

By: Ashby

H.B. No. 4735

A BILL TO BE ENTITLED

AN ACT

relating to rural development funds and insurance tax credits for certain investments in those funds; authorizing fees.

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

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

CHAPTER 487A. RURAL DEVELOPMENT FUNDS

SUBCHAPTER A. GENERAL PROVISIONS

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

(1) "Closing date" means the date a rural development fund has collected all of the amounts described by Section 487A.0056(a)(1).

(2) "Historically underutilized business" means a business certified by the comptroller under Chapter 2161 as a historically underutilized business.

(3) "Rural area" means an area:

(A) other than a municipality with a population of more than 50,000 or an urbanized area contiguous and adjacent to the municipality; or

(B) determined to be rural in character by the United States Department of Agriculture.

(4) "Rural development fund" means an entity approved by the comptroller as a rural development fund.

Sec. 487A.0002. DEFINITION: AFFILIATE. (a) In this

1 chapter, "affiliate" means an entity that directly or indirectly
2 through one or more intermediaries controls, is controlled by, or
3 is under common control with another entity.

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

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

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

10 Sec. 487A.0003. DEFINITION: CREDIT-ELIGIBLE CAPITAL
11 CONTRIBUTION. In this chapter, "credit-eligible capital
12 contribution" means an investment of cash in a rural development
13 fund made by an entity that is subject to state insurance tax
14 liability, as defined by Section 232.0001, Insurance Code, in
15 exchange for which the investor receives:

16 (1) an equity interest in a rural development fund; or

17 (2) at par value or premium, a debt instrument that has
18 a maturity date of at least five years from the closing date and a
19 repayment schedule that is no faster than level principal
20 amortization over five years.

21 Sec. 487A.0004. DEFINITION: GROWTH INVESTMENT. (a) In
22 this chapter and subject to Subsection (b), "growth investment"
23 means any capital or equity investment by a rural development fund
24 in a targeted small business or any loan by a rural development fund
25 to a targeted small business with a stated maturity date of at least
26 one year after the date of issuance.

27 (b) A loan by a rural development fund to a targeted small

1 business is a growth investment only if the targeted small business
2 obtains an affidavit from the chief executive officer or equivalent
3 position of the targeted small business attesting that:

4 (1) the targeted small business sought and was denied
5 similar financing from a commercial bank; or

6 (2) the targeted small business was referred to the
7 rural development fund by a commercial bank.

8 Sec. 487A.0005. DEFINITION: INVESTMENT AUTHORITY. In this
9 chapter, "investment authority" means the amount stated on the
10 notice issued under Section 487A.0055(1) approving the rural
11 development fund.

12 Sec. 487A.0006. DEFINITION: JOBS CREATED. (a) In this
13 chapter, "jobs created" means, with respect to a targeted small
14 business, employment positions that:

15 (1) are created by the targeted small business;

16 (2) are located in this state;

17 (3) subject to Subsection (e), require at least 35
18 hours of work each week; and

19 (4) were not located in this state at the time of the
20 initial growth investment in the targeted small business.

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

1 (c) The monthly average of employment positions for a year
2 is calculated by adding the number of employment positions existing
3 on the last day of each month of the year and dividing that sum by
4 12.

5 (d) An employment position that meets the requirements of
6 Subsection (a) shall be multiplied by two for purposes of
7 calculating the number of jobs created by a targeted small business
8 if the targeted small business is located in a rural area and is a
9 historically underutilized business.

10 (e) An employment position that requires less than 35 hours
11 of work each week is considered to meet the requirements of
12 Subsection (a) if the number of hours of work each week the job
13 requires is considered to constitute full-time employment for
14 purposes of the industry standards and practices applicable to the
15 targeted small business that created the employment position.

16 Sec. 487A.0007. DEFINITION: JOBS RETAINED. (a) In this
17 chapter, "jobs retained" means, with respect to a targeted small
18 business, employment positions that:

19 (1) are located in this state, require at least 35
20 hours of work each week, and existed before the initial growth
21 investment in the targeted small business; and

22 (2) would have been lost or moved out of this state had
23 a growth investment in the targeted small business not been made, as
24 certified in writing by an executive officer of the targeted small
25 business to the rural development fund.

