

By: Lucio

S.B. No. 1116

A BILL TO BE ENTITLED

AN ACT

relating to insurance premium tax credits for the construction or rehabilitation of a supportive housing property.

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

SECTION 1. Subtitle B, Title 3, Insurance Code, is amended by adding Chapter 234 to read as follows:

CHAPTER 234. PREMIUM TAX CREDIT FOR CONSTRUCTION OR REHABILITATION OF SUPPORTIVE HOUSING PROPERTY

Sec. 234.001. DEFINITIONS. In this chapter:

(1) "Corporation" means the Texas State Affordable Housing Corporation established under Subchapter Y, Chapter 2306, Government Code.

(2) "Eligible costs and expenses" means costs and expenses incurred in the construction or rehabilitation of a supportive housing property that the corporation determines are reasonable and necessary to the construction or rehabilitation of the property.

(3) "State premium tax liability" means any liability incurred by an entity under Chapter 222.

(4) "Supportive housing property" means a residential rental development:

(A) that is intended for occupancy by individuals who need assistance to live independently; and

(B) at which individuals receive on-site case

1 management and other services designed to:

2 (i) aid the individual in addressing a
3 debilitating condition; or

4 (ii) assist the individual in securing the
5 skills, assets, and connections necessary to live independently.

6 Sec. 234.002. ELIGIBILITY FOR CREDIT. An entity is
7 eligible to apply for and claim a credit against state premium tax
8 liability in the amount and under the conditions and limitations
9 provided by this chapter.

10 Sec. 234.003. QUALIFICATION. (a) An entity is eligible for
11 a credit for eligible costs and expenses incurred in the
12 construction or rehabilitation of a supportive housing property as
13 provided by this chapter if:

14 (1) the supportive housing property is placed in
15 service on or after September 1, 2019; and

16 (2) the total amount of the eligible costs and
17 expenses incurred by the entity exceeds \$5,000.

18 (b) An entity may receive a credit under this chapter
19 regardless of whether the entity incurs state premium tax
20 liability.

21 Sec. 234.004. CERTIFICATION OF ELIGIBILITY. (a) Before
22 applying for, claiming, selling, or assigning a credit under this
23 chapter, the entity that constructed or rehabilitated the
24 supportive housing property must request from the corporation a
25 certificate of eligibility on which the corporation certifies that
26 the costs and expenses incurred meet the definition of eligible
27 costs and expenses. The entity must include with the entity's

1 request information on the property that is sufficient for the
2 corporation to determine whether the property meets the definition
3 of a supportive housing property.

4 (b) The corporation shall issue a certificate of
5 eligibility to an entity that has incurred eligible costs and
6 expenses as provided by this chapter. The certificate must:

7 (1) confirm that the property to which the eligible
8 costs and expenses relate is supportive housing property; and

9 (2) estimate the date the supportive housing property
10 will be placed in service.

11 (c) The corporation by rule shall prescribe procedures by
12 which the corporation may allocate credits under this chapter. The
13 corporation may not certify eligible costs and expenses that exceed
14 the annual limit provided by Section 234.005(d).

15 (d) The entity must forward the certificate of eligibility
16 and the following documentation to the comptroller to apply for the
17 tax credit:

18 (1) an audited cost report issued by a certified
19 public accountant, as defined by Section 901.002, Occupations Code,
20 that itemizes the eligible costs and expenses incurred in the
21 construction or rehabilitation of the supportive housing property
22 by the entity; and

23 (2) an attestation of the total eligible costs and
24 expenses incurred by the entity in the construction or
25 rehabilitation of the supportive housing property.

26 (e) For purposes of approving the tax credit under
27 Subsection (d), the comptroller may rely on the audited cost report

1 provided by the entity that requested the tax credit.

2 (f) An entity that sells or assigns a credit under this
3 chapter to another entity shall provide a copy of the certificate of
4 eligibility, together with the audited cost report, to the
5 purchaser or assignee.

6 Sec. 234.005. AMOUNT OF CREDIT; LIMITATIONS. (a) The total
7 amount of the credit under this chapter with respect to the
8 construction or rehabilitation of a single supportive housing
9 property that may be claimed may not exceed 20 percent of the total
10 eligible costs and expenses incurred in the construction or
11 rehabilitation of the supportive housing property.

