

AMENDED IN ASSEMBLY MAY 20, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 185

Introduced by Assembly Members Eduardo Garcia and Medina

January 26, 2015

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 amended, 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

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

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

15 (d) Fourteen states in the United States have adopted state
16 programs using the NMTC model including Alabama, Florida,
17 Illinois, Nevada, and Oregon. While some of the programs
18 substantially mirror the federal program, others vary in both the
19 percentage of the credit and some of the policies that form the
20 foundation of the credit. One of the reasons cited for establishing
21 state-level programs is to make a state more attractive to CDEs,
22 which results in increasing the amount of federal NMTCs being
23 utilized in a state. Further, several studies, including a January 1,
24 2011, case study by Pacific Community Ventures, showed that for
25 every dollar of forgone tax revenue, the federal NMTC leverages
26 \$12 to \$14 of private investment.

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

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

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

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

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

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

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

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

32 (1) Section 45D(a)(2) of the Internal Revenue Code, relating to
33 applicable percentage, is modified by substituting for “(A) 5
34 percent with respect to the first 3 credit allowance dates, and (B)
35 6 percent with respect to the remainder of the credit allowance
36 dates” with the following:

37 (A) Zero percent with respect to the first two credit allowance
38 dates.

39 (B) Seven percent with respect to the third credit allowance
40 date.

1 (C) Eight percent with respect to the remainder of the credit
2 allowance dates.

3 (2) (A) Section 45D(c)(1) of the Internal Revenue Code is
4 modified to only include a qualified community development
5 entity, that is certified by the Secretary of the Treasury, and its
6 subsidiary qualified community development entities that have
7 entered into an allocation agreement with the Community
8 Development Financial Institutions Fund of the United States
9 Treasury Department, with respect to credits authorized by Section
10 45D of the Internal Revenue Code, that includes California within
11 the service area and is dated on or after January 1, 2012.

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

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

23 (A) By substituting “any low-income community in California”
24 for “any low-income community” every place it appears in Section
25 45D of the Internal Revenue Code.

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

34 (C)

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

1 percent or more of its annual revenue from the rental or sale of
 2 real estate; and (II) is the primary tenant of the real estate leased
 3 from the first business.

4 ~~(D)~~

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

11 ~~(E)~~

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

22 ~~(F)~~

23 (E) A qualified active low-income community business shall
 24 not include any business that operates or derives revenues from
 25 the operation of a country club, gaming establishment, massage
 26 parlor, liquor store, or golf course.

27 ~~(G)~~

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

39 ~~(H)~~

1 (G) A qualified active low-income community business shall
2 not include a charter school.

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

6 (A) The following shall apply in lieu of the provisions of
7 Section 45D(f)(1) of the Internal Revenue Code: “The aggregate
8 amount of qualified equity investments that may be allocated in
9 any calendar year for purposes of this section, Section 17053.9,
10 and Section 23622.9 shall be an amount as determined by GO-Biz
11 in consultation with the Department of Finance based upon any
12 unused portion of the one hundred million dollars (\$100,000,000)
13 in exclusions, authorized pursuant to Section 6010.8, as determined
14 by the California Alternative Energy and Advanced Transportation
15 Financing Authority and reported to the committee, not to exceed
16 an amount based upon a credit of forty million dollars
17 (\$40,000,000). The committee shall limit the allocation of
18 investments that may be designated under this section, Section
19 17053.9, and Section 23622.9 to a cumulative total amount based
20 on credits of no more than two hundred million dollars
21 (\$200,000,000). The allocation of any undesignated qualified
22 equity investments shall be returned to the committee by March
23 1 of the year following allocation and the value of the undesignated
24 qualified equity investment shall be available for allocation in the
25 following calendar years in accordance with the application
26 process. Any qualified equity investment attributable to recaptured
27 credits shall be available to the committee on March 1 of the year
28 following recapture and shall be available for allocation in the
29 following calendar years in accordance with subparagraph (B) of
30 paragraph (5). Reallocated qualified equity investments attributable
31 to recapture credits shall not count against the annual or the
32 cumulative limit.”

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

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

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

1 (A) (i) The qualified community development entity fails to
2 comply with subparagraph (D) of paragraph (5) of subdivision (d).
3 In this case, recapture shall be 100 percent of the credit. The
4 qualified community development entity shall send notice to
5 GO-Biz within 30 calendar days of the close of any calendar year
6 in which the qualified community development entity has failed
7 to invest at least 15 percent of the purchase price of the qualified
8 equity investment in satisfaction of the requirements of
9 subparagraph (D) of paragraph (5) of subdivision (d).

