

AMENDED IN ASSEMBLY MARCH 29, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2647

**Introduced by Assembly Members Eduardo Garcia and Medina
(Principal coauthors: Assembly Members ~~Brown and Chu~~) *Brown,
Chu, and Dodd*)**

February 19, 2016

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 2647, as amended, Eduardo Garcia. Income taxation: insurance taxation: credits: California New Markets Tax Credit.

Existing federal law allows a New Markets Tax Credit to a taxpayer holding a qualified equity investment in an amount equal to the applicable percentage of the amount paid to the qualified community development entity for investment in low-income communities.

The state Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws. Existing state constitutional law governing insurance taxation imposes an annual tax on the gross premiums of an insurer, as defined, doing business in this state at specified rates.

Existing law establishes the Governor's Office of Business and Economic Development, also known as "GO-Biz," to, among other things, serve the Governor as the lead entity for economic strategy and the marketing of

California of California on issues relating to business development, private sector investment, and economic growth.

This bill would allow a California New Markets Tax Credit under the Personal Income Tax ~~Law and Law~~, the Corporation Tax Law, and the law governing insurance taxation, in modified conformity with ~~a~~ the federal New Markets Tax Credit, for taxable years beginning on or after January 1, 2017, and before January 1, ~~2029~~, 2022, 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.~~ year. The bill would impose specified duties on ~~GO-Biz~~ the Responsible Tax Credit Administrator (RTCA), to be designated by the Governor, with regard to the application for, and allocation of, the credit. The bill would require ~~GO-Biz~~ the RTCA 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 annual appropriation by the Legislature, to defray the cost of applying ~~to~~, to and administering the credits, as specified. The bill would only authorize the allocation for these credits for those taxable years for which moneys are appropriated to ~~GO-Biz~~ the RTCA to administer these credits for those taxable years.

Existing law requires any bill authorizing a new personal or corporation income tax credit to contain, among other things, specific goals, purposes, and objectives that the tax credit will achieve, detailed performance indicators, and data collection requirements, as provided.

This bill would also include that additional information required for any bill authorizing a new personal or corporation income tax credit.

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

1 Financial Crisis and the 2010 global recession, Californians in a
2 number of communities and neighborhoods are still experiencing
3 their lingering effects. In some cases this has resulted in small and
4 medium businesses in low-income areas lacking sufficient access
5 to capital and technical assistance. Given that the state has many
6 needs and limited resources, moneys from the private sector are
7 necessary to fill this capital and investment gap.

8 (b) Initially enacted in 2000, the federal government established
9 the New Markets Tax Credit (NMTC) Program, which uses a
10 market-based approach for expanding capital and technical
11 assistance to businesses in lower income communities. The federal
12 program is jointly administered by the Community Development
13 Financial Institutions Fund (CDFI Fund) and the Internal Revenue
14 Service. The NMTC Program allocates federal tax incentives to
15 community development entities (CDE), which they then use to
16 attract private investors who contribute funds that can be used to
17 finance and invest in businesses and develop real estate in
18 low-income communities. Through the 2013–14 funding round,
19 the CDFI Fund had awarded approximately forty billion dollars
20 (\$40,000,000,000) in NMTC in 836 awards, including three billion
21 dollars (\$3,000,000,000) in American Recovery and Investment
22 Act of 2009 awards and one billion dollars (\$1,000,000,000) of
23 special allocation authority to be used for the recovery and
24 redevelopment of the Gulf Opportunity Zone.

25 (c) *Since 2003, the NMTC Program has created or retained an*
26 *estimated 197,585 jobs nationally. It has also supported the*
27 *construction of 32.4 million square feet of manufacturing space,*
28 *74.8 million square feet of office space, and 57.5 million square*
29 *feet of retail space. The United States Department of the Treasury*
30 *reports that a secondary benefit is that as these communities*
31 *develop, they become more attractive to investors, catalyzing a*
32 *ripple effect that spurs further investments and revitalization.*

33 (d) *For every one dollar (\$1) invested by the federal government,*
34 *the NMTC Program generates over eight dollars (\$8) of private*
35 *investment. The NMTC Program catalyzes investment in the most*
36 *economically challenged areas of the state. Over 75 percent of*
37 *New Markets Tax Credit investments have been made in highly*
38 *distressed areas, meaning the household income was less than 60*
39 *percent of statewide median income and the poverty rate was*
40 *higher than 30 percent.*

1 (e)
 2 (e) The federal NMTC totals 39 percent of the original
 3 investment amount in the CDE and is claimed over a period of
 4 seven years (5 percent for each of the first three years, *years* and
 5 6 percent for each of the remaining four years). Any investment
 6 by any taxpayer in the CDE redeemed before the end of the
 7 seven-year period will be recaptured.

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

22 ~~SEC. 2. Section 26011.9 is added to the Public Resources Code,~~
 23 ~~to read:~~

24 ~~26011.9. The authority shall make a determination of the~~
 25 ~~amount of the one hundred million dollars (\$100,000,000) in~~
 26 ~~exclusions not granted in the assigned calendar year pursuant to~~
 27 ~~Section 26011.8. An amount equal to that amount but not to exceed~~
 28 ~~forty million dollars (\$40,000,000) shall be granted in the~~
 29 ~~subsequent calendar year through the California New Markets Tax~~
 30 ~~Credit Program pursuant to Sections 12283, 17053.9, and 23622.9~~
 31 ~~of the Revenue and Taxation Code. This section shall not prevent~~
 32 ~~a taxpayer granted an exclusion pursuant to Section 6010.8 of the~~
 33 ~~Revenue and Taxation Code from applying for, and receiving a~~
 34 ~~refund for, taxes paid under Part 1 (commencing with Section~~
 35 ~~6001) of Division 2 of the Revenue and Taxation Code.~~

36 ~~SEC. 3.~~

37 ~~SEC. 2. Section 12283 is added to the Revenue and Taxation~~
 38 ~~Code, to read:~~

39 ~~12283. (a) There is hereby created the California New Markets~~
 40 ~~Tax Credit Program as provided in this section, Section 17053.9,~~

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

15 (b) (1) For taxable years beginning on or after January 1, 2017,
16 and before January 1, ~~2029~~, 2022, and subject to subdivision (h),
17 there shall be allowed as a credit against the tax described in
18 Section 12201, in an amount determined in accordance with Section
19 45D of the Internal Revenue Code, relating to the new markets tax
20 credit, as modified in this section.

21 ~~(2) For the purposes of this section, "GO-Biz" means the~~
22 ~~Governor's Office of Business and Economic Development.~~

23 *(2) For the purposes of this section, "RTCA" means the*
24 *Responsible Tax Credit Administrator, as designated by the*
25 *Governor.*

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

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

33 (A) Zero percent with respect to the first two credit allowance
34 dates.

35 (B) Seven percent with respect to the third credit allowance
36 date.

37 (C) Eight percent with respect to the remainder of the credit
38 allowance dates.

39 (2) (A) Section 45D(c)(1) of the Internal Revenue Code, relating
40 to qualified community development entity, is modified to only

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

9 (B) Section 45D(c)(2) of the Internal Revenue Code, relating
10 to special rules for certain organizations, is modified to only
11 include a specialized small business investment company or
12 community development financial institution that entered into an
13 allocation agreement with the Community Development Financial
14 Institutions Fund of the United States Treasury Department, with
15 respect to credits authorized by Section 45D of the Internal
16 Revenue Code, that includes California within the service area and
17 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) A qualified active low-income community business shall
25 not include any business that derives, or projects to derive, 15
26 percent or more of its annual revenue from the rental or sale of
27 real estate. This exclusion does not apply to a business that is
28 controlled by, or under common control with, another business if
29 the second business: (i) does not derive or project to derive 15
30 percent or more of its annual revenue from the rental or sale of
31 real estate; and (ii) is the primary tenant of the real estate leased
32 from the first business.

