

BILL ANALYSIS

C.S.H.B. 3772

By: Button

Economic & Small Business Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that a long-standing economic development loan program, the Texas leverage fund program, established in the early 1990s by a master resolution of the former Texas Department of Commerce, will soon expire but should be continued. C.S.H.B. 3772 provides for the continuation of the program.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3772 amends the Government Code to create the Texas leverage fund as a trust fund held outside the state treasury by the comptroller of public accounts as trustee. The bill requires the comptroller to hold money in the fund in escrow and in trust for and on behalf of the Texas Economic Development Bank and the owners of certain revenue-based bonds issued under the bill's provisions. The bill establishes that the fund consists of proceeds from the issuance of revenue-based bonds, payments of principal and interest on loans made from the fund, loan origination fees imposed on loans made from the fund, certain investment earnings, and any other money received by the bank. The bill restricts the use of the fund to making loans to economic development corporations for eligible projects as authorized by the Development Corporation Act and Local Government Code provisions relating to Type A corporations and Type B corporations; to paying the bank's necessary and reasonable costs of administering the Texas leverage fund program; to paying the principal of and interest on revenue-based bonds; to paying reasonable fees and other costs incurred by the bank in administering the fund; and for any other purpose authorized by the bill. The bill authorizes the bank, in coordination with the comptroller, to provide for the establishment and maintenance of separate accounts or sub-accounts in the fund and requires those accounts and sub-accounts to be kept and held in escrow and in trust in the same manner as the fund. The bill authorizes the comptroller, pending use, to invest and reinvest the fund's money in investments authorized by law for state funds and requires earnings on the investments to be credited to the fund. The bill authorizes the bank to use the fund's money for the purposes specified by the bill and according to the procedures established by the bill. The bill specifies that the state may take action with respect to the fund only as specified by the bill and only in accordance with the resolutions of the executive director of the Texas Economic Development and Tourism Office (TEDTO).

C.S.H.B. 3772 authorizes the bank, TEDTO, or a TEDTO successor agency to provide for the

issuance, sale, and retirement of bonds, including obligations in the form of commercial paper notes, to provide funding for certain authorized economic development purposes and sets out provisions relating to those bonds, including provisions relating to the sale and issuance of bonds, agreements regarding bonds, refunding bonds, the use of bond proceeds, and the nature of the bonds as legal investments for fiduciaries and other persons. The bill requires the bank to administer the Texas leverage fund and grants the bank the powers necessary to carry out the purposes of the bill's provisions in the administration of the fund and those provisions.

C.S.H.B. 3772 establishes that the Texas leverage fund program as amended by the bill authorizes the continued operation of the program that was established by the September 9, 1992, master resolution of the Texas Department of Commerce under specified provisions. The bill validates the governmental acts and proceedings of the comptroller, TEDTO, and the bank relating to the administration of the program that occurred before the bill's effective date as if the acts had occurred as authorized by law, except for an act that was a misdemeanor or felony under state law at the time the act occurred or a matter that, on the bill's effective date, has been held invalid by a final judgment of a court or is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3772 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 489.105(b), Government Code, is amended to read as follows:

(b) The fund consists of:

- (1) appropriations for the implementation and administration of this chapter;
- (2) investment earnings under the capital access fund established under Section 481.402;
- (3) fees charged under Subchapter BB, Chapter 481;
- (4) interest earned on the investment of money in the fund;
- (5) fees charged under this chapter;
- (6) investment earnings from the programs administered by the bank;
- (7) amounts transferred under Section 2303.504(b), as amended by Article 2, Chapter 1134, Acts of the 77th Legislature, Regular Session, 2001;
- (8) investment earnings under the Texas product development fund under Section 489.211;
- (9) investment earnings under the Texas small business incubator fund under Section

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

489.212;

(9-a) amounts made available to the bank for the bank's costs of administering the Texas leverage fund program under Subchapter E; and

(10) any other amounts received by the state under this chapter other than under Subchapter E.

