

1-1 By: Murphy, et al. (Senate Sponsor - Hancock) H.B. No. 2061
1-2 (In the Senate - Received from the House May 10, 2013;
1-3 May 15, 2013, read first time and referred to Committee on Economic
1-4 Development; May 17, 2013, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; May 17, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13			X	
1-14	X			

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to a tax credit for investment in certain communities;
1-18 imposing a monetary penalty; authorizing a fee.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Subtitle B, Title 3, Insurance Code, is amended
1-21 by adding Chapter 231 to read as follows:

1-22 CHAPTER 231. TAX CREDIT FOR INVESTMENT IN CERTAIN COMMUNITIES

1-23 SUBCHAPTER A. GENERAL PROVISIONS

1-24 Sec. 231.001. GENERAL DEFINITIONS. In this chapter:

1-25 (1) "Applicable percentage" means zero percent for the
1-26 first two credit allowance dates, seven percent for the third
1-27 credit allowance date, and eight percent for the next four credit
1-28 allowance dates.

1-29 (2) "Comptroller" means the comptroller of public
1-30 accounts.

1-31 (3) "Credit allowance date" means, with respect to any
1-32 qualified equity investment:

1-33 (A) the date on which the investment is initially
1-34 made; and

1-35 (B) the anniversary of that date in each of the
1-36 six years immediately following that date.

1-37 (4) "Purchase price" means the amount paid to the
1-38 issuer of a qualified equity investment for the qualified equity
1-39 investment.

1-40 (5) "State premium tax liability" means any premium
1-41 tax liability incurred under Chapter 221, 222, 223, or 224.

1-42 Sec. 231.002. DEFINITION: LONG-TERM DEBT SECURITY. (a) In
1-43 this chapter, "long-term debt security" means a debt instrument
1-44 issued by a qualified community development entity, at par value or
1-45 a premium, with an original maturity date not earlier than the
1-46 seventh year after the date on which the debt instrument is issued,
1-47 with no acceleration of repayment, amortization, or prepayment
1-48 features before its original maturity date.

1-49 (b) The qualified community development entity that issues
1-50 a long-term debt security may not make cash interest payments on the
1-51 security during the period beginning on the date on which the
1-52 security is issued and ending on the final credit allowance date in
1-53 an amount that exceeds the cumulative operating income, as defined
1-54 by regulations adopted under Section 45D, Internal Revenue Code of
1-55 1986, of the qualified community development entity for that period
1-56 before giving effect to the interest expense of the long-term debt
1-57 security.

1-58 (c) This section does not limit the holder's ability to
1-59 accelerate payments on a long-term debt security in situations
1-60 where the issuer has defaulted on covenants designed to ensure
1-61 compliance with this chapter or Section 45D, Internal Revenue Code

2-1 of 1986.

2-2 Sec. 231.003. DEFINITION: QUALIFIED ACTIVE LOW-INCOME
 2-3 COMMUNITY BUSINESS. (a) In this chapter, "qualified active
 2-4 low-income community business" has the meaning assigned by Section
 2-5 45D, Internal Revenue Code of 1986, and 26 C.F.R. Section 1.45D-1,
 2-6 except that the term is limited to those businesses that do not
 2-7 exceed the Small Business Administration size eligibility
 2-8 standards established by 13 C.F.R. Section 121.201 at the time the
 2-9 qualified low-income community investment is made.

2-10 (b) A business is considered a qualified active low-income
 2-11 community business for the duration of the qualified community
 2-12 development entity's investment in, or loan to, the business if the
 2-13 entity reasonably expects, at the time it makes the investment or
 2-14 loan, that the business will continue to satisfy the requirements
 2-15 for being a qualified active low-income community business, other
 2-16 than the Small Business Administration size standards, throughout
 2-17 the entire period of the investment or loan.

