

By: Paddie

H.B. No. 570

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to small business recovery funds and insurance tax credits  
3 for certain investments in those funds; imposing a monetary  
4 penalty; authorizing fees.

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

6 SECTION 1. Subtitle F, Title 4, Government Code, is amended  
7 by adding Chapter 487A to read as follows:

8 CHAPTER 487A. SMALL BUSINESS RECOVERY FUNDS

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 487A.0001. GENERAL DEFINITIONS. In this chapter:

11 (1) "Closing date" means the date a small business  
12 recovery fund has collected all of the amounts described by Section  
13 487A.0056(a)(1).

14 (2) "Growth investment" means any capital or equity  
15 investment by a small business recovery fund in a targeted small  
16 business or any loan by a small business recovery fund to a targeted  
17 small business with a stated maturity date of at least one year  
18 after the date of issuance.

19 (3) "Office" means the Texas Economic Development and  
20 Tourism Office.

21 (4) "Rural area" means an area:

22 (A) other than a municipality with a population  
23 of more than 50,000 or an urbanized area contiguous and adjacent to  
24 the municipality; or

1           (B) determined to be rural in character by the  
2 United States Department of Agriculture.

3           (5) "Small business recovery fund" means an entity  
4 approved by the office as a small business recovery fund.

5           Sec. 487A.0002. DEFINITION: AFFILIATE. (a) In this  
6 chapter, "affiliate" means an entity that directly or indirectly  
7 through one or more intermediaries controls, is controlled by, or  
8 is under common control with another entity.

9           (b) For purposes of Subsection (a), an entity is controlled  
10 by another entity if the controlling entity:

11           (1) holds, directly or indirectly, the majority voting  
12 or ownership interest in the controlled entity; or

13           (2) has control over the day-to-day operations of the  
14 controlled entity by contract or by law.

15           Sec. 487A.0003. DEFINITION: CREDIT-ELIGIBLE CAPITAL  
16 CONTRIBUTION. (a) In this chapter and subject to Subsection (b),  
17 "credit-eligible capital contribution" means an investment of cash  
18 that equals the amount specified on a tax credit certificate issued  
19 by the office under Section 487A.0055(2) made by an entity that is  
20 subject to state insurance tax liability, as defined by Section  
21 232.0001, Insurance Code.

22           (b) An investment made by an entity qualifies as a  
23 credit-eligible capital contribution only if the entity making the  
24 investment receives in exchange for the investment:

25           (1) an equity interest in a small business recovery  
26 fund; or

27           (2) at par value or premium, a debt instrument that has

1 a maturity date of at least five years from the closing date and a  
2 repayment schedule that is no faster than level principal  
3 amortization over five years.

4 Sec. 487A.0004. DEFINITION: INVESTMENT AUTHORITY. (a) In  
5 this chapter, "investment authority" means the amount stated on the  
6 notice issued under Section 487A.0055(1) approving the small  
7 business recovery fund.

8 (b) At least 65 percent of a small business recovery fund's  
9 investment authority must consist of credit-eligible capital  
10 contributions.

11 Sec. 487A.0005. DEFINITION: JOBS CREATED. (a) In this  
12 chapter, "jobs created" means, with respect to a targeted small  
13 business, employment positions that:

- 14 (1) are created by the targeted small business;  
15 (2) are located in this state;  
16 (3) require at least 35 hours of work each week; and  
17 (4) were not located in this state at the time of the  
18 initial growth investment in the targeted small business.

19 (b) The number of jobs created by a targeted small business  
20 is calculated each year by subtracting the number of employment  
21 positions in this state at the targeted small business at the time  
22 of the initial growth investment in the targeted small business  
23 from the monthly average of those employment positions for that  
24 year. If the number calculated under this subsection is less than  
25 zero, the number shall be reported as zero.

26 (c) The monthly average of employment positions for a year  
27 is calculated by adding the number of employment positions existing

1 on the last day of each month of the year and dividing that sum by  
2 12.

