

By: Ashby, Button, King

H.B. No. 4735

A BILL TO BE ENTITLED

AN ACT

relating to rural development funds and insurance tax credits for certain investments in those funds; authorizing fees.

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

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

CHAPTER 487A. RURAL DEVELOPMENT FUNDS

SUBCHAPTER A. GENERAL PROVISIONS

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

(1) "Closing date" means the date a rural development fund has collected all of the amounts described by Section 487A.0056(a)(1).

(2) "Rural area" means an area:

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

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

(3) "Rural development fund" means an entity approved by the comptroller as a rural development fund.

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

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

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

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

7 Sec. 487A.0003. DEFINITION: CREDIT-ELIGIBLE CAPITAL
8 CONTRIBUTION. In this chapter, "credit-eligible capital
9 contribution" means an investment of cash in a rural development
10 fund made by an entity that is subject to state insurance tax
11 liability, as defined by Section 232.0001, Insurance Code, in
12 exchange for which the investor receives:

13 (1) an equity interest in a rural development fund; or
14 (2) at par value or premium, a debt instrument that has
15 a maturity date of at least five years from the closing date and a
16 repayment schedule that is no faster than level principal
17 amortization over five years.

18 Sec. 487A.0004. DEFINITION: GROWTH INVESTMENT. (a) In
19 this chapter and subject to Subsection (b), "growth investment"
20 means any capital or equity investment by a rural development fund
21 in a targeted small business or any loan by a rural development fund
22 to a targeted small business with a stated maturity date of at least
23 one year after the date of issuance.

24 (b) A loan by a rural development fund to a targeted small
25 business is a growth investment only if the targeted small business
26 obtains an affidavit from the chief executive officer or equivalent
27 position of the targeted small business attesting that:

1 (1) the targeted small business sought and was denied
2 similar financing from a commercial bank; or

3 (2) the targeted small business was referred to the
4 rural development fund by a commercial bank.

5 Sec. 487A.0005. DEFINITION: INVESTMENT AUTHORITY. In this
6 chapter, "investment authority" means the amount stated on the
7 notice issued under Section 487A.0055(1) approving the rural
8 development fund.

9 Sec. 487A.0006. DEFINITION: JOBS CREATED. (a) In this
10 chapter, "jobs created" means, with respect to a targeted small
11 business, employment positions that:

12 (1) are created by the targeted small business;

13 (2) are located in this state;

14 (3) subject to Subsection (d), require at least 35
15 hours of work each week; and

16 (4) were not located in this state at the time of the
17 initial growth investment in the targeted small business.

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

25 (c) The monthly average of employment positions for a year
26 is calculated by adding the number of employment positions existing
27 on the last day of each month of the year and dividing that sum by

12.

(d) An employment position that requires less than 35 hours of work each week is considered to meet the requirements of Subsection (a) 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.

Sec. 487A.0007. DEFINITION: JOBS RETAINED. (a) In this chapter, "jobs retained" means, with respect to a targeted small business, employment positions that:

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

(2) would have been lost or moved out of this state 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.

(b) 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.

(c) 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.

(d) The reported number of jobs retained for a year may not exceed the number reported on the initial report under Section 487A.0156. The rural development fund shall reduce the number of

1 jobs retained for a year if employment at the targeted small
2 business is less than the number reported on the initial report.

3 (e) Notwithstanding Subsection (a)(1), an employment
4 position that requires less than 35 hours of work each week is
5 considered to meet the requirements of that subdivision if the
6 number of hours of work each week the job requires is considered to
7 constitute full-time employment for purposes of the industry
8 standards and practices applicable to the targeted small business
9 that created the employment position.

