

By: Krause

H.B. No. 1733

A BILL TO BE ENTITLED

AN ACT

relating to insurance premium tax credits for investments supporting agriculture and rural development projects; authorizing a fee; providing an administrative penalty.

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

SECTION 1. Subtitle B, Title 3, Insurance Code, is amended by adding Chapter 230 to read as follows:

CHAPTER 230. PREMIUM TAX CREDIT FOR INVESTMENTS SUPPORTING

AGRICULTURE AND RURAL DEVELOPMENT PROJECTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 230.001. GENERAL DEFINITIONS. In this chapter:

(1) "Affiliate" has the meaning assigned by Section 228.002.

(2) "Agriculture development company" means a partnership, corporation, trust, or limited liability company, whether organized on a profit or nonprofit basis, that:

(A) has as the company's primary business activity the investment of cash in qualified projects, including rural projects; and

(B) is approved as meeting the criteria of this chapter.

(3) "Allocation date" means the date on which approved investors are allocated premium tax credits.

(4) "Approved investor" means an insurer or other

1 person that has state premium tax liability, other than a title
2 insurance company, and that contributes designated capital
3 pursuant to a premium tax credit allocation under this chapter.

4 (5) "Critical agriculture facility" means a structure
5 or facility that:

6 (A) is available or is to be made available for
7 public or private use, including:

8 (i) an appurtenance to the structure or
9 facility or other property necessary or appropriate to operate the
10 structure or facility; and

11 (ii) technology installed in the structure
12 or facility that relates to the structure's or facility's purpose;
13 and

14 (B) is related to or will be related to all or
15 part of one or more of the following:

16 (i) new or developing cyber-agriculture
17 communications systems;

18 (ii) rural broadband networks that address
19 and relieve digital poverty;

20 (iii) new efficient generation,
21 transmission, or storage of electric energy centered around
22 agricultural use;

23 (iv) agriculture-related robotic
24 development and related businesses;

25 (v) new exposition and industrial
26 agribusiness park complexes that include educational facilities;

27 (vi) transportation-related systems or

1 logistics focused on agriculture, including rail, truck, or
2 airplane facilities;

3 (vii) agriculture-related water or
4 wastewater system improvements or upgrades;

5 (viii) packaging, processing, or freezing
6 of any agricultural product; or

7 (ix) agriculture-related biological
8 product manufacturing or research facilities.

9 (6) "Designated capital" means an investment of cash
10 by an approved investor in an agriculture development company that
11 fully funds the purchase price of a qualified debt instrument
12 issued by the agriculture development company.

13 (7) "Governmental or authorized nonprofit entity"
14 means an entity that is authorized by the laws of this state to make
15 a public work contract and that is:

16 (A) a governmental entity or quasi-governmental
17 authority, including:

18 (i) this state, a county, or a
19 municipality;

20 (ii) a department, board, or agency of this
21 state, a county, or a municipality; and

22 (iii) a school district or a subdivision of
23 a school district; or

24 (B) a nonprofit corporation exempt from income
25 taxation under Section 501(a), Internal Revenue Code of 1986, by
26 being listed under Section 501(c)(3) of that code.

27 (8) "Liquidating distribution" means a distribution

1 or payment by an agriculture development company, other than a
2 qualified distribution.

3 (9) "Participating company" means an agriculture
4 development company that has not opted out of redistribution and
5 reallocation under Section 230.353.

6 (10) "Person" means an individual or entity, including
7 a corporation, general or limited partnership, trust, or limited
8 liability company.

9 (11) "Premium tax credit allocation claim" means a
10 claim for allocation of premium tax credits.

11 (12) "Qualified debt instrument" means a debt
12 instrument issued by an agriculture development company, at par
13 value or a premium, that:

14 (A) has an original maturity date that is a date
15 on or after the fifth anniversary of the date of issuance; and

16 (B) has a repayment schedule that is not faster
17 than the schedule by which the premium tax credits may be applied
18 under Sections 230.301 and 230.302.

19 (13) "Qualified distribution" means a distribution or
20 payment from designated capital by an agriculture development
21 company in connection with:

22 (A) the reasonable costs and expenses of forming,
23 syndicating, managing, and operating the company, including:

24 (i) reasonable and necessary fees paid for
25 professional services, including legal and accounting services,
26 related to the formation and operation of the company; and

27 (ii) an annual management fee in an amount

1 that does not exceed two and one-half percent of the designated
2 capital of the company; and

3 (B) any projected liability for federal or state
4 taxes, including penalties and interest related to federal or state
5 income taxes, of:

6 (i) the company; or

7 (ii) an equity owner of the company to the
8 extent that the tax liability is related to the ownership,
9 management, or operation of the company.