10 (ii) The qualified community development entity made an
11 investment without performing a revenue impact assessment that
12 satisfies subparagraph (J) of paragraph (5) of subdivision (d). In
13 this case, recapture shall be 100 percent of the credit, unless
14 GO-Biz has approved a waiver pursuant to clause (ii) of
15 subparagraph (J) of paragraph (5) of subdivision (d). The qualified
16 community development entity shall send notice to GO-Biz within
17 30 calendar days of the close of any calendar year in which the
18 qualified community development entity has made an investment
19 that fails to meet the requirements set forth in subparagraph (J) of
20 paragraph (5) of subdivision (d).

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

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

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

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

32 (D) (i) Enforcement of each of the recapture provisions shall
33 be subject to a six-month cure period. ~~Recapture shall not occur~~
34 ~~until the qualified community development entity gives notice of~~
35 ~~potential noncompliance to GO-Biz and is afforded six months~~
36 ~~from the date of such notice to cure the noncompliance. The~~
37 ~~six-month cure period shall begin on the day GO-Biz sends written~~
38 ~~acknowledgment of the qualified community development entity's~~
39 ~~notice of the potential noncompliance. The qualified community~~
40 ~~development entity is responsible for addressing the circumstances~~

1 of the potential noncompliance and providing all documentation
2 to GO-Biz necessary to demonstrate, to GO-Biz's satisfaction, that
3 those conditions no longer exist.

4 (ii) In an instance where a qualified community development
5 entity fails to send the required notice of potential noncompliance
6 or GO-Biz has information from the annual report or other sources
7 that indicates that the entity is in potential noncompliance, GO-Biz
8 shall send the notice. The date GO-Biz sends the notice of potential
9 noncompliance shall begin the six-month cure period.

10 (iii)–

11 (ii) Not more than 45 calendar days following the close of the
12 cure period, GO-Biz shall make a final determination as to whether
13 the noncompliance has been cured. This determination shall be
14 based on the review of the notice, information submitted by the
15 qualified community development entity, and any other information
16 GO-Biz deems relevant to this determination. Within 30 calendar
17 days of making the final determination, GO-Biz shall notify the
18 Department of Insurance and the Franchise Tax Board of the
19 determination and other related information including, but not
20 limited to, the tax identification number of the taxpayer. *qualified*
21 *community development entity*.

22 (iv)

23 (iii) GO-Biz shall post, and update monthly, a tally of
24 undesigned qualified equity investments, pursuant to paragraph
25 (4), and recaptured credits pursuant to this paragraph.

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

28 (7)

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

34 (d) (1) GO-Biz shall adopt guidelines necessary or appropriate
35 to carry out its responsibilities with respect to the allocation of the
36 qualified equity investments and recapture of credit allowed by
37 this section. The adoption of the guidelines shall not be subject to
38 the rulemaking provisions of the Administrative Procedure Act of
39 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
40 3 of Title 2 of the Government Code.

1 (2) (A) GO-Biz shall establish and impose reasonable fees upon
2 entities that apply for the allocation pursuant to this subdivision
3 that in the aggregate defray the cost of reviewing applications for
4 the program. GO-Biz may impose other reasonable fees upon
5 entities that receive the allocation pursuant to this subdivision that
6 in the aggregate defray the cost of administering the program.

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

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

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

14 (B) Sets minimum organizational capacity standards that
15 applicants must meet in order to receive an allocation of authority
16 to designate qualified equity investments including, but not limited
17 to, its business strategy, targeted community outcomes,
18 capitalization strategy, and management capacity.

19 (C) Considers the qualified community development entity's
20 prior qualified low-income community investments under Section
21 45D of the Internal Revenue Code.

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

25 ~~(E) Does not require the qualified community development~~
26 ~~entity to identify the qualified active low-income community~~
27 ~~businesses in which the qualified community development entity~~
28 ~~will invest in an application for qualified equity investment~~
29 ~~allocation.~~

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

34 (4) (A) GO-Biz shall begin accepting applications on or before
35 May 15, 2016, and shall award authority to designate qualified
36 equity investments annually through 2020, to the extent that
37 allocations are available pursuant to Section 26011.9 of the Public
38 Resources Code. To the extent reasonable and consistent in
39 carrying out the purposes of this section, GO-Biz shall consider
40 how the timing of the state allocation rounds correspond with the

1 allocation schedule of the federal New Markets Tax Credit
2 Program. *In the instance where GO-Biz determines that an*
3 *application is incomplete, the qualified community development*
4 *entity shall be given five business days to provide the omitted*
5 *information.*

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

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

22 (5) (A) In the 2016 awards cycle, the committee shall award
23 authority to designate qualified equity investments to qualified
24 community development entities described in paragraph~~(3)~~ (2) of
25 subdivision (c) in the order applications are received by the
26 committee. Applications received on the same day shall be deemed
27 to have been received simultaneously.

28 (B) In the 2017 to 2020 award cycles, inclusive, at least 60
29 percent of the authority to designate qualified equity investments
30 shall be awarded pursuant to subparagraph (A). At the committee's
31 discretion, a higher percentage of authority to designate qualified
32 equity investments may be awarded pursuant to subparagraph (A).

