

REFERENCE TITLE: tax credit; qualified equity investments

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

SB 1301

Introduced by
Senators Reagan: McComish, Melvin, Pierce S, Yarbrough

AN ACT

AMENDING TITLE 20, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-224.08; AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1509; AMENDING SECTION 43-222, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1074.03; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1174; RELATING TO TAX CREDITS FOR QUALIFIED EQUITY INVESTMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

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

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

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

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

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

25 F. THE DEPARTMENT MAY ADOPT RULES NECESSARY FOR THE ADMINISTRATION OF
26 THIS SECTION.

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

29 41-1509. Qualified community development entities; tax credits
30 for qualified equity investments; qualifications;
31 definitions

32 A. A QUALIFIED COMMUNITY DEVELOPMENT ENTITY IS ELIGIBLE FOR INCOME TAX
33 CREDITS UNDER SECTION 43-1074.03 OR 43-1174 OR AN INSURANCE PREMIUM TAX
34 CREDIT UNDER SECTION 20-224.08 FOR MAKING A QUALIFIED EQUITY INVESTMENT.

35 B. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO THE APPLICABLE
36 PERCENTAGE FOR THE CREDIT ALLOWANCE DATE MULTIPLIED BY THE PURCHASE PRICE
37 PAID TO THE ISSUER OF THE QUALIFIED EQUITY INVESTMENT. ON EACH CREDIT
38 ALLOWANCE DATE OF THE QUALIFIED EQUITY INVESTMENT, THE TAXPAYER OR SUBSEQUENT
39 HOLDER OF THE QUALIFIED EQUITY INVESTMENT IS ENTITLED TO USE A PORTION OF THE
40 TAX CREDIT DURING THE TAXABLE YEAR, INCLUDING THE CREDIT ALLOWANCE DATE.

41 C. TO CLAIM A TAX CREDIT, THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY
42 SHALL FILE AN APPLICATION WITH THE AUTHORITY, ON A FORM PRESCRIBED BY THE
43 AUTHORITY, THAT INCLUDES:

