

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

SENATE BILL 1301

AN ACT

AMENDING TITLE 20, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-224.08; AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1509; AMENDING SECTION 43-222, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1074.03; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1174; RELATING TO TAX CREDITS FOR QUALIFIED EQUITY INVESTMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 20, chapter 2, article 1, Arizona Revised Statutes,
3 is amended by adding section 20-224.08, to read:

4 20-224.08. Premium tax credit for qualified equity investments

5 A. A PERSON OR ENTITY THAT MAKES A QUALIFIED EQUITY INVESTMENT EARNS A
6 VESTED TAX CREDIT AGAINST THE PREMIUM TAX LIABILITY IMPOSED PURSUANT TO
7 SECTION 20-224, 20-837, 20-1010, 20-1060 OR 20-1097.07. THE AMOUNT OF THE
8 CREDIT IS THE AMOUNT DETERMINED AND CERTIFIED BY THE ARIZONA COMMERCE
9 AUTHORITY AS PROVIDED BY SECTION 41-1509.

10 B. TO CLAIM THE CREDIT UNDER THIS SECTION, THE HOLDER OF A QUALIFIED
11 EQUITY INVESTMENT SHALL PROVIDE THE DEPARTMENT A COPY OF THE ARIZONA COMMERCE
12 AUTHORITY CERTIFICATION PROVIDED PURSUANT TO SECTION 41-1509. NO CREDIT IS
13 ALLOWED UNDER THIS SECTION UNLESS THE TAXPAYER PROVIDES THE CERTIFICATION.

14 C. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE STATE PREMIUM TAX
15 LIABILITY, THE AMOUNT OF THE CLAIM NOT USED AS AN OFFSET AGAINST THE STATE
16 PREMIUM TAX LIABILITY MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST
17 SUBSEQUENT YEARS' STATE PREMIUM TAX LIABILITY FOR A PERIOD NOT EXCEEDING FIVE
18 TAXABLE YEARS.

19 D. AN INSURER THAT CLAIMS A TAX CREDIT AGAINST STATE PREMIUM TAX
20 LIABILITY IS NOT REQUIRED TO PAY ANY ADDITIONAL RETALIATORY TAX IMPOSED
21 PURSUANT TO SECTION 20-230 AS A RESULT OF CLAIMING THAT TAX CREDIT.

22 E. A TAX CREDIT UNDER THIS SECTION IS SUBJECT TO RECOVERY UNDER
23 SECTION 41-1509, SUBSECTION H.

24 F. A TAX CREDIT EARNED UNDER THIS SECTION MAY NOT BE SOLD OR
25 TRANSFERRED, EXCEPT AS FOLLOWS:

26 1. A PARTNER, MEMBER OR SHAREHOLDER OF A PARTNERSHIP, LIMITED
27 LIABILITY COMPANY, S-CORPORATION OR OTHER PASS-THROUGH ENTITY MAY CLAIM THE
28 TAX CREDIT PURSUANT TO ANY AGREEMENT AMONG THE PARTNERS, MEMBERS OR
29 SHAREHOLDERS. ANY CHANGE IN THE ALLOCATION OF A TAX CREDIT UNDER THE
30 AGREEMENT MUST BE REPORTED TO THE AUTHORITY.

31 2. ELIGIBILITY TO CLAIM A TRANSFER OF A TAX CREDIT TO A SUBSEQUENT
32 PURCHASER OF A QUALIFIED EQUITY INVESTMENT AND PURSUANT TO PARAGRAPH 1 OF
33 THIS SUBSECTION MUST COMPLY WITH THIS PARAGRAPH. THE TRANSFER MUST BE
34 REPORTED TO THE AUTHORITY ALONG WITH THE IDENTITY, TAX IDENTIFICATION NUMBER
35 AND TAX CREDIT AMOUNT ALLOCATED TO A TAXPAYER PURSUANT TO PARAGRAPH 1 OF THIS
36 SUBSECTION. THE NOTICE OF TRANSFER ALSO MUST STATE WHETHER UNUSED TAX
37 CREDITS ARE ATTACHED TO THE TRANSFERRED QUALIFIED EQUITY INVESTMENT, THE
38 AMOUNT OF UNUSED TAX CREDITS AND WHETHER THE NEW HOLDER OF THE QUALIFIED
39 EQUITY INVESTMENT HAS THE RIGHT TO UTILIZE THE UNUSED CREDITS.

