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4

# A Bill

HOUSE BILL 1832

5 By: Representatives Williams, Steel, J. Edwards, Leding, Jean, Lenderman, Branscum, Lampkin, Ratliff,  
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10 Whitaker, B. Wilkins, H. Wilkins, Word, Wright, Broadway, Shepherd, F. Smith  
11 By: Senators J. Dismang, Files, Teague, Maloch, B. Sample, Hester, L. Chesterfield, J. English, B. Pierce,  
12 Rapert, J. Woods  
13

## For An Act To Be Entitled

14 AN ACT TO PROMOTE ACCESS TO CAPITAL FOR JOB CREATION  
15 AND ECONOMIC DEVELOPMENT IN LOW-INCOME COMMUNITIES;  
16 TO CREATE AND REGULATE ELIGIBILITY OF THE NEW MARKET  
17 TAX CREDIT; AND FOR OTHER PURPOSES.  
18  
19  
20

## Subtitle

21 THE NEW MARKETS JOBS ACT OF 2013.  
22  
23  
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
26

27 SECTION 1. Arkansas Code Title 15, Chapter 4, is amended to add an  
28 additional subchapter to read as follows:

29 Subchapter 35 – New Markets Jobs Act of 2013

30  
31 15-4-3501. Title.

32 This subchapter shall be known and may be cited as the “New Markets  
33 Jobs Act of 2013”.  
34

35 15-4-3502. Definitions.

36 As used in this subchapter:



1 (1) "Applicable percentage" means:

2 (A) Zero percent (0%) for the first two (2) credit  
3 allowance dates;

4 (B) Twelve percent (12%) for the third, fourth, and fifth  
5 credit allowance dates; and

6 (C) Eleven percent (11%) for the sixth and seventh credit  
7 allowance dates;

8 (2) "Credit allowance date" means with respect to a qualified  
9 equity investment:

10 (A) The date on which the qualified equity investment is  
11 initially made; and

12 (B) Each of the subsequent six (6) anniversary dates of  
13 the date on which the qualified equity investment was initially made;

14 (3) "Letter ruling" means a written interpretation of law to a  
15 specific set of facts provided by an applicant requesting the written  
16 interpretation from the Arkansas Department of Finance and Administration;

17 (4) "Long-term debt security" means a debt instrument issued by  
18 a qualified community development entity, at par value or a premium, with an  
19 original maturity date of at least seven (7) years from the date of its  
20 issuance without acceleration of repayment, amortization, or prepayment  
21 features before its original maturity date;

22 (5) "Purchase price" means the amount paid to the issuer of a  
23 qualified equity investment for a qualified equity investment;

24 (6)(A) "Qualified active low-income community business" means  
25 the same as defined in 26 U.S.C. § 45D and 26 C.F.R. 1.45D-1, as they existed  
26 on January 1, 2013, if:

27 (i) At the time of the qualified community  
28 development entity's investment in or loan to the corporation, limited  
29 liability company, association, partnership, or other business entity, the  
30 corporation, limited liability company, association, partnership, or other  
31 business entity meets the United States Small Business Administration size  
32 eligibility standards established in 13 C.F.R. 121.101-201, as it existed on  
33 January 1, 2013; and

34 (ii)(a) The corporation, limited liability company,  
35 association, partnership, or other business entity agrees to retain or create  
36 jobs that pay an average wage of at least one hundred fifteen percent (115%)

1 of the federal poverty income guidelines for a family of four (4) for the  
2 census tract.

3 (b) The Arkansas Economic Development  
4 Commission may waive the requirement stated in subdivision (6)(A)(ii)(a) of  
5 this section if the commission determines that an investment in the proposed  
6 active qualified low-income community business will have a positive impact on  
7 the community.

8 (B) A corporation, limited liability company, association,  
9 partnership, or other business entity will be considered a qualified low-  
10 income community business for the duration of the qualified community  
11 development entity's investment in or loan to the corporation, limited  
12 liability company, association, partnership, or other business entity if the  
13 relevant qualified community development entity reasonably expects, at the  
14 time it makes an investment or loan, that the corporation, limited liability  
15 company, association, partnership, or other business entity will continue to  
16 satisfy the requirements for being a qualified active low-income community  
17 business other than the requirements stated in subdivision (6)(A)(i) of this  
18 section throughout the entire period of the investment or loan.

