

Amend CSHB 500 (house committee report) as follows:

(1) Strike page 1, lines 5 through 6, and substitute the following, numbered appropriately:

SECTION _____. Sections 171.0001(4) and (12), Tax Code, are amended to read as follows:

(4) "Beginning date" means:

(A) for a taxable entity chartered or organized in this state, the date on which the taxable entity's charter or organization takes effect; and

(B) for any other taxable entity:

(i) [7] the date on which the taxable entity begins doing business in this state; or

(ii) if the taxable entity concurrently begins doing business in this state and relocates its main office or other principal place of business to this state from another state, the third anniversary of the date on which the taxable entity begins doing business in this state.

(2) Strike page 1, lines 20 through 21, and substitute the following, numbered appropriately:

SECTION _____. Section 171.002, Tax Code, is amended by adding Subsection (c-2) and amending Subsection (d) to read as follows:

(3) On page 2, between lines 2 and 3, insert the following:

(d) A taxable entity is not required to pay any tax and is not considered to owe any tax for a period if[+]

~~[(1)] the amount of tax computed for the taxable entity is less than \$1,000[+or~~

~~[(2) the amount of the taxable entity's total revenue from its entire business is less than or equal to \$1 million or the amount determined under Section 171.006 per 12-month period on which margin is based].~~

(4) On page 2, lines 6 through 7, strike "Sections 171.002(d)(2) [~~7-171.00217~~] and 171.1013(c)" and substitute "Sections 171.1011(c)(1)(C), 171.1011(c)(2)(C), 171.1011(c)(3), [~~171.002(d)(2), 171.00217~~] and 171.1013(c)".

(5) On page 3, line 17, strike "amending Subsection (g)" and substitute "amending Subsections (g) and (g-4)".

(6) On page 4, between lines 5 and 6, insert the following:

(g-4) A taxable entity that is a pharmacy cooperative shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), flow-through funds from rebates from pharmacy wholesalers that are distributed to the pharmacy cooperative's shareholders. A taxable entity that provides a pharmacy network shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), flow-through funds from rebates from pharmacy wholesalers that are distributed to pharmacies in the pharmacy network and flow-through funds from reimbursements for payments to pharmacies in the pharmacy network.

(7) Strike page 8, lines 2 through 9, and substitute the following appropriately numbered SECTION:

SECTION _____. Section 171.1014, Tax Code, is amended by amending Subsections (c) and (d) and adding Subsections (j) and (j-1) to read as follows:

(c) For purposes of Section 171.101, a combined group shall determine its total revenue by:

(1) determining the total revenue of each of its members as provided by Section 171.1011 as if the member were an individual taxable entity, except that only one member of the combined group may subtract \$1 million under Section 171.1011(c)(1)(C), (c)(2)(C), or (c)(3);

(2) adding the total revenues of the members determined under Subdivision (1) together; and

(3) subtracting, to the extent included under Section 171.1011(c)(1)(A), (c)(2)(A), or (c)(3), items of total revenue received from a member of the combined group.

(d) For purposes of Section 171.101, a combined group shall make an election to subtract either cost of goods sold or compensation that applies to all of its members. Regardless of the election, the taxable margin of the combined group may not exceed 70 percent of the combined group's total revenue from its entire business, as provided by Section 171.101(a)(1)(A) notwithstanding the percentage provided by Section 171.101(a)(1)(A).

(j) Notwithstanding any other provision of this chapter, a

nonqualified affiliate that would, except as otherwise provided by this subsection, be included in a combined group with a qualified affiliate may not be included in that combined group if:

(1) greater than 50 percent of the threshold amount is from activities in retail or wholesale trade;

(2) less than 50 percent of the threshold amount is from the sale of products produced by any entity that is included in an affiliated group with that qualified affiliate; and

(3) less than five percent of the threshold amount is from providing retail or wholesale electric utilities.

(j-1) For purposes of Subsection (j):

(1) a nonqualified affiliate is an individual taxable entity that provides retail or wholesale electric utilities;

(2) a qualified affiliate is an individual taxable entity that does not provide retail or wholesale electric utilities; and

(3) the threshold amount is the total revenue that would be determined under Subsection (c), provided that Subsection (j) does not apply to the determination of total revenue for purposes of this subdivision.

