

By: Lozano

H.B. No. 1928

A BILL TO BE ENTITLED

AN ACT

relating to franchise tax and insurance premium tax credits for investment in certain communities; imposing a monetary penalty; authorizing fees.

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

SECTION 1. Title 2, Tax Code, is amended by adding Subtitle K to read as follows:

SUBTITLE K. CREDITS APPLICABLE TO MULTIPLE TAXES

CHAPTER 221. FRANCHISE TAX AND INSURANCE PREMIUM TAX CREDITS FOR

INVESTMENT IN CERTAIN COMMUNITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 221.001. GENERAL DEFINITIONS. In this chapter:

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

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

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

(B) the anniversary of that date in each of the six years immediately following that date.

(3) "Federal tax regulations" means regulations adopted under the Internal Revenue Code of 1986 that are applicable

1 to the tax year to which the provisions of the code in effect on
2 September 1, 2015, applied.

3 (4) "Franchise tax" means the tax imposed under
4 Chapter 171.

5 (5) "Internal Revenue Code" means the Internal Revenue
6 Code of 1986 in effect on September 1, 2015, excluding any changes
7 made by federal law after that date, but including any regulations
8 adopted under that code that are applicable to the tax year to which
9 the provisions of the code in effect on that date applied.

10 (6) "Purchase price" means the amount paid to the
11 issuer of a qualified equity investment for the qualified equity
12 investment, including any underwriter's fees.

13 (7) "State premium tax liability" means any premium
14 tax liability incurred under Chapter 221, 222, 223, 223A, or 224,
15 Insurance Code.

16 (8) "Taxable entity" has the meaning assigned by
17 Section [171.0002](#).

18 Sec. 221.002. DEFINITION: LONG-TERM DEBT SECURITY. (a) In
19 this chapter, "long-term debt security" means a debt instrument
20 issued by a qualified community development entity, at par value or
21 a premium, with an original maturity date not earlier than the
22 seventh year after the date on which the debt instrument is issued,
23 with no acceleration of repayment, amortization, or prepayment
24 features before its original maturity date.

25 (b) The qualified community development entity that issues
26 a long-term debt security may not make cash interest payments on the
27 security during the period beginning on the date on which the

1 security is issued and ending on the final credit allowance date in
2 an amount that exceeds the cumulative operating income, as defined
3 by federal tax regulations adopted under Section 45D, Internal
4 Revenue Code, of the qualified community development entity for
5 that period before giving effect to the interest expense of the
6 long-term debt security.

7 (c) This section does not limit the holder's ability to
8 accelerate payments on a long-term debt security in situations in
9 which the issuer has defaulted on covenants designed to ensure
10 compliance with this chapter or Section 45D, Internal Revenue Code.

11 Sec. 221.003. DEFINITION: QUALIFIED ACTIVE LOW-INCOME
12 COMMUNITY BUSINESS. (a) In this chapter, "qualified active
13 low-income community business" has the meaning assigned by Section
14 45D, Internal Revenue Code, and Section 1.45D-1 of the federal tax
15 regulations.

16 (b) A business is considered a qualified active low-income
17 community business for the duration of the qualified community
18 development entity's investment in, or loan to, the business if the
19 entity reasonably expects, at the time it makes the investment or
20 loan, that the business will continue to satisfy the requirements
21 for being a qualified active low-income community business
22 throughout the entire period of the investment or loan.

23 Sec. 221.004. DEFINITION: QUALIFIED COMMUNITY DEVELOPMENT
24 ENTITY. In this chapter, "qualified community development entity"
25 has the meaning assigned by Section 45D, Internal Revenue Code,
26 provided that the entity has entered into, for the current year or
27 any prior year, an allocation agreement with the community

1 development financial institutions fund of the United States
2 Department of the Treasury with respect to credits authorized by
3 Section 45D, Internal Revenue Code, that includes this state in the
4 service area specified in the allocation agreement. The term
5 includes a qualified community development entity that is
6 controlled by or under common control with another qualified
7 community development entity described by this section.

