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No equivalent provision.

SECTION __. Section 2306.6710(b), Government Code, is amended to read as follows:

(b) If an application satisfies the threshold criteria, the department shall score and rank the application using a point system that:

(1) prioritizes in descending order criteria regarding:

(A) financial feasibility of the development based on the supporting financial data required in the application that will include a project underwriting pro forma from the permanent or construction lender;

(B) quantifiable community participation with respect to the development, evaluated on the basis of written statements from any neighborhood organizations on record with the state or county in which the development is to be located and whose boundaries contain the proposed development site;

(C) the income levels of tenants of the development;

(D) the size and quality of the units;

(E) the commitment of development funding by local political subdivisions;

(F) ~~the level of community support for the application, evaluated on the basis of written statements from the state representative or the state senator that represents the district containing the proposed development site;~~

~~(G)~~ the rent levels of the units;

(G) ~~(H)~~ the cost of the development by square foot;

(H) ~~(I)~~ the services to be provided to tenants of the development; and

(I) ~~(J)~~ whether, at the time the complete application is

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submitted or at any time within the two-year period preceding the date of submission, the proposed development site is located in an area declared to be a disaster under Section 418.014;

(2)uses criteria imposing penalties on applicants or affiliates who have requested extensions of department deadlines relating to developments supported by housing tax credit allocation made in the application round preceding the current round or a developer or principal of the applicant that has been removed by the lender, equity provider, or limited partners for its failure to perform its obligations under the loan documents or limited partnership agreement; and

(3)encourages applicants to provide free notary public service to the residents of the developments for which the allocation of housing tax credits is requested.

No equivalent provision.

SECTION __. Sections 2306.6710(f) and 2306.67189(b), Government Code, are repealed.

SECTION 1. Subchapter DD, Chapter 2306, Government Code, is amended by adding Section 2306.6736 to read as follows:

Sec. 2306.6736. LOW INCOME HOUSING TAX CREDITS FINANCED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.

(a) To the extent the department receives federal funds

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under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) or any subsequent law (including any extension or renewal thereof) that requires the department to award the federal funds in the same manner and subject to the same limitations as awards of housing tax credits, the following provisions shall apply.

(b) Any reference in this chapter to the administration of the housing tax credit program shall apply equally to the administration of such federal funds, except:

(1) the department may establish a separate application procedure for such funds, outside of the uniform application cycle referred to in Section 2306.1111 and the deadlines established in Section 2306.6724, and any reference herein to the application period shall refer to the period beginning on the date the department begins accepting applications for such funds and continuing until all such available funds are awarded;

(2) unless reauthorized, this section is repealed on August 31, 2011.

SECTION 2. Subchapter DD, Chapter 2306, Government Code, is amended by adding Section 2306.6737 to read as follows:

Sec. 2306.6737. ASSISTANCE FROM AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009. If allowed by federal law, the department shall, under any federally funded program resulting from the American Recovery and Reinvestment Act of 2009 (Pub.

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L. No. 111-5), secure the interests of the state through bonds, an ownership interest in property, restrictive covenants filed in the real property records, and/or liens filed on a property for which the applicant has accepted funds until such a time as the department and the State of Texas do not have liability to repay or recapture such funds.

SECTION 3. It is the intent of the legislature that the passage by the 81st Legislature, Regular Session, 2009, of another bill that amends Chapter 2306, Government Code, and the amendments made by this Act shall be harmonized, if possible, as provided by Section 311.025(b), Government Code, so that effect may be given to each. If the amendments made by this Act to Chapter 2306, Government Code, and the amendments made to Chapter 2306, Government Code, by any other bill are irreconcilable, it is the intent of the legislature that this Act prevail, regardless of the relative dates of enactment of this Act and the other bill or bills, but only to the extent that any differences are irreconcilable.

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SECTION 4. The changes in law made by this Act relating to the evaluation of applications for financial assistance administered by the Texas Department of Housing and Community Affairs apply only to an application submitted on or after the effective date of this

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Act. An application submitted before the effective date of this Act is governed by the law in effect when the application was submitted, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

No equivalent provision.