10 (14) "Qualified escrow account" means an escrow
11 account:

12 (A) maintained in a savings and loan association,
13 bank, or trust company;

14 (B) that the escrow holder clearly denotes in the
15 holder's records as an escrow account; and

16 (C) that allows solely for qualified
17 withdrawals.

18 (15) "Qualified investment" means the investment of
19 cash in a qualified project by an agriculture development company
20 for the purchase of any debt, including a debt instrument.

21 (16) "Qualified project" means:

22 (A) a project that, at the time of an agriculture
23 development company's first investment in the project:

24 (i) is or may be governed by one or more
25 public work contracts to which a governmental or authorized
26 nonprofit entity is a party; and

27 (ii) relates to the planning, design,

1 development, installation, construction, acquisition, or expansion
2 of a critical agriculture facility; or

3 (B) a rural project.

4 (17) "Qualified withdrawal" means a withdrawal from a
5 qualified escrow account that may be made only on the receipt of the
6 signed, written direction of:

7 (A) an authorized signatory of the agriculture
8 development company associated with the escrow account; and

9 (B) the comptroller under Section 230.201(c),
10 230.251(c), or 230.252(c), as applicable.

11 (18) "Rural project" means a project that, at the time
12 of an agriculture development company's first investment in the
13 project, relates to the planning, design, development,
14 installation, construction, acquisition, or expansion of a
15 critical agriculture facility in a non-metropolitan county as
16 defined by the United States Census Bureau in its most recent
17 census.

18 (19) "State premium tax liability" means:

19 (A) any liability incurred by any person under
20 Chapter 221, 222, 223A, or 224; or

21 (B) if the tax liability imposed under Chapter
22 221, 222, 223A, or 224 on January 1, 2021, is eliminated or reduced,
23 any tax liability imposed on an insurer or other person that had
24 premium tax liability under Chapter 221, 222, 223A, or 224 on that
25 date.

26 SUBCHAPTER B. ADMINISTRATION AND PROMOTION

27 Sec. 230.051. ADMINISTRATION BY COMPTROLLER. The

1 comptroller shall administer this chapter.

2 Sec. 230.052. RULES; FORMS. (a) The comptroller shall
3 adopt rules and forms as necessary to implement this chapter,
4 including rules that:

5 (1) establish the application procedures for approval
6 as agriculture development companies; and

7 (2) facilitate the transfer or assignment of premium
8 tax credits by approved investors.

9 (b) In establishing rules under Subsection (a)(1), the
10 comptroller shall consult with the Department of Agriculture.

11 Sec. 230.053. REPORT TO LEGISLATURE. (a) The comptroller
12 shall prepare a biennial report with respect to results of the
13 implementation of this chapter. The report must include:

14 (1) the number of agriculture development companies
15 holding designated capital;

16 (2) the amount of designated capital invested in each
17 agriculture development company;

18 (3) the amount of designated capital each agriculture
19 development company has invested in qualified projects as of
20 January 1, 2024, and the cumulative total for each subsequent year;

21 (4) the total amount of tax credits granted under this
22 chapter for each year that credits have been granted;

23 (5) the performance of each agriculture development
24 company with respect to renewal and reporting requirements imposed
25 under this chapter; and

26 (6) the agriculture development companies that have
27 been disapproved or that have failed to renew their approvals and

1 the reason for any disapproval.

2 (b) The comptroller shall file the report with the governor,
3 the lieutenant governor, and the speaker of the house of
4 representatives not later than December 15 of each even-numbered
5 year.

6 Sec. 230.054. PROMOTION OF PROGRAM. The Department of
7 Agriculture shall promote the program established under this
8 chapter, including through the department's newsletter.

9 SUBCHAPTER C. APPLICATION FOR APPROVAL AS AND GENERAL OPERATION OF
10 AGRICULTURE DEVELOPMENT COMPANIES

11 Sec. 230.101. APPLICATION FOR APPROVAL AS AN AGRICULTURE
12 DEVELOPMENT COMPANY. (a) An applicant for approval as an
13 agriculture development company must file the application in the
14 form prescribed by the comptroller. The application must be
15 accompanied by a nonrefundable application fee of \$7,500.

16 (b) The application must include an audited balance sheet of
17 the applicant, with an unqualified opinion from an independent
18 certified public accountant, as of a date not more than 35 days
19 before the date of the application.