2-18 (c) A business that derives or projects to derive 15 percent
 2-19 or more of its annual revenue from the rental or sale of real estate
 2-20 is not a qualified active low-income community business for
 2-21 purposes of this chapter. This exclusion does not apply to a
 2-22 business that is controlled by, or under common control with, an
 2-23 affiliated entity if the affiliated entity:

2-24 (1) does not derive or project to derive 15 percent or
 2-25 more of its annual revenue from the rental or sale of real estate;
 2-26 and

2-27 (2) is the primary tenant of the real estate leased
 2-28 from the business.

2-29 Sec. 231.004. DEFINITION: QUALIFIED COMMUNITY DEVELOPMENT
 2-30 ENTITY. In this chapter, "qualified community development entity"
 2-31 has the meaning assigned by Section 45D, Internal Revenue Code of
 2-32 1986, provided that the entity has entered into, for the current
 2-33 year or any prior year, an allocation agreement with the community
 2-34 development financial institutions fund of the United States
 2-35 Department of the Treasury with respect to credits authorized by
 2-36 Section 45D, Internal Revenue Code of 1986, that includes this
 2-37 state in the service area set forth in the allocation agreement.
 2-38 The term includes a qualified community development entity that is
 2-39 controlled by or under common control with another qualified
 2-40 community development entity described by this section.

2-41 Sec. 231.005. DEFINITION: QUALIFIED EQUITY INVESTMENT. (a)
 2-42 An investment or security is a "qualified equity investment" for
 2-43 purposes of this chapter if:

2-44 (1) the investment or security is an equity investment
 2-45 in, or long-term debt security issued by, a qualified community
 2-46 development entity;

2-47 (2) the investment or security is acquired on or after
 2-48 October 1, 2013, at its original issuance solely in exchange for
 2-49 cash;

2-50 (3) not later than the first anniversary of the
 2-51 initial credit allowance date at least 100 percent of the
 2-52 investment's or security's cash purchase price is used by the issuer
 2-53 to make qualified low-income community investments in qualified
 2-54 active low-income community businesses located in this state; and

2-55 (4) the investment or security is designated by the
 2-56 issuer as a qualified equity investment under this section and is
 2-57 certified by the comptroller as not exceeding the limitation
 2-58 provided by Section 231.104.

2-59 (b) Qualified equity investment includes an investment or
 2-60 security that does not satisfy the requirements of Subsection (a)
 2-61 if the investment or security was a qualified equity investment in
 2-62 the hands of a prior holder.

2-63 Sec. 231.006. DEFINITION: QUALIFIED LOW-INCOME COMMUNITY
 2-64 INVESTMENT. In this chapter, "qualified low-income community
 2-65 investment" means a capital or equity investment in, or loan to, a
 2-66 qualified active low-income community business with respect to
 2-67 which a federal qualified low-income community investment of some
 2-68 amount is made concurrently with the investment or loan.

2-69 Sec. 231.007. DEFINITION: QUALIFIED INVESTOR. In this

3-1 chapter, "qualified investor" means an entity that makes a
 3-2 qualified equity investment as defined by Section 231.005, or an
 3-3 entity that is allocated premium tax credits under Section
 3-4 231.052(b).

3-5 Sec. 231.008. NEW MARKETS PERFORMANCE GUARANTEE ACCOUNT.
 3-6 The new markets performance guarantee account is established as a
 3-7 special account outside the state treasury. The comptroller shall
 3-8 administer the account and shall deposit a refundable performance
 3-9 deposit received from a qualified community development entity
 3-10 under Subchapter E into the account.

3-11 Sec. 231.009. RULES AND STANDARDS. (a) The comptroller may
 3-12 adopt rules as necessary to implement the duties of the comptroller
 3-13 under this chapter.