19 (C) "Qualified active low-income community business" does  
20 not include the following:

21 (i) A corporation, limited liability company,  
22 association, partnership, or other business entity primarily engaged in  
23 retail sales; or

24 (ii)(a) A corporation, limited liability company,  
25 association, partnership, or other business entity that derives or projects  
26 to derive at least fifteen percent (15%) of its annual revenue from the  
27 rental or sale of real estate.

28 (b) However, the restriction in subdivision  
29 (6)(C)(ii)(a) of this section does not apply to a corporation, limited  
30 liability company, association, partnership, or other business entity that is  
31 controlled by or under common control with another corporation, limited  
32 liability company, association, partnership, or other business entity that:

33 (1) Does not derive or project to derive  
34 at least fifteen percent (15%) of its annual revenue from the rental or sale  
35 of real estate; and

36 (2) Is the primary tenant of the real

1 estate leased from the corporation, limited liability company, association,  
2 partnership, or other business entity;

3 (7)(A) "Qualified community development entity" means the same  
4 as defined in 26 U.S.C. § 45D, as it existed on January 1, 2013, if the  
5 corporation, limited liability company, association, partnership, or other  
6 business entity has entered into, for the current year or any prior year, an  
7 allocation agreement with the Community Development Financial Institutions  
8 Fund of the United States Department of the Treasury with respect to credits  
9 authorized under 26 U.S.C. § 45D that includes Arkansas within the service  
10 area stated in the allocation agreement.

11 (B) "Qualified community development entity" includes a  
12 qualified community development entity that is controlled by or under common  
13 control with a qualified community development entity described in this  
14 subdivision (7);

15 (8)(A) "Qualified equity investment" means an equity investment  
16 in or a long-term debt security issued by a qualified community development  
17 entity that:

18 (i) Is acquired after the effective date of this act  
19 at its original issue solely in exchange for cash;

20 (ii) Has at least eighty-five percent (85%) of its  
21 cash purchase price used by the issuer to make qualified low-income community  
22 investments in qualified active low-income community businesses located in  
23 Arkansas by the first anniversary of the initial credit allowance date; and

24 (iii) Is designated by the issuer as a qualified  
25 equity investment under this subdivision (8) and is certified by the Arkansas  
26 Economic Development Commission as not exceeding the limitation stated in §  
27 15-4-3505(d).

28 (B) "Qualified equity investment" includes an investment  
29 that does not meet the requirements of subdivision (8)(A)(i) of this section  
30 if the investment was a qualified equity investment in the hands of a  
31 previous holder;

32 (9) "Qualified low-income community investment" means a capital  
33 or equity investment in or loan to a qualified active low-income community  
34 business; and

35 (10) "State premium tax liability" means:

36 (A) Tax liability incurred by a corporation, limited

1 liability company, association, partnership, or other business entity under  
2 §§ 11-9-301 – 11-9-307, 23-63-102, and 26-57-601 – 26-57-605; or

3 (B) If the tax liability under subdivision (10)(A) of this  
4 section is eliminated or reduced, any tax liability imposed on an insurance  
5 company or other person that had premium tax liability under the laws of the  
6 state.

7  
8 15-4-3503. New market tax credit.

9 (a) A corporation, limited liability company, association,  
10 partnership, or other business entity that makes a qualified equity  
11 investment earns a vested right to a tax credit against state premium tax  
12 liability.

13 (b) The tax credit established under subsection (a) of this section  
14 may be utilized as follows:

15 (1) On each credit allowance date of the qualified equity  
16 investment, the corporation, limited liability company, association,  
17 partnership, or other business entity or the subsequent holder of the  
18 qualified equity investment may utilize a portion of the tax credit during  
19 the taxable year that includes the credit allowance date;

20 (2) The tax credit amount shall be equal to the applicable  
21 percentage for the credit allowance date multiplied by the purchase price  
22 paid to the issuer of the qualified equity investment; and

23 (3) The amount of the tax credit claimed by a corporation,  
24 limited liability company, association, partnership, or other business entity  
25 shall not exceed the state premium tax liability owed by the taxpayer that  
26 files the premium tax report for the tax year for which the tax credit is  
27 claimed.

28 (c) Any unused portion of a tax credit established under this section  
29 may be carried forward for nine (9) consecutive tax years.

