

By Senator Fasano

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1                   A bill to be entitled  
2           An act relating to the New Markets Development  
3           Program; amending s. 288.9913, F.S.; revising the  
4           definition of the term "qualified active low-income  
5           community business" for purposes of the New Markets  
6           Development Program Act; providing an effective date.

7  
8   Be It Enacted by the Legislature of the State of Florida:

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10           Section 1. Subsection (7) of section 288.9913, Florida  
11           Statutes, is amended to read:

12           288.9913 Definitions.—As used in ss. 288.991-288.9922, the  
13           term:

14           (7) "Qualified active low-income community business" means  
15           a corporation, including a nonprofit corporation, or partnership  
16           that complies with each of the following:

17           (a)1. Derives at least 50 percent of its total gross income  
18           from the active conduct of business within any low-income  
19           community for any taxable year.~~†~~

20           2. Uses at least 40 percent ~~a substantial portion~~ of its  
21           tangible property, whether owned or leased, within any low-  
22           income community for any taxable year, which percentage shall be  
23           the average value of the tangible property owned or leased and  
24           used within a low-income community by the corporation or  
25           partnership divided by the average value of the total tangible  
26           property owned or leased and used by the corporation or  
27           partnership during the taxable year. The value assigned to  
28           leased property by the corporation or partnership must be  
29           reasonable.~~†~~

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30           3. Performs at least 40 percent ~~a substantial portion~~ of  
31 its services through its employees in a low-income community for  
32 any taxable year, which percentage shall be the amount paid by  
33 the corporation or partnership for salaries, wages, and benefits  
34 to employees in a low-income community divided by the total  
35 amount paid by the corporation or partnership for salaries,  
36 wages, and benefits during the taxable year.†

37           4. Attributes less than 5 percent of the average of the  
38 aggregate unadjusted bases of the property of the entity to  
39 collectibles, as defined in 26 U.S.C. s. 408(m)(2), other than  
40 collectibles that are held primarily for sale to customers in  
41 the ordinary course of the business for any taxable year.† ~~and~~

42           5. Attributes less than 5 percent of the average of the  
43 aggregate unadjusted bases of the property of the entity to  
44 nonqualified financial property, as defined in 26 U.S.C. s.  
45 1397C(e), for any taxable year.

46  
47 A corporation or partnership complies with subparagraph 1. if,  
48 as calculated in subparagraph 2., it uses at least 50 percent of  
49 its tangible property, whether owned or leased, within any low-  
50 income community for any taxable year or if, as calculated in  
51 subparagraph 3., the corporation or partnership performs at  
52 least 50 percent of its services through its employees in a low-  
53 income community for any taxable year.

54           (b) Is reasonably expected by a qualified community  
55 development entity at the time of an investment to continue to  
56 satisfy the requirements of paragraphs (a), (c), and (d) for the  
57 duration of the investment.

58           (c) Satisfies the requirements of paragraphs (a) and (b),

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59 but does not:

60 1. Derive or project to derive 15 percent or more of its  
61 annual revenue from the rental or sale of real estate, unless  
62 the corporation or partnership derives such revenue from the  
63 rental of real estate and the primary lessee and user of such  
64 real estate is another qualified active low-income community  
65 business that is owned or controlled by, or that is under common  
66 ownership or control with, such corporation or partnership;

67 2. Engage predominantly in the development or holding of  
68 intangibles for sale or license;

69 3. Operate a private or commercial golf course, country  
70 club, massage parlor, hot tub facility, suntan facility,  
71 racetrack, gambling facility, or a store the principal business  
72 of which is the sale of alcoholic beverages for consumption off  
73 premises; or

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

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

80 Section 2. This act shall take effect upon becoming a law.