8 Sec. 221.005. DEFINITION: QUALIFIED EQUITY INVESTMENT. (a)

9 An investment or security is a "qualified equity investment" for
10 purposes of this chapter if:

11 (1) the investment or security is an equity investment
12 in, or long-term debt security issued by, a qualified community
13 development entity;

14 (2) the investment or security is acquired on or after
15 October 1, 2015, at its original issuance solely in exchange for
16 cash, except as provided by Subsection (b);

17 (3) not later than the second anniversary of the date
18 of issuance at least 85 percent of the investment's or security's
19 purchase price is used by the issuer to make qualified low-income
20 community investments in this state; and

21 (4) the investment or security is designated by the
22 issuer as a qualified equity investment under this section and is
23 certified by the comptroller as not exceeding the limitations
24 provided by Section 221.154.

25 (b) A qualified equity investment includes an investment or
26 security that does not satisfy the requirements of Subsection
27 (a)(2) if the investment or security was a qualified equity

1 investment in the hands of a prior holder.

2 Sec. 221.006. DEFINITION: QUALIFIED INVESTOR. In this
3 chapter, "qualified investor" means an entity that invests in a
4 qualified equity investment.

5 Sec. 221.007. DEFINITION: QUALIFIED LOW-INCOME COMMUNITY
6 INVESTMENT. In this chapter, "qualified low-income community
7 investment" means a capital or equity investment in, or loan to, a
8 qualified active low-income community business made by a qualified
9 community development entity.

10 Sec. 221.008. RULES. The comptroller shall adopt rules
11 necessary to implement this chapter.

12 Sec. 221.009. AUDIT BY COMPTROLLER. The comptroller shall
13 review or audit the investments of a qualified community
14 development entity on a periodic basis. In conducting the review or
15 audit, the comptroller shall ensure that the qualified community
16 development entity has made and maintained the investment required
17 under Section 221.201(a)(3) to avoid recapture of a credit claimed
18 in connection with a qualified equity investment.

19 Sec. 221.010. ELECTION OF CREDIT. (a) A qualified investor
20 or a subsequent holder of a qualified equity investment may not
21 claim a credit under both Subchapters B and C for the amount of
22 credit accrued on a credit allowance date.

23 (b) A qualified investor or a subsequent holder of a
24 qualified equity investment who qualifies for a credit under both
25 Subchapters B and C for the amount of credit accrued on a credit
26 allowance date shall:

27 (1) elect under which subchapter to claim a credit for

1 the amount of credit accrued on that date; and

2 (2) notify the comptroller of that election.

3 (c) The limitation specified by Subsection (a) and the
4 election required by Subsection (b) do not apply to a credit
5 carryforward under Section 221.054 or 221.104.

6 SUBCHAPTER B. FRANCHISE TAX CREDIT

7 Sec. 221.051. ELIGIBILITY FOR CREDIT. Subject to Section
8 221.010, a taxable entity is eligible for a credit against the tax
9 imposed under Chapter 171 in the amount provided by this subchapter
10 and under the conditions and limitations provided by this chapter.

11 Sec. 221.052. QUALIFICATION. A taxable entity is eligible
12 for a credit if the taxable entity is:

13 (1) a qualified investor who holds a qualified equity
14 investment on a credit allowance date; or

15 (2) a subsequent holder of a qualified equity
16 investment who holds the investment on a credit allowance date.

17 Sec. 221.053. AMOUNT OF CREDIT; LIMITATION. (a) The amount
18 of credit for a report is equal to the credit accrued, as determined
19 under Subsection (b), on each credit allowance date:

20 (1) that occurs during the period on which the report
21 is based; and

22 (2) on which the taxable entity holds the qualified
23 equity investment.

24 (b) The amount of credit accrued on a credit allowance date
25 equals the applicable percentage for the credit allowance date
26 multiplied by the purchase price paid to the issuer of the qualified
27 equity investment.

1 (c) The total credit claimed for a report, including the
2 amount of any carryforward under Section 221.054, may not exceed
3 the amount of franchise tax due for the report after applying all
4 other applicable tax credits.

5 Sec. 221.054. CARRYFORWARD. If a taxable entity is
6 eligible for a credit that exceeds the limitation under Section
7 221.053(c), the taxable entity may carry the unused credit forward
8 for not more than 20 consecutive reports. Credits, including
9 credit carryforwards, are considered to be used in the following
10 order:

11 (1) a credit carryforward under this subchapter; and

12 (2) a current year credit.