(8) Strike page 8, lines 15 through 16, and substitute the following appropriately numbered SECTION:

SECTION _____. Sections 171.0021, 171.1016(d), 171.103(c) and (d), and 171.204(b), Tax Code, are repealed.

(9) Strike page 9, line 6, and substitute the following appropriately numbered SECTION:

SECTION _____. Except as otherwise provided by this Act, this Act takes effect January 1, 2014.

(10) Add the following appropriately numbered SECTIONS to the bill and renumber the SECTIONS of the bill accordingly:

SECTION _____. Section 171.001, Tax Code, is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding Subsection (a), the tax imposed under this chapter is not imposed on a taxable entity that is chartered or organized under the laws of the United States or another state and that concurrently begins doing business in this state and relocates its main office or other principal place of business to this state

from another state until the third anniversary of the date on which the taxable entity begins doing business in this state.

SECTION _____. Section 171.063(g), Tax Code, is amended to read as follows:

(g) If a corporation's federal tax exemption is withdrawn by the Internal Revenue Service for failure of the corporation to qualify or maintain its qualification for the exemption, the corporation's exemption under this section ends on the effective date of that withdrawal by the Internal Revenue Service. The effective date of the withdrawal is considered the corporation's beginning date for purposes of determining the corporation's privilege periods and for all other purposes of this chapter, except that if the corporation would have been subject to Section 171.001(d) or exempted from the franchise tax under Section 171.089 in the absence of the federal tax exemption, and the effective date of the withdrawal is a date earlier than the date the corporation would have become subject to the franchise tax as provided by Section 171.001(d) or Section 171.089, as applicable, the date the corporation would have become subject to the franchise tax under the applicable provision is considered the corporation's beginning date for those purposes.

SECTION _____. Subchapter B, Chapter 171, Tax Code, is amended by adding Section 171.089 to read as follows:

Sec. 171.089. EXEMPTION FOR LIMITED PERIOD: CERTAIN ENTITIES RELOCATING TO TEXAS. (a) A taxable entity is exempted from the franchise tax for a period of three years if the taxable entity:

(1) is chartered or organized under the laws of the United States or another state;

(2) has been doing business in this state; and

(3) had its main office or principal place of business located in another state but relocates that main office or other principal place of business to this state.

(b) The three-year period during which a taxable entity is exempted from the franchise tax as provided by this section begins on January 1 of the year following the date the relocation of the main office or other principal place of business is completed, as

defined by comptroller rules, and ends on the third anniversary of that date.

SECTION _____. (a) Effective January 1, 2014, Section 171.1011(c), Tax Code, is amended to read as follows:

(c) Except as provided by this section, and subject to Section 171.1014, for the purpose of computing its taxable margin under Section 171.101, the total revenue of a taxable entity is:

(1) for a taxable entity treated for federal income tax purposes as a corporation, an amount computed by:

(A) adding:

(i) the amount reportable as income on line 1c, Internal Revenue Service Form 1120;

(ii) the amounts reportable as income on lines 4 through 10, Internal Revenue Service Form 1120; and

(iii) any total revenue reported by a lower tier entity as includable in the taxable entity's total revenue under Section 171.1015(b); ~~and~~

(B) subtracting:

(i) bad debt expensed for federal income tax purposes that corresponds to items of gross receipts included in Subsection (c)(1)(A) for the current reporting period or a past reporting period;

(ii) to the extent included in Subsection (c)(1)(A), foreign royalties and foreign dividends, including amounts determined under Section 78 or Sections 951-964, Internal Revenue Code;

(iii) to the extent included in Subsection (c)(1)(A), net distributive income from a taxable entity treated as a partnership or as an S corporation for federal income tax purposes;

(iv) allowable deductions from Internal Revenue Service Form 1120, Schedule C, to the extent the relating dividend income is included in total revenue;

(v) to the extent included in Subsection (c)(1)(A), items of income attributable to an entity that is a disregarded entity for federal income tax purposes; and