- 1 1. EVIDENCE OF THE ENTITY'S CERTIFICATION AS A QUALIFIED COMMUNITY
2 DEVELOPMENT ENTITY, INCLUDING EVIDENCE THAT THE SERVICE AREA IS WITHIN THIS
3 STATE.
- 4 2. A COPY OF THE ALLOCATION AGREEMENT THAT IS EXECUTED BY THE ENTITY,
5 OR ITS CONTROLLING ENTITY, AND THE COMMUNITY DEVELOPMENT FINANCIAL
6 INSTITUTIONS FUND.
- 7 3. A CERTIFICATE EXECUTED BY AN EXECUTIVE OFFICER OF THE ENTITY
8 ATTESTING THAT THE ALLOCATION AGREEMENT REMAINS EFFECTIVE AND HAS NOT BEEN
9 REVOKED OR CANCELLED BY THE COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS
10 FUND.
- 11 4. A DESCRIPTION OF THE PROPOSED AMOUNT, STRUCTURE AND PURCHASER OF
12 THE EQUITY INVESTMENT OF LONG-TERM DEBT SECURITY.
- 13 5. IDENTIFYING INFORMATION FOR ANY TAXPAYER ELIGIBLE TO USE TAX
14 CREDITS EARNED AS A RESULT OF THE ISSUANCE OF THE QUALIFIED EQUITY
15 INVESTMENT.
- 16 6. ANY INFORMATION REGARDING THE PROPOSED USE OF PROCEEDS FROM THE
17 ISSUANCE OF THE QUALIFIED EQUITY INVESTMENT.
- 18 7. AN APPLICATION FEE OF FIVE THOUSAND DOLLARS. THE FEE SHALL BE
19 DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE ARIZONA COMMERCE
20 AUTHORITY FUND ESTABLISHED BY SECTION 41-1506.
- 21 8. OTHER INFORMATION REQUIRED BY THE AUTHORITY.
- 22 D. WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE
23 AUTHORITY SHALL BEGIN ACCEPTING APPLICATIONS UNDER THIS SECTION. THE
24 AUTHORITY SHALL REVIEW AND MAKE A DETERMINATION WITH RESPECT TO EACH
25 APPLICATION WITHIN THIRTY DAYS AFTER RECEIVING THE APPLICATION. THE
26 AUTHORITY MAY REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT IN ORDER TO
27 MAKE AN INFORMED DECISION REGARDING THE ELIGIBILITY OF THE QUALIFIED
28 COMMUNITY DEVELOPMENT ENTITY. THE AUTHORITY SHALL GRANT OR DENY THE
29 APPLICATION IN FULL OR IN PART. IF THE AUTHORITY DENIES ANY PART OF THE
30 APPLICATION, THE AUTHORITY SHALL INFORM THE QUALIFIED COMMUNITY DEVELOPMENT
31 ENTITY OF THE GROUNDS FOR THE DENIAL. IF THE QUALIFIED COMMUNITY DEVELOPMENT
32 ENTITY PROVIDES ANY ADDITIONAL INFORMATION REQUIRED BY THE AUTHORITY OR
33 OTHERWISE COMPLETES ITS APPLICATION WITHIN FIFTEEN DAYS OF THE NOTICE OF
34 DENIAL, THE APPLICATION SHALL BE CONSIDERED COMPLETED AS OF THE ORIGINAL DATE
35 OF SUBMISSION. IF THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY FAILS TO
36 PROVIDE THE INFORMATION OR COMPLETE ITS APPLICATION WITHIN THE FIFTEEN DAY
37 PERIOD, THE APPLICATION REMAINS DENIED AND MUST BE RESUBMITTED IN FULL WITH A
38 NEW SUBMISSION DATE.
- 39 E. IF THE APPLICATION IS DEEMED COMPLETE AND SUBJECT TO SUBSECTION F
40 OF THIS SECTION, THE AUTHORITY SHALL CERTIFY THE PROPOSED EQUITY INVESTMENT
41 OR LONG-TERM DEBT SECURITY AS A QUALIFIED EQUITY INVESTMENT THAT IS ELIGIBLE
42 FOR TAX CREDITS UNDER THIS SECTION. THE AUTHORITY SHALL PROVIDE WRITTEN
43 NOTICE OF THE CERTIFICATION TO THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY.
44 THE NOTICE SHALL INCLUDE THE NAMES OF THE TAXPAYERS WHO ARE ELIGIBLE TO USE
45 THE CREDITS AND THE RESPECTIVE CREDIT AMOUNTS.

1 F. THE AUTHORITY SHALL NOT CERTIFY TAX CREDITS UNDER THIS SECTION
2 EXCEEDING TWENTY MILLION DOLLARS IN ANY FISCAL YEAR. IF QUALIFYING
3 APPLICATIONS EXCEED TWENTY MILLION DOLLARS IN A FISCAL YEAR, THE AUTHORITY
4 SHALL AUTHORIZE CREDITS IN THE ORDER OF THE DATE AND TIME THAT THE
5 APPLICATIONS ARE RECEIVED BY THE AUTHORITY, AS EVIDENCED BY THE TIME AND DATE
6 STAMPED ON THE APPLICATION WHEN RECEIVED BY THE AUTHORITY. ALL APPLICATIONS
7 SHALL BE FILED IN PERSON AT THE ARIZONA COMMERCE AUTHORITY. IF AN
8 APPLICATION IS RECEIVED THAT, IF AUTHORIZED, WOULD REQUIRE THE AUTHORITY TO
9 EXCEED THE TWENTY MILLION DOLLAR LIMIT, THE AUTHORITY SHALL ONLY GRANT THE
10 APPLICANT THE REMAINING AMOUNT OF TAX CREDITS THAT WOULD NOT EXCEED THE
11 TWENTY MILLION DOLLAR LIMIT FOR THAT FISCAL YEAR. AFTER THE AUTHORITY
12 AUTHORIZES TWENTY MILLION DOLLARS IN TAX CREDITS IN THE FISCAL YEAR, THE
13 AUTHORITY SHALL DENY ANY SUBSEQUENT APPLICATIONS THAT ARE RECEIVED. THE
14 AUTHORITY SHALL CERTIFY TO THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY AND TO
15 THE DEPARTMENT OF REVENUE THE AMOUNT OF THE TAX CREDIT THAT IS AUTHORIZED FOR
16 PURPOSES OF SECTIONS 20-224.08, 43-1074.03 AND 43-1174.