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SECTION __. (a) Chapter 171, Tax Code, is amended by adding Subchapter J-1 to read as follows:
SUBCHAPTER J-1. CREDIT FOR BUSINESS DEVELOPMENT IN LOW-INCOME COMMUNITIES
Sec. 171.521. DEFINITIONS. In this subchapter:
(1) "Credit allowance date" means with respect to any qualified equity investment:
(A) the date on which the investment is initially made;
and
(B) each of the six anniversary dates of that date.
(2) "Long-term debt security" means any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least seven years from the date of its issuance, with no acceleration of repayment,

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amortization, or prepayment features before its original maturity date. The qualified community development entity that issues the debt instrument may not make cash interest payments on the debt instrument during the period beginning on the date of issuance and ending on the final credit allowance date in an amount that exceeds the sum of the cash interest payments and the cumulative operating income, as defined by regulations adopted under Section 45D, Internal Revenue Code of 1986, as amended, of the qualified community development entity for that period. This subdivision does not limit the holder's ability to accelerate payments on the debt instrument in situations in which the qualified community development entity has defaulted on covenants designed to ensure compliance with this subchapter or Section 45D, Internal Revenue Code of 1986, as amended.

(3) "Purchase price" means the amount of cash paid to a qualified community development entity that issues a qualified equity investment for the qualified equity investment.

(4) "Qualified active low-income community business" has the meaning assigned by Section 45D(d)(2), Internal Revenue Code of 1986, as amended. A business shall be considered a qualified active low-income community business for the duration of the qualified community development entity's investment in, or loan to, the business if the entity reasonably expects, at the time it makes the investment or loan, that the business will

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continue to satisfy the requirements for being a qualified active low-income community business throughout the entire period of the investment or loan.

(5) "Qualified community development entity" has the meaning assigned by Section 45D(c), Internal Revenue Code of 1986, as amended, provided that the entity has entered into, or is controlled by an entity that has entered into, an allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury with respect to credits authorized by Section 45D, Internal Revenue Code of 1986, as amended, that includes this state within the service area provided in the allocation agreement.

(6) "Qualified equity investment" means:

(A) any equity investment in, or long-term debt security issued by, a qualified community development entity that:

(i) is acquired after September 1, 2009, at its original issuance solely in exchange for cash;

(ii) has at least 85 percent of its cash purchase price used by the issuer to make qualified low-income community investments in qualified active low-income community businesses located in this state by the first anniversary of the initial credit allowance date; and

(iii) is designated by the issuer as a qualified equity investment under this subdivision and is certified by the comptroller as not exceeding the limitation contained in Section 171.522(a); and

(B) any qualified equity investment that does not meet

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the requirements of Paragraph (A) if the investment was a qualified equity investment in the hands of a prior holder.

(7) "Qualified low-income community investment" means any capital or equity investment in, or loan to, any qualified active low-income community business made after September 1, 2009.

Sec. 171.522. TOTAL AMOUNT OF CREDITS THAT MAY BE CLAIMED. (a) Notwithstanding any other provision of this subchapter, the total amount of tax credits that may be claimed by all entities under both this subchapter and Chapter 231, Insurance Code, in a state fiscal year may not exceed \$40 million, not including any carryforward amounts authorized by Section 171.526 or by Section 231.006, Insurance Code.

(b) The comptroller by rule shall prescribe procedures by which the comptroller may allocate credits under this subchapter and Chapter 231, Insurance Code.

Sec. 171.523. QUALIFICATION FOR CREDIT. (a) A taxable entity qualifies for and is entitled to a credit under this subchapter on a report if the taxable entity purchases a qualified equity investment from a qualified community development entity and holds the qualified equity investment on a credit allowance date that occurs during the period on which the report is based.

(b) A taxable entity described by Subsection (a) may claim a credit under this subchapter for not more than seven consecutive reports beginning with the report based on the period during which the taxable entity first

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holds the investment on a credit allowance date.

Sec. 171.524. MAXIMUM INVESTMENT PER QUALIFIED ACTIVE LOW-INCOME COMMUNITY BUSINESS. With respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments that may be made in the business, on a collective basis with all of its affiliates, with the proceeds of qualified equity investments that have been certified under this subchapter, is \$20 million whether made by one or several qualified community development entities.

Sec. 171.525. AMOUNT OF ANNUAL CREDIT. (a) Except as otherwise provided by this subchapter, the amount of the tax credit a taxable entity may claim on a report is equal to:

(1) for each of the first two years for which the taxable entity may claim the credit, zero percent of the purchase price on the applicable credit allowance date;

(2) for the third year for which the taxable entity may claim the credit, seven percent of the purchase price on the applicable credit allowance date; and

(3) for the remaining four years for which the taxable entity may claim the credit, eight percent of the purchase price on the applicable credit allowance date.

(b) The total credit claimed under this subchapter for a report, including the amount of any carryforward credit under Section 171.526, may not exceed the amount of franchise tax due after any other applicable credits.

Sec. 171.526. CARRYFORWARD. (a)

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Notwithstanding the limitation provided by Section 171.522(a), if a taxable entity is eligible for a credit that exceeds the limitation under Section 171.525(b), the taxable entity may carry the unused credit forward for not more than five consecutive reports.