3-14 (b) The comptroller, acting as the administrator, may:

3-15 (1) by rule set limits and restrictions on the use of
 3-16 the proceeds raised by a qualified community development entity,
 3-17 consistent with Section 45D, Internal Revenue Code of 1986;

3-18 (2) review or audit the investments of a qualified
 3-19 community development entity on a periodic basis;

3-20 (3) establish limits on the formation and syndication
 3-21 costs of a qualified community development entity and the entity's
 3-22 debt instruments;

3-23 (4) consistent with practices under Section 45D,
 3-24 Internal Revenue Code of 1986, establish limits of a qualified
 3-25 community development entity's operating expenses, including legal
 3-26 fees, loan sourcing or origination fees, loan servicing fees,
 3-27 management fees paid to affiliated firms, including
 3-28 non-Texas-based firms, organizational and formation expenses, and
 3-29 performance bonds; and

3-30 (5) limit any original issue discount on a debt
 3-31 instrument issued by a qualified community development entity.

3-32 SUBCHAPTER B. TAX CREDIT

3-33 Sec. 231.051. CREDIT ESTABLISHED. (a) Subject to Section
 3-34 231.052(b), a qualified investor that makes a qualified equity
 3-35 investment earns a vested right to credit against the qualified
 3-36 investor's state premium tax liability.

3-37 (b) On each credit allowance date of a qualified equity
 3-38 investment, the qualified investor, or a subsequent holder of the
 3-39 qualified equity investment, may claim a portion of the credit
 3-40 during the tax year of that credit allowance date.

3-41 (c) The credit amount is equal to the applicable percentage
 3-42 for the credit allowance date multiplied by the purchase price paid
 3-43 to the issuer of the qualified equity investment.

3-44 (d) The amount of the credit claimed by a qualified investor
 3-45 may not exceed the amount of the qualified investor's state premium
 3-46 tax liability for the tax year for which the credit is claimed. Any
 3-47 amount of tax credit that the qualified investor is prohibited from
 3-48 claiming in a tax year as a result of this subsection may be carried
 3-49 forward for use in a subsequent tax year.

3-50 Sec. 231.052. TRANSFERABILITY. (a) A premium tax credit
 3-51 claimed under this chapter is not refundable or salable.

3-52 (b) A premium tax credit earned by or allocated to a
 3-53 partnership, limited liability company, S corporation, or other
 3-54 pass-through entity may be allocated to the partners, members, or
 3-55 shareholders of the entity for their direct use in accordance with
 3-56 an agreement among the partners, members, or shareholders. An
 3-57 allocation under this subsection does not constitute a sale for
 3-58 purposes of this chapter.

3-59 Sec. 231.053. RETALIATORY TAX. (a) A qualified investor or
 3-60 a subsequent holder of a qualified equity investment claiming a
 3-61 premium tax credit under this chapter is not required to pay any
 3-62 additional retaliatory tax levied under Chapter 281 as a result of
 3-63 claiming that credit.

3-64 (b) In addition to the exclusion provided by Subsection (a),
 3-65 a qualified investor or a subsequent holder of the qualified equity
 3-66 investment claiming a credit under this chapter is not required to
 3-67 pay any additional tax that may arise as a result of claiming that
 3-68 credit.

4-1 SUBCHAPTER C. CERTIFICATION OF QUALIFIED EQUITY INVESTMENTS

4-2 Sec. 231.101. APPLICATION FOR CERTIFICATION OF QUALIFIED
 4-3 EQUITY INVESTMENT. (a) A qualified community development entity
 4-4 that seeks to have an equity investment or long-term debt security
 4-5 certified as a qualified equity investment eligible for premium tax
 4-6 credits under this chapter must apply to the comptroller, acting as
 4-7 administrator under this chapter, as provided by this section.