10 Sec. 487A.0008. DEFINITION: TARGETED SMALL BUSINESS. (a)
11 In this chapter, "targeted small business" means a business that,
12 at the time of the initial growth investment in the business:

13 (1) is part of an industry assigned a primary North
14 American Industry Classification System code listed under Sector
15 11, 21, 22, 23, 31, 32, 33, 42, 48, 49, 54, 56, 62, 72, or 81 of the
16 North American Industry Classification System;

17 (2) has fewer than 250 employees, including any
18 persons who would be considered employees under the federal law to
19 which 13 C.F.R. Section 121.103(h)(2) applies as a result of the
20 application of that provision; and

21 (3) has its principal business operations located in
22 this state.

23 (b) For purposes of this chapter, the principal business
24 operations of a business are located at a place where:

25 (1) at least 65 percent of the business's employees
26 work; or

27 (2) employees who are paid at least 65 percent of the

1 business's payroll work.

2 (c) An out-of-state business that agrees to relocate or hire
3 new employees using the proceeds of a growth investment to
4 establish principal business operations in this state qualifies as
5 a targeted small business if the business satisfies the
6 requirements of:

7 (1) Subsections (a)(1) and (2) at the time of the
8 initial growth investment in the business; and

9 (2) Subsection (a)(3) not later than the 180th day
10 after receiving the initial growth investment or a later date
11 agreed to by the comptroller.

12 (d) Notwithstanding any other provision of this section,
13 the comptroller may consider a business other than a business
14 described by Subsection (a)(1) to be a targeted small business for
15 purposes of this chapter if the comptroller determines the business
16 is of significant economic benefit to this state.

17 Sec. 487A.0009. RULES. The comptroller shall adopt rules
18 necessary to implement, monitor, and evaluate this chapter.

19 Sec. 487A.0010. DISPOSITION OF FEES. Application fees
20 submitted under Section 487A.0051(b)(6), amounts remitted under
21 Section 487A.0151(e), and participation fees collected under
22 Section 487A.0157 shall be deposited to the credit of the general
23 revenue fund and may be appropriated only to the comptroller for the
24 purpose of administering this chapter and Chapter 232, Insurance
25 Code.

1 SUBCHAPTER B. APPROVAL OF RURAL DEVELOPMENT FUNDS; TAX CREDIT

2 CERTIFICATES

3 Sec. 487A.0051. APPLICATION. (a) Subject to Section
4 487A.0202, the comptroller shall accept applications from entities
5 seeking approval as rural development funds.

6 (b) An application must include:

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

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

12 (A) the applicant or affiliates of the applicant
13 have invested, in the aggregate, at least \$100 million in nonpublic
14 companies located in the United States, including at least \$70
15 million in nonpublic companies located in rural areas in the United
16 States; and

17 (B) either:

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

24 (ii) the applicant is, or is an affiliate
25 of, an investment firm based in this state with its principal
26 business operations located in this state that has been operating
27 for at least seven years and has, within the preceding three-year

1 period, received an allocation under Section 45D, Internal Revenue
2 Code of 1986;

3 (3) a copy of the rural business investment company
4 license or small business investment company license if required by
5 Subdivision (2)(B)(i);

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

8 (5) a business plan that includes a revenue impact
9 assessment that:

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

12 (B) is prepared by a nationally recognized
13 third-party independent economic forecasting firm using a dynamic
14 economic forecasting model that analyzes the applicant's business
15 plan for the 10-year period following the date the applicant
16 submits the application; and

17 (6) a nonrefundable application fee of \$10,000.

18 Sec. 487A.0052. DECISION ON APPLICATION. (a) The
19 comptroller shall make a determination on each application not
20 later than the 30th day after the date the comptroller receives the
21 application. The comptroller shall make application
22 determinations in the order in which applications are received and
23 shall consider applications received on the same day to be received
24 simultaneously.

25 (b) The comptroller shall approve up to \$300 million of
26 investment authority, including up to \$150 million of tax credit
27 allocation authority described by Section 487A.0055(2), under this

1 chapter.

