

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

1 AN ACT

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

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 W to read as follows:

7 SUBCHAPTER W. TAX CREDIT FOR INVESTMENT IN ECONOMIC OPPORTUNITY
8 ZONE

9 Sec. 171.9261. DEFINITIONS. In this subchapter:

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

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

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

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

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

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

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

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

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

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

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

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

26 (b) The comptroller shall issue a certificate of
27 eligibility to a taxable entity that has made a qualifying

1 investment under this subchapter.

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

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

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

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

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

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

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

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

27 SECTION 2. Subchapter W, Chapter 171, Tax Code, as added by

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1 this Act, applies only to a report originally due on or after the
2 effective date of this Act.

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