(vi) to the extent included in Subsection

(c)(1)(A), other amounts authorized by this section; and

(C) if the amount computed under Subsections (c)(1)(A) and (c)(1)(B) totals \$5 million or less, subtracting \$1 million;

(2) for a taxable entity treated for federal income tax purposes as a partnership, an amount computed by:

(A) adding:

(i) the amount reportable as income on line 1c, Internal Revenue Service Form 1065;

(ii) the amounts reportable as income on lines 4, 6, and 7, Internal Revenue Service Form 1065;

(iii) the amounts reportable as income on lines 3a and 5 through 11, Internal Revenue Service Form 1065, Schedule K;

(iv) the amounts reportable as income on line 17, Internal Revenue Service Form 8825;

(v) the amounts reportable as income on line 11, plus line 2 or line 45, Internal Revenue Service Form 1040, Schedule F; and

(vi) any total revenue reported by a lower tier entity as includable in the taxable entity's total revenue under Section 171.1015(b); ~~and~~

(B) subtracting:

(i) bad debt expensed for federal income tax purposes that corresponds to items of gross receipts included in Subsection (c)(2)(A) for the current reporting period or a past reporting period;

(ii) to the extent included in Subsection (c)(2)(A), foreign royalties and foreign dividends, including amounts determined under Section 78 or Sections 951-964, Internal Revenue Code;

(iii) to the extent included in Subsection (c)(2)(A), net distributive income from a taxable entity treated as a partnership or as an S corporation for federal income tax purposes;

(iv) to the extent included in Subsection (c)(2)(A), items of income attributable to an entity that is a

disregarded entity for federal income tax purposes; and

(v) to the extent included in Subsection (c)(2)(A), other amounts authorized by this section; and

(C) if the amount computed under Subsections (c)(2)(A) and (c)(2)(B) totals \$5 million or less, subtracting \$1 million; or

(3) for a taxable entity other than a taxable entity treated for federal income tax purposes as a corporation or partnership, an amount determined in a manner substantially equivalent to the amount for Subdivision (1) or (2), including the subtraction of \$1 million as provided by Subdivision (1)(C) or (2)(C), determined by rules that the comptroller shall adopt.

(b) Effective January 1, 2016, Section 171.1011(c), Tax Code, is amended to read as follows:

(c) Except as provided by this section, and subject to Section 171.1014, for the purpose of computing its taxable margin under Section 171.101, the total revenue of a taxable entity is:

(1) for a taxable entity treated for federal income tax purposes as a corporation, an amount computed by:

(A) adding:

(i) the amount reportable as income on line 1c, Internal Revenue Service Form 1120;

(ii) the amounts reportable as income on lines 4 through 10, Internal Revenue Service Form 1120; and

(iii) any total revenue reported by a lower tier entity as includable in the taxable entity's total revenue under Section 171.1015(b); ~~and~~

(B) subtracting:

(i) bad debt expensed for federal income tax purposes that corresponds to items of gross receipts included in Subsection (c)(1)(A) for the current reporting period or a past reporting period;

(ii) to the extent included in Subsection (c)(1)(A), foreign royalties and foreign dividends, including amounts determined under Section 78 or Sections 951-964, Internal Revenue Code;

(iii) to the extent included in Subsection

(c)(1)(A), net distributive income from a taxable entity treated as a partnership or as an S corporation for federal income tax purposes;

(iv) allowable deductions from Internal Revenue Service Form 1120, Schedule C, to the extent the relating dividend income is included in total revenue;

(v) to the extent included in Subsection (c)(1)(A), items of income attributable to an entity that is a disregarded entity for federal income tax purposes; and

(vi) to the extent included in Subsection (c)(1)(A), other amounts authorized by this section; and

(C) if the amount computed under Subsections (c)(1)(A) and (c)(1)(B) totals \$10 million or less, subtracting \$1 million;

(2) for a taxable entity treated for federal income tax purposes as a partnership, an amount computed by:

(A) adding:

(i) the amount reportable as income on line 1c, Internal Revenue Service Form 1065;