17 G. WITHIN THIRTY DAYS AFTER RECEIVING NOTICE OF CERTIFICATION, THE
18 QUALIFIED COMMUNITY DEVELOPMENT ENTITY SHALL ISSUE THE QUALIFIED EQUITY
19 INVESTMENT AND RECEIVE CASH IN THE AMOUNT OF THE CERTIFIED AMOUNT. THE
20 QUALIFIED COMMUNITY DEVELOPMENT ENTITY MUST PROVIDE THE AUTHORITY WITH
21 EVIDENCE OF THE RECEIPT OF THE CASH INVESTMENT WITHIN TEN BUSINESS DAYS AFTER
22 RECEIPT. IF THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY DOES NOT RECEIVE THE
23 CASH INVESTMENT AND ISSUE THE QUALIFIED EQUITY INVESTMENT WITHIN THIRTY DAYS
24 FOLLOWING THE RECEIPT OF THE CERTIFICATION NOTICE, THE CERTIFICATION LAPSES,
25 AND THE ENTITY MAY NOT ISSUE THE QUALIFIED EQUITY INVESTMENT WITHOUT
26 REAPPLYING TO THE AUTHORITY FOR CERTIFICATION. A CERTIFICATION THAT LAPSES
27 REVERTS BACK TO THE DEPARTMENT OF REVENUE AND MAY BE REISSUED PURSUANT TO
28 THIS SECTION.

29 H. THE ISSUER OF THE QUALIFIED EQUITY INVESTMENT SHALL CERTIFY TO THE
30 AUTHORITY THE ANTICIPATED DOLLAR AMOUNT OF THOSE INVESTMENTS TO BE MADE IN
31 THIS STATE DURING THE FIRST TWELVE-MONTH PERIOD FOLLOWING THE INITIAL CREDIT
32 ALLOWANCE DATE. IF, ON THE SECOND CREDIT ALLOWANCE DATE, THE ACTUAL DOLLAR
33 AMOUNT OF THOSE INVESTMENTS IS DIFFERENT THAN THE AMOUNT ESTIMATED, THE
34 AUTHORITY SHALL ADJUST THE CREDITS FOR THE SECOND ALLOWANCE DATE TO ACCOUNT
35 FOR THAT DIFFERENCE.

36 I. PROVIDED THAT THE PROCEEDS OF A QUALIFIED EQUITY INVESTMENT ARE
37 INVESTED COMPLETELY IN QUALIFIED COMMUNITY INVESTMENTS IN THIS STATE, THE
38 PURCHASE PRICE, FOR THE PURPOSE OF CALCULATING THE CREDIT UNDER THIS SECTION,
39 SHALL EQUAL ONE HUNDRED PER CENT OF THE QUALIFIED EQUITY INVESTMENT,
40 REGARDLESS OF THE LOCATION OF INVESTMENTS MADE WITH THE PROCEEDS OF OTHER
41 QUALIFIED EQUITY INVESTMENTS THAT ARE ISSUED BY THE SAME COMMUNITY
42 DEVELOPMENT ENTITY.

