

**ASSEMBLY BILL**

**No. 185**

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**Introduced by Assembly Members Eduardo Garcia and Medina**

January 26, 2015

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An act to add Section 26011.9 to the Public Resources Code, and to add Section 18410.3 to, and to add and repeal Sections 12283, 17053.9, and 23622.9 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 185, as introduced, Eduardo Garcia. Income taxation: insurance taxation: credits: California New Markets Tax Credit.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws. Existing law creates the California Competes Tax Credit Committee, which has specified duties in regard to tax credits for economic development. Existing law establishes the Governor's Office of Business and Economic Development, also known as "GO-Biz," to, among other duties, serve the Governor as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth.

Existing law imposes an annual tax on the gross premiums of an insurer, as defined, doing business in this state at specified rates.

This bill would allow a credit under the Personal Income Tax Law and the Corporation Tax Law, and a credit against the tax imposed on an insurer, in modified conformity with a federal New Markets Tax Credit, for taxable years beginning on or after January 1, 2016, and before January 1, 2028, in a specified amount for investments in low-income communities. The bill would limit the total annual amount

of credit allowed pursuant to these provisions to an amount equal to any portion not granted under a specified sales and use tax exclusion, not to exceed \$40,000,000 per calendar year, and would limit the allocation of the credit to a cumulative total of no more than \$200,000,000, as provided. The bill would impose specified duties on the California Competes Tax Credit Committee and GO-Biz with regard to the application for, and allocation of, the credit. The bill would require GO-Biz to establish and impose reasonable fees upon entities that apply for the allocation of the credit, to be deposited in the California New Markets Tax Credit Fund established by the bill, and use the revenue, upon appropriation by the Legislature, to defray the cost of applying to, and administering the program, as specified. The bill would specify that the credit would not be allowed unless the Legislature makes an appropriation from the fund.

The bill would provide that its provisions are severable.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares the following:
- 2 (a) While many areas of California have recovered from the
- 3 economic and community development impacts of the 2006
- 4 Financial Crisis and the 2010 global recession, Californians in a
- 5 number of communities and neighborhoods are still experiencing
- 6 their lingering effects. In some cases this has resulted in small and
- 7 medium businesses in low-income areas lacking sufficient access
- 8 to capital and technical assistance. Given that the state has many
- 9 needs and limited resources, moneys from the private sector are
- 10 necessary to fill this capital and investment gap.
- 11 (b) Initially enacted in 2000, the federal government established
- 12 the New Markets Tax Credit (NMTC) Program, which uses a
- 13 market-based approach for expanding capital and technical
- 14 assistance to businesses in lower income communities. The federal
- 15 program is jointly administered by the Community Development
- 16 Financial Institutions Fund (CDFI Fund) and the Internal Revenue
- 17 Service. The NMTC Program allocates federal tax incentives to
- 18 community development entities (CDE), which they then use to
- 19 attract private investors who contribute funds that can be used to

1 finance and invest in businesses and develop real estate in  
2 low-income communities. Through the 2013–14 funding round,  
3 the CDFI Fund had awarded approximately \$40,000,000,000 in  
4 NMTC in 836 awards including \$3,000,000,000 in American  
5 Recovery and Investment Act of 2009 awards and \$1,000,000,000  
6 of special allocation authority to be used for the recovery and  
7 redevelopment of the Gulf Opportunity Zone.

8 (c) The federal NMTC totals 39 percent of the original  
9 investment amount in the CDE and is claimed over a period of  
10 seven years (5 percent for each of the first three years, and 6  
11 percent for each of the remaining four years). Any investment by  
12 any taxpayer in the CDE redeemed before the end of the seven-year  
13 period will be recaptured.

14 (d) Fourteen states in the United States have adopted state  
15 programs using the NMTC model including Alabama, Florida,  
16 Illinois, Nevada, and Oregon. While some of the programs  
17 substantially mirror the federal program, others vary in both the  
18 percentage of the credit and some of the policies that form the  
19 foundation of the credit. One of the reasons cited for establishing  
20 state-level programs is to make a state more attractive to CDEs,  
21 which results in increasing the amount of federal NMTCs being  
22 utilized in a state. Further, several studies, including a January 1,  
23 2011, case study by Pacific Community Ventures, showed that for  
24 every dollar of forgone tax revenue, the federal NMTC leverages  
25 \$12 to \$14 of private investment.

26 SEC. 2. Section 26011.9 is added to the Public Resources Code,  
27 to read:

28 26011.9. The authority shall make a determination of the  
29 amount of the one hundred million dollars (\$100,000,000) in  
30 exclusions not granted in the assigned calendar year pursuant to  
31 Section 26011.8. An amount equal to that amount shall be granted  
32 in the subsequent calendar year through the California New  
33 Markets Tax Credit Program pursuant to Sections 12283, 17053.9,  
34 and 23622.9 of the Revenue and Taxation Code. This section shall  
35 not prevent a taxpayer granted an exclusion pursuant to Section  
36 6010.8 of the Revenue and Taxation Code from applying for, and  
37 receiving a refund for, taxes paid under Part 1 (commencing with  
38 Section 6001) of Division 2 of the Revenue and Taxation Code.

39 SEC. 3. Section 12283 is added to the Revenue and Taxation  
40 Code, to read:

1 12283. (a) There is hereby created the California New Markets  
2 Tax Credit Program as provided in this section, Section 17053.9,  
3 and Section 23622.9. The purpose of this program is to stimulate  
4 private sector investment in lower income communities by  
5 providing a tax incentive to community and economic development  
6 entities that can be leveraged by the entity to attract private sector  
7 investment that in turn will be deployed by providing financing  
8 and technical assistance to small- and medium-size businesses and  
9 the development of commercial, industrial, and community  
10 development projects, including, but not limited to, facilities for  
11 nonprofit service organizations, light manufacturing, and mixed-use  
12 and transit-oriented development. The committee and GO-Biz  
13 shall administer this program as provided in this section, Section  
14 17053.9, and Section 23622.9. The Director of GO-Biz may  
15 delegate the administration of all or portions of the program within  
16 GO-Biz.

17 (b) (1) For taxable years beginning on or after January 1, 2016,  
18 and before January 1, 2028, and subject to subdivision (h), there  
19 shall be allowed as a credit against the tax described in Sections  
20 12201, 12204, 12206, and 12209, an amount determined in  
21 accordance with Section 45D of the Internal Revenue Code, as  
22 modified as set forth in this section.

23 (2) (A) For purposes of this section, “committee” means the  
24 California Competes Tax Credit Committee established under  
25 Section 18410.2.

26 (B) For purposes of this section, “GO-Biz” means the  
27 Governor’s Office of Business and Economic Development.

28 (c) Section 45D of the Internal Revenue Code is modified as  
29 follows:

30 (1) Section 45D(a)(2) of the Internal Revenue Code, relating to  
31 applicable percentage, is modified by substituting for “(A) 5  
32 percent with respect to the first 3 credit allowance dates, and (B)  
33 6 percent with respect to the remainder of the credit allowance  
34 dates” with the following:

35 (A) Zero percent with respect to the first two credit allowance  
36 dates.

37 (B) Seven percent with respect to the third credit allowance  
38 date.

39 (C) Eight percent with respect to the remainder of the credit  
40 allowance dates.

1 (2) (A) Section 45D(c)(1) of the Internal Revenue Code is  
2 modified to only include a qualified community development  
3 entity, that is certified by the Secretary of the Treasury, and its  
4 subsidiary qualified community development entities that have  
5 entered into an allocation agreement with the Community  
6 Development Financial Institutions Fund of the United States  
7 Treasury Department, with respect to credits authorized by Section  
8 45D of the Internal Revenue Code, that includes California within  
9 the service area and is dated on or after January 1, 2012.

10 (B) Section 45D(c)(2) of the Internal Revenue Code is modified  
11 to only include a specialized small business investment company  
12 or community development financial institution that entered into  
13 an allocation agreement with the Community Development  
14 Financial Institutions Fund of the United States Treasury  
15 Department, with respect to credits authorized by Section 45D of  
16 the Internal Revenue Code, that includes California within the  
17 service area and is dated on or after January 1, 2012.

18 (3) The term “qualified active low-income community business,”  
19 as defined in Section 45D(d)(2) of the Internal Revenue Code, is  
20 modified as follows:

21 (A) By substituting “any low-income community in California”  
22 for “any low-income community” every place it appears in Section  
23 45D of the Internal Revenue Code.

24 (B) Section 45D(d)(2)(A)(iii) of the Internal Revenue Code is  
25 modified to allow the services of employees of a service-based  
26 qualified active low-income community business to be performed  
27 outside the low-income community. A service-based qualified  
28 active low-income community business is a business that primarily  
29 earns revenue through providing intangible products and services  
30 and leases or owns real property in the low-income community  
31 that is used for the operation of the business.

32 (C) A qualified active low-income community business shall  
33 not include any business that derives, or projects to derive, 15  
34 percent or more of its annual revenue from the rental or sale of  
35 real estate. This exclusion does not apply to a business that is  
36 controlled by, or under common control with, another business if  
37 the second business: (I) does not derive or project to derive 15  
38 percent or more of its annual revenue from the rental or sale of  
39 real estate; and (II) is the primary tenant of the real estate leased  
40 from the first business.

1 (D) A qualified active low-income community business shall  
2 only include a business that, at the time the initial investment is  
3 made, has 250 or fewer employees and is located in one or more  
4 California low-income communities. The operating business shall  
5 meet all other conditions of a qualified active low-income  
6 community business, except as modified by this paragraph.

7 (E) A qualified active low-income community business shall  
8 only include a business located in census tracts with a poverty rate  
9 greater than 30 percent, or census tracts, if located within a  
10 non-metropolitan area, with a median family income that does not  
11 exceed 60 percent of median family income for the State of  
12 California, or census tracts, if located within a metropolitan area,  
13 with a median family income that does not exceed 60 percent of  
14 the greater of the California median family income or the  
15 metropolitan area median family income, or census tracts with  
16 unemployment rates at least 1.5 times the national average.

17 (F) A qualified active low-income community business shall  
18 not include any business that operates or derives revenues from  
19 the operation of a country club, gaming establishment, massage  
20 parlor, liquor store, or golf course.

