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et al.

H.B. No. 1000

A BILL TO BE ENTITLED

AN ACT

1
2 relating to rural and opportunity funds and insurance tax credits
3 for certain investments in those funds; imposing a monetary
4 penalty; authorizing fees.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subtitle F, Title 4, Government Code, is amended
7 by adding Chapter 487A to read as follows:

8 CHAPTER 487A. RURAL AND OPPORTUNITY FUNDS

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 487A.0001. GENERAL DEFINITIONS. In this chapter:

11 (1) "Closing date" means the date a rural and
12 opportunity fund has collected all of the amounts described by
13 Section 487A.0056(a)(1).

14 (2) "Growth investment" means any capital or equity
15 investment by a rural and opportunity fund in a targeted small
16 business or any loan by a rural and opportunity fund to a targeted
17 small business with a stated maturity date of at least one year
18 after the date of issuance.

19 (3) "Office" means the Texas Economic Development and
20 Tourism Office.

21 (4) "Qualified area" means:

22 (A) a rural community as defined by Section
23 12.046, Agriculture Code, that is not a geographic area delineated
24 as urbanized by the United States Census Bureau; or

1 (B) a qualified opportunity zone as defined by
2 Section 1400Z-1, Internal Revenue Code of 1986.

3 (5) "Rural and opportunity fund" means an entity
4 approved by the office as a rural and opportunity fund.

5 Sec. 487A.0002. DEFINITION: AFFILIATE. (a) In this
6 chapter, "affiliate" means an entity that directly or indirectly
7 through one or more intermediaries controls, is controlled by, or
8 is under common control with another entity.

9 (b) For purposes of Subsection (a), an entity is controlled
10 by another entity if the controlling entity:

11 (1) holds, directly or indirectly, the majority voting
12 or ownership interest in the controlled entity; or

13 (2) has control over the day-to-day operations of the
14 controlled entity by contract or by law.

15 Sec. 487A.0003. DEFINITION: CREDIT-ELIGIBLE CAPITAL
16 CONTRIBUTION. (a) In this chapter and subject to Subsection (b),
17 "credit-eligible capital contribution" means an investment of cash
18 that equals the amount specified on a tax credit certificate issued
19 by the office under Section 487A.0055(2) made by an entity that is
20 subject to state insurance tax liability, as defined by Section
21 232.0001, Insurance Code.

22 (b) An investment made by an entity qualifies as a
23 credit-eligible capital contribution only if the entity making the
24 investment receives in exchange for the investment:

25 (1) an equity interest in the rural and opportunity
26 fund; or

27 (2) at par value or premium, a debt instrument that has

1 a maturity date of at least five years from the closing date and a
2 repayment schedule that is no faster than level principal
3 amortization over five years.

4 Sec. 487A.0004. DEFINITION: INVESTMENT AUTHORITY. (a) In
5 this chapter, "investment authority" means the amount stated on the
6 notice issued under Section 487A.0055(1) approving the rural and
7 opportunity fund.

8 (b) At least 65 percent of a rural and opportunity fund's
9 investment authority must consist of credit-eligible capital
10 contributions.

11 Sec. 487A.0005. DEFINITION: JOBS CREATED. (a) In this
12 chapter, "jobs created" means, with respect to a targeted small
13 business, employment positions that are created by the targeted
14 small business, are located in this state, require at least 35 hours
15 of work each week, and were not located in this state at the time of
16 the initial growth investment in the targeted small business.

17 (b) The number of jobs created by a targeted small business
18 is calculated each year by subtracting the number of employment
19 positions in this state at the targeted small business at the time
20 of the initial growth investment in the targeted small business
21 from the monthly average of those employment positions for that
22 year. If the number calculated under this subsection is less than
23 zero, the number shall be reported as zero.

24 (c) The monthly average of employment positions for a year
25 is calculated by adding together the number of employment positions
26 existing on the last day of each month of the year and dividing by
27 12.

1 Sec. 487A.0006. DEFINITION: JOBS RETAINED. (a) In this
2 chapter, "jobs retained" means, with respect to a targeted small
3 business, employment positions:

4 (1) located in this state requiring at least 35 hours
5 of work each week that existed before the initial growth investment
6 in the targeted small business; and

7 (2) that would have been lost or moved out of this
8 state had a growth investment in the targeted small business not
9 been made, as certified in writing by an executive officer of the
10 targeted small business to the rural and opportunity fund.

