

As Passed by the Senate

129th General Assembly

Regular Session

2011-2012

Sub. S. B. No. 327

Senators Beagle, Tavares

**Cosponsors: Senators Seitz, Bacon, Balderson, Brown, Eklund, Faber,
Hughes, Kearney, LaRose, Lehner, Manning, Niehaus, Obhof, Oelslager,
Patton, Peterson, Sawyer, Schaffer, Schiavoni, Smith, Turner, Wagoner,**

Widener

—

A B I L L

To amend sections 5725.33, 5725.98, 5729.16, and 1
5733.58 and to enact section 5725.331 of the 2
Revised Code to divide the New Markets Tax Credit 3
program into the New Markets Revitalization Tax 4
Credit program, with an annual credit cap of \$15 5
million, and the New Markets Expansion Tax Credit 6
program, with an annual credit cap of \$35 million, 7
and to specify separate standards and application 8
procedures for each program. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5725.33, 5725.98, 5729.16, and 10
5733.58 be amended and section 5725.331 of the Revised Code be 11
enacted to read as follows: 12

Sec. 5725.33. (A) Except as otherwise provided in this 13
section, terms used in this section have the same meaning as 14
section 45D of the Internal Revenue Code, any related proposed, 15
temporary or final regulations promulgated under the Internal 16

Revenue Code, any rules or guidance of the internal revenue 17
service or the United States department of the treasury, and any 18
related rules or guidance issued by the community development 19
financial institutions fund of the United States department of the 20
treasury, as such law, regulations, rules, and guidance exist on 21
~~the effective date of the enactment of this section by H.B. 1 of~~ 22
~~the 128th general assembly~~ October 16, 2009. 23

As used in this section: 24

(1) "Adjusted purchase price" means the amount paid for 25
qualified equity investments multiplied by the qualified 26
low-income community investments made by the issuer in projects 27
located in this state as a percentage of the total amount of 28
qualified low-income community investments made by the issuer in 29
projects located in all states on the credit allowance date during 30
the applicable tax year, subject to divisions (B)(1) and (2) of 31
this section. 32

(2) "Applicable percentage" means ~~zero~~ five per cent for each 33
of the first ~~two~~ three credit allowance dates, ~~seven per cent for~~ 34
~~the third credit allowance date,~~ and ~~eight~~ six per cent for the 35
four following credit allowance dates. 36

(3) "Credit allowance date" means the date, ~~on or after~~ 37
~~January 1, 2010,~~ a qualified equity investment is made and each of 38
the six anniversary dates thereafter. ~~For qualified equity~~ 39
~~investments made after the effective date of this section but~~ 40
~~before January 1, 2010, the initial credit allowance date is~~ 41
~~January 1, 2010, and each of the six anniversary dates thereafter~~ 42
~~is on the first day of January of each year.~~ 43

(4) ~~"Qualified active low income community business" excludes~~ 44
~~any business that derives or projects to derive fifteen per cent~~ 45
~~or more of annual revenue from the rental or sale of real~~ 46
~~property, except any business that is a special purpose entity~~ 47

~~principally owned by a principal user of that property formed 48
solely for the purpose of renting, either directly or indirectly, 49
or selling real property back to such principal user if such 50
principal user does not derive fifteen per cent or more of its 51
gross annual revenue from the rental or sale of real property. 52~~

~~(5) "Qualified community development entity" includes only 53
entities; 54~~

~~(a) That that have entered into, for the current year or for 55
any prior year, an allocation agreement with the community 56
development financial institutions fund of the United States 57
department of the treasury with respect to credits authorized by 58
section 45D of the Internal Revenue Code; 59~~

~~(b) Whose and whose service area includes any portion of this 60
state; and 61~~

~~(c) That will designate an equity investment in such entities 62
as a qualified equity investment for purposes of both section 45D 63
of the Internal Revenue Code and this section, or an entity 64
controlled by or under the common control of such an entity. 65~~

~~(6)(5) "Qualified equity investment" is limited to an equity 66
investment in a qualified community development entity that: 67~~

~~(a) Is acquired after the effective date of the enactment of 68
this section October 16, 2009, at its original issuance solely in 69
exchange for cash; 70~~

