

BILL ANALYSIS

C.S.H.B. 4735
By: Ashby
Trade, Workforce & Economic Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that rural counties in Texas continue to lag in investment dollars compared to counties that are home to major metropolitan areas and that, with over half of the state's 254 counties classified as rural and Texas continuing to be a state with highly underserved or distressed areas, Texas needs a new program focused on driving private investment dollars to our rural communities. C.S.H.B. 4735 seeks to stimulate the rural economies of Texas by providing for a public-private investment program designed for rural small businesses and an annual insurance premium tax credit for applicable investors. The bill aims to bring up to \$300 million of investment to rural communities, with up to \$150 million in tax credits for the life of the program.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTIONS 1 and 2 of this bill.

ANALYSIS

C.S.H.B. 4735 amends the Government Code and Insurance Code to provide for approval of rural development funds by the comptroller of public accounts for the provision of certain financing to targeted small businesses and to create insurance tax credits for certain investments in those funds.

Rural Development Funds

General Provisions

General Definitions

C.S.H.B. 4735 amends the Government Code to define the following terms for purposes of the bill's provisions relating to rural development funds:

- "closing date" as the date a rural development fund has collected all of the approved amounts described by the bill;
- "rural area" as an area other than a municipality with a population of more than 50,000 or an urbanized area contiguous and adjacent to the municipality or an area determined to be rural in character by the U.S. Department of Agriculture; and
- "rural development fund" as an entity approved by the comptroller as a rural development fund.

Definition: Affiliate

C.S.H.B. 4735 defines "affiliate" as an entity that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another entity, applicable to an entity that is controlled by another entity. The bill further provides that an entity is controlled by another entity if the controlling entity holds, directly or indirectly, the majority voting or ownership interest in the controlled entity or has control over the day-to-day operations of the controlled entity by contract or law.

Definition: Credit-Eligible Capital Contribution

C.S.H.B. 4735 defines "credit-eligible capital contribution" as an investment of cash in a rural development fund made by an entity that is subject to state insurance tax liability, defined by reference to the bill's Insurance Code provisions, in exchange for which the investor receives an equity interest in a fund or, at par value or premium, a debt instrument that has a maturity date of at least five years from the fund's closing date and a repayment schedule that is no faster than level principal amortization over five years.

Definition: Growth Investment

C.S.H.B. 4735 defines "growth investment" as any capital or equity investment by a rural development fund in a targeted small business or any loan by a rural development fund to a targeted small business with a stated maturity date of at least one year after the date of issuance. A loan by a fund to a targeted small business is a growth investment only if the targeted small business obtains an affidavit from the chief executive officer or equivalent position of the targeted small business attesting that the targeted small business sought and was denied similar financing from a commercial bank or the targeted small business was referred to the fund by a commercial bank.

Definition: Investment Authority

C.S.H.B. 4735 defines "investment authority" as the amount stated on the notice issued under the bill's provision approving the rural development fund.

Definition: Jobs Created

C.S.H.B. 4735 defines "jobs created" as, with respect to a targeted small business, employment positions that are created by the targeted small business, are located in Texas, require at least 35 hours of work each week, and were not located in Texas at the time of the initial growth investment in the targeted small business. Furthermore, the bill provides the following with respect to this definition:

- the number of jobs created by a targeted small business is calculated each year by subtracting the number of employment positions in Texas at the targeted small business at the time of the initial growth investment in the targeted small business from the monthly average of those employment positions for that year and, if the number so calculated is less than zero, the number must be reported as zero;
- the monthly average of employment positions for a year is calculated by adding the number of employment positions existing on the last day of each month of the year and dividing that sum by 12; and
- an employment position that requires less than 35 hours of work each week is considered to meet the aforementioned requirements as a job created for purposes of the bill's provisions if the number of hours of work each week the job requires is considered to constitute full-time employment for purposes of the industry standards and practices applicable to the targeted small business that created the employment position.