1 Sec. 2. Title 41, chapter 10, article 1, Arizona Revised Statutes, is
2 amended by adding section 41-1509, to read:

3 41-1509. Qualified community development entities; tax credits
4 for qualified equity investments; fee;
5 qualifications; definitions

6 A. A PERSON OR ENTITY THAT MAKES A QUALIFIED EQUITY INVESTMENT EARNS
7 VESTED INCOME TAX CREDITS UNDER SECTION 43-1074.03 OR 43-1174 OR VESTED
8 PREMIUM TAX CREDITS UNDER SECTION 20-224.08.

9 B. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO THIRTY-NINE PER CENT OF
10 THE PURCHASE PRICE PAID TO THE ISSUER OF THE QUALIFIED EQUITY INVESTMENT. ON
11 EACH CREDIT ALLOWANCE DATE OF THE QUALIFIED EQUITY INVESTMENT, THE TAXPAYER
12 OR SUBSEQUENT HOLDER OF THE QUALIFIED EQUITY INVESTMENT IS ENTITLED TO USE A
13 PORTION OF THE TAX CREDIT DURING THE TAXABLE YEAR EQUAL TO THE APPLICABLE
14 PERCENTAGE FOR THE TAX CREDIT ALLOWANCE DATE MULTIPLIED BY THE PURCHASE PRICE
15 PAID FOR THE QUALIFIED EQUITY INVESTMENT.

16 C. A QUALIFIED COMMUNITY DEVELOPMENT ENTITY MUST SUBMIT AN APPLICATION
17 TO THE AUTHORITY TO CERTIFY A PROPOSED INVESTMENT AS A QUALIFIED EQUITY
18 INVESTMENT, ON A FORM PRESCRIBED BY THE AUTHORITY, THAT INCLUDES:

19 1. EVIDENCE OF THE ENTITY'S CERTIFICATION AS A QUALIFIED COMMUNITY
20 DEVELOPMENT ENTITY, INCLUDING EVIDENCE THAT THE SERVICE AREA IS WITHIN THIS
21 STATE.

22 2. A COPY OF THE ALLOCATION AGREEMENT THAT IS EXECUTED BY THE ENTITY,
23 OR ITS CONTROLLING ENTITY, AND THE COMMUNITY DEVELOPMENT FINANCIAL
24 INSTITUTIONS FUND.

25 3. A CERTIFICATE EXECUTED BY AN EXECUTIVE OFFICER OF THE ENTITY
26 ATTESTING THAT THE ALLOCATION AGREEMENT REMAINS EFFECTIVE AND HAS NOT BEEN
27 REVOKED OR CANCELLED BY THE COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS
28 FUND.

29 4. A DESCRIPTION OF THE PROPOSED AMOUNT, STRUCTURE AND PURCHASER OF
30 THE EQUITY INVESTMENT OF LONG-TERM DEBT SECURITY.

31 5. IDENTIFYING INFORMATION FOR ANY TAXPAYER ELIGIBLE TO USE TAX
32 CREDITS EARNED AS A RESULT OF THE ISSUANCE OF THE QUALIFIED EQUITY
33 INVESTMENT.

34 6. IF KNOWN, ANY INFORMATION REGARDING THE PROPOSED USE OF PROCEEDS
35 FROM THE ISSUANCE OF THE QUALIFIED EQUITY INVESTMENT. AN APPLICANT IS NOT
36 REQUIRED TO IDENTIFY QUALIFIED ACTIVE ARIZONA BUSINESSES WHEN SUBMITTING THE
37 APPLICATION.

38 7. AN APPLICATION FEE OF FIVE THOUSAND DOLLARS. THE FEE SHALL BE
39 DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE ARIZONA COMMERCE
40 AUTHORITY FUND ESTABLISHED BY SECTION 41-1506.

41 D. WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE
42 AUTHORITY SHALL BEGIN ACCEPTING APPLICATIONS UNDER THIS SECTION IN THE ORDER
43 RECEIVED. THE AUTHORITY SHALL REVIEW AND MAKE A DETERMINATION WITH RESPECT
44 TO EACH APPLICATION WITHIN THIRTY DAYS AFTER RECEIVING THE APPLICATION. THE
45 AUTHORITY MAY REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT IN ORDER TO