26 (b) The number of jobs retained by a targeted small business
27 is calculated each year based on the monthly average of employment

1 positions for that year.

2 (c) The monthly average of employment positions for a year
3 is calculated by adding the number of employment positions existing
4 on the last day of each month of the year and dividing that sum by
5 12.

6 (d) The reported number of jobs retained for a year may not
7 exceed the number reported on the initial report under Section
8 487A.0156. The rural development fund shall reduce the number of
9 jobs retained for a year if employment at the targeted small
10 business is less than the number reported on the initial report.

11 (e) An employment position that meets the requirements of
12 Subsection (a) shall be multiplied by two for purposes of
13 calculating the number of jobs retained by a targeted small
14 business if the targeted small business is located in a rural area
15 and is a historically underutilized business.

16 (f) Notwithstanding Subsection (a)(1), an employment
17 position that requires less than 35 hours of work each week is
18 considered to meet the requirements of that subdivision if the
19 number of hours of work each week the job requires is considered to
20 constitute full-time employment for purposes of the industry
21 standards and practices applicable to the targeted small business
22 that created the employment position.

23 Sec. 487A.0008. 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) is part of an industry assigned a primary North
27 American Industry Classification System code listed under Sector

1 11, 21, 22, 23, 31, 32, 33, 42, 48, 49, 54, 56, 62, 72, or 81 of the
2 North American Industry Classification System;

3 (2) has fewer than 250 employees, including any
4 persons who would be considered employees under the federal law to
5 which 13 C.F.R. Section 121.103(h)(2) applies as a result of the
6 application of that provision; and

7 (3) has its principal business operations located in
8 this state.

9 (b) For purposes of this chapter, the principal business
10 operations of a business are located at a place where:

11 (1) at least 65 percent of the business's employees
12 work; or

13 (2) employees who are paid at least 65 percent of the
14 business's payroll work.

15 (c) An out-of-state business that agrees to relocate or hire
16 new employees using the proceeds of a growth investment to
17 establish principal business operations in this state qualifies as
18 a targeted small business if the business satisfies the
19 requirements of:

20 (1) Subsections (a)(1) and (2) at the time of the
21 initial growth investment in the business; and

22 (2) Subsection (a)(3) not later than the 180th day
23 after receiving the initial growth investment or a later date
24 agreed to by the comptroller.

25 (d) Notwithstanding any other provision of this section,
26 the comptroller may consider a business other than a business
27 described by Subsection (a)(1) to be a targeted small business for

purposes of this chapter if the comptroller determines the business is of significant economic benefit to this state.

Sec. 487A.0009. RULES. The comptroller shall adopt rules necessary to implement, monitor, and evaluate this chapter.

Sec. 487A.0010. DISPOSITION OF FEES. Application fees submitted under Section 487A.0051(b)(6), amounts remitted under Section 487A.0151(e), and participation fees collected under Section 487A.0157 shall be deposited to the credit of the general revenue fund and may be appropriated only to the comptroller for the purpose of administering this chapter and Chapter 232, Insurance Code.

SUBCHAPTER B. APPROVAL OF RURAL DEVELOPMENT FUNDS; TAX CREDIT CERTIFICATES

Sec. 487A.0051. APPLICATION. (a) Subject to Section 487A.0202, the comptroller shall accept applications from entities seeking approval as rural development funds.

(b) An application must include:

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

(2) evidence sufficient to prove to the comptroller's satisfaction that, as of the date the applicant submits the application:

(A) the applicant or affiliates of the applicant have invested, in the aggregate, at least \$100 million in nonpublic companies located in the United States, including at least \$70 million in nonpublic companies located in rural areas in the United States; and

1 (B) either:

2 (i) at least one principal or affiliate in a
3 rural business investment company licensed under 7 U.S.C. Section
4 2009cc et seq. or a small business investment company licensed
5 under 15 U.S.C. Section 681 is, and has been for at least four
6 years, an officer or employee of the applicant or of an affiliate of
7 the applicant on the date the application is submitted; or

8 (ii) the applicant is, or is an affiliate
9 of, an investment firm based in this state with its principal
10 business operations located in this state that has been operating
11 for at least seven years and has, within the preceding three-year
12 period, received an allocation under Section 45D, Internal Revenue
13 Code of 1986;

14 (3) a copy of the rural business investment company
15 license or small business investment company license if required by
16 Subdivision (2)(B)(i);

17 (4) an estimate of the number of jobs created and jobs
18 retained that will result from the applicant's growth investments;

19 (5) a business plan that includes a revenue impact
20 assessment that:

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

23 (B) is prepared by a nationally recognized
24 third-party independent economic forecasting firm using a dynamic
25 economic forecasting model that analyzes the applicant's business
26 plan for the 10-year period following the date the applicant
27 submits the application; and

1 (6) a nonrefundable application fee of \$10,000.