20 Sec. 230.102. QUALIFICATION. To qualify as an agriculture
21 development company:

22 (1) the applicant must have, at the time of
23 application for approval, an equity capitalization of at least
24 \$500,000 in unencumbered cash or cash equivalents;

25 (2) at least two principals or persons employed to
26 manage the funds of the applicant must collectively have:

27 (A) at least four years of experience managing

1 the funds of a pooled investment vehicle; and

2 (B) at least four years of experience managing or
3 developing investments in public works or agriculturally related
4 projects;

5 (3) the applicant must have established a qualified
6 escrow account;

7 (4) the applicant must have signed and delivered the
8 sworn document required by Section 230.104; and

9 (5) the applicant must satisfy any additional
10 requirement imposed by the comptroller by rule.

11 Sec. 230.103. MANAGEMENT BY AND OWNERSHIP INTERESTS OF
12 INSURANCE ENTITIES PROHIBITED. (a) An insurer, group of insurers,
13 or other persons who may have state premium tax liability or the
14 insurer's or other person's affiliates may not, directly or
15 indirectly:

16 (1) manage an agriculture development company;

17 (2) own, whether through rights, options, convertible
18 interests or otherwise, any outstanding securities of an
19 agriculture development company; or

20 (3) control the direction of investments for an
21 agriculture development company.

22 (b) Subsection (a) applies without regard to whether the
23 insurer or other person or the affiliate of the insurer or other
24 person is authorized by or engages in business in this state.

25 (c) Subsections (a) and (b) do not preclude an insurer,
26 approved investor, or any other party from exercising its legal
27 rights and remedies, including interim management of an agriculture

1 development company, if authorized by law, with respect to an
2 agriculture development company that is in default of its statutory
3 or contractual obligations to the insurer, approved investor, or
4 other party.

5 Sec. 230.104. SWORN AND SIGNED DOCUMENT REQUIRED AS
6 CONDITION OF APPROVAL. As a condition to approval as an agriculture
7 development company by the comptroller under Section 230.105, the
8 company must execute a signed, sworn writing in language
9 substantially similar to the following:

10 "The undersigned by this means agrees that, without further
11 consideration, at any time after the date this document is signed,
12 the undersigned will promptly execute and deliver such instruments
13 and documents and take such action, at the comptroller's request,
14 to permit the comptroller to carry out the comptroller's rights and
15 obligations resulting from the undersigned's disapproval as an
16 agriculture development company under the laws of this state. If
17 the comptroller is unable for any reason to secure the
18 undersigned's signature to any instrument or document that the
19 comptroller may request in connection with the undersigned's
20 disapproval as an agriculture development company, the undersigned
21 irrevocably designates and appoints the comptroller and the
22 comptroller's duly authorized officers and agents as the
23 undersigned's attorneys-in-fact, with full power of substitution
24 to act for and on the behalf of the undersigned to execute and file
25 any instrument or document described above and to perform all other
26 lawfully permitted acts to further the purposes of the above-stated
27 with the same legal force and effect as if the instrument or

1 document was executed or the acts were performed by the
2 undersigned. The undersigned agrees and acknowledges that this
3 appointment is coupled with an interest, and the undersigned agrees
4 not to take steps in opposition to or to terminate this
5 appointment."

6 Sec. 230.105. ACTION ON APPLICATION. (a) The comptroller
7 shall:

8 (1) review the application, organizational documents,
9 escrow agreement, sworn document required by Section 230.104, and
10 business history of each applicant; and

11 (2) ensure that the applicant satisfies the
12 requirements of this chapter.

13 (b) Not later than the 30th day after the date an
14 application is filed, the comptroller shall:

15 (1) issue the approval of the applicant as an
16 agriculture development company; or

17 (2) refuse to issue the approval and communicate in
18 detail to the applicant the grounds for the refusal, including
19 suggestions for the removal of those grounds.

20 Sec. 230.106. CONTINUATION OF APPROVED STATUS. To continue
21 to be approved, an agriculture development company must make
22 qualified investments according to the schedule established by
23 Section 230.151 or 230.152.

24 Sec. 230.107. REPORTS TO COMPTROLLER; AUDITED FINANCIAL
25 STATEMENT. (a) Each agriculture development company shall report
26 to the comptroller as soon as practicable after the receipt of
27 designated capital:

1 (1) the name of each approved investor from which the
2 designated capital was received, including the approved investor's
3 insurance premium tax identification number;

4 (2) the amount of each approved investor's investment
5 of designated capital and premium tax credits;

6 (3) the date on which the designated capital was
7 received;

8 (4) the name and address of the agriculture
9 development company's escrow agent; and

10 (5) the account number of the agriculture development
11 company's qualified escrow account.