21 (G) A qualified active low-income community business shall  
22 not include a sexually oriented business. A “sexually oriented  
23 business” means a nightclub, bar, restaurant, or similar commercial  
24 enterprise that provides for an audience of two or more individuals  
25 live nude entertainment or live nude performances where the nudity  
26 is a function of everyday business operations and where nudity is  
27 a planned and intentional part of the entertainment or performance.  
28 “Nude” means clothed in a manner that leaves uncovered or visible,  
29 through less than fully opaque clothing, any portion of the genitals  
30 or, in the case of a female, any portion of the breasts below the  
31 top of the areola of the breasts.

32 (H) A qualified active low-income community business shall  
33 not include a charter school.

34 (4) Section 45D(f) of the Internal Revenue Code, relating to  
35 national limitation on amount of investments designated, is  
36 modified as follows:

37 (A) The following shall apply in lieu of the provisions of  
38 Section 45D(f)(1) of the Internal Revenue Code: “The aggregate  
39 amount of qualified equity investments that may be allocated in  
40 any calendar year for purposes of this section, Section 17053.9,

1 and Section 23622.9 shall be an amount as determined by GO-Biz  
2 in consultation with the Department of Finance based upon any  
3 unused portion of the one hundred million dollars (\$100,000,000)  
4 in exclusions, authorized pursuant to Section 6010.8, as determined  
5 by the California Alternative Energy and Advanced Transportation  
6 Financing Authority and reported to the committee, not to exceed  
7 an amount based upon a credit of forty million dollars  
8 (\$40,000,000). The committee shall limit the allocation of  
9 investments that may be designated under this section, Section  
10 17053.9, and Section 23622.9 to a cumulative total amount based  
11 on credits of no more than two hundred million dollars  
12 (\$200,000,000). The allocation of any undesignated qualified  
13 equity investments shall be returned to the committee by March  
14 1 of the year following allocation and the value of the undesignated  
15 qualified equity investment shall be available for allocation in the  
16 following calendar years in accordance with the application  
17 process. Any qualified equity investment attributable to recaptured  
18 credits shall be available to the committee on March 1 of the year  
19 following recapture and shall be available for allocation in the  
20 following calendar years in accordance with subparagraph (B) of  
21 paragraph (5). Reallocated qualified equity investments attributable  
22 to recapture credits shall not count against the annual or the  
23 cumulative limit.”

24 (B) The references to “the Secretary” in Section 45D(f)(2) of  
25 the Internal Revenue Code, relating to allocation of limitation, is  
26 modified to read “GO-Biz.”

27 (C) The last sentence of Section 45D(f)(3) of the Internal  
28 Revenue Code, relating to carryover of unused limitation, shall  
29 not apply.

30 (5) Section 45D(g)(3) of the Internal Revenue Code, relating  
31 to recapture event, is modified to add the following:

32 (A) (i) The qualified community development entity fails to  
33 comply with subparagraph (D) of paragraph (5) of subdivision (d).  
34 In this case, recapture shall be 100 percent of the credit. The  
35 qualified community development entity shall send notice to  
36 GO-Biz within 30 calendar days of the close of any calendar year  
37 in which the qualified community development entity has failed  
38 to invest at least 15 percent of the purchase price of the qualified  
39 equity investment in satisfaction of the requirements of  
40 subparagraph (D) of paragraph (5) of subdivision (d).

1 (ii) The qualified community development entity made an  
2 investment without performing a revenue impact assessment that  
3 satisfies subparagraph (J) of paragraph (5) of subdivision (d). In  
4 this case, recapture shall be 100 percent of the credit, unless  
5 GO-Biz has approved a waiver pursuant to clause (ii) of  
6 subparagraph (J) of paragraph (5) of subdivision (d). The qualified  
7 community development entity shall send notice to GO-Biz within  
8 30 calendar days of the close of any calendar year in which the  
9 qualified community development entity has made an investment  
10 that fails to meet the requirements set forth in subparagraph (J) of  
11 paragraph (5) of subdivision (d).

12 (B) GO-Biz shall establish a process, in consultation with the  
13 Department of Insurance, for the recapture of credits allowed under  
14 this section from the entity that claimed the credit on a return.

15 (C) Recaptured qualified equity investments revert back to  
16 GO-Biz and shall be reissued. The reissue shall not count toward  
17 the annual or cumulative allocation limitation. The reissue shall  
18 be done in the following order:

19 (i) First, pro rata to applicants whose qualified equity investment  
20 allocations were reduced pursuant to subparagraph (F) of paragraph  
21 (5) of subdivision (d) by the annual allocation limitation.

22 (ii) Thereafter, in accordance with the application process.

23 (D) (i) Enforcement of each of the recapture provisions shall  
24 be subject to a six-month cure period. Recapture shall not occur  
25 until the qualified community development entity gives notice of  
26 potential noncompliance to GO-Biz and is afforded six months  
27 from the date of such notice to cure the noncompliance. The  
28 six-month cure period shall begin on the day GO-Biz sends written  
29 acknowledgment of the qualified community development entity's  
30 notice of the potential noncompliance. The qualified community  
31 development entity is responsible for addressing the circumstances  
32 of the potential noncompliance and providing all documentation  
33 to GO-Biz necessary to demonstrate, to GO-Biz's satisfaction, that  
34 those conditions no longer exist.

35 (ii) In an instance where a qualified community development  
36 entity fails to send the required notice of potential noncompliance  
37 or GO-Biz has information from the annual report or other sources  
38 that indicates that the entity is in potential noncompliance, GO-Biz  
39 shall send the notice. The date GO-Biz sends the notice of potential  
40 noncompliance shall begin the six-month cure period.

1 (iii) Not more than 45 calendar days following the close of the  
2 cure period, GO-Biz shall make a final determination as to whether  
3 the noncompliance has been cured. This determination shall be  
4 based on the review of the notice, information submitted by the  
5 qualified community development entity, and any other information  
6 GO-Biz deems relevant to this determination. Within 30 calendar  
7 days of making the final determination, GO-Biz shall notify the  
8 Department of Insurance and the Franchise Tax Board of the  
9 determination and other related information including, but not  
10 limited to, the tax identification number of the taxpayer.

11 (iv) GO-Biz shall post, and update monthly, a tally of  
12 undesigned qualified equity investments, pursuant to paragraph  
13 (4), and recaptured credits pursuant to this paragraph.

14 (6) Section 45D(h) of the Internal Revenue Code, relating to  
15 basis reduction, shall not apply.

16 (7) If a qualified community development entity makes a capital  
17 or equity investment or a loan with respect to a qualified  
18 low-income building under the state Low-Income Housing Tax  
19 Credit Program, the investment or loan is not a qualified  
20 low-income community investment under this section.

21 (d) (1) GO-Biz shall adopt guidelines necessary or appropriate  
22 to carry out its responsibilities with respect to the allocation of the  
23 qualified equity investments and recapture of credit allowed by  
24 this section. The adoption of the guidelines shall not be subject to  
25 the rulemaking provisions of the Administrative Procedure Act of  
26 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
27 3 of Title 2 of the Government Code.

28 (2) (A) GO-Biz shall establish and impose reasonable fees upon  
29 entities that apply for the allocation pursuant to this subdivision  
30 that in the aggregate defray the cost of reviewing applications for  
31 the program. GO-Biz may impose other reasonable fees upon  
32 entities that receive the allocation pursuant to this subdivision that  
33 in the aggregate defray the cost of administering the program.

34 (B) The fees collected shall be deposited in the California New  
35 Markets Tax Credit Fund established in Section 18410.3.

36 (3) In developing guidelines GO-Biz shall adopt an allocation  
37 process that does all of the following:

38 (A) Creates an equitable distribution process that ensures that  
39 low-income community populations across the state are engaged  
40 and have an opportunity to benefit from the program.

1 (B) Sets minimum organizational capacity standards that  
2 applicants must meet in order to receive an allocation of authority  
3 to designate qualified equity investments including, but not limited  
4 to, its business strategy, targeted community outcomes,  
5 capitalization strategy, and management capacity.

6 (C) Considers the qualified community development entity's  
7 prior qualified low-income community investments under Section  
8 45D of the Internal Revenue Code.

9 (D) Considers the qualified community development entity's  
10 prior qualified low-income community investments under this  
11 section, including subparagraph (D) of paragraph (5).

12 (E) Does not require the qualified community development  
13 entity to identify the qualified active low-income community  
14 businesses in which the qualified community development entity  
15 will invest in an application for qualified equity investment  
16 allocation.

17 (F) Does not disqualify a low-income community investment  
18 for the single reason that public or private incentives, loans, equity  
19 investments, technical assistance, or other forms of support have  
20 been or continue to be provided.

21 (4) (A) GO-Biz shall begin accepting applications on or before  
22 May 15, 2016, and shall award authority to designate qualified  
23 equity investments annually through 2020, to the extent that  
24 allocations are available pursuant to Section 26011.9 of the Public  
25 Resources Code. To the extent reasonable and consistent in  
26 carrying out the purposes of this section, GO-Biz shall consider  
27 how the timing of the state allocation rounds correspond with the  
28 allocation schedule of the federal New Markets Tax Credit  
29 Program.

30 (B) Within 20 calendar days after receipt of an application  
31 GO-Biz shall determine whether the application is complete or  
32 whether additional information is necessary in order to fully  
33 evaluate the application. If additional information is requested and  
34 the qualified community development entity provides that  
35 information within five business days, the application shall be  
36 considered completed as of the original date of receipt. If the  
37 qualified community development entity fails to provide the  
38 information within the five-business-day period, the application  
39 shall be denied and must be resubmitted in full with a new receipt  
40 date.

1 (C) Within 20 calendar days after receipt of an application  
2 determined to be complete by GO-Biz, the committee shall grant  
3 or deny the application in full or in part. If the committee denies  
4 any part of the application, it shall inform the qualified community  
5 development entity of the grounds for the denial.

6 (5) (A) In the 2016 awards cycle, the committee shall award  
7 authority to designate qualified equity investments to qualified  
8 community development entities described in paragraph (3) of  
9 subdivision (c) in the order applications are received by the  
10 committee. Applications received on the same day shall be deemed  
11 to have been received simultaneously.

12 (B) In the 2017 to 2020 award cycles, inclusive, at least 60  
13 percent of the authority to designate qualified equity investments  
14 shall be awarded pursuant to subparagraph (A). At the committee's  
15 discretion, a higher percentage of authority to designate qualified  
16 equity investments may be awarded pursuant to subparagraph (A).

