

COMMITTEE ON ECONOMIC DEVELOPMENT AND JOBS CREATION

SENATE AMENDMENTS TO S.B. 1301

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 20, chapter 2, article 1, Arizona Revised Statutes,  
3 is amended by adding section 20-224.08, to read:

4 20-224.08. Premium tax credit for qualified equity investments

5 A. A PERSON OR ENTITY THAT MAKES A QUALIFIED EQUITY INVESTMENT EARNS A  
6 VESTED TAX CREDIT AGAINST THE PREMIUM TAX LIABILITY IMPOSED PURSUANT TO  
7 SECTION 20-224, 20-837, 20-1010, 20-1060 OR 20-1097.07. THE AMOUNT OF THE  
8 CREDIT IS THE AMOUNT DETERMINED AND CERTIFIED BY THE ARIZONA COMMERCE  
9 AUTHORITY AS PROVIDED BY SECTION 41-1509.

10 B. TO CLAIM THE CREDIT UNDER THIS SECTION, THE HOLDER OF A QUALIFIED  
11 EQUITY INVESTMENT SHALL PROVIDE THE DEPARTMENT A COPY OF THE ARIZONA COMMERCE  
12 AUTHORITY CERTIFICATION PROVIDED PURSUANT TO SECTION 41-1509. NO CREDIT IS  
13 ALLOWED UNDER THIS SECTION UNLESS THE TAXPAYER PROVIDES THE CERTIFICATION.

14 C. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE STATE PREMIUM TAX  
15 LIABILITY, THE AMOUNT OF THE CLAIM NOT USED AS AN OFFSET AGAINST THE STATE  
16 PREMIUM TAX LIABILITY MAY BE CARRIED FORWARD AS A TAX CREDIT AGAINST  
17 SUBSEQUENT YEARS' STATE PREMIUM TAX LIABILITY FOR A PERIOD NOT EXCEEDING FIVE  
18 TAXABLE YEARS.

19 D. AN INSURER THAT CLAIMS A TAX CREDIT AGAINST STATE PREMIUM TAX  
20 LIABILITY IS NOT REQUIRED TO PAY ANY ADDITIONAL RETALIATORY TAX IMPOSED  
21 PURSUANT TO SECTION 20-230 AS A RESULT OF CLAIMING THAT TAX CREDIT.

22 E. A TAX CREDIT UNDER THIS SECTION IS SUBJECT TO RECOVERY UNDER  
23 SECTION 41-1509, SUBSECTION H.

24 F. A TAX CREDIT EARNED UNDER THIS SECTION MAY NOT BE SOLD OR  
25 TRANSFERRED, EXCEPT AS FOLLOWS:

26 1. A PARTNER, MEMBER OR SHAREHOLDER OF A PARTNERSHIP, LIMITED  
27 LIABILITY COMPANY, S-CORPORATION OR OTHER PASS-THROUGH ENTITY MAY CLAIM THE  
28 TAX CREDIT PURSUANT TO ANY AGREEMENT AMONG THE PARTNERS, MEMBERS OR  
29 SHAREHOLDERS. ANY CHANGE IN THE ALLOCATION OF A TAX CREDIT UNDER THE  
30 AGREEMENT MUST BE REPORTED TO THE AUTHORITY.

31 2. ELIGIBILITY TO CLAIM A TRANSFER OF A TAX CREDIT TO A SUBSEQUENT  
32 PURCHASER OF A QUALIFIED EQUITY INVESTMENT AND PURSUANT TO PARAGRAPH 1 OF  
33 THIS SUBSECTION MUST COMPLY WITH THIS PARAGRAPH. THE TRANSFER MUST BE  
34 REPORTED TO THE AUTHORITY ALONG WITH THE IDENTITY, TAX IDENTIFICATION NUMBER

1 AND TAX CREDIT AMOUNT ALLOCATED TO A TAXPAYER PURSUANT TO PARAGRAPH 1 OF THIS  
2 SUBSECTION. THE NOTICE OF TRANSFER ALSO MUST STATE WHETHER UNUSED TAX  
3 CREDITS ARE ATTACHED TO THE TRANSFERRED QUALIFIED EQUITY INVESTMENT, THE  
4 AMOUNT OF UNUSED TAX CREDITS AND WHETHER THE NEW HOLDER OF THE QUALIFIED  
5 EQUITY INVESTMENT HAS THE RIGHT TO UTILIZE THE UNUSED CREDITS.