3 Sec. 487A.0006. DEFINITION: JOBS RETAINED. (a) In this  
4 chapter, "jobs retained" means, with respect to a targeted small  
5 business, employment positions that:

6 (1) are located in this state, require at least 35  
7 hours of work each week, and existed before the initial growth  
8 investment in the targeted small business; and

9 (2) would have been lost or moved out of this state had  
10 a growth investment in the targeted small business not been made, as  
11 certified in writing by an executive officer of the targeted small  
12 business to the small business recovery fund.

13 (b) The number of jobs retained by a targeted small business  
14 is calculated each year based on the monthly average of employment  
15 positions for that year.

16 (c) The monthly average of employment positions for a year  
17 is calculated by adding the number of employment positions existing  
18 on the last day of each month of the year and dividing that sum by  
19 12.

20 (d) The reported number of jobs retained for a year may not  
21 exceed the number reported on the initial report under Section  
22 487A.0155. The small business recovery fund shall reduce the  
23 number of jobs retained for a year if employment at the targeted  
24 small business is less than the number reported on the initial  
25 report.

26 Sec. 487A.0007. DEFINITION: TARGETED SMALL BUSINESS. (a)  
27 In this chapter, "targeted small business" means a business that,

1 at the time of the initial growth investment in the business:

2 (1) had fewer than 250 employees, including any  
3 persons who would be considered employees under the federal law to  
4 which 13 C.F.R. Section 121.103(h)(4) applies as a result of the  
5 application of that provision; and

6 (2) has its principal business operations located in  
7 this state.

8 (b) For purposes of Subsection (a)(2), the principal  
9 business operations of a business are located at a place where:

10 (1) at least 80 percent of the business's employees  
11 work; or

12 (2) employees who are paid at least 80 percent of the  
13 business's payroll work.

14 (c) An out-of-state business that agrees to relocate or hire  
15 new employees using the proceeds of a growth investment to  
16 establish principal business operations in this state qualifies as  
17 a targeted small business if the business satisfies the  
18 requirements of:

19 (1) Subsection (a)(1) at the time of the initial  
20 growth investment in the business; and

21 (2) Subsection (a)(2) not later than the 180th day  
22 after receiving the initial growth investment or a later date  
23 agreed to by the office.

24 Sec. 487A.0008. RULES. The office shall adopt rules  
25 necessary to implement this chapter.

1 SUBCHAPTER B. APPROVAL OF SMALL BUSINESS RECOVERY FUNDS; TAX

2 CREDIT CERTIFICATES

3 Sec. 487A.0051. APPLICATION. (a) Subject to Section  
4 487A.0202, the office shall accept applications from entities  
5 seeking approval as small business recovery funds.

6 (b) An application must include:

7 (1) the total investment authority sought by the  
8 applicant under the applicant's business plan;

9 (2) evidence sufficient to prove to the office's  
10 satisfaction that, as of the date the applicant submits the  
11 application:

12 (A) the applicant or affiliates of the applicant  
13 have invested, in the aggregate, at least \$100 million in nonpublic  
14 companies; and

15 (B) at least one principal in a rural business  
16 investment company licensed under 7 U.S.C. Section 2009cc et seq.  
17 or a small business investment company licensed under 15 U.S.C.  
18 Section 681 is, and has been for at least four years, an officer or  
19 employee of the applicant or of an affiliate of the applicant on the  
20 date the application is submitted;

21 (3) a copy of the rural business investment company  
22 license or small business investment company license described by  
23 Subdivision (2)(B);

24 (4) an estimate of the number of jobs created and jobs  
25 retained that will result from the applicant's growth investments;

26 (5) a business plan that includes a revenue impact  
27 assessment that:

1           (A) projects state and local tax revenue to be  
2 generated by the applicant's proposed growth investments; and

3           (B) is prepared by a nationally recognized third  
4 party independent economic forecasting firm using a dynamic  
5 economic forecasting model that analyzes the applicant's business  
6 plan for the 10-year period following the date the applicant  
7 submits the application;

8           (6) a signed affidavit from each committed investor  
9 stating the amount of credit-eligible capital contributions the  
10 investor commits to making; and

11           (7) a nonrefundable application fee of \$5,000.