2 (c) If a request for investment authority exceeds the limit
3 under Subsection (b), the comptroller shall reduce the investment
4 authority for that application as necessary to avoid exceeding the
5 limit. If multiple applications received on the same day request a
6 combined investment authority that exceeds the limit under
7 Subsection (b), the comptroller shall proportionally reduce the
8 investment authority for those applications as necessary to avoid
9 exceeding the limit. The comptroller may not reduce an applicant's
10 investment authority for any reason other than as authorized by
11 this subsection.

12 Sec. 487A.0053. GROUNDS FOR DENIAL. The comptroller may
13 deny an application under this subchapter only if:

14 (1) the application is incomplete or the application
15 fee is not paid in full;

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

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

25 (4) the comptroller has already approved the maximum
26 amount of investment authority allowed under Section 487A.0052(b).

27 Sec. 487A.0054. SUBMISSION OF ADDITIONAL INFORMATION

1 FOLLOWING DENIAL. (a) If the comptroller denies an application,
2 the applicant may, not later than the 15th day after the date the
3 comptroller provides notice of denial, provide additional
4 information to the comptroller to complete, clarify, or cure
5 defects in the application identified by the comptroller.

6 (b) If the applicant completes, clarifies, or cures the
7 defects in its application during the period prescribed by
8 Subsection (a), the application is considered complete as of the
9 original submission date.

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

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

21 Sec. 487A.0055. APPROVAL BY COMPTROLLER. On approval of an
22 application, the comptroller shall provide to the applicant:

23 (1) written notice of the applicant's approval as a
24 rural development fund, including the amount of the fund's
25 investment authority; and

26 (2) a tax credit allocation statement that includes on
27 the statement the amount of tax credit the applicant is authorized

1 to allocate to investors who make credit-eligible capital
2 contributions to the rural development fund.

3 Sec. 487A.0056. DUTIES OF FUND FOLLOWING APPROVAL; TAX
4 CREDIT CERTIFICATES. (a) A rural development fund shall:

5 (1) not later than the 60th day after the date the fund
6 receives the approval notice under Section 487A.0055, collect the
7 credit-eligible capital contributions made to the fund and, subject
8 to Subsection (b), one or more investments of cash that, when added
9 to the credit-eligible capital contributions, equal the fund's
10 investment authority; and

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

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

19 (c) A rural development fund may provide a tax credit
20 certificate to an investor that makes a credit-eligible capital
21 contribution to the fund. The certificate must include the name of
22 the fund, the amount stated on the tax credit allocation statement
23 provided to the fund under Section 487A.0055(2), the amount of the
24 credit-eligible capital contribution made by the investor, and the
25 value of the tax credit conveyed by the certificate. A rural
26 development fund may not issue tax credit certificates the value of
27 which in the aggregate exceeds the amount stated on the tax credit

1 allocation statement provided to the fund under Section
2 487A.0055(2).

3 Sec. 487A.0057. LAPSE OF APPROVAL. (a) If a rural
4 development fund fails to comply with the requirements of Section
5 487A.0056, the fund's approval lapses and the corresponding
6 investment authority does not count toward the limit prescribed by
7 Section 487A.0052(b).

8 (b) The comptroller shall first award lapsed investment
9 authority pro rata to each rural development fund whose requested
10 investment authority was reduced under Section 487A.0052(c). The
11 rural development fund may allocate the investment authority
12 awarded under this subsection to the fund's investors in the fund's
13 discretion. The comptroller may award any remaining investment
14 authority to new applicants.

15 SUBCHAPTER C. REDUCTION OR REVOCATION OF TAX CREDITS AND INVESTMENT
16 AUTHORITY

17 Sec. 487A.0101. REDUCTION OF TAX CREDITS AND INVESTMENT
18 AUTHORITY FOR FAILURE TO MAKE REQUIRED GROWTH INVESTMENTS. (a) The
19 comptroller shall reduce the amount of the tax credit on each tax
20 credit certificate issued under Subchapter B in connection with an
21 investment in a rural development fund if the fund fails to invest
22 at least 60 percent of the fund's investment authority in growth
23 investments in this state on or before the second anniversary of the
24 closing date. The amount of the reduction under this subsection for
25 each tax credit certificate is equal to the amount of the tax credit
26 stated on the tax credit certificate, multiplied by a fraction:

27 (1) the numerator of which is equal to 60 percent, less

1 the percentage of the rural development fund's investment authority
2 invested in growth investments in this state on the second
3 anniversary of the closing date; and

4 (2) the denominator of which is 60 percent.