6 Sec. 2. Title 41, chapter 10, article 1, Arizona Revised Statutes, is  
7 amended by adding section 41-1509, to read:

8 41-1509. Qualified community development entities; tax credits  
9 for qualified equity investments; fee;  
10 qualifications; definitions

11 A. A PERSON OR ENTITY THAT MAKES A QUALIFIED EQUITY INVESTMENT EARNS  
12 VESTED INCOME TAX CREDITS UNDER SECTION 43-1074.03 OR 43-1174 OR VESTED  
13 PREMIUM TAX CREDITS UNDER SECTION 20-224.08.

14 B. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO THIRTY-NINE PER CENT OF  
15 THE PURCHASE PRICE PAID TO THE ISSUER OF THE QUALIFIED EQUITY INVESTMENT. ON  
16 EACH CREDIT ALLOWANCE DATE OF THE QUALIFIED EQUITY INVESTMENT, THE TAXPAYER  
17 OR SUBSEQUENT HOLDER OF THE QUALIFIED EQUITY INVESTMENT IS ENTITLED TO USE A  
18 PORTION OF THE TAX CREDIT DURING THE TAXABLE YEAR EQUAL TO THE APPLICABLE  
19 PERCENTAGE FOR THE TAX CREDIT ALLOWANCE DATE MULTIPLIED BY THE PURCHASE PRICE  
20 PAID FOR THE QUALIFIED EQUITY INVESTMENT.

21 C. A QUALIFIED COMMUNITY DEVELOPMENT ENTITY MUST SUBMIT AN APPLICATION  
22 TO THE AUTHORITY TO CERTIFY A PROPOSED INVESTMENT AS A QUALIFIED EQUITY  
23 INVESTMENT, ON A FORM PRESCRIBED BY THE AUTHORITY, THAT INCLUDES:

24 1. EVIDENCE OF THE ENTITY'S CERTIFICATION AS A QUALIFIED COMMUNITY  
25 DEVELOPMENT ENTITY, INCLUDING EVIDENCE THAT THE SERVICE AREA IS WITHIN THIS  
26 STATE.

27 2. A COPY OF THE ALLOCATION AGREEMENT THAT IS EXECUTED BY THE ENTITY,  
28 OR ITS CONTROLLING ENTITY, AND THE COMMUNITY DEVELOPMENT FINANCIAL  
29 INSTITUTIONS FUND.

30 3. A CERTIFICATE EXECUTED BY AN EXECUTIVE OFFICER OF THE ENTITY  
31 ATTESTING THAT THE ALLOCATION AGREEMENT REMAINS EFFECTIVE AND HAS NOT BEEN  
32 REVOKED OR CANCELLED BY THE COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS  
33 FUND.

34 4. A DESCRIPTION OF THE PROPOSED AMOUNT, STRUCTURE AND PURCHASER OF  
35 THE EQUITY INVESTMENT OF LONG-TERM DEBT SECURITY.

1           5. IDENTIFYING INFORMATION FOR ANY TAXPAYER ELIGIBLE TO USE TAX  
2 CREDITS EARNED AS A RESULT OF THE ISSUANCE OF THE QUALIFIED EQUITY  
3 INVESTMENT.

4           6. IF KNOWN, ANY INFORMATION REGARDING THE PROPOSED USE OF PROCEEDS  
5 FROM THE ISSUANCE OF THE QUALIFIED EQUITY INVESTMENT. AN APPLICANT IS NOT  
6 REQUIRED TO IDENTIFY QUALIFIED ACTIVE ARIZONA BUSINESSES WHEN SUBMITTING THE  
7 APPLICATION.

8           7. AN APPLICATION FEE OF FIVE THOUSAND DOLLARS. THE FEE SHALL BE  
9 DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE ARIZONA COMMERCE  
10 AUTHORITY FUND ESTABLISHED BY SECTION 41-1506.