2 Sec. 487A.0052. DECISION ON APPLICATION. (a) The
3 comptroller shall make a determination on each application not
4 later than the 30th day after the date the comptroller receives the
5 application. The comptroller shall make application
6 determinations in the order in which applications are received and
7 shall consider applications received on the same day to be received
8 simultaneously.

9 (b) The comptroller shall approve up to \$300 million of
10 investment authority, including up to \$150 million of tax credit
11 allocation authority described by Section 487A.0055(2), under this
12 chapter.

13 (c) If a request for investment authority exceeds the limit
14 under Subsection (b), the comptroller shall reduce the investment
15 authority for that application as necessary to avoid exceeding the
16 limit. If multiple applications received on the same day request a
17 combined investment authority that exceeds the limit under
18 Subsection (b), the comptroller shall proportionally reduce the
19 investment authority for those applications as necessary to avoid
20 exceeding the limit. The comptroller may not reduce an applicant's
21 investment authority for any reason other than as authorized by
22 this subsection.

23 Sec. 487A.0053. GROUNDS FOR DENIAL. The comptroller may
24 deny an application under this subchapter only if:

25 (1) the application is incomplete or the application
26 fee is not paid in full;

27 (2) the applicant fails to satisfy the requirements of

1 Section 487A.0051(b)(2);

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

9 (4) the comptroller has already approved the maximum
10 amount of investment authority allowed under Section 487A.0052(b).

11 Sec. 487A.0054. SUBMISSION OF ADDITIONAL INFORMATION
12 FOLLOWING DENIAL. (a) If the comptroller denies an application,
13 the applicant may, not later than the 15th day after the date the
14 comptroller provides notice of denial, provide additional
15 information to the comptroller to complete, clarify, or cure
16 defects in the application identified by the comptroller.

17 (b) If the applicant completes, clarifies, or cures the
18 defects in its application during the period prescribed by
19 Subsection (a), the application is considered complete as of the
20 original submission date.

21 (c) If the applicant fails to complete, clarify, or cure the
22 defects in its application during the period prescribed by
23 Subsection (a), the application is finally denied. An applicant
24 who wishes to reapply must resubmit an application in full with a
25 new submission date.

26 (d) The comptroller shall review and reconsider an
27 application described by Subsection (a) for which the applicant

1 provides additional information not later than the 30th day after
2 the date the applicant provides the information. The comptroller
3 shall consider that application before any pending applications
4 submitted after the date that application was originally submitted.

5 Sec. 487A.0055. APPROVAL BY COMPTROLLER. On approval of an
6 application, the comptroller shall provide to the applicant:

7 (1) written notice of the applicant's approval as a
8 rural development fund, including the amount of the fund's
9 investment authority; and

10 (2) a tax credit allocation statement that includes on
11 the statement the amount of tax credit the applicant is authorized
12 to allocate to investors who make credit-eligible capital
13 contributions to the rural development fund.

14 Sec. 487A.0056. DUTIES OF FUND FOLLOWING APPROVAL; TAX
15 CREDIT CERTIFICATES. (a) A rural development fund shall:

16 (1) not later than the 60th day after the date the fund
17 receives the approval notice under Section 487A.0055, collect the
18 credit-eligible capital contributions made to the fund and, subject
19 to Subsection (b), one or more investments of cash that, when added
20 to the credit-eligible capital contributions, equal the fund's
21 investment authority; and

22 (2) not later than the 65th day after the date the fund
23 receives the approval notice under Section 487A.0055, send to the
24 comptroller documentation sufficient to prove that the fund has
25 collected the amounts described in Subdivision (1).

