

1 A bill to be entitled
 2 An act relating to the New Markets Development Program;
 3 amending s. 288.9913, F.S.; revising the definition of the
 4 term "qualified active low-income community business" for
 5 purposes of the New Markets Development Program Act;
 6 amending s. 288.9920, F.S.; extending the period within
 7 which a qualified community development entity may cure an
 8 investment deficiency; limiting the number of corrections
 9 permitted for qualified equity investments; providing an
 10 effective date.

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 12 Be It Enacted by the Legislature of the State of Florida:

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 14 Section 1. Subsection (7) of section 288.9913, Florida
 15 Statutes, is amended to read:

16 288.9913 Definitions.—As used in ss. 288.991-288.9922, the
 17 term:

18 (7) "Qualified active low-income community business" means
 19 a corporation, including a nonprofit corporation, or partnership
 20 that complies with each of the following:

21 (a)1. Derives at least 50 percent of its total gross
 22 income from the active conduct of business within any low-income
 23 community for any taxable year.†

24 2. Uses at least 40 percent ~~a substantial portion~~ of its
 25 tangible property, whether owned or leased, within any low-
 26 income community for any taxable year, which percentage shall be
 27 the average value of the tangible property owned or leased and
 28 used within a low-income community by the corporation or

29 partnership divided by the average value of the total tangible
 30 property owned or leased and used by the corporation or
 31 partnership during the taxable year. The value assigned to
 32 leased property by the corporation or partnership must be
 33 reasonable.†

34 3. Performs at least 40 percent ~~a substantial portion~~ of
 35 its services through its employees in a low-income community for
 36 any taxable year, which percentage shall be the amount paid by
 37 the corporation or partnership for salaries, wages, and benefits
 38 to employees in a low-income community divided by the total
 39 amount paid by the corporation or partnership for salaries,
 40 wages, and benefits during the taxable year.†

41 4. Attributes less than 5 percent of the average of the
 42 aggregate unadjusted bases of the property of the entity to
 43 collectibles, as defined in 26 U.S.C. s. 408(m)(2), other than
 44 collectibles that are held primarily for sale to customers in
 45 the ordinary course of the business for any taxable year.† ~~and~~

46 5. Attributes less than 5 percent of the average of the
 47 aggregate unadjusted bases of the property of the entity to
 48 nonqualified financial property, as defined in 26 U.S.C. s.
 49 1397C(e), for any taxable year.

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 51 A corporation or partnership complies with subparagraph 1. if,
 52 as calculated in subparagraph 2., it uses at least 50 percent of
 53 its tangible property, whether owned or leased, within any low-
 54 income community for any taxable year or if, as calculated in
 55 subparagraph 3., the corporation or partnership performs at
 56 least 50 percent of its services through its employees in a low-

57 income community for any taxable year.

58 (b) Is reasonably expected by a qualified community
 59 development entity at the time of an investment to continue to
 60 satisfy the requirements of paragraphs (a), (c), and (d) for the
 61 duration of the investment.

62 (c) Satisfies the requirements of paragraphs (a) and (b),
 63 but does not:

64 1. Derive or project to derive 15 percent or more of its
 65 annual revenue from the rental or sale of real estate, unless
 66 the corporation or partnership derives such revenue from the
 67 rental of real estate and the primary lessee and user of such
 68 real estate is another qualified active low-income community
 69 business that is owned or controlled by, or that is under common
 70 ownership or control with, such corporation or partnership;

71 2. Engage predominantly in the development or holding of
 72 intangibles for sale or license;

73 3. Operate a private or commercial golf course, country
 74 club, massage parlor, hot tub facility, suntan facility,
 75 racetrack, gambling facility, or a store the principal business
 76 of which is the sale of alcoholic beverages for consumption off
 77 premises; or

78 4. Engage principally in farming and owns or leases assets
 79 the sum of the aggregate unadjusted bases or the fair market
 80 value of which exceeds \$500,000.

81 (d) Will create or retain jobs that pay an average wage of
 82 at least 115 percent of the federal poverty income guidelines
 83 for a family of four.

84 Section 2. Subsection (2) of section 288.9920, Florida

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85 Statutes, is amended to read:

86 288.9920 Recapture and penalties.—

87 (2) The office shall provide notice to the qualified
88 community development entity and the department of a proposed
89 recapture of a tax credit. The entity shall have 6 months ~~90~~
90 ~~days~~ following the receipt of the notice to cure a deficiency
91 identified in the notice and avoid recapture. The office shall
92 issue a final order of recapture if the entity fails to cure a
93 deficiency within the 6-month ~~90-day~~ period. The final order of
94 recapture shall be provided to the entity, the department, and a
95 taxpayer otherwise authorized to claim the tax credit. Only one
96 correction is permitted for each qualified equity investment
97 during the 7-year credit period. Recaptured funds shall be
98 deposited into the General Revenue Fund.

99 Section 3. This act shall take effect upon becoming a law.