13 Sec. 221.055. BURDEN OF ESTABLISHING CREDIT. The burden of
14 establishing entitlement to and the value of the credit is on the
15 taxable entity.

16 Sec. 221.056. ASSIGNMENT PROHIBITED. A taxable entity may
17 not convey, assign, or transfer the credit allowed under this
18 subchapter to another entity.

19 Sec. 221.057. APPLICATION FOR CREDIT. A taxable entity
20 must apply for a credit under this subchapter on or with the tax
21 report for the period for which the credit is claimed.

22 SUBCHAPTER C. INSURANCE PREMIUM TAX CREDIT

23 Sec. 221.101. ELIGIBILITY FOR CREDIT. Subject to Section
24 221.010, an entity is eligible for a credit against the entity's
25 state premium tax liability in the amount provided by this
26 subchapter and under the conditions and limitations provided by
27 this chapter.

1 Sec. 221.102. QUALIFICATION. An entity is eligible for a
2 credit if the entity is:

3 (1) a qualified investor who holds a qualified equity
4 investment on a credit allowance date; or

5 (2) a subsequent holder of a qualified equity
6 investment who holds the investment on a credit allowance date.

7 Sec. 221.103. AMOUNT OF CREDIT; LIMITATION. (a) The amount
8 of credit for a tax year is equal to the credit accrued, as
9 determined under Subsection (b), on each credit allowance date:

10 (1) that occurs during the tax year; and

11 (2) on which the entity holds the qualified equity
12 investment.

13 (b) The amount of credit accrued on a credit allowance date
14 equals the applicable percentage for the credit allowance date
15 multiplied by the purchase price paid to the issuer of the qualified
16 equity investment.

17 (c) The total credit claimed for a tax year, including the
18 amount of any carryforward under Section 221.104, may not exceed
19 the amount of state premium tax liability due for the tax year after
20 applying all other applicable tax credits.

21 Sec. 221.104. CARRYFORWARD. If an entity is eligible for a
22 credit that exceeds the limitation under Section 221.103(c), the
23 entity may carry the unused credit forward for not more than 20
24 consecutive tax reports. Credits, including credit carryforwards,
25 are considered to be used in the following order:

26 (1) a credit carryforward under this subchapter; and

27 (2) a current year credit.

1 Sec. 221.105. BURDEN OF ESTABLISHING CREDIT. The burden of
2 establishing entitlement to and the value of the credit is on the
3 entity.

4 Sec. 221.106. ASSIGNMENT PROHIBITED. An entity may not
5 convey, assign, or transfer the credit allowed under this
6 subchapter to another entity.

7 Sec. 221.107. APPLICATION FOR CREDIT. An entity must apply
8 for a credit under this subchapter on or with the tax report for the
9 tax year for which the credit is claimed.

10 Sec. 221.108. RETALIATORY TAX. (a) An entity claiming a
11 credit under this subchapter is not required to pay any additional
12 retaliatory tax levied under Chapter 281, Insurance Code, as a
13 result of claiming that credit.

14 (b) In addition to the exclusion provided by Subsection (a),
15 an entity claiming a credit under this subchapter is not required to
16 pay any additional tax that may arise as a result of claiming that
17 credit.

18 SUBCHAPTER D. CERTIFICATION AS QUALIFIED EQUITY INVESTMENT

19 Sec. 221.151. APPLICATION FOR CERTIFICATION AS QUALIFIED
20 EQUITY INVESTMENT. (a) A qualified community development entity
21 that seeks to have an equity investment or long-term debt security
22 certified as a qualified equity investment eligible for credits
23 under this chapter must apply to the comptroller as provided by this
24 section.