26 (b) At least 10 percent of the rural development fund's
27 investment authority must consist of equity investments

contributed directly or indirectly by affiliates of the fund,
including employees, officers, and directors of those affiliates.

(c) A rural development fund may provide a tax credit
certificate to an investor that makes a credit-eligible capital
contribution to the fund. The certificate must include the name of
the fund, the amount stated on the tax credit allocation statement
provided to the fund under Section 487A.0055(2), the amount of the
credit-eligible capital contribution made by the investor, and the
value of the tax credit conveyed by the certificate. A rural
development fund may not issue tax credit certificates the value of
which in the aggregate exceeds the amount stated on the tax credit
allocation statement provided to the fund under Section
487A.0055(2).

Sec. 487A.0057. LAPSE OF APPROVAL. (a) If a rural
development fund fails to comply with the requirements of Section
487A.0056, the fund's approval lapses and the corresponding
investment authority does not count toward the limit prescribed by
Section 487A.0052(b).

(b) The comptroller shall first award lapsed investment
authority pro rata to each rural development fund whose requested
investment authority was reduced under Section 487A.0052(c). The
rural development fund may allocate the investment authority
awarded under this subsection to the fund's investors in the fund's
discretion. The comptroller may award any remaining investment
authority to new applicants.

SUBCHAPTER C. REDUCTION OR REVOCATION OF TAX CREDITS AND INVESTMENT

AUTHORITY

1 Sec. 487A.0101. REDUCTION OF TAX CREDITS AND INVESTMENT
2 AUTHORITY FOR FAILURE TO MAKE REQUIRED GROWTH INVESTMENTS. (a) The
3 comptroller shall reduce the amount of the tax credit on each tax
4 credit certificate issued under Subchapter B in connection with an
5 investment in a rural development fund if the fund fails to invest
6 at least 60 percent of the fund's investment authority in growth
7 investments in this state on or before the second anniversary of the
8 closing date. The amount of the reduction under this subsection for
9 each tax credit certificate is equal to the amount of the tax credit
10 stated on the tax credit certificate, multiplied by a fraction:

11 (1) the numerator of which is equal to 60 percent, less
12 the percentage of the rural development fund's investment authority
13 invested in growth investments in this state on the second
14 anniversary of the closing date; and

15 (2) the denominator of which is 60 percent.

16 (b) The comptroller shall reduce a rural development fund's
17 investment authority by an amount equal to the total amount of
18 reductions under Subsection (a) for all tax credit certificates.

19 (c) The comptroller shall reduce the amount of the tax
20 credit on each tax credit certificate issued under Subchapter B in
21 connection with an investment in a rural development fund if the
22 fund fails to invest 100 percent of the fund's investment authority
23 in growth investments in this state on or before the third
24 anniversary of the closing date. The amount of the reduction under
25 this subsection for each tax credit certificate is equal to the
26 amount of the tax credit stated on the tax credit certificate
27 remaining after any reduction under Subsection (a), multiplied by a

1 fraction:

2 (1) the numerator of which is equal to 100 percent,
3 less the percentage of the rural development fund's investment
4 authority remaining after any reduction under Subsection (b) that
5 is invested in growth investments in this state on the third
6 anniversary of the closing date; and

7 (2) the denominator of which is 100 percent.

8 (d) The comptroller shall reduce a rural development fund's
9 investment authority by an amount equal to the total amount of
10 reductions under Subsection (c) for all tax credit certificates.

11 (e) For purposes of this section:

12 (1) the amount of growth investments that a rural
13 development fund may count with respect to a particular targeted
14 small business, including any amount invested in an affiliate of
15 the targeted small business, may not exceed \$7.5 million; and

16 (2) all growth investments must consist of growth
17 investments in targeted small businesses whose principal business
18 operations are located in, or are relocated to, a rural area in this
19 state.

20 (f) Notwithstanding Subsection (e)(1), for the purpose of
21 avoiding a reduction under Subsection (a) or (c), as applicable, a
22 rural development fund may count as a growth investment in a
23 particular targeted small business the amount of an investment made
24 in excess of the limit prescribed by Subsection (e)(1) if the
25 investment is made using money attributable to the repayment or
26 redemption of a previous growth investment made by the fund to the
27 particular targeted small business.