1 MAKE AN INFORMED DECISION REGARDING THE ELIGIBILITY OF THE QUALIFIED
2 COMMUNITY DEVELOPMENT ENTITY. IF THE AUTHORITY DENIES ANY PART OF THE
3 APPLICATION, THE AUTHORITY SHALL INFORM THE QUALIFIED COMMUNITY DEVELOPMENT
4 ENTITY OF THE GROUNDS FOR THE DENIAL. IF THE QUALIFIED COMMUNITY DEVELOPMENT
5 ENTITY PROVIDES ANY ADDITIONAL INFORMATION REQUIRED BY THE AUTHORITY OR
6 OTHERWISE COMPLETES ITS APPLICATION WITHIN FIFTEEN DAYS OF THE NOTICE OF
7 DENIAL, THE APPLICATION SHALL BE CONSIDERED COMPLETED AS OF THE ORIGINAL DATE
8 OF SUBMISSION. IF THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY FAILS TO
9 PROVIDE THE INFORMATION OR COMPLETE ITS APPLICATION WITHIN THE FIFTEEN-DAY
10 PERIOD, THE APPLICATION REMAINS DENIED AND MUST BE RESUBMITTED IN FULL WITH A
11 NEW SUBMISSION DATE.

12 E. IF THE APPLICATION IS DEEMED COMPLETE AND SUBJECT TO SUBSECTION F
13 OF THIS SECTION, THE AUTHORITY SHALL CERTIFY THE PROPOSED EQUITY INVESTMENT
14 OR LONG-TERM DEBT SECURITY AS A QUALIFIED EQUITY INVESTMENT THAT IS ELIGIBLE
15 FOR TAX CREDITS UNDER THIS SECTION. THE AUTHORITY SHALL PROVIDE WRITTEN
16 NOTICE OF THE CERTIFICATION TO THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY.
17 THE NOTICE SHALL INCLUDE THE NAMES OF THE TAXPAYERS WHO ARE ELIGIBLE TO USE
18 THE CREDITS AND THE RESPECTIVE CREDIT AMOUNTS.

19 F. THE AUTHORITY SHALL NOT CERTIFY TAX CREDITS UNDER THIS SECTION
20 EXCEEDING TWENTY MILLION DOLLARS IN ANY FISCAL YEAR. IF MORE THAN ONE
21 APPLICATION IS FILED ON THE SAME DATE, COMPLIES WITH SUBSECTION D OF THIS
22 SECTION AND THE AMOUNT OF THE AVAILABLE TAX CREDITS ARE INSUFFICIENT FOR ALL
23 OF THE APPLICATIONS, THE TAX CREDITS AVAILABLE TO EACH APPLICANT SHALL BE IN
24 PROPORTION TO THE PROPOSED PURCHASE PRICE TO THE TOTAL PURCHASE PRICE OF ALL
25 OF THE PROPOSED INVESTMENTS. THE APPLICATION SHALL BE FILED WITH THE
26 AUTHORITY BY HAND DELIVERY, MAIL, EXPRESS MAIL, COURIER OR ELECTRONIC MEANS.
27 THE AUTHORITY SHALL CERTIFY TO THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY AND
28 TO THE DEPARTMENT OF REVENUE THE AMOUNT OF THE TAX CREDIT THAT IS AUTHORIZED
29 FOR THE PURPOSES OF SECTION 20-224.08, 43-1074.03 OR 43-1174.

30 G. WITHIN THIRTY DAYS AFTER RECEIVING NOTICE OF CERTIFICATION, THE
31 QUALIFIED COMMUNITY DEVELOPMENT ENTITY SHALL ISSUE THE QUALIFIED EQUITY
32 INVESTMENT AND RECEIVE CASH IN THE AMOUNT OF THE CERTIFIED AMOUNT. THE
33 QUALIFIED COMMUNITY DEVELOPMENT ENTITY MUST PROVIDE THE AUTHORITY WITH
34 EVIDENCE OF THE RECEIPT OF THE CASH INVESTMENT WITHIN TEN BUSINESS DAYS AFTER
35 RECEIPT. IF THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY DOES NOT RECEIVE THE
36 CASH INVESTMENT AND ISSUE THE QUALIFIED EQUITY INVESTMENT WITHIN THIRTY DAYS
37 FOLLOWING THE RECEIPT OF THE CERTIFICATION NOTICE, THE CERTIFICATION LAPSES,
38 AND THE ENTITY MAY NOT ISSUE THE QUALIFIED EQUITY INVESTMENT WITHOUT
39 REAPPLYING TO THE AUTHORITY FOR CERTIFICATION. A CERTIFICATION THAT LAPSES
40 REVERTS BACK TO THE DEPARTMENT OF REVENUE AND MAY BE REISSUED IN THE
41 FOLLOWING ORDER:

42 1. TO ANY APPLICANT OR APPLICANTS THAT SUBMITTED QUALIFYING
43 APPLICATIONS ON THE SAME DATE AS THE APPLICATION WITH RESPECT TO THE LAPSED
44 APPLICATION, TO THE EXTENT THAT THE REQUESTED AUTHORITY UNDER THOSE

1 APPLICATIONS WAS DECREASED DUE TO THE ALLOCATION PROCESS UNDER SUBSECTION F
2 OF THIS SECTION.

3 2. TO ANY APPLICANT OR APPLICANTS THAT SUBMITTED QUALIFYING
4 APPLICATIONS ON A DATE SUBSEQUENT TO THE FILING DATE OF THE APPLICATION WITH
5 RESPECT TO THE LAPSED APPLICATION, IN THE ORDER PRESCRIBED BY SUBSECTION F OF
6 THIS SECTION.

7 3. PURSUANT TO A NEW APPLICATION PROCESS IN THE MANNER PROVIDED BY
8 THIS SECTION.

9 H. THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY IS SUBJECT TO RECOVERY
10 OF THE AMOUNT OF TAX CREDITS ALLOWED IF ANY OF THE FOLLOWING APPLY:

11 1. THE AMOUNT OF THE FEDERAL TAX CREDIT AVAILABLE WITH RESPECT TO A
12 QUALIFIED EQUITY INVESTMENT THAT IS ELIGIBLE FOR A TAX CREDIT UNDER THIS
13 SECTION IS RECAPTURED UNDER SECTION 45D OF THE INTERNAL REVENUE CODE. IN
14 THIS CASE, THE DEPARTMENT'S RECOVERY SHALL BE PROPORTIONATE TO THE FEDERAL
15 RECAPTURE WITH RESPECT TO THE QUALIFIED EQUITY INVESTMENT.

16 2. THE ISSUER REDEEMS OR MAKES PRINCIPAL REPAYMENT WITH RESPECT TO A
17 QUALIFIED EQUITY INVESTMENT BEFORE THE SEVENTH ANNIVERSARY OF THE ISSUANCE OF
18 THE QUALIFIED EQUITY INVESTMENT. IN THIS CASE, THE RECOVERY SHALL BE
19 PROPORTIONATE TO THE AMOUNT OF THE REDEMPTION OR REPAYMENT WITH RESPECT TO
20 THE QUALIFIED EQUITY INVESTMENT.

21 3. THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY FAILS TO EITHER:

22 (a) INVEST ONE HUNDRED PER CENT OF THE PURCHASE PRICE IN QUALIFIED
23 ARIZONA INVESTMENTS WITHIN TWELVE MONTHS AFTER THE ISSUANCE OF A QUALIFIED
24 EQUITY INVESTMENT.

25 (b) MAINTAIN AT LEAST EIGHTY-FIVE PER CENT OF THE PURCHASE PRICE IN
26 QUALIFIED ARIZONA INVESTMENTS UNTIL THE LAST CREDIT ALLOWANCE DATE FOR A
27 QUALIFIED EQUITY INVESTMENT TO ALLOW FOR PAYMENT OF PRINCIPAL ON A DEBT
28 INSTRUMENT. A QUALIFIED ARIZONA INVESTMENT SHALL BE CONSIDERED HELD BY A
29 QUALIFIED COMMUNITY DEVELOPMENT ENTITY EVEN IF THE INVESTMENT HAS BEEN SOLD
30 OR REPAYED IF THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY REINVESTS AN AMOUNT
31 EQUAL TO THE CAPITAL RETURNED TO OR RECOVERED BY THE ENTITY FROM THE ORIGINAL
32 INVESTMENT, EXCLUSIVE OF ANY PROFITS REALIZED, IN ANOTHER QUALIFIED ARIZONA
33 INVESTMENT WITHIN TWELVE MONTHS OF THE RECEIPT OF THE CAPITAL. A QUALIFIED
34 COMMUNITY DEVELOPMENT ENTITY IS NOT REQUIRED TO REINVEST CAPITAL RETURNED
35 FROM QUALIFIED ARIZONA INVESTMENTS AFTER THE SIXTH ANNIVERSARY OF THE
36 ISSUANCE OF THE QUALIFIED EQUITY INVESTMENT, THE PROCEEDS OF WHICH WERE USED
37 TO MAKE THE QUALIFIED ARIZONA INVESTMENT, AND THE QUALIFIED ARIZONA
38 INVESTMENT SHALL BE CONSIDERED HELD BY THE QUALIFIED COMMUNITY DEVELOPMENT
39 ENTITY THROUGH THE SEVENTH ANNIVERSARY OF THE QUALIFIED EQUITY INVESTMENT'S
40 ISSUANCE.