17 (C) The committee shall award up to 40 percent of the authority  
18 to designate qualified equity investments in the 2016 to 2020,  
19 inclusive, award cycles, to qualified community development  
20 entities on a competitive basis using blind scoring and a review  
21 committee that is comprised of community development finance  
22 practitioners and members having demonstrated experience in  
23 assessing organizational business strategy, community outcomes,  
24 capitalization strategy, and management capacity. A member of  
25 the review committee shall not have a financial interest, which  
26 includes, but is not limited to, asking, consenting, or agreeing to  
27 receive any commission, emolument, gratuity, money, property,  
28 or thing of value for his or her own use, benefit, or personal  
29 advantage for procuring or endeavoring to procure for any person,  
30 partnership, joint venture, association, or corporation any qualified  
31 equity investment or other assistance from any applicant.

32 (D) (i) For qualified equity investments derived from the 2016  
33 to 2020, inclusive, awards cycles, pursuant to subparagraphs (A),  
34 (B) and (C), a qualified community development entity shall invest  
35 at least 15 percent of the qualified equity investment in a qualified  
36 low-income community business in consultation or in partnership  
37 with either of the following:

38 (I) A qualified community development entity certified under  
39 Section 45D of the Internal Revenue Code that has not received a  
40 federal New Markets Tax Credit allocation on or after January 1,

1 2012, and has either a local service area that includes one or more  
2 California communities or a California statewide service area, but  
3 excluding qualified community development entities with a  
4 national service area.

5 (II) A nonprofit organization certified by GO-Biz, pursuant to  
6 clause (iii).

7 (ii) The 15-percent investment shall be calculated by multiplying  
8 the total purchase price of the qualified equity investments issued  
9 by the qualified community development entity by 15 percent.  
10 Each community development entity application shall indicate  
11 how the qualified community development entity will meet this  
12 requirement.

13 (iii) GO-Biz shall establish guidelines for certifying a nonprofit  
14 organization pursuant to this subparagraph. A nonprofit  
15 organization shall meet the requirements of Section 23701 and be  
16 certified by GO-Biz as having a primary mission of serving or  
17 providing investment capital in low-income communities in  
18 California. The nonprofit organization shall maintain accountability  
19 to residents of low-income communities through their  
20 representation on any governing board or on an advisory board of  
21 the nonprofit organization. GO-Biz may include reasonable  
22 conditions on the certification to effectuate the intent of this section  
23 and may suspend or revoke a certification, after affording the  
24 nonprofit organization notice and the opportunity to appeal and  
25 be heard by the committee, if GO-Biz finds that the nonprofit  
26 organization no longer meets the requirements for certification.

27 (E) In making competitive awards of authority to designate  
28 qualified equity investments, priority shall be given to applications  
29 that can demonstrate that the qualified equity investment authority  
30 will allow the qualified community development entity to undertake  
31 qualified low-income community investments in rural, suburban,  
32 or urban areas that have been historically underserved and result  
33 in the greatest benefit to the hardest to serve and undercapitalized  
34 lower income populations, or in newly established businesses, or  
35 in activities that support neighborhood revitalization strategies  
36 driven by local grassroots stakeholders in multiple low-income  
37 communities across one or more regions or the state for the purpose  
38 of scaling economic development activities that compliment  
39 regional industry clusters that result in the greatest benefit to the  
40 largest number of lower income individuals.

1 (F) (i) For applications described in subparagraph (A), in the  
2 event requests for authority to designate qualified equity  
3 investments exceed the applicable annual allocation limitation,  
4 GO-Biz shall certify, consistent with remaining qualified equity  
5 investment capacity, qualified equity investments of applicants in  
6 proportionate percentages based upon the ratio of the amount of  
7 qualified equity investments requested in such applications to the  
8 total amount of qualified equity investments requested in all such  
9 applications received on the same day.

10 (ii) If a pending request cannot be fully certified due to this  
11 limit, GO-Biz shall certify the portion that may be certified unless  
12 the qualified community development entity elects to withdraw  
13 its request rather than receive partial certification.

14 (G) An approved applicant may transfer all or a portion of its  
15 certified qualified equity investment authority to its controlling  
16 entity or any subsidiary qualified community development entity  
17 of the controlling entity, provided that the applicant and the  
18 transferee notify the committee within 30 calendar days of such  
19 transfer and include the information required in the application  
20 with respect to such transferee with such notice. The transferee  
21 shall be subject to the same rules, requirements, and limitations  
22 applicable to the transferor.

23 (H) Within 60 calendar days of GO-Biz sending notice of  
24 certification, the qualified community development entity or any  
25 transferee, under subparagraph (G), shall issue the qualified equity  
26 investment and receive cash in the amount of the certified amount.  
27 The qualified community development entity or transferee, under  
28 subparagraph (G), must provide GO-Biz with evidence of the  
29 receipt of the cash investment within 65 calendar days of the  
30 applicant receiving notice of certification. If the qualified  
31 community development entity or any transferee, under  
32 subparagraph (G), does not receive the cash investment and issue  
33 the qualified equity investment within 60 calendar days of GO-Biz  
34 sending the certification notice, the certification shall lapse and  
35 the entity may not issue the qualified equity investment without  
36 reapplying to GO-Biz for certification. Lapsed certifications revert  
37 back to GO-Biz and shall be reissued in the following order:

38 (i) First, pro rata to applicants whose qualified equity investment  
39 allocations were reduced pursuant to subparagraph (F) under the

1 annual allocation limitation of forty million dollars (\$40,000,000)  
2 in paragraph (4) of subdivision (c).  
3 (ii) Thereafter, in accordance with the application process.  
4 (I) A qualified community development entity that issues  
5 qualified equity investments must notify GO-Biz of the names of  
6 taxpayers that are eligible to utilize tax credits pursuant to this  
7 section and any transfer of a qualified equity investment.  
8 (J) (i) A qualified community development entity shall only  
9 make a qualified low-income community investment that  
10 demonstrates a positive revenue impact on the state over a 10-year  
11 period against the aggregate tax credit utilization over the same  
12 10-year period. GO-Biz shall approve one or more nationally  
13 recognized revenue impact assessment models that shall be used  
14 by the qualified community development entity to demonstrate  
15 positive revenue impact. If it is demonstrated that the qualified  
16 low-income community investment has a positive revenue impact  
17 on the state at the time the investment is made, it shall be treated  
18 as if the investment continues to meet the requirement of this  
19 subparagraph for the duration of the seven-year program period.  
20 (ii) Upon application and approval by GO-Biz, the requirement  
21 of this subparagraph may be waived.  
22 (6) (A) A qualified community development entity that issues  
23 qualified equity investments shall submit a report to GO-Biz within  
24 the first five business days after the first anniversary of the initial  
25 credit allowance date that provides documentation as to the  
26 investment of at least 85 percent of the purchase price in qualified  
27 low-income community investments in qualified active low-income  
28 community businesses located in California. Such report shall  
29 include all of the following:  
30 (i) A bank statement of such qualified community development  
31 entity evidencing each qualified low-income community  
32 investment.  
33 (ii) Evidence that such business was a qualified active  
34 low-income community business at the time of such qualified  
35 low-income community investment.  
36 (iii) Evidence that the community development entity complied  
37 with subparagraph (D) of paragraph (5).  
38 (iv) Evidence that each qualified low-income community  
39 investment was determined to have a positive revenue impact on  
40 the state. This requirement does not apply for any qualified

1 low-income community investment for which GO-Biz approved  
2 a waiver, pursuant to clause (ii) of subparagraph (J) of paragraph  
3 (5) or to reinvestments of redeemed qualified low-income  
4 investments.

5 (v) Any other information required by GO-Biz as being  
6 necessary to meet the requirements of this section.

7 (B) Thereafter, the qualified community development entity  
8 shall submit an annual report to GO-Biz within 60 calendar days  
9 of the beginning of the calendar year during the seven years  
10 following submittal of the report, pursuant to subparagraph (A).  
11 No annual report shall be due prior to the first anniversary of the  
12 initial credit allowance date. The report shall include, but is not  
13 limited to, the following:

14 (i) The social, environmental, and economic impact the credit  
15 had on the low-income community during the report period and  
16 cumulatively.

17 (ii) The amount of moneys used for qualified low-income  
18 investments in qualified low-income community businesses.

19 (iii) The number of employment positions created and retained  
20 as a result of qualified low-income community investments and  
21 the average annual salary of such positions.

22 (iv) The number of operating businesses assisted as a result of  
23 qualified low-income community investments, by industry and  
24 number of employees.

25 (v) Number of owner-occupied real estate projects.

26 (vi) Location of each qualified low-income community business  
27 assisted by a qualified low-income community investment.

28 (vii) Summary of the outcomes of each of the revenue impact  
29 assessments undertaken by the qualified community development  
30 entity during the year.

31 (e) (1) In the case where the credit allowed by this section  
32 exceeds the tax described in Sections 12201, 12204, 12206, and  
33 12209, the excess may be carried over to reduce that tax in the  
34 following year, and the six succeeding years if necessary, until the  
35 credit is exhausted.

36 (2) A taxpayer allowed a credit under this section for a qualified  
37 equity investment shall not be eligible for any other credit under  
38 this part with respect to that investment.

39 (f) GO-Biz shall annually report on its Internet Web site the  
40 information provided by low-income community development

1 entities and on the geographic distribution of the qualified active  
2 low-income community businesses assisted.

3 (g) (1) The Insurance Commissioner and the Franchise Tax  
4 Board may prescribe any rules or regulations that may be necessary  
5 or appropriate to implement this section. The Insurance  
6 Commissioner and the Franchise Tax Board shall have access to  
7 any documentation held by the committee relative to the application  
8 and reporting of a qualified community development entity.

9 (2) A qualifying community development entity shall provide  
10 GO-Biz with the name, address, and tax identification number of  
11 each investor and entity for which a qualified equity investment  
12 was designated by the qualifying community development entity,  
13 pursuant to this section. GO-Biz shall provide this information to  
14 the Insurance Commissioner and the Franchise Tax Board in a  
15 manner determined by the Insurance Commissioner and the  
16 Franchise Tax Board.

17 (h) GO-Biz and the committee shall only make awards pursuant  
18 to paragraph (4) of subdivision (d) in a calendar year in which the  
19 Legislature appropriates funds in the California New Markets Tax  
20 Credit Fund pursuant to subdivision (b) of Section 18410.3.

21 (i) This section shall remain in effect only until December 1,  
22 2028, and as of that date is repealed.