~~(b) Has at least eighty-five per cent of its cash purchase 71
price used by the qualified community development entity to make 72
qualified low-income community investments on or before the first 73
anniversary of the date the entity and the development services 74
agency entered into a tax credit allocation agreement with respect 75
to the qualified equity investment, provided that in the seventh 76
year after a qualified equity investment is made, only 77
seventy-five per cent of such cash purchase price must be used by 78~~

the qualified community development entity to make qualified 79
low-income community investments; and 80

(c) Is designated by the issuer as a qualified equity 81
investment. 82

"Qualified equity investment" includes any equity investment 83
that would, but for division (A)~~(6)~~(5)(a) of this section, be a 84
qualified equity investment in the hands of the taxpayer if such 85
investment was a qualified equity investment in the hands of a 86
prior holder. 87

~~(B) There is hereby allowed a nonrefundable credit against 88
the tax imposed by section 5725.18 of the Revised Code for an 89
insurance company holding a qualified equity investment~~ There is 90
hereby created the new markets revitalization tax credit program. 91
Under the program, an insurance company may earn a nonrefundable 92
credit against the tax imposed by section 5725.18 of the Revised 93
Code for a qualified equity investment the insurance company holds 94
on the credit allowance date occurring in the calendar year for 95
which the tax is due. The credit shall equal the applicable 96
percentage of the adjusted purchase price of qualified low-income 97
community investments, subject to divisions (B)(1) and (2) of this 98
section: 99

(1) For the purpose of calculating the amount of qualified 100
low-income community investments held by a qualified community 101
development entity, an investment shall be considered held by a 102
qualified community development entity even if the investment has 103
been sold or repaid, provided that, at any time before the seventh 104
anniversary of the issuance of the qualified equity investment, 105
the qualified community development entity reinvests an amount 106
equal to the capital returned to or received or recovered by the 107
qualified community development entity from the original 108
investment, exclusive of any profits realized and costs incurred 109
in the sale or repayment, in another qualified low-income 110

community investment within twelve months of the receipt of such 111
capital. If the qualified low-income community investment is sold 112
or repaid after the sixth anniversary of the issuance of the 113
qualified equity investment, the qualified low-income community 114
investment shall be considered held by the qualified community 115
development entity through the seventh anniversary of the 116
qualified equity investment's issuance. 117

(2) The qualified low-income community investment made in 118
this state shall equal the sum of the qualified low-income 119
community investments in each qualified active low-income 120
community business in this state, not to exceed ~~two~~ four million 121
~~five hundred sixty-four thousand~~ dollars, in which the qualified 122
community development entity invests, including such investments 123
in any such businesses in this state related to that qualified 124
active low-income community business through majority ownership or 125
control. 126

The credit shall be claimed in the order prescribed by 127
section 5725.98 of the Revised Code. If the amount of the credit 128
exceeds the amount of tax otherwise due after deducting all other 129
credits in that order, the excess may be carried forward and 130
applied to the tax due for not more than four ensuing years. 131

By claiming a tax credit under this section, an insurance 132
company waives its rights under section 5725.222 of the Revised 133
Code with respect to the time limitation for the assessment of 134
taxes as it relates to credits claimed that later become subject 135
to recapture under division ~~(E)~~(D) of this section. 136

(C) The amount of qualified equity investments on the basis 137
of which credits may be ~~claimed~~ earned under this section ~~and~~ 138
~~sections, division (B)(1) of section 5729.16, and division (B)(1)~~ 139
of section 5733.58 of the Revised Code shall not exceed the 140
amount, estimated by the director of development services, that 141
would cause the total amount of credits allowed to be claimed in 142

each fiscal year to exceed ~~ten~~ fifteen million dollars, computed 143
without regard to the potential for taxpayers to carry tax credits 144
forward to later years. 145

~~(D) If any amount of the federal tax credit allowed for a 146
qualified equity investment for which a credit was received under 147
this section is recaptured under section 45D of the Internal 148
Revenue Code, or if the director of development determines that an 149
investment for which a tax credit is claimed under this section is 150
not a qualified equity investment or that the proceeds of an 151
investment for which a tax credit is claimed under this section 152
are used to make qualified low income community investments other 153
than in a qualified active low income community business, all or a 154
portion of the credit received on account of that investment shall 155
be paid by the insurance company that received the credit to the 156
superintendent of insurance All or a portion of any credit 157
received on account of a qualified equity investment under this 158
section or section 5725.331 of the Revised Code shall be paid by 159
the insurance company that received the credit to the 160
superintendent of insurance if any of the following situations 161
apply: 162~~