11 (b) The number of jobs retained by a targeted small business
12 is calculated each year based on the monthly average of employment
13 positions for that year.

14 (c) The monthly average of employment positions for a year
15 is calculated by adding together the number of employment positions
16 existing on the last day of each month of the year and dividing by
17 12.

18 (d) The reported number of jobs retained for a year may not
19 exceed the number reported on the initial report under Section
20 487A.0155. The rural and opportunity fund shall reduce the number
21 of jobs retained for a year if employment at the targeted small
22 business drops below the number reported on the initial report.

23 Sec. 487A.0007. DEFINITION: TARGETED SMALL BUSINESS. (a)
24 In this chapter, "targeted small business" means a business that,
25 at the time of the initial growth investment in the business:

26 (1) had fewer than 250 employees; and

27 (2) has its principal business operations located in

1 one or more qualified areas in this state.

2 (b) For purposes of Subsection (a)(2), the principal
3 business operations of a business are located at a place where:

4 (1) at least 60 percent of the business's employees
5 work; or

6 (2) employees who are paid at least 60 percent of the
7 business's payroll work.

8 (c) An out-of-state business that agrees to relocate or hire
9 new employees using the proceeds of a growth investment to
10 establish principal business operations in a qualified area in this
11 state qualifies as a targeted small business if the business
12 satisfies the requirements of:

13 (1) Subsection (a)(1) at the time of the initial
14 growth investment in the business; and

15 (2) Subsection (a)(2) not later than the 180th day
16 after receiving the initial growth investment or a later date
17 agreed to by the office.

18 Sec. 487A.0008. RULES. The office shall adopt rules
19 necessary to implement this chapter.

20 SUBCHAPTER B. APPROVAL OF RURAL AND OPPORTUNITY FUNDS

21 Sec. 487A.0051. APPLICATION. (a) Subject to Section
22 487A.0202, the office shall accept applications from entities
23 seeking approval as rural and opportunity funds.

24 (b) An application must include:

25 (1) the total investment authority sought by the
26 applicant under the applicant's business plan;

27 (2) evidence sufficient to prove to the office's

1 satisfaction that, as of the date the applicant submits the
2 application:

3 (A) the applicant or affiliates of the applicant
4 have invested, in the aggregate, at least \$100 million in nonpublic
5 companies located in:

6 (i) a municipality with a population of
7 less than 50,000, regardless of whether the municipality is located
8 inside or outside this state;

9 (ii) a county with a population of less than
10 200,000, regardless of whether the county is located inside or
11 outside this state; or

12 (iii) a census tract designated as a
13 qualified opportunity zone in accordance with Section 1400Z-1,
14 Internal Revenue Code of 1986, regardless of when the designation
15 is made and regardless of whether the census tract is located inside
16 or outside this state; and

17 (B) at least one principal in a rural business
18 investment company licensed under 7 U.S.C. Section 2009cc et seq.
19 or a small business investment company licensed under 15 U.S.C.
20 Section 681 is, and has been for at least four years, an officer or
21 employee of the applicant or of an affiliate of the applicant on the
22 date the application is submitted;

23 (3) a copy of the rural business investment company
24 license or small business investment company license described by
25 Subdivision (2)(B);

26 (4) an estimate of the number of jobs created and jobs
27 retained as a result of the applicant's growth investments;

1 (5) a business plan that includes a revenue impact
2 assessment that:

3 (A) projects state and local tax revenue to be
4 generated by the applicant's proposed growth investments; and

5 (B) is prepared by a nationally recognized third
6 party independent economic forecasting firm using a dynamic
7 economic forecasting model that analyzes the applicant's business
8 plan for the 10-year period following the date the applicant
9 submits the application;

10 (6) a signed affidavit from each committed investor
11 stating the amount of credit-eligible capital contributions the
12 investor commits to making; and

13 (7) a nonrefundable application fee of \$5,000.

14 Sec. 487A.0052. DECISION ON APPLICATION. (a) The office
15 shall make a determination on each application not later than the
16 30th day after the date the office receives the application. The
17 office shall make application determinations in the order in which
18 applications are received and shall consider applications received
19 on the same day to be received simultaneously.