12 (b) Not later than January 31 of each year, each agriculture
13 development company shall report to the comptroller:

14 (1) the amount of the company's designated capital at
15 the end of the preceding year;

16 (2) whether the company has invested more than 20
17 percent of its total designated capital in any one project during
18 the preceding year;

19 (3) each qualified investment that the company made
20 during the preceding year;

21 (4) each investment in a rural project that the
22 company made during the preceding year; and

23 (5) any other information required by the comptroller,
24 including any information required by the comptroller to comply
25 with Section 230.053.

26 (c) Not later than April 1 of each year, each agriculture
27 development company shall provide to the comptroller an annual

1 audited financial statement that includes the opinion of an
2 independent certified public accountant. The audit must address
3 the methods of operation and conduct of the business of the company
4 to determine whether:

5 (1) the company is complying with this chapter and the
6 rules adopted under this chapter;

7 (2) the funds received by the company have been
8 invested as required within the time prescribed by Section 230.151
9 or 230.152; and

10 (3) the company has invested the funds in qualified
11 investments, including rural projects, as required by Section
12 230.151 or 230.152.

13 Sec. 230.108. RENEWAL FEE; LATE FEE; EXCEPTION. (a) Not
14 later than January 31 of each year, each agriculture development
15 company shall pay a nonrefundable renewal fee of \$5,000 to the
16 comptroller.

17 (b) If an agriculture development company fails to pay the
18 company's renewal fee on or before the date specified by Subsection
19 (a), the company must pay, in addition to the renewal fee, a late
20 fee of \$5,000 to continue the company's approved status.

21 (c) Notwithstanding Subsection (a), a renewal fee is not
22 required within six months of the date on which the company's
23 initial approval as an agriculture development company is issued
24 under Section 230.105.

25 Sec. 230.109. QUALIFIED ESCROW ACCOUNT. The designated
26 capital of an agriculture development company, other than
27 designated capital approved for investment under Section 230.201 or

1 for distribution or repayment of debt under Section 230.251 or
2 230.252, shall be deposited and held in a qualified escrow account.

3 SUBCHAPTER D. INVESTMENT BY AGRICULTURE DEVELOPMENT COMPANY

4 Sec. 230.151. REQUIRED SCHEDULE OF INVESTMENT FOR CERTAIN
5 DESIGNATED CAPITAL. (a) Except as provided by Section 230.152,
6 this section applies to qualified investments by an agriculture
7 development company.

8 (b) Before the second anniversary of an agriculture
9 development company's allocation date, the company must make
10 qualified investments in an amount cumulatively equal to at least
11 20 percent of the company's designated capital, with at least 50
12 percent of the amount of those qualified investments placed in
13 rural projects.

14 (c) Before the third anniversary of an agriculture
15 development company's allocation date, the company must make
16 qualified investments in an amount cumulatively equal to at least
17 30 percent of the company's designated capital, with at least 50
18 percent of the amount of those qualified investments placed in
19 rural projects.

20 (d) Before the fourth anniversary of an agriculture
21 development company's allocation date, the company must make
22 qualified investments in an amount cumulatively equal to at least
23 40 percent of the company's designated capital, with at least 50
24 percent of the amount of those qualified investments placed in
25 rural projects.

26 (e) Before the fifth anniversary of an agriculture
27 development company's allocation date, the company must make

1 qualified investments in an amount cumulatively equal to at least
2 50 percent of the company's designated capital, with at least 50
3 percent of the amount of those qualified investments placed in
4 rural projects.

5 Sec. 230.152. REQUIRED SCHEDULE OF INVESTMENT FOR
6 DESIGNATED CAPITAL RESULTING FROM REDISTRIBUTION. (a) This
7 section applies to qualified investments resulting from a
8 redistribution of the designated capital of an agriculture
9 development company under Section 230.353.

10 (b) Notwithstanding Section 230.001(3), for purposes of
11 this section, the allocation date of designated capital is the date
12 on which the designated capital was redistributed to the
13 agriculture development company.

14 (c) Before the second anniversary of an agriculture
15 development company's allocation date, the company must make
16 qualified investments in an amount cumulatively equal to at least
17 20 percent of the designated capital redistributed to the company
18 on the allocation date, with at least 50 percent of the amount of
19 those qualified investments placed in rural projects.