(1) Any amount of a federal tax credit allowed for that 163
qualified equity investment is recaptured under section 45D of the 164
Internal Revenue Code; 165

(2) All or a portion of that qualified equity investment is 166
redeemed before the final credit allowance date for the qualified 167
equity investment; 168

(3) At least eighty-five per cent of the proceeds of that 169
qualified equity investment are not used by the qualified 170
community development entity to make qualified low-income 171
community investments in qualified active low-income community 172
businesses located in this state on or before the deadline 173
specified in division (A)(5)(b) of this section or division 174

(A)(5)(c) of section 5725.331 of the Revised Code, as applicable; 175

(4) The level of investment required under division (D)(3) of 176
this section is not maintained until the final credit allowance 177
date, subject to the exception in division (A)(5)(b) of this 178
section or division (A)(5)(c) of section 5725.331 of the Revised 179
Code. The 180

The director of development services shall provide written 181
notice to a qualified community development entity of the entity's 182
noncompliance with this section. The director shall allow the 183
entity the opportunity to cure its noncompliance within six months 184
following the date the director gives notice before commencing 185
recovery under this division. Following this six-month period, the 186
amount to be recovered shall be determined by the director of 187
development services pursuant to rules adopted under division (E) 188
of this section. The 189

The director shall certify any amount due under this division 190
to the superintendent of insurance, and the superintendent shall 191
notify the treasurer of state of the amount due. Upon 192
notification, the treasurer shall invoice the insurance company 193
for the amount due. The amount due is payable not later than 194
thirty days after the date the treasurer invoices the insurance 195
company. The amount due shall be considered to be tax due under 196
section 5725.18 of the Revised Code, and may be collected by 197
assessment without regard to the time limitations imposed under 198
section 5725.222 of the Revised Code for the assessment of taxes 199
by the superintendent. All amounts collected under this division 200
shall be credited as revenue from the tax levied under section 201
5725.18 of the Revised Code. 202

(E) The tax credits authorized under this section and 203
sections 5725.331, 5729.16, and 5733.58 of the Revised Code shall 204
be administered by the ~~department of~~ development services agency. 205
The director of development services, in consultation with the tax 206

commissioner and the superintendent of insurance, pursuant to 207
Chapter 119. of the Revised Code, shall adopt rules for the 208
administration of this section and sections 5725.331, 5729.16, and 209
5733.58 of the Revised Code. The rules shall provide for 210
determining the recovery of credits under division (D) of this 211
section, division (D) of section 5729.16, and division (D) of 212
section 5733.58 of the Revised Code, including prorating the 213
amount of the credit to be recovered on any reasonable basis, the 214
manner in which credits may be allocated among claimants, and the 215
amount of any application or other fees to be charged in 216
connection with a recovery. 217

(F) There is hereby created in the state treasury the new 218
markets tax credit operating fund. The director of development 219
services is authorized to charge reasonable application and other 220
fees in connection with the administration of tax credits 221
authorized by this section and sections 5725.331, 5729.16, and 222
5733.58 of the Revised Code. Any such fees collected shall be 223
credited to the fund. The director of development services shall 224
use money in the fund to pay expenses related to the 225
administration of tax credits authorized under sections 5725.33, 226
5725.331, 5729.16, and 5733.58 of the Revised Code. 227

(G) Tax credits earned by a pass-through entity under 228
sections 5725.33, 5729.16, and 5733.58 of the Revised Code may be 229
allocated to persons having a direct or indirect ownership 230
interest in the pass-through entity for such persons' direct use 231
in proportion to such persons' ownership interest in the 232
pass-through entity or in accordance with the provisions of any 233
mutual agreement between such persons. 234

Sec. 5725.331. (A) Except as otherwise provided in this 235
section, terms used in this section have the same meaning as 236
section 45D of the Internal Revenue Code, any related proposed, 237

temporary or final regulations promulgated under the Internal 238
Revenue Code, any rules or guidance of the internal revenue 239
service or the United States department of the treasury, and any 240
related rules or guidance issued by the community development 241
financial institutions fund of the United States department of the 242
treasury, as such law, regulations, rules, and guidance exist on 243
October 16, 2009. 244

As used in this section: 245

(1) "Purchase price" means the amount of cash paid for a 246
qualified equity investment at its issuance. 247