12           Sec. 487A.0052. DECISION ON APPLICATION. (a) The office  
13 shall make a determination on each application not later than the  
14 30th day after the date the office receives the application. The  
15 office shall make application determinations in the order in which  
16 applications are received and shall consider applications received  
17 on the same day to be received simultaneously.

18           (b) The office may approve not more than \$500 million of  
19 investment authority under this chapter in any calendar year.

20           (c) If a request for investment authority exceeds the limit  
21 under Subsection (b), the office shall reduce the investment  
22 authority and the credit-eligible capital contributions for that  
23 application as necessary to avoid exceeding the limit. If multiple  
24 applications received on the same day request a combined investment  
25 authority that exceeds the limit under Subsection (b), the office  
26 shall proportionally reduce the investment authority and the  
27 credit-eligible capital contributions for those applications as

1 necessary to avoid exceeding the limit. The office may not reduce  
2 an applicant's investment authority for any reason other than as  
3 authorized by this subsection.

4 Sec. 487A.0053. GROUNDS FOR DENIAL. The office may deny an  
5 application under this subchapter only if:

6 (1) the application is incomplete or the application  
7 fee is not paid in full;

8 (2) the applicant fails to satisfy the requirements of  
9 Section 487A.0051(b)(2);

10 (3) the revenue impact assessment submitted under  
11 Section 487A.0051(b)(5) does not demonstrate that the applicant's  
12 business plan will result in a positive economic impact on combined  
13 state and local revenue during the 10-year period covered by the  
14 assessment that exceeds the cumulative amount of tax credits that  
15 would be issued to the applicant's investors under Chapter 232,  
16 Insurance Code, if the application were approved;

17 (4) the credit-eligible capital contributions  
18 described in affidavits submitted under Section 487A.0051(b)(6) do  
19 not equal at least 65 percent of the total amount of investment  
20 authority sought under the applicant's business plan; or

21 (5) the office has already approved the maximum amount  
22 of investment authority allowed under Section 487A.0052(b).

23 Sec. 487A.0054. SUBMISSION OF ADDITIONAL INFORMATION  
24 FOLLOWING DENIAL. (a) If the office denies an application the  
25 applicant may, not later than the 15th day after the date the office  
26 provides notice of denial, provide additional information to the  
27 office to complete, clarify, or cure defects in the application



1 identified by the office.

2 (b) If the applicant completes, clarifies, or cures the  
3 defects in its application during the period prescribed by  
4 Subsection (a), the application is considered complete as of the  
5 original submission date.

6 (c) If the applicant fails to complete, clarify, or cure the  
7 defects in its application during the period prescribed by  
8 Subsection (a), the application is finally denied. An applicant  
9 who wishes to reapply must resubmit an application in full with a  
10 new submission date.

11 (d) The office shall review and reconsider an application  
12 described by Subsection (a) for which the applicant provides  
13 additional information not later than the 30th day after the date  
14 the applicant provides the information. The office shall consider  
15 that application before any pending applications submitted after  
16 the date that application was originally submitted.

17 (e) This section does not apply to an application denied as  
18 a result of the applicant's failure to submit with the application  
19 affidavits required by Section 487A.0051(b)(6).

20 Sec. 487A.0055. APPROVAL BY OFFICE. On approval of an  
21 application, the office shall provide:

22 (1) written notice to the applicant of the applicant's  
23 approval as a small business recovery fund, including the amount of  
24 the fund's investment authority; and

25 (2) a tax credit certificate to each investor whose  
26 affidavit was included in the application and include on the  
27 certificate the amount of the investor's credit-eligible capital

1 contribution.