1 Sec. 487A.0102. REDUCTION OF TAX CREDITS AND INVESTMENT
2 AUTHORITY FOR FAILURE TO MAINTAIN REQUIRED GROWTH INVESTMENTS. (a)
3 The comptroller shall reduce the amount of the tax credit on each
4 tax credit certificate issued under Subchapter B in connection with
5 an investment in a rural development fund if, after the third
6 anniversary of the closing date and before the sixth anniversary of
7 the closing date, the fund fails to maintain growth investments in
8 this state equal to 100 percent of the fund's investment authority
9 remaining after any reductions under Sections 487A.0101(b) and (d).
10 The amount of the reduction under this subsection for each tax
11 credit certificate is equal to the amount of the tax credit stated
12 on the tax credit certificate remaining after any reductions under
13 Sections 487A.0101(a) and (c), multiplied by a fraction:

14 (1) the numerator of which is equal to 100 percent,
15 less the percentage of the rural development fund's investment
16 authority remaining after any reductions under Sections
17 487A.0101(b) and (d) that is invested in growth investments in this
18 state on the date of the reduction; and

19 (2) the denominator of which is 100 percent.

20 (b) The comptroller shall reduce a rural development fund's
21 investment authority by an amount equal to the total amount of
22 reductions under Subsection (a) for all tax credit certificates.

23 (c) For purposes of this section:

24 (1) the amount of growth investments that a rural
25 development fund may count with respect to a particular targeted
26 small business, including any amount invested in an affiliate of
27 the targeted small business, may not exceed \$15 million, provided

1 that once a particular targeted small business has received a total
2 of \$15 million in growth investments from one or more rural
3 development funds, a rural development fund may not count as a
4 growth investment any additional investments with respect to that
5 targeted small business;

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

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

17 (d) For purposes of this section, the refinancing by a rural
18 development fund of an existing growth investment received by a
19 targeted small business may not be counted by the fund as an
20 additional growth investment.

21 Sec. 487A.0103. REVOCATION OF TAX CREDITS AND INVESTMENT
22 AUTHORITY FOR CERTAIN DISTRIBUTIONS OR PAYMENTS. (a) The
23 comptroller shall revoke each tax credit certificate issued under
24 Subchapter B in connection with an investment in a rural
25 development fund if, before the fund exits the program under
26 Section 487A.0151, the fund makes a distribution or payment that
27 results in the fund having less than the portion of the fund's

investment authority required to be invested in growth investments in this state under Sections 487A.0101 and 487A.0102:

(1) invested in growth investments in this state; or
(2) available for investment in growth investments and held in:

(A) cash;
(B) United States Treasury securities;
(C) bonds or notes issued by this state or an agency or political subdivision of this state; or
(D) a deposit account with a depository institution headquartered or chartered in this state.

(b) The comptroller shall revoke a rural development fund's investment authority if the comptroller revokes tax credit certificates under Subsection (a).

Sec. 487A.0104. REDUCTION OF TAX CREDITS AND INVESTMENT AUTHORITY FOR RELATED-PARTY INVESTMENTS. (a) The comptroller shall reduce the amount of the tax credit on each tax credit certificate issued under Subchapter B in connection with an investment in a rural development fund if, before the fund exits the program under Section 487A.0151, the fund makes a growth investment in a targeted small business that directly or indirectly through an affiliate owns, has the right to acquire a majority ownership interest in, makes a loan to, or makes an investment in the fund, an affiliate of the fund, or an investor in the fund.

(b) The amount of the reduction under Subsection (a) for each tax credit certificate is equal to the amount of the tax credit stated on the tax credit certificate remaining after any reductions

1 under Sections 487A.0101(a) and (c), multiplied by a fraction:

2 (1) the numerator of which is the portion of the rural
3 development fund's investment authority remaining after any
4 reductions under Sections 487A.0101(b) and (d) that is invested in
5 growth investments in targeted small businesses described by
6 Subsection (a); and

7 (2) the denominator of which is the total amount of the
8 rural development fund's investment authority remaining after any
9 reductions under Sections 487A.0101(b) and (d).

10 (c) The comptroller shall reduce a rural development fund's
11 investment authority by an amount equal to the total amount of
12 reductions under Subsection (a) for all tax credit certificates.