33 (C) The committee shall award up to 40 percent of the authority
34 to designate qualified equity investments in the~~2016~~ 2017 to 2020,
35 inclusive, award cycles, to qualified community development
36 entities on a competitive basis using blind scoring and a review
37 committee that is comprised of community development finance
38 practitioners and members having demonstrated experience in
39 assessing organizational business strategy, community outcomes,
40 capitalization strategy, and management capacity. A member of

1 the review committee shall not have a financial interest, which
2 includes, but is not limited to, asking, consenting, or agreeing to
3 receive any commission, emolument, gratuity, money, property,
4 or thing of value for his or her own use, benefit, or personal
5 advantage for procuring or endeavoring to procure for any person,
6 partnership, joint venture, association, or corporation any qualified
7 equity investment or other assistance from any applicant.

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

14 (I) A qualified community development entity certified under
15 Section 45D of the Internal Revenue Code that has not received a
16 federal New Markets Tax Credit allocation on or after January 1,
17 2012, and has either a local service area that includes one or more
18 California communities or a California statewide service area, but
19 excluding qualified community development entities with a
20 national service area.

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

23 (ii) The 15-percent investment shall be calculated by multiplying
24 the total purchase price of the qualified equity investments issued
25 by the qualified community development entity by 15 percent.
26 Each community development entity application shall indicate
27 how the qualified community development entity will meet this
28 requirement.

29 (iii) GO-Biz shall establish guidelines for certifying a nonprofit
30 organization pursuant to this subparagraph. A nonprofit
31 organization shall meet the requirements of Section 23701 and be
32 certified by GO-Biz as having a primary mission of serving or
33 providing investment capital in low-income communities in
34 California. The nonprofit organization shall maintain accountability
35 to residents of low-income communities through their
36 representation on any governing board or on an advisory board of
37 the nonprofit organization. GO-Biz may include reasonable
38 conditions on the certification to effectuate the intent of this section
39 and may suspend or revoke a certification, after affording the
40 nonprofit organization notice and the opportunity to appeal and

1 be heard by the committee, if GO-Biz finds that the nonprofit
2 organization no longer meets the requirements for certification.

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

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

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

30 (G) An approved applicant may transfer all or a portion of its
31 certified qualified equity investment authority to its controlling
32 entity or any subsidiary qualified community development entity
33 of the controlling entity, provided that the applicant and the
34 transferee notify the committee within 30 calendar days of such
35 transfer and include the information required in the application
36 with respect to such transferee with such notice. The transferee
37 shall be subject to the same rules, requirements, and limitations
38 applicable to the transferor.

39 (H) Within 60 calendar days of GO-Biz sending notice of
40 certification, the qualified community development entity or any

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

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

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

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

23 (J) (i) A qualified community development entity shall only
24 make a qualified low-income community investment that
25 demonstrates a positive revenue impact on the state over a 10-year
26 period against the aggregate tax credit utilization over the same
27 10-year period. GO-Biz shall approve one or more nationally
28 recognized revenue impact assessment models that shall be used
29 by the qualified community development entity to demonstrate
30 positive revenue impact. If it is demonstrated that the qualified
31 low-income community investment has a positive revenue impact
32 on the state at the time the investment is made, it shall be treated
33 as if the investment continues to meet the requirement of this
34 subparagraph for the duration of the seven-year program period.

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

37 (6) (A) A qualified community development entity that issues
38 qualified equity investments shall submit a report to GO-Biz within
39 the first five business days after the first anniversary of the initial
40 credit allowance date that provides documentation as to the

1 investment of at least 85 percent of the purchase price in qualified
2 low-income community investments in qualified active low-income
3 community businesses located in California. Such report shall
4 include all of the following:

5 (i) A bank statement of such qualified community development
6 entity evidencing each qualified low-income community
7 investment.

8 (ii) Evidence that such business was a qualified active
9 low-income community business at the time of such qualified
10 low-income community investment.

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

13 (iv) Evidence that each qualified low-income community
14 investment was determined to have a positive revenue impact on
15 the state. This requirement does not apply for any qualified
16 low-income community investment for which GO-Biz approved
17 a waiver, pursuant to clause (ii) of subparagraph (J) of paragraph
18 (5) or to reinvestments of redeemed qualified low-income
19 investments.

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

22 (B) Thereafter, the qualified community development entity
23 shall submit an annual report to GO-Biz within 60 calendar days
24 of the beginning of the calendar year during the seven years
25 following submittal of the report, pursuant to subparagraph (A).
26 No annual report shall be due prior to the first anniversary of the
27 initial credit allowance date. The report shall include, but is not
28 limited to, the following:

29 (i) The social, environmental, and economic impact the credit
30 had on the low-income community during the report period and
31 cumulatively.