5 (b) The comptroller shall reduce a rural development fund's
6 investment authority by an amount equal to the total amount of
7 reductions under Subsection (a) for all tax credit certificates.

8 (c) The comptroller shall reduce the amount of the tax
9 credit on each tax credit certificate issued under Subchapter B in
10 connection with an investment in a rural development fund if the
11 fund fails to invest 100 percent of the fund's investment authority
12 in growth investments in this state on or before the third
13 anniversary of the closing date. The amount of the reduction under
14 this subsection for each tax credit certificate is equal to the
15 amount of the tax credit stated on the tax credit certificate
16 remaining after any reduction under Subsection (a), multiplied by a
17 fraction:

18 (1) the numerator of which is equal to 100 percent,
19 less the percentage of the rural development fund's investment
20 authority remaining after any reduction under Subsection (b) that
21 is invested in growth investments in this state on the third
22 anniversary of the closing date; and

23 (2) the denominator of which is 100 percent.

24 (d) The comptroller shall reduce a rural development fund's
25 investment authority by an amount equal to the total amount of
26 reductions under Subsection (c) for all tax credit certificates.

27 (e) For purposes of this section:

1 (1) the amount of growth investments that a rural
2 development fund may count with respect to a particular targeted
3 small business, including any amount invested in an affiliate of
4 the targeted small business, may not exceed \$7.5 million; and

5 (2) all growth investments must consist of growth
6 investments in targeted small businesses whose principal business
7 operations are located in, or are relocated to, a rural area in this
8 state.

9 (f) Notwithstanding Subsection (e)(1), for the purpose of
10 avoiding a reduction under Subsection (a) or (c), as applicable, a
11 rural development fund may count as a growth investment in a
12 particular targeted small business the amount of an investment made
13 in excess of the limit prescribed by Subsection (e)(1) if the
14 investment is made using money attributable to the repayment or
15 redemption of a previous growth investment made by the fund to the
16 particular targeted small business.

17 Sec. 487A.0102. REDUCTION OF TAX CREDITS AND INVESTMENT
18 AUTHORITY FOR FAILURE TO MAINTAIN REQUIRED GROWTH INVESTMENTS. (a)
19 The comptroller shall reduce the amount of the tax credit on each
20 tax credit certificate issued under Subchapter B in connection with
21 an investment in a rural development fund if, after the third
22 anniversary of the closing date and before the sixth anniversary of
23 the closing date, the fund fails to maintain growth investments in
24 this state equal to 100 percent of the fund's investment authority
25 remaining after any reductions under Sections 487A.0101(b) and (d).
26 The amount of the reduction under this subsection for each tax
27 credit certificate is equal to the amount of the tax credit stated

on the tax credit certificate remaining after any reductions under Sections 487A.0101(a) and (c), multiplied by a fraction:

(1) the numerator of which is equal to 100 percent, less the percentage of the rural development fund's investment authority remaining after any reductions under Sections 487A.0101(b) and (d) that is invested in growth investments in this state on the date of the reduction; and

(2) the denominator of which is 100 percent.

(b) The comptroller shall reduce a rural development fund's investment authority by an amount equal to the total amount of reductions under Subsection (a) for all tax credit certificates.

(c) For purposes of this section:

(1) the amount of growth investments that a rural development 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 rural development funds, a rural development fund may not count as a growth investment any additional investments with respect to that targeted small business;

(2) an investment that is sold or repaid is considered to be maintained if the rural development 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 this state on or before the first anniversary of the date the capital is returned or recovered; and

1 (3) an amount received periodically by a rural
2 development fund is considered to be continually invested in growth
3 investments if that amount is reinvested in one or more growth
4 investments by the end of the calendar year following the year of
5 receipt.