11           D. WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE  
12 AUTHORITY SHALL BEGIN ACCEPTING APPLICATIONS UNDER THIS SECTION IN THE ORDER  
13 RECEIVED. THE AUTHORITY SHALL REVIEW AND MAKE A DETERMINATION WITH RESPECT  
14 TO EACH APPLICATION WITHIN THIRTY DAYS AFTER RECEIVING THE APPLICATION. THE  
15 AUTHORITY MAY REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT IN ORDER TO  
16 MAKE AN INFORMED DECISION REGARDING THE ELIGIBILITY OF THE QUALIFIED  
17 COMMUNITY DEVELOPMENT ENTITY. IF THE AUTHORITY DENIES ANY PART OF THE  
18 APPLICATION, THE AUTHORITY SHALL INFORM THE QUALIFIED COMMUNITY DEVELOPMENT  
19 ENTITY OF THE GROUNDS FOR THE DENIAL. IF THE QUALIFIED COMMUNITY DEVELOPMENT  
20 ENTITY PROVIDES ANY ADDITIONAL INFORMATION REQUIRED BY THE AUTHORITY OR  
21 OTHERWISE COMPLETES ITS APPLICATION WITHIN FIFTEEN DAYS OF THE NOTICE OF  
22 DENIAL, THE APPLICATION SHALL BE CONSIDERED COMPLETED AS OF THE ORIGINAL DATE  
23 OF SUBMISSION. IF THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY FAILS TO  
24 PROVIDE THE INFORMATION OR COMPLETE ITS APPLICATION WITHIN THE FIFTEEN-DAY  
25 PERIOD, THE APPLICATION REMAINS DENIED AND MUST BE RESUBMITTED IN FULL WITH A  
26 NEW SUBMISSION DATE.

27           E. IF THE APPLICATION IS DEEMED COMPLETE AND SUBJECT TO SUBSECTION F  
28 OF THIS SECTION, THE AUTHORITY SHALL CERTIFY THE PROPOSED EQUITY INVESTMENT  
29 OR LONG-TERM DEBT SECURITY AS A QUALIFIED EQUITY INVESTMENT THAT IS ELIGIBLE  
30 FOR TAX CREDITS UNDER THIS SECTION. THE AUTHORITY SHALL PROVIDE WRITTEN  
31 NOTICE OF THE CERTIFICATION TO THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY.  
32 THE NOTICE SHALL INCLUDE THE NAMES OF THE TAXPAYERS WHO ARE ELIGIBLE TO USE  
33 THE CREDITS AND THE RESPECTIVE CREDIT AMOUNTS.

34           F. THE AUTHORITY SHALL NOT CERTIFY TAX CREDITS UNDER THIS SECTION  
35 EXCEEDING TWENTY MILLION DOLLARS IN ANY FISCAL YEAR. IF MORE THAN ONE  
36 APPLICATION IS FILED ON THE SAME DATE, COMPLIES WITH SUBSECTION D OF THIS  
37 SECTION AND THE AMOUNT OF THE AVAILABLE TAX CREDITS ARE INSUFFICIENT FOR ALL

1 OF THE APPLICATIONS, THE TAX CREDITS AVAILABLE TO EACH APPLICANT SHALL BE IN  
2 PROPORTION TO THE PROPOSED PURCHASE PRICE TO THE TOTAL PURCHASE PRICE OF ALL  
3 OF THE PROPOSED INVESTMENTS. THE APPLICATION SHALL BE FILED WITH THE  
4 AUTHORITY BY HAND DELIVERY, MAIL, EXPRESS MAIL, COURIER OR ELECTRONIC MEANS.  
5 THE AUTHORITY SHALL CERTIFY TO THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY AND  
6 TO THE DEPARTMENT OF REVENUE THE AMOUNT OF THE TAX CREDIT THAT IS AUTHORIZED  
7 FOR THE PURPOSES OF SECTION 20-224.08, 43-1074.03 OR 43-1174.

8 G. WITHIN THIRTY DAYS AFTER RECEIVING NOTICE OF CERTIFICATION, THE  
9 QUALIFIED COMMUNITY DEVELOPMENT ENTITY SHALL ISSUE THE QUALIFIED EQUITY  
10 INVESTMENT AND RECEIVE CASH IN THE AMOUNT OF THE CERTIFIED AMOUNT. THE  
11 QUALIFIED COMMUNITY DEVELOPMENT ENTITY MUST PROVIDE THE AUTHORITY WITH  
12 EVIDENCE OF THE RECEIPT OF THE CASH INVESTMENT WITHIN TEN BUSINESS DAYS AFTER  
13 RECEIPT. IF THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY DOES NOT RECEIVE THE  
14 CASH INVESTMENT AND ISSUE THE QUALIFIED EQUITY INVESTMENT WITHIN THIRTY DAYS  
15 FOLLOWING THE RECEIPT OF THE CERTIFICATION NOTICE, THE CERTIFICATION LAPSES,  
16 AND THE ENTITY MAY NOT ISSUE THE QUALIFIED EQUITY INVESTMENT WITHOUT  
17 REAPPLYING TO THE AUTHORITY FOR CERTIFICATION. A CERTIFICATION THAT LAPSES  
18 REVERTS BACK TO THE DEPARTMENT OF REVENUE AND MAY BE REISSUED IN THE  
19 FOLLOWING ORDER:

20 1. TO ANY APPLICANT OR APPLICANTS THAT SUBMITTED QUALIFYING  
21 APPLICATIONS ON THE SAME DATE AS THE APPLICATION WITH RESPECT TO THE LAPSED  
22 APPLICATION, TO THE EXTENT THAT THE REQUESTED AUTHORITY UNDER THOSE  
23 APPLICATIONS WAS DECREASED DUE TO THE ALLOCATION PROCESS UNDER SUBSECTION F  
24 OF THIS SECTION.