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

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

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

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

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

3 (vii) Summary of the outcomes of each of the revenue impact
4 assessments undertaken by the qualified community development
5 entity during the year.

6 (viii) *Any other information requested by GO-Biz.*

7 (e) (1) In the case where the credit allowed by this section
8 exceeds the tax described in Sections 12201, 12204, 12206, and
9 12209, the excess may be carried over to reduce that tax in the
10 following year, and the six succeeding years if necessary, until the
11 credit is exhausted.

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

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

19 (g) (1) The Insurance Commissioner and the Franchise Tax
20 Board may prescribe any rules or regulations that may be necessary
21 or appropriate to implement this section. The Insurance
22 Commissioner and the Franchise Tax Board shall have access to
23 any documentation held by the committee relative to the application
24 and reporting of a qualified community development entity.

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

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

37 (i) This section shall remain in effect only until December 1,
38 2028, and as of that date is repealed.

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

1 17053.9. (a) There is hereby created the California New
2 Markets Tax Credit Program as provided in this section, Section
3 12283, and Section 23622.9. The purpose of this program is to
4 stimulate private sector investment in lower income communities
5 by providing a tax incentive to community and economic
6 development entities that can be leveraged by the entity to attract
7 private sector investment that in turn will be deployed by providing
8 financing and technical assistance to small- and medium-size
9 businesses and the development of commercial, industrial, and
10 community development projects, including, but not limited to,
11 facilities for nonprofit service organizations, light manufacturing,
12 and mixed-use and transit-oriented development. The committee
13 and GO-Biz shall administer this program as provided in this
14 section, Section 12283, and Section 23622.9. The Director of
15 GO-Biz may delegate the administration of all or portions of the
16 program within 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 “net tax,” as defined in
20 Section 17039, an amount determined in accordance with Section
21 45D of the Internal Revenue Code, as modified as set forth in this
22 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)

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

1 real estate; and (II) is the primary tenant of the real estate leased
2 from the first business.

3 ~~(D)~~

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

10 ~~(E)~~

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

21 ~~(F)~~

22 (E) A qualified active low-income community business shall
23 not include any business that operates or derives revenues from
24 the operation of a country club, gaming establishment, massage
25 parlor, liquor store, or golf course.

26 ~~(G)~~

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

38 ~~(H)~~

39 (G) A qualified active low-income community business shall
40 not include a charter school.

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

4 (A) The following shall apply in lieu of the provisions of Section
5 45D(f)(1) of the Internal Revenue Code: “The aggregate amount
6 of qualified equity investments that may be allocated in any
7 calendar year for purposes of this section, Section 12283, and
8 Section 23622.9 shall be an amount as determined by GO-Biz in
9 consultation with the Department of Finance based upon any
10 unused portion of the one hundred million dollars (\$100,000,000)
11 in exclusions, authorized pursuant to Section 6010.8, as determined
12 by the California Alternative Energy and Advanced Transportation
13 Financing Authority and reported to the committee, not to exceed
14 an amount based upon a credit of forty million dollars
15 (\$40,000,000). The committee shall limit the allocation of
16 investments that may be designated under this section, Section
17 12283, and Section 23622.9 to a cumulative total amount based
18 on credits of no more than two hundred million dollars
19 (\$200,000,000). The allocation of any undesignated qualified
20 equity investments shall be returned to the committee by March
21 1 of the year following allocation and the value of the undesignated
22 qualified equity investment shall be available for allocation in the
23 following calendar years in accordance with the application
24 process. Any qualified equity investment attributable to recaptured
25 credits shall be available to the committee on March 1 of the year
26 following recapture and shall be available for allocation in the
27 following calendar years in accordance with clause (ii) of
28 subparagraph (B) of paragraph (5). Reallocated qualified equity
29 investments attributable to recapture credits shall not count against
30 the annual or the cumulative limit.”

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

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

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

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

3 (i) (I) The qualified community development entity fails to
4 comply with subparagraph (D) of paragraph (5) of subdivision (d).
5 In this case, recapture shall be 100 percent of the credit. The
6 qualified community development entity shall send notice to
7 GO-Biz within 30 calendar days of the close of any calendar year
8 in which the qualified community development entity has failed
9 to invest at least 15 percent of the purchase price of the qualified
10 equity investment in satisfaction of the requirements of
11 subparagraph (D) of paragraph (5) of subdivision (d).

12 (II) The qualified community development entity made an
13 investment without performing a revenue impact assessment that
14 satisfies subparagraph (J) of paragraph (5) of subdivision (d). In
15 this case, recapture shall be 100 percent of the credit, unless
16 GO-Biz has approved a waiver pursuant to clause (ii) of
17 subparagraph (J) of paragraph (5) of subdivision (d). The qualified
18 community development entity shall send notice to GO-Biz within
19 30 calendar days of the close of any calendar year in which the
20 qualified community development entity has made an investment
21 that fails to meet the requirements set forth in subparagraph (J) of
22 paragraph (5) of subdivision (d).

