

By: Hilderbran

H.B. No. 3386

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the transferability of certain unused credits under the
3 Texas Franchise Tax.

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

5 SECTION 1. Subsection (e) and (f), Section 18, Chapter 1
6 (H.B. 3) Acts of the 79th Legislature, 3rd Called Session, 2006, are
7 amended to read as follows:

8 (e) A corporation that has any unused credits established
9 before the effective date of this Act under Subchapter P, Chapter
10 171, Tax Code, may claim those unused credits on or with the tax
11 report for the period in which the credit was established. However,
12 if the corporation was allowed to carry forward unused credits
13 under that subchapter, the corporation may continue to apply those
14 credits on or with each consecutive report until the earlier of the
15 date the credit would have expired under the terms of Subchapter P,
16 Chapter 171, Tax Code, had it continued in existence, or December
17 31, 2016, and the former law under which the corporation
18 established the credits is continued in effect for purposes of
19 determining the amount of the credits the corporation may claim and
20 the manner in which the corporation may claim the credit~~[-]~~,
21 provided, however, that the corporation also may transfer the
22 unused credits by requesting a certificate of transferability of
23 credit from the Comptroller's Office for the unexpired amount of
24 credit not previously claimed. A transferability certificate so

1 issued may be transferred or sold by the recipient to another Texas
2 taxpayer. Transferors and sellers shall submit to the Comptroller's
3 Office a notification of any transfer or sale of tax credits within
4 30 days after the transfer or sale of those tax credits. The
5 notification, which shall be in the form prescribed by the
6 Comptroller's Office, shall include the transferor's tax credit
7 balance prior to transfer, the credit certificate number, the
8 transferor's remaining tax credit balance after transfer, all tax
9 identification numbers for both transferor and transferee, the date
10 of transfer, the amount transferred, a copy of the credit
11 certificate, and any other information required by the
12 Comptroller's Office. The transfer or sale of the credit does not
13 extend the time in which the credit can be used. The carry forward
14 period for a credit that is transferred or sold begins on the date
15 on which the credit was originally granted by the Comptroller's
16 Office. To the extent the transferor did not have rights to claim or
17 use the credit at the time of the transfer or sale, the
18 Comptroller's Office shall either disallow the credit claimed by
19 the transferee or recapture the credit from the transferee through
20 any collection method authorized by statute. In such case, the
21 transferee's recourse is against the transferor.

22 (f) A corporation that has any unused credits established
23 before the effective date of this Act under Subchapter Q, Chapter
24 171, Tax Code, may claim those unused credits on or with the tax
25 report for the period in which the credit was established. However,
26 if the corporation was allowed to carry forward unused credits
27 under that subchapter, the corporation may continue to apply those

1 credits on or with each consecutive report until the earlier of the
2 date the credit would have expired under the terms of Subchapter P,
3 Chapter 171, Tax Code, had it continued in existence, or December
4 31, 2016, and the former law under which the corporation
5 established the credits is continued in effect for purposes of
6 determining the amount of the credits the corporation may claim and
7 the manner in which the corporation may claim the credit[-],
8 provided, however, that the corporation also may transfer the
9 unused credits by requesting a certificate of transferability of
10 credit from the Comptroller's Office for the unexpired amount of
11 credit not previously claimed. A transferability certificate so
12 issued may be transferred or sold by the recipient to another Texas
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19 transferor's remaining tax credit balance after transfer, all tax
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23 Comptroller's Office. The transfer or sale of the credit does not
24 extend the time in which the credit can be used. The carry forward
25 period for a credit that is transferred or sold begins on the date
26 on which the credit was originally granted by the Comptroller's
27 Office. To the extent the transferor did not have rights to claim or

1 use the credit at the time of the transfer or sale, the
2 Comptroller's Office shall either disallow the credit claimed by
3 the transferee or recapture the credit from the transferee through
4 any collection method authorized by statute. In such case, the
5 transferee's recourse is against the transferor.

6 SECTION 2. This Act shall take effect on January 1, 2014.