(ii) the amounts reportable as income on lines 4, 6, and 7, Internal Revenue Service Form 1065;

(iii) the amounts reportable as income on lines 3a and 5 through 11, Internal Revenue Service Form 1065, Schedule K;

(iv) the amounts reportable as income on line 17, Internal Revenue Service Form 8825;

(v) the amounts reportable as income on line 11, plus line 2 or line 45, Internal Revenue Service Form 1040, Schedule F; and

(vi) any total revenue reported by a lower tier entity as includable in the taxable entity's total revenue under Section 171.1015(b); ~~and~~

(B) subtracting:

(i) bad debt expensed for federal income tax purposes that corresponds to items of gross receipts included in Subsection (c)(2)(A) for the current reporting period or a past reporting period;

(ii) to the extent included in Subsection (c)(2)(A), foreign royalties and foreign dividends, including amounts determined under Section 78 or Sections 951-964, Internal Revenue Code;

(iii) to the extent included in Subsection (c)(2)(A), net distributive income from a taxable entity treated as a partnership or as an S corporation for federal income tax purposes;

(iv) to the extent included in Subsection (c)(2)(A), items of income attributable to an entity that is a disregarded entity for federal income tax purposes; and

(v) to the extent included in Subsection (c)(2)(A), other amounts authorized by this section; and

(C) if the amount computed under Subsections (c)(2)(A) and (c)(2)(B) totals \$10 million or less, subtracting \$1 million; or

(3) for a taxable entity other than a taxable entity treated for federal income tax purposes as a corporation or partnership, an amount determined in a manner substantially equivalent to the amount for Subdivision (1) or (2), including the subtraction of \$1 million as provided by Subdivision (1)(C) or (2)(C), determined by rules that the comptroller shall adopt.

(c) Effective January 1, 2018, Section 171.1011(c), Tax Code, is amended to read as follows:

(c) Except as provided by this section, and subject to Section 171.1014, for the purpose of computing its taxable margin under Section 171.101, the total revenue of a taxable entity is:

(1) for a taxable entity treated for federal income tax purposes as a corporation, an amount computed by:

(A) adding:

(i) the amount reportable as income on line 1c, Internal Revenue Service Form 1120;

(ii) the amounts reportable as income on lines 4 through 10, Internal Revenue Service Form 1120; and

(iii) any total revenue reported by a lower tier entity as includable in the taxable entity's total revenue under Section 171.1015(b); ~~and~~

(B) subtracting:

(i) bad debt expensed for federal income tax purposes that corresponds to items of gross receipts included in Subsection (c)(1)(A) for the current reporting period or a past reporting period;

(ii) to the extent included in Subsection (c)(1)(A), foreign royalties and foreign dividends, including amounts determined under Section 78 or Sections 951-964, Internal Revenue Code;

(iii) to the extent included in Subsection (c)(1)(A), net distributive income from a taxable entity treated as a partnership or as an S corporation for federal income tax purposes;

(iv) allowable deductions from Internal Revenue Service Form 1120, Schedule C, to the extent the relating dividend income is included in total revenue;

(v) to the extent included in Subsection (c)(1)(A), items of income attributable to an entity that is a disregarded entity for federal income tax purposes; and

(vi) to the extent included in Subsection (c)(1)(A), other amounts authorized by this section; and

(C) if the amount computed under Subsections (c)(1)(A) and (c)(1)(B) totals \$15 million or less, subtracting \$1 million;

(2) for a taxable entity treated for federal income tax purposes as a partnership, an amount computed by:

(A) adding:

(i) the amount reportable as income on line 1c, Internal Revenue Service Form 1065;

(ii) the amounts reportable as income on lines 4, 6, and 7, Internal Revenue Service Form 1065;

(iii) the amounts reportable as income on lines 3a and 5 through 11, Internal Revenue Service Form 1065, Schedule K;

(iv) the amounts reportable as income on line 17, Internal Revenue Service Form 8825;

(v) the amounts reportable as income on

line 11, plus line 2 or line 45, Internal Revenue Service Form 1040, Schedule F; and

