

By: Lucio

S.B. No. 1567

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. 234.0001. 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 for the construction or rehabilitation of the property.

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

(4) "Supportive housing property" means a residential rental development consisting of integrated, affordable, and accessible housing that provides residents with the opportunity to receive assistance in coordinating on-site or off-site health-related and other services and supports that foster

1 independence in living and decision-making for persons with
2 disabilities and persons who are elderly.

3 Sec. 234.0002. ELIGIBILITY FOR CREDIT. (a) An entity is
4 eligible to apply for and claim a credit against state premium tax
5 liability for eligible costs and expenses in the amount and under
6 the limitations provided by this chapter if:

7 (1) the supportive housing property is placed in
8 service on or after September 1, 2021; and

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

11 (b) An entity may be eligible for a credit under this
12 chapter regardless of whether the entity incurs state premium tax
13 liability.

14 Sec. 234.0003. CERTIFICATION OF ELIGIBILITY. (a) Before
15 applying for, claiming, selling, or assigning a credit under this
16 chapter, the entity that constructed or rehabilitated the
17 supportive housing property must request from the corporation a
18 certificate of eligibility on which the corporation certifies that
19 the costs and expenses incurred meet the definition of eligible
20 costs and expenses. The entity must include with the entity's
21 request information about the property that is sufficient for the
22 corporation to determine whether the property meets the definition
23 of a supportive housing property.

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

27 (1) confirm that the property to which the eligible

1 costs and expenses relate is supportive housing property; and

2 (2) confirm the date the supportive housing property
3 was placed in service or, if the property is not in service,
4 estimate the date the property will be placed in service.

5 (c) The corporation by rule shall prescribe procedures by
6 which the corporation may allocate credits under this chapter. The
7 corporation may not certify eligible costs and expenses that exceed
8 the annual limit provided by Section 234.0004(d).

9 Sec. 234.0004. AMOUNT OF CREDIT; LIMITATIONS. (a) The
10 total credit under this chapter that may be claimed with respect to
11 a single supportive housing property may not exceed 20 percent of
12 the total eligible costs and expenses incurred in the construction
13 or rehabilitation of the property.

14 (b) The total credit that may be claimed on a tax report,
15 including the amount of any carryforward under Section 234.0005,
16 may not exceed the amount of state premium tax liability due for the
17 report after all other applicable tax credits.

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

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

25 Sec. 234.0005. CARRYFORWARD. (a) If an entity is eligible
26 for a credit that exceeds the limitation under Section 234.0004(b),
27 the entity may carry the unused credit forward for not more than

1 five consecutive tax reports.

2 (b) A carryforward is considered the remaining portion of a
3 credit that cannot be claimed in the current year because of the
4 limitation under Section 234.0004(b).

5 Sec. 234.0006. APPLICATION FOR CREDIT; CLAIMING CREDIT.

6 (a) An entity must apply for a credit under this chapter on a form
7 promulgated by the comptroller for that purpose.

8 (b) An entity shall include with the application:

9 (1) a copy of the certificate of eligibility issued
10 under Section 234.0003;

11 (2) an audited cost report issued by a certified
12 public accountant, as defined by Section 901.002, Occupations Code,
13 that itemizes the eligible costs and expenses incurred by the
14 entity;

15 (3) an attestation of the total eligible costs and
16 expenses incurred by the entity; and

17 (4) any other information required by the comptroller
18 to sufficiently demonstrate that the entity is eligible for the
19 credit and to determine the amount of the credit.

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

22 (d) For purposes of approving the credit, the comptroller
23 may rely on the audited cost report provided by the entity that
24 requested the credit.

25 (e) The comptroller shall issue a credit certificate to an
26 entity the comptroller determines is eligible for a credit under
27 this chapter indicating that the entity is the owner of the credit

1 and the amount of credit available to the entity.

2 (f) An entity may claim a credit under this chapter on or
3 with the tax report due under Section 222.005. The entity shall
4 include with each tax report on which a credit is claimed the
5 certificate issued by the comptroller under Subsection (e).

6 Sec. 234.0007. SALE OR ASSIGNMENT OF CREDIT. (a) An entity
7 that incurs eligible costs and expenses may sell or assign all or
8 part of the credit that may be claimed for those costs and expenses
9 to one or more entities, and any entity to which all or part of the
10 credit is sold or assigned may sell or assign all or part of the
11 credit to another entity. There is no limit on the total number of
12 transactions for the sale or assignment of all or part of the total
13 credit authorized under this chapter. Collectively all transfers
14 are subject to the maximum total limits provided by Section
15 234.0004.

16 (b) An entity that sells or assigns a credit under this
17 chapter to another entity shall provide to the purchaser or
18 assignee:

19 (1) a copy of the certificate of eligibility issued
20 under Section 234.0003; and

21 (2) the audited cost report described by Section
22 234.0006(b).

23 (c) An entity that sells or assigns a credit under this
24 section and the entity to which the credit is sold or assigned shall
25 jointly submit written notice of the sale or assignment to the
26 comptroller on a form promulgated by the comptroller not later than
27 the 30th day after the date of the sale or assignment. The notice

1 must include:

2 (1) the date of the sale or assignment;

3 (2) the amount of the credit sold or assigned;

4 (3) the names and federal tax identification numbers
5 of the entity that sold or assigned the credit or part of the credit
6 and the entity to which the credit or part of the credit was sold or
7 assigned; and

8 (4) the amount of the credit owned by the selling or
9 assigning entity before the sale or assignment and the amount the
10 selling or assigning entity retained, if any, after the sale or
11 assignment.

12 (d) The sale or assignment of a credit in accordance with
13 this section does not extend the period for which a credit may be
14 carried forward and does not increase the total amount of the credit
15 that may be claimed. After an entity claims a credit for eligible
16 costs and expenses, another entity may not use the same costs and
17 expenses as the basis for claiming a credit.

18 (e) Notwithstanding the requirements of this chapter, a
19 credit earned or purchased by, or assigned to, a partnership,
20 limited liability company, S corporation, or other pass-through
21 entity may be allocated to the partners, members, or shareholders
22 of that entity and claimed under this chapter in accordance with the
23 provisions of any agreement among the partners, members, or
24 shareholders and without regard to the ownership interest of the
25 partners, members, or shareholders in the supportive housing
26 property, provided that the entity that claims the credit must be
27 subject to the tax imposed under Chapter 222.

1 Sec. 234.0008. RETALIATORY TAX. An entity that claims a
2 credit under this chapter is not required to pay any additional
3 retaliatory tax levied under Chapter [281](#) as a result of the credit.

4 Sec. 234.0009. RULES. The corporation and the comptroller
5 shall adopt rules necessary to implement this chapter.

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

8 SECTION 3. This Act takes effect September 1, 2023.