33 (C) A qualified active low-income community business shall
34 only include a business that, at the time the initial investment is
35 made, has 250 or fewer employees and is located in one or more
36 California low-income communities. The operating business shall
37 meet all other conditions of a qualified active low-income
38 community business, except as modified by this paragraph. This
39 requirement does not apply to a business that is located on land

1 and is controlled by, or under common control with, a federally
2 recognized tribe.

3 (D) A qualified active low-income community business shall
4 only include a business located in census tracts with a poverty rate
5 greater than 30 percent, or census tracts, if located within a
6 nonmetropolitan area, with a median family income that does not
7 exceed 60 percent of median family income for this state, or census
8 tracts, if located within a metropolitan area, with a median family
9 income that does not exceed 60 percent of the greater of the
10 California median family income or the metropolitan area median
11 family income, or census tracts with unemployment rates at least
12 1.5 times the national average.

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

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

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

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

33 (A) The following shall apply in lieu of the provisions of Section
34 45D(f)(1) of the Internal Revenue Code: The aggregate amount
35 of qualified equity investments that may be allocated in any
36 calendar year for purposes of this section, Section 17053.9, and
37 Section 23622.9 shall be ~~an amount as determined by GO-Biz in~~
38 ~~consultation with the Department of Finance based upon any~~
39 ~~unused portion of the one hundred million dollars (\$100,000,000)~~
40 ~~in exclusions, authorized pursuant to Section 6010.8, as determined~~

1 by the California Alternative Energy and Advanced Transportation
 2 Financing Authority pursuant to Section 26011.9 of the Public
 3 Resources Code and reported to GO-Biz, not to exceed an amount
 4 based upon a credit of forty million dollars (\$40,000,000). GO-Biz
 5 shall limit the allocation of investments that may be designated
 6 under this section, Section 17053.9, and Section 23622.9 to a
 7 cumulative total amount based on credits of no more than two
 8 hundred million dollars (\$200,000,000). (\$40,000,000) per
 9 calendar year. The allocation of any undesignated qualified equity
 10 investments shall be returned to GO-Biz RTCA by March 1 of the
 11 year following allocation and the value of the undesignated
 12 qualified equity investment shall be available for allocation in the
 13 following calendar years in accordance with the application
 14 process. Any qualified equity investment attributable to recaptured
 15 credits shall be available to GO-Biz RTCA on March 1 of the year
 16 following recapture and shall be available for allocation in the
 17 following calendar years in accordance with subparagraph (B) of
 18 paragraph (5). Reallocated qualified equity investments attributable
 19 to recapture credits shall not count against the annual or the
 20 cumulative limit.

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

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

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

29 (A) The qualified community development entity fails to comply
 30 with subparagraph ~~(D)~~ (C) of paragraph (5) of subdivision (d). In
 31 this case, recapture shall be 100 percent of the credit.

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

35 (C) Recaptured qualified equity investments revert back to
 36 GO-Biz RTCA and shall be reissued. The reissue shall not count
 37 toward the annual or cumulative allocation limitation. The reissue
 38 shall be done in the following order:

1 (i) First, pro rata to applicants whose qualified equity investment
2 allocations were reduced pursuant to subparagraph ~~(F)~~ (D) of
3 paragraph (5) of subdivision (d) by the annual allocation limitation.
4 (ii) Thereafter, in accordance with the application process.
5 (D) Enforcement of each of the recapture provisions shall be
6 subject to a six-month cure period.
7 (d) (1) ~~GO-Biz-RTCA~~ shall adopt guidelines necessary or
8 appropriate to carry out its responsibilities with respect to the
9 allocation, monitoring, and management of the tax credit program
10 authorized by this section.
11 (2) (A) ~~GO-Biz-RTCA~~ shall establish and impose reasonable
12 fees upon entities that apply for the allocation pursuant to this
13 subdivision that in the aggregate defray the cost of reviewing
14 applications for the program. ~~GO-Biz RTCA~~ may impose other
15 reasonable fees upon entities that receive the allocation pursuant
16 to this subdivision that in the aggregate defray the cost of
17 administering the program.
18 (B) The fees collected shall be deposited in the California New
19 Markets Tax Credit Fund established in Section 18410.3.
20 (3) In developing guidelines, ~~GO-Biz RTCA~~ shall adopt an
21 allocation process that does all of the following:
22 (A) Creates an equitable distribution process that ensures that
23 low-income community populations across the state have an
24 opportunity to benefit from the program.
25 (B) Sets minimum organizational capacity standards that
26 applicants must meet in order to receive an allocation of authority
27 to designate qualified equity ~~investments~~ *investments*, including,
28 but not limited to, its business strategy, targeted community
29 outcomes, capitalization strategy, and management capacity.
30 (C) Considers the qualified community development entity's
31 prior qualified low-income community investments under Section
32 45D of the Internal Revenue Code.
33 (D) Considers the qualified community development entity's
34 prior qualified low-income community investments under this
35 section, including subparagraph ~~(D)~~ (C) of paragraph (5).
36 (4) (A) Subject to subdivision (h), ~~GO-Biz RTCA~~ shall begin
37 accepting applications on or before May 15, 2017, and shall award
38 authority to designate qualified equity investments annually
39 through ~~2029~~. 2022.

1 (B) In the instance where ~~GO-Biz~~ RTCA determines that an
2 application is incomplete, the qualified community development
3 entity shall be given five business days to provide the omitted
4 information.

5 (5) (A) In the 2017 awards cycle, ~~GO-Biz~~ RTCA shall award
6 authority to designate qualified equity investments to qualified
7 community development entities described in paragraph (2) of
8 subdivision (c) in the order applications are received by ~~GO-Biz~~.
9 RTCA. Applications received on the same day shall be deemed to
10 have been received simultaneously.

11 (B) In the 2018 to ~~2029~~ 2022 award cycles, inclusive, at least
12 60 percent of the authority to designate qualified equity investments
13 shall be awarded pursuant to subparagraph (A). At the discretion
14 of ~~GO-Biz~~, RTCA, a higher percentage of authority to designate
15 qualified equity investments may be awarded pursuant to
16 subparagraph (A).

17 (C) ~~GO-Biz~~ RTCA shall award up to 40 percent of the authority
18 to designate qualified equity investments in the 2018 to ~~2029~~,
19 2022, inclusive, award cycles, to qualified community development
20 entities on a competitive basis ~~using blind~~ *that meets the following*
21 *criteria:*

22 (i) *Awards shall be reviewed using blind* scoring and a review
23 committee that is composed of community development finance
24 practitioners and members having demonstrated experience in
25 assessing organizational business strategy, community outcomes,
26 capitalization strategy, and management capacity. ~~A~~

27 (ii) A member of the review committee shall not have a financial
28 interest, which includes, but is not limited to, asking, consenting,
29 or agreeing to receive any commission, emolument, gratuity,
30 money, property, or thing of value for his or her own use, benefit,
31 or personal advantage for procuring or endeavoring to procure for
32 any person, partnership, joint venture, association, or corporation
33 any qualified equity investment or other assistance from any
34 applicant.

