

By: Thierry

H.B. No. 605

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to a franchise tax credit for entities that establish a  
3 grocery store or healthy corner store in a food desert.

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

5 SECTION 1. Chapter 171, Tax Code, is amended by adding  
6 Subchapter N-1 to read as follows:

7 SUBCHAPTER N-1. TAX CREDIT FOR ESTABLISHMENT OF FOOD STORE IN FOOD  
8 DESERT

9 Sec. 171.721. DEFINITIONS. In this subchapter:

10 (1) "Corner store" means a store that has fewer than  
11 2,000 square feet of retail space.

12 (2) "Department" means the Texas Department of Housing  
13 and Community Affairs.

14 (3) "Food desert" means a geographic area in this  
15 state determined by the department to be an area that:

16 (A) has limited access to healthy food retailers  
17 and is located in a low-income or high-poverty area; or

18 (B) otherwise has serious healthy food access  
19 limitations.

20 (4) "Grocery store" means a store that has at least:

21 (A) 66 percent of the store's retail space  
22 reserved for the sale of food products;

23 (B) 50 percent of the store's food retail space  
24 reserved for the sale of non-prepared foods or foods intended for

1 home preparation and consumption; and

2 (C) 30 percent of the store's food retail space  
3 reserved for the sale of perishable foods, including dairy  
4 products, fresh produce, fresh meats, poultry, and fish, and frozen  
5 foods.

6 (5) "Healthy corner store" means a corner store that:

7 (A) offers a wide variety of fresh produce for  
8 sale; and

9 (B) allocates at least 20 percent of the store's  
10 retail space to fresh produce and other perishable foods, including  
11 dairy products.

12 (6) "Supplemental nutrition assistance program" means  
13 the nutritional assistance program operated under Chapter 33, Human  
14 Resources Code, and formerly referred to as the food stamp program.

15 (7) "WIC program" means the federal special  
16 supplemental nutrition program for women, infants, and children  
17 authorized by 42 U.S.C. Section 1786.

18 Sec. 171.722. ENTITLEMENT TO CREDIT. A taxable entity is  
19 entitled to a credit in the amount and under the conditions and  
20 limitations provided by this subchapter against the tax imposed  
21 under this chapter.

22 Sec. 171.723. QUALIFICATION. A taxable entity qualifies  
23 for a credit under this subchapter if, on or after January 1, 2020,  
24 the taxable entity opens a grocery store or healthy corner store:

25 (1) located in a food desert;

26 (2) located in a low or moderate income area, as  
27 determined by the United States Department of Housing and Urban

1 Development, or that serves a customer base living in a low or  
2 moderate income area;

3 (3) that begins accepting benefits under the WIC  
4 program and the supplemental nutrition assistance program not later  
5 than the 90th day after the date the store opens; and

6 (4) that is open year-round.

7 Sec. 171.724. CERTIFICATION OF ELIGIBILITY. (a) Before  
8 claiming a credit under this subchapter, a taxable entity must  
9 request from the department a certificate of eligibility on which  
10 the department certifies that the taxable entity qualifies for a  
11 credit under Section 171.723. The taxable entity must include with  
12 the taxable entity's request information required by the department  
13 to determine whether the taxable entity meets the requirements of  
14 Section 171.723.

15 (b) The department shall issue a certificate of eligibility  
16 to a taxable entity that qualifies for a credit under Section  
17 171.723.

18 (c) The taxable entity must forward the certificate of  
19 eligibility and the following documentation to the comptroller to  
20 claim the credit:

21 (1) an audited cost report issued by a certified  
22 public accountant, as defined by Section 901.002, Occupations Code,  
23 that itemizes the taxable entity's expenditures to which Section  
24 171.725 applies;

25 (2) the date the grocery store or healthy corner store  
26 first opened for business and evidence of that opening; and

27 (3) an attestation of the total amount of the taxable

1 entity's expenditures to which Section 171.725 applies.

2 (d) For purposes of approving a credit under this  
3 subchapter, the comptroller may rely on the audited cost report  
4 provided by the taxable entity applying for the credit.

5 Sec. 171.725. AMOUNT OF CREDIT. (a) A taxable entity may  
6 claim a credit for each store described by Section 171.723 equal to  
7 five percent of the amount the taxable entity spends to establish  
8 the store during the earliest 12-month period:

9 (1) in which the taxable entity makes an expenditure  
10 to which this section applies; and

11 (2) that includes the date the store opens for  
12 business.

13 (b) Subsection (a) applies to amounts spent to:

14 (1) purchase or lease the land or building for the  
15 store;

16 (2) construct or remodel the store; and

17 (3) furnish and equip the store.

18 (c) Subsection (a) does not apply to amounts spent to  
19 acquire inventory for the store.

20 Sec. 171.726. LIMITATIONS. (a) The total credit a taxable  
21 entity may claim under this subchapter for a tax report, including  
22 the amount of any credit carryforward under Section 171.728, may  
23 not exceed 50 percent of the amount of franchise tax due after  
24 applying all other applicable credits.

25 (b) A taxable entity may not convey, assign, or transfer a  
26 credit under this subchapter to another entity unless all of the  
27 assets of the taxable entity are conveyed, assigned, or transferred

1 in the same transaction.

2 Sec. 171.727. PERIOD FOR WHICH CREDIT MAY BE CLAIMED.

3 Subject to Section 171.728, a taxable entity may claim a credit  
4 under this subchapter on a tax report only for an expenditure made  
5 during the period on which the report is based.

6 Sec. 171.728. CARRYFORWARD. (a) If a taxable entity is  
7 eligible for a credit that exceeds the limitation under Section  
8 171.726(a), the taxable entity may carry the unused credit forward  
9 for not more than five consecutive reports.

10 (b) Credits, including credit carryforwards, are considered  
11 to be used in the following order:

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

13 (2) a current year credit.

14 Sec. 171.729. APPLICATION FOR CREDIT. A taxable entity  
15 must apply for a credit under this subchapter on or with the tax  
16 report for the period for which the credit is claimed. The  
17 comptroller may promulgate an application form for the credit under  
18 this subchapter.

19 Sec. 171.730. RULES. (a) The department may adopt rules  
20 governing the requirements to qualify for a credit under Section  
21 171.723, including rules governing the stores that qualify as  
22 grocery stores or healthy corner stores and the areas that qualify  
23 as food deserts.

24 (b) The comptroller may adopt any rules necessary to  
25 administer this subchapter other than rules described by Subsection  
26 (a).

27 SECTION 2. This Act applies only to a report originally due

1 on or after the effective date of this Act.

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