20 (d) Before the third anniversary of an agriculture
21 development company's allocation date, the company must make
22 qualified investments in an amount cumulatively equal to at least
23 30 percent of the designated capital redistributed to the company
24 on the allocation date, with at least 50 percent of the amount of
25 those qualified investments placed in rural projects.

26 (e) Before the fourth anniversary of an agriculture
27 development company's allocation date, the company must make

1 qualified investments in an amount cumulatively equal to at least
2 40 percent of the designated capital redistributed to the company
3 on the allocation date, with at least 50 percent of the amount of
4 those qualified investments placed in rural projects.

5 (f) Before the fifth anniversary of an agriculture
6 development company's allocation date, the company must make
7 qualified investments in an amount cumulatively equal to at least
8 50 percent of the designated capital redistributed to the company
9 on the allocation date, with at least 50 percent of the amount of
10 those qualified investments placed in rural projects.

11 Sec. 230.153. COMPUTATION OF AMOUNT OF INVESTMENTS. (a)
12 The aggregate cumulative amount of all qualified investments made
13 by an agriculture development company after the company's
14 allocation date shall be considered in the computation of the
15 percentage requirements under this subchapter.

16 (b) An agriculture development company may invest proceeds
17 received from a qualified investment in another qualified
18 investment, and that investment counts toward any requirement of
19 this chapter with respect to investments of designated capital.

20 Sec. 230.154. LIMIT ON QUALIFIED INVESTMENT. An
21 agriculture development company may not make a qualified investment
22 at a cost to the company that is greater than 20 percent of the
23 company's total designated capital at the time of investment.

24 SUBCHAPTER E. QUALIFIED PROJECT; RURAL PROJECT

25 Sec. 230.201. EVALUATION OF PROJECT BY COMPTROLLER. (a) An
26 agriculture development company shall, before making an investment
27 in a project, request a written opinion from the comptroller as to

1 whether the project in which the agriculture development company
2 proposes to invest is a qualified project other than a rural project
3 or is a rural project, as applicable.

4 (b) Not later than the 30th day after the date of the receipt
5 of a request under Subsection (a), the comptroller shall:

6 (1) determine whether the project meets the definition
7 of a qualified project other than a rural project or of a rural
8 project, as applicable; and

9 (2) notify the agriculture development company in
10 writing of the determination and include an explanation of the
11 comptroller's determination.

12 (c) If the comptroller determines that the project meets the
13 definition of a qualified project other than a rural project or of a
14 rural project, as applicable, then the comptroller shall direct the
15 agriculture development company's escrow agent in a signed writing
16 to release the requested funds for investment in the project.

17 Sec. 230.202. CONTINUATION OF DETERMINATION AS QUALIFIED OR
18 RURAL PROJECT. (a) A project that the comptroller determines to be
19 a qualified project other than a rural project at the time of the
20 first investment in the project by an agriculture development
21 company remains a qualified project and may receive subsequent
22 investments from the company. A subsequent investment in the
23 qualified project is a qualified investment, even if the project no
24 longer meets the definition of a qualified project at the time of
25 the subsequent investment.

26 (b) A project the comptroller determines to be a rural
27 project at the time of the first investment in the project by an

1 agriculture development company remains a rural project and may
2 receive subsequent investments from the agriculture development
3 company. A subsequent investment in the rural project remains an
4 investment in a rural project, even if the project no longer meets
5 the definition of a rural project at the time of the subsequent
6 investment.

7 SUBCHAPTER F. DISTRIBUTIONS; REPAYMENT OF DEBT

8 Sec. 230.251. DISTRIBUTIONS BY AGRICULTURE DEVELOPMENT
9 COMPANY. (a) An agriculture development company shall, before
10 making a qualified distribution or a liquidating distribution, as
11 applicable, request a written opinion from the comptroller as to
12 whether the distribution the company proposes to make is a
13 qualified distribution or a liquidating distribution.

14 (b) Not later than the 30th day after the date of the receipt
15 of a request under Subsection (a), the comptroller shall:

16 (1) determine whether the proposed distribution is
17 either a qualified distribution or a liquidating distribution; and

18 (2) notify the agriculture development company in
19 writing of the determination and include an explanation of the
20 comptroller's determination.

21 (c) If the comptroller determines that the proposed
22 distribution is either a qualified distribution or a liquidating
23 distribution, the comptroller shall direct the agriculture
24 development company's escrow agent in a signed writing to release
25 the requested money for distribution.