SECTION 2. Chapter 489, Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. TEXAS LEVERAGE FUND

Sec. 489.251. DEFINITION. In this subchapter, "leverage fund" means the Texas leverage fund established by Section 489.252.

Sec. 489.252. TEXAS LEVERAGE FUND.

(a) The Texas leverage fund is created as a trust fund held outside the state treasury by the comptroller as trustee. The comptroller shall hold money in the fund in escrow and in trust for and on behalf of the bank and the owners of obligations issued under Section 489.253.

(b) The leverage fund consists of:

(1) proceeds from the issuance of obligations under Section 489.253;

(2) payments of principal and interest on loans made under this subchapter;

(3) loan origination fees imposed on loans made under this subchapter; and

(4) any other money received by the bank under this subchapter.

(c) The leverage fund may be used only:

(1) to make loans to economic development corporations for eligible projects as authorized by Chapters 501, 504, and 505, Local Government Code;

(2) to pay the bank's necessary and reasonable costs of administering the program established by this subchapter, including the payment of letter of credit fees and credit rating fees;

(3) to pay the principal of and interest on obligations issued under Section 489.253;

(4) to pay reasonable fees and other costs incurred by the bank in administering the fund; and

(5) for any other purpose authorized by this subchapter.

SECTION 1. Chapter 489, Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. TEXAS LEVERAGE FUND

Sec. 489.251. DEFINITION. In this subchapter, "leverage fund" means the Texas leverage fund established by Section 489.252.

Sec. 489.252. TEXAS LEVERAGE FUND.

(a) The Texas leverage fund is created as a trust fund held outside the state treasury by the comptroller as trustee. The comptroller shall hold money in the fund in escrow and in trust for and on behalf of the bank and the owners of bonds issued under Section 489.253.

(b) The leverage fund consists of:

(1) proceeds from the issuance of bonds under Section 489.253;

(2) payments of principal and interest on loans made under this subchapter;

(3) loan origination fees imposed on loans made under this subchapter;

(4) investment earnings described by Subsection (c); and

(5) any other money received by the bank under this subchapter.

(c) The leverage fund may be used only:

(1) to make loans to economic development corporations for eligible projects as authorized by Chapters 501, 504, and 505, Local Government Code;

(2) to pay the bank's necessary and reasonable costs of administering the program established by this subchapter, including the payment of letter of credit fees and credit rating fees;

(3) to pay the principal of and interest on bonds issued under Section 489.253;

(4) to pay reasonable fees and other costs incurred by the bank in administering the fund; and

(5) for any other purpose authorized by this subchapter.

(d) The bank may provide for the establishment and maintenance of separate accounts or sub-accounts in the leverage fund, including interest and sinking accounts, reserve accounts, program accounts, or other accounts. The accounts and sub-accounts must be kept and held in escrow and in trust as provided by Subsection (a).

(e) Pending use, the comptroller may invest and reinvest the money in the leverage fund in investments authorized by law for state funds.

Sec. 489.253. REVENUE-BASED OBLIGATIONS AUTHORIZED. (a) The bank, the office, or the office's successor agency may provide for the issuance, sale, and retirement of obligations in the form of commercial paper notes to provide funding for economic development purposes as authorized by Section 52-a, Article III, Texas Constitution, and this subchapter.

(b) The obligations must be special obligations of the bank and the principal of and interest on the obligations must be payable solely from the revenues derived by the bank and secured by a pledge of the local economic development sales and use tax revenues imposed by municipalities for the benefit of economic development corporations created under Chapters 504 and 505, Local Government Code. The obligations may not constitute an indebtedness of this state, the office, or the bank in the meaning of the Texas Constitution or of a statutory limitation. The obligations may not constitute a pecuniary liability of this state, the office, or the bank or constitute a charge against the general credit of this state or its taxing power, the office, or the bank. The limitations provided by this subsection must be stated plainly on the face of each obligation.

(c) The executive director of the office by

(d) The bank, in coordination with the comptroller, may provide for the establishment and maintenance of separate accounts or sub-accounts in the leverage fund, including interest and sinking accounts, reserve accounts, program accounts, or other accounts. The accounts and sub-accounts must be kept and held in escrow and in trust as provided by Subsection (a).