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

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

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

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

35 (iv) (I) Enforcement of each of the recapture provisions shall
36 be subject to a six-month cure period. ~~Recapture shall not occur~~
37 ~~until the qualified community development entity gives notice of~~
38 ~~potential noncompliance to GO-Biz and is afforded six months~~
39 ~~from the date of such notice to cure the noncompliance. The~~
40 ~~six-month cure period shall begin on the day GO-Biz sends written~~

1 acknowledgment of the qualified community development entity’s
 2 notice of the potential noncompliance. The qualified community
 3 development entity is responsible for addressing the circumstances
 4 of the potential noncompliance and providing all documentation
 5 to GO-Biz necessary to demonstrate, to GO-Biz’s satisfaction, that
 6 those conditions no longer exist.

7 ~~(H) In an instance where a qualified community development~~
 8 ~~entity fails to send the required notice of potential noncompliance~~
 9 ~~or GO-Biz has information from the annual report or other sources~~
 10 ~~that indicates that the entity is in potential noncompliance, GO-Biz~~
 11 ~~shall send the notice. The date GO-Biz sends the notice of potential~~
 12 ~~noncompliance shall begin the six-month cure period.~~

13 ~~(H)~~

14 (II) Not more than 45 calendar days following the close of the
 15 cure period, GO-Biz shall make a final determination as to whether
 16 the noncompliance has been cured. This determination shall be
 17 based on the review of the notice, information submitted by the
 18 qualified community development entity, and any other information
 19 GO-Biz deems relevant to this determination. Within 30 calendar
 20 days of making the final determination, GO-Biz shall notify the
 21 Franchise Tax Board of the determination and other related
 22 information including, but not limited to, the tax identification
 23 number of the taxpayer. *qualified community development entity.*

24 ~~(IV)~~

25 (III) GO-Biz shall post, and update monthly, a tally of
 26 undesignated qualified equity investments, pursuant to paragraph
 27 (4), and recaptured credits pursuant to this paragraph.

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

33 (d) (1) GO-Biz shall adopt guidelines necessary or appropriate
 34 to carry out its responsibilities with respect to the allocation of the
 35 qualified equity investments and recapture of credit allowed by
 36 this section. The adoption of the guidelines shall not be subject to
 37 the rulemaking provisions of the Administrative Procedure Act of
 38 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
 39 3 of Title 2 of the Government Code.

1 (2) (A) GO-Biz shall establish and impose reasonable fees upon
2 entities that apply for the allocation pursuant to this subdivision
3 that in the aggregate defray the cost of reviewing applications for
4 the program. GO-Biz may impose other reasonable fees upon
5 entities that receive the allocation pursuant to this subdivision that
6 in the aggregate defray the cost of administering the program.

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

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

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

14 (B) Sets minimum organizational capacity standards that
15 applicants must meet in order to receive an allocation of authority
16 to designate qualified equity investments including, but not limited
17 to, its business strategy, targeted community outcomes,
18 capitalization strategy, and management capacity.

19 (C) Considers the qualified community development entity's
20 prior qualified low-income community investments under Section
21 45D of the Internal Revenue Code.

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

25 ~~(E) Does not require the qualified community development~~
26 ~~entity to identify the qualified active low-income community~~
27 ~~businesses in which the qualified community development entity~~
28 ~~will invest in an application for qualified equity investment~~
29 ~~allocation.~~

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

34 (4) (A) GO-Biz shall begin accepting applications on or before
35 May 15, 2016, and shall award authority to designate qualified
36 equity investments annually through 2020, to the extent that
37 allocations are available pursuant to Section 26011.9 of the Public
38 Resources Code. To the extent reasonable and consistent in
39 carrying out the purposes of this section, GO-Biz shall consider
40 how the timing of the state allocation rounds correspond with the

1 allocation schedule of the federal New Markets Tax Credit
 2 Program. *In the instance where GO-Biz determines that an*
 3 *application is incomplete, the qualified community development*
 4 *entity shall be given five business days to provide the omitted*
 5 *information.*

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

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

22 (5) (A) In the 2016 awards cycle, the committee shall award
 23 authority to designate qualified equity investments to qualified
 24 community development entities described in paragraph ~~(3)~~ (2) of
 25 subdivision (c) in the order applications are received by the
 26 committee. Applications received on the same day shall be deemed
 27 to have been received simultaneously.

28 (B) In the 2017 to 2020 award cycles, inclusive, at least 60
 29 percent of the authority to designate qualified equity investments
 30 shall be awarded pursuant to subparagraph (A). At the committee's
 31 discretion, a higher percentage of authority to designate qualified
 32 equity investments may be awarded pursuant to subparagraph (A).