25 2. TO ANY APPLICANT OR APPLICANTS THAT SUBMITTED QUALIFYING  
26 APPLICATIONS ON A DATE SUBSEQUENT TO THE FILING DATE OF THE APPLICATION WITH  
27 RESPECT TO THE LAPSED APPLICATION, IN THE ORDER PRESCRIBED BY SUBSECTION F OF  
28 THIS SECTION.

29 3. PURSUANT TO A NEW APPLICATION PROCESS IN THE MANNER PROVIDED BY  
30 THIS SECTION.

31 H. THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY IS SUBJECT TO RECOVERY  
32 OF THE AMOUNT OF TAX CREDITS ALLOWED IF ANY OF THE FOLLOWING APPLY:

33 1. THE AMOUNT OF THE FEDERAL TAX CREDIT AVAILABLE WITH RESPECT TO A  
34 QUALIFIED EQUITY INVESTMENT THAT IS ELIGIBLE FOR A TAX CREDIT UNDER THIS  
35 SECTION IS RECAPTURED UNDER SECTION 45D OF THE INTERNAL REVENUE CODE. IN  
36 THIS CASE, THE DEPARTMENT'S RECOVERY SHALL BE PROPORTIONATE TO THE FEDERAL  
37 RECAPTURE WITH RESPECT TO THE QUALIFIED EQUITY INVESTMENT.

1           2. THE ISSUER REDEEMS OR MAKES PRINCIPAL REPAYMENT WITH RESPECT TO A  
2 QUALIFIED EQUITY INVESTMENT BEFORE THE SEVENTH ANNIVERSARY OF THE ISSUANCE OF  
3 THE QUALIFIED EQUITY INVESTMENT. IN THIS CASE, THE RECOVERY SHALL BE  
4 PROPORTIONATE TO THE AMOUNT OF THE REDEMPTION OR REPAYMENT WITH RESPECT TO  
5 THE QUALIFIED EQUITY INVESTMENT.

6           3. THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY FAILS TO EITHER:

7           (a) INVEST ONE HUNDRED PER CENT OF THE PURCHASE PRICE IN QUALIFIED  
8 ARIZONA INVESTMENTS WITHIN TWELVE MONTHS AFTER THE ISSUANCE OF A QUALIFIED  
9 EQUITY INVESTMENT.

10           (b) MAINTAIN AT LEAST EIGHTY-FIVE PER CENT OF THE PURCHASE PRICE IN  
11 QUALIFIED ARIZONA INVESTMENTS UNTIL THE LAST CREDIT ALLOWANCE DATE FOR A  
12 QUALIFIED EQUITY INVESTMENT TO ALLOW FOR PAYMENT OF PRINCIPAL ON A DEBT  
13 INSTRUMENT. A QUALIFIED ARIZONA INVESTMENT SHALL BE CONSIDERED HELD BY A  
14 QUALIFIED COMMUNITY DEVELOPMENT ENTITY EVEN IF THE INVESTMENT HAS BEEN SOLD  
15 OR REPAYED IF THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY REINVESTS AN AMOUNT  
16 EQUAL TO THE CAPITAL RETURNED TO OR RECOVERED BY THE ENTITY FROM THE ORIGINAL  
17 INVESTMENT, EXCLUSIVE OF ANY PROFITS REALIZED, IN ANOTHER QUALIFIED ARIZONA  
18 INVESTMENT WITHIN TWELVE MONTHS OF THE RECEIPT OF THE CAPITAL. A QUALIFIED  
19 COMMUNITY DEVELOPMENT ENTITY IS NOT REQUIRED TO REINVEST CAPITAL RETURNED  
20 FROM QUALIFIED ARIZONA INVESTMENTS AFTER THE SIXTH ANNIVERSARY OF THE  
21 ISSUANCE OF THE QUALIFIED EQUITY INVESTMENT, THE PROCEEDS OF WHICH WERE USED  
22 TO MAKE THE QUALIFIED ARIZONA INVESTMENT, AND THE QUALIFIED ARIZONA  
23 INVESTMENT SHALL BE CONSIDERED HELD BY THE QUALIFIED COMMUNITY DEVELOPMENT  
24 ENTITY THROUGH THE SEVENTH ANNIVERSARY OF THE QUALIFIED EQUITY INVESTMENT'S  
25 ISSUANCE.