23 SEC. 4. Section 17053.9 is added to the Revenue and Taxation  
24 Code, to read:

25 17053.9. (a) There is hereby created the California New  
26 Markets Tax Credit Program as provided in this section, Section  
27 12283, and Section 23622.9. The purpose of this program is to  
28 stimulate private sector investment in lower income communities  
29 by providing a tax incentive to community and economic  
30 development entities that can be leveraged by the entity to attract  
31 private sector investment that in turn will be deployed by providing  
32 financing and technical assistance to small- and medium-size  
33 businesses and the development of commercial, industrial, and  
34 community development projects, including, but not limited to,  
35 facilities for nonprofit service organizations, light manufacturing,  
36 and mixed-use and transit-oriented development. The committee  
37 and GO-Biz shall administer this program as provided in this  
38 section, Section 12283, and Section 23622.9. The Director of  
39 GO-Biz may delegate the administration of all or portions of the  
40 program within GO-Biz.

1 (b) (1) For taxable years beginning on or after January 1, 2016,  
2 and before January 1, 2028, and subject to subdivision (h), there  
3 shall be allowed as a credit against the “net tax,” as defined in  
4 Section 17039, an amount determined in accordance with Section  
5 45D of the Internal Revenue Code, as modified as set forth in this  
6 section.

7 (2) (A) For purposes of this section, “committee” means the  
8 California Competes Tax Credit Committee established under  
9 Section 18410.2.

10 (B) For purposes of this section, “GO-Biz” means the  
11 Governor’s Office of Business and Economic Development.

12 (c) Section 45D of the Internal Revenue Code is modified as  
13 follows:

14 (1) Section 45D(a)(2) of the Internal Revenue Code, relating to  
15 applicable percentage, is modified by substituting for “(A) 5  
16 percent with respect to the first 3 credit allowance dates, and (B)  
17 6 percent with respect to the remainder of the credit allowance  
18 dates” with the following:

19 (A) Zero percent with respect to the first two credit allowance  
20 dates.

21 (B) Seven percent with respect to the third credit allowance  
22 date.

23 (C) Eight percent with respect to the remainder of the credit  
24 allowance dates.

25 (2) (A) Section 45D(c)(1) of the Internal Revenue Code is  
26 modified to only include a qualified community development  
27 entity, that is certified by the Secretary of the Treasury, and its  
28 subsidiary qualified community development entities that have  
29 entered into an allocation agreement with the Community  
30 Development Financial Institutions Fund of the United States  
31 Treasury Department, with respect to credits authorized by Section  
32 45D of the Internal Revenue Code, that includes California within  
33 the service area and is dated on or after January 1, 2012.

34 (B) Section 45D(c)(2) of the Internal Revenue Code is modified  
35 to only include a specialized small business investment company  
36 or community development financial institution that entered into  
37 an allocation agreement with the Community Development  
38 Financial Institutions Fund of the United States Treasury  
39 Department, with respect to credits authorized by Section 45D of

1 the Internal Revenue Code, that includes California within the  
2 service area and is dated on or after January 1, 2012.

3 (3) The term “qualified active low-income community business,”  
4 as defined in Section 45D(d)(2) of the Internal Revenue Code, is  
5 modified as follows:

6 (A) By substituting “any low-income community in California”  
7 for “any low-income community” every place it appears in Section  
8 45D of the Internal Revenue Code.

9 (B) Section 45D(d)(2)(A)(iii) of the Internal Revenue Code is  
10 modified to allow the services of employees of a service-based  
11 qualified active low-income community business to be performed  
12 outside the low-income community. A service-based qualified  
13 active low-income community business is a business that primarily  
14 earns revenue through providing intangible products and services  
15 and leases or owns real property in the low-income community  
16 that is used for the operation of the business.

17 (C) A qualified active low-income community business shall  
18 not include any business that derives, or projects to derive, 15  
19 percent or more of its annual revenue from the rental or sale of  
20 real estate. This exclusion does not apply to a business that is  
21 controlled by, or under common control with, another business if  
22 the second business: (I) does not derive or project to derive 15  
23 percent or more of its annual revenue from the rental or sale of  
24 real estate; and (II) is the primary tenant of the real estate leased  
25 from the first business.

26 (D) A qualified active low-income community business shall  
27 only include a business that, at the time the initial investment is  
28 made, has 250 or fewer employees and is located in one or more  
29 California low-income communities. The operating business shall  
30 meet all other conditions of a qualified active low-income  
31 community business, except as modified by this paragraph.

32 (E) A qualified active low-income community business shall  
33 only include a business located in census tracts with a poverty rate  
34 greater than 30 percent, or census tracts, if located within a  
35 non-metropolitan area, with a median family income that does not  
36 exceed 60 percent of median family income for the State of  
37 California, or census tracts, if located within a metropolitan area,  
38 with a median family income that does not exceed 60 percent of  
39 the greater of the California median family income or the

1 metropolitan area median family income, or census tracts with  
2 unemployment rates at least 1.5 times the national average.

3 (F) A qualified active low-income community business shall  
4 not include any business that operates or derives revenues from  
5 the operation of a country club, gaming establishment, massage  
6 parlor, liquor store, or golf course.

7 (G) A qualified active low-income community business shall  
8 not include a sexually oriented business. A “sexually oriented  
9 business” means a nightclub, bar, restaurant, or similar commercial  
10 enterprise that provides for an audience of two or more individuals  
11 live nude entertainment or live nude performances where the nudity  
12 is a function of everyday business operations and where nudity is  
13 a planned and intentional part of the entertainment or performance.  
14 “Nude” means clothed in a manner that leaves uncovered or visible,  
15 through less than fully opaque clothing, any portion of the genitals  
16 or, in the case of a female, any portion of the breasts below the  
17 top of the areola of the breasts.

18 (H) A qualified active low-income community business shall  
19 not include a charter school.

20 (4) Section 45D(f) of the Internal Revenue Code, relating to  
21 national limitation on amount of investments designated, is  
22 modified as follows:

23 (A) The following shall apply in lieu of the provisions of Section  
24 45D(f)(1) of the Internal Revenue Code: “The aggregate amount  
25 of qualified equity investments that may be allocated in any  
26 calendar year for purposes of this section, Section 12283, and  
27 Section 23622.9 shall be an amount as determined by GO-Biz in  
28 consultation with the Department of Finance based upon any  
29 unused portion of the one hundred million dollars (\$100,000,000)  
30 in exclusions, authorized pursuant to Section 6010.8, as determined  
31 by the California Alternative Energy and Advanced Transportation  
32 Financing Authority and reported to the committee, not to exceed  
33 an amount based upon a credit of forty million dollars  
34 (\$40,000,000). The committee shall limit the allocation of  
35 investments that may be designated under this section, Section  
36 12283, and Section 23622.9 to a cumulative total amount based  
37 on credits of no more than two hundred million dollars  
38 (\$200,000,000). The allocation of any undesignated qualified  
39 equity investments shall be returned to the committee by March  
40 1 of the year following allocation and the value of the undesignated

1 qualified equity investment shall be available for allocation in the  
2 following calendar years in accordance with the application  
3 process. Any qualified equity investment attributable to recaptured  
4 credits shall be available to the committee on March 1 of the year  
5 following recapture and shall be available for allocation in the  
6 following calendar years in accordance with clause (ii) of  
7 subparagraph (B) of paragraph (5). Reallocated qualified equity  
8 investments attributable to recapture credits shall not count against  
9 the annual or the cumulative limit.”

10 (B) The references to “the Secretary” in Section 45D(f)(2) of  
11 the Internal Revenue Code, relating to allocation of limitation, is  
12 modified to read “GO-Biz.”

13 (C) The last sentence of Section 45D(f)(3) of the Internal  
14 Revenue Code, relating to carryover of unused limitation, shall  
15 not apply.

16 (5) (A) Section 45D(g)(2)(B) of the Internal Revenue Code,  
17 relating to credit recapture amount, is modified to substitute  
18 “Section 19101 of this code” for “section 6621”.

19 (B) Section 45D(g)(3) of the Internal Revenue Code, relating  
20 to recapture event, is modified to add the following:

21 (i) (I) The qualified community development entity fails to  
22 comply with subparagraph (D) of paragraph (5) of subdivision (d).  
23 In this case, recapture shall be 100 percent of the credit. The  
24 qualified community development entity shall send notice to  
25 GO-Biz within 30 calendar days of the close of any calendar year  
26 in which the qualified community development entity has failed  
27 to invest at least 15 percent of the purchase price of the qualified  
28 equity investment in satisfaction of the requirements of  
29 subparagraph (D) of paragraph (5) of subdivision (d).

30 (II) The qualified community development entity made an  
31 investment without performing a revenue impact assessment that  
32 satisfies subparagraph (J) of paragraph (5) of subdivision (d). In  
33 this case, recapture shall be 100 percent of the credit, unless  
34 GO-Biz has approved a waiver pursuant to clause (ii) of  
35 subparagraph (J) of paragraph (5) of subdivision (d). The qualified  
36 community development entity shall send notice to GO-Biz within  
37 30 calendar days of the close of any calendar year in which the  
38 qualified community development entity has made an investment  
39 that fails to meet the requirements set forth in subparagraph (J) of  
40 paragraph (5) of subdivision (d).

1 (ii) GO-Biz shall establish a process, in consultation with the  
2 Franchise Tax Board, for the recapture of credits allowed under  
3 this section from the entity that claimed the credit on a return.

4 (iii) Recaptured qualified equity investments revert back to  
5 GO-Biz and shall be reissued. The reissue shall not count toward  
6 the annual or cumulative allocation limitation. The reissue shall  
7 be done in the following order:

8 (I) First, pro rata to applicants whose qualified equity  
9 investment allocations were reduced pursuant to subparagraph (F)  
10 of paragraph (5) of subdivision (d) by the annual allocation  
11 limitation.

12 (II) Thereafter, in accordance with the application process.

13 (iv) (I) Enforcement of each of the recapture provisions shall  
14 be subject to a six-month cure period. Recapture shall not occur  
15 until the qualified community development entity gives notice of  
16 potential noncompliance to GO-Biz and is afforded six months  
17 from the date of such notice to cure the noncompliance. The  
18 six-month cure period shall begin on the day GO-Biz sends written  
19 acknowledgment of the qualified community development entity's  
20 notice of the potential noncompliance. The qualified community  
21 development entity is responsible for addressing the circumstances  
22 of the potential noncompliance and providing all documentation  
23 to GO-Biz necessary to demonstrate, to GO-Biz's satisfaction, that  
24 those conditions no longer exist.

25 (II) In an instance where a qualified community development  
26 entity fails to send the required notice of potential noncompliance  
27 or GO-Biz has information from the annual report or other sources  
28 that indicates that the entity is in potential noncompliance, GO-Biz  
29 shall send the notice. The date GO-Biz sends the notice of potential  
30 noncompliance shall begin the six-month cure period.