(b) A carryforward is considered the remaining portion of a credit that cannot be claimed in the current year because of the tax limitation under Section 171.525(b). A carryforward is added to the next year's credit in determining whether the limitation is met for that year. A credit carryforward from a previous report is considered to be used before the current year credit.

(c) A carryforward may not be added to any subsequent year's credit for the purpose of determining the limitation in Section 171.522(a).

Sec. 171.527. CERTIFICATION OF ELIGIBILITY. (a) For the initial and each succeeding report in which a credit is claimed under this subchapter, the taxable entity shall file with its report, on a form provided by the comptroller, information that sufficiently demonstrates that the taxable entity is eligible for the credit.

(b) The burden of establishing entitlement to and the value of the credit is on the taxable entity.

Sec. 171.528. ASSIGNMENT PROHIBITED. (a) A taxable entity may not convey, assign, or transfer the credit allowed under this subchapter to another entity unless all of the assets of the taxable entity, including the taxable entity's qualified equity investment to which the credit relates, are conveyed, assigned, or transferred in

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the same transaction.

(b) Notwithstanding Subsection (a), a tax credit earned by a partnership, limited liability company, S corporation, or other "pass-through" entity may be allocated to the partners, members, or shareholders of that entity and claimed under this subchapter in accordance with the provisions of any agreement among the partners, members, or shareholders.

Sec. 171.529. APPLICATION AND CERTIFICATION PROCEDURE.

(a) A qualified community development entity that seeks to have an equity investment or long-term debt security certified as a qualified equity investment and eligible for tax credits shall apply to the comptroller. The qualified community development entity must submit an application on a form provided by the comptroller that includes:

(1) the entity's name, address, tax identification number, and evidence of its certification as a qualified community development entity;

(2) a copy of an allocation agreement executed by the entity, or its controlling entity, and the Community Development Financial Institutions Fund of the United States Treasury that includes this state in its service area;

(3) a certificate executed by an executive officer of the entity attesting that the allocation agreement remains in effect and has not been revoked or canceled by the Community Development Financial Institutions Fund of the United States Department of the Treasury;

(4) a description of the proposed amount, structure, and

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purchaser of the equity investment or long-term debt security;

(5) the name and tax identification number of any entity eligible to claim tax credits as a result of the purchase of the qualified equity investment, if known;

(6) information regarding the proposed use of proceeds from the issuance of the qualified equity investment, if known; and

(7) an economic impact analysis from an economic expert of the potential qualified equity investment and the proposed use of the proceeds, which must include:

(A) an estimate of the amount of revenue to be generated to the state as a result of the qualified equity investment and the proposed use of the proceeds;

(B) an estimate of any secondary economic benefits to be generated as a result of the qualified equity investment and the proposed use of the proceeds; and

(C) any other information required by the comptroller to make the certification required by Subsection (c).

(b) The application must be accompanied by a nonrefundable application fee of \$5,000. The fee shall be paid to the comptroller and shall be required for each application submitted.

(c) Within 15 days after receipt of a completed application containing the information necessary for the comptroller to certify a potential qualified equity investment, including the payment of the application fee, the comptroller shall grant or deny the application in full or in part. The comptroller may not grant an application

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in full or in part until the comptroller, based on an evaluation of the economic impact analysis under Subsection (a)(7), certifies that the potential qualified equity investment and the proposed use of the proceeds will have a positive impact on state revenue. If the comptroller denies any part of the application, the comptroller shall inform the qualified community development entity of the grounds for the denial. If the qualified community development entity provides any additional information required by the comptroller or otherwise completes its application within 15 days of the notice of denial, the application shall be considered completed as of the original date of submission. If the qualified community development entity fails to provide the information or complete its application within the 15-day period, the application remains denied and must be resubmitted in full with a new submission date.

(d) If the application is considered complete, the comptroller shall certify the proposed equity investment or long-term debt security as a qualified equity investment and eligible for tax credits under this section, subject to the limitations provided by this subchapter. The comptroller shall provide written notice of the certification to the qualified community development entity. The notice shall include the names of those taxable entities who are eligible to claim the credits, if known, and their respective credit amounts. If the names of the taxable entities identified as eligible to claim the credits change due to a transfer of a qualified equity

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investment under Section 171.528(a) or a change in an allocation under Section 171.528(b), the qualified community development entity shall notify the comptroller of the change.

(e) Within 30 days after receiving notice of certification, the qualified community development entity shall issue the qualified equity investment and receive cash in the amount of the certified purchase price. The qualified community development entity must provide the comptroller with evidence of the receipt of the cash investment within 10 business days after receipt. If the qualified community development entity does not receive the cash investment and issue the qualified equity investment within 30 days following receipt of the certification notice, the certification shall lapse and the entity may not issue the qualified equity investment without reapplying to the comptroller for certification. A certification that lapses reverts back to the comptroller and may be reissued only in accordance with the application process prescribed by this section.