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

19 Sec. 487A.0105. OPPORTUNITY TO CORRECT VIOLATION. (a)
20 Before reducing or revoking a tax credit and investment authority
21 under this subchapter, the comptroller shall notify the rural
22 development fund of the reasons for the pending reduction or
23 revocation.

24 (b) The rural development fund may, not later than the 90th
25 day after the date the notice is received, correct any violation
26 outlined in the notice to the satisfaction of the comptroller and
27 avoid reduction or revocation of the tax credit and investment

1 authority.

2 Sec. 487A.0106. ALLOCATION OF REVOKED INVESTMENT
3 AUTHORITY. (a) The amount of investment authority reduced or
4 revoked under this subchapter does not count toward the limit on
5 total investment authority described in Section 487A.0052(b).

6 (b) The comptroller shall first award reduced or revoked
7 investment authority pro rata to each rural development fund whose
8 requested investment authority was reduced under Section
9 487A.0052(c). The comptroller may award any remaining investment
10 authority to new applicants.

11 SUBCHAPTER D. CERTAIN FUND OPERATIONS

12 Sec. 487A.0151. APPLICATION TO EXIT PROGRAM. (a) On or
13 after the sixth anniversary of the closing date, a rural
14 development fund may apply to the comptroller to exit the program
15 and no longer be subject to regulation under this chapter. An
16 application to exit the program must be in a form and comply with
17 procedures prescribed by the comptroller and include a calculation
18 of the state reimbursement amount as provided by Section 487A.0153.

19 (b) The comptroller shall respond to the application not
20 later than the 30th day after receipt and include confirmation of
21 the state reimbursement amount.

22 (c) A rural development fund is eligible to exit the program
23 under this section if no tax credit certificates related to
24 investments in the fund have been reduced or revoked and the fund
25 has not received any reduction or revocation notice that has not
26 been corrected under Section 487A.0105.

27 (d) The comptroller may not unreasonably deny an

1 application under this section. The comptroller shall give the
2 rural development fund notice of a denial and include in the notice
3 the reasons for the denial.

4 (e) Not later than the 60th day after the date the rural
5 development fund receives confirmation of the state reimbursement
6 amount under Subsection (b), the fund shall remit to the
7 comptroller an amount of money equal to the lesser of:

8 (1) the excess return determined under Section
9 487A.0152; or

10 (2) the state reimbursement amount determined under
11 Section 487A.0153.

12 Sec. 487A.0152. CALCULATION OF EXCESS RETURN. (a) For
13 purposes of Section 487A.0151, a rural development fund's excess
14 return is determined by computing the difference between:

15 (1) the sum of:

16 (A) the present value of all growth investments
17 and other assets held by the fund on the date the fund applies to
18 exit the program under Section 487A.0151; and

19 (B) all amounts distributed to the equity holders
20 of the fund before the fund applies to exit the program under
21 Section 487A.0151; and

22 (2) the sum of:

23 (A) the amount of the fund's original investment
24 authority; and

25 (B) an amount equal to any projected increase in
26 the federal or state tax liability of equity holders of the fund,
27 including penalties and interest, related to the equity holders'

1 ownership, management, or operation of the fund.

2 (b) If the amount computed under Subsection (a) is less than
3 zero, the excess return is equal to zero.

4 Sec. 487A.0153. CALCULATION OF STATE REIMBURSEMENT AMOUNT.

5 For purposes of Section 487A.0151, a rural development fund's state
6 reimbursement amount is determined by computing the difference
7 between:

8 (1) the credit-eligible capital contributions made to
9 the fund; and

10 (2) the product of:

11 (A) the sum of the annual jobs created and jobs
12 retained as a result of the fund's growth investments as reported to
13 the comptroller under Section 487A.0156; and

14 (B) \$30,000.

15 Sec. 487A.0154. NO REDUCTION OR REVOCATION FOLLOWING EXIT.

16 The comptroller may not reduce or revoke the amount of a tax credit
17 on a tax credit certificate related to an investment in a rural
18 development fund after the fund's exit from the program.

19 Sec. 487A.0155. EVALUATION OF PROPOSED INVESTMENT. (a) A
20 rural development fund, before making a growth investment, may
21 request from the comptroller a written opinion as to whether the
22 business in which the fund proposes to invest qualifies as a
23 targeted small business.