(2) "Qualified community development entity" and "credit 248
allowance date" have the same meanings as in section 5725.33 of 249
the Revised Code. 250

(3) "Applicable percentage" means zero per cent for each of 251
the first two credit allowance dates, seven per cent for the third 252
credit allowance date, and eight per cent for the four following 253
credit allowance dates. 254

(4) "Qualified active low-income community business" excludes 255
any business that derives or projects to derive fifteen per cent 256
or more of annual revenue from the rental or sale of real 257
property, except any business that is a special purpose entity 258
controlled by or under the common control of the principal user of 259
that property and that is formed solely for the purpose of 260
renting, either directly or indirectly, or selling real property 261
back to such principal user if such principal user does not derive 262
fifteen per cent or more of its gross annual revenue from the 263
rental or sale of real property. 264

(5) "Qualified equity investment" is limited to an equity 265
investment that: 266

(a) Is acquired after October 16, 2009, at its original 267

issuance solely in exchange for cash; 268

(b) Is made in a qualified community development entity; 269

(c) Has at least eighty-five per cent of its cash purchase 270
price used by the qualified community development entity to make 271
qualified low-income community investments in this state on or 272
before the first anniversary of the date the entity receives 273
notice of the approval of the entity's application for 274
certification of the qualified equity investment, provided that in 275
the seventh year after a qualified equity investment is made, only 276
seventy-five per cent of such cash purchase price must be used by 277
the qualified community development entity to make qualified 278
low-income community investments; and 279

(d) Is certified by the director of development services as a 280
qualified equity investment. 281

"Qualified equity investment" includes any equity investment 282
that would, but for division (A)(5)(a) of this section, be a 283
qualified equity investment in the hands of the taxpayer if such 284
investment was a qualified equity investment in the hands of a 285
prior holder. 286

(B) There is hereby created the new markets expansion tax 287
credit program. Under the program, an insurance company that makes 288
a qualified equity investment or that purchases a qualified equity 289
investment from a prior holder may earn a nonrefundable credit 290
against the tax imposed by section 5725.18 of the Revised Code. 291
The insurance company may claim the credit for each calendar year 292
that includes a credit allowance date for the qualified equity 293
investment. The credit shall equal the applicable percentage of 294
the purchase price of qualified low-income community investments. 295
When calculating the amount of qualified low-income community 296
investments held by a qualified community development entity for 297
purposes of this section, the following limitations shall apply: 298

(1) An investment shall be considered held by a qualified community development entity even if the investment has been sold or repaid, provided that the qualified community development entity reinvests an amount equal to the capital returned to or received or recovered by the qualified community development entity from the original investment, exclusive of any profits realized and costs incurred in the sale or repayment, in another qualified low-income community investment within twelve months of the receipt of such capital. If the qualified low-income community investment is sold or repaid after the sixth anniversary of the issuance of the qualified equity investment, the qualified low-income community investment shall be considered held by the qualified community development entity through the seventh anniversary of the qualified equity investment's issuance. 299
300
301
302
303
304
305
306
307
308
309
310
311
312

(2) The qualified low-income community investment made in any single qualified active low-income community business in this state, including such investments in any such businesses in this state related to that qualified active low-income community business through majority ownership or control, shall not exceed ten million dollars. 313
314
315
316
317
318

The credit shall be claimed in the order prescribed by section 5725.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due after deducting all other credits in that order, the excess may be carried forward and applied to the tax due for not more than four ensuing years. 319
320
321
322
323

By claiming a tax credit under this section, an insurance company waives its rights under section 5725.222 of the Revised Code with respect to the time limitation for the assessment of taxes as it relates to credits claimed that later become subject to recapture under division (D) of section 5725.33 of the Revised Code. 324
325
326
327
328
329

(C) The amount of qualified equity investments on the basis 330

of which credits may be claimed under this section, division 331
(B)(2) of section 5729.16, and division (B)(2) of section 5733.58 332
of the Revised Code shall not exceed the amount, estimated by the 333
director of development services, that would cause the total 334
amount of credits allowed to be claimed in any fiscal year to 335
exceed thirty-five million dollars, computed without regard to the 336
potential for taxpayers to carry tax credits forward to later 337
years. 338

