

AMENDMENTS TO LB682

Introduced by Revenue.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 77-1101, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 77-1101 Sections 77-1101 to 77-1119 and sections 2, 5, 6, and 10 of
6 this act shall be known and may be cited as the New Markets Job Growth
7 Investment Act.

8 Sec. 2. The purposes of the New Markets Job Growth Investment Act
9 are to:

10 (1) Provide access to capital to small businesses that are not
11 otherwise able to receive affordable financing;

12 (2) Attract investment dollars from the New Markets Tax Credit
13 Program of the United States Department of the Treasury; and

14 (3) Ensure Nebraska small businesses have access to capital to
15 retain and add jobs.

16 Sec. 3. Section 77-1102, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 77-1102 For purposes of the New Markets Job Growth Investment Act,
19 the definitions in sections 77-1103 to 77-1112 and sections 5 and 6 of
20 this act apply.

21 Sec. 4. Section 77-1110, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 77-1110 (1) Qualified equity investment means any equity investment
24 in, or long-term debt security issued by, a qualified community
25 development entity that:

26 (a) Is acquired after January 1, 2012, at its original issuance
27 solely in exchange for cash;

1 (b) Has at least eighty-five percent, or one hundred percent with
2 respect to the 2021 allocation, of its cash purchase price used by the
3 issuer to make qualified low-income community investments in qualified
4 active low-income community businesses located in this state by the first
5 anniversary of the initial credit allowance date;

6 (c) Is designated by the issuer as a qualified equity investment
7 and, with respect to awards of the 2021 allocation pursuant to subsection
8 (6) of section 77-1116, is designated by the issuer as a qualified equity
9 investment under section 45D of the Internal Revenue Code of 1986, as
10 amended; and

11 (d) Is certified by the Tax Commissioner as not exceeding the
12 limitation contained in section 77-1115.

13 (2) The term includes any qualified equity investment that does not
14 meet the requirements of subdivision (1)(a) of this section if such
15 investment was a qualified equity investment in the hands of a prior
16 holder.

17 Sec. 5. 2021 allocation means a monetary amount of qualified equity
18 investments to be awarded by the Tax Commissioner after the 2021 federal
19 notice under the New Markets Job Growth Investment Act that results in a
20 maximum tax credit utilization in any fiscal year of no more than fifteen
21 million dollars of new tax credits.

22 Sec. 6. 2021 federal notice means the announcement by the Community
23 Development Financial Institutions Fund of the United States Department
24 of the Treasury of allocation awards under a notice of funding
25 availability that was published in the Federal Register in September
26 2020.

27 Sec. 7. Section 77-1115, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 77-1115 The Tax Commissioner shall limit the monetary amount of
30 qualified equity investments permitted under the New Markets Job Growth
31 Investment Act to a level necessary to limit tax credit utilization in

1 any fiscal year at no more than fifteen million dollars of new tax
2 credits, exclusive of tax credits acquired with respect to qualified
3 equity investments issued under the 2021 allocation. Such limitation on
4 qualified equity investments shall be based on the anticipated
5 utilization of credits without regard to the potential for taxpayers to
6 carry forward tax credits to later tax years.

7 Sec. 8. Section 77-1116, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 77-1116 (1) A qualified community development entity that seeks to
10 have an equity investment or long-term debt security designated as a
11 qualified equity investment and eligible for tax credits under the New
12 Markets Job Growth Investment Act shall apply to the Tax Commissioner.
13 There shall be no new applications for such designation filed under this
14 section after December 31, ~~2029~~ 2022. The Tax Commissioner shall begin
15 accepting applications with respect to the 2021 allocation not less than
16 thirty days or more than forty-five days after the 2021 federal notice.