26 (d) To make a liquidating distribution, an agriculture
27 development company must have made qualified investments in an

1 amount cumulatively equal to 100 percent of the company's
2 designated capital.

3 (e) A qualified distribution may not be made directly or
4 indirectly to an approved investor.

5 Sec. 230.252. REPAYMENT OF DEBT. (a) An agriculture
6 development company shall, before making a repayment of principal
7 or interest on the agriculture development company's indebtedness,
8 including repaying the company's indebtedness on which approved
9 investors earned premium tax credits, request from the comptroller
10 a written opinion as to whether the repayment the company proposes
11 to make complies with the requirements of this chapter.

12 (b) Not later than the 30th day after the date of the receipt
13 of a request under Subsection (a), the comptroller shall:

14 (1) determine whether the proposed repayment complies
15 with the requirements of this chapter; and

16 (2) notify the agriculture development company in
17 writing of the determination and include an explanation of the
18 comptroller's determination.

19 (c) If the comptroller determines that the proposed
20 repayment complies with the requirements of this chapter, the
21 comptroller shall direct the agriculture development company's
22 escrow agent in a signed writing to release the requested money for
23 repayment.

24 SUBCHAPTER G. PREMIUM TAX CREDIT

25 Sec. 230.301. PREMIUM TAX CREDIT. (a) An approved investor
26 that makes an investment of designated capital shall earn in the
27 year of investment a vested credit against state premium tax

1 liability equal to 100 percent of the approved investor's
2 investment of designated capital, subject to the limits imposed by
3 this subchapter.

4 (b) Beginning with the tax report due March 1, 2024, for the
5 2023 tax year, an approved investor may take up to 25 percent of the
6 vested premium tax credit in any taxable year of the approved
7 investor. The credit may not be applied to estimated payments due
8 in 2023 but may be applied to estimated payments beginning with
9 those payments made in 2024.

10 Sec. 230.302. LIMIT ON PREMIUM TAX CREDIT. (a) The credit
11 to be applied against state premium tax liability of an approved
12 investor in any one year may not exceed the state premium tax
13 liability of the investor for the taxable year.

14 (b) An approved investor may carry forward any unused credit
15 against state premium tax liability indefinitely until the premium
16 tax credits are used.

17 Sec. 230.303. PREMIUM TAX CREDIT ALLOCATION CLAIM REQUIRED.

18 (a) An approved investor must prepare and execute a premium tax
19 credit allocation claim on a form provided by the comptroller.

20 (b) The agriculture development company must file the
21 credit allocation claims with the comptroller by the date on which
22 the comptroller sets to accept claims on behalf of approved
23 investors by rule.

24 (c) The premium tax credit allocation claim form must
25 include an affidavit of the approved investor under which the
26 approved investor becomes legally bound and irrevocably committed
27 to make an investment of designated capital in an agriculture

1 development company in the amount allocated even if the amount
2 allocated is less than the amount of the claim, subject only to the
3 receipt of an allocation under Section 230.305.

4 (d) A certified investor may not claim a premium tax credit
5 under Section 230.301 for an investment that has not been funded,
6 even if the approved investor has committed to fund the investment.

7 Sec. 230.304. TOTAL LIMIT ON PREMIUM TAX CREDITS. (a) The
8 total amount of designated capital for which premium tax credits
9 may be allowed under this chapter for all years in which premium tax
10 credits are allowed is \$250 million.

11 (b) The total amount of designated capital for which premium
12 tax credits may be allowed for all approved investors under this
13 chapter may not exceed the amount that would entitle all approved
14 investors in agriculture development companies to take total
15 credits of \$62.5 million in a year.

16 (c) An agriculture development company and the company's
17 affiliates may not file premium tax credit allocation claims in
18 excess of the maximum amount of designated capital for which
19 premium tax credits may be allowed as provided by this section.

20 Sec. 230.305. ALLOCATION OF PREMIUM TAX CREDITS. (a) If
21 the total premium tax credits claimed by all approved investors
22 exceeds the total limits on premium tax credits established by
23 Section 230.304, the comptroller shall allocate the total amount of
24 premium tax credits allowed under this chapter to approved
25 investors in agriculture development companies on a pro rata basis
26 in accordance with this section.