43 J. TO THE EXTENT THAT A PORTION OF A QUALIFIED EQUITY INVESTMENT IS
44 NOT INVESTED IN THIS STATE, THE PURCHASE PRICE SHALL BE REDUCED BY THE SAME
45 RATIO, INDEPENDENTLY OF THE LOCATION OF INVESTMENTS MADE WITH PROCEEDS OF

1 OTHER QUALIFIED EQUITY INVESTMENTS THAT ARE ISSUED BY THE SAME COMMUNITY
2 DEVELOPMENT ENTITY. IN THIS CASE, THE BURDEN IS ON THE COMMUNITY DEVELOPMENT
3 ENTITY TO ESTABLISH THE EXTENT TO WHICH THE QUALIFIED EQUITY INVESTMENTS ARE
4 FULLY INVESTED IN THIS STATE, EITHER BY ESTABLISHING THAT THE COMMUNITY
5 DEVELOPMENT ENTITY ITSELF INVESTS EXCLUSIVELY IN THIS STATE, OR OTHERWISE
6 ESTABLISHING, THROUGH DIRECT TRACING, THE PORTION OF A QUALIFIED EQUITY
7 INVESTMENT THAT IS INVESTED SOLELY IN THIS STATE.

8 K. THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY IS SUBJECT TO RECOVERY
9 OF THE AMOUNT OF TAX CREDITS ALLOWED IF EITHER OF THE FOLLOWING APPLY:

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

15 2. THE ISSUER REDEEMS OR MAKES PRINCIPAL REPAYMENT WITH RESPECT TO A
16 QUALIFIED EQUITY INVESTMENT BEFORE THE SEVENTH ANNIVERSARY OF THE ISSUANCE OF
17 THE QUALIFIED EQUITY INVESTMENT. IN THIS CASE, THE RECOVERY SHALL BE
18 PROPORTIONATE TO THE AMOUNT OF THE REDEMPTION OR REPAYMENT WITH RESPECT TO
19 THE QUALIFIED EQUITY INVESTMENT.

20 L. NOTWITHSTANDING SUBSECTION K OF THIS SECTION, AN INVESTMENT SHALL
21 BE CONSIDERED HELD BY AN ISSUER EVEN IF THE INVESTMENT HAS BEEN SOLD OR
22 REPAYED IF THE ISSUER REINVESTS AN AMOUNT EQUAL TO THE CAPITAL RETURNED TO OR
23 RECOVERED BY THE ISSUER FROM THE ORIGINAL INVESTMENT, EXCLUSIVE OF ANY
24 PROFITS REALIZED, IN ANOTHER QUALIFIED COMMUNITY INVESTMENT WITHIN TWELVE
25 MONTHS OF THE RECEIPT OF THE CAPITAL. AN ISSUER SHALL NOT BE REQUIRED TO
26 REINVEST CAPITAL RETURNED FROM QUALIFIED COMMUNITY INVESTMENTS AFTER THE
27 SIXTH ANNIVERSARY OF THE ISSUANCE OF THE QUALIFIED EQUITY INVESTMENT WHERE
28 THE PROCEEDS OF CAPITAL WERE USED TO MAKE THE QUALIFIED COMMUNITY INVESTMENT,
29 AND THE QUALIFIED COMMUNITY INVESTMENT SHALL BE CONSIDERED HELD BY THE ISSUER
30 THROUGH THE SEVENTH ANNIVERSARY OF THE QUALIFIED EQUITY INVESTMENT'S
31 ISSUANCE.

32 M. THE ENFORCEMENT OF THE TWELVE-MONTH PERIOD UNDER SUBSECTION H OF
33 THIS SECTION AND THE RECOVERY PROVISIONS UNDER SUBSECTION K OF THIS SECTION
34 ARE SUBJECT TO A SIX-MONTH CURE PERIOD. NO ADJUSTMENT UNDER SUBSECTION H OF
35 THIS SECTION OR RECOVERY UNDER SUBSECTION K OF THIS SECTION SHALL OCCUR UNTIL
36 THE QUALIFIED COMMUNITY DEVELOPMENT ENTITY IS GIVEN NOTICE OF NONCOMPLIANCE
37 AND GIVEN SIX MONTHS FROM THE DATE OF THE NOTICE TO CURE THE NONCOMPLIANCE.