4-8 (b) An application under this section must include the
 4-9 following:

4-10 (1) evidence of the applicant's certification as a
 4-11 qualified community development entity, including evidence of the
 4-12 service area of the entity that includes this state;

4-13 (2) a copy of an allocation agreement executed by the
 4-14 applicant, or its controlling entity, and the community development
 4-15 financial institutions fund;

4-16 (3) a certificate executed by an executive officer of
 4-17 the applicant attesting that the allocation agreement remains in
 4-18 effect and has not been revoked or canceled by the community
 4-19 development financial institutions fund;

4-20 (4) a description of the proposed amount and
 4-21 structure, and of the purchaser, of the qualified equity
 4-22 investment;

4-23 (5) identifying information for a qualified investor
 4-24 that will earn premium tax credits as a result of the issuance of
 4-25 the qualified equity investment;

4-26 (6) except as provided by Subsection (c), examples of
 4-27 the types of qualified active low-income community businesses in
 4-28 which the applicant, its controlling entity, or affiliates of its
 4-29 controlling entity have invested under the federal New Markets Tax
 4-30 Credit Program;

4-31 (7) a nonrefundable application fee of \$5,000 to be
 4-32 paid to the comptroller; and

4-33 (8) except as provided by Section 231.201(c), the
 4-34 refundable performance deposit of \$500,000 required by Subchapter
 4-35 E.

4-36 (c) An applicant is not required to have invested under the
 4-37 federal New Markets Tax Credit Program, and an application is not
 4-38 required to include the examples described by Subsection (b)(6), if
 4-39 the application includes information in the form required by the
 4-40 comptroller demonstrating that the applicant, together with the
 4-41 applicant's controlling entity and the affiliates of its
 4-42 controlling entity:

4-43 (1) is a duly formed qualified community development
 4-44 entity;

4-45 (2) has total assets under management in the amount of
 4-46 \$250 million or less; and

4-47 (3) has a demonstrable track record of successfully
 4-48 investing in low-income communities, as defined by Section 45D,
 4-49 Internal Revenue Code of 1986.

4-50 Sec. 231.102. ACTION ON APPLICATION. (a) Not later than
 4-51 the 30th day after the date an application under Section 231.101 is
 4-52 received, the comptroller shall grant or deny the application in
 4-53 full or in part.

4-54 (b) If the comptroller denies part of the application, the
 4-55 comptroller shall inform the applicant of the grounds for denial.

4-56 (c) If the applicant provides additional information
 4-57 required by the comptroller or otherwise completes the application
 4-58 not later than the 15th day after the date of the notice of denial,
 4-59 the application is considered completed as of the date on which it
 4-60 was originally submitted. If the qualified community development
 4-61 entity fails to provide the information or complete its application
 4-62 before that date, the application is denied and must be resubmitted
 4-63 in full and has a new submission date.

4-64 Sec. 231.103. CERTIFICATION OF QUALIFIED EQUITY
 4-65 INVESTMENT. (a) If an application under Section 231.101 is granted
 4-66 under Section 231.102, the comptroller shall certify the proposed
 4-67 equity investment or long-term debt security as a qualified equity
 4-68 investment that is eligible for premium tax credits under this
 4-69 chapter, subject to Section 231.104.

5-1 (b) The comptroller shall provide written notice of the
 5-2 certification to the qualified community development entity.

5-3 (c) The notice must include the names of those entities that
 5-4 will earn the credits and their respective credit amounts. If the
 5-5 names of the entities that are eligible to claim the credits change
 5-6 due to a transfer of a qualified equity investment or an allocation
 5-7 under Section 231.052, the qualified community development entity
 5-8 shall notify the comptroller of the change.

5-9 (d) The comptroller shall certify qualified equity
 5-10 investments in the order in which applications are received by the
 5-11 comptroller. Applications received on the same day are considered
 5-12 to have been received simultaneously. For applications that are
 5-13 complete and received on the same day, the comptroller shall
 5-14 certify, consistent with remaining qualified equity investment
 5-15 capacity, the qualified equity investments in proportionate
 5-16 percentages based on the proportion that the amount of qualified
 5-17 equity investment requested in an application bears to the total
 5-18 amount of qualified equity investments requested in all
 5-19 applications received on the same day.