(e) Pending use, the comptroller may invest and reinvest the money in the leverage fund in investments authorized by law for state funds. Earnings on the investments shall be credited to the fund.

(f) The bank may use money in the leverage fund for the purposes specified by and according to the procedures established by this subchapter. This state may take action with respect to the fund only as specified by this subchapter and only in accordance with the resolutions of the executive director of the office adopted under Section 489.253.

Sec. 489.253. REVENUE-BASED BONDS AUTHORIZED. (a) The bank, the office, or the office's successor agency may provide for the issuance, sale, and retirement of bonds, including obligations in the form of commercial paper notes, to provide funding for economic development purposes as authorized by Section 52-a, Article III, Texas Constitution, and this subchapter.

(b) The bonds are special obligations of the bank and the principal of and interest on the bonds must be payable solely from the revenues derived by the bank under this subchapter, including loan repayments secured by a pledge of the local economic development sales and use tax revenues imposed by municipalities for the benefit of economic development corporations created under Chapters 504 and 505, Local Government Code. The bonds do not constitute an indebtedness of this state, the office, or the bank in the meaning of the Texas Constitution or of any statutory limitation. The bonds do not constitute a pecuniary liability of this state, the office, or the bank or constitute a charge against the general credit of this state, the office, or the bank, or against the taxing power of this state. The limitations provided by this subsection must be stated plainly on the face of each bond.

(c) The executive director of the office by

resolution may provide for the obligations to:

(1) be executed and delivered at any time as a single issue or as several issues;

(2) be in any denomination and form, including registered uncertificated obligations not represented by written instruments and commonly known as book-entry obligations, the registration of ownership and transfer of which the bank shall provide for under a system of books and records maintained by a financial institution serving as trustee, paying agent, or bond registrar;

(3) be of a term authorized by the executive director;

(4) be in coupon or registered form;

(5) be payable in installments and at a time or times not exceeding the term authorized by applicable law;

(6) be subject to terms of redemption;

(7) be payable at a place or places;

(8) bear no interest or bear interest at any rate or rates, fixed, variable, floating, or otherwise determined by the bank or determined under a contractual arrangement approved by the executive director, except that the maximum net effective interest rate, computed in accordance with Section 1204.005, on the obligations may not exceed a rate equal to the maximum annual interest rate established by Section 1204.006; and

(9) contain provisions not inconsistent with this subchapter.

(d) Obligations issued under this section are subject to review and approval by the attorney general in the same manner and with the same effect as provided by Chapters 1202 and 1371.

(e) This state pledges to and agrees with the owners of any obligations issued under this section that this state will not limit or alter the rights vested in the bank to fulfill the terms of any agreements made with an owner or in any way impair the rights and remedies of an owner until the obligations, together with any premium and the interest on the obligations, with interest on any unpaid premium or installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the owners, are fully met and

resolution may provide for the bonds to:

(1) be executed and delivered at any time in one or more series as a single issue or as several issues;

(2) be in any denomination and form, including registered uncertificated bonds not represented by written instruments and commonly known as book-entry obligations, the registration of ownership and transfer of which the bank shall provide for under a system of books and records maintained by a financial institution serving as trustee, paying agent, or bond registrar;

(3) be of a term authorized by the executive director, not to exceed 40 years from their date;

(4) be in coupon or registered form;

(5) be payable in installments and at a time or times not exceeding the term authorized by applicable law;

(6) be subject to terms of redemption;

(7) be payable at a place or places;

(8) bear no interest or bear interest at any rate or rates, fixed, variable, floating, or otherwise determined by the bank or determined under a contractual arrangement approved by the executive director, except that the maximum net effective interest rate, computed in accordance with Section 1204.005, on the bonds may not exceed a rate equal to the maximum annual interest rate established by Section 1204.006; and

(9) contain provisions not inconsistent with this subchapter.