25 (b) An application under this section must include the
26 following:

27 (1) evidence of the applicant's certification as a

1 qualified community development entity, including evidence of the
2 service area of the entity that includes this state;

3 (2) a copy of an allocation agreement executed by the
4 applicant, or its controlling entity, and the community development
5 financial institutions fund of the United States Department of the
6 Treasury;

7 (3) a certificate executed by an executive officer of
8 the applicant attesting that the allocation agreement remains in
9 effect and has not been revoked or canceled by the community
10 development financial institutions fund;

11 (4) a description of the amount and structure of the
12 equity investment or long-term debt security proposed to be
13 certified;

14 (5) examples of the types of qualified active
15 low-income community businesses in which the applicant, its
16 controlling entity, or affiliates of its controlling entity have
17 invested under the federal New Markets Tax Credit Program;

18 (6) a nonrefundable application fee of \$5,000 to be
19 paid to the comptroller; and

20 (7) the refundable performance deposit required by
21 Subchapter F.

22 Sec. 221.152. ACTION ON APPLICATION. (a) Not later than
23 the 30th day after the date an application under Section 221.151 is
24 received, the comptroller shall grant or deny the application in
25 full or part.

26 (b) If the comptroller denies the application, the
27 comptroller shall inform the applicant of the denial.

1 Sec. 221.153. CERTIFICATION OF QUALIFIED EQUITY
2 INVESTMENT. (a) If an application under Section 221.151 is
3 granted, the comptroller shall certify the proposed equity
4 investment or long-term debt security as a qualified equity
5 investment that is eligible for credits under this chapter, subject
6 to Section 221.154.

7 (b) The comptroller shall provide written notice of the
8 certification to the qualified community development entity.

9 Sec. 221.154. LIMIT ON CERTIFIED INVESTMENTS. (a) Subject
10 to Subsection (b), not more than \$250 million in qualified equity
11 investments may be certified under Section 221.153.

12 (b) The comptroller shall allocate at least 50 percent of
13 the amount available under Subsection (a) to certify applications
14 from applicants that:

15 (1) have an allocation agreement with the community
16 development financial institutions fund of the United States
17 Department of the Treasury that requires the applicant to invest at
18 least 50 percent of the applicant's qualified equity investments in
19 nonmetropolitan areas; and

20 (2) will invest the amount certified in census tracts
21 that are not part of a metropolitan statistical area or
22 municipality with a population of more than 50,000.

23 (c) Subject to Subsection (d), if a pending application
24 cannot be fully certified due to the limit under Subsection (a) or
25 (b), the comptroller shall certify the portion that can be
26 certified.

27 (d) The comptroller shall certify qualified equity

1 investments in the order in which applications are received by the
2 comptroller. Applications received on the same day are considered
3 to have been received simultaneously. For applications that are
4 complete and received on the same day and for which the total
5 amounts requested cannot be certified because of the limit
6 specified by Subsection (a) or (b), the comptroller shall certify,
7 consistent with remaining qualified equity investment capacity,
8 the qualified equity investments in proportionate percentages
9 based on the proportion that the amount of qualified equity
10 investment requested in an application bears to the total amount of
11 qualified equity investments requested in all applications
12 received on the same day.

13 Sec. 221.155. TRANSFER OF INVESTMENT AUTHORITY. A
14 qualified community development entity whose application for
15 certification of a qualified equity investment is approved under
16 this subchapter may transfer all or a portion of its certified
17 qualified equity investment authority to its controlling entity or
18 to a qualified community development entity controlled by or under
19 common control with the transferring entity, if the transferring
20 entity:

21 (1) provides the information required in the
22 application under Section 221.151(b) with respect to the recipient
23 of the transfer; and

24 (2) notifies the comptroller of the transfer not later
25 than the 30th day after the date of the transfer.

26 Sec. 221.156. ISSUANCE OF QUALIFIED EQUITY INVESTMENT; FEE.

27 (a) Not later than the second anniversary of the date the qualified

1 community development entity receives notice of certification, the
2 entity or a recipient of a transfer under Section 221.155 shall
3 issue the qualified equity investment and receive cash in the
4 amount certified.

5 (b) The qualified community development entity or a
6 recipient of a transfer under Section 221.155 must provide the
7 comptroller with evidence of the receipt of the cash investment not
8 later than the 10th business day after the date the cash investment
9 is received.