2 Sec. 487A.0056. DUTIES OF FUND FOLLOWING APPROVAL. (a) A  
3 small business recovery fund shall:

4 (1) not later than the 60th day after the date the fund  
5 receives the approval notice under Section 487A.0055:

6 (A) collect the credit-eligible capital  
7 contribution from each investor issued a tax credit certificate  
8 under Section 487A.0055; and

9 (B) subject to Subsection (b), collect one or  
10 more investments of cash that, when added to the contributions  
11 collected under Paragraph (A), equal the fund's investment  
12 authority; and

13 (2) not later than the 65th day after the date the fund  
14 receives the approval notice under Section 487A.0055, send to the  
15 office documentation sufficient to prove that the fund has  
16 collected the amounts described in Subdivision (1).

17 (b) At least 10 percent of the small business recovery  
18 fund's investment authority must consist of equity investments  
19 contributed directly or indirectly by affiliates of the fund,  
20 including employees, officers, and directors of those affiliates.

21 Sec. 487A.0057. LAPSE OF APPROVAL. (a) If a small business  
22 recovery fund fails to comply with the requirements of Section  
23 487A.0056, the fund's approval lapses and the corresponding  
24 investment authority described by Section 487A.0056(a)(1) does not  
25 count toward the limit prescribed by Section 487A.0052(b).

26 (b) The office shall first award lapsed investment  
27 authority pro rata to each small business recovery fund whose

1 requested investment authority was reduced under Section  
2 487A.0052(c). The small business recovery fund may allocate the  
3 investment authority awarded under this subsection to the fund's  
4 investors in the fund's discretion. The office may award any  
5 remaining investment authority to new applicants.

6 Sec. 487A.0058. ADDITIONAL CREDIT FOR RURAL AREA  
7 INVESTMENTS. (a) If a small business recovery fund makes one or  
8 more growth investments in targeted small businesses located in  
9 rural areas before the second anniversary of the closing date, the  
10 office shall issue an additional tax credit certificate to each  
11 investor who made a credit-eligible capital contribution to the  
12 fund. The office shall issue the certificates not later than the  
13 60th day after the second anniversary of the closing date.

14 (b) The office shall specify the amount of the additional  
15 credit on a certificate. The additional credit is equal to 15  
16 percent of the portion of the investor's credit-eligible capital  
17 contribution the small business recovery fund used to make a growth  
18 investment in a targeted small business located in a rural area, as  
19 determined by the office.

20 Sec. 487A.0059. DISPOSITION OF APPLICATION FEES.  
21 Application fees submitted to the office under Section  
22 487A.0051(b)(7) shall be deposited to the credit of the general  
23 revenue fund and may be appropriated only to the office for the  
24 purpose of administering this chapter.

25 SUBCHAPTER C. REVOCATION OF TAX CREDIT CERTIFICATE

26 Sec. 487A.0101. GROUNDS FOR REVOCATION. (a) The office  
27 shall revoke a tax credit certificate issued under Subchapter B in

1 connection with an investment in a small business recovery fund if,  
2 before the fund exits the program under Section 487A.0151, the  
3 fund:

4 (1) subject to Subsection (b), fails to invest at  
5 least 60 percent of the fund's investment authority in growth  
6 investments in this state on or before the second anniversary of the  
7 closing date and 100 percent of the fund's investment authority in  
8 growth investments in this state on or before the third anniversary  
9 of the closing date;

10 (2) subject to Subsection (c) and after making the  
11 investments necessary to avoid revocation under Subdivision (1),  
12 fails to maintain growth investments equal to 100 percent of the  
13 fund's investment authority until the sixth anniversary of the  
14 closing date;

15 (3) makes a distribution or payment that results in  
16 the fund having less than 100 percent of its investment authority:

17 (A) invested in growth investments in this state;

18 or

19 (B) available for investment in growth  
20 investments and held in:

21 (i) cash;

22 (ii) United States Treasury securities;

23 (iii) bonds or notes issued by this state or  
24 an agency or political subdivision of this state; or

25 (iv) a deposit account with a depository  
26 institution headquartered or chartered in this state; or

27 (4) subject to Subsection (d), makes a growth

1 investment in a targeted small business that directly or indirectly  
2 through an affiliate owns, has the right to acquire an ownership  
3 interest in, makes a loan to, or makes an investment in the fund, an  
4 affiliate of the fund, or an investor in the fund.