(d) Bonds issued under this section are subject to review and approval by the attorney general in the same manner and with the same effect as may be required by law, including Chapter 1202 or 1371, as applicable.

(e) This state pledges to and agrees with the owners of any bonds issued under this section that this state will not limit or alter the rights vested in the bank to fulfill the terms of any agreements made with an owner or in any way impair the rights and remedies of an owner until the bonds, together with any premium and the interest on the bonds, with interest on any unpaid premium or installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the owners, are fully met and discharged. The

discharged. The bank may include this pledge and agreement of this state in any agreement with the owners of the obligations.

Sec. 489.254. OBLIGATION SALE AND ISSUANCE. (a) Obligations issued under Section 489.253 may be sold at public or private sale at a price and in a manner and from time to time as the executive director of the office's resolutions authorizing issuance of the obligations provide.

(b) From the proceeds of the sale of the obligations, the bank may pay expenses, premiums, and insurance premiums that the bank considers necessary or advantageous in connection with the authorization, sale, and issuance of the obligations.

(c) In connection with the issuance of its obligations, the bank may exercise the powers granted to the governing body of an issuer in connection with the issuance of obligations under Chapter 1371.

Sec. 489.255. AGREEMENTS IN OBLIGATIONS. (a) The resolution under which the obligations are authorized to be issued under Section 489.253 or a security agreement, including a related indenture or trust indenture, may contain any agreements and provisions customarily contained in instruments securing obligations, including provisions respecting the fixing and collection of obligations, the creation and maintenance of special funds, and the rights and remedies available, in the event of default to the holders of the obligations or to the trustee under the security agreement, all as the bank considers advisable and consistent with this subchapter. However, in making such an agreement or provision, the bank may not incur a pecuniary liability or a charge on the general credit of the bank, the office, or this state or against the taxing powers of this state.

(b) The resolution of the bank authorizing the issuance of the obligations and a security agreement securing the obligations may provide that, in the event of default in payment of the principal of or interest on the obligations or in the performance of an

bank may include this pledge and agreement of this state in any agreement with the owners of the bonds.

Sec. 489.254. BOND SALE AND ISSUANCE. (a) Bonds issued under Section 489.253 may be sold at public or private sale at a price and in a manner and from time to time as resolutions of the executive director of the office that authorize issuance of the bonds provide.

(b) From the proceeds of the sale of the bonds, the bank may pay expenses, premiums, and insurance premiums that the bank considers necessary or advantageous in connection with the authorization, sale, and issuance of the bonds.

(c) In connection with the issuance of its bonds, the bank may exercise the powers granted to the governing body of an issuer in connection with the issuance of obligations under Chapter 1371. However, any bonds issued in accordance with this subchapter and Chapter 1371 are not subject to the rating requirement for an obligation issued under Chapter 1371.

Sec. 489.255. AGREEMENTS IN BONDS. (a) A resolution of the executive director of the office that authorizes bonds to be issued under Section 489.253 or a security agreement, including a related indenture or trust indenture, may contain any agreements and provisions customarily contained in instruments securing bonds, including provisions respecting the fixing and collection of obligations, the creation and maintenance of special funds, and the rights and remedies available, in the event of default to the holders of the bonds or to the trustee under the security agreement, all as the bank considers advisable and consistent with this subchapter. However, in making such an agreement or provision, the bank may not incur:

(1) a pecuniary liability of this state, the office, or the bank; or

(2) a charge against the general credit of this state, the office, or the bank, or against the taxing powers of this state.

(b) The resolution of the executive director of the office authorizing the issuance of the bonds and a security agreement securing the bonds may provide that, in the event of default in payment of the principal of or interest on the bonds or in the performance

agreement contained in the proceedings or security agreement, the payment and performance may be enforced as provided by Sections 403.055 and 403.0551, by mandamus, or by the appointment of a receiver in equity with power to charge and collect obligations and to apply revenues pledged according to the proceedings or the provisions of the security agreement.