24 (b) Not later than the 15th business day after receiving the
25 request, the comptroller shall notify the rural development fund of
26 its determination.

27 (c) If the comptroller fails to notify the rural development

1 fund of its determination on or before the 15th business day after
2 receiving the request, the business in which the fund proposes to
3 invest is considered to be a targeted small business for purposes of
4 this chapter.

5 Sec. 487A.0156. ANNUAL REPORT. (a) A rural development
6 fund shall submit a report to the comptroller on or before the 60th
7 business day after each anniversary of the closing date until the
8 fund has exited the program under Section 487A.0151.

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

11 (1) a bank statement showing each growth investment;
12 (2) the name, location, and industry of each business
13 receiving a growth investment, including either the determination
14 notice described by Section 487A.0155 or evidence that the business
15 qualified as a targeted small business at the time the investment
16 was made;

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

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

23 (5) a description, including the amount, of each
24 growth investment in a targeted small business located in a rural
25 area made in the 24 months following the closing date; and

26 (6) any other information the comptroller requires.

27 (c) A rural development fund may, but is not required to,

1 include in any report submitted under this section information
2 about the number of jobs created and jobs retained with respect to a
3 former growth investment that the fund has exited.

4 Sec. 487A.0157. PARTICIPATION FEE. (a) A rural
5 development fund that has not exited the program under Section
6 487A.0151 before the first day of a state fiscal year shall remit to
7 the comptroller a participation fee in connection with the state
8 fiscal year in an amount determined under Subsection (b)(2) to
9 offset the fiscal impact to the comptroller of administering the
10 program. The comptroller shall prescribe the date on which the fee
11 payment is due.

12 (b) For each state fiscal year, the comptroller shall
13 determine:

14 (1) the costs incurred by the comptroller to
15 administer this chapter and Chapter 232, Insurance Code, less the
16 amount of application fees submitted under Section 487A.0051(b)(6)
17 and amounts remitted under Section 487A.0151(e); and

18 (2) the amount of the participation fee each rural
19 development fund described by Subsection (a) is required to pay in
20 connection with the state fiscal year, which is computed by
21 multiplying the amount determined under Subdivision (1) for the
22 state fiscal year by a fraction:

23 (A) the numerator of which is the amount of the
24 rural development fund's investment authority; and

25 (B) the denominator of which is the total amount
26 of investment authority for all rural development funds required to
27 pay a fee under Subsection (a) in connection with the state fiscal

1 year.

2 (c) Notwithstanding any other provision of this section,
3 the total amount of participation fees collected by the comptroller
4 in a state fiscal year may not exceed the amount that is reasonably
5 necessary to administer the program in that year, less the amounts
6 received by the comptroller under Sections 487A.0051(b)(6) and
7 487A.0151(e) in that year.

8 SUBCHAPTER E. REPORT; CONDITIONS FOR ACCEPTANCE OF CERTAIN

9 APPLICATIONS

10 Sec. 487A.0201. REPORT. (a) Before the beginning of the
11 92nd Legislature, Regular Session, the comptroller shall submit to
12 the lieutenant governor, the speaker of the house of
13 representatives, and each other member of the legislature a report
14 on the economic benefits of this chapter.

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

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

18 (A) the total number of jobs created by all
19 targeted small businesses, including direct jobs, indirect jobs,
20 and induced jobs;

21 (B) the total number of jobs retained by all
22 targeted small businesses;

23 (C) the total amount of wages paid in connection
24 with jobs created and jobs retained by all targeted small
25 businesses;

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

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

3 (F) the total amount of growth investments;

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

6 (H) the total taxable value of property of
7 targeted small businesses in this state according to tax appraisal
8 rolls;

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

11 (J) the total number and dollar amount of growth
12 investments in targeted small businesses located in rural areas;

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

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

18 (B) food assistance program savings;

19 (C) unemployment insurance payment savings; and

20 (D) any other savings that can be reasonably
21 estimated using data available to the comptroller in connection
22 with some or all targeted small businesses; and

23 (3) the total positive fiscal effect on this state and
24 local governments in this state of the benefits described by
25 Subdivision (2).

26 (c) The report may not include information that is
27 confidential by law.