26           I. THE ENFORCEMENT OF THE TWELVE-MONTH PERIOD AND THE RECOVERY  
27 PROVISIONS UNDER SUBSECTION H OF THIS SECTION ARE SUBJECT TO A SIX-MONTH CURE  
28 PERIOD. NO RECOVERY UNDER SUBSECTION H OF THIS SECTION SHALL OCCUR UNTIL THE  
29 QUALIFIED COMMUNITY DEVELOPMENT ENTITY IS GIVEN NOTICE OF NONCOMPLIANCE AND  
30 GIVEN SIX MONTHS FROM THE DATE OF THE NOTICE TO CURE THE NONCOMPLIANCE.

31           J. THE CHIEF EXECUTIVE OFFICER SHALL ISSUE LETTER RULINGS REGARDING  
32 TAX CREDITS UNDER THIS SECTION. THE CHIEF EXECUTIVE OFFICER SHALL RESPOND TO  
33 A REQUEST FOR A LETTER RULING WITHIN SIXTY DAYS OF RECEIVING THE REQUEST.  
34 THE APPLICANT MAY PROVIDE A DRAFT LETTER RULING FOR THE CHIEF EXECUTIVE  
35 OFFICER'S CONSIDERATION. THE APPLICANT MAY WITHDRAW THE REQUEST FOR A LETTER  
36 RULING, IN WRITING, BEFORE THE ISSUANCE OF THE LETTER RULING. THE CHIEF  
37 EXECUTIVE OFFICER MAY DENY ISSUING A LETTER RULING FOR GOOD CAUSE BY

1 INDICATING THE SPECIFIC REASONS FOR REFUSING TO ISSUE THE LETTER RULING.  
2 LETTER RULINGS SHALL BIND THE CHIEF EXECUTIVE OFFICER AND THE OFFICER'S  
3 AGENTS AND ANY SUCCESSORS UNTIL ALL OF THE TAX CREDITS ARE CLAIMED UNDER THIS  
4 SECTION ON INCOME OR PREMIUM TAX RETURNS. SUBJECT TO RULES ADOPTED UNDER  
5 THIS SECTION, THE LETTER RULING SHALL APPLY ONLY TO THE APPLICANT AND THE  
6 APPLICANT'S INVESTORS. WHEN ISSUING LETTER RULINGS AND MAKING OTHER  
7 DETERMINATIONS UNDER THIS SUBSECTION, THE AUTHORITY AND THE DEPARTMENT OF  
8 REVENUE, TO THE EXTENT APPLICABLE, SHALL SEEK GUIDANCE FROM SECTION 45D OF  
9 THE INTERNAL REVENUE CODE AND ANY CORRESPONDING RULES AND REGULATIONS. GOOD  
10 CAUSE REASONS UNDER THIS SUBSECTION FOR THE CHIEF EXECUTIVE OFFICER TO DENY  
11 ISSUING A LETTER RULING INCLUDE ANY OF THE FOLLOWING:

12 1. THE APPLICANT REQUESTS THAT THE CHIEF EXECUTIVE OFFICER DETERMINE  
13 WHETHER A STATUTE IS CONSTITUTIONAL OR A REGULATION IS LAWFUL.

14 2. THE REQUEST INVOLVES A HYPOTHETICAL SITUATION OR ALTERNATIVE PLANS.

15 3. THE FACTS OR ISSUES THAT ARE PRESENTED IN THE REQUEST ARE UNCLEAR,  
16 OVERBROAD, INSUFFICIENT OR OTHERWISE INAPPROPRIATE AS A BASIS TO ISSUE A  
17 LETTER RULING.

18 4. THE ISSUE IS CURRENTLY BEING CONSIDERED IN A RULE MAKING PROCEDURE,  
19 CONTESTED CASE OR OTHER AGENCY OR JUDICIAL PROCEEDING THAT MAY DEFINITELY  
20 RESOLVE THE ISSUE.

21 K. WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE  
22 AUTHORITY SHALL ADOPT RULES TO ADMINISTER THIS SECTION.

23 L. FOR THE PURPOSES OF THIS SECTION:

24 1. "APPLICABLE PERCENTAGE" MEANS ZERO PER CENT FOR THE FIRST TWO  
25 CREDIT ALLOWANCE DATES, SEVEN PER CENT FOR THE THIRD CREDIT ALLOWANCE DATE  
26 AND EIGHT PER CENT FOR THE NEXT FOUR CREDIT ALLOWANCE DATES.