31 (III) Not more than 45 calendar days following the close of the  
32 cure period, GO-Biz shall make a final determination as to whether  
33 the noncompliance has been cured. This determination shall be  
34 based on the review of the notice, information submitted by the  
35 qualified community development entity, and any other information  
36 GO-Biz deems relevant to this determination. Within 30 calendar  
37 days of making the final determination, GO-Biz shall notify the  
38 Franchise Tax Board of the determination and other related  
39 information including, but not limited to, the tax identification  
40 number of the taxpayer.

1 (IV) GO-Biz shall post, and update monthly, a tally of  
2 undesigned qualified equity investments, pursuant to paragraph  
3 (4), and recaptured credits pursuant to this paragraph.

4 (6) If a qualified community development entity makes a capital  
5 or equity investment or a loan with respect to a qualified  
6 low-income building under the state Low-Income Housing Tax  
7 Credit Program, the investment or loan is not a qualified  
8 low-income community investment under this section.

9 (d) (1) GO-Biz shall adopt guidelines necessary or appropriate  
10 to carry out its responsibilities with respect to the allocation of the  
11 qualified equity investments and recapture of credit allowed by  
12 this section. The adoption of the guidelines shall not be subject to  
13 the rulemaking provisions of the Administrative Procedure Act of  
14 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
15 3 of Title 2 of the Government Code.

16 (2) (A) GO-Biz shall establish and impose reasonable fees upon  
17 entities that apply for the allocation pursuant to this subdivision  
18 that in the aggregate defray the cost of reviewing applications for  
19 the program. GO-Biz may impose other reasonable fees upon  
20 entities that receive the allocation pursuant to this subdivision that  
21 in the aggregate defray the cost of administering the program.

22 (B) The fees collected shall be deposited in the California New  
23 Markets Tax Credit Fund established in Section 18410.3.

24 (3) In developing guidelines GO-Biz shall adopt an allocation  
25 process that does all of the following:

26 (A) Creates an equitable distribution process that ensures that  
27 low-income community populations across the state are engaged  
28 and have an opportunity to benefit from the program.

29 (B) Sets minimum organizational capacity standards that  
30 applicants must meet in order to receive an allocation of authority  
31 to designate qualified equity investments including, but not limited  
32 to, its business strategy, targeted community outcomes,  
33 capitalization strategy, and management capacity.

34 (C) Considers the qualified community development entity's  
35 prior qualified low-income community investments under Section  
36 45D of the Internal Revenue Code.

37 (D) Considers the qualified community development entity's  
38 prior qualified low-income community investments under this  
39 section, including subparagraph (D) of paragraph (5).

1 (E) Does not require the qualified community development  
2 entity to identify the qualified active low-income community  
3 businesses in which the qualified community development entity  
4 will invest in an application for qualified equity investment  
5 allocation.

6 (F) Does not disqualify a low-income community investment  
7 for the single reason that public or private incentives, loans, equity  
8 investments, technical assistance, or other forms of support have  
9 been or continue to be provided.

10 (4) (A) GO-Biz shall begin accepting applications on or before  
11 May 15, 2016, and shall award authority to designate qualified  
12 equity investments annually through 2020, to the extent that  
13 allocations are available pursuant to Section 26011.9 of the Public  
14 Resources Code. To the extent reasonable and consistent in  
15 carrying out the purposes of this section, GO-Biz shall consider  
16 how the timing of the state allocation rounds correspond with the  
17 allocation schedule of the federal New Markets Tax Credit  
18 Program.

19 (B) Within 20 calendar days after receipt of an application  
20 GO-Biz shall determine whether the application is complete or  
21 whether additional information is necessary in order to fully  
22 evaluate the application. If additional information is requested and  
23 the qualified community development entity provides that  
24 information within five business days, the application shall be  
25 considered completed as of the original date of receipt. If the  
26 qualified community development entity fails to provide the  
27 information within the five-business-day period, the application  
28 shall be denied and must be resubmitted in full with a new receipt  
29 date.

30 (C) Within 20 calendar days after receipt of an application  
31 determined to be complete by GO-Biz, the committee shall grant  
32 or deny the application in full or in part. If the committee denies  
33 any part of the application, it shall inform the qualified community  
34 development entity of the grounds for the denial.

35 (5) (A) In the 2016 awards cycle, the committee shall award  
36 authority to designate qualified equity investments to qualified  
37 community development entities described in paragraph (3) of  
38 subdivision (c) in the order applications are received by the  
39 committee. Applications received on the same day shall be deemed  
40 to have been received simultaneously.

1 (B) In the 2017 to 2020 award cycles, inclusive, at least 60  
2 percent of the authority to designate qualified equity investments  
3 shall be awarded pursuant to subparagraph (A). At the committee’s  
4 discretion, a higher percentage of authority to designate qualified  
5 equity investments may be awarded pursuant to subparagraph (A).

6 (C) The committee shall award up to 40 percent of the authority  
7 to designate qualified equity investments in the 2016 to 2020,  
8 inclusive, award cycles, to qualified community development  
9 entities on a competitive basis using blind scoring and a review  
10 committee that is comprised of community development finance  
11 practitioners and members having demonstrated experience in  
12 assessing organizational business strategy, community outcomes,  
13 capitalization strategy, and management capacity. A member of  
14 the review committee shall not have a financial interest, which  
15 includes, but is not limited to, asking, consenting, or agreeing to  
16 receive any commission, emolument, gratuity, money, property,  
17 or thing of value for his or her own use, benefit, or personal  
18 advantage for procuring or endeavoring to procure for any person,  
19 partnership, joint venture, association, or corporation any qualified  
20 equity investment or other assistance from any applicant.

21 (D) (i) For qualified equity investments derived from the 2016  
22 to 2020, inclusive, awards cycles, pursuant to subparagraphs (A),  
23 (B) and (C), a qualified community development entity shall invest  
24 at least 15 percent of the qualified equity investment in a qualified  
25 low-income community business in consultation or in partnership  
26 with either of the following:

27 (I) A qualified community development entity certified under  
28 Section 45D of the Internal Revenue Code that has not received a  
29 federal New Markets Tax Credit allocation on or after January 1,  
30 2012, and has either a local service area that includes one or more  
31 California communities or a California statewide service area, but  
32 excluding qualified community development entities with a  
33 national service area.

34 (II) A nonprofit organization certified by GO-Biz, pursuant to  
35 clause (iii).

36 (ii) The 15-percent investment shall be calculated by multiplying  
37 the total purchase price of the qualified equity investments issued  
38 by the qualified community development entity by 15 percent.  
39 Each community development entity application shall indicate

1 how the qualified community development entity will meet this  
2 requirement.

3 (iii) GO-Biz shall establish guidelines for certifying a nonprofit  
4 organization pursuant to this subparagraph. A nonprofit  
5 organization shall meet the requirements of Section 23701 and be  
6 certified by GO-Biz as having a primary mission of serving or  
7 providing investment capital in low-income communities in  
8 California. The nonprofit organization shall maintain accountability  
9 to residents of low-income communities through their  
10 representation on any governing board or on an advisory board of  
11 the nonprofit organization. GO-Biz may include reasonable  
12 conditions on the certification to effectuate the intent of this section  
13 and may suspend or revoke a certification, after affording the  
14 nonprofit organization notice and the opportunity to appeal and  
15 be heard by the committee, if GO-Biz finds that the nonprofit  
16 organization no longer meets the requirements for certification.

17 (E) In making competitive awards of authority to designate  
18 qualified equity investments, priority shall be given to applications  
19 that can demonstrate that the qualified equity investment authority  
20 will allow the qualified community development entity to undertake  
21 qualified low-income community investments in rural, suburban,  
22 or urban areas that have been historically underserved and result  
23 in the greatest benefit to the hardest to serve and undercapitalized  
24 lower income populations, or in newly established businesses, or  
25 in activities that support neighborhood revitalization strategies  
26 driven by local grassroots stakeholders in multiple low-income  
27 communities across one or more regions or the state for the purpose  
28 of scaling economic development activities that compliment  
29 regional industry clusters that result in the greatest benefit to the  
30 largest number of lower income individuals.

31 (F) (i) For applications described in subparagraph (A), in the  
32 event requests for authority to designate qualified equity  
33 investments exceed the applicable annual allocation limitation,  
34 GO-Biz shall certify, consistent with remaining qualified equity  
35 investment capacity, qualified equity investments of applicants in  
36 proportionate percentages based upon the ratio of the amount of  
37 qualified equity investments requested in such applications to the  
38 total amount of qualified equity investments requested in all such  
39 applications received on the same day.

1 (ii) If a pending request cannot be fully certified due to this  
2 limit, GO-Biz shall certify the portion that may be certified unless  
3 the qualified community development entity elects to withdraw  
4 its request rather than receive partial certification.

5 (G) An approved applicant may transfer all or a portion of its  
6 certified qualified equity investment authority to its controlling  
7 entity or any subsidiary qualified community development entity  
8 of the controlling entity, provided that the applicant and the  
9 transferee notify the committee within 30 calendar days of such  
10 transfer and include the information required in the application  
11 with respect to such transferee with such notice. The transferee  
12 shall be subject to the same rules, requirements, and limitations  
13 applicable to the transferor.

14 (H) Within 60 calendar days of GO-Biz sending notice of  
15 certification, the qualified community development entity or any  
16 transferee, under subparagraph (G), shall issue the qualified equity  
17 investment and receive cash in the amount of the certified amount.  
18 The qualified community development entity or transferee, under  
19 subparagraph (G), must provide GO-Biz with evidence of the  
20 receipt of the cash investment within 65 calendar days of the  
21 applicant receiving notice of certification. If the qualified  
22 community development entity or any transferee, under  
23 subparagraph (G), does not receive the cash investment and issue  
24 the qualified equity investment within 60 calendar days of GO-Biz  
25 sending the certification notice, the certification shall lapse and  
26 the entity may not issue the qualified equity investment without  
27 reapplying to GO-Biz for certification. Lapsed certifications revert  
28 back to GO-Biz and shall be reissued in the following order:

29 (i) First, pro rata to applicants whose qualified equity investment  
30 allocations were reduced pursuant to subparagraph (F) under the  
31 annual allocation limitation of forty million dollars (\$40,000,000)  
32 in paragraph (4) of subdivision (c).

33 (ii) Thereafter, in accordance with the application process.