(vi) any total revenue reported by a lower tier entity as includable in the taxable entity's total revenue under Section 171.1015(b); ~~and~~

(B) subtracting:

(i) bad debt expensed for federal income tax purposes that corresponds to items of gross receipts included in Subsection (c)(2)(A) for the current reporting period or a past reporting period;

(ii) to the extent included in Subsection (c)(2)(A), foreign royalties and foreign dividends, including amounts determined under Section 78 or Sections 951-964, Internal Revenue Code;

(iii) to the extent included in Subsection (c)(2)(A), net distributive income from a taxable entity treated as a partnership or as an S corporation for federal income tax purposes;

(iv) to the extent included in Subsection (c)(2)(A), items of income attributable to an entity that is a disregarded entity for federal income tax purposes; and

(v) to the extent included in Subsection (c)(2)(A), other amounts authorized by this section; and

(C) if the amount computed under Subsections (c)(2)(A) and (c)(2)(B) totals \$15 million or less, subtracting \$1 million; or

(3) for a taxable entity other than a taxable entity treated for federal income tax purposes as a corporation or partnership, an amount determined in a manner substantially equivalent to the amount for Subdivision (1) or (2), including the subtraction of \$1 million as provided by Subdivision (1)(C) or (2)(C), determined by rules that the comptroller shall adopt.

(d) Effective January 1, 2020, Section 171.1011(c), Tax Code, is amended to read as follows:

(c) Except as provided by this section, and subject to Section 171.1014, for the purpose of computing its taxable margin under Section 171.101, the total revenue of a taxable entity is:

(1) for a taxable entity treated for federal income tax purposes as a corporation, an amount computed by:

(A) adding:

(i) the amount reportable as income on line 1c, Internal Revenue Service Form 1120;

(ii) the amounts reportable as income on lines 4 through 10, Internal Revenue Service Form 1120; and

(iii) any total revenue reported by a lower tier entity as includable in the taxable entity's total revenue under Section 171.1015(b); ~~and~~

(B) subtracting:

(i) bad debt expensed for federal income tax purposes that corresponds to items of gross receipts included in Subsection (c)(1)(A) for the current reporting period or a past reporting period;

(ii) to the extent included in Subsection (c)(1)(A), foreign royalties and foreign dividends, including amounts determined under Section 78 or Sections 951-964, Internal Revenue Code;

(iii) to the extent included in Subsection (c)(1)(A), net distributive income from a taxable entity treated as a partnership or as an S corporation for federal income tax purposes;

(iv) allowable deductions from Internal Revenue Service Form 1120, Schedule C, to the extent the relating dividend income is included in total revenue;

(v) to the extent included in Subsection (c)(1)(A), items of income attributable to an entity that is a disregarded entity for federal income tax purposes; and

(vi) to the extent included in Subsection (c)(1)(A), other amounts authorized by this section; and

(C) if the amount computed under Subsections (c)(1)(A) and (c)(1)(B) totals \$20 million or less, subtracting \$1 million;

(2) for a taxable entity treated for federal income tax purposes as a partnership, an amount computed by:

(A) adding:

(i) the amount reportable as income on line 1c, Internal Revenue Service Form 1065;

(ii) the amounts reportable as income on lines 4, 6, and 7, Internal Revenue Service Form 1065;

(iii) the amounts reportable as income on lines 3a and 5 through 11, Internal Revenue Service Form 1065, Schedule K;

(iv) the amounts reportable as income on line 17, Internal Revenue Service Form 8825;

(v) the amounts reportable as income on line 11, plus line 2 or line 45, Internal Revenue Service Form 1040, Schedule F; and

(vi) any total revenue reported by a lower tier entity as includable in the taxable entity's total revenue under Section 171.1015(b); ~~and~~

(B) subtracting:

(i) bad debt expensed for federal income tax purposes that corresponds to items of gross receipts included in Subsection (c)(2)(A) for the current reporting period or a past reporting period;

(ii) to the extent included in Subsection (c)(2)(A), foreign royalties and foreign dividends, including amounts determined under Section 78 or Sections 951-964, Internal Revenue Code;