35 (D) (i) ~~For qualified equity investments derived from the 2017~~
36 ~~to 2029, inclusive, awards cycles, pursuant to subparagraphs (A),~~
37 ~~(B), and (C), a qualified community development entity shall invest~~
38 ~~at least 15 percent of the qualified equity investment in a qualified~~
39 ~~low-income community business in consultation or in partnership~~
40 ~~with either of the following:~~

- 1 ~~(I) A qualified community development entity certified under~~
2 ~~Section 45D of the Internal Revenue Code that has not received a~~
3 ~~federal New Markets Tax Credit allocation on or after January 1,~~
4 ~~2012, and has either a local service area that includes one or more~~
5 ~~California communities or a California statewide service area, but~~
6 ~~excluding qualified community development entities with a~~
7 ~~national service area.~~
- 8 ~~(H)~~
9 ~~A nonprofit organization that does the following:~~
- 10 ~~(ia)~~
11 ~~Is tax exempt under Section 23701.~~
- 12 ~~(ib)~~
13 ~~Is registered with the Registry of Charitable Trusts, which is~~
14 ~~administered by the Attorney General.~~
- 15 ~~(ic)~~
16 ~~Has articles of incorporation or articles of organization that~~
17 ~~state the primary mission of the organization is focused on~~
18 ~~improving the economic well-being of low-income communities~~
19 ~~or individuals.~~
- 20 ~~(id)~~
21 ~~Has bylaws that provide that the organization maintains~~
22 ~~accountability to residents of low-income communities through~~
23 ~~their representation on any governing board or on an advisory~~
24 ~~board of the nonprofit organization.~~
- 25 ~~(ii) The 15-percent investment shall be calculated by multiplying~~
26 ~~the total purchase price of the qualified equity investments issued~~
27 ~~by the qualified community development entity by 15 percent.~~
28 ~~Each community development entity application shall indicate~~
29 ~~how the qualified community development entity will meet this~~
30 ~~requirement.~~
- 31 ~~(E) In making competitive awards of authority to designate~~
32 ~~qualified equity investments, priority shall be given to applications~~
33 ~~that can demonstrate that the qualified equity investment authority~~
34 ~~will allow the qualified community development entity to undertake~~
35 ~~qualified low-income community investments in rural, suburban,~~
36 ~~or urban areas that have been historically underserved and result~~
37 ~~in the primary benefit to the hardest to serve and undercapitalized~~
38 ~~lower income populations, or in activities that support~~
39 ~~neighborhood revitalization strategies driven by local grassroots~~
40 ~~stakeholders in multiple low-income communities across one or~~

1 more regions or the state for the purpose of scaling economic
2 development activities that compliment regional industry clusters
3 that result in the greatest benefit to the largest number of lower
4 income individuals.

5 (iii) Applications for awards shall include a commitment to
6 make at least 15 percent of qualified community development
7 investments to a qualified community development entity with the
8 assistance of a nonprofit organization, as documented by a
9 cooperation agreement that states the terms and conditions of that
10 assistance. For the purposes of this clause, the following shall
11 apply:

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

19 (II) A nonprofit organization shall meet all of the following
20 requirements: Is tax exempt under Section 23701, is registered
21 with the Registry of Charitable Trusts, which is administered by
22 the Attorney General, has articles of incorporation or articles of
23 organization that state the primary mission of the organization is
24 focused on improving the economic well-being of low-income
25 communities or individuals, and has bylaws that provide that the
26 organization maintains accountability to residents of low-income
27 communities through their representation on any governing board
28 or on an advisory board of the nonprofit organization.

29 (iv) Priority shall be provided to both of the following:

30 (I) Applications that commit to addressing the hardest to serve
31 and undercapitalized lower income populations.

32 (II) Applications that support neighborhood revitalization
33 strategies driven by local grassroots stakeholders in multiple
34 low-income communities across one or more regions or the state.
35 These applications shall demonstrate how their investment activity
36 provides a scalable economic development model.

37 (F)

38 (D) (i) For applications described in subparagraph (A), in the
39 event requests for authority to designate qualified equity
40 investments exceed the applicable annual allocation limitation,

1 ~~GO-Biz~~ RTCA shall certify, consistent with remaining qualified
2 equity investment capacity, qualified equity investments of
3 applicants in proportionate percentages based upon the ratio of the
4 amount of qualified equity investments requested in such
5 applications to the total amount of qualified equity investments
6 requested in all such applications received on the same day.

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

11 ~~(G)~~

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

21 ~~(H)~~

22 (F) Within 200 calendar days of ~~GO-Biz~~ RTCA sending notice
23 of certification, the qualified community development entity or
24 any transferee, under subparagraph ~~(G)~~, (E), shall issue the
25 qualified equity investment and receive cash in the amount of the
26 certified amount. The qualified community development entity or
27 transferee, under subparagraph ~~(G)~~, (E), shall provide ~~GO-Biz~~
28 RTCA with evidence of the receipt of the cash investment within
29 205 calendar days of the applicant receiving notice of certification.
30 If the qualified community development entity or any transferee,
31 under subparagraph ~~(G)~~, (E), does not receive the cash investment
32 and issue the qualified equity investment within 200 calendar days
33 of ~~GO-Biz~~ RTCA sending the certification notice, the certification
34 shall lapse and the entity may not issue the qualified equity
35 investment without reapplying to ~~GO-Biz~~ RTCA for certification.
36 Lapsed certifications revert back to ~~GO-Biz~~ RTCA and shall be
37 reissued in the following order:

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

1 the annual allocation limitation of forty million dollars
2 (\$40,000,000) in paragraph (4) of subdivision (c).

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

4 ~~(H)~~

5 (G) A qualified community development entity that issues
6 qualified equity investments shall notify ~~GO-Biz RTCA~~ of the
7 names of taxpayers that are eligible to utilize tax credits pursuant
8 to this section and any transfer of a qualified equity investment.

9 (6) (A) A qualified community development entity that issues
10 qualified equity investments shall submit a report to ~~GO-Biz RTCA~~
11 that provides documentation as to the investment of at least 85
12 percent of the funds being deployed within one year in qualified
13 low-income community investments in qualified active low-income
14 community businesses located in California. Such report shall
15 include all of the following:

16 (i) A bank statement of such qualified community development
17 entity evidencing each qualified low-income community
18 investment.

19 (ii) Evidence that such business was a qualified active
20 low-income community business at the time of such qualified
21 low-income community investment.

22 (iii) Evidence that the community development entity complied
23 with subparagraph ~~(D)~~ (C) of paragraph (5).

24 (iv) Evidence that each qualified low-income community
25 investment was determined to have a positive revenue impact on
26 the state. This requirement does not apply to reinvestments of
27 redeemed qualified low-income investments.

28 (v) Any other information required by ~~GO-Biz RTCA~~ as being
29 necessary to meet the requirements of this section.

30 (B) Thereafter, the qualified community development entity
31 shall submit an annual report to ~~GO-Biz RTCA~~ during the seven
32 years following submittal of the report, pursuant to subparagraph
33 (A). No annual report shall be due prior to the first anniversary of
34 the initial credit allowance date. The report shall include, but is
35 not limited to, the following:

36 (i) The social, environmental, and economic impact the credit
37 had on the low-income community during the report period and
38 cumulatively.

39 (ii) The amount of moneys used for qualified low-income
40 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~~ RTCA.

14 (e) (1) In the case where the credit allowed by this section
15 exceeds the tax described in Section 12201, the excess may be
16 carried over to reduce that tax in the following year, and the six
17 succeeding years if 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 (3) The credit allowed under this section may be in addition to
22 any credit allowed under Section 45D of the Internal Revenue
23 Code.

24 (f) ~~GO-Biz~~ RTCA shall annually report on its Internet Web site
25 the information provided by low-income community development
26 entities and on the geographic distribution of the qualified active
27 low-income community businesses assisted.