5 (b) For purposes of Subsection (a)(1), the amount of growth  
6 investments that a small business recovery fund may count with  
7 respect to a particular targeted small business, including any  
8 amount invested in an affiliate of the targeted small business, may  
9 not exceed \$5 million.

10 (c) For purposes of Subsection (a)(2):

11 (1) the amount of growth investments that a small  
12 business recovery fund may count with respect to a particular  
13 targeted small business, including any amount invested in an  
14 affiliate of the targeted small business, may not exceed \$5  
15 million;

16 (2) an investment that is sold or repaid is considered  
17 to be maintained if the small business recovery fund reinvests an  
18 amount equal to the capital returned or recovered by the fund from  
19 the original investment, excluding any profit realized, in another  
20 growth investment in this state on or before the first anniversary  
21 of the date the capital is returned or recovered; and

22 (3) an amount received periodically by a small  
23 business recovery fund is considered to be continually invested in  
24 growth investments if that amount is reinvested in one or more  
25 growth investments by the end of the calendar year following the  
26 year of receipt.

27 (d) Subsection (a)(4) does not apply to investments in

1 publicly traded securities by a targeted small business or an owner  
2 or affiliate of the targeted small business. For purposes of  
3 Subsection (a)(4), a small business recovery fund is not considered  
4 an affiliate of a targeted small business solely as a result of the  
5 fund's growth investment in the targeted small business.

6 (e) The office shall:

7 (1) notify the comptroller when the office revokes a  
8 tax credit certificate; and

9 (2) on request, provide the comptroller with lists of  
10 valid and revoked tax credit certificates.

11 Sec. 487A.0102. OPPORTUNITY TO CORRECT VIOLATION. (a)

12 Before revoking a tax credit certificate under this subchapter, the  
13 office shall notify the small business recovery fund of the reasons  
14 for the pending revocation.

15 (b) The small business recovery fund may, not later than the  
16 90th day after the date the notice is received, correct any  
17 violation outlined in the notice to the satisfaction of the office  
18 and avoid revocation of the tax credit certificate.

19 Sec. 487A.0103. ALLOCATION OF REVOKED INVESTMENT

20 AUTHORITY. (a) If a tax credit certificate is revoked under this  
21 subchapter, the associated investment authority does not count  
22 toward the limit on total investment authority described in Section  
23 487A.0052(b).

24 (b) The office shall first award revoked investment  
25 authority pro rata to each small business recovery fund whose  
26 requested investment authority was reduced under Section  
27 487A.0052(c). The office may award any remaining investment

1 authority to new applicants.

2 SUBCHAPTER D. CERTAIN FUND OPERATIONS

3 Sec. 487A.0151. APPLICATION TO EXIT PROGRAM. (a) On or  
4 after the sixth anniversary of the closing date, a small business  
5 recovery fund may apply to the office to exit the program and no  
6 longer be subject to regulation under this chapter.

7 (b) The office shall respond to the application not later  
8 than the 30th day after receipt.

9 (c) A small business recovery fund is eligible to exit the  
10 program under this section if no tax credit certificates related to  
11 investments in the fund have been revoked and the fund has not  
12 received any revocation notice that has not been corrected under  
13 Section 487A.0102.

14 (d) The office may not unreasonably deny an application  
15 under this section. The office shall give the small business  
16 recovery fund notice of a denial and include in the notice the  
17 reasons for the denial.