10 (c) At the time the qualified community development entity
11 or a recipient of a transfer under Section 221.155 issues the
12 qualified equity investment, the qualified community development
13 entity or transfer recipient shall pay to the comptroller a fee
14 equal to 20 basis points of the amount issued. Fees collected under
15 this subsection may be appropriated only to pay the cost of
16 preparing a report under Section 221.352.

17 Sec. 221.157. LAPSE OF CERTIFICATION. (a) If the qualified
18 community development entity or a recipient of a transfer under
19 Section 221.155 does not issue the qualified equity investment and
20 receive the cash investment before the second anniversary of the
21 date the certification notice is received as required by Section
22 221.156, the certification lapses and the qualified community
23 development entity or recipient of the transfer may not accept an
24 equity investment or issue a long-term debt security as a qualified
25 equity investment without reapplying to the comptroller for
26 certification.

27 (b) If a certification lapses under this section, the

1 comptroller shall reissue the previously certified amount, giving
2 preference to an applicant for reissuance of certification whose
3 proposed amount for certification was previously certified in a
4 reduced amount under Section 221.154. If more than one applicant
5 for reissuance of certification had its proposed amount reduced,
6 the comptroller shall reissue the certified amount to those
7 applicants in amounts determined by the comptroller, subject to the
8 limits specified by Section 221.154.

9 (c) After reissuing certifications under Subsection (b),
10 the comptroller shall reissue any certified amounts remaining to
11 applicants in amounts determined by the comptroller, subject to the
12 limits specified by Section 221.154.

13 SUBCHAPTER E. RECAPTURE OF CREDIT

14 Sec. 221.201. RECAPTURE. (a) Subject to Section 221.202,
15 the comptroller shall recapture the amount of a credit claimed on a
16 report filed under Chapter 171 or a premium tax report filed under
17 Chapter 221, 222, 223, 223A, or 224, Insurance Code, from the
18 qualified investor or a subsequent holder of the qualified equity
19 investment that claims the credit if:

20 (1) any amount of a federal tax credit available with
21 respect to a qualified equity investment that is eligible for a
22 credit under this chapter is recaptured under Section 45D, Internal
23 Revenue Code, in which case the comptroller's recapture must be
24 proportionate to the federal recapture with respect to the
25 qualified equity investment;

26 (2) the issuer redeems or makes principal repayment
27 with respect to a qualified equity investment before the seventh

1 anniversary of the date the qualified equity investment is issued,
2 in which case the comptroller's recapture must be proportionate to
3 the amount of the redemption or repayment with respect to the
4 qualified equity investment; or

5 (3) the issuer fails to invest an amount equal to 85
6 percent of the purchase price of the qualified equity investment in
7 qualified low-income community investments in this state not later
8 than the second anniversary of the date the qualified equity
9 investment is issued, or fails to maintain 85 percent of that level
10 of investment in qualified low-income community investments in this
11 state until the last credit allowance date for the qualified equity
12 investment.

13 (b) For purposes of this chapter, a qualified low-income
14 community investment is considered held by an issuer even if the
15 investment has been sold or repaid if the issuer reinvests an amount
16 equal to the capital returned to or recovered by the issuer from the
17 original investment, exclusive of any profits realized, in another
18 qualified low-income community investment not later than the 12th
19 month after the date the issuer receives the capital.

20 (c) An issuer is not required to reinvest capital returned
21 from a qualified low-income community investment after the sixth
22 anniversary of the date the qualified equity investment whose
23 proceeds were used to make the qualified low-income community
24 investment was issued. The qualified low-income community
25 investment is considered held by the issuer through the seventh
26 anniversary of the date the qualified equity investment was issued.

27 (d) Periodic amounts received during a calendar year as

1 repayment of principal on a loan that is a qualified low-income
2 community investment shall be treated as continuously invested in a
3 qualified low-income community investment if the amounts are
4 reinvested in one or more qualified low-income community
5 investments not later than the last day of the following calendar
6 year.

7 Sec. 221.202. NOTICE OF NONCOMPLIANCE. (a) The
8 comptroller shall notify a qualified community development entity
9 and a qualified investor that has claimed a credit on a report if
10 the credit is subject to recapture under Section 221.201.

11 (b) The comptroller may not recapture a credit under this
12 subchapter if the qualified community development entity cures the
13 noncompliance described by Section 221.201 before the 90th day
14 after the date the qualified community development entity receives
15 notice under Subsection (a).