Definition: Jobs Retained

C.S.H.B. 4735 defines "jobs retained" as, with respect to a targeted small business, employment positions that are located in Texas, require at least 35 hours of work each week, and existed before the initial growth investment in the targeted small business and would have been lost or moved out of Texas had a growth investment in the targeted small business not been made, as certified in writing by an executive officer of the targeted small business to the rural development fund. Furthermore, the bill provides the following with respect to this definition:

- the number of jobs retained by a targeted small business is calculated each year based on the monthly average of employment positions for that year;
- the monthly average of employment positions for a year is calculated by adding the number of employment positions existing on the last day of each month of the year and dividing that sum by 12;
- the reported number of jobs retained for a year may not exceed the number reported on the initial report under the bill's provisions and the rural development fund must reduce the number of jobs retained for a year if employment at the targeted small business is less than the number reported on the initial report; and
- an employment position that requires less than 35 hours of work each week is considered to meet the aforementioned requirements as a job retained for purposes of the bill's provisions if the number of hours of work each week the job requires is considered to constitute full-time employment for purposes of the industry standards and practices applicable to the targeted small business that created the employment position.

Definition: Targeted Small Business

C.S.H.B. 4735 defines "targeted small business" as a business that, at the time of the initial growth investment in the business, is part of an industry assigned a primary North American Industry Classification System code listed under certain sectors of that system as specified in the bill, has fewer than 250 employees, including any persons who would be considered employees under the applicable federal law to which specified provisions of the Code of Federal Regulations, with respect to small business size regulations relating to joint ventures, applies and has its principal business operations located in Texas. Furthermore, the bill provides the following with respect to this definition:

- the principal business operations of a business are located at a place where at least 65 percent of the business's employees work or where employees who are paid at least 65 percent of the business's payroll work;
- an out-of-state business that agrees to relocate or hire new employees using the proceeds of a growth investment to establish principal business operations in Texas qualifies as a targeted small business if the business satisfies the aforementioned North American Industry Classification System code requirement and the aforementioned requirement that the business have fewer than 250 employees and also satisfies the aforementioned principal business operations location requirement not later than the 180th day after receiving the initial growth investment or a later date agreed to by the comptroller; and
- the comptroller may consider a business other than a business described in the aforementioned North American Industry Classification System code requirement to be a targeted small business if the comptroller determines the business is of significant economic benefit to Texas.

Rules

C.S.H.B. 4735 requires the comptroller to adopt rules necessary to implement, monitor, and evaluate the bill's provisions regarding the rural development funds.

Disposition of Fees

C.S.H.B. 4735 requires application fees collected by the comptroller from entities seeking approval as rural development funds, amounts remitted to the comptroller from funds applying to exit the program, and participation fees remitted to the comptroller from funds that have not exited the program before the first day of a state fiscal year to be deposited to the credit of the general revenue fund and restricts appropriation of the fees to the comptroller for purposes of administering the bill's Government Code provisions regarding rural development funds and the bill's Insurance Code provisions regarding the insurance tax credit.

Rural Development Fund Approval; Tax Credit Certificates

Application

C.S.H.B. 4735 requires the comptroller to accept applications from entities seeking approval as rural development funds. The bill requires an application to include a nonrefundable application fee of \$10,000 and the total investment authority sought by the applicant under the applicant's business plan. An application must include evidence sufficient to prove to the comptroller's satisfaction that, as of the date the applicant submits the application, the applicant or affiliates of the applicant have invested, in the aggregate, at least \$100 million in nonpublic companies located in the United States, including at least \$70 million in nonpublic companies located in rural areas in the United States, and that, as follows, either:

- at least one principal or affiliate in a rural business investment company licensed under applicable federal law or a small business investment company licensed under applicable federal law is, and has been for at least four years, an officer or employee of the applicant or an affiliate; or
- the applicant is, or is an affiliate of, an investment firm based in Texas with its principal business operations located in Texas that has been operating for at least seven years, and has, within the preceding three-year period, received an allocation of new markets tax credit under the federal Internal Revenue Code of 1986.

An application must also include a copy of the relevant federal license if required and the following:

- an estimate of the number of jobs created and jobs retained that will result from the applicant's growth investments in targeted small businesses; and
- a business plan that includes a revenue impact assessment that projects state and local tax revenue to be generated by the applicant's proposed growth investments and is prepared by a nationally recognized third-party independent economic forecasting firm using a dynamic economic forecasting model that analyzes the applicant's business plan for the 10-year period following the date the applicant submits the application.