18 Sec. 487A.0152. NO REVOCATION FOLLOWING EXIT. The office  
19 may not revoke a tax credit certificate related to an investment in  
20 a small business recovery fund after the fund's exit from the  
21 program.

22 Sec. 487A.0153. PENALTY FOR CERTAIN DISTRIBUTIONS. (a)  
23 For purposes of this section:

24 (1) the "actual number of jobs created and retained"  
25 is the number of jobs created and jobs retained as a result of all of  
26 a small business recovery fund's current and former growth  
27 investments, as reported on the fund's reports submitted under

1 Section 487A.0155; and

2 (2) the "estimated number of jobs created and  
3 retained" is the estimated number of jobs created and jobs retained  
4 included in a small business recovery fund's application under  
5 Section 487A.0051(b)(4) reduced, if applicable, by the same  
6 percentage as the total investment authority sought under the  
7 fund's business plan submitted under Section 487A.0051(b)(1) was  
8 reduced under Section 487A.0052(c).

9 (b) A small business recovery fund is subject to a penalty  
10 in the amount provided by Subsection (c) if:

11 (1) the fund authorizes a distribution to the fund's  
12 equity holders in an amount that, when added to all previous  
13 distributions to the fund's equity holders and any previous  
14 penalties under this section, exceeds the fund's investment  
15 authority; and

16 (2) the fund's actual number of jobs created and  
17 retained is less than the fund's estimated number of jobs created  
18 and retained.

19 (c) The amount of the penalty is equal to the amount of the  
20 authorized distribution multiplied by a fraction:

21 (1) the numerator of which is the fund's estimated  
22 number of jobs created and retained less the fund's actual number of  
23 jobs created and retained; and

24 (2) the denominator of which is the fund's estimated  
25 number of jobs created and retained.

26 (d) Before making a distribution to the fund's equity  
27 holders, the fund shall deduct the amount of the penalty from the



1 amount otherwise authorized to be distributed to the equity holders  
2 and pay the penalty to the office.

3 (e) The office shall deposit penalties received under  
4 Subsection (d) in the general revenue fund.

5 Sec. 487A.0154. EVALUATION OF PROPOSED INVESTMENT. (a) A  
6 small business recovery fund, before making a growth investment,  
7 may request from the office a written opinion as to whether the  
8 business in which the fund proposes to invest qualifies as a  
9 targeted small business.

10 (b) Not later than the 15th business day after receiving the  
11 request, the office shall notify the small business recovery fund  
12 of its determination.

13 (c) If the office fails to notify the small business  
14 recovery fund of its determination on or before the 15th business  
15 day after receiving the request, the business in which the fund  
16 proposes to invest is considered to be a targeted small business for  
17 purposes of this chapter.

18 Sec. 487A.0155. ANNUAL REPORT. (a) A small business  
19 recovery fund shall submit a report to the office on or before the  
20 fifth business day after each anniversary of the closing date until  
21 the fund has exited the program under Section 487A.0151.

22 (b) The report must document the small business recovery  
23 fund's growth investments and include:

24 (1) a bank statement showing each growth investment;

25 (2) the name, location, and industry of each business

26 receiving a growth investment, including either the determination

27 notice described by Section 487A.0154 or evidence that the business

1 qualified as a targeted small business at the time the investment  
2 was made;

3 (3) the number of jobs created and jobs retained in the  
4 preceding calendar year as a result of the fund's growth  
5 investments as of the last day of that period;

6 (4) the average annual salary of the jobs described by  
7 Subdivision (3) and evidence of any other monetary or social  
8 benefit to this state as a result of those jobs;

9 (5) a description, including the amount, of each  
10 growth investment in a targeted small business located in a rural  
11 area made in the 24 months following the closing date; and

12 (6) any other information the office requires.

13 (c) A small business recovery fund may, but is not required  
14 to, include in any report submitted under this section information  
15 about the number of jobs created and jobs retained with respect to a  
16 former growth investment that the fund has exited.

