86R24154 CJC-D

By:  Clardy, Shine, Guillen H.B. No. 2397

Substitute the following for H.B. No. 2397:

By:  Wray C.S.H.B. No. 2397

A BILL TO BE ENTITLED

AN ACT

relating to a franchise tax credit for certain businesses that make investments in qualified opportunity zones.

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

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

SUBCHAPTER W. TAX CREDIT FOR INVESTMENT IN ECONOMIC OPPORTUNITY ZONE

Sec. 171.9261.  DEFINITIONS. In this subchapter:

(1)  "Economic opportunity zone" means a population census tract located in this state that, as of September 1, 2019, was designated as a qualified opportunity zone under Public Law No. 115-97.

(2)  "Qualifying investment" means an investment made by a taxable entity:

(A)  to remodel, rehabilitate, or construct a structure owned or leased by the taxable entity that is located in an economic opportunity zone;

(B)  to purchase equipment or machinery to be located in, or used in the operation of, a structure owned or leased by the taxable entity that is located in an economic opportunity zone; or

(C)  for one or more of the purposes described by Paragraphs (A) and (B).

Sec. 171.9262.  ELIGIBILITY FOR CREDIT. A taxable entity is eligible to apply for a credit in the amount and under the conditions provided by this subchapter against the tax imposed under this chapter.

Sec. 171.9263.  QUALIFICATION. A taxable entity qualifies for a credit under this subchapter if the taxable entity makes a qualifying investment:

(1)  on or after September 1, 2019; and

(2)  under Section 171.9261(2)(A), (B), or (C) in a total amount that is at least $100,000.

Sec. 171.9264.  CERTIFICATION OF ELIGIBILITY. (a) Before claiming a credit under this subchapter, the taxable entity that made the qualifying investment must request from the comptroller a certificate of eligibility on a form prescribed by the comptroller. The taxable entity must include with the taxable entity's request information sufficient to allow the comptroller to determine whether the taxable entity has made a qualifying investment under this subchapter. At a minimum, the taxable entity must provide an audited cost report prepared by a certified public accountant that includes:

(1)  the total amount of the qualifying investment made by the taxable entity; and

(2)  the date on which each expenditure used to determine the total amount of the qualifying investment made by the taxable entity was made.

(b)  The comptroller shall issue a certificate of eligibility to a taxable entity that has made a qualifying investment under this subchapter.

Sec. 171.9265.  AMOUNT OF CREDIT; LIMITATIONS. (a) Subject to Subsections (b) and (c), the amount of the credit under this subchapter is equal to 25 percent of the total amount of the qualifying investment.

(b)  A taxable entity may not claim more than one credit under this subchapter.

(c)  The total credit claimed for a report may not exceed the amount of franchise tax due for the report after all other applicable tax credits.

(d)  A qualifying investment may be counted only once in determining the amount of the tax credit available, and more than one taxable entity may not claim a credit for the same qualifying investment.

Sec. 171.9266.  APPLICATION FOR CREDIT. (a) A taxable entity must apply for a credit under this subchapter on or with the report for the period for which the credit is claimed.

(b)  A taxable entity shall file with any report on which the credit is claimed a copy of the certificate of eligibility issued by the comptroller under Section 171.9264 and any other information required by the comptroller to sufficiently demonstrate that the taxable entity is eligible for the credit.

(c)  The burden of establishing eligibility for and the value of the credit is on the taxable entity.

Sec. 171.9267.  RULES. The comptroller shall adopt rules necessary to implement and administer this subchapter.

SECTION 2.  Subchapter W, Chapter 171, Tax Code, as added by this Act, applies only to a report originally due on or after the effective date of this Act.

SECTION 3.  This Act takes effect January 1, 2020.