20 (b) The office may approve investment authority under this
21 chapter in amounts that would allow not more than \$35 million in tax
22 credits to be claimed under Section 232.0053, Insurance Code, in
23 any calendar year, excluding any credit carryforwards under Section
24 232.0054, Insurance Code.

25 (c) If a request for investment authority exceeds the
26 limitation under Subsection (b), the office shall reduce the
27 investment authority and the credit-eligible capital contributions

1 for that application as necessary to avoid exceeding the limit. If
2 multiple applications received on the same day request a combined
3 investment authority that exceeds the limit under Subsection (b),
4 the office shall proportionally reduce the investment authority and
5 the credit-eligible capital contributions for those applications
6 as necessary to avoid exceeding the limit. The office may not
7 reduce an applicant's investment authority for any reason other
8 than as authorized by this subsection.

9 Sec. 487A.0053. GROUNDS FOR DENIAL. The office may deny an
10 application under this subchapter only if:

11 (1) the application is incomplete or the application
12 fee is not paid in full;

13 (2) the applicant fails to satisfy the requirements of
14 Section 487A.0051(b)(2);

15 (3) the revenue impact assessment submitted under
16 Section 487A.0051(b)(5) does not demonstrate that the applicant's
17 business plan will result in a positive economic impact on combined
18 state and local revenue during the 10-year period covered by the
19 assessment that exceeds the cumulative amount of tax credits that
20 would be issued to the applicant's investors under Chapter 232,
21 Insurance Code, if the application were approved;

22 (4) the credit-eligible capital contributions
23 described in affidavits submitted under Section 487A.0051(b)(6) do
24 not equal at least 65 percent of the total amount of investment
25 authority sought under the applicant's business plan; or

26 (5) the office has already approved the maximum amount
27 of investment authority allowed under Section 487A.0052(b).

1 Sec. 487A.0054. SUBMISSION OF ADDITIONAL INFORMATION
2 FOLLOWING DENIAL. (a) If the office denies an application the
3 applicant may, not later than the 15th day after the date the office
4 provides notice of denial, provide additional information to the
5 office to complete, clarify, or cure defects in the application
6 identified by the office.

7 (b) If the applicant completes, clarifies, or cures the
8 defects in its application during the period prescribed by
9 Subsection (a), the application is considered complete as of the
10 original submission date.

11 (c) If the applicant fails to complete, clarify, or cure the
12 defects in its application during the period prescribed by
13 Subsection (a), the application is finally denied. An applicant
14 who wishes to reapply must resubmit an application in full with a
15 new submission date.

16 (d) The office shall review and reconsider an application
17 described by Subsection (a) for which the applicant provides
18 additional information not later than the 30th day after the date
19 the applicant provides the information. The office shall consider
20 that application before any pending applications submitted after
21 the date that application was originally submitted.

22 (e) This section does not apply to an application denied as
23 a result of the applicant's failure to submit with the application
24 affidavits required by Section 487A.0051(b)(6).

25 Sec. 487A.0055. APPROVAL BY OFFICE. On approval of an
26 application, the office shall provide:

27 (1) written notice to the applicant of the applicant's

1 approval as a rural and opportunity fund, including the amount of
2 the fund's investment authority; and

3 (2) a tax credit certificate to each investor whose
4 affidavit was included in the application and include on the
5 certificate the amount of the investor's credit-eligible capital
6 contribution.

7 Sec. 487A.0056. DUTIES OF FUND FOLLOWING APPROVAL. (a) A
8 rural and opportunity fund shall:

9 (1) not later than the 60th day after the date the fund
10 receives the approval notice under Section 487A.0055:

11 (A) collect the credit-eligible capital
12 contribution from each investor issued a tax credit certificate
13 under Section 487A.0055; and

14 (B) subject to Subsection (b), collect one or
15 more investments of cash that, when added to the contributions
16 collected under Paragraph (A), equal the fund's investment
17 authority; and

18 (2) not later than the 65th day after the date the fund
19 receives the approval notice under Section 487A.0055, send to the
20 office documentation sufficient to prove that the fund has
21 collected the amounts described in Subdivision (1).