28 (g) (1) The Insurance Commissioner may prescribe any rules
29 or regulations that may be necessary or appropriate to implement
30 this section. The Insurance Commissioner shall have access to any
31 documentation held by ~~GO-Biz~~ RTCA relative to the application
32 and reporting of a qualified community development entity.

33 (2) A ~~qualifying~~ *qualified* community development entity shall
34 provide ~~GO-Biz~~ RTCA with the name, address, and tax
35 identification number of each investor and entity for which a
36 qualified equity investment was designated by the ~~qualifying~~
37 *qualified* community development entity, pursuant to this section.
38 ~~GO-Biz~~ RTCA shall provide this information to the Insurance
39 Commissioner in a manner determined by the Insurance
40 Commissioner.

1 (h) (1) The credit authorized by this section shall only be
2 allowed for those taxable years for which moneys are appropriated
3 to ~~GO-Biz RTCA~~ to administer the California New Markets Tax
4 Credit pursuant to 18410.3 for that taxable year. The appropriation
5 shall specifically identify the California New Markets Tax Credit.

6 (2) For those taxable years for which those moneys are
7 appropriated pursuant to ~~subdivision paragraph (1), GO-Biz RTCA~~
8 shall post notice of the appropriation on the homepage of its
9 Internet Web site and send notice of such appropriation to the
10 Secretary of State and the Legislative Counsel.

11 (i) This section shall be repealed on December 1, ~~2029~~; 2022.

12 ~~SEC. 4.~~

13 *SEC. 3.* Section 17053.9 is added to the Revenue and Taxation
14 Code, to read:

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

31 (b) (1) For taxable years beginning on or after January 1, 2017,
32 and before January 1, ~~2029~~; 2022, and subject to subdivision (h),
33 there shall be allowed as a credit against the “net tax,” as defined
34 in Section 17039, in an amount determined in accordance with
35 Section 45D of the Internal Revenue Code, relating to the new
36 markets tax credit, as modified in this section.

37 (2) ~~For the purposes of this section, “GO-Biz” means the~~
38 ~~Governor’s Office of Business and Economic Development.~~

1 (2) For the purposes of this section, “RTCA” means the
2 Responsible Tax Credit Administrator, as designated by the
3 Governor.

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

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

11 (A) Zero percent with respect to the first two credit allowance
12 dates.

13 (B) Seven percent with respect to the third credit allowance
14 date.

15 (C) Eight percent with respect to the remainder of the credit
16 allowance dates.

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

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

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

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

4 (B) A qualified active low-income community business shall
5 not include any business that derives, or projects to derive, 15
6 percent or more of its annual revenue from the rental or sale of
7 real estate. This exclusion does not apply to a business that is
8 controlled by, or under common control with, another business if
9 the second business: (i) does not derive or project to derive 15
10 percent or more of its annual revenue from the rental or sale of
11 real estate; and (ii) is the primary tenant of the real estate leased
12 from the first business.

13 (C) A qualified active low-income community business shall
14 only include a business that, at the time the initial investment is
15 made, has 250 or fewer employees and is located in one or more
16 California low-income communities. The operating business shall
17 meet all other conditions of a qualified active low-income
18 community business, except as modified by this paragraph. This
19 requirement does not apply to a business that is located on land
20 and is controlled by, or under common control with, a federally
21 recognized tribe.

22 (D) A qualified active low-income community business shall
23 only include a business located in census tracts with a poverty rate
24 greater than 30 percent, or census tracts, if located within a
25 nonmetropolitan area, with a median family income that does not
26 exceed 60 percent of median family income for this state, or census
27 tracts, if located within a metropolitan area, with a median family
28 income that does not exceed 60 percent of the greater of the
29 California median family income or the metropolitan area median
30 family income, or census tracts with unemployment rates at least
31 1.5 times the national average.

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

36 (F) A qualified active low-income community business shall
37 not include a sexually oriented business. A “sexually oriented
38 business” means a nightclub, bar, restaurant, or similar commercial
39 enterprise that provides for an audience of two or more individuals
40 live nude entertainment or live nude performances where the nudity

1 is a function of everyday business operations and where nudity is
2 a planned and intentional part of the entertainment or performance.
3 “Nude” means clothed in a manner that leaves uncovered or visible,
4 through less than fully opaque clothing, any portion of the genitals
5 or, in the case of a female, any portion of the breasts below the
6 top of the areola of the breasts.

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

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

12 (A) The following shall apply in lieu of the provisions of Section
13 45D(f)(1) of the Internal Revenue Code: The aggregate amount
14 of qualified equity investments that may be allocated in any
15 calendar year for purposes of this section, Section 12283, and
16 Section 23622.9 shall be ~~an amount as determined by GO-Biz in~~
17 ~~consultation with the Department of Finance based upon any~~
18 ~~unused portion of the one hundred million dollars (\$100,000,000)~~
19 ~~in exclusions, authorized pursuant to Section 6010.8, as determined~~
20 ~~by the California Alternative Energy and Advanced Transportation~~
21 ~~Financing Authority pursuant to Section 26011.9 of the Public~~
22 ~~Resources Code and reported to GO-Biz, not to exceed an amount~~
23 ~~based upon a credit of forty million dollars (\$40,000,000). GO-Biz~~
24 ~~shall limit the allocation of investments that may be designated~~
25 ~~under this section, Section 12283, and Section 23622.9 to a~~
26 ~~cumulative total amount based on credits of no more than two~~
27 ~~hundred million dollars (\$200,000,000). (\$40,000,000) per~~
28 ~~calendar year.~~ The allocation of any undesignated qualified equity
29 investments shall be returned to ~~GO-Biz~~ RTCA by March 1 of the
30 year following allocation and the value of the undesignated
31 qualified equity investment shall be available for allocation in the
32 following calendar years in accordance with the application
33 process. Any qualified equity investment attributable to recaptured
34 credits shall be available to ~~GO-Biz~~ RTCA on March 1 of the year
35 following recapture and shall be available for allocation in the
36 following calendar years in accordance with clause (ii) of
37 subparagraph (B) of paragraph (5). Reallocated qualified equity
38 investments attributable to recapture credits shall not count against
39 the annual or the cumulative limit.

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

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

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

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

12 (i) The qualified community development entity fails to comply
 13 with subparagraph ~~(D)~~ (C) of paragraph (5) of subdivision (d). In
 14 this case, recapture shall be 100 percent of the credit.

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

18 (iii) Recaptured qualified equity investments revert back to
 19 ~~GO-Biz RTCA~~ and shall be reissued. The reissue shall not count
 20 toward the annual or cumulative allocation limitation. The reissue
 21 shall be done in the following order:

22 (I) First, pro rata to applicants whose qualified equity
 23 investment allocations were reduced pursuant to subparagraph ~~(F)~~
 24 (D) of paragraph (5) of subdivision (d) by the annual allocation
 25 limitation.

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

27 (iv) Enforcement of each of the recapture provisions shall be
 28 subject to a six-month cure period.

29 (d) (1) ~~GO-Biz-RTCA~~ shall adopt guidelines necessary or
 30 appropriate to carry out its responsibilities with respect to the
 31 allocation, monitoring, and management of the tax credit program
 32 authorized by this section.

33 (2) (A) ~~GO-Biz-RTCA~~ shall establish and impose reasonable
 34 fees upon entities that apply for the allocation pursuant to this
 35 subdivision that in the aggregate defray the cost of reviewing
 36 applications for the program. ~~GO-Biz RTCA~~ may impose other
 37 reasonable fees upon entities that receive the allocation pursuant
 38 to this subdivision that in the aggregate defray the cost of
 39 administering the program.

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

3 (3) In developing guidelines, ~~GO-Biz~~ RTCA shall adopt an
4 allocation process that does all of the following:

5 (A) Creates an equitable distribution process that ensures that
6 low-income community populations across the state have an
7 opportunity to benefit from the program.