(iii) to the extent included in Subsection (c)(2)(A), net distributive income from a taxable entity treated as a partnership or as an S corporation for federal income tax purposes;

(iv) to the extent included in Subsection (c)(2)(A), items of income attributable to an entity that is a disregarded entity for federal income tax purposes; and

(v) to the extent included in Subsection (c)(2)(A), other amounts authorized by this section; and

(C) if the amount computed under Subsections (c)(2)(A) and (c)(2)(B) totals \$20 million or less, subtracting \$1 million; or

(3) for a taxable entity other than a taxable entity

treated for federal income tax purposes as a corporation or partnership, an amount determined in a manner substantially equivalent to the amount for Subdivision (1) or (2), including the subtraction of \$1 million as provided by Subdivision (1)(C) or (2)(C), determined by rules that the comptroller shall adopt.

SECTION _____. (a) Section 171.1012, Tax Code, is amended by adding Subsection (r) to read as follows:

(r) If a taxable entity that is a movie theater elects to subtract cost of goods sold, the cost of goods sold for the taxable entity shall be the costs described by this section in relation to the acquisition, production, exhibition, or use of a film or motion picture, including expenses for the right to use the film or motion picture.

(b) Section 171.1012(r), Tax Code, as added by this section, is a clarification of existing law and does not imply that existing law may be construed as inconsistent with the law as amended by this section.

(c) This section takes effect September 1, 2013.

SECTION _____. Section 171.1015(d), Tax Code, is amended to read as follows:

(d) Section 171.002(d) does not apply to an upper tier entity if, before the attribution of any total revenue by a lower tier entity to an upper tier entity under this section, the lower tier entity does not meet the criteria of Section 171.002(d)(1) [~~(d)(2)~~].

SECTION _____. Section 171.204, Tax Code, is amended by adding Subsection (d) to read as follows:

(d) The comptroller may require a taxable entity on which the tax imposed under this chapter is not imposed solely because of the application of Section 171.001(d) to file an information report stating the taxable entity's beginning date as determined under Section 171.0001(4)(B)(ii). The comptroller may require a taxable entity exempted from the franchise tax solely because of the application of Section 171.089 to file an information report stating the date the relocation of the taxable entity's main office or other principal place of business was completed, as defined by comptroller rules. The comptroller may require the report to

include other information the comptroller determines necessary, except that the comptroller may not require the taxable entity to report or compute its margin.

SECTION _____. Chapter 171, Tax Code, is amended by adding Subchapter S to read as follows:

SUBCHAPTER S. TAX CREDIT FOR CERTIFIED REHABILITATION OF CERTIFIED HISTORIC STRUCTURES

Sec. 171.901. DEFINITIONS. In this subchapter:

(1) "Certified historic structure" means a property in this state that is:

(A) listed individually in the National Register of Historic Places;

(B) designated as a Recorded Texas Historic Landmark under Section 442.006, Government Code, or as a state archeological landmark under Chapter 191, Natural Resources Code; or

(C) certified by the commission as contributing to the historic significance of:

(i) a historic district listed in the National Register of Historic Places; or

(ii) a local district certified by the United States Department of the Interior in accordance with 36 C.F.R. Section 67.9.

(2) "Certified rehabilitation" means the rehabilitation of a certified historic structure that the commission has certified as meeting the United States secretary of the interior's Standards for Rehabilitation as defined in 36 C.F.R. Section 67.7.

(3) "Commission" means the Texas Historical Commission.

(4) "Eligible costs and expenses" means qualified rehabilitation expenditures as defined by Section 47(c)(2), Internal Revenue Code.

Sec. 171.902. ELIGIBILITY FOR CREDIT. An entity is eligible to apply for a credit in the amount and under the conditions and limitations provided by this subchapter against the tax imposed under this chapter.

Sec. 171.903. QUALIFICATION. An entity is eligible for a credit for eligible costs and expenses incurred in the certified rehabilitation of a certified historic structure as provided by this subchapter if:

(1) the rehabilitated certified historic structure is placed in service on or after September 1, 2013;

(2) the entity has an ownership interest in the certified historic structure in the year during which the structure is placed in service after the rehabilitation; and

(3) the total amount of the eligible costs and expenses incurred exceeds \$5,000.