41 I. THE ENFORCEMENT OF THE TWELVE-MONTH PERIOD AND THE RECOVERY
42 PROVISIONS UNDER SUBSECTION H OF THIS SECTION ARE SUBJECT TO A SIX-MONTH CURE
43 PERIOD. NO RECOVERY UNDER SUBSECTION H OF THIS SECTION SHALL OCCUR UNTIL THE
44 QUALIFIED COMMUNITY DEVELOPMENT ENTITY IS GIVEN NOTICE OF NONCOMPLIANCE AND
45 GIVEN SIX MONTHS FROM THE DATE OF THE NOTICE TO CURE THE NONCOMPLIANCE.

1 J. THE CHIEF EXECUTIVE OFFICER SHALL ISSUE LETTER RULINGS REGARDING
2 TAX CREDITS UNDER THIS SECTION. THE CHIEF EXECUTIVE OFFICER SHALL RESPOND TO
3 A REQUEST FOR A LETTER RULING WITHIN SIXTY DAYS OF RECEIVING THE REQUEST.
4 THE APPLICANT MAY PROVIDE A DRAFT LETTER RULING FOR THE CHIEF EXECUTIVE
5 OFFICER'S CONSIDERATION. THE APPLICANT MAY WITHDRAW THE REQUEST FOR A LETTER
6 RULING, IN WRITING, BEFORE THE ISSUANCE OF THE LETTER RULING. THE CHIEF
7 EXECUTIVE OFFICER MAY DENY ISSUING A LETTER RULING FOR GOOD CAUSE BY
8 INDICATING THE SPECIFIC REASONS FOR REFUSING TO ISSUE THE LETTER RULING.
9 LETTER RULINGS SHALL BIND THE CHIEF EXECUTIVE OFFICER AND THE OFFICER'S
10 AGENTS AND ANY SUCCESSORS UNTIL ALL OF THE TAX CREDITS ARE CLAIMED UNDER THIS
11 SECTION ON INCOME OR PREMIUM TAX RETURNS. SUBJECT TO RULES ADOPTED UNDER
12 THIS SECTION, THE LETTER RULING SHALL APPLY ONLY TO THE APPLICANT AND THE
13 APPLICANT'S INVESTORS. WHEN ISSUING LETTER RULINGS AND MAKING OTHER
14 DETERMINATIONS UNDER THIS SUBSECTION, THE AUTHORITY AND THE DEPARTMENT OF
15 REVENUE, TO THE EXTENT APPLICABLE, SHALL SEEK GUIDANCE FROM SECTION 45D OF
16 THE INTERNAL REVENUE CODE AND ANY CORRESPONDING RULES AND REGULATIONS. GOOD
17 CAUSE REASONS UNDER THIS SUBSECTION FOR THE CHIEF EXECUTIVE OFFICER TO DENY
18 ISSUING A LETTER RULING INCLUDE ANY OF THE FOLLOWING:

19 1. THE APPLICANT REQUESTS THAT THE CHIEF EXECUTIVE OFFICER DETERMINE
20 WHETHER A STATUTE IS CONSTITUTIONAL OR A REGULATION IS LAWFUL.

21 2. THE REQUEST INVOLVES A HYPOTHETICAL SITUATION OR ALTERNATIVE PLANS.

22 3. THE FACTS OR ISSUES THAT ARE PRESENTED IN THE REQUEST ARE UNCLEAR,
23 OVERBROAD, INSUFFICIENT OR OTHERWISE INAPPROPRIATE AS A BASIS TO ISSUE A
24 LETTER RULING.

25 4. THE ISSUE IS CURRENTLY BEING CONSIDERED IN A RULE MAKING PROCEDURE,
26 CONTESTED CASE OR OTHER AGENCY OR JUDICIAL PROCEEDING THAT MAY DEFINITELY
27 RESOLVE THE ISSUE.

28 K. WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE
29 AUTHORITY SHALL ADOPT RULES TO ADMINISTER THIS SECTION.

30 L. FOR THE PURPOSES OF THIS SECTION:

31 1. "APPLICABLE PERCENTAGE" MEANS ZERO PER CENT FOR THE FIRST TWO
32 CREDIT ALLOWANCE DATES, SEVEN PER CENT FOR THE THIRD CREDIT ALLOWANCE DATE
33 AND EIGHT PER CENT FOR THE NEXT FOUR CREDIT ALLOWANCE DATES.