22 (b) At least 10 percent of the rural and opportunity fund's
23 investment authority must consist of equity investments
24 contributed directly or indirectly by affiliates of the fund,
25 including employees, officers, and directors of those affiliates.

26 Sec. 487A.0057. LAPSE OF APPROVAL. (a) If a rural and
27 opportunity fund fails to comply with the requirements of Section

1 487A.0056, the fund's approval lapses and the corresponding
2 investment authority described by Section 487A.0056(a)(1) does not
3 count toward the limit prescribed by Section 487A.0052(b).

4 (b) The office shall first award lapsed investment
5 authority pro rata to each rural and opportunity fund whose
6 requested investment authority was reduced under Section
7 487A.0052(c). The rural and opportunity fund may allocate the
8 investment authority awarded under this subsection to the fund's
9 investors in the fund's discretion. The office may award any
10 remaining investment authority to new applicants.

11 Sec. 487A.0058. DISPOSITION OF APPLICATION FEES.

12 Application fees submitted to the office under Section
13 487A.0051(b)(7) shall be deposited to the credit of the general
14 revenue fund and may be appropriated only to the office for the
15 purpose of administering this chapter.

16 SUBCHAPTER C. REVOCATION OF TAX CREDIT CERTIFICATE

17 Sec. 487A.0101. GROUNDS FOR REVOCATION. (a) The office

18 shall revoke a tax credit certificate issued under Subchapter B in
19 connection with an investment in a rural and opportunity fund if,
20 before the fund exits the program under Section 487A.0151, the
21 fund:

22 (1) subject to Subsection (b), fails to invest at
23 least 60 percent of the fund's investment authority in growth
24 investments in this state on or before the second anniversary of the
25 closing date and 100 percent of the fund's investment authority in
26 growth investments in this state on or before the third anniversary
27 of the closing date;

1 (2) subject to Subsection (c) and after making the
2 investments necessary to avoid revocation under Subdivision (1),
3 fails to maintain growth investments equal to 100 percent of the
4 fund's investment authority until the sixth anniversary of the
5 closing date;

6 (3) makes a distribution or payment that results in
7 the fund having less than 100 percent of its investment authority
8 invested in growth investments in this state or available for
9 investment in growth investments and held in cash or marketable
10 securities; or

11 (4) subject to Subsection (d), makes a growth
12 investment in a targeted small business that directly or indirectly
13 through an affiliate owns, has the right to acquire an ownership
14 interest in, makes a loan to, or makes an investment in the fund, an
15 affiliate of the fund, or an investor in the fund.

16 (b) For purposes of Subsection (a)(1):

17 (1) the amount of growth investments that a rural and
18 opportunity fund may count with respect to a particular targeted
19 small business, including any amount invested in an affiliate of
20 the targeted small business, may not exceed the greater of \$5
21 million or 20 percent of the fund's investment authority; and

22 (2) at least 67 percent of the required investments
23 must be growth investments in targeted small businesses whose
24 principal business operations are located in, or are relocated to,
25 one or more qualified areas described by Section 487A.0001(4)(A).

26 (c) For purposes of Subsection (a)(2):

27 (1) the amount of growth investments that a rural and

1 opportunity fund may count with respect to a particular targeted
2 small business, including any amount invested in an affiliate of
3 the targeted small business, may not exceed the greater of \$5
4 million or 20 percent of the fund's investment authority;

5 (2) an investment that is sold or repaid is considered
6 to be maintained if the rural and opportunity fund reinvests an
7 amount equal to the capital returned or recovered by the fund from
8 the original investment, excluding any profit realized, in another
9 growth investment in this state on or before the first anniversary
10 of the date the capital is returned or recovered; and

11 (3) an amount received periodically by a rural and
12 opportunity fund is considered to be continually invested in growth
13 investments if that amount is reinvested in one or more growth
14 investments by the end of the calendar year following the year of
15 receipt.

16 (d) Subsection (a)(4) does not apply to investments in
17 publicly traded securities by a targeted small business or an owner
18 or affiliate of the targeted small business. For purposes of
19 Subsection (a)(4), a rural and opportunity fund is not considered
20 an affiliate of a targeted small business solely as a result of the
21 fund's growth investment in the targeted small business.