(f) The comptroller shall certify qualified equity investments in the order applications are received by the comptroller. Applications received on the same day shall be considered to have been received simultaneously. For applications received on the same day and considered complete, the comptroller shall certify, consistent with remaining tax credit capacity, qualified equity investments in proportionate percentages based on the ratio of the amount of qualified equity investment

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requested in an application to the total amount of qualified equity investments requested in all applications received on the same day. If a pending request cannot be fully certified because of the limitations prescribed by Section 171.522(a), the comptroller shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial credit.

(g) A qualified community development entity, on a collective basis with all of its affiliated entities listed in its allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury or subsidiaries of those entities, may not request certification for a qualified equity investment that would entitle the purchaser of the qualified equity investment to have allocated to the purchaser at any time more than 30 percent of the total value of the tax credits that may be claimed under this subchapter.

(h) Notwithstanding Subsection (g), a qualified community development entity, alone or on a collective basis with all of its affiliated entities listed in its allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury or subsidiaries of those entities, may request certification for a qualified equity investment that would entitle the purchaser of the qualified equity investment to have allocated to the purchaser at any time more than 30 percent of the total

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value of the tax credits that may be claimed under this subchapter if:

(1) it has been at least 180 days since the date the comptroller certified the qualified community development entity's most recent request under this subchapter; or

(2) it has been less than 180 days since the date the comptroller certified the qualified community development entity's most recent request under this subchapter, and the entity demonstrates that the entity has invested substantially all of the purchase price of the qualified equity investments that have been previously certified under this subchapter.

Sec. 171.530. RECAPTURE OF CREDIT. (a) The comptroller may recapture a portion of a tax credit allowed under this subchapter if:

(1) any amount of federal tax credit that might be available with respect to the qualified equity investment that generated the tax credit under this subchapter is recaptured under Section 45D, Internal Revenue Code of 1986, as amended;

(2) the qualified community development entity redeems or makes a principal repayment with respect to the qualified equity investment that generated the tax credit before the final credit allowance date of the qualified equity investment; or

(3) the qualified community development entity fails to invest at least 85 percent of the purchase price of the qualified equity investment in qualified low-income

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community investments in qualified active low-income community businesses located in this state within 12 months of the issuance of the qualified equity investment and maintain that level of investment in qualified low-income community investments in qualified active low-income community businesses located in this state until the last credit allowance date for the qualified equity investment.

(b) The qualified community development entity shall keep sufficiently detailed books and records with respect to the investments made with the proceeds of the qualified equity investments to allow the direct tracing of the proceeds into qualified low-income community investments in qualified active low-income community businesses in this state. For purposes of calculating the amount of qualified low-income community investments held by a qualified community development entity, an investment shall be considered held by the 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 recovered from the original investment, exclusive of any profits realized, in another qualified active low-income community business in this state within 12 months of the receipt of the capital. A qualified community development entity may not be required to reinvest capital returned from qualified low-income community investments after the sixth anniversary of the issuance of the qualified equity

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investment, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment shall be considered held by the issuer through the qualified equity investment's final credit allowance date.

(c) In a situation described by Subsection (a)(1), the comptroller's recapture shall be proportionate to the federal recapture with respect to the qualified equity investment. In a situation described by Subsection (a)(2), the comptroller's recapture shall be proportionate to the amount of the redemption or repayment with respect to the qualified equity investment.

(d) The comptroller shall provide notice to the qualified community development entity of any proposed recapture of tax credits under this section. The entity shall have 90 days to cure any deficiency indicated in the comptroller's original recapture notice and avoid the recapture. If the entity fails or is unable to cure the deficiency within the 90-day period, the comptroller shall provide the entity and the taxpayer from whom the credit is to be recaptured with a final order of recapture. Any tax credit for which a final recapture order has been issued shall be recaptured by the comptroller from the taxpayer who claimed the tax credit on a tax return.

Sec. 171.531. EXPIRATION. (a) This subchapter expires December 31, 2013.

(b) The expiration of this subchapter does not affect a credit that was established under this subchapter due to the purchase of a qualified equity investment that was

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made before the date this subchapter expires. A taxable entity that has any unused credits established under this subchapter, including any carryforward credits, may continue to apply those credits on or with each consecutive report until the date the credit would have expired under this subchapter had this subchapter not expired, and this subchapter is continued in effect for the purposes of determining the amount of the credit the taxable entity may claim and the manner in which the taxable entity may claim the credit.