17 (2) The qualified community development entity shall submit an
18 application on a form that the Tax Commissioner provides that includes:

19 (a) Evidence of the entity's certification as a qualified community
20 development entity, including evidence of the service area of the entity
21 that includes this state;

22 (b) A copy of the allocation agreement executed by the entity, or
23 its controlling entity, and the Community Development Financial
24 Institutions Fund referred to in section 77-1109;

25 (c) A certificate executed by an executive officer of the entity
26 attesting that the allocation agreement remains in effect and has not
27 been revoked or canceled by the Community Development Financial
28 Institutions Fund referred to in section 77-1109;

29 (d) A description of the proposed amount, structure, and purchaser
30 of the equity investment or long-term debt security;

31 (e) Identifying information for any taxpayer eligible to utilize tax

1 credits earned as a result of the issuance of the qualified equity
2 investment;

3 (f) Information regarding the proposed use of proceeds from the
4 issuance of the qualified equity investment;~~and~~

5 (g) A nonrefundable application fee of five thousand dollars; and -

6 (h) With respect to applications for the 2021 allocation, the amount
7 of qualified equity investment authority the applicant agrees to
8 designate as a federal qualified equity investment under section 45D of
9 the Internal Revenue Code of 1986, as amended, including a copy of the
10 screen shot from the Community Development Financial Institutions Fund's
11 Allocation Tracking System of the applicant's remaining federal qualified
12 equity investment authority.

13 (3) Within thirty days after receipt of a completed application
14 containing the information necessary for the Tax Commissioner to certify
15 a potential qualified equity investment, including the payment of the
16 application fee, the Tax Commissioner shall grant or deny the application
17 in full or in part. If the Tax Commissioner denies any part of the
18 application, the Tax Commissioner shall inform the qualified community
19 development entity of the grounds for the denial. If the qualified
20 community development entity provides any additional information required
21 by the Tax Commissioner or otherwise completes its application within
22 fifteen days after the notice of denial, the application shall be
23 considered completed as of the original date of submission. If the
24 qualified community development entity fails to provide the information
25 or complete its application within the fifteen-day period, the
26 application remains denied and must be resubmitted in full with a new
27 submission date.

28 (4) If the application is deemed complete, the Tax Commissioner
29 shall certify the proposed equity investment or long-term debt security
30 as a qualified equity investment that is eligible for tax credits,
31 subject to the limitations contained in section 77-1115. The Tax

1 Commissioner shall provide written notice of the certification to the
2 qualified community development entity. The notice shall include the
3 names of those taxpayers who are eligible to utilize the credits and
4 their respective credit amounts. If the names of the taxpayers who are
5 eligible to utilize the credits change due to a transfer of a qualified
6 equity investment or a change in an allocation pursuant to section
7 77-1114, the qualified community development entity shall notify the Tax
8 Commissioner of such change.

9 (5) Except as provided in subsection (6) of this section, the The
10 Tax Commissioner shall certify qualified equity investments in the order
11 applications are received. Applications received on the same day shall be
12 deemed to have been received simultaneously. For applications received on
13 the same day and deemed complete, the Tax Commissioner shall certify,
14 consistent with remaining tax credit capacity, qualified equity
15 investments in proportionate percentages based upon the ratio of the
16 amount of qualified equity investment requested in an application to the
17 total amount of qualified equity investments requested in all
18 applications received on the same day.

19 (6) With respect to applications for the 2021 allocation, the Tax
20 Commissioner shall certify applications by applicants that agree to
21 designate qualified equity investments as federal qualified equity
22 investments in accordance with subdivision (1)(h) of this section in
23 proportionate percentages based upon the ratio of the amount of qualified
24 equity investments requested in an application to be designated as
25 federal qualified equity investments to the total amount of qualified
26 equity investments to be designated as federal qualified equity
27 investments requested in all applications received on the same day.

28 (7) ~~(6)~~ Once the Tax Commissioner has certified qualified equity
29 investments that, on a cumulative basis, are eligible for the maximum
30 limitation contained in section 77-1115 or the maximum amount of
31 qualified equity investments authorized pursuant to the 2021 allocation,

1 the Tax Commissioner may not certify any more qualified equity
2 investments for that fiscal year. If a pending request cannot be fully
3 certified, the Tax Commissioner shall certify the portion that may be
4 certified unless the qualified community development entity elects to
5 withdraw its request rather than receive partial credit.