16 SUBCHAPTER F. SECURITY FOR PERFORMANCE

17 Sec. 221.251. SECURITY REQUIRED. Not later than the 14th
18 day after the date a qualified equity investment is certified under
19 Subchapter D, the qualified community development entity that
20 received investment authority for the qualified equity investment
21 must deposit \$500,000 with the comptroller as a refundable
22 performance deposit to be deposited as required by Section 221.254.

23 Sec. 221.252. FAILURE TO PROVIDE SECURITY: LOSS OF
24 CERTIFICATION. The comptroller shall revoke the certification of
25 the qualified equity investment of a qualified community
26 development entity that fails to make a deposit under Section
27 221.251.

1 Sec. 221.253. FORFEITURE OF SECURITY. (a) A qualified
2 community development entity that makes a performance deposit under
3 Section 221.251 forfeits the deposit in its entirety if:

4 (1) the qualified community development entity and any
5 qualified community development entity to which a transfer is made
6 by the qualified community development entity under Section 221.155
7 fail to issue the total amount of qualified equity investments
8 certified by the comptroller and receive cash in the amount
9 certified under Section 221.153 not later than the date specified
10 by Section 221.156; or

11 (2) subject to Subsection (b), the qualified community
12 development entity or a qualified community development entity to
13 which a transfer is made by the qualified community development
14 entity under Section 221.155 that issues a qualified equity
15 investment certified under Section 221.153 fails to make or
16 maintain the investment required under Section 221.201(a)(3) to
17 avoid recapture of a tax credit claimed in connection with the
18 qualified equity investment.

19 (b) A deposit is not subject to forfeiture under Subsection
20 (a)(2) if the qualified community development entity cures the
21 noncompliance before the 90th day after the date the qualified
22 community development entity receives notice under Subsection (c).

23 (c) The comptroller shall notify a qualified community
24 development entity that made a deposit under Section 221.251 if the
25 deposit is subject to forfeiture under this section.

26 Sec. 221.254. NEW MARKETS PERFORMANCE GUARANTEE FUND. (a)
27 The new markets performance guarantee fund is an interest-bearing

1 fund outside the state treasury with the comptroller. The fund
2 consists of money the comptroller deposits under Subsection (b).
3 The comptroller shall administer the fund.

4 (b) The comptroller shall deposit a performance deposit
5 made under Section 221.251 to the credit of the new markets
6 performance guarantee fund. The deposit must remain on deposit with
7 the fund until the comptroller determines that:

8 (1) the qualified community development entity has
9 complied with the provisions of this chapter; or

10 (2) the deposit has been forfeited and will be
11 deposited in accordance with Section 221.256.

12 Sec. 221.255. RELEASE OF SECURITY. (a) Not earlier than
13 the 30th day after the date the requirements that must be satisfied
14 to avoid forfeiture of a deposit as described by Section 221.253 are
15 satisfied, a qualified community development entity that made the
16 deposit may request a refund of the deposit from the comptroller.

17 (b) The comptroller shall refund the deposit or, if
18 applicable, give notice of noncompliance as described by Section
19 221.253 not later than the 30th day after the date of receiving a
20 request under Subsection (a).

21 Sec. 221.256. DEPOSIT OF FORFEITED SECURITY. The
22 comptroller shall deposit in the general revenue fund a deposit
23 forfeited under Section 221.253.

24 SUBCHAPTER G. EVALUATION OF BUSINESS BY COMPTROLLER

25 Sec. 221.301. EVALUATION REQUIRED. (a) Except as provided
26 by Subsection (c), a qualified community development entity or a
27 recipient of a transfer under Section 221.155 must, before making

1 an investment in a business, request a written opinion from the
2 comptroller as to whether the business in which the qualified
3 community development entity proposes to invest would qualify as a
4 qualified active low-income community business under Section
5 221.003.

6 (b) Not later than the 15th business day after the date of
7 the receipt of a request under Subsection (a), the comptroller
8 shall determine whether the business is a qualified active
9 low-income community business, notify the qualified community
10 development entity of the determination, and provide an explanation
11 of the determination.