(b) Subtitle B, Title 3, Insurance Code, is amended by adding Chapter 231 to read as follows:

CHAPTER 231. CREDIT FOR BUSINESS DEVELOPMENT IN LOW-INCOME COMMUNITIES

Sec. 231.001. DEFINITIONS. In this chapter:

(1) "Credit allowance date" means, with respect to any qualified equity investment:

(A) the date on which the investment is initially made; and

(B) each of the six anniversary dates of that date.

(2) "Long-term debt security" means any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least seven years from the date of its issuance, with no acceleration of repayment, amortization, or prepayment features before its original maturity date. The qualified community development entity that issues the debt instrument may not make cash interest payments on the debt instrument during the

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period beginning on the date of issuance and ending on the final credit allowance date in an amount that exceeds the sum of the cash interest payments and the cumulative operating income, as defined by regulations adopted under Section 45D, Internal Revenue Code of 1986, as amended, of the qualified community development entity for that period. This subdivision does not limit the holder's ability to accelerate payments on the debt instrument in situations in which the qualified community development entity has defaulted on covenants designed to ensure compliance with this chapter or Section 45D, Internal Revenue Code of 1986, as amended.

(3) "Purchase price" means the amount of cash paid to a qualified community development entity that issues a qualified equity investment for the qualified equity investment.

(4) "Qualified active low-income community business" has the meaning assigned by Section 45D(d)(2), Internal Revenue Code of 1986, as amended. A business shall be considered a qualified active low-income community business for the duration of the qualified community development entity's investment in, or loan to, the business if the entity reasonably expects, at the time it makes the investment or loan, that the business will continue to satisfy the requirements for being a qualified active low-income community business throughout the entire period of the investment or loan.

(5) "Qualified community development entity" has the

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meaning assigned by Section 45D(c), Internal Revenue Code of 1986, as amended, provided that the entity has entered into, or is controlled by an entity that has entered into, an allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury with respect to credits authorized by Section 45D, Internal Revenue Code of 1986, as amended, that includes this state within the service area provided in the allocation agreement.

(6) "Qualified equity investment" means:

(A) any equity investment in, or long-term debt security issued by, a qualified community development entity that:

(i) is acquired after September 1, 2009, at its original issuance solely in exchange for cash;

(ii) has at least 85 percent of its cash purchase price used by the issuer to make qualified low-income community investments in qualified active low-income community businesses located in this state by the first anniversary of the initial credit allowance date; and

(iii) is designated by the issuer as a qualified equity investment under this subdivision and is certified by the comptroller as not exceeding the limitation contained in Section 231.002(a); and

(B) any qualified equity investment that does not meet the requirements of Paragraph (A) if the investment was a qualified equity investment in the hands of a prior holder.

(7) "Qualified low-income community investment"

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means any capital or equity investment in, or loan to, any qualified active low-income community business made after September 1, 2009.

(8) "State premium tax liability" means any liability incurred by an entity under Chapters 221 through 226.

Sec. 231.002. TOTAL AMOUNT OF CREDITS THAT MAY BE CLAIMED. (a) Notwithstanding any other provision of this chapter, the total amount of tax credits that may be claimed by all entities under both this chapter and Chapter 171, Tax Code, in a state fiscal year may not exceed \$40 million, not including any carryforward amounts authorized by Section 171.526, Tax Code, or by Section 231.006 of this code.

(b) The comptroller by rule shall prescribe procedures by which the comptroller may allocate credits under this chapter and Subchapter J-1, Chapter 171, Tax Code.

Sec. 231.003. QUALIFICATION FOR CREDIT. (a) An entity qualifies for and is entitled to a credit against the entity's state premium tax liability on a premium tax report filed under this subtitle if the entity purchases a qualified equity investment from a qualified community development entity and holds the qualified equity investment on a credit allowance date that occurs during the period on which the report is based.

(b) An entity described by Subsection (a) may claim a credit under this chapter for not more than seven consecutive reports beginning with the report based on the period during which the entity first holds the investment on a credit allowance date.

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Sec. 231.004. MAXIMUM INVESTMENT PER QUALIFIED ACTIVE LOW-INCOME COMMUNITY BUSINESS. With respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments that may be made in the business, on a collective basis with all of its affiliates, with the proceeds of qualified equity investments that have been certified under this chapter, is \$20 million whether made by one or several qualified community development entities.