6 (d) For purposes of this section, the refinancing by a rural
7 development fund of an existing growth investment received by a
8 targeted small business may not be counted by the fund as an
9 additional growth investment.

10 Sec. 487A.0103. REVOCATION OF TAX CREDITS AND INVESTMENT
11 AUTHORITY FOR CERTAIN DISTRIBUTIONS OR PAYMENTS. (a) The
12 comptroller shall revoke each tax credit certificate issued under
13 Subchapter B in connection with an investment in a rural
14 development fund if, before the fund exits the program under
15 Section 487A.0151, the fund makes a distribution or payment that
16 results in the fund having less than the portion of the fund's
17 investment authority required to be invested in growth investments
18 in this state under Sections 487A.0101 and 487A.0102:

19 (1) invested in growth investments in this state; or
20 (2) available for investment in growth investments and
21 held in:

22 (A) cash;
23 (B) United States Treasury securities;
24 (C) bonds or notes issued by this state or an
25 agency or political subdivision of this state; or
26 (D) a deposit account with a depository
27 institution headquartered or chartered in this state.

1 (b) The comptroller shall revoke a rural development fund's
2 investment authority if the comptroller revokes tax credit
3 certificates under Subsection (a).

4 Sec. 487A.0104. REDUCTION OF TAX CREDITS AND INVESTMENT
5 AUTHORITY FOR RELATED-PARTY INVESTMENTS. (a) The comptroller shall
6 reduce the amount of the tax credit on each tax credit certificate
7 issued under Subchapter B in connection with an investment in a
8 rural development fund if, before the fund exits the program under
9 Section 487A.0151, the fund makes a growth investment in a targeted
10 small business that directly or indirectly through an affiliate
11 owns, has the right to acquire a majority ownership interest in,
12 makes a loan to, or makes an investment in the fund, an affiliate of
13 the fund, or an investor in the fund.

14 (b) The amount of the reduction under Subsection (a) for
15 each tax credit certificate is equal to the amount of the tax credit
16 stated on the tax credit certificate remaining after any reductions
17 under Sections 487A.0101(a) and (c), multiplied by a fraction:

18 (1) the numerator of which is the portion of the rural
19 development fund's investment authority remaining after any
20 reductions under Sections 487A.0101(b) and (d) that is invested in
21 growth investments in targeted small businesses described by
22 Subsection (a); and

23 (2) the denominator of which is the total amount of the
24 rural development fund's investment authority remaining after any
25 reductions under Sections 487A.0101(b) and (d).

26 (c) The comptroller shall reduce a rural development fund's
27 investment authority by an amount equal to the total amount of

1 reductions under Subsection (a) for all tax credit certificates.

2 (d) Subsection (a) does not apply to investments in publicly
3 traded securities by a targeted small business or an owner or
4 affiliate of the targeted small business. For purposes of
5 Subsection (a), a rural development fund is not considered an
6 affiliate of a targeted small business solely as a result of the
7 fund's growth investment in the targeted small business.

8 Sec. 487A.0105. OPPORTUNITY TO CORRECT VIOLATION. (a)
9 Before reducing or revoking a tax credit and investment authority
10 under this subchapter, the comptroller shall notify the rural
11 development fund of the reasons for the pending reduction or
12 revocation.

13 (b) The rural development fund may, not later than the 90th
14 day after the date the notice is received, correct any violation
15 outlined in the notice to the satisfaction of the comptroller and
16 avoid reduction or revocation of the tax credit and investment
17 authority.

18 Sec. 487A.0106. ALLOCATION OF REVOKED INVESTMENT
19 AUTHORITY. (a) The amount of investment authority reduced or
20 revoked under this subchapter does not count toward the limit on
21 total investment authority described in Section 487A.0052(b).