30  
31 15-4-3504. Transferability.

32 (a) A tax credit claimed under this subchapter shall not be refundable  
33 or saleable on the open market.

34 (b)(1) A tax credit earned by a corporation, limited liability  
35 company, association, partnership, or other business entity may be allocated  
36 to the partners, members, or shareholders of the corporation, limited

1 liability company, association, partnership, or other business entity for  
2 their direct use in accordance with any agreement among the partners,  
3 members, or shareholders.

4 (2) An allocation under subdivision (b)(1) of this section:

5 (A) May occur after the issuance of a qualified equity  
6 investment; and

7 (B) Is not a sale for purposes of this subchapter.

8  
9 15-4-3505. Certification of qualified equity investments.

10 (a)(1)(A)(i) A qualified community development entity that seeks to  
11 have an equity investment or a long-term debt security designated as a  
12 qualified equity investment eligible for a tax credit under this subchapter  
13 shall apply to the Arkansas Economic Development Commission.

14 (ii) The commission shall begin accepting  
15 applications on July 15, 2013.

16 (B)(i) If the qualified community development entity seeks  
17 to have a long-term debt security designated as a qualified equity investment  
18 under this section, the qualified community development entity shall not make  
19 cash interest payments on the long-term debt security during the period  
20 beginning on the date of issuance and ending on the final credit allowance  
21 date in an amount that exceeds the cumulative operating income, as determined  
22 under 26 C.F.R. § 1.45D-1, as it existed on January 1, 2013, of the qualified  
23 community development entity for that period before giving effect to interest  
24 expense on the long-term debt security.

25 (ii) However, the holder's ability to accelerate  
26 payments on the long-term debt security instrument in situations in which the  
27 issuer has defaulted on covenants designed to ensure compliance with this  
28 subchapter or 26 U.S.C. § 45D, as it existed on January 1, 2013, shall not be  
29 affected by this subchapter.

30 (2)(A) A qualified community development entity seeking  
31 certification of a qualified equity investment shall submit an application to  
32 the commission.

33 (B) The application submitted under subdivision (a)(2)(A)  
34 of this section shall include the following:

35 (i) Evidence of the applicant's certification as a  
36 qualified community development entity, including evidence that the service

1 area of the applicant includes Arkansas;

2 (ii) A copy of an allocation agreement executed by  
3 the applicant, or its controlling entity, and the Community Development  
4 Financial Institutions Fund;

5 (iii) A certificate executed by an executive officer  
6 of the applicant:

7 (a) Attesting that the allocation agreement  
8 remains in effect and has not been revoked or cancelled by the Community  
9 Development Financial Institutions Fund; and

10 (b) Stating the cumulative amount of  
11 allocations awarded to the applicant by the Community Development Financial  
12 Institutions Fund;

13 (iv) A description of the proposed amount,  
14 structure, and purchaser of the qualified equity investment;

15 (v) If known at the time of application, identifying  
16 information for each corporation, limited liability company, association,  
17 partnership, or other business entity that will utilize the tax credits  
18 earned from the issuance of the qualified equity investment;

19 (vi)(a) Examples of the types of qualified active  
20 low-income businesses in which the applicant, its controlling entity, or  
21 affiliates of its controlling entity have invested under the federal New  
22 Markets Tax Credit Program, if any.

23 (b) An applicant shall not be required to  
24 identify qualified active low-income community businesses in which the  
25 applicant will invest when submitting an application;

26 (vii) A nonrefundable application fee of five  
27 thousand dollars (\$5,000); and

28 (viii) The refundable performance fee required under  
29 § 15-4-3509.

30 (b)(1) Within thirty (30) days after receipt of a completed  
31 application, the commission shall grant or deny the application in full or in  
32 part.

33 (2)(A) If the commission denies any part of an application, the  
34 commission shall inform the qualified community development entity of the  
35 grounds for the denial.

36 (B)(i) If an application is denied as incomplete and the

1 qualified community development entity provides the additional information or  
2 documentation required by the commission or otherwise completes its  
3 application within fifteen (15) days of the notice of denial, the application  
4 shall be considered completed as of the original date of submission.

5 (ii) If the qualified community development entity  
6 fails to provide the information or complete its application within the  
7 fifteen-day period, the application remains denied and must be resubmitted in  
8 full with a new submission date.

