~~\Indicates Matter Stricken~~

Indicates New Matter

AS PASSED BY THE SENATE

April 9, 2018

**S. 412**

Introduced by Senators Campbell, Massey, J. Matthews, Shealy, Gambrell, Nicholson, Williams, Grooms, Allen, Talley, Rice and Turner

S. Printed 4/9/18--S.

Read the first time February 14, 2017.

**A** **BILL**

TO AMEND SECTION 12‑6‑3530, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO COMMUNITY DEVELOPMENT TAX CREDITS, SO AS TO INCREASE THE TAX CREDIT FOR COMMUNITY DEVELOPMENT CORPORATIONS AND COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FROM THIRTY‑THREE PERCENT OF AMOUNTS INVESTED TO ONE‑HUNDRED PERCENT OF AMOUNTS INVESTED, TO DELETE AN AGGREGATE CREDIT PROVISION AND SET AN ANNUAL LIMIT OF TAX CREDITS AT FIVE MILLION DOLLARS, TO ESTABLISH TAX CREDIT RESERVE ACCOUNTS FOR THE FIRST THREE QUARTERS OF EACH TAX YEAR SO AS TO AVOID THE DEPLETION OF CREDITS BY AN INDIVIDUAL TAXPAYER; TO DELETE THE PRO‑RATA DISTRIBUTION OF TAX CREDITS, TO ALLOW FINANCIAL INSTITUTIONS WITH TAX LIABILITIES IN THIS STATE TO INVEST IN CERTIFIED COMMUNITY DEVELOPMENT CORPORATIONS FOR THE PURPOSE OF RECEIVING A TAX CREDIT, TO PROVIDE THAT RETURNS ON INVESTMENTS IN CERTIFIED COMMUNITY DEVELOPMENT CORPORATIONS AND CERTIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS MAY NOT EXCEED THE TOTAL AMOUNT OF THE INITIAL INVESTMENT, TO QUALIFY THE SOUTH CAROLINA ASSOCIATION FOR COMMUNITY ECONOMIC DEVELOPMENT AS A COMMUNITY DEVELOPMENT CORPORATION AND TO QUALIFY THE SOUTH CAROLINA COMMUNITY CAPITAL ALLIANCE AS A COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION; AND TO AMEND SECTION 4 OF ACT 314 OF 2000, AS AMENDED, RELATING TO COMMUNITY DEVELOPMENT CORPORATIONS AND FINANCIAL INSTITUTIONS, SO AS TO EXTEND THE PROVISIONS OF THE SOUTH CAROLINA COMMUNITY ECONOMIC DEVELOPMENT ACT UNTIL JUNE 30, 2027.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 12‑6‑3530(A), (B), (C), (D), (E), (F), and (L) of the 1976 Code is amended to read:

“(A) A taxpayer may claim as a credit against his state income tax, bank tax, or premium tax liability thirty‑three percent of all ~~amounts invested~~ equity investments in a certified community development corporation or in a community development financial institution, as defined in Section 34‑43‑20(2) or (3). A taxpayer that makes a cash donation to a certified community development corporation or community development financial institution may claim a credit equal to fifty percent of the donation.

To qualify for this credit the taxpayer must obtain a certificate from the South Carolina Department of Commerce certifying that the entity into which the funds are invested is a community development corporation or a community development financial institution within the meaning of Section 34‑43‑20(2) or (3) and certifying that the credit taken or available to that taxpayer will not exceed the annual aggregate ~~five million~~ dollar limitation ~~of all those credits as~~ provided in subsection (B) ~~when added to the credits previously taken or available to other taxpayers making similar investments~~. A taxpayer who invested in good faith in a certified corporation or institution may claim the credit provided in this section, notwithstanding the fact that the certification is later revoked or not renewed by the department.

(B) The total amount of credits allowed pursuant to this section may not exceed in the aggregate ~~five million dollars for all taxpayers and all calendar years and one million dollars for all taxpayers in one calendar year.~~:

(1) one million dollars for all taxpayers in tax year 2018;

(2) two million dollars for all taxpayers in tax year 2019; and

(3) three million dollars for all taxpayers in all tax years after 2019.

(C) The Department of Commerce shall authorize the tax credits each year on a first‑come, first‑served basis. A single community development corporation or community development financial institution may not receive more than twenty‑five percent of the total annual tax credits authorized pursuant to this section ~~in any one calendar year~~. Twenty‑five percent of annual tax credits must be held in a reserve account during the first three quarters of each tax year and made available exclusively to small, rural‑based, community development corporations. During the first three quarters of any tax year, an individual community development corporation or a community development financial institution must not be authorized to receive more than fifteen percent of the statewide total annual credits. During the fourth quarter of each tax year, all remaining tax credits are available to all certified community development corporations or community development financial institutions.

(D) The department shall monitor the investments made by taxpayers in community development corporations and community development financial institutions as permitted by this section and shall perform the functions as provided in ~~subsection~~ subsections (A) and (C) ~~above~~.

(E) If the amount of the credit determined, pursuant to subsection (A), exceeds the taxpayer’s state tax liability for the applicable taxable year, the taxpayer may carry over the excess to the immediately succeeding taxable years. However, the credit carry‑over may not be used for a taxable year that begins on or after ~~ten~~ three years from the date of the acquisition of stock or other equity interest that is the basis for a credit pursuant to this section. The amount of the credit carry‑over from a taxable year must be reduced to the extent that the carry‑over is used by the taxpayer to obtain a credit provided for in this section for a later taxable year.

(F) ~~Notwithstanding the provisions of subsections (A), (B), (C), (D), and (E) above, if on April 1, 2001, or as soon after that as the department is able to determine, the total amount of tax credits which may be claimed by all taxpayers exceeds the total amount of tax credits authorized by this section, the credits must be determined on a pro rata basis. For purposes of this subsection, a community development corporation or community development financial institution for which an investment may be claimed as a tax credit pursuant to this section must report all investments made before April 1, 2001, to the department by April 1, 2001, which shall inform, as soon as reasonably possible, all community development corporations and community development financial institutions of the total of all investments in all institutions and corporations as of April 1, 2001~~ The department must not authorize any tax credits after the annual aggregate limitation set forth in subsection (B) has been reached.

(L) Banks and financial institutions ~~chartered by the~~ with tax liabilities in this State ~~of South Carolina~~ may invest in community development corporations and community development financial institutions incorporated pursuant to the laws of this State, up to a maximum of ten percent of a chartered bank or financial institution’s total capital and surplus.”

SECTION 2. Section 12‑6‑3530 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( ) Returns on investments in certified community development corporations and certified community development financial institutions, including the value of any tax credits authorized pursuant to this section, may not exceed the total amount of initial investment in certified community development corporations and community development financial institutions.”

SECTION 3. Section 4 of Act 314 of 2000, as last amended by Act 46 of 2015, is further amended to read:

“SECTION 4. Unless reauthorized by the General Assembly, the provisions of this act shall terminate on June 30, ~~2020~~ 2023, and this act and all other laws and regulations governing, authorizing, and otherwise dealing with community development corporations and community development financial institutions are deemed repealed on that date.”

SECTION 4. This act takes effect January 1, 2018.

‑‑‑‑XX‑‑‑‑