Sec. 231.005. AMOUNT OF ANNUAL CREDIT. (a) Except as otherwise provided by this chapter, the amount of the tax credit an entity may claim on a report is equal to:

(1) for each of the first two years for which the entity may claim the credit, zero percent of the purchase price on the applicable credit allowance date;

(2) for the third year for which the entity may claim the credit, seven percent of the purchase price on the applicable credit allowance date; and

(3) for the remaining four years for which the entity may claim the credit, eight percent of the purchase price on the applicable credit allowance date.

(b) The total credit claimed under this chapter for a report, including the amount of any carryforward credit under Section 231.006, may not exceed the amount of tax due after any other applicable credits.

Sec. 231.006. CARRYFORWARD. (a) Notwithstanding the limitation provided by Section

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231.002(a), if an entity is eligible for a credit that exceeds the limitation under Section 231.005(b), the entity may carry the unused credit forward for not more than five consecutive reports.

(b) A carryforward is considered the remaining portion of a credit that cannot be claimed in the current year because of the tax limitation under Section 231.005(b). A carryforward is added to the next year's credit in determining whether the limitation is met for that year. A credit carryforward from a previous report is considered to be used before the current year credit.

(c) A carryforward may not be added to any subsequent year's credit for the purpose of determining the limitation in Section 231.002(a).

Sec. 231.007. CERTIFICATION OF ELIGIBILITY. (a) For the initial and each succeeding report in which a credit is claimed under this chapter, the entity shall file with its report, on a form provided by the comptroller, information that sufficiently demonstrates that the entity is eligible for the credit.

(b) The burden of establishing entitlement to and the value of the credit is on the entity.

Sec. 231.008. ASSIGNMENT PROHIBITED. (a) An entity may not convey, assign, or transfer the credit allowed under this chapter to another entity unless all of the assets of the entity, including the entity's qualified equity investment to which the credit relates, are conveyed, assigned, or transferred in the same transaction.

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(b) Notwithstanding Subsection (a), a tax credit earned by a partnership, limited liability company, S corporation, or other "pass-through" entity may be allocated to the partners, members, or shareholders of that entity and claimed under this chapter in accordance with the provisions of any agreement among the partners, members, or shareholders.

Sec. 231.009. APPLICATION AND CERTIFICATION PROCEDURE.

(a) A qualified community development entity that seeks to have an equity investment or long-term debt security certified as a qualified equity investment and eligible for tax credits shall apply to the comptroller. The qualified community development entity must submit an application on a form provided by the comptroller that includes:

(1) the entity's name, address, tax identification number, and evidence of its certification as a qualified community development entity;

(2) a copy of an allocation agreement executed by the entity, or its controlling entity, and the Community Development Financial Institutions Fund of the United States Department of the Treasury that includes this state in its service area;

(3) a certificate executed by an executive officer of the entity attesting that the allocation agreement remains in effect and has not been revoked or canceled by the Community Development Financial Institutions Fund of the United States Treasury;

(4) a description of the proposed amount, structure, and

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purchaser of the equity investment or long-term debt security;

(5) the name and tax identification number of any entity eligible to claim tax credits earned as a result of the purchase of the qualified equity investment, if known;

(6) information regarding the proposed use of proceeds from the issuance of the qualified equity investment, if known; and

(7) an economic impact analysis from an economic expert of the potential qualified equity investment and the proposed use of the proceeds, which must include:

(A) an estimate of the amount of revenue to be generated to the state as a result of the qualified equity investment and the proposed use of the proceeds;

(B) an estimate of any secondary economic benefits to be generated as a result of the qualified equity investment and the proposed use of the proceeds; and

(C) any other information required by the comptroller to make the certification required by Subsection (c).

(b) The application must be accompanied by a nonrefundable application fee of \$5,000. The fee shall be paid to the comptroller and shall be required for each application submitted.

(c) Within 15 days after receipt of a completed application containing the information necessary for the comptroller to certify a potential qualified equity investment, including the payment of the application fee, the comptroller shall grant or deny the application in full or in part. The comptroller may not grant an application

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in full or in part until the comptroller, based on an evaluation of the economic impact analysis under Subsection (a)(7), certifies that the potential qualified equity investment and the proposed use of the proceeds will have a positive impact on state revenue. If the comptroller denies any part of the application, the comptroller shall inform the qualified community development entity of the grounds for the denial. If the qualified community development entity provides any additional information required by the comptroller or otherwise completes its application within 15 days of the notice of denial, the application shall be considered completed as of the original date of submission. If the qualified community development entity fails to provide the information or complete its application within the 15-day period, the application remains denied and must be resubmitted in full with a new submission date.