27 2. "CREDIT ALLOWANCE DATE" MEANS EITHER:

28 (a) THE INITIAL DATE THAT A QUALIFIED EQUITY INVESTMENT IS MADE.

29 (b) ANY OF THE SIX SUBSEQUENT ANNIVERSARY DATES AFTER THE INITIAL DATE  
30 THAT A QUALIFIED EQUITY INVESTMENT IS MADE.

31 3. "LETTER RULING" MEANS A WRITTEN INTERPRETATION OF LAW TO A SPECIFIC  
32 SET OF FACTS AS PROVIDED BY THE APPLICANT WHO REQUESTS A LETTER RULING.

33 4. "LONG-TERM DEBT SECURITY" MEANS ANY DEBT INSTRUMENT THAT IS ISSUED  
34 BY A QUALIFIED COMMUNITY DEVELOPMENT ENTITY, AT PAR VALUE OR A PREMIUM, WITH  
35 AN ORIGINAL MATURITY DATE OF AT LEAST SEVEN YEARS FROM THE DATE OF ITS  
36 ISSUANCE, WITH NO ACCELERATION OF REPAYMENT, AMORTIZATION OR PREPAYMENT  
37 FEATURES BEFORE ITS ORIGINAL MATURITY DATE. THE QUALIFIED COMMUNITY

1 DEVELOPMENT ENTITY THAT ISSUES THE DEBT INSTRUMENT MAY NOT MAKE CASH INTEREST  
2 PAYMENTS ON THE DEBT INSTRUMENT DURING THE PERIOD BEGINNING ON THE DATE OF  
3 ISSUANCE AND ENDING ON THE FINAL CREDIT ALLOWANCE DATE IN AN AMOUNT THAT  
4 EXCEEDS THE CUMULATIVE OPERATING INCOME, AS DEFINED IN REGULATIONS ADOPTED  
5 PURSUANT TO SECTION 45D OF THE INTERNAL REVENUE CODE, OF THE QUALIFIED  
6 COMMUNITY DEVELOPMENT ENTITY FOR THAT PERIOD BEFORE GIVING EFFECT TO THE  
7 EXPENSE OF SUCH CASH INTEREST PAYMENTS. THIS PARAGRAPH DOES NOT LIMIT THE  
8 HOLDER'S ABILITY TO ACCELERATE PAYMENTS ON THE DEBT INSTRUMENT IN SITUATIONS  
9 WHERE THE ISSUER HAS DEFAULTED ON COVENANTS DESIGNED TO ENSURE COMPLIANCE  
10 WITH THIS SECTION OR SECTION 45D OF THE INTERNAL REVENUE CODE.

11 5. "PURCHASE PRICE" MEANS THE AMOUNT THAT IS PAID TO THE ISSUER OF A  
12 QUALIFIED EQUITY INVESTMENT FOR THE QUALIFIED EQUITY INVESTMENT.

13 6. "QUALIFIED ARIZONA BUSINESS" MEANS A BUSINESS THAT IS LOCATED IN  
14 THIS STATE AND THAT MEETS THE REQUIREMENTS PRESCRIBED BY SECTION 45D(d)(2) OF  
15 THE INTERNAL REVENUE CODE AND 26 CODE OF FEDERAL REGULATIONS SECTION  
16 1.45D-1. A BUSINESS IS CONSIDERED A QUALIFIED ARIZONA BUSINESS FOR THE  
17 DURATION OF THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY'S INVESTMENT IN, OR  
18 LOAN TO, THE BUSINESS IF THE ENTITY REASONABLY EXPECTS, AT THE TIME IT MAKES  
19 THE INVESTMENT OR LOAN, THAT THE BUSINESS WILL CONTINUE TO SATISFY THE  
20 REQUIREMENTS FOR BEING A QUALIFIED ARIZONA BUSINESS THROUGHOUT THE ENTIRE  
21 PERIOD OF THE INVESTMENT OR LOAN. QUALIFIED ARIZONA BUSINESS DOES NOT  
22 INCLUDE ANY BUSINESS THAT DERIVES OR PROJECTS TO DERIVE FIFTEEN PER CENT OR  
23 MORE OF ITS ANNUAL REVENUE FROM THE RENTAL OR SALE OF REAL ESTATE UNLESS THE  
24 BUSINESS IS CONTROLLED BY, OR UNDER COMMON CONTROL WITH, ANOTHER BUSINESS IF  
25 BOTH OF THE FOLLOWING APPLY TO THE SECOND BUSINESS:

26 (a) THE SECOND BUSINESS DOES NOT DERIVE OR PROJECT TO DERIVE FIFTEEN  
27 PER CENT OR MORE OF ITS ANNUAL REVENUE FROM THE RENTAL OR SALE OF REAL  
28 ESTATE.