34 2. "CREDIT ALLOWANCE DATE" MEANS EITHER:

35 (a) THE INITIAL DATE THAT A QUALIFIED EQUITY INVESTMENT IS MADE.

36 (b) ANY OF THE SIX SUBSEQUENT ANNIVERSARY DATES AFTER THE INITIAL DATE
37 THAT A QUALIFIED EQUITY INVESTMENT IS MADE.

38 3. "LETTER RULING" MEANS A WRITTEN INTERPRETATION OF LAW TO A SPECIFIC
39 SET OF FACTS AS PROVIDED BY THE APPLICANT WHO REQUESTS A LETTER RULING.

40 4. "LONG-TERM DEBT SECURITY" MEANS ANY DEBT INSTRUMENT THAT IS ISSUED
41 BY A QUALIFIED COMMUNITY DEVELOPMENT ENTITY, AT PAR VALUE OR A PREMIUM, WITH
42 AN ORIGINAL MATURITY DATE OF AT LEAST SEVEN YEARS FROM THE DATE OF ITS
43 ISSUANCE, WITH NO ACCELERATION OF REPAYMENT, AMORTIZATION OR PREPAYMENT
44 FEATURES BEFORE ITS ORIGINAL MATURITY DATE. THE QUALIFIED COMMUNITY
45 DEVELOPMENT ENTITY THAT ISSUES THE DEBT INSTRUMENT MAY NOT MAKE CASH INTEREST

1 PAYMENTS ON THE DEBT INSTRUMENT DURING THE PERIOD BEGINNING ON THE DATE OF
2 ISSUANCE AND ENDING ON THE FINAL CREDIT ALLOWANCE DATE IN AN AMOUNT THAT
3 EXCEEDS THE CUMULATIVE OPERATING INCOME, AS DEFINED IN REGULATIONS ADOPTED
4 PURSUANT TO SECTION 45D OF THE INTERNAL REVENUE CODE, OF THE QUALIFIED
5 COMMUNITY DEVELOPMENT ENTITY FOR THAT PERIOD BEFORE GIVING EFFECT TO THE
6 EXPENSE OF SUCH CASH INTEREST PAYMENTS. THIS PARAGRAPH DOES NOT LIMIT THE
7 HOLDER'S ABILITY TO ACCELERATE PAYMENTS ON THE DEBT INSTRUMENT IN SITUATIONS
8 WHERE THE ISSUER HAS DEFAULTED ON COVENANTS DESIGNED TO ENSURE COMPLIANCE
9 WITH THIS SECTION OR SECTION 45D OF THE INTERNAL REVENUE CODE.

10 5. "PURCHASE PRICE" MEANS THE AMOUNT THAT IS PAID TO THE ISSUER OF A
11 QUALIFIED EQUITY INVESTMENT FOR THE QUALIFIED EQUITY INVESTMENT.

12 6. "QUALIFIED ARIZONA BUSINESS" MEANS A BUSINESS THAT IS LOCATED IN
13 THIS STATE AND THAT MEETS THE REQUIREMENTS PRESCRIBED BY SECTION 45D(d)(2) OF
14 THE INTERNAL REVENUE CODE AND 26 CODE OF FEDERAL REGULATIONS SECTION 1.45D-1.
15 A BUSINESS IS CONSIDERED A QUALIFIED ARIZONA BUSINESS FOR THE DURATION OF THE
16 QUALIFIED COMMUNITY DEVELOPMENT ENTITY'S INVESTMENT IN, OR LOAN TO, THE
17 BUSINESS IF THE ENTITY REASONABLY EXPECTS, AT THE TIME IT MAKES THE
18 INVESTMENT OR LOAN, THAT THE BUSINESS WILL CONTINUE TO SATISFY THE
19 REQUIREMENTS FOR BEING A QUALIFIED ARIZONA BUSINESS THROUGHOUT THE ENTIRE
20 PERIOD OF THE INVESTMENT OR LOAN. QUALIFIED ARIZONA BUSINESS DOES NOT
21 INCLUDE ANY BUSINESS THAT DERIVES OR PROJECTS TO DERIVE FIFTEEN PER CENT OR
22 MORE OF ITS ANNUAL REVENUE FROM THE RENTAL OR SALE OF REAL ESTATE UNLESS THE
23 BUSINESS IS CONTROLLED BY, OR UNDER COMMON CONTROL WITH, ANOTHER BUSINESS IF
24 BOTH OF THE FOLLOWING APPLY TO THE SECOND BUSINESS:

25 (a) THE SECOND BUSINESS DOES NOT DERIVE OR PROJECT TO DERIVE FIFTEEN
26 PER CENT OR MORE OF ITS ANNUAL REVENUE FROM THE RENTAL OR SALE OF REAL
27 ESTATE.