5-20 Sec. 231.104. LIMIT ON CERTIFIED INVESTMENTS. Not more
 5-21 than \$750 million in qualified equity investments may be certified
 5-22 under Section 231.103. If a pending request cannot be fully
 5-23 certified due to this limit, the comptroller shall certify the
 5-24 portion that can be certified unless the qualified community
 5-25 development entity elects to withdraw the request rather than
 5-26 receive partial certification.

5-27 Sec. 231.105. TRANSFER OF INVESTMENT AUTHORITY. An
 5-28 approved applicant may transfer all or a portion of its certified
 5-29 qualified equity investment authority to its controlling entity or
 5-30 to a qualified community development entity controlled by or under
 5-31 common control with the applicant, if the applicant:

5-32 (1) provides the information required in the
 5-33 application with respect to the recipient of the transfer; and

5-34 (2) notifies the comptroller of the transfer not later
 5-35 than the 30th day after the date of the transfer.

5-36 Sec. 231.106. ISSUANCE OF QUALIFIED EQUITY INVESTMENT. (a)
 5-37 Not later than the 60th day after the date the applicant receives
 5-38 notice of certification, the qualified community development
 5-39 entity or a recipient of a transfer under Section 231.105 shall
 5-40 issue the qualified equity investment and receive cash in the
 5-41 amount certified.

5-42 (b) The qualified community development entity or a
 5-43 recipient of a transfer under Section 231.105 must provide the
 5-44 comptroller with evidence of the receipt of the cash investment not
 5-45 later than the 10th business day after the date the cash investment
 5-46 is received.

5-47 Sec. 231.107. LAPSE OF CERTIFICATION. (a) If the qualified
 5-48 community development entity or a recipient of a transfer under
 5-49 Section 231.105 does not receive the cash investment and issue the
 5-50 qualified equity investment before the 30th day after the date the
 5-51 certification notice is received as required by Section 231.106,
 5-52 the certification lapses and the qualified community development
 5-53 entity may not issue the qualified equity investment without
 5-54 reapplying to the comptroller for certification.

5-55 (b) If a certification lapses under this section, the
 5-56 comptroller shall reissue the certified amount, giving preference
 5-57 to an applicant whose allocation was reduced under Section 231.104.
 5-58 If more than one applicant had its allocation reduced, the
 5-59 comptroller shall reissue the certified amount on a pro rata basis.
 5-60 After the allocation to applicants whose allocation was reduced
 5-61 under Section 231.104, the comptroller shall reissue any certified
 5-62 amount that remains in accordance with the application process.

5-63 SUBCHAPTER D. RECAPTURE OF PREMIUM TAX CREDIT

5-64 Sec. 231.151. RECAPTURE. (a) Subject to Section 231.152,
 5-65 the comptroller shall recapture the amount of a tax credit claimed
 5-66 on a premium tax report filed under this subtitle from the qualified
 5-67 investor or a subsequent holder of the qualified equity investment
 5-68 that claims the credit if:

5-69 (1) any amount of a federal tax credit available with

6-1 respect to a qualified equity investment that is eligible for a
 6-2 credit under this chapter is recaptured under Section 45D, Internal
 6-3 Revenue Code of 1986, in which case the comptroller's recapture
 6-4 must be proportionate to the federal recapture with respect to the
 6-5 qualified equity investment;

6-6 (2) the issuer redeems or makes principal repayment
 6-7 with respect to a qualified equity investment before the seventh
 6-8 anniversary of the date the qualified equity investment is issued,
 6-9 in which case the comptroller's recapture must be proportionate to
 6-10 the amount of the redemption or repayment with respect to the
 6-11 qualified equity investment;

6-12 (3) the issuer fails to invest an amount equal to 100
 6-13 percent of the purchase price of the qualified equity investment in
 6-14 qualified low-income community investments in this state during the
 6-15 12-month period immediately following the date the qualified equity
 6-16 investment is issued or to maintain at least 100 percent of that
 6-17 level of investment in qualified low-income community investments
 6-18 in this state until the last credit allowance date for the qualified
 6-19 equity investment; or