12 (b) The total credit that may be claimed on a report,
13 including the amount of any carryforward under Section 234.006, may
14 not exceed the amount of state premium tax liability due for the
15 report after any other applicable tax credits.

16 (c) Eligible costs and expenses may only be counted once in
17 determining the amount of the tax credit available, and more than
18 one entity may not claim a credit for the same eligible costs and
19 expenses.

20 (d) The total amount of tax credits that may be claimed by
21 all entities under this chapter may not exceed \$5 million in a state
22 fiscal year.

23 Sec. 234.006. CARRYFORWARD. (a) If an entity is eligible
24 for a credit that exceeds the limitation under Section 234.005(b),
25 the entity may carry the unused credit forward for not more than
26 five consecutive reports.

27 (b) A carryforward is considered the remaining portion of a

1 credit that cannot be claimed in the current year because of the
2 limitation under Section 234.005(b).

3 Sec. 234.007. APPLICATION FOR CREDIT; CLAIMING CREDIT. (a)
4 An entity must apply for a credit under this chapter on a form
5 promulgated by the comptroller for that purpose.

6 (b) An entity shall include with the application a copy of
7 the certificate of eligibility issued by the corporation as
8 required by Section 234.004(d) and any other information required
9 by the comptroller to sufficiently demonstrate the entity is
10 eligible for the credit and to determine the amount of the credit.

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

13 (d) The comptroller shall issue a credit certificate to an
14 entity the comptroller determines is eligible for a credit under
15 this chapter indicating that the entity is the owner of the credit
16 and the amount of credit available to the entity.

17 (e) An entity may claim a credit under this chapter on or
18 with the report due under Section 222.005. The entity shall include
19 with each report on which a credit is claimed the certificate issued
20 by the comptroller under Subsection (d).

21 Sec. 234.008. SALE OR ASSIGNMENT OF CREDIT. (a) An entity
22 that incurs eligible costs and expenses may sell or assign all or
23 part of the credit that may be claimed for those costs and expenses
24 to one or more entities, and any entity to which all or part of the
25 credit is sold or assigned may sell or assign all or part of the
26 credit to another entity. There is no limit on the total number of
27 transactions for the sale or assignment of all or part of the total

1 credit authorized under this chapter; however, collectively all
2 transfers are subject to the maximum total limits provided by
3 Section 234.005.

4 (b) An entity that sells or assigns a credit under this
5 section and the entity to which the credit is sold or assigned shall
6 jointly submit written notice of the sale or assignment to the
7 comptroller on a form promulgated by the comptroller not later than
8 the 30th day after the date of the sale or assignment. The notice
9 must include:

- 10 (1) the date of the sale or assignment;
11 (2) the amount of the credit sold or assigned;
12 (3) the names and federal tax identification numbers
13 of the entity that sold or assigned the credit or part of the credit
14 and the entity to which the credit or part of the credit was sold or
15 assigned; and
16 (4) the amount of the credit owned by the selling or
17 assigning entity before the sale or assignment, and the amount the
18 selling or assigning entity retained, if any, after the sale or
19 assignment.

20 (c) The sale or assignment of a credit in accordance with
21 this section does not extend the period for which a credit may be
22 carried forward and does not increase the total amount of the credit
23 that may be claimed. After an entity claims a credit for eligible
24 costs and expenses, another entity may not use the same costs and
25 expenses as the basis for claiming a credit.

26 (d) Notwithstanding the requirements of this chapter, a
27 credit earned or purchased by, or assigned to, a partnership,

1 limited liability company, S corporation, or other pass-through
2 entity may be allocated to the partners, members, or shareholders
3 of that entity and claimed under this chapter in accordance with the
4 provisions of any agreement among the partners, members, or
5 shareholders and without regard to the ownership interest of the
6 partners, members, or shareholders in the supportive housing
7 property, provided that the entity that claims the credit must be
8 subject to the tax imposed under Chapter 222.

9 Sec. 234.009. RETALIATORY TAX. An entity that claims a
10 credit under this chapter is not required to pay any additional
11 retaliatory tax levied under Chapter 281 as a result of the credit.

12 Sec. 234.010. RULES. The corporation and the comptroller
13 shall adopt rules necessary to implement this chapter.

14 SECTION 2. This Act applies only to a report originally due
15 on or after the effective date of this Act.

16 SECTION 3. This Act takes effect September 1, 2019.