28 (b) THE SECOND BUSINESS IS THE PRIMARY TENANT OF THE REAL ESTATE
29 LEASED FROM THE FIRST BUSINESS.

30 7. "QUALIFIED ARIZONA INVESTMENT" MEANS ANY CAPITAL OR EQUITY
31 INVESTMENT IN, OR LOAN TO, ANY QUALIFIED ARIZONA BUSINESS AND THE INVESTMENT
32 COMPLIES WITH PARAGRAPH 9, SUBDIVISION (a), ITEM (i) OF THIS SUBSECTION.
33 WITH RESPECT TO ANY SINGLE QUALIFIED ACTIVE COMMUNITY BUSINESS, THE MAXIMUM
34 AMOUNT OF QUALIFIED COMMUNITY INVESTMENTS MADE IN SUCH BUSINESS, ON A
35 COLLECTIVE BASIS WITH ALL OF ITS AFFILIATES, SHALL BE TEN MILLION DOLLARS
36 WHETHER ISSUED TO ONE OR SEVERAL QUALIFIED COMMUNITY DEVELOPMENT ENTITIES.

37 8. "QUALIFIED COMMUNITY DEVELOPMENT ENTITY" HAS THE SAME MEANING
38 PRESCRIBED BY SECTION 45D OF THE INTERNAL REVENUE CODE PROVIDED THAT THE
39 ENTITY HAS ENTERED INTO AN ALLOCATION AGREEMENT WITH THE COMMUNITY
40 DEVELOPMENT FINANCIAL INSTITUTIONS FUND OF THE UNITED STATES TREASURY
41 DEPARTMENT WITH RESPECT TO CREDITS UNDER SECTION 45D OF THE INTERNAL REVENUE
42 CODE, INCLUDING THIS STATE WITHIN THE SERVICE AREA ESTABLISHED IN THE
43 ALLOCATION AGREEMENT. QUALIFIED COMMUNITY DEVELOPMENT ENTITY INCLUDES
44 AFFILIATED ENTITIES AND SUBORDINATE COMMUNITY DEVELOPMENT ENTITIES OF ANY
45 SUCH QUALIFIED COMMUNITY DEVELOPMENT ENTITY.

1 9. "QUALIFIED EQUITY INVESTMENT":

2 (a) MEANS ANY EQUITY INVESTMENT IN, OR LONG-TERM DEBT SECURITY ISSUED
3 BY, A QUALIFIED COMMUNITY DEVELOPMENT ENTITY THAT:

4 (i) IS ACQUIRED AFTER THE EFFECTIVE DATE OF THIS SECTION AT ITS
5 ORIGINAL ISSUANCE SOLELY IN EXCHANGE FOR CASH.

6 (ii) HAS AT LEAST EIGHTY-FIVE PER CENT OF ITS CASH PURCHASE PRICE USED
7 BY THE ISSUER TO MAKE QUALIFIED COMMUNITY INVESTMENTS IN QUALIFIED ACTIVE
8 COMMUNITY BUSINESSES LOCATED IN THIS STATE BY THE FIRST ANNIVERSARY OF THE
9 INITIAL CREDIT ALLOWANCE DATE.

10 (iii) IS DESIGNATED BY THE ISSUER AS A QUALIFIED EQUITY INVESTMENT
11 UNDER THIS SUBDIVISION AND IS CERTIFIED BY THE AUTHORITY.

12 (b) INCLUDES ANY QUALIFIED EQUITY INVESTMENT THAT DOES NOT MEET THE
13 REQUIREMENTS OF SUBDIVISION (a) OF THIS PARAGRAPH IF THE INVESTMENT WAS A
14 QUALIFIED EQUITY INVESTMENT IN THE HANDS OF A PRIOR HOLDER.

15 Sec. 3. Section 43-222, Arizona Revised Statutes, is amended to read:

16 43-222. Income tax credit review schedule

17 The joint legislative income tax credit review committee shall review
18 the following income tax credits:

19 1. For years ending in 0 and 5, sections 43-1075, 43-1075.01,
20 43-1079.01, 43-1087, 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01,
21 43-1175 and 43-1182.