12 (c) A qualified community development entity or a recipient
13 of a transfer under Section 221.155 is not required to request a
14 written opinion under Subsection (a) before making an investment in
15 a business if the qualified community development entity or
16 transfer recipient concurrently makes a federal qualified
17 low-income community investment in the business.

18 Sec. 221.302. CONSIDERATION OF FEDERAL TAX LAWS. In
19 issuing a written opinion and making other determinations under
20 this chapter, the comptroller shall consider Section 45D, Internal
21 Revenue Code, and the federal tax regulations issued under that
22 code, to the extent that those provisions are applicable.

23 SUBCHAPTER H. REPORTING

24 Sec. 221.351. REPORT TO COMPTROLLER. (a) Except as
25 provided by this subsection, a qualified community development
26 entity that issues a qualified equity investment under Section
27 221.156 shall submit an annual report to the comptroller not later

1 than the fifth business day after the anniversary of a credit
2 allowance date applicable to the investment. The qualified
3 community development entity is not required to submit any report
4 under this subsection after the annual report following the final
5 credit allowance date.

6 (b) The report must:

7 (1) provide evidence that the qualified community
8 development entity has made and maintained the investment required
9 under Section 221.201(a)(3) to avoid recapture of a credit claimed
10 in connection with the qualified equity investment;

11 (2) include one or more bank statements for the
12 qualified community development entity that reflect each qualified
13 low-income community investment made by the qualified community
14 development entity in connection with the qualified equity
15 investment;

16 (3) state the name, location, and industry code of
17 each qualified active low-income community business receiving a
18 qualified low-income community investment in connection with the
19 qualified equity investment;

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

23 (5) state whether the qualified community development
24 entity has been subject to a recapture of any amount of a federal
25 tax credit available under Section 45D, Internal Revenue Code, with
26 respect to the qualified equity investment; and

27 (6) include a copy of the most recent annual report

1 submitted by the qualified community development entity to the
2 United States Department of the Treasury regarding Section 45D,
3 Internal Revenue Code.

4 (c) A qualified community development entity that fails to
5 submit a report to the comptroller within the time prescribed by
6 Subsection (a) shall pay to the comptroller a penalty equal to the
7 sum of:

8 (1) \$25,000; and

9 (2) \$5,000 for each day the report is not submitted
10 after the date the report is due under Subsection (a).

11 Sec. 221.352. COMPTROLLER'S REPORT TO THE LEGISLATURE. (a)
12 The comptroller shall contract with an independent researcher at a
13 center for research established under Section 1.005, Education
14 Code, to prepare a biennial report with respect to the
15 implementation of this chapter.

16 (b) The report must include:

17 (1) the number of qualified community development
18 entities holding certified qualified equity investments;

19 (2) the amount of qualified equity investments of each
20 qualified community development entity;

21 (3) the investments each qualified community
22 development entity has made in qualified active low-income
23 community businesses as of the most recent annual report submitted
24 to the comptroller by the qualified community development entity;

25 (4) the total amount of credits earned under this
26 chapter;

27 (5) the performance of each qualified community

1 development entity with respect to reporting requirements imposed
2 by this chapter;

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

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

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

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

15 (7) an analysis of the effect implementation of this
16 chapter has had during the period covered by the report on:

17 (A) economic activity in this state; and

18 (B) state tax revenue.

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

23 SECTION 2. (a) As soon as practicable after the effective
24 date of this Act, the comptroller of public accounts shall adopt
25 rules necessary to implement the provisions of Chapter 221, Tax
26 Code, as added by this Act.

27 (b) The comptroller of public accounts shall accept

1 applications for certification of qualified equity investments as
2 required by Chapter 221, Tax Code, as added by this Act, beginning
3 not later than October 2, 2015.

4 SECTION 3. Subchapter B, Chapter 221, Tax Code, as added by
5 this Act, applies only to a report under Chapter 171, Tax Code,
6 originally due on or after January 1, 2016.

7 SECTION 4. Subchapter C, Chapter 221, Tax Code, as added by
8 this Act, applies only to a tax report originally due on or after
9 January 1, 2016.

10 SECTION 5. This Act takes effect September 1, 2015.