A security agreement may provide that in the event of default in payment or the violation of an agreement contained in the security agreement it may be foreclosed by proceedings at law or in equity and that a trustee under the security agreement or the holder of an obligation it secures may become the purchaser at a foreclosure sale, if the trustee or holder is the highest bidder.

(c) A breach of a security agreement does not constitute:

(1) a pecuniary liability of this state, the office, or the bank; or

(2) constitute a charge against the general credit of this state or its taxing power, the office, or the bank.

(d) The trustee or trustees under a security agreement or a depository specified by the security agreement may be any person that the bank designates, regardless of whether the person is a resident of this state or incorporated under the laws of the United States or any state.

Sec. 489.256. REFUNDING OBLIGATIONS. (a) Obligations issued under Section 489.253 may be refunded by the bank by the issuance of the bank's refunding obligations in the amount that the bank considers necessary to refund the unpaid principal of the refunded obligations, together with any unpaid interest, premiums, expenses, and commissions required to be paid in connection with the refunded obligations. Refunding may be effected whether the refunded obligations have matured or are to mature later, either by sale of the refunding obligations or by exchange of the refunding obligations for the refunded obligations.

(b) A holder of refunded obligations may not be compelled to surrender the

of an agreement contained in the proceedings or security agreement, the payment and performance may be enforced as provided by Sections 403.055 and 403.0551, by mandamus, or by the appointment of a receiver in equity with power to charge and collect bonds and to apply revenues pledged according to the proceedings or the provisions of the security agreement. A security agreement may provide that, in the event of default in payment or the violation of an agreement contained in the security agreement, a trustee under the security agreement may enforce the bondholder's rights by mandamus or other proceedings at law or in equity to obtain any relief permitted by law, including the right to collect and receive any revenue used to secure the bonds.

(c) A breach of a resolution of the executive director of the office adopted under Section 489.253, a breach of an agreement made under this section, or a default under bonds issued under this subchapter does not constitute:

(1) a pecuniary liability of this state, the office, or the bank; or

(2) a charge against the general credit of this state, the office, or the bank, or against the taxing power of this state.

(d) The trustee or trustees under a security agreement or a depository specified by the security agreement may be any person that the bank designates, regardless of whether the person is a resident of this state or incorporated under the laws of the United States or any state.

Sec. 489.256. REFUNDING BONDS. (a) Bonds issued under Section 489.253 may be refunded by the bank by the issuance of the bank's refunding bonds in the amount that the bank considers necessary to refund the unpaid principal of the refunded bonds, together with any unpaid interest, premiums, expenses, and commissions required to be paid in connection with the refunded bonds. Refunding may be effected whether the refunded bonds have matured or are to mature later, either by sale of the refunding bonds or by exchange of the refunding bonds for the refunded bonds.

(b) A holder of refunded bonds may not be compelled to surrender the bonds for

obligations for payment or exchange before the date on which the obligations are payable, or, if the obligations are called for redemption, before the date on which they are by their terms subject to redemption.

(c) Refunding obligations having a final maturity not to exceed that permitted for other obligations issued under Section 489.253 may be issued under the same terms and conditions provided by this subchapter for the issuance of obligations or may be issued in the manner provided by statute, including Chapters 1207 and 1371.

Sec. 489.257. OBLIGATION PROCEEDS; USE OF LEVERAGE FUND. (a) The proceeds from the sale of obligations issued under this subchapter may be applied only for a purpose for which the obligations were issued, except that any premium or secured interest received in the sale shall be applied to the payment of the principal of or interest on the obligations sold and, if a portion of the proceeds is not needed for a purpose for which the obligations were issued, that portion shall be applied to the payment of the principal of or interest on the obligations.

(b) The bank is authorized to use money in the leverage fund for the purposes specified in and according to the procedures established by this subchapter, and this state may not take any action with respect to the leverage fund other than as this subchapter specifies and the resolutions of the executive director of the office specify.