8 (B) Sets minimum organizational capacity standards that
9 applicants must meet in order to receive an allocation of authority
10 to designate qualified equity ~~investments~~ *investments*, including,
11 but not limited to, its business strategy, targeted community
12 outcomes, capitalization strategy, and management capacity.

13 (C) Considers the qualified community development entity's
14 prior qualified low-income community investments under Section
15 45D of the Internal Revenue Code.

16 (D) Considers the qualified community development entity's
17 prior qualified low-income community investments under this
18 section, including subparagraph ~~(D)~~ (C) of paragraph (5).

19 (4) (A) Subject to subdivision (h), ~~GO-Biz~~ RTCA shall begin
20 accepting applications on or before May 15, 2017, and shall award
21 authority to designate qualified equity investments annually
22 through ~~2029~~ 2022.

23 (B) In the instance where ~~GO-Biz~~ RTCA determines that an
24 application is incomplete, the qualified community development
25 entity shall be given five business days to provide the omitted
26 information.

27 (5) (A) In the 2017 awards cycle, ~~GO-Biz~~ RTCA shall award
28 authority to designate qualified equity investments to qualified
29 community development entities described in paragraph (2) of
30 subdivision (c) in the order applications are received by ~~GO-Biz~~
31 RTCA. Applications received on the same day shall be deemed to
32 have been received simultaneously.

33 (B) In the 2018 to ~~2029~~ 2022 award cycles, inclusive, at least
34 60 percent of the authority to designate qualified equity investments
35 shall be awarded pursuant to subparagraph (A). At the discretion
36 of ~~GO-Biz~~ RTCA, a higher percentage of authority to designate
37 qualified equity investments may be awarded pursuant to
38 subparagraph (A).

39 (C) ~~GO-Biz~~ RTCA shall award up to 40 percent of the authority
40 to designate qualified equity investments in the 2018 to ~~2029~~,

1 2022, inclusive, award cycles, to qualified community development
2 entities on a competitive basis ~~using blind~~ *that meets the following*
3 *criteria:*

4 (i) *Awards shall be reviewed using blind* scoring and a review
5 committee that is composed of community development finance
6 practitioners and members having demonstrated experience in
7 assessing organizational business strategy, community outcomes,
8 capitalization strategy, and management capacity. ~~A~~

9 (ii) A member of the review committee shall not have a financial
10 interest, which includes, but is not limited to, asking, consenting,
11 or agreeing to receive any commission, emolument, gratuity,
12 money, property, or thing of value for his or her own use, benefit,
13 or personal advantage for procuring or endeavoring to procure for
14 any person, partnership, joint venture, association, or corporation
15 any qualified equity investment or other assistance from any
16 applicant.

17 ~~(D) (i) For qualified equity investments derived from the 2017~~
18 ~~to 2029, inclusive, awards cycles, pursuant to subparagraphs (A),~~
19 ~~(B), and (C), a qualified community development entity shall invest~~
20 ~~at least 15 percent of the qualified equity investment in a qualified~~
21 ~~low-income community business in consultation or in partnership~~
22 ~~with either of the following:~~

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

30 ~~(II)~~
31 ~~A nonprofit organization that does the following:~~

32 ~~(ia)~~
33 ~~Is tax exempt under Section 23701.~~

34 ~~(ib)~~
35 ~~Is registered with the Registry of Charitable Trusts, which is~~
36 ~~administered by the Attorney General.~~

37 ~~(ic)~~
38 ~~Has articles of incorporation or articles of organization that~~
39 ~~state the primary mission of the organization is focused on~~

1 improving the economic well-being of low-income communities
2 or individuals:

3 (id)

4 ~~Has bylaws that provide that the organization maintains~~
5 ~~accountability to residents of low-income communities through~~
6 ~~their representation on any governing board or on an advisory~~
7 ~~board of the nonprofit organization.~~

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

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

28 (iii) *Applications for awards shall include a commitment to*
29 *make at least 15 percent of qualified community development*
30 *investments to a qualified community development entity with the*
31 *assistance of a nonprofit organization as documented by a*
32 *cooperation agreement that states the terms and conditions of that*
33 *assistance. For the purposes of this clause, the following shall*
34 *apply:*

35 (I) *A qualified community development entity shall be certified*
36 *under Section 45D of the Internal Revenue Code but has not*
37 *received a federal New Markets Tax Credit allocation on or after*
38 *January 1, 2012, and has either a local service area that includes*
39 *one or more California communities or a California statewide*

1 *service area, but excluding qualified community development*
 2 *entities with a national service area.*

3 *(II) A nonprofit organization shall meet all of the following*
 4 *requirements: Is tax exempt under Section 23701, is registered*
 5 *with the Registry of Charitable Trusts, which is administered by*
 6 *the Attorney General, has articles of incorporation or articles of*
 7 *organization that state the primary mission of the organization is*
 8 *focused on improving the economic well-being of low-income*
 9 *communities or individuals, and has bylaws that provide that the*
 10 *organization maintains accountability to residents of low-income*
 11 *communities through their representation on any governing board*
 12 *or on an advisory board of the nonprofit organization.*

13 *(iv) Priority shall be provided to both of the following:*

14 *(I) Applications that commit to addressing the hardest to serve*
 15 *and undercapitalized lower income populations.*

16 *(II) Applications that support neighborhood revitalization*
 17 *strategies driven by local grassroots stakeholders in multiple*
 18 *low-income communities across one or more regions or the state.*
 19 *These applications shall demonstrate how their investment activity*
 20 *provides a scalable economic development model.*

21 ~~(F)~~

22 *(D) (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~~ *RTCA shall certify, consistent with remaining qualified*
 26 *equity investment capacity, qualified equity investments of*
 27 *applicants in proportionate percentages based upon the ratio of the*
 28 *amount of qualified equity investments requested in such*
 29 *applications to the total amount of qualified equity investments*
 30 *requested in all such applications received on the same day.*

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

35 ~~(G)~~

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

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

5 (H)

6 (F) Within 200 calendar days of ~~GO-Biz RTCA~~ sending notice
7 of certification, the qualified community development entity or
8 any transferee, under subparagraph ~~(G)~~; (E), shall issue the
9 qualified equity investment and receive cash in the amount of the
10 certified amount. The qualified community development entity or
11 transferee, under subparagraph ~~(G)~~; (E), shall provide ~~GO-Biz~~
12 ~~RTCA~~ with evidence of the receipt of the cash investment within
13 205 calendar days of the applicant receiving notice of certification.
14 If the qualified community development entity or any transferee,
15 under subparagraph ~~(G)~~; (E), does not receive the cash investment
16 and issue the qualified equity investment within 200 calendar days
17 of ~~GO-Biz RTCA~~ sending the certification notice, the certification
18 shall lapse and the entity may not issue the qualified equity
19 investment without reapplying to ~~GO-Biz RTCA~~ for certification.
20 Lapsed certifications revert back to ~~GO-Biz RTCA~~ and shall be
21 reissued in the following order:

22 (i) First, pro rata to applicants whose qualified equity investment
23 allocations were reduced pursuant to subparagraph ~~(F)~~ (D) under
24 the annual allocation limitation of forty million dollars
25 (\$40,000,000) in paragraph (4) of subdivision (c).

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

27 (I)

28 (G) A qualified community development entity that issues
29 qualified equity investments shall notify ~~GO-Biz RTCA~~ of the
30 names of taxpayers that are eligible to utilize tax credits pursuant
31 to this section and any transfer of a qualified equity investment.