33 (C) The committee shall award up to 40 percent of the authority
 34 to designate qualified equity investments in the ~~2016~~ 2017 to 2020,
 35 inclusive, award cycles, to qualified community development
 36 entities on a competitive basis using blind scoring and a review
 37 committee that is comprised of community development finance
 38 practitioners and members having demonstrated experience in
 39 assessing organizational business strategy, community outcomes,
 40 capitalization strategy, and management capacity. A member of

1 the review committee shall not have a financial interest, which
2 includes, but is not limited to, asking, consenting, or agreeing to
3 receive any commission, emolument, gratuity, money, property,
4 or thing of value for his or her own use, benefit, or personal
5 advantage for procuring or endeavoring to procure for any person,
6 partnership, joint venture, association, or corporation any qualified
7 equity investment or other assistance from any applicant.

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

14 (I) A qualified community development entity certified under
15 Section 45D of the Internal Revenue Code that has not received a
16 federal New Markets Tax Credit allocation on or after January 1,
17 2012, and has either a local service area that includes one or more
18 California communities or a California statewide service area, but
19 excluding qualified community development entities with a
20 national service area.

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

23 (ii) The 15-percent investment shall be calculated by multiplying
24 the total purchase price of the qualified equity investments issued
25 by the qualified community development entity by 15 percent.
26 Each community development entity application shall indicate
27 how the qualified community development entity will meet this
28 requirement.

29 (iii) GO-Biz shall establish guidelines for certifying a nonprofit
30 organization pursuant to this subparagraph. A nonprofit
31 organization shall meet the requirements of Section 23701 and be
32 certified by GO-Biz as having a primary mission of serving or
33 providing investment capital in low-income communities in
34 California. The nonprofit organization shall maintain accountability
35 to residents of low-income communities through their
36 representation on any governing board or on an advisory board of
37 the nonprofit organization. GO-Biz may include reasonable
38 conditions on the certification to effectuate the intent of this section
39 and may suspend or revoke a certification, after affording the
40 nonprofit organization notice and the opportunity to appeal and

1 be heard by the committee, if GO-Biz finds that the nonprofit
2 organization no longer meets the requirements for certification.

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

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

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

30 (G) An approved applicant may transfer all or a portion of its
31 certified qualified equity investment authority to its controlling
32 entity or any subsidiary qualified community development entity
33 of the controlling entity, provided that the applicant and the
34 transferee notify the committee within 30 calendar days of such
35 transfer and include the information required in the application
36 with respect to such transferee with such notice. The transferee
37 shall be subject to the same rules, requirements, and limitations
38 applicable to the transferor.

39 (H) Within 60 calendar days of GO-Biz sending notice of
40 certification, the qualified community development entity or any

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

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

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

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

23 (J) (i) A qualified community development entity shall only
24 make a qualified low-income community investment that
25 demonstrates a positive revenue impact on the state over a 10-year
26 period against the aggregate tax credit utilization over the same
27 10-year period. GO-Biz shall approve one or more nationally
28 recognized revenue impact assessment models that shall be used
29 by the qualified community development entity to demonstrate
30 positive revenue impact. If it is demonstrated that the qualified
31 low-income community investment has a positive revenue impact
32 on the state at the time the investment is made, it shall be treated
33 as if the investment continues to meet the requirement of this
34 subparagraph for the duration of the seven-year program period.

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

37 (6) (A) A qualified community development entity that issues
38 qualified equity investments shall submit a report to GO-Biz within
39 the first five business days after the first anniversary of the initial
40 credit allowance date that provides documentation as to the

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

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

3 (vii) Summary of the outcomes of each of the revenue impact
4 assessments undertaken by the qualified community development
5 entity during the year.

6 *(viii) Any other information requested by GO-Biz.*

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

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

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

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

23 (2) A qualifying community development entity shall provide
24 GO-Biz with the name, address, and tax identification number of
25 each investor and entity for which a qualified equity investment
26 was designated by the qualifying community development entity,
27 pursuant to this section. GO-Biz shall provide this information to
28 the Franchise Tax Board in a manner determined by the Franchise
29 Tax Board.

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

34 (i) This section shall remain in effect only until December 1,
35 2028, and as of that date is repealed.

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

38 18410.3. (a) The California New Markets Tax Credit Fund is
39 hereby established in the State Treasury.

1 (b) Upon appropriation, moneys in the fund shall be used for
2 the purposes described in subdivision (d) of Section 12283,
3 subdivision (d) of Section 17053.9, and subdivision (d) of Section
4 23622.9.

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

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

23 (b) (1) For taxable years beginning on or after January 1, 2016,
24 and before January 1, 2028, and subject to subdivision (h), there
25 shall be allowed as a credit against the “tax,” as defined in Section
26 23036, an amount determined in accordance with Section 45D of
27 the Internal Revenue Code, as modified as set forth in this section.