38 N. THE CHIEF EXECUTIVE OFFICER SHALL ISSUE LETTER RULINGS REGARDING
39 TAX CREDITS UNDER THIS SECTION. THE CHIEF EXECUTIVE OFFICER SHALL RESPOND TO
40 A REQUEST FOR A LETTER RULING WITHIN SIXTY DAYS OF RECEIVING THE REQUEST.
41 THE APPLICANT MAY PROVIDE A DRAFT LETTER RULING FOR THE CHIEF EXECUTIVE
42 OFFICER'S CONSIDERATION. THE APPLICANT MAY WITHDRAW THE REQUEST FOR A LETTER
43 RULING, IN WRITING, BEFORE THE ISSUANCE OF THE LETTER RULING. THE CHIEF
44 EXECUTIVE OFFICER MAY DENY ISSUING A LETTER RULING FOR GOOD CAUSE BY
45 INDICATING THE SPECIFIC REASONS FOR REFUSING TO ISSUE THE LETTER RULING.

1 LETTER RULINGS SHALL BIND THE CHIEF EXECUTIVE OFFICER AND THE OFFICER'S
2 AGENTS AND ANY SUCCESSORS UNTIL ALL OF THE TAX CREDITS ARE CLAIMED UNDER THIS
3 SECTION ON INCOME TAX RETURNS. SUBJECT TO RULES ADOPTED UNDER THIS SECTION,
4 THE LETTER RULING SHALL APPLY ONLY TO THE APPLICANT. WHEN ISSUING LETTER
5 RULINGS AND MAKING OTHER DETERMINATIONS UNDER THIS SUBSECTION, THE AUTHORITY
6 AND THE DEPARTMENT OF REVENUE, TO THE EXTENT APPLICABLE, SHALL SEEK GUIDANCE
7 FROM SECTION 45D OF THE INTERNAL REVENUE CODE OF 1986 AND ANY CORRESPONDING
8 RULES AND REGULATIONS. GOOD CAUSE REASONS UNDER THIS SUBSECTION FOR THE
9 CHIEF EXECUTIVE OFFICER TO DENY ISSUING A LETTER RULING INCLUDE ANY OF THE
10 FOLLOWING:

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

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

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

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

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

22 P. FOR THE PURPOSES OF THIS SECTION:

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

26 2. "CREDIT ALLOWANCE DATE" MEANS EITHER:

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

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

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

32 4. "LONG-TERM DEBT SECURITY" MEANS ANY DEBT INSTRUMENT THAT IS ISSUED
33 BY A QUALIFIED COMMUNITY DEVELOPMENT ENTITY, AT PAR VALUE OR A PREMIUM, WITH
34 AN ORIGINAL MATURITY DATE OF AT LEAST SEVEN YEARS FROM THE DATE OF ITS
35 ISSUANCE, WITH NO ACCELERATION OF REPAYMENT, AMORTIZATION OR PREPAYMENT
36 FEATURES BEFORE ITS ORIGINAL MATURITY DATE. THE QUALIFIED COMMUNITY
37 DEVELOPMENT ENTITY THAT ISSUES THE DEBT INSTRUMENT MAY NOT MAKE CASH INTEREST
38 PAYMENTS ON THE DEBT INSTRUMENT DURING THE PERIOD BEGINNING ON THE DATE OF
39 ISSUANCE AND ENDING ON THE FINAL CREDIT ALLOWANCE DATE IN AN AMOUNT THAT
40 EXCEEDS THE CUMULATIVE OPERATING INCOME, AS DEFINED IN REGULATIONS ADOPTED
41 PURSUANT TO SECTION 45D OF THE INTERNAL REVENUE CODE, OF THE QUALIFIED
42 COMMUNITY DEVELOPMENT ENTITY FOR THAT PERIOD BEFORE GIVING EFFECT TO THE
43 EXPENSE OF SUCH CASH INTEREST PAYMENTS. THIS PARAGRAPH DOES NOT LIMIT THE
44 HOLDER'S ABILITY TO ACCELERATE PAYMENTS ON THE DEBT INSTRUMENT IN SITUATIONS

1 WHERE THE ISSUER HAS DEFAULTED ON COVENANTS DESIGNED TO ENSURE COMPLIANCE
2 WITH THIS SECTION OR SECTION 45D OF THE INTERNAL REVENUE CODE.