Decision on Application

C.S.H.B. 4735 requires the comptroller to make a determination on each application not later than the 30th day after the date the comptroller receives the application. The comptroller must make those determinations in the order in which the applications are received and must consider applications received on the same day to be received simultaneously. The bill requires the comptroller to approve up to \$300 million of investment authority, including up to \$150 million of tax credit allocation authority, and provides the following regarding reductions of investment authority:

- if a request for investment authority exceeds the limit, the comptroller must reduce the investment authority for that application as necessary to avoid exceeding the limit;
- if multiple applications received on the same day request a combined investment authority that exceeds the limit, the comptroller must proportionally reduce the investment authority for those applications as necessary to avoid exceeding the limit; and
- the comptroller may not reduce an applicant's investment authority for any reason other than as authorized by this provision.

Grounds for Denial

C.S.H.B. 4735 restricts the grounds for denial of an application to the following:

- the application is incomplete or the application fee is not paid in full;
- the application fails to satisfy the requirement that the application include the aforementioned evidence sufficient to satisfy the comptroller regarding the requisite minimum investment in nonpublic companies located in the United States and regarding the requirements applicable to an officer or employee of the applicant or of an affiliate of the applicant or regarding the applicant or affiliate of an investment firm, as described, located in Texas;
- the revenue impact assessment included in the submitted business plan does not demonstrate that the business plan will result in a sufficient positive economic impact on combined state and local revenue during the 10-year period covered by the assessment that exceeds the cumulative amount of tax credits that would be issued to the applicant's investors under the bill's provisions if the application were approved; or
- the comptroller has already approved the maximum amount of investment authority allowed under the bill's provisions.

Submission of Additional Information Following Denial

C.S.H.B. 4735 authorizes an applicant whose application has been denied, not later than the 15th day after the date the comptroller provides notice of denial, to provide additional information to the comptroller to complete, clarify, or cure defects in the application identified by the comptroller. The bill provides the following with respect to an application that has been denied:

- if the applicant completes, clarifies, or cures the defects in its application during the prescribed period, the application is considered complete as of the original submission date and if the applicant fails to complete, clarify, or cure the defects in its application during the prescribed period, the application is finally denied;
- an applicant who wishes to reapply must resubmit an application in full with a new submission date; and
- the comptroller must review and reconsider an application for which the applicant provides additional information not later than the 30th day after the date the applicant provides the information, and the comptroller must consider that application before any pending applications submitted after the date that application was originally submitted.

Approval by Comptroller

C.S.H.B. 4735 requires the comptroller, on approving an application, to provide written notice to the applicant of the applicant's approval as a rural development fund, including the amount of the fund's investment authority and to provide a tax credit allocation statement that includes on the statement the amount of tax credit the applicant is authorized to allocate to investors who make credit-eligible capital contributions to the fund.

Duties of Fund Following Approval; Tax Credit Certificates

C.S.H.B. 4735 requires a rural development fund to do the following:

- not later than the 60th day after receiving the approval notice from the comptroller, collect the credit-eligible capital contributions made to the fund and, subject to the bill's subsequently described minimum equity investment requirement, one or more investments of cash that, when added to the credit-eligible capital contributions, equal the fund's investment authority; and
- not later than the 65th day after receiving the approval notice from the comptroller, send the comptroller documentation sufficient to prove that the fund has collected such described amounts.

At least 10 percent of the rural development fund's investment authority must consist of equity investments contributed directly or indirectly by affiliates of the fund, including employees, officers, and directors of those affiliates.

C.S.H.B. 4735 authorizes a rural development fund to provide a tax credit certificate to an investor that makes a credit-eligible capital contribution to the fund. The certificate must include the name of the fund, the amount stated on the tax credit allocation statement provided to the fund, the amount of the credit-eligible capital contribution made by the investor, and the value of the tax credit conveyed by the certificate. The bill prohibits a rural development fund from issuing tax credit certificates the value of which in the aggregate exceeds the amount stated on the tax credit allocation statement provided to the fund.

Lapse of Approval

C.S.H.B. 4735 establishes that if a rural development fund fails to comply with its aforementioned duties following approval, the fund's approval lapses and the corresponding investment authority does not count toward the prescribed cap on total investment authority approved by the comptroller.

C.S.H.B. 4735 requires the comptroller to first award lapsed investment authority pro rata to each rural development fund whose requested investment authority was reduced under the bill's provisions. The rural development fund may allocate such investment authority to the fund's investors in the fund's discretion. The bill authorizes the comptroller to award any remaining investment authority to new applicants.