22 (b) The comptroller shall first award reduced or revoked
23 investment authority pro rata to each rural development fund whose
24 requested investment authority was reduced under Section
25 487A.0052(c). The comptroller may award any remaining investment
26 authority to new applicants.

SUBCHAPTER D. CERTAIN FUND OPERATIONS

Sec. 487A.0151. APPLICATION TO EXIT PROGRAM. (a) On or after the sixth anniversary of the closing date, a rural development fund may apply to the comptroller to exit the program and no longer be subject to regulation under this chapter. 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 by Section 487A.0153.

(b) The comptroller shall respond to the application not later than the 30th day after receipt and include confirmation of the state reimbursement amount.

(c) A rural development fund is eligible to exit the program under this section 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 Section 487A.0105.

(d) The comptroller may not unreasonably deny an application under this section. The comptroller shall give the rural development fund notice of a denial and include in the notice the reasons for the denial.

(e) Not later than the 60th day after the date the rural development fund receives confirmation of the state reimbursement amount under Subsection (b), the fund shall remit to the comptroller an amount of money equal to the lesser of:

(1) the excess return determined under Section 487A.0152; or

(2) the state reimbursement amount determined under

1 Section 487A.0153.

2 Sec. 487A.0152. CALCULATION OF EXCESS RETURN. (a) For
3 purposes of Section 487A.0151, a rural development fund's excess
4 return is determined by computing the difference between:

5 (1) the sum of:

6 (A) the present value of all growth investments
7 and other assets held by the fund on the date the fund applies to
8 exit the program under Section 487A.0151; and

9 (B) all amounts distributed to the equity holders
10 of the fund before the fund applies to exit the program under
11 Section 487A.0151; and

12 (2) the sum of:

13 (A) the amount of the fund's original investment
14 authority; and

15 (B) an amount equal to any projected increase in
16 the federal or state tax liability of equity holders of the fund,
17 including penalties and interest, related to the equity holders'
18 ownership, management, or operation of the fund.

19 (b) If the amount computed under Subsection (a) is less than
20 zero, the excess return is equal to zero.

21 Sec. 487A.0153. CALCULATION OF STATE REIMBURSEMENT AMOUNT.
22 For purposes of Section 487A.0151, a rural development fund's state
23 reimbursement amount is determined by computing the difference
24 between:

25 (1) the credit-eligible capital contributions made to
26 the fund; and

27 (2) the product of:

1 (A) the sum of the annual jobs created and jobs
2 retained as a result of the fund's growth investments as reported to
3 the comptroller under Section 487A.0156; and

4 (B) \$30,000.

5 Sec. 487A.0154. NO REDUCTION OR REVOCATION FOLLOWING EXIT.
6 The comptroller may not reduce or revoke the amount of a tax credit
7 on a tax credit certificate related to an investment in a rural
8 development fund after the fund's exit from the program.

9 Sec. 487A.0155. EVALUATION OF PROPOSED INVESTMENT. (a) A
10 rural development fund, before making a growth investment, may
11 request from the comptroller a written opinion as to whether the
12 business in which the fund proposes to invest qualifies as a
13 targeted small business.

14 (b) Not later than the 15th business day after receiving the
15 request, the comptroller shall notify the rural development fund of
16 its determination.

17 (c) If the comptroller fails to notify the rural development
18 fund of its determination on or before the 15th business day after
19 receiving the request, the business in which the fund proposes to
20 invest is considered to be a targeted small business for purposes of
21 this chapter.

22 Sec. 487A.0156. ANNUAL REPORT. (a) A rural development
23 fund shall submit a report to the comptroller on or before the 60th
24 business day after each anniversary of the closing date until the
25 fund has exited the program under Section 487A.0151.

26 (b) The report must document the rural development fund's
27 growth investments and include:

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

2 (2) the name, location, and industry of each business
3 receiving a growth investment, including either the determination
4 notice described by Section 487A.0155 or evidence that the business
5 qualified as a targeted small business at the time the investment
6 was made;

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

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

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

16 (6) any other information the comptroller requires.