27 (b) The pro rata allocation for each approved investor shall

1 be the product of:

2 (1) a fraction, the numerator of which is the amount of
3 the premium tax credit allocation claim filed on behalf of the
4 investor and the denominator of which is the total amount of all
5 premium tax credit allocation claims filed on behalf of all
6 approved investors; and

7 (2) the total amount of designated capital for which
8 premium tax credits may be allowed under this chapter.

9 (c) Not later than the 15th day after the date on which the
10 comptroller accepts premium tax credit allocation claims on behalf
11 of approved investors, the comptroller shall notify each
12 agriculture development company of the amount of tax credits
13 allocated to each approved investor in the agriculture development
14 company. Each agriculture development company shall notify each
15 approved investor of the investor's premium tax credit allocation.

16 (d) If an agriculture development company does not receive
17 an investment of designated capital equaling the amount of premium
18 tax credits allocated to an approved investor for which the company
19 filed a premium tax credit allocation claim before the end of the
20 10th business day after the date of receipt of notice of the
21 allocation, the company shall notify the comptroller as soon as
22 practicable, but not later than 24 hours, and the portion of
23 designated capital allocated to the approved investor shall be
24 forfeited. The comptroller shall reallocate the forfeited
25 designated capital among the approved investors in the other
26 agriculture development companies that originally received an
27 allocation so that the result after reallocation is the same as if

1 the initial allocation under this section had been performed
2 without considering any premium tax credit allocation claims
3 forfeited under this subsection.

4 Sec. 230.306. TREATMENT OF CREDITS AND CAPITAL. In any case
5 under this code or another insurance law of this state in which the
6 assets of an approved investor are examined or considered, the
7 designated capital may be treated as an admitted asset, subject to
8 the applicable statutory valuation procedures.

9 Sec. 230.307. TRANSFERABILITY OF CREDIT. (a) An approved
10 investor may transfer or assign premium tax credits only as
11 established by the comptroller by rule.

12 (b) The transfer or assignment of a premium tax credit does
13 not affect the schedule for taking the premium tax credit under this
14 chapter.

15 Sec. 230.308. IMPACT OF PREMIUM TAX CREDITS ON INSURANCE
16 RATEMAKING. An approved investor is not required to reduce the
17 amount of premium tax included by the investor in connection with
18 ratemaking for any insurance contract written in this state because
19 of a reduction in the investor's Texas premium tax derived from the
20 credit granted under this chapter.

21 SUBCHAPTER H. ENFORCEMENT

22 Sec. 230.351. ANNUAL REVIEW BY COMPTROLLER. (a) The
23 comptroller shall conduct an annual review of each agriculture
24 development company to:

25 (1) ensure that the agriculture development company:

26 (A) continues to satisfy the requirements of this
27 chapter; and

1 (B) has not made any investment, distribution, or
2 repayment in violation of this chapter; and

3 (2) determine the eligibility status of the company's
4 qualified investments.

5 (b) Each agriculture development company shall pay the cost
6 of the annual review according to a reasonable fee schedule adopted
7 by the comptroller.

8 Sec. 230.352. DISAPPROVAL OF AGRICULTURE DEVELOPMENT
9 COMPANY. (a) A material violation of Subchapter D or E or Section
10 230.106, 230.107, or 230.108 is grounds for the disapproval of an
11 agriculture development company.

12 (b) If the comptroller determines that an agriculture
13 development company is not in compliance with a law listed in
14 Subsection (a), the comptroller shall notify the company's officers
15 in writing that the company may be subject to disapproval after the
16 120th day after the date the notice is mailed unless the company:

17 (1) corrects the deficiencies; and

18 (2) returns to compliance with the law.

19 (c) The comptroller may disapprove an agriculture
20 development company, after opportunity for hearing, if the
21 comptroller finds that the company is not in compliance with a law
22 listed in Subsection (a) at the end of the period prescribed by
23 Subsection (b).

24 (d) Disapproval is effective on the date the agriculture
25 development company receives the notice of disapproval under
26 Subsection (b).

27 (e) The comptroller shall notify any appropriate state

1 agency of the disapproval of an agriculture development company.