22 (e) The office shall:

23 (1) notify the comptroller when the office revokes a
24 tax credit certificate; and

25 (2) on request, provide the comptroller with lists of
26 valid and revoked tax credit certificates.

27 Sec. 487A.0102. OPPORTUNITY TO CORRECT VIOLATION. (a)

1 Before revoking a tax credit certificate under this subchapter, the
2 office shall notify the rural and opportunity fund of the reasons
3 for the pending revocation.

4 (b) The rural and opportunity fund may, not later than the
5 90th day after the date the notice is received, correct any
6 violation outlined in the notice to the satisfaction of the office
7 and avoid revocation of the tax credit certificate.

8 Sec. 487A.0103. ALLOCATION OF REVOKED INVESTMENT
9 AUTHORITY. (a) If a tax credit certificate is revoked under this
10 subchapter, the associated investment authority does not count
11 toward the limit on total investment authority described in Section
12 487A.0052(b).

13 (b) The office shall first award revoked investment
14 authority pro rata to each rural and opportunity fund whose
15 requested investment authority was reduced under Section
16 487A.0052(c). The office may award any remaining investment
17 authority to new applicants.

18 SUBCHAPTER D. CERTAIN FUND OPERATIONS

19 Sec. 487A.0151. APPLICATION TO EXIT PROGRAM. (a) On or
20 after the sixth anniversary of the closing date, a rural and
21 opportunity fund may apply to the office to exit the program and no
22 longer be subject to regulation under this chapter.

23 (b) The office shall respond to the application not later
24 than the 30th day after receipt.

25 (c) A rural and opportunity fund is eligible to exit the
26 program under this section if no tax credit certificates related to
27 investments in the fund have been revoked and the fund has not

1 received any revocation notice that has not been corrected under
2 Section 487A.0102.

3 (d) The office may not unreasonably deny an application
4 under this section. The office shall give the rural and opportunity
5 fund notice of a denial and include in the notice the reasons for
6 the denial.

7 Sec. 487A.0152. NO REVOCATION FOLLOWING EXIT. The office
8 may not revoke a tax credit certificate related to an investment in
9 a rural and opportunity fund after the fund's exit from the program.

10 Sec. 487A.0153. PENALTY FOR CERTAIN DISTRIBUTIONS. (a)
11 For purposes of this section:

12 (1) the "actual number of jobs created and retained"
13 is the number of jobs created and jobs retained as a result of all of
14 a rural and opportunity fund's current and former growth
15 investments, as reported on the fund's reports submitted under
16 Section 487A.0155; and

17 (2) the "estimated number of jobs created and
18 retained" is the estimated number of jobs created and jobs retained
19 included in a rural and opportunity fund's application under
20 Section 487A.0051(b)(4) reduced, if applicable, by the same
21 percentage as the total investment authority sought under the
22 fund's business plan submitted under Section 487A.0051(b)(1) was
23 reduced under Section 487A.0052(c).

24 (b) A rural and opportunity fund is subject to a penalty in
25 the amount provided by Subsection (c) if:

26 (1) the fund authorizes a distribution to the fund's
27 equity holders in an amount that, when added to all previous

1 distributions to the fund's equity holders and any previous
2 penalties under this section, exceeds the fund's investment
3 authority; and

4 (2) the fund's actual number of jobs created and
5 retained is less than the fund's estimated number of jobs created
6 and retained.

7 (c) The amount of the penalty is equal to the amount of the
8 authorized distribution multiplied by a fraction:

9 (1) the numerator of which is the fund's estimated
10 number of jobs created and retained less the fund's actual number of
11 jobs created and retained; and

12 (2) the denominator of which is the fund's estimated
13 number of jobs created and retained.

14 (d) Before making a distribution to the fund's equity
15 holders, the fund shall deduct the amount of the penalty from the
16 amount otherwise authorized to be distributed to the equity holders
17 and pay the penalty to the office.

18 (e) The office shall deposit penalties received under
19 Subsection (d) in the general revenue fund.

20 Sec. 487A.0154. EVALUATION OF PROPOSED INVESTMENT. (a) A
21 rural and opportunity fund, before making a growth investment, may
22 request from the office a written opinion as to whether the business
23 in which the fund proposes to invest qualifies as a targeted small
24 business.