Sec. 489.258. OBLIGATIONS AS LEGAL INVESTMENTS FOR FIDUCIARIES AND OTHER PERSONS. (a) Obligations of the bank issued under this subchapter are securities in which all public officers and bodies of this state; municipalities; municipal subdivisions; insurance companies and associations and other persons carrying on an insurance business; banks, bankers, trust companies, savings and loan associations, investment companies, and other persons carrying on a banking business; administrators, guardians, executors, trustees, and other fiduciaries; and other persons authorized to invest in other obligations of this state may invest funds, including capital, in their control or belonging to them.

payment or exchange before the date on which the bonds are payable, or, if the bonds are called for redemption, before the date on which they are by their terms subject to redemption.

(c) Refunding bonds having a final maturity not to exceed that permitted for other bonds issued under Section 489.253 may be issued under the same terms and conditions provided by this subchapter for the issuance of bonds or may be issued in the manner provided by statute, including Chapters 1207 and 1371.

Sec. 489.257. USE OF BOND PROCEEDS. The proceeds from the sale of bonds issued under this subchapter may be applied only for a purpose for which the bonds were issued, except that:

(1) any secured interest received in the sale shall be applied to the payment of the principal of or interest on the bonds sold and, if a portion of the proceeds is not needed for a purpose for which the bonds were issued, that portion shall be applied to the payment of the principal of or interest on the bonds; and

(2) any premium received in the sale of the bonds shall be applied in accordance with Section 1201.042(d).

Sec. 489.258. BONDS AS LEGAL INVESTMENTS FOR FIDUCIARIES AND OTHER PERSONS. (a) Bonds of the bank issued under this subchapter are securities in which all public officers and bodies of this state; municipalities; municipal subdivisions; insurance companies and associations and other persons carrying on an insurance business; banks, bankers, trust companies, savings and loan associations, investment companies, and other persons carrying on a banking business; administrators, guardians, executors, trustees, and other fiduciaries; and other persons authorized to invest in other obligations of this state may invest funds, including capital, in their control or belonging to them.

(b) Notwithstanding any other provision of law, the obligations of the bank issued under this subchapter are also securities that may be deposited with and received by public officers and bodies of this state and municipalities and municipal subdivisions for any purpose for which the deposit of other obligations of the state are authorized.

(b) Notwithstanding any other provision of law, the bonds of the bank issued under this subchapter are also securities that may be deposited with and received by public officers and bodies of this state and municipalities and municipal subdivisions for any purpose for which the deposit of other obligations of the state are authorized.

Sec. 489.259. ADMINISTRATION OF LEVERAGE FUND. The bank shall administer the leverage fund. In administering the leverage fund and this subchapter, the bank has the powers necessary to carry out the purposes of this subchapter, including the power to:

- (1) make, execute, and deliver contracts, conveyances, and other instruments; and
- (2) impose charges and provide for reasonable penalties for delinquent payments or performance in connection with any transaction.

SECTION 3. The Texas leverage fund program as amended by this Act authorizes the continued operation of the program that was established by the September 9, 1992, master resolution of the Texas Department of Commerce under Chapter 4 (S.B. 223), Acts of the 71st Legislature, Regular Session, 1989 (codifying authority of the former Texas Department of Commerce to issue revenue bonds under former Sections 481.052 through 481.058, Government Code), as amended by Chapter 1041 (S.B. 932), Acts of the 75th Legislature, Regular Session, 1997, and by Chapter 814 (S.B. 275), Acts of the 78th Legislature, Regular Session, 2003.

SECTION 2. Same as introduced version.

SECTION 4. (a) Except as provided by Subsection (b) of this section, the governmental acts and proceedings of the comptroller, the Texas Economic Development and Tourism Office, and the Texas Economic Development Bank relating to the administration of the Texas leverage fund program that occurred before the effective date of this Act are validated as if the acts had occurred as authorized by law.

SECTION 3. Same as introduced version.

- (b) This section does not validate:
- (1) an act that, under the law of this state at the time the act occurred, was a

misdemeanor or felony; or
(2) a matter that on the effective date of this Act:
(A) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or
(B) has been held invalid by a final judgment of a court.

SECTION 5. This Act takes effect September 1, 2017.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.