Reduction or Revocation of Tax Credits and Investment Authority

Reduction of Tax Credits and Investment Authority for Failure to Make Required Growth Investments

C.S.H.B. 4735 provides for the reduction of a rural development fund's tax credits and investment authority for certain failures to make required growth investments as follows:

- the comptroller must reduce, using the applicable formula established by the bill, the amount of the tax credit on each tax credit certificate issued in connection with an investment in a fund if the fund fails to invest at least 60 percent of the fund's investment authority in growth investments in Texas on or before the second anniversary of the closing date, and the comptroller must also reduce the amount of a fund's investment authority by an amount equal to the total amount of reductions under this bulleted provision made by the comptroller for all tax credit certificates; and
- the comptroller must reduce, using the applicable formula established by the bill, the amount of the tax credit on each tax credit certificate issued in connection with an investment in a fund if the fund fails to invest 100 percent of the fund's investment authority in growth investments in Texas on or before the third anniversary of the closing date, and the comptroller must also reduce a fund's investment authority by an amount equal to the total amount of reductions for all tax credit certificates under this bulleted provision.

For purposes of these reductions for failure to make the required growth investments, the bill provides the following:

- the amount of growth investments that a fund may count with respect to a particular targeted small business, including any amount invested in an affiliate of the targeted small business, may not exceed \$7.5 million; and
- all growth investments must consist of growth investments in targeted small businesses whose principal business operations are located in, or are relocated to, a rural area in Texas.

In addition, a fund may, for the purpose of avoiding an applicable reduction, count as a growth investment in a particular targeted small business the amount of an investment made in excess of the limit of \$7.5 million prescribed by the bill if the investment is made using money attributable

to the repayment or redemption of a previous growth investment made by the fund to the particular targeted small business.

Reduction of Tax Credits and Investment Authority for Failure to Maintain Required Growth Investments

C.S.H.B. 4735 requires the comptroller to reduce, using the applicable formula established by the bill, the amount of the tax credit on each tax credit certificate issued in connection with an investment in a rural development fund if, after the third anniversary of the closing date and before the sixth anniversary of such date, the fund fails to maintain growth investments in Texas equal to 100 percent of the fund's investment authority remaining after any reductions made due to its failure to make required growth investments, and the comptroller must also reduce a fund's investment authority by an amount equal to the total amount of reductions for all tax credit certificates under this bulleted provision. For purposes of these reductions for failure to maintain the required growth investments, the bill provides the following:

- the amount of growth investments that a fund may count with respect to a particular targeted small business, including any amount invested in an affiliate of the targeted small business, may not exceed \$15 million, provided that once a particular targeted small business has received a total of \$15 million in growth investments from one or more funds, a fund may not count as a growth investment any additional investments with respect to that targeted small business;
- an investment that is sold or repaid is considered to be maintained if the fund reinvests an amount equal to the capital returned or recovered by the fund from the original investment, excluding any profit realized, in other growth investments in Texas on or before the first anniversary of the date the capital is returned or recovered;
- an amount received periodically by a fund is considered to be continually invested in growth investments if that amount is reinvested in one or more growth investments by the end of the calendar year following the year of receipt; and
- the refinancing by a fund of an existing growth investment received by a targeted small business may not be counted by the fund as an additional growth investment.

Revocation of Tax Credits and Investment Authority for Certain Distributions or Payments

C.S.H.B. 4735 provides for the revocation of tax credit certificates and a rural development fund's investment authority with respect to certain distributions or payments as follows:

- the comptroller must revoke each tax credit certificate issued in connection with an investment in a fund if the fund, before it exits the program under the bill's provisions, makes a distribution or payment that results in the fund having less than the bill's requisite portion of the fund's investment authority invested in growth investments in Texas, with respect to the portion that is, as follows:
 - invested in growth investments in Texas; or
 - available for investment in the growth investments and held in cash, U.S. Treasury securities, bonds or notes issued by the state or an agency or political subdivision of the state, or a deposit account with a depository institution headquartered or chartered in Texas; and
- the comptroller must revoke a fund's investment authority if the comptroller revokes the fund's tax credit certificates under the preceding bulleted provision.