(D)(1) Before a credit authorized under this section, 339
division (B)(2) of section 5729.16, or division (B)(2) of section 340
5733.58 of the Revised Code may be claimed, a qualified community 341
development entity shall apply to the director of development 342
services for certification of the entity's proposed qualified 343
equity investments as eligible for the applicable credit. A 344
completed application shall include the following: 345

(a) Evidence of the entity's certification as a qualified 346
community development entity, including evidence that the service 347
area of the entity includes this state; 348

(b) A copy of any current allocation agreement executed by 349
the entity, or its controlling entity, with the community 350
development financial institutions fund; 351

(c) A description of the proposed amount, structure, and 352
purchaser of the qualified equity investment; 353

(d) Identifying information for any taxpayer that would be 354
eligible to claim a credit under this section, division (B)(2) of 355
section 5729.16, or division (B)(2) of section 5733.58 of the 356
Revised Code upon certification and issuance of the proposed 357
qualified equity investment; 358

(e) Information on the proposed use of proceeds from the 359
issuance of the proposed qualified equity investment provided that 360
such information is then available; 361

(f) A nonrefundable application fee of five thousand dollars, 362
payable to the development services agency. 363

An entity may apply to certify any amount of a proposed 364
qualified equity investment, provided that the proposed amount 365
would not, upon issuance, independently of all other proposed 366
qualified equity investments, cause the credit limit in division 367
(C) of this section to be exceeded. The director shall certify 368
proposed qualified equity investments up to the total amount of 369
credits that would not cause the total amount of credits allowed 370
to be claimed in a fiscal year to exceed the dollar amount in 371
division (C) of this section. Subject to division (D)(3) of this 372
section, if the investment amount in an application would cause 373
the total amount of credits allowed to be claimed in any fiscal 374
year to exceed such dollar amount, the director shall notify the 375
applicant that the director is authorized to certify only the 376
portion of the entity's proposed investment up to the allowable 377
credit limit. The entity may withdraw its application or accept 378
certification of that portion. 379

(2) The director shall designate a date on which the director 380
will begin considering received applications. The director shall 381
consider any applications received before the designated date to 382
have been received on the designated date. 383

(3) The director shall consider applications that are 384
received on the same day as having been received simultaneously. 385
If the certification of the amount of proposed qualified equity 386
investments from complete applications received simultaneously 387
would cause the total amount of credits awarded to exceed the 388
credit limit in division (C) of this section, the director shall 389
certify such proposed qualified equity investments in proportion 390
to the ratio of the amount of proposed qualified equity 391
investments requested in each single complete application received 392
simultaneously to the total amount of proposed qualified equity 393

investments requested in all complete applications received 394
simultaneously. The director shall notify the qualified community 395
development entity that the director is authorized to certify only 396
the portion of the entity's proposed investment up to the 397
allowable credit limit. The entity may withdraw its application or 398
accept certification of that portion. If the entity withdraws its 399
application, the director shall recalculate the proportion of the 400
proposed qualified equity investments for all remaining applicants 401
filing complete applications simultaneously on that day by 402
applying the ratio described in this division. 403

(4) Within thirty days after the receipt of an application, 404
the director shall approve or deny the application in full or in 405
part. If the director denies any part of the application because 406
the application is found by the director to be incomplete, the 407
director shall give the qualified community development entity 408
written notice of the reason for the director's denial. If the 409
entity provides the information necessary to complete the entity's 410
application on or before fifteen days after receiving the notice, 411
the director shall consider the application complete as of the 412
date the entity first applied for certification. If the entity 413
does not provide information necessary to complete its application 414
within this fifteen-day period, the application shall remain 415
denied, and the entity may submit a new application. 416

(5) After receiving notice of the director's approval of an 417
entity's application, the entity shall issue each certified 418
qualified equity investment and receive cash in the amount 419
certified and, within ten business days after receipt of the cash, 420
provide the director with evidence of the entity's receipt of cash 421
in the amount certified. That amount shall be certified by the 422
director as a qualified equity investment. 423

If a qualified community development entity does not issue a 424
certified qualified equity investment and receive cash in the 425

amount certified within one year after the date the entity 426
receives notice of the director's approval of the entity's 427
application, the director shall withdraw the director's 428
certification of such qualified equity investment and give written 429
notice of withdrawal to the entity. An entity whose investment 430
certification has been so withdrawn may reapply to the director 431
for certification under this division. If the qualified community 432
development entity whose certification is withdrawn was subject to 433
the limitation in division (D)(3) of this section, the amount of 434
any such withdrawn investment shall be awarded to each entity that 435
applied simultaneously with the withdrawn entity in proportion to 436
the amount of certified qualified equity investments for each 437
entity. 438