6-20 (4) at any time before the final credit allowance date
 6-21 of a qualified equity investment, the issuer uses the cash proceeds
 6-22 of the qualified equity investment to make qualified low-income
 6-23 community investments in any one qualified active low-income
 6-24 community business, including affiliated qualified active
 6-25 low-income community businesses, exclusive of reinvestments of
 6-26 capital returned or repaid with respect to earlier investments in
 6-27 the qualified active low-income community business and its
 6-28 affiliates, in excess of 25 percent of the cash proceeds of all
 6-29 qualified equity investments issued by the issuer under this
 6-30 chapter.

6-31 (b) For purposes of this chapter, an investment is
 6-32 considered held by an issuer even if the investment has been sold or
 6-33 repaid if the issuer reinvests an amount equal to the capital
 6-34 returned to or recovered by the issuer from the original
 6-35 investment, exclusive of any profits realized, in another qualified
 6-36 low-income community investment not later than the 12th month after
 6-37 the date the issuer receives the capital.

6-38 (c) An issuer is not required to reinvest capital returned
 6-39 from a qualified low-income community investment after the sixth
 6-40 anniversary of the date the qualified equity investment is issued,
 6-41 the proceeds of which were used to make the qualified low-income
 6-42 community investment, and the qualified low-income community
 6-43 investment is considered held by the issuer through the seventh
 6-44 anniversary of the date the qualified equity investment was issued.

6-45 (d) Periodic amounts received during a calendar year as
 6-46 repayment of principal on a loan that is a qualified low-income
 6-47 community investment shall be treated as continuously invested in a
 6-48 qualified low-income community investment if the amounts are
 6-49 reinvested in one or more qualified low-income community
 6-50 investments not later than the last day of the following calendar
 6-51 year.

6-52 Sec. 231.152. NOTICE OF NONCOMPLIANCE. (a) The comptroller
 6-53 shall notify a qualified community development entity and a
 6-54 qualified investor that has claimed a tax credit on a premium tax
 6-55 report if the credit is subject to recapture under Section 231.151.

6-56 (b) The comptroller may not recapture a tax credit under
 6-57 this subchapter if the qualified community development entity cures
 6-58 the noncompliance described by Section 231.151 before the 180th day
 6-59 after the date the qualified community development entity receives
 6-60 notice under Subsection (a).

SUBCHAPTER E. PERFORMANCE DEPOSIT

6-62 Sec. 231.201. PERFORMANCE DEPOSIT OR SURETY BOND REQUIRED.

6-63 (a) Except as provided by Subsection (c), a qualified community
 6-64 development entity that submits an application to have an equity
 6-65 investment or long-term debt security certified as a qualified
 6-66 equity investment eligible for premium tax credits under this
 6-67 chapter must deposit \$500,000 with the comptroller for deposit in
 6-68 the new markets performance guarantee account, or maintain a surety
 6-69 bond of an equal amount.

7-1 (b) If the comptroller denies an application described by
7-2 Subsection (a) in full, the comptroller shall refund the deposit to
7-3 the applicant not later than the 15th day after the date of the
7-4 denial.

7-5 (c) A qualified community development entity is not
7-6 required to make a deposit under this section if the qualified
7-7 community development entity is:

7-8 (1) formed or operated by a governmental entity; or

7-9 (2) a nonprofit organization.

7-10 Sec. 231.202. FORFEITURE OF DEPOSIT. (a) A qualified
7-11 community development entity that makes a performance deposit under
7-12 Section 231.201(a) shall forfeit the deposit in its entirety if:

7-13 (1) the qualified community development entity and any
7-14 qualified community development entity to which a transfer is made
7-15 by the qualified community development entity under Section 231.105
7-16 fail to issue the total amount of qualified equity investments
7-17 certified by the comptroller and receive cash in the total amount
7-18 certified under Section 231.103 not later than the date specified
7-19 by Section 231.106; or

7-20 (2) the qualified community development entity or a
7-21 qualified community development entity to which a transfer is made
7-22 by the qualified community development entity under Section 231.105
7-23 that issues a qualified equity investment certified under Section
7-24 231.103 fails to meet the investment requirement under Section
7-25 231.151(a)(3) by the second credit allowance date of the qualified
7-26 equity investment.