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

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

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

35 (1) Section 45D(a)(2) of the Internal Revenue Code, relating to
36 applicable percentage, is modified by substituting for “(A) 5
37 percent with respect to the first 3 credit allowance dates, and (B)
38 6 percent with respect to the remainder of the credit allowance
39 dates” with the following:

1 (A) Zero percent with respect to the first two credit allowance
2 dates.

3 (B) Seven percent with respect to the third credit allowance
4 date.

5 (C) Eight percent with respect to the remainder of the credit
6 allowance dates.

7 (2) (A) Section 45D(c)(1) of the Internal Revenue Code is
8 modified to only include a qualified community development
9 entity, that is certified by the Secretary of the Treasury, and its
10 subsidiary qualified community development entities that have
11 entered into an allocation agreement with the Community
12 Development Financial Institutions Fund of the United States
13 Treasury Department, with respect to credits authorized by Section
14 45D of the Internal Revenue Code, that includes California within
15 the service area and is dated on or after January 1, 2012.

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

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

27 (A) By substituting “any low-income community in California”
28 for “any low-income community” every place it appears in Section
29 45D of the Internal Revenue Code.

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

38 (C)

39 (B) A qualified active low-income community business shall
40 not include any business that derives, or projects to derive, 15

1 percent or more of its annual revenue from the rental or sale of
 2 real estate. This exclusion does not apply to a business that is
 3 controlled by, or under common control with, another business if
 4 the second business: (I) does not derive or project to derive 15
 5 percent or more of its annual revenue from the rental or sale of
 6 real estate; and (II) is the primary tenant of the real estate leased
 7 from the first business.

8 ~~(D)~~

9 (C) A qualified active low-income community business shall
 10 only include a business that, at the time the initial investment is
 11 made, has 250 or fewer employees and is located in one or more
 12 California low-income communities. The operating business shall
 13 meet all other conditions of a qualified active low-income
 14 community business, except as modified by this paragraph.

15 ~~(E)~~

16 (D) A qualified active low-income community business shall
 17 only include a business located in census tracts with a poverty rate
 18 greater than 30 percent, or census tracts, if located within a
 19 non-metropolitan area, with a median family income that does not
 20 exceed 60 percent of median family income for the State of
 21 California, or census tracts, if located within a metropolitan area,
 22 with a median family income that does not exceed 60 percent of
 23 the greater of the California median family income or the
 24 metropolitan area median family income, or census tracts with
 25 unemployment rates at least 1.5 times the national average.

26 ~~(F)~~

27 (E) A qualified active low-income community business shall
 28 not include any business that operates or derives revenues from
 29 the operation of a country club, gaming establishment, massage
 30 parlor, liquor store, or golf course.

31 ~~(G)~~

32 (F) A qualified active low-income community business shall
 33 not include a sexually oriented business. A “sexually oriented
 34 business” means a nightclub, bar, restaurant, or similar commercial
 35 enterprise that provides for an audience of two or more individuals
 36 live nude entertainment or live nude performances where the nudity
 37 is a function of everyday business operations and where nudity is
 38 a planned and intentional part of the entertainment or performance.
 39 “Nude” means clothed in a manner that leaves uncovered or visible,
 40 through less than fully opaque clothing, any portion of the genitals

1 or, in the case of a female, any portion of the breasts below the
2 top of the areola of the breasts.

3 ~~(H)~~

4 (G) A qualified active low-income community business shall
5 not include a charter school.

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

9 (A) The following shall apply in lieu of the provisions of Section
10 45D(f)(1) of the Internal Revenue Code: “The aggregate amount
11 of qualified equity investments that may be allocated in any
12 calendar year for purposes of this section, Section 12283, and
13 Section 17053.9 shall be an amount as determined by GO-Biz in
14 consultation with the Department of Finance based upon any
15 unused portion of the one hundred million dollars (\$100,000,000)
16 in exclusions, authorized pursuant to Section 6010.8, as determined
17 by the California Alternative Energy and Advanced Transportation
18 Financing Authority and reported to the committee, not to exceed
19 an amount based upon a credit of forty million dollars
20 (\$40,000,000). The committee shall limit the allocation of
21 investments that may be designated under this section, Section
22 12283, and Section 17053.9 to a cumulative total amount based
23 on credits of no more than two hundred million dollars
24 (\$200,000,000). The allocation of any undesignated qualified
25 equity investments shall be returned to the committee by March
26 1 of the year following allocation and the value of the undesignated
27 qualified equity investment shall be available for allocation in the
28 following calendar years in accordance with the application
29 process. Any qualified equity investment attributable to recaptured
30 credits shall be available to the committee on March 1 of the year
31 following recapture and shall be available for allocation in the
32 following calendar years in accordance with clause (ii) of
33 subparagraph (B) of paragraph (5). Reallocated qualified equity
34 investments attributable to recapture credits shall not count against
35 the annual or the cumulative limit.”