32 (6) (A) A qualified community development entity that issues
33 qualified equity investments shall submit a report to ~~GO-Biz RTCA~~
34 that provides documentation as to the investment of at least 85
35 percent of the funds being deployed within one year in qualified
36 low-income community investments in qualified active low-income
37 community businesses located in California. Such report shall
38 include all of the following:

- 1 (i) A bank statement of such qualified community development
- 2 entity evidencing each qualified low-income community
- 3 investment.
- 4 (ii) Evidence that such business was a qualified active
- 5 low-income community business at the time of such qualified
- 6 low-income community investment.
- 7 (iii) Evidence that the community development entity complied
- 8 with subparagraph ~~(D)~~ (C) of paragraph (5).
- 9 (iv) Evidence that each qualified low-income community
- 10 investment was determined to have a positive revenue impact on
- 11 the state. This requirement does not apply to reinvestments of
- 12 redeemed qualified low-income investments.
- 13 (v) Any other information required by ~~GO-Biz RTCA~~ as being
- 14 necessary to meet the requirements of this section.
- 15 (B) Thereafter, the qualified community development entity
- 16 shall submit an annual report to ~~GO-Biz RTCA~~ during the seven
- 17 years following submittal of the report, pursuant to subparagraph
- 18 (A). No annual report shall be due prior to the first anniversary of
- 19 the initial credit allowance date. The report shall include, but is
- 20 not limited to, the following:
- 21 (i) The social, environmental, and economic impact the credit
- 22 had on the low-income community during the report period and
- 23 cumulatively.
- 24 (ii) The amount of moneys used for qualified low-income
- 25 investments in qualified low-income community businesses.
- 26 (iii) The number of employment positions created and retained
- 27 as a result of qualified low-income community investments and
- 28 the average annual salary of such positions.
- 29 (iv) The number of operating businesses assisted as a result of
- 30 qualified low-income community investments, by industry and
- 31 number of employees.
- 32 (v) Number of owner-occupied real estate projects.
- 33 (vi) Location of each qualified low-income community business
- 34 assisted by a qualified low-income community investment.
- 35 (vii) Summary of the outcomes of each of the revenue impact
- 36 assessments undertaken by the qualified community development
- 37 entity during the year.
- 38 (viii) Any other information requested by ~~GO-Biz RTCA~~.
- 39 (e) (1) In the case where the credit allowed by this section
- 40 exceeds the “net tax,” the excess may be carried over to reduce

1 the “net tax” in the following year, and the six succeeding years
2 if necessary, until the credit is exhausted.

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

6 (3) The credit allowed under this section may be in addition to
7 any credit allowed under Section 45D of the Internal Revenue
8 Code.

9 (f) ~~GO-Biz RTCA~~ shall annually report on its Internet Web site
10 the information provided by low-income community development
11 entities and on the geographic distribution of the qualified active
12 low-income community businesses assisted.

13 (g) (1) The Franchise Tax Board may prescribe any rules or
14 regulations that may be necessary or appropriate to implement this
15 section. The Franchise Tax Board shall have access to any
16 documentation held by ~~GO-Biz RTCA~~ relative to the application
17 and reporting of a qualified community development entity.

18 (2) A ~~qualifying~~ *qualified* community development entity shall
19 provide ~~GO-Biz RTCA~~ with the name, address, and tax
20 identification number of each investor and entity for which a
21 qualified equity investment was designated by the ~~qualifying~~
22 *qualified* community development entity, pursuant to this section.
23 ~~GO-Biz RTCA~~ shall provide this information to the Franchise Tax
24 Board in a manner determined by the Franchise Tax Board.

25 (h) (1) The credit authorized by this section shall only be
26 allowed for those taxable years for which moneys are appropriated
27 to ~~GO-Biz RTCA~~ to administer the California New Markets Tax
28 Credit pursuant to 18410.3 for that taxable year. The appropriation
29 shall specifically identify the California New Markets Tax Credit.

30 (2) For those taxable years for which those moneys are
31 appropriated pursuant to ~~subdivision paragraph~~ (1), ~~GO-Biz RTCA~~
32 shall post notice of the appropriation on the homepage of its
33 Internet Web site and send notice of such appropriation to the
34 Secretary of State and the Legislative Counsel.

35 (i) This section shall be repealed on December 1, ~~2029~~: 2022.

36 ~~SEC. 5.~~

37 *SEC. 4.* Section 18410.3 is added to the Revenue and Taxation
38 Code, to read:

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

1 (b) Upon annual appropriation, moneys in the fund shall be used
 2 for 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.~~

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

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

24 (b) (1) For taxable years beginning on or after January 1, 2017,
 25 and before January 1, ~~2029~~, 2022, and subject to subdivision (h),
 26 there shall be allowed as a credit against the “tax,” as defined in
 27 Section 23036, in an amount determined in accordance with Section
 28 45D of the Internal Revenue Code, relating to the new markets tax
 29 credit, as modified in this section.

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

32 (2) *For the purposes of this section, “RTCA” means the*
 33 *Responsible Tax Credit Administrator, as designated by the*
 34 *Governor.*

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

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

1 6 percent with respect to the remainder of the credit allowance
2 dates” with the following:

3 (A) Zero percent with respect to the first two credit allowance
4 dates.

5 (B) Seven percent with respect to the third credit allowance
6 date.

7 (C) Eight percent with respect to the remainder of the credit
8 allowance dates.

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

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

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

31 (A) By substituting “any low-income community in California”
32 for “any low-income community” every place it appears in Section
33 45D of the Internal Revenue Code.

34 (B) A qualified active low-income community business shall
35 not include any business that derives, or projects to derive, 15
36 percent or more of its annual revenue from the rental or sale of
37 real estate. This exclusion does not apply to a business that is
38 controlled by, or under common control with, another business if
39 the second business: (i) does not derive or project to derive 15
40 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 (C) A qualified active low-income community business shall
4 only include a business that, at the time the initial investment is
5 made, has 250 or fewer employees and is located in one or more
6 California low-income communities. The operating business shall
7 meet all other conditions of a qualified active low-income
8 community business, except as modified by this paragraph. This
9 requirement does not apply to a business that is located on land
10 and is controlled by, or under common control with, a federally
11 recognized tribe.

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 nonmetropolitan area, with a median family income that does not
16 exceed 60 percent of median family income for this state, or census
17 tracts, if located within a metropolitan area, with a median family
18 income that does not exceed 60 percent of the greater of the
19 California median family income or the metropolitan area median
20 family income, or census tracts with unemployment rates at least
21 1.5 times the national average.

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

37 (G) A qualified active low-income community business shall
38 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 17053.9 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 pursuant to Section 26011.9 of the Public~~
14 ~~Resources Code and reported to GO-Biz, not to exceed an amount~~
15 ~~based upon a credit of forty million dollars (\$40,000,000). GO-Biz~~
16 ~~shall limit the allocation of investments that may be designated~~
17 ~~under this section, Section 12283, and Section 17053.9 to a~~
18 ~~cumulative total amount based on credits of no more than two~~
19 ~~hundred million dollars (\$200,000,000). (\$40,000,000) per~~
20 ~~calendar year.~~ The allocation of any undesignated qualified equity
21 investments shall be returned to ~~GO-Biz RTCA~~ by March 1 of the
22 year following allocation and the value of the undesignated
23 qualified equity investment shall be available for allocation in the
24 following calendar years in accordance with the application
25 process. Any qualified equity investment attributable to recaptured
26 credits shall be available to ~~GO-Biz RTCA~~ on March 1 of the year
27 following recapture and shall be available for allocation in the
28 following calendar years in accordance with clause (ii) of
29 subparagraph (B) of paragraph (5). Reallocated qualified equity
30 investments attributable to recapture credits shall not count against
31 the annual or the cumulative limit.