9 (3)(A) If the application is complete and meets the requirements  
10 of this subchapter, the commission shall certify the proposed equity  
11 investment or long-term debt security as a qualified equity investment that  
12 is eligible for a tax credit under this subchapter, subject to the  
13 limitations contained in subsection (d) of this section.

14 (B)(i) The commission shall provide written notice of the  
15 certification to the qualified community development entity.

16 (ii) The written notice shall include the name, if  
17 known, of each corporation, limited liability company, association,  
18 partnership, or other business entity that will earn the tax credit and the  
19 respective tax credit amount.

20 (iii) If the name of a corporation, limited  
21 liability company, association, partnership, or other business entity that is  
22 eligible to use the tax credit changes as the result of a transfer of a  
23 qualified equity investment or an allocation under § 15-4-3504(b), the  
24 qualified community development entity shall notify the commission of the  
25 change.

26 (c)(1) The commission shall certify qualified equity investments in  
27 the order the applications are received by the commission.

28 (2)(A) Applications received on the same day shall be deemed to  
29 have been received simultaneously.

30 (B) For applications that are complete and meet the  
31 requirements of this subchapter and are received on the same day, the  
32 commission shall certify, consistent with the remaining qualified equity  
33 investment capacity, the qualified equity investments in proportionate  
34 percentages based on the ratio of the amount of qualified equity investment  
35 requested in an application to the total amount of qualified equity  
36 investments requested in all applications received on the same day.



1       (d)(1) The commission shall certify up to one hundred sixty-six  
2 million dollars (\$166,000,000) in qualified equity investments.

3       (2) If a pending request cannot be fully certified because of  
4 the limitation stated in subdivision (d)(1) of this section, the commission  
5 shall certify the portion that may be certified unless the qualified  
6 community development entity elects to withdraw its request rather than  
7 receive partial certification.

8       (e) An approved applicant may transfer all or part of the applicant's  
9 certified qualified equity investment authority to the applicant's  
10 controlling entity or any qualified community development entity controlled  
11 by or under common control with the applicant:

12       (1) Provides the information required in the application with  
13 respect to the transferee; and

14       (2) Notifies the commission of the transfer by providing  
15 evidence of the receipt of the cash investment as required under subdivision  
16 (f)(2) of this section.

17       (f)(1) Within thirty (30) days of the applicant receiving notice of  
18 certification, the qualified community development entity or any transferee  
19 under subsection (e) of this section shall issue the qualified equity  
20 investment and receive cash in the amount of the certified amount.

21       (2) The qualified community development entity or transferee  
22 under subsection (e) of this section must provide the commission with  
23 evidence of the receipt of the cash investment within ten (10) business days  
24 after receipt.

25       (3)(A) If the qualified community development entity or a  
26 transferee under subsection (e) does not receive the cash investment and  
27 issue the qualified equity investment within thirty (30) days following  
28 receipt of the certification notice, the certification shall lapse, and the  
29 corporation, limited liability company, association, partnership, or other  
30 business entity may not issue the qualified equity investment without  
31 reapplying to the commission for certification.

32       (B) A lapsed certification reverts back to the commission  
33 and shall be reissued:

34       (i) First, pro rata to any other applicants whose  
35 qualified equity investment allocations were reduced under subsection (d) of  
36 this section; and

1                   (ii) Second, in accordance with the application  
2 process.

3  
4           15-4-3506. Letter rulings.

5           (a) Subject to the requirements and limitations of this section, the  
6 Arkansas Department of Finance and Administration shall issue letter rulings  
7 regarding the tax credit program authorized under this subchapter.

8           (b)(1) The department shall respond to a request for a letter ruling  
9 within sixty (60) days of receiving the request.

10           (2)(A) However, the department may deny a request for a letter  
11 ruling for good cause.

12                   (B) If the department denies a request for a letter ruling  
13 for good cause, it shall list the specific reasons for refusing to issue the  
14 letter ruling.

15                   (C) Good cause for denying a request for a letter ruling  
16 under this subsection (b) includes without limitation the following:

17                           (i) The applicant requests the department to  
18 determine whether a statute is constitutional or a regulation is lawful;

19                           (ii) The request involves a hypothetical situation  
20 or alternative plans;

21                           (iii) The facts or issues presented in the request  
22 are unclear, overbroad, insufficient, or otherwise inappropriate as a basis  
23 upon which to issue a letter ruling; and

24                           (iv) The issue is currently being considered in a  
25 rulemaking procedure, contested case, or other agency or judicial proceeding  
26 that may resolve the issue.

