

By: Carter

H.B. No. 1668

A BILL TO BE ENTITLED

AN ACT

relating to a franchise tax credit for certain taxable entities that recruit new taxable entities to this state or that relocate to this state.

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

SECTION 1. Chapter 171, Tax Code, is amended by adding Subchapter M-1 to read as follows:

SUBCHAPTER M-1. TAX CREDIT FOR RECRUITMENT AND RELOCATION OF CERTAIN TAXABLE ENTITIES TO THIS STATE

Sec. 171.681. DEFINITIONS. In this subchapter:

(1) "Affiliate" means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person or who is an officer, director, partner, or trustee of another person.

(2) "Bank" includes a banking corporation and a savings and loan association.

(3) "Certified new taxable entity" means a new taxable entity that is certified under Section 171.684.

(4) "Certified sponsor taxable entity" means a sponsor taxable entity that is certified under Section 171.684.

(5) "Commercial rental unit" means one or more rooms or offices rented solely or primarily for commercial purposes under a single lease to one or more tenants.

(6) "Landlord" means the owner, lessor, or sublessor

1 of a commercial rental unit but does not include a manager or agent
2 of the landlord unless the manager or agent purports to be the
3 owner, lessor, or sublessor in a written or oral lease.

4 (7) "Qualifying job" means a new permanent full-time
5 job that:

6 (A) requires at least 1,600 hours of work a year;
7 and

8 (B) requires that not less than 90 percent of
9 those work hours are worked in this state.

10 (8) "Real estate developer" means a person who, in the
11 ordinary course of business, purchases a tract of land, improves
12 the tract of land, and then sells the improved tract of land to a
13 purchaser. For purposes of this subchapter, the comptroller shall
14 determine whether a person is a real estate developer on a
15 tract-by-tract basis.

16 (9) "Real estate license holder" means a person
17 licensed under Chapter 1101, Occupations Code.

18 (10) "Tenant" means a person who is authorized by a
19 lease to occupy a rental unit to the exclusion of others other than
20 cotenants and who is obligated under the lease to pay rent.

21 Sec. 171.682. QUALIFICATION AS SPONSOR TAXABLE ENTITY. A
22 taxable entity may qualify as a sponsor taxable entity if the
23 taxable entity:

24 (1) has a place of business in this state;

25 (2) has been doing business in this state for at least
26 three years;

27 (3) convinces a new taxable entity to agree to

relocate to this state as a result of the sponsor taxable entity's
recruitment efforts, including written solicitations, inducements,
or other incentives;

(4) has not entered into a rental agreement with the
new taxable entity for a commercial rental unit; and

(5) is not:

(A) a real estate license holder, real estate
developer, or landlord for the new taxable entity;

(B) a bank or other lender providing the new
taxable entity financing to establish a place of business in this
state; or

(C) an affiliate of the new taxable entity.

Sec. 171.683. QUALIFICATION AS NEW TAXABLE ENTITY. An
entity may qualify as a new taxable entity if the entity:

(1) has a place of business outside of this state;

(2) does not have a place of business in this state;

(3) has not had a business location in this state for
at least three years;

(4) intends to relocate to this state as a result of
recruitment efforts by a sponsor taxable entity;

(5) has not entered into a commercial rental agreement
with the sponsor taxable entity;

(6) is not:

(A) a tenant of that sponsor taxable entity; or

(B) an affiliate of that sponsor taxable entity;

and

(7) is subject to the tax imposed under this chapter or

1 would be subject to the tax imposed under this chapter if the entity
2 were doing business in this state.

3 Sec. 171.684. CERTIFICATION. (a) A sponsor taxable entity
4 and a new taxable entity may apply jointly to the comptroller for
5 certification. The comptroller shall approve an application for
6 certification if:

7 (1) the sponsor taxable entity meets the
8 qualifications prescribed by Section 171.682; and

9 (2) the new taxable entity meets the qualifications
10 prescribed by Section 171.683 and:

11 (A) agrees to relocate to this state;

12 (B) states that the new taxable entity is
13 relocating as a result of recruitment efforts by the sponsor
14 taxable entity that jointly filed the application;

15 (C) agrees to establish a business location in
16 this state not later than the end of the eighth month after the date
17 of filing the application; and

18 (D) agrees to create at least three qualifying
19 jobs not later than the end of the eighth month after the date of
20 filing the application.

21 (b) A sponsor taxable entity may file jointly for
22 certification under this section with more than one new taxable
23 entity.