1 (d) In preparing the portion of the report described by
2 Subsection (b)(1), the comptroller shall:

3 (1) use standard, nationally recognized economic
4 estimation techniques, including economic multipliers; and

5 (2) base the assessment on data submitted to the
6 comptroller by each rural development fund.

7 (e) The comptroller may not, for the purpose of preparing
8 the report required under this section, require a rural development
9 fund to provide any information that is not reasonably obtainable
10 by the fund.

11 Sec. 487A.0202. CONDITIONS FOR ACCEPTANCE OF CERTAIN
12 APPLICATIONS. (a) The comptroller may not accept applications
13 under Section 487A.0051 after January 1, 2026, unless the total
14 positive fiscal effects described by Section 487A.0201(b) exceed
15 the sum of all tax credit allocation statements issued by the
16 comptroller under Subchapter B.

17 (b) The comptroller shall resume accepting applications
18 under Section 487A.0051 when the condition provided by Subsection
19 (a) is satisfied.

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

22 CHAPTER 232. TAX CREDIT FOR INVESTMENT IN RURAL DEVELOPMENT FUND

23 SUBCHAPTER A. GENERAL PROVISIONS

24 Sec. 232.0001. DEFINITIONS. In this chapter:

25 (1) "Affiliate" has the meaning assigned by Section
26 487A.0002, Government Code.

27 (2) "Closing date" has the meaning assigned by Section

487A.0001, Government Code.

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

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

SUBCHAPTER B. TAX CREDIT

Sec. 232.0051. ELIGIBILITY FOR CREDIT. An entity is eligible for a credit against the entity's state insurance tax liability in the amount and under the conditions provided by this chapter.

Sec. 232.0052. QUALIFICATION. An entity is eligible for a credit for a tax year if the entity holds a tax credit certificate provided under Section 487A.0056, Government Code, and the first, second, or third anniversary of the closing date in connection with which the certificate was issued occurs during the tax year.

Sec. 232.0053. AMOUNT OF CREDIT; LIMITATION. (a) The amount of credit for a tax year in connection with a tax credit certificate described by Section 232.0052 is equal to:

(1) for the first two tax years an entity is eligible for the credit, 33 percent of the value of the tax credit conveyed by the certificate; and

(2) for the third tax year an entity is eligible for the credit, 34 percent of the value of the tax credit conveyed by the certificate.

(b) The total credit claimed for a tax year, including the amount of any carryforward under Section 232.0054, may not exceed

the amount of state insurance tax liability due for the entity for the tax year after applying all other applicable tax credits.

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

Sec. 232.0054. CARRYFORWARD. If an entity is eligible for a credit that exceeds the limitation under Section 232.0053(b), the entity may carry the unused credit forward and apply the credit to a subsequent tax report that is due before the sixth anniversary of the closing date in connection with which the credit is claimed.

Sec. 232.0055. ASSIGNMENT PROHIBITED. (a) Except as provided by Subsection (b), an entity may not convey, assign, or transfer the credit allowed under this chapter to another entity.

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

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

SUBCHAPTER C. RECAPTURE OF CREDIT

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

1 the amount of the credit remaining after the reduction or
2 revocation.

3 SECTION 3. It is the intent of the legislature that each
4 growth investment in a targeted small business made by a rural
5 development fund under Chapter 487A, Government Code, as added by
6 this Act:

7 (1) provide patient, growth-oriented investment
8 capital for purposes including expansion, payroll, inventory, and
9 training; and

10 (2) be at a below market rate with flexible terms,
11 which offers the targeted small business an affordable and
12 borrower-friendly financing alternative.

13 SECTION 4. (a) As soon as practicable after this Act becomes
14 law as provided by Section 2001.006, Government Code, the
15 comptroller of public accounts shall adopt rules necessary to
16 implement Chapter 487A, Government Code, as added by this Act, and
17 Chapter 232, Insurance Code, as added by this Act.

18 (b) Not later than October 1, 2025, the comptroller of
19 public accounts shall begin accepting applications under Section
20 487A.0051(a), Government Code, as added by this Act.

21 SECTION 5. Chapter 232, Insurance Code, as added by this
22 Act, applies only to a tax report originally due on or after January
23 1, 2025.

24 SECTION 6. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

H.B. No. 4735

1 Act takes effect September 1, 2025.