27           (3) In rendering letter rulings under this subchapter, the  
28 department shall look for guidance to 26 U.S.C. § 45D and 26 C.F.R. 1.45D-1,  
29 as they existed on January 1, 2013, and to the extent they are applicable.

30           (c) An applicant may:

31                   (1) Provide a draft letter ruling for the department's  
32 consideration; and

33                   (2) Withdraw a request for a letter ruling, in writing, before  
34 the issuance of the letter ruling.

35           (d) Letter rulings bind the department and the department's agents and  
36 successors until the qualified community development entity or its

1 shareholders, members, or partners claim all of the applicable tax credits  
2 under this subchapter on a Arkansas tax return or report.

3 (e)(1) A letter ruling issued under this section applies only to the  
4 applicant that requested the letter ruling.

5 (2) However, a taxpayer identified in a letter ruling may rely  
6 on the letter ruling to the extent the letter ruling applies to the taxpayer.

7  
8 15-4-3507. Recapture.

9 The Arkansas Economic Development Commission shall recapture the tax  
10 credit allowed under this subchapter from the taxpayer that claimed the tax  
11 credit if:

12 (1)(A) Any amount of a federal tax credit available with respect  
13 to a qualified equity investment that is eligible for a tax credit under this  
14 subchapter is recaptured under 26 U.S.C. § 45D, as it existed on January 1,  
15 2013.

16 (B) If a recapture occurs under subdivision (1)(A) of this  
17 section, the commission's recapture shall be proportionate to the federal  
18 recapture with respect to the qualified equity investment;

19 (2)(A) The issuer redeems or makes principal repayment with  
20 respect to a qualified equity investment before the seventh anniversary of  
21 the issuance of the qualified equity investment.

22 (B) If a recapture occurs under subdivision (2)(A) of this  
23 section, the commission's recapture shall be proportionate to the amount of  
24 the redemption or repayment with respect to the qualified equity investment;

25 (3)(A) The issuer fails to:

26 (i) Invest an amount equal to eighty-five percent  
27 (85%) of the purchase price of the qualified equity investment in qualified  
28 low-income community investments in Arkansas within twelve (12) months of the  
29 issuance of the qualified equity investment; and

30 (ii) Maintain the minimum investment level required  
31 under subdivision (3)(A)(i) of this section until the last credit allowance  
32 date for the qualified equity investment.

33 (B)(i) A qualified equity investment shall be considered  
34 held by an issuer even if a qualified low-income community investment has  
35 been sold or repaid if the issuer reinvests an amount equal to the capital  
36 returned to or recovered by the issuer from the original qualified low-income

1 community investment, exclusive of any profits realized, in another qualified  
2 low-income community investment within twelve (12) months of the receipt of  
3 such returned capital.

4 (ii) Periodic amounts received during a calendar  
5 year as repayment of principal on a loan that is a qualified low-income  
6 community investment shall be treated as continuously invested in a qualified  
7 low-income community investment if the amounts are reinvested in one (1) or  
8 more qualified low-income community investments by the end of the following  
9 year.

10 (C) An issuer shall not be required to reinvest capital  
11 returned from a qualified low-income community investment, and the qualified  
12 low-income community investment shall be considered held by the issuer  
13 through the seventh anniversary of the qualified equity investment's issuance  
14 after the earlier of:

15 (i) The sixth anniversary of the credit allowance  
16 date of the qualified equity investment, the proceeds of which were used to  
17 make the qualified low-income community investment; or

18 (ii) The date by which a qualified community  
19 development entity has made qualified low-income community investments with  
20 the proceeds of such qualified equity investment on a cumulative basis equal  
21 to at least one hundred fifty percent (150%) of such proceeds; or

22 (4) At any time before the final credit allowance date of a  
23 qualified equity investment, the issuer uses the cash proceeds of the  
24 qualified equity investment to make qualified low-income community  
25 investments in any one (1) or more qualified active low-income community  
26 businesses, including without limitation affiliated qualified active low-  
27 income community businesses and excluding reinvestments of capital returned  
28 or repaid with respect to earlier qualified equity investments in the  
29 qualified active low-income community business and its affiliates in excess  
30 of twenty-five percent (25%) of the cash proceeds of all qualified equity  
31 investments issued by the issuer under this section.

