualified low-income community investments under the New  
367 Markets Development Program Act.

368 Section 9. Section 288.9916, Florida Statutes, is created  
369 to read:

370 288.9916 New markets tax credit.--

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

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

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

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

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393 of the transfer of unused credits pursuant to paragraph (2) (b) .

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

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

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

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

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

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

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

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

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

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

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

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



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449           (2) The office shall certify in writing to the qualified  
 450 community development entity and to the department the amount of  
 451 the tax credit authorized for each taxpayer eligible to claim  
 452 the tax credit in the tax year containing the last credit  
 453 allowance date.

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

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

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

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

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

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

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

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477 community development offices and organizations and a summary of  
 478 the outcomes resulting from those relationships.

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

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

484 288.9919 Audits and examinations; penalties.--

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

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

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

496 288.9920 Recapture and penalties.--

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

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

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

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

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

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

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

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

532       (2) The office shall provide notice to the qualified

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

541 Recaptured funds shall be deposited into the General Revenue  
542 Fund.

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

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

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

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

556 288.9922 Expiration of the New Markets Development Program  
557 Act.--Sections 288.991-288.9921 and this section expire December  
558 31, 2022.

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