2 Sec. 230.353. REDISTRIBUTION OF DESIGNATED CAPITAL AND
3 REALLOCATION OF PREMIUM TAX CREDITS AFTER DISAPPROVAL. (a) On
4 disapproval of an agriculture development company, the comptroller
5 shall, in accordance with this section, cause the redistribution of
6 the disapproved company's designated capital and the reallocation
7 of the premium tax credits corresponding to the redistributed
8 designated capital to participating companies. The comptroller
9 shall:

10 (1) cause the amount of designated capital remaining
11 in the disapproved agriculture development company's qualified
12 escrow account to be redistributed among the participating
13 companies on a pro rata basis determined by dividing the amount of
14 designated capital then held by each participating company by the
15 aggregate amount of designated capital then held by all
16 participating companies;

17 (2) cause that portion of a qualified debt instrument
18 that corresponds to the redistributed designated capital to be
19 assigned by the disapproved agriculture development company to the
20 participating company to which the designated capital was
21 redistributed; and

22 (3) reallocate that portion of the premium tax credits
23 that corresponds to the redistributed designated capital to the
24 participating company to which the designated capital was
25 redistributed.

26 (b) The designated capital and premium tax credits of any
27 agriculture development company that has invested an amount

1 cumulatively equal to 100 percent of the company's designated
2 capital in qualified investments is not subject to redistribution
3 or reallocation under this section.

4 (c) The comptroller shall send written notice to the address
5 shown on the last premium tax filing of each approved investor whose
6 premium tax credit is subject to reallocation under this section.

7 (d) An approved agriculture development company may opt out
8 of participating in future redistributions and reallocations under
9 this section by delivering a written opt-out notice to the
10 comptroller at any time.

11 Sec. 230.354. ADMINISTRATIVE PENALTY. (a) The comptroller
12 may impose an administrative penalty on an agriculture development
13 company that violates this chapter.

14 (b) The amount of the penalty may not exceed \$10,000 per
15 violation. Each day a violation continues or occurs is a separate
16 violation for the purpose of imposing the penalty. The amount of
17 the penalty shall be based on:

18 (1) the seriousness of the violation, including the
19 nature, circumstances, and extent of the violation;

20 (2) the economic harm caused by the violation;

21 (3) the history of previous violations;

22 (4) the amount necessary to deter a future violation;

23 (5) efforts to correct the violation; and

24 (6) any other matter that justice may require.

25 (c) An agriculture development company assessed a penalty
26 under this chapter may request a redetermination as provided by
27 Chapter 111, Tax Code.

1 (d) The attorney general may sue to collect the penalty.

2 (e) A proceeding to impose the penalty is a contested case
3 under Chapter 2001, Government Code.

4 SECTION 2. (a) Notwithstanding anything in this Act to the
5 contrary, the comptroller of public accounts may implement Chapter
6 230, Insurance Code, as added by this Act, only if the comptroller
7 determines, on the basis of a revenue estimate made after the 87th
8 Legislature, Regular Session, 2021, adjourns sine die that revenues
9 are anticipated in amounts sufficient to finance all appropriations
10 made during that session of the 87th Legislature after making
11 deductions for all reductions in taxes, including the reduction in
12 premium tax through premium tax credits authorized under Chapter
13 230, Insurance Code, as added by this Act.

14 (b) If the comptroller of public accounts determines under
15 Subsection (a) of this section that revenues are anticipated to
16 support a part, but less than all, of the premium tax credits
17 authorized under Chapter 230, Insurance Code, as added by this Act,
18 the comptroller shall:

19 (1) reduce the total amount of premium tax credits
20 allowed under Chapter 230, Insurance Code, as added by this Act, in
21 the amount necessary to comply with Subsection (a) of this section;
22 and

23 (2) adopt rules as necessary to implement Chapter 230,
24 Insurance Code, as added by this Act, taking into account the
25 reduction to the amount of premium tax credits allowed that is made
26 under Subdivision (1) of this subsection.

27 (c) In adopting rules under Subsection (b)(2) of this

1 section, the comptroller of public accounts may adjust any deadline
2 or other date established under this Act as necessary to implement
3 Chapter 230, Insurance Code, as added by this Act, as limited by
4 this section.

5 (d) The comptroller of public accounts shall notify the
6 governor, lieutenant governor, and speaker of the house of
7 representatives of the determination made under Subsection (a) of
8 this section.

9 SECTION 3. (a) Subject to Section 2 of this Act, the
10 comptroller of public accounts shall, not later than the 60th day
11 after the effective date of this Act, adopt rules as necessary to
12 implement Chapter 230, Insurance Code, as added by this Act.

13 (b) The comptroller shall begin accepting applications for
14 approval as an agriculture development company under Chapter 230,
15 Insurance Code, as added by this Act, on January 31, 2022.

16 (c) An approved investor may not make an investment with an
17 agriculture development company under Chapter 230, Insurance Code,
18 as added by this Act, before June 30, 2022.

19 SECTION 4. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2021.