By: Simmons H.B. No. 304

A BILL TO BE ENTITLED

AN ACT

relating to a franchise tax credit for entities that establish a grocery store or healthy corner store in a food desert.

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

SECTION 1. Chapter 171, Tax Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. TAX CREDIT FOR ESTABLISHMENT OF FOOD STORE IN FOOD DESERT

Sec. 171.701. DEFINITIONS. In this subchapter:

(1) "Corner store" means a store that has fewer than 2,000 square feet of retail space.

(2) "Department" means the Texas Department of Housing and Community Affairs.

(3) "Food desert" means a geographic area in this state determined by the department to be an area that:

(A) has limited access to healthy food retailers and is located in a low-income or high-poverty area; or

(B) otherwise has serious healthy food access limitations.

(4) "Grocery store" means a store that has at least:

(A) 66 percent of the store's retail space reserved for the sale of food products;

(B) 50 percent of the store's food retail space reserved for the sale of non-prepared foods or foods intended for home preparation and consumption; and

(C) 30 percent of the store's food retail space reserved for the sale of perishable foods, including dairy products, fresh produce, fresh meats, poultry, and fish, and frozen foods.

(5) "Healthy corner store" means a corner store that:

(A) offers a wide variety of fresh produce for sale; and

(B) allocates at least 20 percent of the store's retail space to fresh produce and other perishable foods, including dairy products.

(6) "Supplemental nutrition assistance program" means the nutritional assistance program operated under Chapter 33, Human Resources Code, and formerly referred to as the food stamp program.

(7) "WIC program" means the federal special supplemental nutrition program for women, infants, and children authorized by 42 U.S.C. Section 1786.

Sec. 171.702. ENTITLEMENT TO CREDIT. A taxable entity is entitled to a credit in the amount and under the conditions provided by this subchapter against the tax imposed under this chapter.

Sec. 171.703. QUALIFICATION. A taxable entity qualifies for a credit under this subchapter if, on or after January 1, 2026, the taxable entity opens a grocery store or healthy corner store:

(1) located in a food desert;

(2) located in a low or moderate income area, as determined by the United States Department of Housing and Urban Development, or that serves a customer base living in a low or

moderate income area;

(3) that begins accepting benefits under the WIC program and the supplemental nutrition assistance program not later than the 90th day after the date the store opens; and

(4) that is open year-round.

Sec. 171.704. CERTIFICATION OF ELIGIBILITY. (a) Before claiming a credit under this subchapter, a taxable entity must request from the department a certificate of eligibility on which the department certifies that the taxable entity qualifies for a credit under Section 171.703. The taxable entity must include with the taxable entity's request information required by the department to determine whether the taxable entity meets the requirements of Section 171.703.

(b) The department shall issue a certificate of eligibility to a taxable entity that qualifies for a credit under Section 171.703.

(c) The taxable entity must forward the certificate of eligibility and the following documentation to the comptroller to claim the credit:

(1) an audited cost report issued by a certified public accountant, as defined by Section 901.002, Occupations Code, that itemizes the taxable entity's expenditures to which Section 171.705 applies;

(2) the date the grocery store or healthy corner store first opened for business and evidence of that opening; and

(3) an attestation of the total amount of the taxable entity's expenditures to which Section 171.705 applies.

(d) For purposes of approving a credit under this subchapter, the comptroller may rely on the audited cost report provided by the taxable entity applying for the credit.

Sec. 171.705. AMOUNT OF CREDIT. (a) A taxable entity may claim a credit for each store described by Section 171.703 equal to five percent of the amount the taxable entity spends to establish the store during the earliest 12-month period:

(1) in which the taxable entity makes an expenditure to which this section applies; and

(2) that includes the date the store opens for business.

(b) Subsection (a) applies to amounts spent to:

(1) purchase or lease the land or building for the store;

(2) construct or remodel the store; and

(3) furnish and equip the store.

(c) Subsection (a) does not apply to amounts spent to acquire inventory for the store.

Sec. 171.706. LIMITATIONS. (a) The total credit a taxable entity may claim under this subchapter on a report, including the amount of any credit carryforward under Section 171.708, may not exceed 50 percent of the amount of franchise tax due after applying all other applicable credits.

(b) A taxable entity may not convey, assign, or transfer a credit under this subchapter to another entity unless substantially all of the assets of the taxable entity are conveyed, assigned, or transferred in the same transaction.

Sec. 171.707. PERIOD FOR WHICH CREDIT MAY BE CLAIMED. Subject to Section 171.708, a taxable entity may claim a credit under this subchapter on a report only for an expenditure made during the period on which the report is based.

Sec. 171.708. CARRYFORWARD. (a) If a taxable entity is eligible for a credit that exceeds the limitation under Section 171.706(a), the taxable entity may carry the unused credit forward for not more than five consecutive reports.

(b) Credits, including credit carryforwards, are considered to be used in the following order:

(1) a credit carryforward under this section; and

(2) a credit for the period on which the report is based.

Sec. 171.709. APPLICATION FOR CREDIT. A taxable entity must apply for a credit under this subchapter on or with the report for the period for which the credit is claimed. The comptroller may prescribe an application form for the credit under this subchapter.

Sec. 171.710. RULES. (a) The department may adopt rules governing the requirements to qualify for a credit under Section 171.703, including rules governing the stores that qualify as grocery stores or healthy corner stores and the areas that qualify as food deserts.

(b) The comptroller may adopt any rules necessary to administer this subchapter other than rules described by Subsection (a).

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

SECTION 3. This Act takes effect January 1, 2026.