(E) Tax credits earned by a pass-through entity under this 439
section may be allocated to persons having a direct or indirect 440
ownership interest in the pass-through entity for such persons' 441
direct use in proportion to such persons' ownership interest in 442
the pass-through entity or in accordance with the provisions of 443
any mutual agreement between such persons. 444

Sec. 5725.98. (A) To provide a uniform procedure for 445
calculating the amount of tax imposed by section 5725.18 of the 446
Revised Code that is due under this chapter, a taxpayer shall 447
claim any credits and offsets against tax liability to which it is 448
entitled in the following order: 449

(1) The credit for an insurance company or insurance company 450
group under section 5729.031 of the Revised Code; 451

(2) The credit for eligible employee training costs under 452
section 5725.31 of the Revised Code; 453

(3) The credit for purchasers of qualified low-income 454
community investments under section 5725.33 of the Revised Code; 455

(4) <u>The credit for purchasers of qualified low-income community investments under section 5725.331 of the Revised Code;</u>	456 457
<u>(5)</u> The nonrefundable job retention credit under division (B)(1) of section 122.171 of the Revised Code;	458 459
(5) <u>(6)</u> The offset of assessments by the Ohio life and health insurance guaranty association permitted by section 3956.20 of the Revised Code;	460 461 462
(6) <u>(7)</u> The refundable credit for rehabilitating a historic building under section 5725.34 of the Revised Code.	463 464
(7) <u>(8)</u> The refundable credit for Ohio job retention under division (B)(2) or (3) of section 122.171 of the Revised Code;	465 466
(8) <u>(9)</u> The refundable credit for Ohio job creation under section 5725.32 of the Revised Code;	467 468
(9) <u>(10)</u> The refundable credit under section 5725.19 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code.	469 470 471 472
(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.	473 474 475 476 477 478 479 480
Sec. 5729.16. (A) Terms used in <u>division (B)(1) of this section have the same meaning as in section 5725.33 of the Revised Code, and terms used in division (B)(2) of this section have the same meaning as in section 5725.331 of the Revised Code.</u>	481 482 483 484
(B) <u>(1)</u> There is hereby allowed, <u>pursuant to the new markets</u>	485

revitalization tax credit program created in section 5725.33 of 486
the Revised Code, a nonrefundable credit against the tax imposed 487
by section 5729.03 of the Revised Code for a foreign insurance 488
company holding a qualified equity investment on the credit 489
allowance date occurring in the calendar year for which the tax is 490
due. The credit shall be computed in the same manner prescribed 491
for the computation of credits allowed under section 5725.33 of 492
the Revised Code. 493

The (2) There is hereby allowed, pursuant to the new markets 494
expansion tax credit program created in section 5725.331 of the 495
Revised Code, a nonrefundable credit against the tax imposed by 496
section 5729.03 of the Revised Code for a foreign insurance 497
company that holds a qualified equity investment on the credit 498
allowance date occurring in the calendar year for which the tax is 499
due or that is allocated such a credit as provided in division (G) 500
of section 5725.33 of the Revised Code. The credit shall be 501
computed in the same manner prescribed for the computation of 502
credits allowed under section 5725.331 of the Revised Code. 503

A reduction in the taxes charged to a foreign insurance 504
company under section 5729.03 of the Revised Code to the extent 505
obtained through a credit under division (B)(1) or (2) of this 506
section does not increase the liability of that company for the 507
tax imposed by section 5729.06 of the Revised Code. 508

A credit earned under division (B)(1) or (2) of this section 509
shall be claimed in the order prescribed by section 5729.98 of the 510
Revised Code. If the amount of the credit exceeds the amount of 511
tax otherwise due after deducting all other credits in that order, 512
the excess may be carried forward and applied to the tax due for 513
not more than four ensuing years. 514

By claiming a tax credit under this section, an insurance 515
company waives its rights under section 5729.102 of the Revised 516
Code with respect to the time limitation for the assessment of 517

taxes as it relates to credits claimed that later become subject 518
to recapture under division (D) of this section. 519