Sec. 171.904. CERTIFICATION OF ELIGIBILITY. (a) Before claiming, selling, or assigning a credit under this subchapter, the entity that incurred the eligible costs and expenses in the rehabilitation of a certified historic structure must request from the commission a certificate of eligibility on which the commission certifies that the work performed meets the definition of a certified rehabilitation. The entity must include with the entity's request:

(1) information on the property that is sufficient for the commission to determine whether the property meets the definition of a certified historic structure; and

(2) information on the rehabilitation, and photographs before and after work is performed, sufficient for the commission to determine whether the rehabilitation meets the United States secretary of the interior's Standards for Rehabilitation as defined in 36 C.F.R. Section 67.7.

(b) The commission shall issue a certificate of eligibility to an entity that has incurred eligible costs and expenses as provided by this subchapter. The certificate must:

(1) confirm that:

(A) the property to which the eligible costs and expenses relate is a certified historic structure; and

(B) the rehabilitation qualifies as a certified rehabilitation; and

(2) specify the date the certified historic structure was first placed in service after the rehabilitation.

(c) The entity must forward the certificate of eligibility and the following documentation to the comptroller to claim the tax credit:

(1) an audited cost report issued by a certified public accountant, as defined by Section 901.002, Occupations Code, that itemizes the eligible costs and expenses incurred in the certified rehabilitation of the certified historic structure by the entity;

(2) the date the certified historic structure was first placed in service after the rehabilitation and evidence of that placement in service; and

(3) an attestation of the total eligible costs and expenses incurred by the entity on the rehabilitation of the certified historic structure.

(d) For purposes of approving the tax credit under Subsection (c), the comptroller may rely on the audited cost report provided by the entity that requested the tax credit.

(e) An entity that sells or assigns a credit under this subchapter to another entity shall provide a copy of the certificate of eligibility, together with the audited cost report, to the purchaser or assignee.

Sec. 171.905. AMOUNT OF CREDIT; LIMITATIONS. (a) The total amount of the credit under this subchapter with respect to the rehabilitation of a single certified historic structure that may be claimed may not exceed 25 percent of the total eligible costs and expenses incurred in the certified rehabilitation of the certified historic structure.

(b) The total credit claimed for a report, including the amount of any carryforward under Section 171.906, may not exceed the amount of franchise tax due for the report after any other applicable tax credits.

(c) Eligible costs and expenses may only be counted once in determining the amount of the tax credit available, and more than one entity may not claim a credit for the same eligible costs and expenses.

Sec. 171.906. CARRYFORWARD. (a) If an entity is eligible for a credit that exceeds the limitation under Section 171.905(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 limitation under Section 171.905(b).

Sec. 171.907. APPLICATION FOR CREDIT. (a) An entity must apply for a credit under this subchapter on or with the report for the period for which the credit is claimed.

(b) An entity shall file with any report on which the credit is claimed a copy of the certificate of eligibility issued by the commission under Section 171.904 and any other information required by the comptroller to sufficiently demonstrate that the entity is eligible for the credit.

(c) The burden of establishing eligibility for and the value of the credit is on the entity.

Sec. 171.908. SALE OR ASSIGNMENT OF CREDIT. (a) An entity that incurs eligible costs and expenses may sell or assign all or part of the credit that may be claimed for those costs and expenses to one or more entities, and any entity to which all or part of the credit is sold or assigned may sell or assign all or part of the credit to another entity. There is no limit on the total number of transactions for the sale or assignment of all or part of the total credit authorized under this subchapter, however, collectively all transfers are subject to the maximum total limits provided by Section 171.905.