34 (I) A qualified community development entity that issues  
35 qualified equity investments must notify GO-Biz of the names of  
36 taxpayers that are eligible to utilize tax credits pursuant to this  
37 section and any transfer of a qualified equity investment.

38 (J) (i) A qualified community development entity shall only  
39 make a qualified low-income community investment that  
40 demonstrates a positive revenue impact on the state over a 10-year

1 period against the aggregate tax credit utilization over the same  
2 10-year period. GO-Biz shall approve one or more nationally  
3 recognized revenue impact assessment models that shall be used  
4 by the qualified community development entity to demonstrate  
5 positive revenue impact. If it is demonstrated that the qualified  
6 low-income community investment has a positive revenue impact  
7 on the state at the time the investment is made, it shall be treated  
8 as if the investment continues to meet the requirement of this  
9 subparagraph for the duration of the seven-year program period.

10 (ii) Upon application and approval by GO-Biz, the requirement  
11 of this subparagraph may be waived.

12 (6) (A) A qualified community development entity that issues  
13 qualified equity investments shall submit a report to GO-Biz within  
14 the first five business days after the first anniversary of the initial  
15 credit allowance date that provides documentation as to the  
16 investment of at least 85 percent of the purchase price in qualified  
17 low-income community investments in qualified active low-income  
18 community businesses located in California. Such report shall  
19 include all of the following:

20 (i) A bank statement of such qualified community development  
21 entity evidencing each qualified low-income community  
22 investment.

23 (ii) Evidence that such business was a qualified active  
24 low-income community business at the time of such qualified  
25 low-income community investment.

26 (iii) Evidence that the community development entity complied  
27 with subparagraph (D) of paragraph (5).

28 (iv) Evidence that each qualified low-income community  
29 investment was determined to have a positive revenue impact on  
30 the state. This requirement does not apply for any qualified  
31 low-income community investment for which GO-Biz approved  
32 a waiver, pursuant to clause (ii) of subparagraph (J) of paragraph  
33 (5) or to reinvestments of redeemed qualified low-income  
34 investments.

35 (v) Any other information required by GO-Biz as being  
36 necessary to meet the requirements of this section.

37 (B) Thereafter, the qualified community development entity  
38 shall submit an annual report to GO-Biz within 60 calendar days  
39 of the beginning of the calendar year during the seven years  
40 following submittal of the report, pursuant to subparagraph (A).

1 No annual report shall be due prior to the first anniversary of the  
2 initial credit allowance date. The report shall include, but is not  
3 limited to, the following:

4 (i) The social, environmental, and economic impact the credit  
5 had on the low-income community during the report period and  
6 cumulatively.

7 (ii) The amount of moneys used for qualified low-income  
8 investments in qualified low-income community businesses.

9 (iii) The number of employment positions created and retained  
10 as a result of qualified low-income community investments and  
11 the average annual salary of such positions.

12 (iv) The number of operating businesses assisted as a result of  
13 qualified low-income community investments, by industry and  
14 number of employees.

15 (v) Number of owner-occupied real estate projects.

16 (vi) Location of each qualified low-income community business  
17 assisted by a qualified low-income community investment.

18 (vii) Summary of the outcomes of each of the revenue impact  
19 assessments undertaken by the qualified community development  
20 entity during the year.

21 (e) (1) In the case where the credit allowed by this section  
22 exceeds the “net tax,” the excess may be carried over to reduce  
23 the “net tax” in the following year, and the six succeeding years  
24 if necessary, until the credit is exhausted.

25 (2) A taxpayer allowed a credit under this section for a qualified  
26 equity investment shall not be eligible for any other credit under  
27 this part with respect to that investment.

28 (f) GO-Biz shall annually report on its Internet Web site the  
29 information provided by low-income community development  
30 entities and on the geographic distribution of the qualified active  
31 low-income community businesses assisted.

32 (g) (1) The Franchise Tax Board may prescribe any rules or  
33 regulations that may be necessary or appropriate to implement this  
34 section. The Franchise Tax Board shall have access to any  
35 documentation held by the committee relative to the application  
36 and reporting of a qualified community development entity.

37 (2) A qualifying community development entity shall provide  
38 GO-Biz with the name, address, and tax identification number of  
39 each investor and entity for which a qualified equity investment  
40 was designated by the qualifying community development entity,

1 pursuant to this section. GO-Biz shall provide this information to  
2 the Franchise Tax Board in a manner determined by the Franchise  
3 Tax Board.

4 (h) GO-Biz and the committee shall only make awards pursuant  
5 to paragraph (4) of subdivision (d) in a calendar year in which the  
6 Legislature appropriates funds in the California New Markets Tax  
7 Credit Fund pursuant to subdivision (b) of Section 18410.3.

8 (i) This section shall remain in effect only until December 1,  
9 2028, and as of that date is repealed.

10 SEC. 5. Section 18410.3 is added to the Revenue and Taxation  
11 Code, to read:

12 18410.3. (a) The California New Markets Tax Credit Fund is  
13 hereby established in the State Treasury.

14 (b) Upon appropriation, moneys in the fund shall be used for  
15 the purposes described in subdivision (d) of Section 12283,  
16 subdivision (d) of Section 17053.9, and subdivision (d) of Section  
17 23622.9.

18 SEC. 6. Section 23622.9 is added to the Revenue and Taxation  
19 Code, to read:

20 23622.9. (a) There is hereby created the California New  
21 Markets Tax Credit Program as provided in this section, Section  
22 12283, and Section 17053.9. The purpose of this program is to  
23 stimulate private sector investment in lower income communities  
24 by providing a tax incentive to community and economic  
25 development entities that can be leveraged by the entity to attract  
26 private sector investment that in turn will be deployed by providing  
27 financing and technical assistance to small- and medium-size  
28 businesses and the development of commercial, industrial, and  
29 community development projects, including, but not limited to,  
30 facilities for nonprofit service organizations, light manufacturing,  
31 and mixed-use and transit-oriented development. The committee  
32 and GO-Biz shall administer this program as provided in this  
33 section, Section 12283, and Section 17053.9. The Director of  
34 GO-Biz may delegate the administration of all or portions of the  
35 program within GO-Biz.

36 (b) (1) For taxable years beginning on or after January 1, 2016,  
37 and before January 1, 2028, and subject to subdivision (h), there  
38 shall be allowed as a credit against the “tax,” as defined in Section  
39 23036, an amount determined in accordance with Section 45D of  
40 the Internal Revenue Code, as modified as set forth in this section.

1 (2) (A) For purposes of this section, “committee” means the  
2 California Competes Tax Credit Committee established under  
3 Section 18410.2.

4 (B) For purposes of this section, “GO-Biz” means the  
5 Governor’s Office of Business and Economic Development.

6 (c) Section 45D of the Internal Revenue Code is modified as  
7 follows:

8 (1) Section 45D(a)(2) of the Internal Revenue Code, relating to  
9 applicable percentage, is modified by substituting for “(A) 5  
10 percent with respect to the first 3 credit allowance dates, and (B)  
11 6 percent with respect to the remainder of the credit allowance  
12 dates” with the following:

13 (A) Zero percent with respect to the first two credit allowance  
14 dates.

15 (B) Seven percent with respect to the third credit allowance  
16 date.

17 (C) Eight percent with respect to the remainder of the credit  
18 allowance dates.

19 (2) (A) Section 45D(c)(1) of the Internal Revenue Code is  
20 modified to only include a qualified community development  
21 entity, that is certified by the Secretary of the Treasury, and its  
22 subsidiary qualified community development entities that have  
23 entered into an allocation agreement with the Community  
24 Development Financial Institutions Fund of the United States  
25 Treasury Department, with respect to credits authorized by Section  
26 45D of the Internal Revenue Code, that includes California within  
27 the service area and is dated on or after January 1, 2012.

28 (B) Section 45D(c)(2) of the Internal Revenue Code is modified  
29 to only include a specialized small business investment company  
30 or community development financial institution that entered into  
31 an allocation agreement with the Community Development  
32 Financial Institutions Fund of the United States Treasury  
33 Department, with respect to credits authorized by Section 45D of  
34 the Internal Revenue Code, that includes California within the  
35 service area and is dated on or after January 1, 2012.

36 (3) The term “qualified active low-income community business,”  
37 as defined in Section 45D(d)(2) of the Internal Revenue Code, is  
38 modified as follows:

1 (A) By substituting “any low-income community in California”  
2 for “any low-income community” every place it appears in Section  
3 45D of the Internal Revenue Code.

4 (B) Section 45D(d)(2)(A)(iii) of the Internal Revenue Code is  
5 modified to allow the services of employees of a service-based  
6 qualified active low-income community business to be performed  
7 outside the low-income community. A service-based qualified  
8 active low-income community business is a business that primarily  
9 earns revenue through providing intangible products and services  
10 and leases or owns real property in the low-income community  
11 that is used for the operation of the business.

12 (C) A qualified active low-income community business shall  
13 not include any business that derives, or projects to derive, 15  
14 percent or more of its annual revenue from the rental or sale of  
15 real estate. This exclusion does not apply to a business that is  
16 controlled by, or under common control with, another business if  
17 the second business: (I) does not derive or project to derive 15  
18 percent or more of its annual revenue from the rental or sale of  
19 real estate; and (II) is the primary tenant of the real estate leased  
20 from the first business.

21 (D) A qualified active low-income community business shall  
22 only include a business that, at the time the initial investment is  
23 made, has 250 or fewer employees and is located in one or more  
24 California low-income communities. The operating business shall  
25 meet all other conditions of a qualified active low-income  
26 community business, except as modified by this paragraph.

27 (E) A qualified active low-income community business shall  
28 only include a business located in census tracts with a poverty rate  
29 greater than 30 percent, or census tracts, if located within a  
30 non-metropolitan area, with a median family income that does not  
31 exceed 60 percent of median family income for the State of  
32 California, or census tracts, if located within a metropolitan area,  
33 with a median family income that does not exceed 60 percent of  
34 the greater of the California median family income or the  
35 metropolitan area median family income, or census tracts with  
36 unemployment rates at least 1.5 times the national average.

37 (F) A qualified active low-income community business shall  
38 not include any business that operates or derives revenues from  
39 the operation of a country club, gaming establishment, massage  
40 parlor, liquor store, or golf course.

1 (G) A qualified active low-income community business shall  
2 not include a sexually oriented business. A “sexually oriented  
3 business” means a nightclub, bar, restaurant, or similar commercial  
4 enterprise that provides for an audience of two or more individuals  
5 live nude entertainment or live nude performances where the nudity  
6 is a function of everyday business operations and where nudity is  
7 a planned and intentional part of the entertainment or performance.  
8 “Nude” means clothed in a manner that leaves uncovered or visible,  
9 through less than fully opaque clothing, any portion of the genitals  
10 or, in the case of a female, any portion of the breasts below the  
11 top of the areola of the breasts.