(C)(1) The total amount of qualified equity investments on 520
the basis of which credits may be ~~claimed~~ earned under division 521
(B)(1) of this section, section 5725.33, and division (B)(1) of 522
section 5733.58 of the Revised Code is subject to the limitation 523
of division (C) of section 5725.33 of the Revised Code. 524

(2) The total amount of qualified equity investments on the 525
basis of which credits may be earned under section 5725.331, 526
division (B)(2) of this section, and division (B)(2) of section 527
5733.58 of the Revised Code is subject to the limitation of 528
division (C) of section 5725.331 of the Revised Code. 529

~~(D) If any amount of the federal tax credit allowed for a 530
qualified equity investment for which a credit was received under 531
this section is recaptured under section 45D of the Internal 532
Revenue Code, or if the director of development determines that an 533
investment for which a tax credit is claimed under this section is 534
not a qualified equity investment or that the proceeds of an 535
investment for which a tax credit is claimed under this section 536
are used to make qualified low income community investments other 537
than in a qualified active low income community business, all or a 538
portion of the credit received on account of that investment shall 539
be paid by the insurance company that received the credit to the 540
superintendent of insurance All or a portion of any credit 541
received on account of a qualified equity investment under this 542
section shall be paid by the insurance company that received the 543
credit to the superintendent of insurance if any of the following 544
situations apply: 545~~

(1) Any amount of a federal tax credit allowed for that 546
qualified equity investment is recaptured under section 45D of the 547
Internal Revenue Code; 548

(2) All or a portion of that qualified equity investment is 549
redeemed before the final credit allowance date for the qualified 550
equity investment; 551

(3) At least eighty-five per cent of the proceeds of that 552
qualified equity investment are not used by the qualified 553
community development entity to make qualified low-income 554
community investments in qualified active low-income community 555
businesses located in this state on or before the deadline 556
specified in division (A)(5)(b) of section 5725.33 or division 557
(A)(5)(c) of section 5725.331 of the Revised Code, as applicable; 558

(4) The level of investment required under division (D)(3) of 559
this section is not maintained until the final credit allowance 560
date, subject to the exception in division (A)(5)(b) of section 561
5725.33 or division (A)(5)(c) of section 5725.331 of the Revised 562
Code. The 563

The director of development services shall provide written 564
notice to a qualified community development entity of the entity's 565
noncompliance with this section. The director shall allow the 566
entity the opportunity to cure its noncompliance within six months 567
following the date the director gives notice before commencing 568
recovery under this division. Following this six-month period, the 569
amount to be recovered shall be determined by the director of 570
development services pursuant to rules adopted under section 571
5725.33 of the Revised Code. The director shall certify any amount 572
due under this division to the superintendent of insurance, and 573
the superintendent shall notify the treasurer of state of the 574
amount due. Upon notification, the treasurer shall invoice the 575
insurance company for the amount due. The amount due is payable 576
not later than thirty days after the date the treasurer invoices 577
the insurance company. The amount due shall be considered to be 578
tax due under section 5729.03 of the Revised Code, and may be 579
collected by assessment without regard to the time limitations 580

imposed under section 5729.102 of the Revised Code for the 581
assessment of taxes by the superintendent. All amounts collected 582
under this division shall be credited as revenue from the tax 583
levied under section 5729.03 of the Revised Code. 584

Sec. 5733.58. (A) Terms used in division (B)(1) of this 585
section have the same meaning as in section 5725.33 of the Revised 586
Code, and terms used in division (B)(2) of this section have the 587
same meaning as in section 5725.331 of the Revised Code. 588

(B)(1) There is hereby allowed, pursuant to the new markets 589
revitalization tax credit program created in section 5725.33 of 590
the Revised Code, a nonrefundable credit against the tax imposed 591
by section 5733.06 of the Revised Code for a financial institution 592
holding a qualified equity investment on the credit allowance date 593
occurring in the calendar year immediately preceding the tax year 594
for which the tax is due. The credit shall be computed in the same 595
manner prescribed for the computation of credits allowed under 596
section 5725.33 of the Revised Code. 597

(2) There is hereby allowed, pursuant to the new markets 598
expansion tax credit program created in section 5725.331 of the 599
Revised Code, a nonrefundable credit against the tax imposed by 600
section 5733.06 of the Revised Code for a taxpayer that holds a 601
qualified equity investment on the credit allowance date occurring 602
in the calendar year for which the tax is due or that is allocated 603
such a credit as provided in division (G) of section 5725.33 of 604
the Revised Code. The credit shall be computed in the same manner 605
prescribed for the computation of credits allowed under section 606
5725.331 of the Revised Code. 607