17 (c) A rural development fund may, but is not required to,
18 include in any report submitted under this section information
19 about the number of jobs created and jobs retained with respect to a
20 former growth investment that the fund has exited.

21 Sec. 487A.0157. PARTICIPATION FEE. (a) A rural
22 development fund that has not exited the program under Section
23 487A.0151 before the first day of a state fiscal year shall remit to
24 the comptroller a participation fee in connection with the state
25 fiscal year in an amount determined under Subsection (b)(2) to
26 offset the fiscal impact to the comptroller of administering the
27 program. The comptroller shall prescribe the date on which the fee

1 payment is due.

2 (b) For each state fiscal year, the comptroller shall
3 determine:

4 (1) the costs incurred by the comptroller to
5 administer this chapter and Chapter 232, Insurance Code, less the
6 amount of application fees submitted under Section 487A.0051(b)(6)
7 and amounts remitted under Section 487A.0151(e); and

8 (2) the amount of the participation fee each rural
9 development fund described by Subsection (a) is required to pay in
10 connection with the state fiscal year, which is computed by
11 multiplying the amount determined under Subdivision (1) for the
12 state fiscal year by a fraction:

13 (A) the numerator of which is the amount of the
14 rural development fund's investment authority; and

15 (B) the denominator of which is the total amount
16 of investment authority for all rural development funds required to
17 pay a fee under Subsection (a) in connection with the state fiscal
18 year.

19 (c) Notwithstanding any other provision of this section,
20 the total amount of participation fees collected by the comptroller
21 in a state fiscal year may not exceed the amount that is reasonably
22 necessary to administer the program in that year, less the amounts
23 received by the comptroller under Sections 487A.0051(b)(6) and
24 487A.0151(e) in that year.

25 SUBCHAPTER E. REPORT; CONDITIONS FOR ACCEPTANCE OF CERTAIN

26 APPLICATIONS

27 Sec. 487A.0201. REPORT. (a) Before the beginning of the

1 92nd Legislature, Regular Session, the comptroller shall submit to
2 the lieutenant governor, the speaker of the house of
3 representatives, and each other member of the legislature a report
4 on the economic benefits of this chapter.

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

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

8 (A) the total number of jobs created by all
9 targeted small businesses, including direct jobs, indirect jobs,
10 and induced jobs;

11 (B) the total number of jobs retained by all
12 targeted small businesses;

13 (C) the total amount of wages paid in connection
14 with jobs created and jobs retained by all targeted small
15 businesses;

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

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

20 (F) the total amount of growth investments;

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

23 (H) the total taxable value of property of
24 targeted small businesses in this state according to tax appraisal
25 rolls;

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

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

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

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

8 (B) food assistance program savings;

9 (C) unemployment insurance payment savings; and

10 (D) any other savings that can be reasonably
11 estimated using data available to the comptroller in connection
12 with some or all targeted small businesses; and

13 (3) the total positive fiscal effect on this state and
14 local governments in this state of the benefits described by
15 Subdivision (2).

16 (c) The report may not include information that is
17 confidential by law.

18 (d) In preparing the portion of the report described by
19 Subsection (b)(1), the comptroller shall:

20 (1) use standard, nationally recognized economic
21 estimation techniques, including economic multipliers; and

22 (2) base the assessment on data submitted to the
23 comptroller by each rural development fund.

24 (e) The comptroller may not, for the purpose of preparing
25 the report required under this section, require a rural development
26 fund to provide any information that is not reasonably obtainable
27 by the fund.

1 Sec. 487A.0202. CONDITIONS FOR ACCEPTANCE OF CERTAIN
2 APPLICATIONS. (a) The comptroller may not accept applications
3 under Section 487A.0051 after January 1, 2026, unless the total
4 positive fiscal effects described by Section 487A.0201(b) exceed
5 the sum of all tax credit allocation statements issued by the
6 comptroller under Subchapter B.

7 (b) The comptroller shall resume accepting applications
8 under Section 487A.0051 when the condition provided by Subsection
9 (a) is satisfied.