24 (c) A new taxable entity may not jointly file for
25 certification under this section with more than one sponsor taxable
26 entity.

27 Sec. 171.685. ENTITLEMENT TO CREDIT. (a) A certified

1 sponsor taxable entity is entitled to a credit in the amount and
2 under the conditions and limitations provided by this subchapter
3 against the tax imposed by this chapter in relation to each
4 certified new taxable entity that the sponsor taxable entity
5 jointly applied with and received certification under Section
6 171.684.

7 (b) A certified new taxable entity is entitled to a credit
8 in the amount and under the conditions and limitations provided by
9 this subchapter.

10 Sec. 171.686. AMOUNTS; LIMITATION ON TOTAL CREDITS. (a)
11 Subject to Subsection (c), the amount of credit to which a certified
12 sponsor taxable entity is entitled in relation to each certified
13 new taxable entity is equal to the lesser of:

14 (1) an amount equal to \$500 multiplied by the total
15 number of qualifying jobs created or maintained in that tax year by
16 the certified new taxable entity; or

17 (2) the certified sponsor taxable entity's tax
18 liability under this chapter.

19 (b) Subject to Subsection (c), the amount of credit to which
20 a certified new taxable entity is entitled is equal to the lesser
21 of:

22 (1) an amount equal to \$500 multiplied by the total
23 number of qualifying jobs created or maintained in that tax year by
24 the certified new taxable entity; or

25 (2) the certified new taxable entity's tax liability
26 under this chapter.

27 (c) The total amount of credits that may be claimed under

1 this subchapter each year may not exceed \$3 million.

2 (d) The comptroller by rule shall prescribe procedures by
3 which the comptroller may allocate credits under this subchapter.
4 The procedures must provide that credits are allocated on a "first
5 come, first served" basis, based on the date the application for
6 certification was initially made.

7 (e) The comptroller may require a taxable entity to notify
8 the comptroller of the amount the taxable entity intends or expects
9 to claim under this subchapter before the beginning of a state
10 fiscal year or at any other time required by the comptroller.

11 Sec. 171.687. LENGTH OF CREDIT. A certified sponsor
12 taxable entity and a certified new taxable entity that jointly file
13 for certification under Section 171.684 must claim the credit under
14 this subchapter over the first three consecutive reports beginning
15 with the first report after the date of certification.

16 Sec. 171.688. APPLICATION FOR CREDIT. A taxable entity
17 must apply for a credit under this subchapter on or with the report
18 for the period for which the credit is claimed.

19 Sec. 171.689. CARRYFORWARD. (a) If a taxable entity is
20 eligible for a credit that exceeds the limitation under Section
21 171.686, the taxable entity may carry the unused credit forward one
22 report.

23 (b) A carryforward is considered the remaining portion of a
24 credit that cannot be claimed in the current year because of the
25 limitation under Section 171.686. A carryforward is added to the
26 next year's credit in determining whether the limitation is met for
27 that year. A credit carryforward from a previous report is

1 considered to be used before the current year credit.

2 Sec. 171.690. ASSIGNMENT PROHIBITED. A taxable entity may
3 not convey, assign, or transfer the credit allowed under this
4 subchapter to another entity unless all of the assets of the taxable
5 entity are conveyed, assigned, or transferred.

6 Sec. 171.691. BIENNIAL REPORT BY COMPTROLLER. (a) Before
7 the beginning of each regular session of the legislature, the
8 comptroller shall submit to the governor, the lieutenant governor,
9 the speaker of the house of representatives, and each member of the
10 legislature a report that includes for the preceding 24-month
11 period ending September 1:

12 (1) the names of all certified sponsor taxable
13 entities and certified new taxable entities that applied for a
14 credit under this subchapter;

15 (2) the total amount of credits applied for under this
16 subchapter; and

17 (3) the total number of qualifying jobs created by
18 certified new taxable entities.

19 (b) The comptroller may not include in the report
20 information that is confidential by law.

21 (c) For purposes of this section, the comptroller may
22 require a taxable entity that claims a credit under this subchapter
23 to submit any information necessary to complete the report required
24 under this section.

25 Sec. 171.692. RULES. The comptroller shall adopt rules
26 necessary to implement this subchapter.

27 SECTION 2. This Act applies only to a report originally due

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1 on or after the effective date of this Act.

2 SECTION 3. This Act takes effect January 1, 2014.