29 (b) THE SECOND BUSINESS IS THE PRIMARY TENANT OF THE REAL ESTATE  
30 LEASED FROM THE FIRST BUSINESS.

31 7. "QUALIFIED ARIZONA INVESTMENT" MEANS ANY CAPITAL OR EQUITY  
32 INVESTMENT IN, OR LOAN TO, ANY QUALIFIED ARIZONA BUSINESS AND THE INVESTMENT  
33 COMPLIES WITH PARAGRAPH 9, SUBDIVISION (a), ITEM (ii) OF THIS SUBSECTION.  
34 WITH RESPECT TO ANY SINGLE QUALIFIED ACTIVE COMMUNITY BUSINESS, THE MAXIMUM  
35 AMOUNT OF QUALIFIED COMMUNITY INVESTMENTS MADE IN SUCH BUSINESS, ON A  
36 COLLECTIVE BASIS WITH ALL OF ITS AFFILIATES, SHALL BE TEN MILLION DOLLARS  
37 WHETHER ISSUED TO ONE OR SEVERAL QUALIFIED COMMUNITY DEVELOPMENT ENTITIES.

1           8. "QUALIFIED COMMUNITY DEVELOPMENT ENTITY" HAS THE SAME MEANING  
2 PRESCRIBED BY SECTION 45D OF THE INTERNAL REVENUE CODE PROVIDED THAT THE  
3 ENTITY HAS ENTERED INTO AN ALLOCATION AGREEMENT WITH THE COMMUNITY  
4 DEVELOPMENT FINANCIAL INSTITUTIONS FUND OF THE UNITED STATES TREASURY  
5 DEPARTMENT WITH RESPECT TO CREDITS UNDER SECTION 45D OF THE INTERNAL REVENUE  
6 CODE, INCLUDING THIS STATE WITHIN THE SERVICE AREA ESTABLISHED IN THE  
7 ALLOCATION AGREEMENT. QUALIFIED COMMUNITY DEVELOPMENT ENTITY INCLUDES  
8 AFFILIATED ENTITIES AND SUBORDINATE COMMUNITY DEVELOPMENT ENTITIES OF ANY  
9 SUCH QUALIFIED COMMUNITY DEVELOPMENT ENTITY.

10           9. "QUALIFIED EQUITY INVESTMENT":

11           (a) MEANS ANY EQUITY INVESTMENT IN, OR LONG-TERM DEBT SECURITY ISSUED  
12 BY, A QUALIFIED COMMUNITY DEVELOPMENT ENTITY THAT:

13           (i) IS ACQUIRED AFTER THE EFFECTIVE DATE OF THIS SECTION AT ITS  
14 ORIGINAL ISSUANCE SOLELY IN EXCHANGE FOR CASH.

15           (ii) HAS AT LEAST EIGHTY-FIVE PER CENT OF ITS CASH PURCHASE PRICE USED  
16 BY THE ISSUER TO MAKE QUALIFIED COMMUNITY INVESTMENTS IN QUALIFIED ACTIVE  
17 COMMUNITY BUSINESSES LOCATED IN THIS STATE BY THE FIRST ANNIVERSARY OF THE  
18 INITIAL CREDIT ALLOWANCE DATE.

19           (iii) IS DESIGNATED BY THE ISSUER AS A QUALIFIED EQUITY INVESTMENT  
20 UNDER THIS SUBDIVISION AND IS CERTIFIED BY THE AUTHORITY.

21           (b) INCLUDES ANY QUALIFIED EQUITY INVESTMENT THAT DOES NOT MEET THE  
22 REQUIREMENTS OF SUBDIVISION (a) OF THIS PARAGRAPH IF THE INVESTMENT WAS A  
23 QUALIFIED EQUITY INVESTMENT IN THE HANDS OF A PRIOR HOLDER.

24           Sec. 3. Section 43-222, Arizona Revised Statutes, is amended to read:

25           43-222. Income tax credit review schedule

26           The joint legislative income tax credit review committee shall review  
27 the following income tax credits:

28           1. For years ending in 0 and 5, sections 43-1075, 43-1075.01,  
29 43-1079.01, 43-1087, 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01,  
30 43-1175 and 43-1182.