6 (8) (7) Within thirty days after receiving notice of certification,
7 the qualified community development entity shall issue the qualified
8 equity investment and receive cash in the amount of the certified amount
9 and, with respect to the 2021 allocation, designate the required amount
10 of qualified equity investment authority as a federal qualified equity
11 investment. The qualified community development entity shall provide the
12 Tax Commissioner with evidence of the receipt of the cash investment
13 within ten business days after receipt and, with respect to the 2021
14 allocation, provide evidence that the required amount of qualified equity
15 investment authority was designated as a federal qualified equity
16 investment. If the qualified community development entity does not
17 receive the cash investment and issue the qualified equity investment
18 within thirty days after receipt of the certification notice and, with
19 respect to the 2021 allocation, make the required federal qualified
20 equity investment designation, the certification shall lapse and the
21 entity may not issue the qualified equity investment without reapplying
22 to the Tax Commissioner for certification. A certification that lapses
23 reverts back to the Tax Commissioner and may be reissued only in
24 accordance with the application process outlined in this section.

25 Sec. 9. Section 77-1117, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 77-1117 The Tax Commissioner shall recapture, from the taxpayer that
28 claimed the credit on a return, the tax credit allowed under the New
29 Markets Job Growth Investment Act if:

30 (1) Any amount of the federal tax credit available with respect to a
31 qualified equity investment that is eligible for a tax credit under this

1 section is recaptured under section 45D of the Internal Revenue Code of
2 1986, as amended. In such case the state's recapture shall be
3 proportionate to the federal recapture with respect to such qualified
4 equity investment;

5 (2) The issuer redeems or makes principal repayment with respect to
6 a qualified equity investment prior to the seventh credit allowance date.
7 In such case recapture shall be proportionate to the amount of the
8 redemption or repayment with respect to such qualified equity investment;
9 or

10 (3) The issuer fails to invest and satisfy the requirements of
11 subdivision (1)(b) of section 77-1110 and maintain such level of
12 investment in qualified low-income community investments in Nebraska
13 until the last credit allowance date for the qualified equity investment.
14 For purposes of this section, an investment shall be considered held by
15 an issuer even if the investment has been sold or repaid if the issuer
16 reinvests an amount equal to the capital returned to or recovered by the
17 issuer from the original investment, exclusive of any profits realized,
18 in another qualified low-income community investment within twelve months
19 of the receipt of such capital. With respect to the 2021 allocation,
20 amounts received periodically by a qualified community development entity
21 shall be treated as maintained in qualified low-income community
22 investments if the amounts are reinvested in one or more qualified low-
23 income community investments by the end of the following calendar year.
24 An issuer shall not be required to reinvest capital returned from
25 qualified low-income community investments after the sixth credit
26 allowance date, the proceeds of which were used to make the qualified
27 low-income community investment, and the qualified low-income community
28 investment shall be considered held by the issuer through the seventh
29 credit allowance date.

30 Sec. 10. (1) A qualified community development entity that has
31 received an allocation of qualified equity investment authority pursuant

1 to the 2021 allocation shall submit an annual report to the Tax
2 Commissioner on or before the last day of February following the second
3 through seventh credit allowance dates. The annual report shall provide
4 documentation as to the qualified community development entity's
5 qualified low-income community investments and include all of the
6 following:

7 (a) A bank statement evidencing each qualified low-income community
8 investment;

9 (b) The name, location, and industry of each qualified active low-
10 income community business receiving a qualified low-income community
11 investment; and

12 (c) The number of jobs created or retained as a result of each
13 qualified low-income community investment.

14 (2) The Tax Commissioner shall electronically submit a report to the
15 Legislature on or before April 1, 2022, and on or before each April 1
16 thereafter through April 1, 2028, with respect to the 2021 allocation.
17 The report shall include all of the following:

18 (a) The name and number of all of the qualified community
19 development entities approved to participate in the 2021 allocation;

20 (b) The amount of qualified low-income community investments made by
21 the qualified community development entities;

22 (c) The location of each qualified active low-income community
23 business; and

24 (d) The number of jobs created or retained as a result of each
25 qualified low-income community investment.

26 Sec. 11. Original sections 77-1101, 77-1102, 77-1110, 77-1115,
27 77-1116, and 77-1117, Reissue Revised Statutes of Nebraska, are repealed.