17 SUBCHAPTER E. REPORT; CONDITIONS FOR ACCEPTANCE OF CERTAIN

18 APPLICATIONS

19 Sec. 487A.0201. REPORT. (a) Before the beginning of the  
20 90th Legislature, Regular Session, the office shall submit to the  
21 lieutenant governor, the speaker of the house of representatives,  
22 and each member of the legislature a report on the economic benefits  
23 of this chapter.

24 (b) The report must include an assessment of:

25 (1) the aggregate effects of growth investments made  
26 under this chapter, including:

27 (A) the total number of jobs created by all

1 targeted small businesses, including direct jobs, indirect jobs,  
2 and induced jobs;

3 (B) the total number of jobs retained by all  
4 targeted small businesses;

5 (C) the total amount of wages paid in connection  
6 with jobs created and jobs retained by all targeted small  
7 businesses;

8 (D) the median wage of jobs created and jobs  
9 retained by all targeted small businesses;

10 (E) the total effect on personal income in this  
11 state, including direct and indirect effects;

12 (F) the total amount of growth investments;

13 (G) the gross domestic product of this state  
14 attributable to targeted small businesses;

15 (H) the total taxable value of property of  
16 targeted small businesses in this state according to tax appraisal  
17 rolls;

18 (I) the total positive fiscal effect on this  
19 state and local governments in this state; and

20 (J) the total number and dollar amount of growth  
21 investments in targeted small businesses located in rural areas;

22 (2) the benefits to this state from cost savings  
23 attributable to jobs created and jobs retained by all targeted  
24 small businesses, including:

25 (A) Medicaid savings, with savings to this state  
26 and the federal government listed separately;

27 (B) food assistance program savings;

1           (C) unemployment insurance payment savings; and  
2           (D) any other savings that can be reasonably  
3 estimated using data available to the office in connection with  
4 some or all targeted small businesses; and

5           (3) the total positive fiscal effect on this state and  
6 local governments in this state of the benefits described by  
7 Subdivision (2).

8           (c) The report may not include information that is  
9 confidential by law.

10           (d) In preparing the portion of the report described by  
11 Subsection (b)(1), the office shall:

12                   (1) use standard, nationally recognized economic  
13 estimation techniques, including economic multipliers; and

14                   (2) base the assessment on data submitted to the  
15 office by each small business recovery fund.

16           Sec. 487A.0202. CONDITIONS FOR ACCEPTANCE OF CERTAIN  
17 APPLICATIONS. (a) The office may not accept applications under  
18 Section 487A.0051 after January 1, 2022, unless the total positive  
19 fiscal effects described by Section 487A.0201(b) exceed the sum of  
20 all tax credit certificates issued by the office under Subchapter  
21 B.

22                   (b) The office shall resume accepting applications under  
23 Section 487A.0051 when the condition provided by Subsection (a) is  
24 satisfied.

25           SECTION 2. Subtitle B, Title 3, Insurance Code, is amended  
26 by adding Chapter 232 to read as follows:

1 CHAPTER 232. TAX CREDIT FOR INVESTMENT IN SMALL BUSINESS RECOVERY

2 FUND

3 SUBCHAPTER A. GENERAL PROVISIONS

4 Sec. 232.0001. DEFINITIONS. In this chapter:

5 (1) "Affiliate" has the meaning assigned by Section  
6 487A.0002, Government Code.

7 (2) "Closing date" has the meaning assigned by Section  
8 487A.0001, Government Code.

9 (3) "State insurance tax liability" means any tax  
10 liability incurred under Chapter 221, 222, 223, 223A, 224, 225,  
11 226, or 281.

12 Sec. 232.0002. RULES. The comptroller shall adopt rules  
13 necessary to implement this chapter.

14 SUBCHAPTER B. TAX CREDIT

15 Sec. 232.0051. ELIGIBILITY FOR CREDIT. An entity is  
16 eligible for a credit against the entity's state insurance tax  
17 liability in the amount and under the conditions and limitations  
18 provided by this chapter.