25 (b) Not later than the 15th business day after receiving the
26 request, the office shall notify the rural and opportunity fund of
27 its determination.

1 (c) If the office fails to notify the rural and opportunity
2 fund of its determination on or before the 15th business day after
3 receiving the request, the business in which the fund proposes to
4 invest is considered to be a targeted small business for purposes of
5 this chapter.

6 Sec. 487A.0155. ANNUAL REPORT. (a) A rural and opportunity
7 fund shall submit a report to the office on or before the fifth
8 business day after each anniversary of the closing date until the
9 fund has exited the program under Section 487A.0151.

10 (b) The report must document the rural and opportunity
11 fund's growth investments and include:

12 (1) a bank statement showing each growth investment;

13 (2) the name, location, and industry of each business
14 receiving a growth investment, including either the determination
15 notice described by Section 487A.0154 or evidence that the business
16 qualified as a targeted small business at the time the investment
17 was made;

18 (3) the number of jobs created and jobs retained in the
19 preceding calendar year as a result of the fund's growth
20 investments as of the last day of that period;

21 (4) the average annual salary of the jobs described by
22 Subdivision (3) and evidence of any other monetary or social
23 benefit to this state as a result of those jobs; and

24 (5) any other information the office requires.

25 (c) A rural and opportunity fund may, but is not required
26 to, include in any report submitted under this section information
27 about the number of jobs created and jobs retained with respect to a

1 former growth investment that the fund has exited.

2 SUBCHAPTER E. REPORT; CONDITIONS FOR ACCEPTANCE OF CERTAIN

3 APPLICATIONS

4 Sec. 487A.0201. REPORT. (a) Before the beginning of the
5 90th Legislature, Regular Session, the office shall submit to the
6 lieutenant governor, the speaker of the house of representatives,
7 and each member of the legislature a report on the economic benefits
8 of this chapter.

9 (b) The report must include an assessment of:

10 (1) the aggregate effects of growth investments made
11 under this chapter, including:

12 (A) the total number of jobs created by all
13 targeted small businesses, including direct jobs, indirect jobs,
14 and induced jobs;

15 (B) the total number of jobs retained by all
16 targeted small businesses;

17 (C) the total amount of wages paid in connection
18 with jobs created and jobs retained by all targeted small
19 businesses;

20 (D) the median wage of jobs created and jobs
21 retained by all targeted small businesses;

22 (E) the total effect on personal income in this
23 state, including direct and indirect effects;

24 (F) the total amount of growth investments;

25 (G) the gross domestic product of this state
26 attributable to targeted small businesses;

27 (H) the total taxable value of property of

1 targeted small businesses in this state according to tax appraisal
2 rolls; and

3 (I) the total positive fiscal effect on this
4 state and local governments in this state;

5 (2) the benefits to this state from cost savings
6 attributable to jobs created and jobs retained by all targeted
7 small businesses, including:

8 (A) Medicaid savings, with savings to this state
9 and the federal government listed separately;

10 (B) food assistance program savings;

11 (C) unemployment insurance payment savings; and

12 (D) any other savings that can be reasonably
13 estimated using data available to the office in connection with
14 some or all targeted small businesses; and

15 (3) the total positive fiscal effect on this state and
16 local governments in this state of the benefits described by
17 Subdivision (2).

18 (c) The report may not include information that is
19 confidential by law.

20 (d) In preparing the portion of the report described by
21 Subsection (b)(1), the office shall use standard, nationally
22 recognized economic estimation techniques, including economic
23 multipliers.

24 (e) The portion of the report described by Subsection (b)(1)
25 must be based on data submitted to the office by each rural and
26 opportunity fund.

27 Sec. 487A.0202. CONDITIONS FOR ACCEPTANCE OF CERTAIN

1 APPLICATIONS. (a) The office may not accept applications under
2 Section 487A.0051 after January 1, 2022, unless the total positive
3 fiscal effects described by Section 487A.0201(b) exceed the sum of
4 all tax credit certificates issued by the office under Section
5 487A.0055(2).

6 (b) The office shall resume accepting applications under
7 Section 487A.0051 when the condition provided by Subsection (a) is
8 satisfied.