(b) An entity that sells or assigns a credit under this section and the entity to which the credit is sold or assigned shall jointly submit written notice of the sale or assignment to the comptroller on a form promulgated by the comptroller not later than the 30th day after the date of the sale or assignment. The notice must include:

- (1) the date of the sale or assignment;
- (2) the amount of the credit sold or assigned;
- (3) the names and federal tax identification numbers of the entity that sold or assigned the credit or part of the credit and the entity to which the credit or part of the credit was sold or assigned; and

(4) the amount of the credit owned by the selling or assigning entity before the sale or assignment, and the amount the selling or assigning entity retained, if any, after the sale or assignment.

(c) The sale or assignment of a credit in accordance with this section does not extend the period for which a credit may be carried forward and does not increase the total amount of the credit that may be claimed. After an entity claims a credit for eligible costs and expenses, another entity may not use the same costs and expenses as the basis for claiming a credit.

(d) Notwithstanding the requirements of this subchapter, a credit earned or purchased by, or assigned to, 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 and without regard to the ownership interest of the partners, members, or shareholders in the rehabilitated certified historic structure, provided that the entity that claims the credit must be subject to the tax imposed under this chapter.

Sec. 171.909. RULES. The commission and the comptroller shall adopt rules necessary to implement this subchapter.

SECTION _____. (a) Section 18, Chapter 1 (HB 3), Acts of the 79th Legislature, 3rd Called Session, 2006, is amended by adding Subsections (h) and (i) to read as follows:

(h) In this subsection and Subsection (i) of this section, "transfer" includes a sale. Notwithstanding Subsections (e) and (f) of this section, a corporation that has unused, unexpired credits carried forward under former Subchapter P or Q, Chapter 171, Tax Code, may transfer the credits to another taxpayer of this state. To be eligible to transfer the credits, the corporation must obtain a certificate of transfer of credit from the comptroller of public accounts for the amount of the credits to be transferred. Not later than the 30th day after the date of the transfer, the corporation must submit to the comptroller a notice of the transfer in a form prescribed by the comptroller. The notice must be accompanied by a copy of the certificate of transfer issued by the

comptroller and specify:

- (1) the number on the certificate of transfer;
- (2) the amount of the corporation's unused, unexpired credits preceding the transfer;
- (3) the date of the transfer;
- (4) the amount of credits transferred;
- (5) the tax identification numbers of the corporation and the taxpayer to which the credits were transferred;
- (6) the corporation's remaining amount of unused, unexpired credits after the transfer; and
- (7) any other information the comptroller requires.

(i) The transfer of a credit under Subsection (h) of this section is limited to a credit that was first reported on a report originally due before January 1, 2008, and does not include credits authorized under former Subchapter Q-1, Chapter 171, Tax Code, or credits that were created under the terms of a written agreement between a taxpayer and the Texas Department of Economic Development or its successor that was entered into before June 1, 2006, and which credits continue to accrue under the terms provided by Section 19 of this Act. The transferee of a credit under this section obtains the credit subject to the same rights and privileges as the transferor. The transfer of a credit under Subsection (h) of this section does not extend or lessen the period during which the credit may be claimed. If a corporation transfers a credit that the corporation was not entitled to claim at the time of the transfer:

(1) the taxpayer to which the credit was transferred may pursue any remedy authorized by law against the corporation and may not pursue any remedy against the comptroller of public accounts or this state; and

(2) the comptroller:

- (A) may not allow the taxpayer to which the credit was transferred to apply the credit on a report; or
- (B) shall recover from the taxpayer the amount of the credit the taxpayer claims on a report using any means authorized by law.

(b) This section applies only to a credit transferred on or

after the effective date of this section.

(c) This section takes effect September 1, 2013.

SECTION _____. (a) The changes in law made by this Act by the addition of Sections 171.001(d), 171.089, and 171.204(d), Tax Code, and the amendment of Sections 171.0001(4) and 171.063(g), Tax Code, apply to a taxable entity doing business in this state before, on, or after the effective date of this Act.

(b) A taxable entity on which the tax under Chapter 171, Tax Code, was imposed before the effective date of this Act, but on which the tax is not imposed on the effective date of this Act because of the application of Section 171.001(d) or 171.089, Tax Code, as added by this Act, is not entitled to a refund of or credit for taxes paid under Chapter 171, Tax Code, before the effective date of this Act.