7-27 (b) The comptroller shall notify a qualified community
7-28 development entity that has made a deposit under Section 231.201(a)
7-29 if the deposit is subject to forfeiture under this section.

7-30 (c) A deposit is not subject to forfeiture under Subsection
7-31 (a)(2) if the qualified community development entity cures the
7-32 noncompliance before the 180th day after the date the qualified
7-33 community development entity receives notice under Subsection (b).

7-34 Sec. 231.203. NEW MARKETS PERFORMANCE GUARANTEE
7-35 ACCOUNT. (a) The deposit required by Section 231.201(a) shall be
7-36 made with the comptroller and held in the new markets performance
7-37 guarantee account until the comptroller finds that the qualified
7-38 community development entity has complied with the provisions of
7-39 this chapter.

7-40 (b) The qualified community development entity may request
7-41 a refund of the deposit from the comptroller not earlier than the
7-42 30th day after the date the requirements that must be satisfied to
7-43 avoid forfeiture of the deposit, as described by Section 231.202,
7-44 are satisfied.

7-45 (c) The comptroller shall refund the deposit or, if
7-46 applicable, give notice of noncompliance not later than the 30th
7-47 day after the date of receiving a request that complies with
7-48 Subsection (b).

7-49 SUBCHAPTER F. EVALUATION OF BUSINESS BY COMPTROLLER

7-50 Sec. 231.251. REQUEST FOR EVALUATION. (a) A qualified
7-51 community development entity may, before making an investment in a
7-52 business, request a written opinion from the comptroller as to
7-53 whether the business in which the qualified community development
7-54 entity proposes to invest would qualify as a qualified active
7-55 low-income community business according to Section 231.003.

7-56 (b) Not later than the 15th business day after the date of
7-57 the receipt of a request under Subsection (a), the comptroller
7-58 shall:

7-59 (1) determine whether the business meets the
7-60 definition of a qualified active low-income community business, as
7-61 applicable, and notify the qualified community development entity
7-62 of the determination and provide an explanation of the
7-63 determination; or

7-64 (2) notify the qualified community development entity
7-65 that the comptroller requires additional time, which may not exceed
7-66 15 days, to review the request and make the determination.

7-67 (c) If the comptroller fails to notify the qualified
7-68 community development entity with respect to the proposed
7-69 investment within the period as specified by Subsection (b), the

8-1 business in which the qualified community development entity
 8-2 proposes to invest is considered to be a qualified active
 8-3 low-income community business.

8-4 Sec. 231.252. CONSIDERATION OF INTERNAL REVENUE CODE. In
 8-5 issuing a written opinion and making other determinations under
 8-6 this chapter, the comptroller shall consider Section 45D, Internal
 8-7 Revenue Code of 1986, and the rules and regulations issued under
 8-8 that code, to the extent that those provisions are applicable.

8-9 SUBCHAPTER G. REPORTING

8-10 Sec. 231.301. REPORT TO COMPTROLLER. (a) Except as
 8-11 provided by this subsection, a qualified community development
 8-12 entity that issues a qualified equity investment under Section
 8-13 231.106 shall submit an annual report to the comptroller not later
 8-14 than the fifth business day after the anniversary of a credit
 8-15 allowance date applicable to the investment. The qualified
 8-16 community development entity is not required to submit any report
 8-17 under this section after the annual report following the final
 8-18 applicable credit allowance date.