12 (H) A qualified active low-income community business shall  
13 not include a charter school.

14 (4) Section 45D(f) of the Internal Revenue Code, relating to  
15 national limitation on amount of investments designated, is  
16 modified as follows:

17 (A) The following shall apply in lieu of the provisions of Section  
18 45D(f)(1) of the Internal Revenue Code: “The aggregate amount  
19 of qualified equity investments that may be allocated in any  
20 calendar year for purposes of this section, Section 12283, and  
21 Section 17053.9 shall be an amount as determined by GO-Biz in  
22 consultation with the Department of Finance based upon any  
23 unused portion of the one hundred million dollars (\$100,000,000)  
24 in exclusions, authorized pursuant to Section 6010.8, as determined  
25 by the California Alternative Energy and Advanced Transportation  
26 Financing Authority and reported to the committee, not to exceed  
27 an amount based upon a credit of forty million dollars  
28 (\$40,000,000). The committee shall limit the allocation of  
29 investments that may be designated under this section, Section  
30 12283, and Section 17053.9 to a cumulative total amount based  
31 on credits of no more than two hundred million dollars  
32 (\$200,000,000). The allocation of any undesignated qualified  
33 equity investments shall be returned to the committee by March  
34 1 of the year following allocation and the value of the undesignated  
35 qualified equity investment shall be available for allocation in the  
36 following calendar years in accordance with the application  
37 process. Any qualified equity investment attributable to recaptured  
38 credits shall be available to the committee on March 1 of the year  
39 following recapture and shall be available for allocation in the  
40 following calendar years in accordance with clause (ii) of

1 subparagraph (B) of paragraph (5). Reallocated qualified equity  
2 investments attributable to recapture credits shall not count against  
3 the annual or the cumulative limit.”

4 (B) The references to “the Secretary” in Section 45D(f)(2) of  
5 the Internal Revenue Code, relating to allocation of limitation, is  
6 modified to read “GO-Biz.”

7 (C) The last sentence of Section 45D(f)(3) of the Internal  
8 Revenue Code, relating to carryover of unused limitation, shall  
9 not apply.

10 (5) (A) Section 45D(g)(2)(B) of the Internal Revenue Code,  
11 relating to credit recapture amount, is modified to substitute  
12 “Section 19101 of this code” for “section 6621”.

13 (B) Section 45D(g)(3) of the Internal Revenue Code, relating  
14 to recapture event, is modified to add the following:

15 (i) (I) The qualified community development entity fails to  
16 comply with subparagraph (D) of paragraph (5) of subdivision (d).  
17 In this case, recapture shall be 100 percent of the credit. The  
18 qualified community development entity shall send notice to  
19 GO-Biz within 30 calendar days of the close of any calendar year  
20 in which the qualified community development entity has failed  
21 to invest at least 15 percent of the purchase price of the qualified  
22 equity investment in satisfaction of the requirements of  
23 subparagraph (D) of paragraph (5) of subdivision (d).

24 (II) The qualified community development entity made an  
25 investment without performing a revenue impact assessment that  
26 satisfies subparagraph (J) of paragraph (5) of subdivision (d). In  
27 this case, recapture shall be 100 percent of the credit, unless  
28 GO-Biz has approved a waiver pursuant to clause (ii) of  
29 subparagraph (J) of paragraph (5) of subdivision (d). The qualified  
30 community development entity shall send notice to GO-Biz within  
31 30 calendar days of the close of any calendar year in which the  
32 qualified community development entity has made an investment  
33 that fails to meet the requirements set forth in subparagraph (J) of  
34 paragraph (5) of subdivision (d).

35 (ii) GO-Biz shall establish a process, in consultation with the  
36 Franchise Tax Board, for the recapture of credits allowed under  
37 this section from the entity that claimed the credit on a return.

38 (iii) Recaptured qualified equity investments revert back to  
39 GO-Biz and shall be reissued. The reissue shall not count toward

1 the annual or cumulative allocation limitation. The reissue shall  
2 be done in the following order:

3 (I) First, pro rata to applicants whose qualified equity investment  
4 allocations were reduced pursuant to subparagraph (F) of paragraph  
5 (5) of subdivision (d) by the annual allocation limitation.

6 (II) Thereafter, in accordance with the application process.

7 (iv) (I) Enforcement of each of the recapture provisions shall  
8 be subject to a six-month cure period. Recapture shall not occur  
9 until the qualified community development entity gives notice of  
10 potential noncompliance to GO-Biz and is afforded six months  
11 from the date of such notice to cure the noncompliance. The  
12 six-month cure period shall begin on the day GO-Biz sends written  
13 acknowledgment of the qualified community development entity's  
14 notice of the potential noncompliance. The qualified community  
15 development entity is responsible for addressing the circumstances  
16 of the potential noncompliance and providing all documentation  
17 to GO-Biz necessary to demonstrate, to GO-Biz's satisfaction, that  
18 those conditions no longer exist.

19 (II) In an instance where a qualified community development  
20 entity fails to send the required notice of potential noncompliance  
21 or GO-Biz has information from the annual report or other sources  
22 that indicates that the entity is in potential noncompliance, GO-Biz  
23 shall send the notice. The date GO-Biz sends the notice of potential  
24 noncompliance shall begin the six-month cure period.

25 (III) Not more than 45 calendar days following the close of the  
26 cure period, GO-Biz shall make a final determination as to whether  
27 the noncompliance has been cured. This determination shall be  
28 based on the review of the notice, information submitted by the  
29 qualified community development entity, and any other information  
30 GO-Biz deems relevant to this determination. Within 30 calendar  
31 days of making the final determination, GO-Biz shall notify the  
32 Franchise Tax Board of the determination and other related  
33 information including, but not limited to, the tax identification  
34 number of the taxpayer.

35 (IV) GO-Biz shall post, and update monthly, a tally of  
36 undesigned qualified equity investments, pursuant to paragraph  
37 (4), and recaptured credits pursuant to this paragraph.

38 (6) If a qualified community development entity makes a capital  
39 or equity investment or a loan with respect to a qualified  
40 low-income building under the state Low-Income Housing Tax

1 Credit Program, the investment or loan is not a qualified  
2 low-income community investment under this section.

3 (d) (1) GO-Biz shall adopt guidelines necessary or appropriate  
4 to carry out its responsibilities with respect to the allocation of the  
5 qualified equity investments and recapture of credit allowed by  
6 this section. The adoption of the guidelines shall not be subject to  
7 the rulemaking provisions of the Administrative Procedure Act of  
8 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
9 3 of Title 2 of the Government Code.

10 (2) (A) GO-Biz shall establish and impose reasonable fees upon  
11 entities that apply for the allocation pursuant to this subdivision  
12 that in the aggregate defray the cost of reviewing applications for  
13 the program. GO-Biz may impose other reasonable fees upon  
14 entities that receive the allocation pursuant to this subdivision that  
15 in the aggregate defray the cost of administering the program.

16 (B) The fees collected shall be deposited in the California New  
17 Markets Tax Credit Fund established in Section 18410.3.

18 (3) In developing guidelines GO-Biz shall adopt an allocation  
19 process that does all of the following:

20 (A) Creates an equitable distribution process that ensures that  
21 low-income community populations across the state are engaged  
22 and have an opportunity to benefit from the program.

23 (B) Sets minimum organizational capacity standards that  
24 applicants must meet in order to receive an allocation of authority  
25 to designate qualified equity investments including, but not limited  
26 to, its business strategy, targeted community outcomes,  
27 capitalization strategy, and management capacity.

28 (C) Considers the qualified community development entity's  
29 prior qualified low-income community investments under Section  
30 45D of the Internal Revenue Code.

31 (D) Considers the qualified community development entity's  
32 prior qualified low-income community investments under this  
33 section, including subparagraph (D) of paragraph (5).

34 (E) Does not require the qualified community development  
35 entity to identify the qualified active low-income community  
36 businesses in which the qualified community development entity  
37 will invest in an application for qualified equity investment  
38 allocation.

39 (F) Does not disqualify a low-income community investment  
40 for the single reason that public or private incentives, loans, equity

1 investments, technical assistance, or other forms of support have  
2 been or continue to be provided.

3 (4) (A) GO-Biz shall begin accepting applications on or before  
4 May 15, 2016, and shall award authority to designate qualified  
5 equity investments annually through 2020, to the extent that  
6 allocations are available pursuant to Section 26011.9 of the Public  
7 Resources Code. To the extent reasonable and consistent in  
8 carrying out the purposes of this section, GO-Biz shall consider  
9 how the timing of the state allocation rounds correspond with the  
10 allocation schedule of the federal New Markets Tax Credit  
11 Program.

12 (B) Within 20 calendar days after receipt of an application  
13 GO-Biz shall determine whether the application is complete or  
14 whether additional information is necessary in order to fully  
15 evaluate the application. If additional information is requested and  
16 the qualified community development entity provides that  
17 information within five business days, the application shall be  
18 considered completed as of the original date of receipt. If the  
19 qualified community development entity fails to provide the  
20 information within the five-business-day period, the application  
21 shall be denied and must be resubmitted in full with a new receipt  
22 date.

23 (C) Within 20 calendar days after receipt of an application  
24 determined to be complete by GO-Biz, the committee shall grant  
25 or deny the application in full or in part. If the committee denies  
26 any part of the application, it shall inform the qualified community  
27 development entity of the grounds for the denial.

28 (5) (A) In the 2016 awards cycle, the committee shall award  
29 authority to designate qualified equity investments to qualified  
30 community development entities described in paragraph (3) of  
31 subdivision (c) in the order applications are received by the  
32 committee. Applications received on the same day shall be deemed  
33 to have been received simultaneously.

34 (B) In the 2017 to 2020 award cycles, inclusive, at least 60  
35 percent of the authority to designate qualified equity investments  
36 shall be awarded pursuant to subparagraph (A). At the committee's  
37 discretion, a higher percentage of authority to designate qualified  
38 equity investments may be awarded pursuant to subparagraph (A).