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

5 6. "QUALIFIED ACTIVE COMMUNITY BUSINESS" HAS THE SAME MEANING
6 PRESCRIBED BY SECTION 45D OF THE INTERNAL REVENUE CODE AND 26 CODE OF FEDERAL
7 REGULATIONS SECTION 1.45D-1. A BUSINESS IS CONSIDERED A QUALIFIED ACTIVE
8 COMMUNITY BUSINESS FOR THE DURATION OF THE QUALIFIED COMMUNITY DEVELOPMENT
9 ENTITY'S INVESTMENT IN, OR LOAN TO, THE BUSINESS IF THE ENTITY REASONABLY
10 EXPECTS, AT THE TIME IT MAKES THE INVESTMENT OR LOAN, THAT THE BUSINESS WILL
11 CONTINUE TO SATISFY THE REQUIREMENTS FOR BEING A QUALIFIED ACTIVE COMMUNITY
12 BUSINESS THROUGHOUT THE ENTIRE PERIOD OF THE INVESTMENT OR LOAN. QUALIFIED
13 ACTIVE COMMUNITY BUSINESS DOES NOT INCLUDE ANY BUSINESS THAT DERIVES OR
14 PROJECTS TO DERIVE FIFTEEN PER CENT OR MORE OF ITS ANNUAL REVENUE FROM THE
15 RENTAL OR SALE OF REAL ESTATE UNLESS THE BUSINESS IS CONTROLLED BY, OR UNDER
16 COMMON CONTROL WITH, ANOTHER BUSINESS IF BOTH OF THE FOLLOWING APPLY TO THE
17 SECOND BUSINESS:

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

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

23 7. "QUALIFIED COMMUNITY DEVELOPMENT ENTITY" HAS THE SAME MEANING
24 PRESCRIBED BY SECTION 45D OF THE INTERNAL REVENUE CODE PROVIDED THAT THE
25 ENTITY HAS ENTERED INTO AN ALLOCATION AGREEMENT WITH THE COMMUNITY
26 DEVELOPMENT FINANCIAL INSTITUTIONS FUND OF THE UNITED STATES TREASURY
27 DEPARTMENT WITH RESPECT TO CREDITS UNDER SECTION 45D OF THE INTERNAL REVENUE
28 CODE, INCLUDING THIS STATE WITHIN THE SERVICE AREA ESTABLISHED IN THE
29 ALLOCATION AGREEMENT. QUALIFIED COMMUNITY DEVELOPMENT ENTITY INCLUDES
30 AFFILIATED ENTITIES AND SUBORDINATE COMMUNITY DEVELOPMENT ENTITIES OF ANY
31 SUCH QUALIFIED COMMUNITY DEVELOPMENT ENTITY.

32 8. "QUALIFIED COMMUNITY INVESTMENT" MEANS ANY CAPITAL OR EQUITY
33 INVESTMENT IN, OR LOAN TO, ANY QUALIFIED ACTIVE COMMUNITY BUSINESS. WITH
34 RESPECT TO ANY SINGLE QUALIFIED ACTIVE COMMUNITY BUSINESS, THE MAXIMUM AMOUNT
35 OF QUALIFIED COMMUNITY INVESTMENTS MADE IN SUCH BUSINESS, ON A COLLECTIVE
36 BASIS WITH ALL OF ITS AFFILIATES, SHALL BE TEN MILLION DOLLARS WHETHER ISSUED
37 TO ONE OR SEVERAL QUALIFIED COMMUNITY DEVELOPMENT ENTITIES.