9 SECTION 2. Subtitle B, Title 3, Insurance Code, is amended
10 by adding Chapter 232 to read as follows:

11 CHAPTER 232. TAX CREDIT FOR INVESTMENT IN RURAL AND OPPORTUNITY

12 FUND

13 SUBCHAPTER A. GENERAL PROVISIONS

14 Sec. 232.0001. DEFINITIONS. In this chapter:

15 (1) "Affiliate" has the meaning assigned by Section
16 487A.0002, Government Code.

17 (2) "Closing date" has the meaning assigned by Section
18 487A.0001, Government Code.

19 (3) "State insurance tax liability" means any tax
20 liability incurred under Chapter [221](#), [222](#), [223](#), [223A](#), [224](#), [225](#),
21 [226](#), or [281](#).

22 Sec. 232.0002. RULES. The comptroller shall adopt rules
23 necessary to implement this chapter.

24 SUBCHAPTER B. TAX CREDIT

25 Sec. 232.0051. ELIGIBILITY FOR CREDIT. An entity is
26 eligible for a credit against the entity's state insurance tax
27 liability in the amount and under the conditions and limitations

1 provided by this chapter.

2 Sec. 232.0052. QUALIFICATION. An entity is eligible for a
3 credit for a tax year if:

4 (1) the entity holds a tax credit certificate issued
5 under Section 487A.0055, Government Code; and

6 (2) the third, fourth, fifth, or sixth anniversary of
7 the closing date in connection with which the certificate was
8 issued occurs during the tax year.

9 Sec. 232.0053. AMOUNT OF CREDIT; LIMITATION. (a) The
10 amount of credit for a tax year is equal to 25 percent of the amount
11 of the credit-eligible capital contribution stated on the tax
12 credit certificate described by Section 232.0052.

13 (b) The total credit claimed for a tax year, including the
14 amount of any carryforward under Section 232.0054, may not exceed
15 the amount of state insurance tax liability due for the entity for
16 the tax year after applying all other applicable tax credits.

17 (c) Credits may be applied to the entity's estimated or
18 final tax payments for the tax year.

19 Sec. 232.0054. CARRYFORWARD. If an entity is eligible for a
20 credit that exceeds the limitation under Section 232.0053(b), the
21 entity may carry the unused credit forward for not more than 20
22 consecutive tax reports. Credits, including credit carryforwards,
23 are considered to be used in the following order:

24 (1) a credit carryforward under this chapter; and

25 (2) a current year credit.

26 Sec. 232.0055. ASSIGNMENT PROHIBITED. (a) Except as
27 provided by Subsection (b), an entity may not convey, assign, or

1 transfer the credit allowed under this chapter to another entity.

2 (b) An entity may convey, assign, or transfer the credit
3 allowed under this chapter to an affiliate of the entity that is
4 subject to state insurance tax liability.

5 Sec. 232.0056. RETALIATORY TAX. An entity claiming a
6 credit under this chapter is not required to pay any additional
7 retaliatory tax levied under Chapter 281 as a result of claiming
8 that credit.

9 SUBCHAPTER C. RECAPTURE OF CREDIT

10 Sec. 232.0101. RECAPTURE. The comptroller shall recapture
11 the amount of a credit claimed on a tax report filed under Chapter
12 221, 222, 223, 223A, 224, 225, 226, or 281 from an entity if the tax
13 credit certificate on which the credit is based is revoked under
14 Subchapter C, Chapter 487A, Government Code.

15 SECTION 3. (a) As soon as practicable after this Act
16 becomes law as provided by Section 2001.006, Government Code:

17 (1) the Texas Economic Development and Tourism Office
18 shall adopt rules necessary to implement Chapter 487A, Government
19 Code, as added by this Act; and

20 (2) the comptroller of public accounts shall adopt
21 rules necessary to implement Chapter 232, Insurance Code, as added
22 by this Act.

23 (b) Not later than January 1, 2020, the Texas Economic
24 Development and Tourism Office shall begin accepting applications
25 under Section 487A.0051(a), Government Code, as added by this Act.

26 SECTION 4. Chapter 232, Insurance Code, as added by this
27 Act, applies only to a tax report originally due on or after January

1 1, 2020.

2 SECTION 5. This Act takes effect September 1, 2019.