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

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

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

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

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

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

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

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

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

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

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

13 ~~(II) In an instance where a qualified community development~~
14 ~~entity fails to send the required notice of potential noncompliance~~
15 ~~or GO-Biz has information from the annual report or other sources~~
16 ~~that indicates that the entity is in potential noncompliance, GO-Biz~~
17 ~~shall send the notice. The date GO-Biz sends the notice of potential~~
18 ~~noncompliance shall begin the six-month cure period.~~

19 ~~(III)~~

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

30 ~~(IV)~~

31 (III) GO-Biz shall post, and update monthly, a tally of
32 undesignated qualified equity investments, pursuant to paragraph
33 (4), and recaptured credits pursuant to this paragraph.

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

39 (d) (1) GO-Biz shall adopt guidelines necessary or appropriate
40 to carry out its responsibilities with respect to the allocation of the

1 qualified equity investments and recapture of credit allowed by
 2 this section. The adoption of the guidelines shall not be subject to
 3 the rulemaking provisions of the Administrative Procedure Act of
 4 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
 5 3 of Title 2 of the Government Code.

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

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

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

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

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

24 (C) Considers the qualified community development entity's
 25 prior qualified low-income community investments under Section
 26 45D of the Internal Revenue Code.

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

30 ~~(E) Does not require the qualified community development~~
 31 ~~entity to identify the qualified active low-income community~~
 32 ~~businesses in which the qualified community development entity~~
 33 ~~will invest in an application for qualified equity investment~~
 34 ~~allocation.~~

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

39 (4) (A) GO-Biz shall begin accepting applications on or before
 40 May 15, 2016, and shall award authority to designate qualified

1 equity investments annually through 2020, to the extent that
2 allocations are available pursuant to Section 26011.9 of the Public
3 Resources Code. To the extent reasonable and consistent in
4 carrying out the purposes of this section, GO-Biz shall consider
5 how the timing of the state allocation rounds correspond with the
6 allocation schedule of the federal New Markets Tax Credit
7 Program. *In the instance where GO-Biz determines that an*
8 *application is incomplete, the qualified community development*
9 *entity shall be given five business days to provide the omitted*
10 *information.*

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

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

27 (5) (A) In the 2016 awards cycle, the committee shall award
28 authority to designate qualified equity investments to qualified
29 community development entities described in paragraph(3) (2) of
30 subdivision (c) in the order applications are received by the
31 committee. Applications received on the same day shall be deemed
32 to have been received simultaneously.

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

38 (C) The committee shall award up to 40 percent of the authority
39 to designate qualified equity investments in the ~~2016~~ 2017 to 2020,
40 inclusive, award cycles, to qualified community development

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

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

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

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

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

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

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

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

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

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

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

1 with respect to such transferee with such notice. The transferee
2 shall be subject to the same rules, requirements, and limitations
3 applicable to the transferor.

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

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

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

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

28 (J) (i) A qualified community development entity shall only
29 make a qualified low-income community investment that
30 demonstrates a positive revenue impact on the state over a 10-year
31 period against the aggregate tax credit utilization over the same
32 10-year period. GO-Biz shall approve one or more nationally
33 recognized revenue impact assessment models that shall be used
34 by the qualified community development entity to demonstrate
35 positive revenue impact. If it is demonstrated that the qualified
36 low-income community investment has a positive revenue impact
37 on the state at the time the investment is made, it shall be treated
38 as if the investment continues to meet the requirement of this
39 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 *(viii) Any other information requested by GO-Biz.*
- 14 (e) (1) In the case where the credit allowed by this section
15 exceeds the “tax,” the excess may be carried over to reduce the
16 “tax” in the following year, and the six succeeding years if
17 necessary, until the credit is exhausted.
- 18 (2) A taxpayer allowed a credit under this section for a qualified
19 equity investment shall not be eligible for any other credit under
20 this part with respect to that investment.
- 21 (f) GO-Biz shall annually report on its Internet Web site the
22 information provided by low-income community development
23 entities and on the geographic distribution of the qualified active
24 low-income community businesses assisted.
- 25 (g) (1) The Franchise Tax Board may prescribe any rules or
26 regulations that may be necessary or appropriate to implement this
27 section. The Franchise Tax Board shall have access to any
28 documentation held by the committee relative to the application
29 and reporting of a qualified community development entity.
- 30 (2) A qualifying community development entity shall provide
31 GO-Biz with the name, address, and tax identification number of
32 each investor and entity for which a qualified equity investment
33 was designated by the qualifying community development entity,
34 pursuant to this section. GO-Biz shall provide this information to
35 the Franchise Tax Board in a manner determined by the Franchise
36 Tax Board.
- 37 (h) GO-Biz and the committee shall only make awards pursuant
38 to paragraph (4) of subdivision (d) in a calendar year in which the
39 Legislature appropriates funds in the California New Markets Tax
40 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.

O