By claiming a tax credit under this section, a financial 608
institution waives its rights under section 5733.11 of the Revised 609
Code with respect to the time limitation for the assessment of 610
taxes as it relates to credits claimed that later become subject 611

to recapture under division (D) of this section. 612

The A credit allowed under division (B)(1) or (2) of this 613
section shall be claimed in the order prescribed by section 614
5733.98 of the Revised Code. If the amount of the credit exceeds 615
the amount of tax otherwise due after deducting all other credits 616
in that order, the excess may be carried forward and applied to 617
the tax due for not more than four ensuing tax years. 618

(C)(1) The total amount of qualified equity investments on 619
the basis of which credits may be ~~claimed~~ earned under division 620
(B)(1) of this section and sections, section 5725.33, and division 621
(B)(1) of section 5729.16 of the Revised Code is subject to the 622
limitation of division (C) of section 5725.33 of the Revised Code. 623

(2) The total amount of qualified equity investments on the 624
basis of which credits may be earned under section 5725.331, 625
division (B)(2) of this section, and division (B)(2) of section 626
5729.16 of the Revised Code is subject to the limitation of 627
division (C) of section 5725.331 of the Revised Code. 628

(D) ~~If any amount of the federal tax credit allowed for a~~ 629
~~qualified equity investment for which a credit was received under~~ 630
~~this section is recaptured under section 45D of the Internal~~ 631
~~Revenue Code, or if the director of development determines that an~~ 632
~~investment for which a tax credit is claimed under this section is~~ 633
~~not a qualified equity investment or that the proceeds of an~~ 634
~~investment for which a tax credit is claimed under this section~~ 635
~~are used to make qualified low income community investments other~~ 636
~~than in a qualified active low income community business, all or a~~ 637
~~portion of the credit received on account of that investment shall~~ 638
~~be paid by the financial institution that received the credit to~~ 639
~~the tax commissioner~~ All or a portion of any credit received on 640
account of a qualified equity investment under this section shall 641
be paid by the financial institution that received the credit to 642
the tax commissioner if any of the following situations apply: 643

(1) Any amount of a federal tax credit allowed for such 644
qualified equity investment is recaptured under section 45D of the 645
Internal Revenue Code; 646

(2) All or a portion of such qualified equity investment is 647
redeemed prior to the final credit allowance date for the 648
qualified equity investment; 649

(3) At least eighty-five per cent of the proceeds of such 650
qualified equity investment are not used by the qualified 651
community development entity to make qualified low-income 652
community investments in qualified active low-income community 653
businesses located in this state on or before the deadline 654
specified in division (A)(5)(b) of section 5725.33 or division 655
(A)(5)(c) of section 5725.331 of the Revised Code, as applicable; 656

(4) The level of investment required under division (D)(3) of 657
this section is not maintained until the final credit allowance 658
date, subject to the exception in division (A)(5)(b) of section 659
5725.33 or division (A)(5)(c) of section 5725.331 of the Revised 660
Code. The 661

The director of development services shall provide written 662
notice to a qualified community development entity of the entity's 663
noncompliance with this section. The director shall allow the 664
entity the opportunity to cure its noncompliance within six months 665
following the date the director gives notice before commencing 666
recovery under this division. Following this six-month period, the 667
amount to be recovered shall be determined by the director of 668
development services pursuant to rules adopted under section 669
5725.33 of the Revised Code. The director shall certify any amount 670
due under this division to the tax commissioner, and the 671
commissioner shall notify the financial institution of the amount 672
due. The amount due is payable not later than thirty days after 673
the day the commissioner issues the notice. The amount due shall 674
be considered to be tax due under section 5733.06 of the Revised 675

Code, and may be collected by assessment without regard to the 676
limitations imposed under section 5733.11 of the Revised Code for 677
the assessment of taxes by the commissioner. All amounts collected 678
under this division shall be credited as revenue from the tax 679
levied under section 5733.06 of the Revised Code. 680

Section 2. That existing sections 5725.33, 5725.98, 5729.16, 681
and 5733.58 of the Revised Code are hereby repealed. 682