8-19 (b) The report must:

8-20 (1) provide evidence that the qualified community
 8-21 development entity has not failed to meet the investment
 8-22 requirement under Section 231.151(a)(3);

8-23 (2) include one or more bank statements for the
 8-24 qualified community development entity that reflect each qualified
 8-25 low-income community investment made by the qualified community
 8-26 development entity in connection with the qualified equity
 8-27 investment;

8-28 (3) state the name, location, and industry code of
 8-29 each qualified active low-income community business receiving a
 8-30 qualified low-income community investment in connection with the
 8-31 qualified equity investment and, if the qualified community
 8-32 development entity did not receive a written opinion under Section
 8-33 231.251 with respect to a qualified active low-income community
 8-34 business, include evidence that the business was a qualified active
 8-35 low-income community business at the time the qualified low-income
 8-36 community investment was made;

8-37 (4) state the number of employment positions created
 8-38 and retained as a result of each qualified low-income community
 8-39 investment made in connection with the qualified equity investment;

8-40 (5) state whether the qualified community development
 8-41 entity has been subject to a recapture of any amount of a federal
 8-42 tax credit available under Section 45D, Internal Revenue Code of
 8-43 1986, with respect to the qualified equity investment; and

8-44 (6) include a copy of the most recent annual report
 8-45 submitted by the qualified community development entity to the
 8-46 United States Department of the Treasury regarding Section 45D,
 8-47 Internal Revenue Code of 1986.

8-48 (c) A qualified community development entity that fails to
 8-49 submit a report to the comptroller within the time prescribed by
 8-50 Subsection (a) shall pay to the comptroller a penalty equal to:

8-51 (1) \$25,000; plus

8-52 (2) \$5,000 for each day the report is not submitted
 8-53 after the date the report is due under Subsection (a).

8-54 Sec. 231.302. COMPTROLLER'S REPORT TO THE LEGISLATURE. (a)
 8-55 The comptroller shall contract with an independent researcher from
 8-56 an education research center established under Section 1.005,
 8-57 Education Code, to prepare a biennial report with respect to the
 8-58 implementation of this chapter.

8-59 (b) The report must include:

8-60 (1) the number of qualified community development
 8-61 entities holding certified qualified equity investments;

8-62 (2) the amount of qualified equity investments of each
 8-63 qualified community development entity;

8-64 (3) the amount of qualified low-income community
 8-65 investments each qualified community development entity has
 8-66 invested in qualified active low-income community businesses as of
 8-67 the most recent annual report submitted to the comptroller by the
 8-68 qualified community development entity;

8-69 (4) the total amount of premium tax credits earned

9-1 under this chapter;
9-2 (5) the performance of each qualified community
9-3 development entity with respect to reporting requirements imposed
9-4 by this chapter;

9-5 (6) with respect to each qualified active low-income
9-6 community business in which a qualified community development
9-7 entity has invested:

9-8 (A) the classification of the qualified active
9-9 low-income community business according to the industrial sector
9-10 and the size of the business;

9-11 (B) the total number of jobs created by the
9-12 qualified low-income community investment and the average wages
9-13 paid for the jobs; and

9-14 (C) the total number of jobs retained as a result
9-15 of the qualified low-income community investment and the average
9-16 wages paid for the jobs; and

9-17 (7) an examination of the effect the implementation of
9-18 this chapter has had on economic activity in this state and on state
9-19 tax revenue during the biennium.

9-20 (c) The comptroller shall file the report with the governor,
9-21 the lieutenant governor, and the speaker of the house of
9-22 representatives not later than December 15 of each even-numbered
9-23 year.

9-24 SECTION 2. (a) As soon as practicable after the effective
9-25 date of this Act, the comptroller of public accounts shall adopt
9-26 rules necessary to implement the provisions of Chapter 231,
9-27 Insurance Code, as added by this Act, that apply to the comptroller
9-28 of public accounts.

9-29 (b) The comptroller of public accounts shall accept
9-30 applications for certification of qualified equity investments as
9-31 required by Chapter 231, Insurance Code, as added by this Act,
9-32 beginning not later than October 2, 2013.

9-33 SECTION 3. This Act takes effect September 1, 2013.

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