19 Sec. 232.0052. QUALIFICATION. An entity is eligible for a  
20 credit for a tax year if:

21 (1) the entity holds a tax credit certificate issued  
22 under Section 487A.0055, Government Code, and the third, fourth,  
23 fifth, or sixth anniversary of the closing date in connection with  
24 which the certificate was issued occurs during the tax year; or

25 (2) the entity holds a tax credit certificate issued  
26 under Section 487A.0058, Government Code, in connection with which  
27 a credit under this chapter has not previously been claimed.

1       Sec. 232.0053. AMOUNT OF CREDIT; LIMITATION. (a) The  
2 amount of credit for a tax year in connection with a tax credit  
3 certificate described by Section 232.0052(1) is equal to 25 percent  
4 of the amount of the credit-eligible capital contribution stated on  
5 the certificate.

6       (b) The amount of credit for a tax year in connection with a  
7 tax credit certificate described by Section 232.0052(2) is equal to  
8 the amount of credit stated on the certificate, less any amount in  
9 connection with which a credit under this chapter has previously  
10 been claimed.

11       (c) The total credit claimed for a tax year, including the  
12 amount of any carryforward under Section 232.0054, may not exceed  
13 the amount of state insurance tax liability due for the entity for  
14 the tax year after applying all other applicable tax credits.

15       (d) Credits may be applied to the entity's estimated or  
16 final tax payments for the tax year.

17       Sec. 232.0054. CARRYFORWARD. If an entity is eligible for a  
18 credit that exceeds the limitation under Section 232.0053(c), the  
19 entity may carry the unused credit forward and apply the credit to a  
20 subsequent tax report.

21       Sec. 232.0055. ASSIGNMENT PROHIBITED. (a) Except as  
22 provided by Subsection (b), an entity may not convey, assign, or  
23 transfer the credit allowed under this chapter to another entity.

24       (b) An entity may convey, assign, or transfer the credit  
25 allowed under this chapter to an affiliate of the entity that is  
26 subject to state insurance tax liability.

27       Sec. 232.0056. RETALIATORY TAX. An entity claiming a

1 credit under this chapter is not required to pay any additional  
2 retaliatory tax levied under Chapter 281 as a result of claiming  
3 that credit.

4 SUBCHAPTER C. RECAPTURE OF CREDIT

5 Sec. 232.0101. RECAPTURE. The comptroller shall recapture  
6 the amount of a credit claimed on a tax report filed under Chapter  
7 221, 222, 223, 223A, 224, 225, 226, or 281 from an entity if the tax  
8 credit certificate on which the credit is based is revoked under  
9 Subchapter C, Chapter 487A, Government Code.

10 SECTION 3. (a) As soon as practicable after this Act  
11 becomes law as provided by Section 2001.006, Government Code:

12 (1) the Texas Economic Development and Tourism Office  
13 shall adopt rules necessary to implement Chapter 487A, Government  
14 Code, as added by this Act; and

15 (2) the comptroller of public accounts shall adopt  
16 rules necessary to implement Chapter 232, Insurance Code, as added  
17 by this Act.

18 (b) Not later than October 1, 2021, the Texas Economic  
19 Development and Tourism Office shall begin accepting applications  
20 under Section 487A.0051(a), Government Code, as added by this Act.

21 SECTION 4. Chapter 232, Insurance Code, as added by this  
22 Act, applies only to a tax report originally due on or after January  
23 1, 2021.

24 SECTION 5. This Act takes effect immediately if it receives  
25 a vote of two-thirds of all the members elected to each house, as  
26 provided by Section 39, Article III, Texas Constitution. If this  
27 Act does not receive the vote necessary for immediate effect, this

H.B. No. 570

1 Act takes effect September 1, 2021.