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

12 CHAPTER 232. TAX CREDIT FOR INVESTMENT IN RURAL DEVELOPMENT FUND

13 SUBCHAPTER A. GENERAL PROVISIONS

14 Sec. 232.0001. DEFINITIONS. In this chapter:

15 (1) "Affiliate" has the meaning assigned by Section
16 487A.0002, Government Code.

17 (2) "Closing date" has the meaning assigned by Section
18 487A.0001, Government Code.

19 (3) "State insurance tax liability" means any tax
20 liability incurred under Chapter [221](#), [222](#), [223](#), [223A](#), [224](#), [225](#),
21 [226](#), or [281](#).

22 Sec. 232.0002. RULES. The comptroller shall adopt rules
23 necessary to implement this chapter.

24 SUBCHAPTER B. TAX CREDIT

25 Sec. 232.0051. ELIGIBILITY FOR CREDIT. An entity is
26 eligible for a credit against the entity's state insurance tax
27 liability in the amount and under the conditions provided by this

1 chapter.

2 Sec. 232.0052. QUALIFICATION. An entity is eligible for a
3 credit for a tax year if the entity holds a tax credit certificate
4 provided under Section 487A.0056, Government Code, and the first,
5 second, or third anniversary of the closing date in connection with
6 which the certificate was issued occurs during the tax year.

7 Sec. 232.0053. AMOUNT OF CREDIT; LIMITATION. (a) The
8 amount of credit for a tax year in connection with a tax credit
9 certificate described by Section 232.0052 is equal to:

10 (1) for the first two tax years an entity is eligible
11 for the credit, 33 percent of the value of the tax credit conveyed
12 by the certificate; and

13 (2) for the third tax year an entity is eligible for
14 the credit, 34 percent of the value of the tax credit conveyed by
15 the certificate.

16 (b) The total credit claimed for a tax year, including the
17 amount of any carryforward under Section 232.0054, may not exceed
18 the amount of state insurance tax liability due for the entity for
19 the tax year after applying all other applicable tax credits.

20 (c) Credits may be applied to the entity's estimated or
21 final tax payments for the tax year.

22 Sec. 232.0054. CARRYFORWARD. If an entity is eligible for a
23 credit that exceeds the limitation under Section 232.0053(b), the
24 entity may carry the unused credit forward and apply the credit to a
25 subsequent tax report that is due before the sixth anniversary of
26 the closing date in connection with which the credit is claimed.

27 Sec. 232.0055. ASSIGNMENT PROHIBITED. (a) Except as

provided by Subsection (b), an entity may not convey, assign, or transfer the credit allowed under this chapter to another entity.

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

Sec. 232.0056. RETALIATORY TAX. An entity claiming a credit under this chapter is not required to pay any additional retaliatory tax levied under Chapter 281 as a result of claiming that credit.

SUBCHAPTER C. RECAPTURE OF CREDIT

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

SECTION 3. It is the intent of the legislature that each growth investment in a targeted small business made by a rural development fund under Chapter 487A, Government Code, as added by this Act:

(1) provide patient, growth-oriented investment capital for purposes including expansion, payroll, inventory, and training; and

(2) be at a below market rate with flexible terms,

1 which offers the targeted small business an affordable and
2 borrower-friendly financing alternative.

3 SECTION 4. (a) As soon as practicable after this Act becomes
4 law as provided by Section 2001.006, Government Code, the
5 comptroller of public accounts shall adopt rules necessary to
6 implement Chapter 487A, Government Code, as added by this Act, and
7 Chapter 232, Insurance Code, as added by this Act.

8 (b) Not later than October 1, 2025, the comptroller of
9 public accounts shall begin accepting applications under Section
10 487A.0051(a), Government Code, as added by this Act.

11 SECTION 5. Chapter 232, Insurance Code, as added by this
12 Act, applies only to a tax report originally due on or after January
13 1, 2025.

14 SECTION 6. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2025.