39 (C) The committee shall award up to 40 percent of the authority  
40 to designate qualified equity investments in the 2016 to 2020,

1 inclusive, award cycles, to qualified community development  
2 entities on a competitive basis using blind scoring and a review  
3 committee that is comprised of community development finance  
4 practitioners and members having demonstrated experience in  
5 assessing organizational business strategy, community outcomes,  
6 capitalization strategy, and management capacity. A member of  
7 the review committee shall not have a financial interest, which  
8 includes, but is not limited to, asking, consenting, or agreeing to  
9 receive any commission, emolument, gratuity, money, property,  
10 or thing of value for his or her own use, benefit, or personal  
11 advantage for procuring or endeavoring to procure for any person,  
12 partnership, joint venture, association, or corporation any qualified  
13 equity investment or other assistance from any applicant.

14 (D) (i) For qualified equity investments derived from the 2016  
15 to 2020, inclusive, awards cycles, pursuant to subparagraphs (A),  
16 (B) and (C), a qualified community development entity shall invest  
17 at least 15 percent of the qualified equity investment in a qualified  
18 low-income community business in consultation or in partnership  
19 with either of the following:

20 (I) A qualified community development entity certified under  
21 Section 45D of the Internal Revenue Code that has not received a  
22 federal New Markets Tax Credit allocation on or after January 1,  
23 2012, and has either a local service area that includes one or more  
24 California communities or a California statewide service area, but  
25 excluding qualified community development entities with a  
26 national service area.

27 (II) A nonprofit organization certified by GO-Biz, pursuant to  
28 clause (iii).

29 (ii) The 15-percent investment shall be calculated by multiplying  
30 the total purchase price of the qualified equity investments issued  
31 by the qualified community development entity by 15 percent.  
32 Each community development entity application shall indicate  
33 how the qualified community development entity will meet this  
34 requirement.

35 (iii) GO-Biz shall establish guidelines for certifying a nonprofit  
36 organization pursuant to this subparagraph. A nonprofit  
37 organization shall meet the requirements of Section 23701 and be  
38 certified by GO-Biz as having a primary mission of serving or  
39 providing investment capital in low-income communities in  
40 California. The nonprofit organization shall maintain accountability

1 to residents of low-income communities through their  
2 representation on any governing board or on an advisory board of  
3 the nonprofit organization. GO-Biz may include reasonable  
4 conditions on the certification to effectuate the intent of this section  
5 and may suspend or revoke a certification, after affording the  
6 nonprofit organization notice and the opportunity to appeal and  
7 be heard by the committee, if GO-Biz finds that the nonprofit  
8 organization no longer meets the requirements for certification.

9 (E) In making competitive awards of authority to designate  
10 qualified equity investments, priority shall be given to applications  
11 that can demonstrate that the qualified equity investment authority  
12 will allow the qualified community development entity to undertake  
13 qualified low-income community investments in rural, suburban,  
14 or urban areas that have been historically underserved and result  
15 in the greatest benefit to the hardest to serve and undercapitalized  
16 lower income populations, or in newly established businesses, or  
17 in activities that support neighborhood revitalization strategies  
18 driven by local grassroots stakeholders in multiple low-income  
19 communities across one or more regions or the state for the purpose  
20 of scaling economic development activities that compliment  
21 regional industry clusters that result in the greatest benefit to the  
22 largest number of lower income individuals.

23 (F) (i) For applications described in subparagraph (A), in the  
24 event requests for authority to designate qualified equity  
25 investments exceed the applicable annual allocation limitation,  
26 GO-Biz shall certify, consistent with remaining qualified equity  
27 investment capacity, qualified equity investments of applicants in  
28 proportionate percentages based upon the ratio of the amount of  
29 qualified equity investments requested in such applications to the  
30 total amount of qualified equity investments requested in all such  
31 applications received on the same day.

32 (ii) If a pending request cannot be fully certified due to this  
33 limit, GO-Biz shall certify the portion that may be certified unless  
34 the qualified community development entity elects to withdraw  
35 its request rather than receive partial certification.

36 (G) An approved applicant may transfer all or a portion of its  
37 certified qualified equity investment authority to its controlling  
38 entity or any subsidiary qualified community development entity  
39 of the controlling entity, provided that the applicant and the  
40 transferee notify the committee within 30 calendar days of such

1 transfer and include the information required in the application  
2 with respect to such transferee with such notice. The transferee  
3 shall be subject to the same rules, requirements, and limitations  
4 applicable to the transferor.

5 (H) Within 60 calendar days of GO-Biz sending notice of  
6 certification, the qualified community development entity or any  
7 transferee, under subparagraph (G), shall issue the qualified equity  
8 investment and receive cash in the amount of the certified amount.  
9 The qualified community development entity or transferee, under  
10 subparagraph (G), must provide GO-Biz with evidence of the  
11 receipt of the cash investment within 65 calendar days of the  
12 applicant receiving notice of certification. If the qualified  
13 community development entity or any transferee, under  
14 subparagraph (G), does not receive the cash investment and issue  
15 the qualified equity investment within 60 calendar days of GO-Biz  
16 sending the certification notice, the certification shall lapse and  
17 the entity may not issue the qualified equity investment without  
18 reapplying to GO-Biz for certification. Lapsed certifications revert  
19 back to GO-Biz and shall be reissued in the following order:

20 (i) First, pro rata to applicants whose qualified equity investment  
21 allocations were reduced pursuant to subparagraph (F) under the  
22 annual allocation limitation of forty million dollars (\$40,000,000)  
23 in paragraph (4) of subdivision (c).

24 (ii) Thereafter, in accordance with the application process.

25 (I) A qualified community development entity that issues  
26 qualified equity investments must notify GO-Biz of the names of  
27 taxpayers that are eligible to utilize tax credits pursuant to this  
28 section and any transfer of a qualified equity investment.

29 (J) (i) A qualified community development entity shall only  
30 make a qualified low-income community investment that  
31 demonstrates a positive revenue impact on the state over a 10-year  
32 period against the aggregate tax credit utilization over the same  
33 10-year period. GO-Biz shall approve one or more nationally  
34 recognized revenue impact assessment models that shall be used  
35 by the qualified community development entity to demonstrate  
36 positive revenue impact. If it is demonstrated that the qualified  
37 low-income community investment has a positive revenue impact  
38 on the state at the time the investment is made, it shall be treated  
39 as if the investment continues to meet the requirement of this  
40 subparagraph for the duration of the seven-year program period.

- 1 (ii) Upon application and approval by GO-Biz, the requirement
- 2 of this subparagraph may be waived.
- 3 (6) (A) A qualified community development entity that issues
- 4 qualified equity investments shall submit a report to GO-Biz within
- 5 the first five business days after the first anniversary of the initial
- 6 credit allowance date that provides documentation as to the
- 7 investment of at least 85 percent of the purchase price in qualified
- 8 low-income community investments in qualified active low-income
- 9 community businesses located in California. Such report shall
- 10 include all of the following:
  - 11 (i) A bank statement of such qualified community development
  - 12 entity evidencing each qualified low-income community
  - 13 investment.
  - 14 (ii) Evidence that such business was a qualified active
  - 15 low-income community business at the time of such qualified
  - 16 low-income community investment.
  - 17 (iii) Evidence that the community development entity complied
  - 18 with subparagraph (D) of paragraph (5).
  - 19 (iv) Evidence that each qualified low-income community
  - 20 investment was determined to have a positive revenue impact on
  - 21 the state. This requirement does not apply for any qualified
  - 22 low-income community investment for which GO-Biz approved
  - 23 a waiver, pursuant to clause (ii) of subparagraph (J) of paragraph
  - 24 (5) or to reinvestments of redeemed qualified low-income
  - 25 investments.
  - 26 (v) Any other information required by GO-Biz as being
  - 27 necessary to meet the requirements of this section.
- 28 (B) Thereafter, the qualified community development entity
- 29 shall submit an annual report to GO-Biz within 60 calendar days
- 30 of the beginning of the calendar year during the seven years
- 31 following submittal of the report, pursuant to subparagraph (A).
- 32 No annual report shall be due prior to the first anniversary of the
- 33 initial credit allowance date. The report shall include, but is not
- 34 limited to, the following:
  - 35 (i) The social, environmental, and economic impact the credit
  - 36 had on the low-income community during the report period and
  - 37 cumulatively.
  - 38 (ii) The amount of moneys used for qualified low-income
  - 39 investments in qualified low-income community businesses.

1 (iii) The number of employment positions created and retained  
2 as a result of qualified low-income community investments and  
3 the average annual salary of such positions.

4 (iv) The number of operating businesses assisted as a result of  
5 qualified low-income community investments, by industry and  
6 number of employees.

7 (v) Number of owner-occupied real estate projects.

8 (vi) Location of each qualified low-income community business  
9 assisted by a qualified low-income community investment.

10 (vii) Summary of the outcomes of each of the revenue impact  
11 assessments undertaken by the qualified community development  
12 entity during the year.

13 (e) (1) In the case where the credit allowed by this section  
14 exceeds the “tax,” the excess may be carried over to reduce the  
15 “tax” in the following year, and the six succeeding years if  
16 necessary, until the credit is exhausted.

17 (2) A taxpayer allowed a credit under this section for a qualified  
18 equity investment shall not be eligible for any other credit under  
19 this part with respect to that investment.

20 (f) GO-Biz shall annually report on its Internet Web site the  
21 information provided by low-income community development  
22 entities and on the geographic distribution of the qualified active  
23 low-income community businesses assisted.

24 (g) (1) The Franchise Tax Board may prescribe any rules or  
25 regulations that may be necessary or appropriate to implement this  
26 section. The Franchise Tax Board shall have access to any  
27 documentation held by the committee relative to the application  
28 and reporting of a qualified community development entity.

29 (2) A qualifying community development entity shall provide  
30 GO-Biz with the name, address, and tax identification number of  
31 each investor and entity for which a qualified equity investment  
32 was designated by the qualifying community development entity,  
33 pursuant to this section. GO-Biz shall provide this information to  
34 the Franchise Tax Board in a manner determined by the Franchise  
35 Tax Board.

36 (h) GO-Biz and the committee shall only make awards pursuant  
37 to paragraph (4) of subdivision (d) in a calendar year in which the  
38 Legislature appropriates funds in the California New Markets Tax  
39 Credit Fund pursuant to subdivision (b) of Section 18410.3.

1 (i) This section shall remain in effect only until December 1,  
2 2028, and as of that date is repealed.

3 SEC. 7. The provisions of this act are severable. If any  
4 provision of this act or its application is held invalid, that invalidity  
5 shall not affect other provisions or applications that can be given  
6 effect without the invalid provision or application.

7 SEC. 8. This act provides for a tax levy within the meaning of  
8 Article IV of the Constitution and shall go into immediate effect.

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