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

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

38 (5) (A) Section 45D(g)(2)(B) of the Internal Revenue Code,
39 relating to credit recapture amount, is modified to substitute
40 “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) The qualified community development entity fails to comply
 4 with subparagraph ~~(D)~~ (C) of paragraph (5) of subdivision (d). In
 5 this case, recapture shall be 100 percent of the credit.
 6 (ii) ~~GO-Biz RTCA~~ shall establish a process, in consultation with
 7 the Franchise Tax Board, for the recapture of credits allowed under
 8 this section from the entity that claimed the credit on a return.
 9 (iii) Recaptured qualified equity investments revert back to
 10 ~~GO-Biz RTCA~~ and shall be reissued. The reissue shall not count
 11 toward the annual or cumulative allocation limitation. The reissue
 12 shall be done in the following order:
 13 (I) First, pro rata to applicants whose qualified equity investment
 14 allocations were reduced pursuant to subparagraph ~~(F)~~ (D) of
 15 paragraph (5) of subdivision (d) by the annual allocation limitation.
 16 (II) Thereafter, in accordance with the application process.
 17 (iv) Enforcement of each of the recapture provisions shall be
 18 subject to a six-month cure period.
 19 (d) (1) ~~GO-Biz RTCA~~ shall adopt guidelines necessary or
 20 appropriate to carry out its responsibilities with respect to the
 21 allocation, monitoring, and management of the tax credit program
 22 authorized by this section.
 23 (2) (A) ~~GO-Biz RTCA~~ shall establish and impose reasonable
 24 fees upon entities that apply for the allocation pursuant to this
 25 subdivision that in the aggregate defray the cost of reviewing
 26 applications for the program. ~~GO-Biz RTCA~~ may impose other
 27 reasonable fees upon entities that receive the allocation pursuant
 28 to this subdivision that in the aggregate defray the cost of
 29 administering the program.
 30 (B) The fees collected shall be deposited in the California New
 31 Markets Tax Credit Fund established in Section 18410.3.
 32 (3) In developing guidelines, ~~GO-Biz RTCA~~ shall adopt an
 33 allocation process that does all of the following:
 34 (A) Creates an equitable distribution process that ensures that
 35 low-income community populations across the state have an
 36 opportunity to benefit from the program.
 37 (B) Sets minimum organizational capacity standards that
 38 applicants must meet in order to receive an allocation of authority
 39 to designate qualified equity ~~investments~~ *investments*, including,

1 but not limited to, its business strategy, targeted community
2 outcomes, capitalization strategy, and management capacity.

3 (C) Considers the qualified community development entity's
4 prior qualified low-income community investments under Section
5 45D of the Internal Revenue Code.

6 (D) Considers the qualified community development entity's
7 prior qualified low-income community investments under this
8 section, including subparagraph ~~(D)~~ (C) of paragraph (5).

9 (4) (A) Subject to subdivision (h), ~~GO-Biz RTCA~~ shall begin
10 accepting applications on or before May 15, 2017, and shall award
11 authority to designate qualified equity investments annually
12 through ~~2029~~ 2022.

13 (B) In the instance where ~~GO-Biz RTCA~~ determines that an
14 application is incomplete, the qualified community development
15 entity shall be given five business days to provide the omitted
16 information.

17 (5) (A) In the 2017 awards cycle, ~~GO-Biz RTCA~~ shall award
18 authority to designate qualified equity investments to qualified
19 community development entities described in paragraph (2) of
20 subdivision (c) in the order applications are received by ~~GO-Biz~~
21 ~~RTCA~~. Applications received on the same day shall be deemed to
22 have been received simultaneously.

23 (B) In the 2018 to ~~2029~~ 2022 award cycles, inclusive, at least
24 60 percent of the authority to designate qualified equity investments
25 shall be awarded pursuant to subparagraph (A). At the discretion
26 of ~~GO-Biz~~, ~~RTCA~~, a higher percentage of authority to designate
27 qualified equity investments may be awarded pursuant to
28 subparagraph (A).

29 (C) ~~GO-Biz RTCA~~ shall award up to 40 percent of the authority
30 to designate qualified equity investments in the 2018 to ~~2029~~,
31 2022, inclusive, award cycles, to qualified community development
32 entities on a competitive basis ~~using blind~~ *that meets the following*
33 *criteria:*

34 (i) *Awards shall be reviewed using blind* scoring and a review
35 committee that is composed of community development finance
36 practitioners and members having demonstrated experience in
37 assessing organizational business strategy, community outcomes,
38 capitalization strategy, and management capacity. ~~A~~

39 (ii) A member of the review committee shall not have a financial
40 interest, which includes, but is not limited to, asking, consenting,

1 or agreeing to receive any commission, emolument, gratuity,
2 money, property, or thing of value for his or her own use, benefit,
3 or personal advantage for procuring or endeavoring to procure for
4 any person, partnership, joint venture, association, or corporation
5 any qualified equity investment or other assistance from any
6 applicant.

7 ~~(D) (i) For qualified equity investments derived from the 2017~~
8 ~~to 2029, inclusive, awards cycles, pursuant to subparagraphs (A),~~
9 ~~(B), and (C), a qualified community development entity shall invest~~
10 ~~at least 15 percent of the qualified equity investment in a qualified~~
11 ~~low-income community business in consultation or in partnership~~
12 ~~with either of the following:~~

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

20 ~~(II)~~
21 ~~A nonprofit organization that does the following:~~

22 ~~(ia)~~
23 ~~Is tax exempt under Section 23701.~~

24 ~~(ib)~~
25 ~~Is registered with the Registry of Charitable Trusts, which is~~
26 ~~administered by the Attorney General.~~

27 ~~(ic)~~
28 ~~Has articles of incorporation or articles of organization that~~
29 ~~state the primary mission of the organization is focused on~~
30 ~~improving the economic well-being of low-income communities~~
31 ~~or individuals.~~

32 ~~(id)~~
33 ~~Has bylaws that provide that the organization maintains~~
34 ~~accountability to residents of low-income communities through~~
35 ~~their representation on any governing board or on an advisory~~
36 ~~board of the nonprofit organization.~~

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

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

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 primary benefit to the hardest to serve and undercapitalized~~
10 ~~lower income populations, or in activities that support~~
11 ~~neighborhood revitalization strategies driven by local grassroots~~
12 ~~stakeholders in multiple low-income communities across one or~~
13 ~~more regions or the state for the purpose of scaling economic~~
14 ~~development activities that compliment regional industry clusters~~
15 ~~that result in the greatest benefit to the largest number of lower~~
16 ~~income individuals.~~

17 *(iii) Applications for awards shall include a commitment to*
18 *make at least 15 percent of qualified community development*
19 *investments with the assistance of a nonprofit organization as*
20 *documented by a cooperation agreement that states the terms and*
21 *conditions of that assistance. For the purposes of this clause, the*
22 *following shall apply:*

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

30 *(II) A nonprofit organization shall meet all of the following*
31 *requirements: Is tax exempt under Section 23701, is registered*
32 *with the Registry of Charitable Trusts, which is administered by*
33 *the Attorney General, has articles of incorporation or articles of*
34 *organization that state the primary mission of the organization is*
35 *focused on improving the economic well-being of low-income*
36 *communities or individuals, and has bylaws that provide that the*
37 *organization maintains accountability to residents of low-income*
38 *communities through their representation on any governing board*
39 *or on an advisory board of the nonprofit organization.*

40 *(iv) Priority shall be provided to both of the following:*

1 (I) Applications that commit to addressing the hardest to serve
2 and undercapitalized lower income populations.