38 9. "QUALIFIED EQUITY INVESTMENT":

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

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

43 (ii) HAS AT LEAST EIGHTY-FIVE PER CENT OF ITS CASH PURCHASE PRICE USED
44 BY THE ISSUER TO MAKE QUALIFIED COMMUNITY INVESTMENTS IN QUALIFIED ACTIVE

1 COMMUNITY BUSINESSES LOCATED IN THIS STATE BY THE FIRST ANNIVERSARY OF THE
2 INITIAL CREDIT ALLOWANCE DATE.

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

5 (b) INCLUDES ANY QUALIFIED EQUITY INVESTMENT THAT DOES NOT MEET THE
6 REQUIREMENTS OF PARAGRAPH 9, SUBDIVISION (a) OF THIS SUBSECTION IF THE
7 INVESTMENT WAS A QUALIFIED EQUITY INVESTMENT IN THE HANDS OF A PRIOR HOLDER.

8 Sec. 3. Section 43-222, Arizona Revised Statutes, is amended to read:
9 43-222. Income tax credit review schedule

10 The joint legislative income tax credit review committee shall review
11 the following income tax credits:

12 1. For years ending in 0 and 5, sections 43-1075, 43-1075.01,
13 43-1079.01, 43-1087, 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01,
14 43-1175 and 43-1182.

15 2. For years ending in 1 and 6, sections 43-1074.02, 43-1083,
16 43-1083.02, 43-1085.01, 43-1164.02, 43-1164.03 and 43-1183.

17 3. For years ending in 2 and 7, sections 43-1073, 43-1074.03, 43-1079,
18 43-1080, 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 43-1164,
19 43-1167, 43-1169, 43-1174, 43-1176 and 43-1181.

20 4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168,
21 43-1170 and 43-1178.

22 5. For years ending in 4 and 9, sections 43-1076, 43-1081.01,
23 43-1083.01, 43-1084, 43-1162, 43-1164.01, 43-1170.01 and 43-1184.

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

26 43-1074.03. Credit for qualified equity investments

27 A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR A
28 QUALIFIED COMMUNITY DEVELOPMENT ENTITY THAT MAKES A QUALIFIED EQUITY
29 INVESTMENT. THE AMOUNT OF THE CREDIT IS THE AMOUNT DETERMINED AND CERTIFIED
30 BY THE ARIZONA COMMERCE AUTHORITY AS PROVIDED BY SECTION 41-1509.

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

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

40 D. INDIVIDUALS WHO ARE CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN
41 A PARTNERSHIP AND SHAREHOLDERS OF AN S CORPORATION AS DEFINED IN SECTION 1361
42 OF THE INTERNAL REVENUE CODE, MAY EACH CLAIM ONLY THEIR INDIVIDUAL PRO RATA
43 SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION BASED ON THEIR OWNERSHIP
44 INTERESTS. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS MAY NOT EXCEED
45 THE AMOUNT THAT WOULD HAVE BEEN ALLOWED A SOLE OWNER.

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

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

5 43-1174. Credit for qualified equity investments

6 A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR A
7 QUALIFIED COMMUNITY DEVELOPMENT ENTITY THAT MAKES A QUALIFIED EQUITY
8 INVESTMENT. THE AMOUNT OF THE CREDIT IS THE AMOUNT DETERMINED AND AUTHORIZED
9 BY THE ARIZONA COMMERCE 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. CO-OWNERS OF A BUSINESS, INCLUDING PARTNERS IN A PARTNERSHIP, MAY
20 EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION
21 BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH
22 OWNERS OF THE BUSINESS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED
23 FOR A SOLE OWNER OF THE BUSINESS.

24 E. A TAX CREDIT UNDER THIS SECTION IS SUBJECT TO RECOVERY UNDER
25 SECTION 41-1509, SUBSECTION K.

26 Sec. 6. Purpose

27 Pursuant to section 43-223, Arizona Revised Statutes, the purpose of
28 sections 43-1074.03 and 43-1174, Arizona Revised Statutes, as added by this
29 act, is to encourage taxpayers to make qualified equity investments in this
30 state.