22 2. For years ending in 1 and 6, sections 43-1074.02, 43-1083,
23 43-1083.02, 43-1085.01, 43-1164.02, 43-1164.03 and 43-1183.

24 3. For years ending in 2 and 7, sections 43-1073, 43-1074.03, 43-1079,
25 43-1080, 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 43-1164,
26 43-1167, 43-1169, 43-1174, 43-1176 and 43-1181.

27 4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168,
28 43-1170 and 43-1178.

29 5. For years ending in 4 and 9, sections 43-1076, 43-1081.01,
30 43-1083.01, 43-1084, 43-1162, 43-1164.01, 43-1170.01 and 43-1184.

31 Sec. 4. Title 43, chapter 10, article 5, Arizona Revised Statutes, is
32 amended by adding section 43-1074.03, to read:

33 43-1074.03. Credit for qualified equity investments

34 A. A PERSON OR ENTITY THAT MAKES A QUALIFIED EQUITY INVESTMENT EARNS A
35 VESTED CREDIT AGAINST THE TAXES IMPOSED BY THIS TITLE. THE AMOUNT OF THE
36 CREDIT IS THE AMOUNT DETERMINED AND CERTIFIED BY THE ARIZONA COMMERCE
37 AUTHORITY AS PROVIDED BY SECTION 41-1509.

38 B. TO CLAIM THE CREDIT UNDER THIS SECTION, THE TAXPAYER SHALL ATTACH
39 TO ITS TAX RETURN A COPY OF THE ARIZONA COMMERCE AUTHORITY CERTIFICATION
40 PROVIDED PURSUANT TO SECTION 41-1509. NO CREDIT IS ALLOWED UNDER THIS
41 SECTION UNLESS THE TAXPAYER PROVIDES THE CERTIFICATION.

42 C. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES DUE UNDER THIS TITLE
43 ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS TITLE, THE
44 AMOUNT OF THE CLAIM NOT USED TO OFFSET THE TAXES UNDER THIS TITLE MAY BE

1 CARRIED FORWARD TO THE NEXT THREE CONSECUTIVE TAXABLE YEARS AS A CREDIT
2 AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY.

3 D. A TAX CREDIT UNDER THIS SECTION IS SUBJECT TO RECOVERY UNDER
4 SECTION 41-1509, SUBSECTION H.

5 Sec. 5. Title 43, chapter 11, article 6, Arizona Revised Statutes, is
6 amended by adding section 43-1174, to read:

7 43-1174. Credit for qualified equity investments

8 A. A PERSON OR ENTITY THAT MAKES A QUALIFIED EQUITY INVESTMENT EARNS A
9 VESTED CREDIT AGAINST THE TAXES IMPOSED BY THIS TITLE. THE AMOUNT OF THE
10 CREDIT IS THE AMOUNT DETERMINED AND CERTIFIED BY THE ARIZONA COMMERCE
11 AUTHORITY AS PROVIDED BY SECTION 41-1509.

12 B. TO CLAIM THE CREDIT UNDER THIS SECTION, THE TAXPAYER SHALL ATTACH
13 TO ITS TAX RETURN A COPY OF THE ARIZONA COMMERCE AUTHORITY CERTIFICATION
14 PROVIDED PURSUANT TO SECTION 41-1509. NO CREDIT IS ALLOWED UNDER THIS
15 SECTION UNLESS THE TAXPAYER PROVIDES THE CERTIFICATION.

16 C. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES DUE UNDER THIS TITLE
17 ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS TITLE, THE
18 AMOUNT OF THE CLAIM NOT USED TO OFFSET THE TAXES UNDER THIS TITLE MAY BE
19 CARRIED FORWARD TO THE NEXT THREE CONSECUTIVE TAXABLE YEARS AS A CREDIT
20 AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY.

21 D. A TAX CREDIT UNDER THIS SECTION IS SUBJECT TO RECOVERY UNDER
22 SECTION 41-1509, SUBSECTION H.

23 Sec. 6. Arizona commerce authority; exemption from rule making

24 The Arizona commerce authority is exempt from the rule making
25 requirements of title 41, chapter 6, Arizona Revised Statutes, for the
26 purposes of implementing this act.

27 Sec. 7. Purpose

28 Pursuant to section 43-223, Arizona Revised Statutes, the purpose of
29 sections 43-1074.03 and 43-1174, Arizona Revised Statutes, as added by this
30 act, is to encourage taxpayers to make qualified equity investments in this
31 state.