3 (II) Applications that support neighborhood revitalization
4 strategies driven by local grassroots stakeholders in multiple
5 low-income communities across one or more regions or the state.
6 These applications shall demonstrate how their investment activity
7 provides a scalable economic development model.

8 ~~(F)~~

9 (D) (i) For applications described in subparagraph (A), in the
10 event requests for authority to designate qualified equity
11 investments exceed the applicable annual allocation limitation,
12 ~~GO-Biz RTCA~~ shall certify, consistent with remaining qualified
13 equity investment capacity, qualified equity investments of
14 applicants in proportionate percentages based upon the ratio of the
15 amount of qualified equity investments requested in such
16 applications to the total amount of qualified equity investments
17 requested in all such applications received on the same day.

18 (ii) If a pending request cannot be fully certified due to this
19 limit, ~~GO-Biz RTCA~~ shall certify the portion that may be certified
20 unless the qualified community development entity elects to
21 withdraw its request rather than receive partial certification.

22 ~~(G)~~

23 (E) An approved applicant may transfer all or a portion of its
24 certified qualified equity investment authority to its controlling
25 entity or any subsidiary qualified community development entity
26 of the controlling entity, provided that the applicant and the
27 transferee notify ~~GO-Biz RTCA~~ within 30 calendar days of such
28 transfer and include the information required in the application
29 with respect to such transferee with such notice. The transferee
30 shall be subject to the same rules, requirements, and limitations
31 applicable to the transferor.

32 ~~(H)~~

33 (F) Within 200 calendar days of ~~GO-Biz RTCA~~ sending notice
34 of certification, the qualified community development entity or
35 any transferee, under subparagraph ~~(G)~~; (E), shall issue the
36 qualified equity investment and receive cash in the amount of the
37 certified amount. The qualified community development entity or
38 transferee, under subparagraph ~~(G)~~; (E), shall provide ~~GO-Biz~~
39 ~~RTCA~~ with evidence of the receipt of the cash investment within
40 205 calendar days of the applicant receiving notice of certification.

1 If the qualified community development entity or any transferee,
2 under subparagraph ~~(G)~~; (E), does not receive the cash investment
3 and issue the qualified equity investment within 200 calendar days
4 of ~~GO-Biz RTCA~~ sending the certification notice, the certification
5 shall lapse and the entity may not issue the qualified equity
6 investment without reapplying to ~~GO-Biz RTCA~~ for certification.
7 Lapsed certifications revert back to ~~GO-Biz RTCA~~ and shall be
8 reissued in the following order:

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

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

14 ~~(F)~~

15 (G) A qualified community development entity that issues
16 qualified equity investments shall notify ~~GO-Biz RTCA~~ of the
17 names of taxpayers that are eligible to utilize tax credits pursuant
18 to this section and any transfer of a qualified equity investment.

19 (6) (A) A qualified community development entity that issues
20 qualified equity investments shall submit a report to ~~GO-Biz RTCA~~
21 that provides documentation as to the investment of at least 85
22 percent of the funds being deployed within one year in qualified
23 low-income community investments in qualified active low-income
24 community businesses located in California. Such report shall
25 include all of the following:

26 (i) A bank statement of such qualified community development
27 entity evidencing each qualified low-income community
28 investment.

29 (ii) Evidence that such business was a qualified active
30 low-income community business at the time of such qualified
31 low-income community investment.

32 (iii) Evidence that the community development entity complied
33 with subparagraph ~~(D)~~ (C) of paragraph (5).

34 (iv) Evidence that each qualified low-income community
35 investment was determined to have a positive revenue impact on
36 the state. This requirement does not apply to reinvestments of
37 redeemed qualified low-income investments.

38 (v) Any other information required by ~~GO-Biz RTCA~~ as being
39 necessary to meet the requirements of this section.

1 (B) Thereafter, the qualified community development entity
2 shall submit an annual report to ~~GO-Biz~~ *RTCA* during the seven
3 years following submittal of the report, pursuant to subparagraph
4 (A). No annual report shall be due prior to the first anniversary of
5 the initial credit allowance date. The report shall include, but is
6 not limited to, the following:

7 (i) The social, environmental, and economic impact the credit
8 had on the low-income community during the report period and
9 cumulatively.

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

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

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

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

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

21 (vii) Summary of the outcomes of each of the revenue impact
22 assessments undertaken by the qualified community development
23 entity during the year.

24 (viii) Any other information requested by ~~GO-Biz~~ *RTCA*.

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

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

32 (3) The credit allowed under this section may be in addition to
33 any credit allowed under Section 45D of the Internal Revenue
34 Code.

35 (f) ~~GO-Biz~~ *RTCA* shall annually report on its Internet Web site
36 the information provided by low-income community development
37 entities and on the geographic distribution of the qualified active
38 low-income community businesses assisted.

39 (g) (1) The Franchise Tax Board may prescribe any rules or
40 regulations that may be necessary or appropriate to implement this

1 section. The Franchise Tax Board shall have access to any
2 documentation held by ~~GO-Biz RTCA~~ relative to the application
3 and reporting of a qualified community development entity.

4 (2) A ~~qualifying~~ *qualified* community development entity shall
5 provide ~~GO-Biz RTCA~~ with the name, address, and tax
6 identification number of each investor and entity for which a
7 qualified equity investment was designated by the ~~qualifying~~
8 *qualified* community development entity, pursuant to this section.
9 ~~GO-Biz RTCA~~ shall provide this information to the Franchise Tax
10 Board in a manner determined by the Franchise Tax Board.

11 (h) (1) The credit authorized by this section shall only be
12 allowed for those taxable years for which moneys are appropriated
13 to ~~GO-Biz RTCA~~ to administer the California New Markets Tax
14 Credit pursuant to 18410.3 for that taxable year. The appropriation
15 shall specifically identify the California New Markets Tax Credit.

16 (2) For those taxable years for which those moneys are
17 appropriated pursuant to ~~subdivision~~ *paragraph* (1), ~~GO-Biz RTCA~~
18 shall post notice of the appropriation on the homepage of its
19 Internet Web site and send notice of such appropriation to the
20 Secretary of State and the Legislative Counsel.

21 (i) This section shall be repealed on December 1, ~~2029~~. 2022.

22 ~~SEC. 7.~~

23 *SEC. 6.* For the purposes of complying with Section 41 of the
24 Revenue and Taxation Code, the Legislature finds and declares as
25 follows:

26 (a) Specific goals, purposes, and objectives: attract private sector
27 investment in lower income communities in California.

28 (b) Performance indicators:

29 (1) Amount of qualified low-income community investments
30 issued.

31 (2) Amount of dollars deployed in qualified low-income
32 community investments.

33 (3) Number of operating businesses assisted as a result of
34 qualified low-income community investments.

35 (4) Number of employment positions created and retained as a
36 result of qualified low-income community investments and the
37 average annual salary of those positions.

38 (c) Data collection requirements and baseline measurements:

39 (1) The baseline measurements include:

40 (A) The amount of tax credits issued in the year.

- 1 (B) The unemployment rate of the area.
- 2 (C) The poverty rate of the area.
- 3 (2) Data to collect includes:
- 4 (A) The amount of tax credits issued in the year.
- 5 (B) The number of operating businesses in a low-income
- 6 community assisted.
- 7 (C) The number of jobs created and retained as a result of
- 8 qualified low-income community investments.

9 ~~SEC. 8.~~

10 *SEC. 7.* The provisions of this act are severable. If any
11 provision of this act or its application is held invalid, that invalidity
12 shall not affect other provisions or applications that can be given
13 effect without the invalid provision or application.

14 ~~SEC. 9.~~

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