(d) If the application is considered complete, the comptroller shall certify the proposed equity investment or long-term debt security as a qualified equity investment and eligible for tax credits under this chapter, subject to the limitations provided by this chapter. The comptroller shall provide written notice of the certification to the qualified community development entity. The notice shall include the names of those entities who are eligible to claim the credits, if known, and their respective credit amounts. If the names of the entities that are eligible to claim the credits change due to a transfer of a qualified equity investment under

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Section 231.008(a) or a change in an allocation under Section 231.008(b), the qualified community development entity shall notify the comptroller of the change.

(e) Within 30 days after receiving notice of certification, the qualified community development entity shall issue the qualified equity investment and receive cash in the amount of the certified purchase price. The qualified community development entity must provide the comptroller with evidence of the receipt of the cash investment within 10 business days after receipt. If the qualified community development entity does not receive the cash investment and issue the qualified equity investment within 30 days following receipt of the certification notice, the certification shall lapse and the entity may not issue the qualified equity investment without reapplying to the comptroller for certification. A certification that lapses reverts back to the comptroller and may be reissued only in accordance with the application process provided by this section.

(f) The comptroller shall certify qualified equity investments in the order applications are received by the comptroller. Applications received on the same day shall be considered to have been received simultaneously. For applications received on the same day and considered complete, the comptroller shall certify, consistent with remaining tax credit capacity, qualified equity investments in proportionate percentages based on the ratio of the amount of qualified equity investment

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requested in an application to the total amount of qualified equity investments requested in all applications received on the same day. If a pending request cannot be fully certified because of the limitations provided by Section 231.002(a), the comptroller shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial credit.

(g) A qualified community development entity, on a collective basis with all of its affiliated entities listed in its allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury or subsidiaries of those entities, may not request certification for a qualified equity investment that would entitle the purchaser of the qualified equity investment to have allocated to the purchaser at any time more than 30 percent of the total value of the tax credits that may be claimed under this chapter.

(h) Notwithstanding Subsection (g), a qualified community development entity, alone or on a collective basis with all of its affiliated entities listed in its allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury or subsidiaries of those entities, may request certification for a qualified equity investment that would entitle the purchaser of the qualified equity investment to have allocated to the purchaser at any time more than 30 percent of the total

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value of the tax credits that may be claimed under this chapter if:

(1) it has been at least 180 days since the date the comptroller certified the qualified community development entity's most recent request under this chapter; or

(2) it has been less than 180 days since the date the comptroller certified the qualified community development entity's most recent request under this chapter, and the entity demonstrates that the entity has invested substantially all of the purchase price of the qualified equity investments that have been previously certified under this chapter.

Sec. 231.010. RECAPTURE OF CREDIT. (a) The comptroller may recapture a portion of a tax credit allowed under this chapter if:

(1) any amount of federal tax credit that might be available with respect to the qualified equity investment that generated the tax credit under this chapter is recaptured under Section 45D, Internal Revenue Code of 1986, as amended;

(2) the qualified community development entity redeems or makes a principal repayment with respect to the qualified equity investment that generated the tax credit before the final credit allowance date of such qualified equity investment; or

(3) the qualified community development entity fails to invest at least 85 percent of the purchase price of the qualified equity investment in qualified low-income

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community investments in qualified active low-income community businesses located in this state within 12 months of the issuance of the qualified equity investment and maintain that level of investment in qualified low-income community investments in qualified active low-income community businesses located in this state until the last credit allowance date for the qualified equity investment.

(b) The qualified community development entity shall keep sufficiently detailed books and records with respect to the investments made with the proceeds of the qualified equity investments to allow the direct tracing of the proceeds into qualified low-income community investments in qualified active low-income community businesses in this state. For purposes of calculating the amount of qualified low-income community investments held by a qualified community development entity, an investment shall be considered held by the 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 recovered from the original investment, exclusive of any profits realized, in another qualified active low-income community business in this state within 12 months of the receipt of the capital. A qualified community development entity may not be required to reinvest capital returned from qualified low-income community investments after the sixth anniversary of the issuance of the qualified equity

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investment, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment shall be considered held by the issuer through the qualified equity investment's final credit allowance date.

(c) In a situation described by Subsection (a)(1), the comptroller's recapture shall be proportionate to the federal recapture with respect to the qualified equity investment. In a situation described by Subsection (a)(2), the comptroller's recapture shall be proportionate to the amount of the redemption or repayment with respect to the qualified equity investment.

(d) The comptroller shall provide notice to the qualified community development entity of any proposed recapture of tax credits under this section. The entity shall have 90 days to cure any deficiency indicated in the comptroller's original recapture notice and avoid the recapture. If the entity fails or is unable to cure the deficiency within the 90-day period, the comptroller shall provide the entity and the taxpayer from whom the credit is to be recaptured with a final order of recapture. Any tax credit for which a final recapture order has been issued shall be recaptured by the comptroller from the taxpayer who claimed the tax credit on a tax return.