Reduction of Tax Credits and Investment Authority for Related-Party Investments

C.S.H.B. 4735 provides for the reduction of tax credits and investment authority for related-party investments and the applicability of that reduction, as follows:

- the comptroller must reduce, using the applicable formula established by the bill, the amount of the tax credit on each tax credit certificate issued in connection with an investment in a rural development fund if, before the fund exits the program under the bill's provisions, the fund makes a growth investment in a targeted small business that directly

or indirectly through an affiliate owns, has the right to acquire an ownership interest in, makes a loan to, or makes an investment in the fund, an affiliate of the fund, or an investor in the fund, and the comptroller must also reduce a rural development fund's investment authority by an amount equal to the total amount of reductions for all tax credit certificates under this bulleted provision;

- the reduction in the amount of the tax credit on each tax credit certificate does not apply to investments in publicly traded securities by a targeted small business or an owner or affiliate of the targeted small business; and
- for purposes of this reduction, a fund is not considered an affiliate of a targeted small business solely as a result of the fund's growth investment in the targeted small business.

Opportunity to Correct Violation

C.S.H.B. 4735 provides for the following matters regarding reduction or revocation:

- the comptroller must notify a rural development fund of the reasons for a pending reduction or revocation of a tax credit and investment authority before reducing or revoking the fund's tax credit and investment authority; and
- a fund may, not later than the 90th day after the date the notice is received, correct any violation outlined in such a notice to the satisfaction of the comptroller and avoid reduction or revocation of the tax credit and investment authority.

Allocation of Revoked Investment Authority

C.S.H.B. 4735 establishes that the amount of the investment authority reduced or revoked under the bill's provisions does not count toward the limit on the total investment authority described by the bill. The comptroller must first award reduced or revoked investment authority pro rata to each fund whose requested investment authority was reduced under the bill's provisions that require such a reduction by the comptroller when a request for investment authority exceeds the limit on total investment authority described by the bill. The bill authorizes the comptroller to award any remaining investment authority to new applicants.

Certain Fund Operations

Application to Exit Program

C.S.H.B. 4735 authorizes a rural development fund, on or after the sixth anniversary of its closing date, to apply to the comptroller to exit the program and no longer be subject to regulation under the bill's provisions. The bill provides the following:

- an application to exit the program must be in a form and comply with procedures prescribed by the comptroller and include a calculation of the state reimbursement amount as provided under the bill's provisions;
- the comptroller must respond to the application not later than the 30th day after receipt and include confirmation of the state reimbursement amount;
- a fund is eligible to exit the program under this provision if no tax credit certificates related to investments in the fund have been reduced or revoked and the fund has not received any reduction or revocation notice that has not been corrected under the bill's provisions;
- the comptroller may not unreasonably deny an application to exit; and
- the comptroller must give the fund notice of a denial and include in the notice the reasons for the denial.

The bill requires the fund, not later than the 60th day after the date the fund receives confirmation of the state reimbursement amount, to remit an amount equal to the lesser of the excess return or the state reimbursement amount determined under the bill's provisions.

Calculation of Excess Return

C.S.H.B. 4735 establishes that a rural development fund's excess return is determined by computing the difference between the following sums:

- the sum of the present value of all growth investments and other assets held by the fund on the date the fund applies to exit the program and all amounts distributed to the equity holders of the fund before the fund applies to exit the program; and
- the sum of the amount of the fund's original investment authority and an amount equal to any projected increase in the federal or state tax liability of equity holders of the fund, including penalties and interest, related to the equity holders' ownership, management, or operation of the fund.

If the amount computed under this provision is less than zero, the excess return is equal to zero.

Calculation of State Reimbursement Amount

C.S.H.B. 4735 establishes that a rural development fund's state reimbursement amount is determined by computing the difference between the following:

- the credit-eligible capital contributions made to the fund; and
- the product of the sum of the annual jobs created and jobs retained as a result of the fund's growth investments as reported to the comptroller and \$30,000.

No Reduction or Revocation Following Exit

C.S.H.B. 4735 prohibits the comptroller from reducing or revoking the amount of a tax credit on a tax credit certificate related to an investment in a rural development fund after the fund's exit from the program.

Evaluation of Proposed Investment

C.S.H.B. 4735 authorizes a rural development fund, before making a growth investment, to request from the comptroller a written opinion as to whether a business in which the fund proposes to make a growth investment qualifies as a targeted small business. Not later than the 15th business day after receiving the request, the comptroller must notify the fund of its determination. If the comptroller fails to notify the fund of its determination on or before the 15th business day after receiving the request, the business in which the fund proposes to invest is considered to be a targeted small business for purposes of the bill's provisions.