31           2. For years ending in 1 and 6, sections 43-1074.02, 43-1083,  
32 43-1083.02, 43-1085.01, 43-1164.02, 43-1164.03 and 43-1183.

33           3. For years ending in 2 and 7, sections 43-1073, 43-1074.03, 43-1079,  
34 43-1080, 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 43-1164,  
35 43-1167, 43-1169, 43-1174, 43-1176 and 43-1181.

36           4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168,  
37 43-1170 and 43-1178.



1           5. For years ending in 4 and 9, sections 43-1076, 43-1081.01,  
2 43-1083.01, 43-1084, 43-1162, 43-1164.01, 43-1170.01 and 43-1184.

3           Sec. 4. Title 43, chapter 10, article 5, Arizona Revised Statutes, is  
4 amended by adding section 43-1074.03, to read:

5           43-1074.03. Credit for qualified equity investments

6           A. A PERSON OR ENTITY THAT MAKES A QUALIFIED EQUITY INVESTMENT EARNS A  
7 VESTED CREDIT AGAINST THE TAXES IMPOSED BY THIS TITLE. THE AMOUNT OF THE  
8 CREDIT IS THE AMOUNT DETERMINED AND CERTIFIED BY THE ARIZONA COMMERCE  
9 AUTHORITY AS PROVIDED BY SECTION 41-1509.

10          B. TO CLAIM THE CREDIT UNDER THIS SECTION, THE TAXPAYER SHALL ATTACH  
11 TO ITS TAX RETURN A COPY OF THE ARIZONA COMMERCE AUTHORITY CERTIFICATION  
12 PROVIDED PURSUANT TO SECTION 41-1509. NO CREDIT IS ALLOWED UNDER THIS  
13 SECTION UNLESS THE TAXPAYER PROVIDES THE CERTIFICATION.

14          C. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES DUE UNDER THIS TITLE  
15 ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS TITLE, THE  
16 AMOUNT OF THE CLAIM NOT USED TO OFFSET THE TAXES UNDER THIS TITLE MAY BE  
17 CARRIED FORWARD TO THE NEXT THREE CONSECUTIVE TAXABLE YEARS AS A CREDIT  
18 AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY.

19          D. A TAX CREDIT UNDER THIS SECTION IS SUBJECT TO RECOVERY UNDER  
20 SECTION 41-1509, SUBSECTION H.

21          Sec. 5. Title 43, chapter 11, article 6, Arizona Revised Statutes, is  
22 amended by adding section 43-1174, to read:

23           43-1174. Credit for qualified equity investments

24           A. A PERSON OR ENTITY THAT MAKES A QUALIFIED EQUITY INVESTMENT EARNS A  
25 VESTED CREDIT AGAINST THE TAXES IMPOSED BY THIS TITLE. THE AMOUNT OF THE  
26 CREDIT IS THE AMOUNT DETERMINED AND CERTIFIED BY THE ARIZONA COMMERCE  
27 AUTHORITY AS PROVIDED BY SECTION 41-1509.

28           B. TO CLAIM THE CREDIT UNDER THIS SECTION, THE TAXPAYER SHALL ATTACH  
29 TO ITS TAX RETURN A COPY OF THE ARIZONA COMMERCE AUTHORITY CERTIFICATION  
30 PROVIDED PURSUANT TO SECTION 41-1509. NO CREDIT IS ALLOWED UNDER THIS  
31 SECTION UNLESS THE TAXPAYER PROVIDES THE CERTIFICATION.

32           C. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES DUE UNDER THIS TITLE  
33 ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS TITLE, THE  
34 AMOUNT OF THE CLAIM NOT USED TO OFFSET THE TAXES UNDER THIS TITLE MAY BE  
35 CARRIED FORWARD TO THE NEXT THREE CONSECUTIVE TAXABLE YEARS AS A CREDIT  
36 AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY.

1           D. A TAX CREDIT UNDER THIS SECTION IS SUBJECT TO RECOVERY UNDER  
2 SECTION 41-1509, SUBSECTION H.

3           Sec. 6. Arizona commerce authority; exemption from rule making

4           The Arizona commerce authority is exempt from the rule making  
5 requirements of title 41, chapter 6, Arizona Revised Statutes, for the  
6 purposes of implementing this act.

7           Sec. 7. Purpose

8           Pursuant to section 43-223, Arizona Revised Statutes, the purpose of  
9 sections 43-1074.03 and 43-1174, Arizona Revised Statutes, as added by this  
10 act, is to encourage taxpayers to make qualified equity investments in this  
11 state."

12 Amend title to conform

02/08/2012

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S: slp