Sec. 231.011. 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.

Sec. 231.012. EXPIRATION. (a) This chapter expires

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(b) The expiration of this chapter does not affect a credit that was established under this chapter due to the purchase of a qualified equity investment that was made before the date this chapter expires. An entity that has any unused credits established under this chapter, including any carryforward credits, may continue to apply those credits on or with each consecutive report until the date the credit would have expired under this chapter had this chapter not expired, and this chapter is continued in effect for the purposes of determining the amount of the credit the entity may claim and the manner in which the entity may claim the credit.

(c) This section applies only to a report originally due on or after the effective date of this section.

(d) A taxable entity or other entity may claim the credit under Subchapter J-1, Chapter 171, Tax Code, or Chapter 231, Insurance Code, as added by this section, only in relation to a qualified equity investment issued on or after the effective date of this section.

(e) Notwithstanding any other provision of this Act, this section takes effect January 1, 2010.

The following rows were presented as identical to the language in the engrossed version of Senate Bill 1375, relating to the establishment of the Texas savvy homeowner program.

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No equivalent provision.

SECTION __. Chapter 2306, Government Code, is amended by adding Subchapter OO to read as follows:

SUBCHAPTER OO. TEXAS SAVVY HOMEOWNER PROGRAM

Sec. 2306.2001. DEFINITION. In this subchapter, "program" means the Texas savvy homeowner program.

Sec. 2306.2002. ESTABLISHMENT OF PROGRAM.

(a) The department shall, in coordination with the Texas State Affordable Housing Corporation, the Department of Savings and Mortgage Lending, the Office of Consumer Credit Commissioner, and local housing finance corporations, establish the Texas savvy homeowner program to make refinancing education and assistance available to all individuals residing in a home for which they have received mortgage loan, mortgage credit certificate, down payment, or other loan assistance from the department, the Texas State Affordable Housing Corporation, or a housing finance corporation, including assistance through mortgage revenue bonds or through the department's allocation of funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.).

(b) Except as provided by Subsection (c), participation in the program is voluntary.

(c) Participation in the program is mandatory for individuals receiving mortgage loan, mortgage credit certificate, down payment, or other loan assistance from the department, the Texas State Affordable Housing

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Corporation, or a housing finance corporation on or after December 1, 2009. Any assistance described by this subsection that is issued on or after that date shall be provided to the individual with information concerning:

(1) the requirements and procedures of the program; and

(2) the contact information of the program administrator.

Sec. 2306.2003. PROGRAM DEVELOPMENT AND ADMINISTRATION. (a) The department shall, in coordination with the Texas State Affordable Housing Corporation, the Department of Savings and Mortgage Lending, the Office of Consumer Credit Commissioner, and housing finance corporations, develop:

(1) best practices for home refinancing; and

(2) a curriculum for the provision of individualized counseling to program participants that includes information concerning:

(A) mortgage refinancing options;

(B) home equity practices;

(C) predatory lending practices; and

(D) a comparison of any refinancing terms being offered to the individual and refinancing terms otherwise available to the individual.

(b) The department shall:

(1) administer the program directly; or

(2) prepare and issue a request for proposal and enter into a contract providing for the administration of the program by a nonprofit corporation that:

(A) is a housing counselor certified by the United States Department of Housing and Urban Development or the

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department; and

(B) complies with any requirements imposed on the program administrator in relation to the best practices and curriculum developed by the department under Subsection (a).

(c) If the department does not administer the program, the program administrator shall submit quarterly reports to the department detailing the counseling services provided and whether the counseling recipients obtained refinancing.

Sec. 2306.2004. MODIFICATION OF LOAN TERMS.

(a) As a condition of receiving mortgage loan, mortgage credit certificate, down payment, or other loan assistance from the department, the Texas State Affordable Housing Corporation, or a local housing finance corporation, a program participant must agree to notify the program administrator in writing of any intent to modify the terms of any loan secured by the home in which the participant resides. The notice must be provided not later than the 60th day before the date the loan terms are modified.

(b) On receipt of notice under Subsection (a), the program administrator shall:

(1) contact the loan recipient not later than the 30th day after the date of receipt of the notice; and

(2) on the phone or in person, provide the loan recipient with an individualized counseling session based on the curriculum developed by the department under Section 2306.2003(a).

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Sec. 2306.2005. RULES. The department may adopt rules necessary to implement this subchapter.

No equivalent provision.

SECTION __. The Texas Department of Housing and Community Affairs shall adopt any rules required by Subchapter OO, Chapter 2306, Government Code, as added by this Act, not later than December 1, 2009.