

Amend CSHB 3 by adding the following new section and renumbering subsequent sections appropriately:

SECTION \_\_\_\_\_. Subchapter C, Chapter 171, Tax Code, is amended by adding Section 171.114 to read as follows:

Sec. 171.114. TEMPORARY CREDIT ON NET TAXABLE EARNED SURPLUS BEGINNING 2006. (a) Not later than March 1, 2006, a taxable entity may notify the comptroller in writing of its intent to preserve its right to take a credit in an amount allowed by this section on the tax due on net taxable earned surplus. The comptroller may not grant an extension. The taxable entity may thereafter elect

to claim the credit for the current year and future years at or before the original due date of any report due after January 1, 2006, until the taxable entity revokes the election or this section expires, whichever is earlier. A taxable entity may claim the credit for not more than 20 consecutive privilege periods beginning with the first report due under this chapter after January 1, 2006. A taxable entity may make only one election under this section and the election may not be conveyed, assigned, or transferred to another entity.

(b) The credit allowed under this section for any privilege period is computed by:

(1) determining the amount, as of the end of the taxable entity's accounting year ending in 2005, that is the difference between the basis used for financial accounting purposes and the basis used for federal income tax purposes of an asset or a liability that at some future date will reverse;

(2) apportioning the amount determined under Subdivision (1) to this state in the same manner earned surplus is apportioned under Section 171.106, on the first report due on or after January 1, 2006;

(3) multiplying the amount determined under Subdivision (2) by five percent; and

(4) multiplying the amount determined under Subdivision (3) by the tax rate prescribed by Section 171.002(a)(2).

(c) In computing the amount under Subsection (b)(1), the taxable entity may not consider differences that result from deferred investment tax credits, allowances for funds used during construction, or any other timing difference for which a deferred tax liability is not required under generally accepted accounting principles.

(d) After making the election under Subsection (a) the taxable entity must, for purposes of computing its taxable capital under this chapter, use the same accounting methods under generally accepted accounting principles to account for the assets and liabilities that determine the amount of the credit that the taxable entity uses to compute the credit. Notwithstanding Section

171.109(e), if a taxable entity changes an accounting method for an asset or liability that determines, in whole or in part, the amount of the credit during the period the election is in effect, the election is automatically revoked.

(e) A taxable entity that notifies the comptroller of its intent to preserve its right to take a credit allowed by this section shall submit with its notice of intent a statement of the amount determined under Subsection (b)(1). The comptroller may request that the taxable entity submit in the annual report for each succeeding privilege period in which the taxable entity is eligible to take a credit information relating to the amount determined under Subsection (b)(1). The taxable entity shall submit in the form and content the comptroller requires any information relating to the assets and liabilities that determine the amount of the credit, the amount determined under Subsection (b)(1), or any other matter relevant to the computation of the credit for which the taxable entity is eligible.

(f) A credit allowed under this section may not be carried forward or backward or used to create a business loss carryover under Section 171.110.

(g) A taxable entity may not use a credit allowed under this section in connection with the computation of the taxable entity's tax on net taxable capital.

(h) In addition to the tax imposed by Section 171.002, an additional tax is imposed on each taxable entity during each year the taxable entity takes the credit allowed under this section. The additional tax is equal to 0.1 percent of the taxable entity's net taxable capital per year of privilege period.

(i) This section expires September 1, 2026.