Annual Report

C.S.H.B. 4735 requires a rural development fund to submit an annual report to the comptroller on or before the 60th business day after each anniversary of the closing date until the fund has exited the program. The report must document the fund's growth investments and include the following:

- a bank statement showing each growth investment;
- the name, location, and industry of each business receiving a growth investment, including either the determination notice or evidence that the business qualified as a targeted small business at the time the investment was made;
- the number of jobs created and jobs retained in the preceding calendar year as a result of the fund's growth investments as of the last day of that period;
- the average annual salary of the jobs created and retained and evidence of any other monetary or social benefit to the state as a result of those jobs;
- a description, including the amount, of each growth investment in a targeted small business located in a rural area made in the 24 months following the closing date; and
- any other information the comptroller requires.

A fund may, but is not required to, include in any report submitted under this provision information about the number of jobs created and jobs retained with respect to a former growth investment that the fund has exited.

Participation Fee

C.S.H.B. 4735 requires a rural development fund that has not exited the program before the first day of a state fiscal year to remit to the comptroller a participation fee in connection with the state fiscal year in an amount determined by the comptroller, according to the applicable formula established under the bill's provisions, to offset the fiscal impact to the comptroller of administering the program. The bill requires the comptroller to prescribe the date on which the fee payment is due and to determine, for each state fiscal year, the following amounts:

- the costs incurred by the comptroller to administer the bill's provisions regarding the fund and the insurance tax credit, less the amount of nonrefundable application fees and amounts remitted to the comptroller by a fund to exit the program under the bill's provisions; and
- the amount of the participation fee each fund that has not exited the program before the first day of a state fiscal year is required to pay in connection with the state fiscal year.

The bill prohibits the total amount of participation fees collected by the comptroller in a state fiscal year from exceeding the amount that is reasonably necessary to administer the program in that year, less the amounts received by the comptroller from the nonrefundable application fees and amounts remitted to the comptroller by a fund to exit the program in that year.

Report: Conditions for Acceptance of Certain Applications

Report

C.S.H.B. 4735 requires the comptroller, before the beginning of the 92nd Legislature, Regular Session, to submit to the lieutenant governor, speaker of the house of representatives, and each other member of the legislature a report on the economic benefits of the bill's provisions. The bill requires the report to include an assessment of the following:

- the aggregate effects of applicable growth investments, including the following:
 - the total number of jobs created by all targeted small businesses, including direct jobs, indirect jobs, and induced jobs;
 - the total number of jobs retained by all targeted small businesses;
 - the total amount of wages paid in connection with jobs created and jobs retained by all targeted small businesses;
 - the median wage of jobs created and jobs retained by all targeted small businesses;
 - the total effect on personal income in Texas, including direct and indirect effects;
 - the total amount of growth investments;
 - the gross domestic product of the state attributable to targeted small businesses;
 - the total taxable value of property of targeted small businesses in Texas according to tax appraisal rolls;
 - the total positive fiscal effect on the state and local governments in Texas; and
 - the total number and dollar amount of growth investments in targeted small businesses located in rural areas;
- the benefits to the state from cost savings attributable to jobs created and retained by all targeted small businesses, including Medicaid savings, food assistance program savings, unemployment insurance payment savings, and any other savings that can be reasonably estimated using data available to the comptroller in connection with some or all targeted small businesses; and
- the total positive fiscal effect of those cost savings on the state and local governments in Texas of the benefits to the state from those attributable cost savings.

The bill prohibits the report from including information that is confidential by law and requires the comptroller, in reporting the assessment of aggregate effects of growth investments, to use standard, nationally recognized economic estimation techniques, including economic multipliers and to base the assessment on data submitted to the comptroller by each fund. The bill prohibits the comptroller, for the purpose of preparing the report, from requiring a fund to provide any information that is not reasonably obtainable by the fund.

Conditions for Acceptance of Certain Applications

C.S.H.B. 4735 prohibits the comptroller from accepting applications for approval of rural development funds after January 1, 2026, unless the total positive fiscal effects described by the report exceed the sum of all tax credit allocation statements issued by the comptroller under the bill's provisions. The bill requires the comptroller to resume accepting applications when this condition is satisfied.

Insurance Tax Credit

C.S.H.B. 4735 amends the Insurance Code to establish a tax credit for investment in a rural development fund established under the bill's provisions.

General Provisions

Definitions

C.S.H.B. 4735 defines "affiliate" and "closing date" by reference to the meanings assigned to those terms under the bill's provisions regarding rural development funds. The bill defines "state insurance tax liability" as any tax liability incurred under the Insurance Code with respect to the following:

- the property and casualty insurance premium tax;
- the life, health, and accident insurance premium tax;
- the title insurance premium tax;
- the captive insurance premium tax;
- the reciprocal and interinsurance exchange premium tax;
- the surplus lines insurance premium tax;
- the unauthorized insurance tax and the independently procured insurance premium tax; and
- retaliatory taxes and other charges.

Rules

C.S.H.B. 4735 requires the comptroller to adopt rules necessary to implement the bill's provisions establishing the tax credit.

Tax Credit

Eligibility for Credit

C.S.H.B. 4735 establishes that an entity is eligible for a credit against the entity's state insurance tax liability in the amount and under the conditions provided under these bill provisions.

Qualification

C.S.H.B. 4735 establishes that an entity is eligible for a credit for a tax year if the entity holds a tax credit certificate provided to the entity by the rural development fund under the bill's rural development fund provisions and the first, second, or third anniversary of the fund's closing date in connection with which the certificate was issued occurs during the tax year.

Amount of Credit; Limitation

C.S.H.B. 4735 sets the amount of the credit for a tax year in connection with a tax credit certificate as described by these provisions equal to the following:

- for the first two tax years an entity is eligible for the credit, 33 percent of the value of the tax credit conveyed by the certificate; and

- for the third tax year an entity is eligible for the credit, 34 percent of the value of the tax credit conveyed by the certificate.

The bill caps the total credit claimed by an entity for a tax year, including the amount of any carryforward authorized under these bill provisions, at the amount of the entity's state insurance tax liability due for the entity for the tax year after applying all other applicable tax credits. The bill establishes that credits may be applied to the entity's estimated or final tax payments for the year.

Carryforward

C.S.H.B. 4735 authorizes an entity that is eligible for a credit that exceeds the limitation set by these bill provisions to carry the unused credit forward and apply the credit to a subsequent tax report that is due before the sixth anniversary of the closing date in connection with which the credit is claimed.

Assignment Prohibited

C.S.H.B. 4735 prohibits an entity from conveying, assigning, or transferring the credit to another entity. However, the bill authorizes such conveyance, assignment, or transfer to an affiliate of the entity that is subject to state insurance tax liability.

Retaliatory Tax

C.S.H.B. 4735 establishes that an entity claiming a credit is not required to pay any additional retaliatory tax levied under applicable state law as a result of claiming that credit.

Recapture of Credit

C.S.H.B. 4735 requires the comptroller to recapture from an entity the amount of a credit claimed on an applicable tax report if the tax credit certificate on which the credit is based is reduced or revoked under the bill's rural development fund provisions regarding such a reduction or revocation of tax credits and investment authority. The bill requires the comptroller to recapture an amount equal to the amount by which the credit previously claimed exceeds the amount of the credit remaining after the reduction or revocation.

Legislative Intent

C.S.H.B. 4735 establishes that it is the intent of the legislature that each growth investment in a targeted small business made by a rural development fund under the bill's applicable Government Code provisions, as follows:

- provide patient, growth-oriented investment capital for purposes including expansion, payroll, inventory, and training; and
- be at a below market rate with flexible terms, which offers the targeted small business an affordable and borrower-friendly financing alternative.

Procedural Provisions

C.S.H.B. 4735 requires the comptroller to adopt rules necessary to implement the bill's provisions relating to rural development funds and relating to the insurance tax credits as soon as practicable after the bill becomes law as provided by the Administrative Procedure Act with respect to the actions preparatory to the implementation of a statute or rule. The comptroller must begin accepting applications for approval of rural development funds not later than October 1, 2025, and the bill's provisions relating to the insurance tax credit apply only to a tax report originally due on or after January 1, 2025.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 4735 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute omits provisions of the introduced that required, with respect to the definitions of "jobs created" and "jobs retained," an employment position that meets certain requirements to be multiplied by two for purposes of calculating the number of those jobs created or retained, as applicable, by a targeted small business if the targeted small business is located in a rural area and is a historically underutilized business. Accordingly, the substitute omits the introduced version's definition of "historically underutilized business."