32  
33 15-4-3508. Cure period – Notice of noncompliance.

34 (a) Enforcement of each the recapture provisions under § 15-4-3507 is  
35 subject to a six-month cure period.

36 (b) Recapture shall not occur until the Arkansas Economic Development

1 Commission has given the qualified community development entity written  
2 notice of its noncompliance and has afforded the qualified community  
3 development entity six (6) months from the date of the notice to cure the  
4 noncompliance.

5  
6 15-4-3509. Refundable performance fee.

7 (a) A qualified community development entity that seeks to have an  
8 equity investment or long-term debt security designated as a qualified equity  
9 investment eligible for a tax credit under this subchapter shall pay a fee in  
10 the amount one-half of one percent (0.5%) of the amount of the equity  
11 investment or long-term debt security requested to be designated as a  
12 qualified equity investment to the Arkansas Economic Development Commission  
13 for deposit into the New Markets Performance Guarantee Fund, § 19-5-1249.

14 (b) The qualified community development entity shall forfeit the fee  
15 required under this section if:

16 (1) The qualified community development entity and its  
17 subsidiary qualified community development entities fail to:

18 (A) Issue the total amount of qualified equity investments  
19 certified by the commission; and

20 (B) Receive cash in the total amount certified under and  
21 within the time period stated in § 15-4-3505; or

22 (2)(A) The qualified community development entity or any  
23 subsidiary qualified community development entity that issues a qualified  
24 equity investment certified under this subchapter fails to meet the  
25 investment requirement under § 15-4-3507(3) by the second credit allowance  
26 date of the qualified equity investment.

27 (B) Forfeiture of the fee under subdivision (b)(2)(A) of  
28 this section shall be subject to the six-month cure period established under  
29 § 15-4-3508.

30 (c)(1) The fee required under subsection (a) of this section shall be  
31 held in the New Markets Performance Guarantee Fund until compliance with the  
32 requirements of this section is established.

33 (2)(A) A qualified community development entity may request a  
34 refund of the fee from the commission no sooner than thirty (30) days after  
35 having met all the requirements of this section.

36 (B) The Treasurer of State shall comply with a request

1 under subdivision (c)(2)(A) of this section or give notice of noncompliance  
2 within thirty (30) days of receiving the request.

3  
4 15-4-3510. Retaliatory tax.

5 (a) An entity claiming a tax credit under this chapter is not required  
6 to pay any additional retaliatory tax levied under § 23-63-102 as a result of  
7 claiming the tax credit.

8 (b) In addition to the exclusion in subsection (a) of this section, it  
9 is the intent of this subchapter that an entity claiming a tax credit under  
10 this subchapter is not required to pay any additional tax that may arise as a  
11 result of claiming the tax credit.

12  
13 15-4-3511. Decertification.

14 (a)(1) If a qualified equity investment is certified under § 15-4-  
15 3505, the qualified equity investment shall not be decertified unless the  
16 requirements of subsection (b) of this section are met.

17 (2) Until all qualified equity investments issued by a qualified  
18 community development entity are decertified under this section, the  
19 qualified community development entity shall not distribute to its equity  
20 holders or make cash payments on long-term debt securities that have been  
21 designated as qualified equity investments in an amount that exceeds the sum  
22 of:

23 (A) The cumulative operating income, as determined under  
24 26 C.F.R. § 1.45D-1, as it existed on January 1, 2013, earned by the  
25 qualified community development entity since issuance of the qualified equity  
26 investment, before giving effect to any expense from interest on long-term  
27 debt securities designated as qualified equity investments; and

28 (B) Fifty percent (50%) of the purchase price of the  
29 qualified equity investments issued by the qualified community development  
30 entity.

31 (b) To be decertified, a qualified equity investment shall:

32 (1) Be beyond its seventh credit allowance date;

33 (2)(A) Have been in compliance with § 15-4-3507 up through its  
34 seventh credit allowance date, including any cures under § 15-4-3508.

35 (B) The requirement under subdivision (b)(2)(A) of this  
36 section is satisfied if no recapture action has been commenced by the

1 Arkansas Economic Development Commission as of the seventh credit allowance  
2 date; and

3 (3) Have invested its proceeds in qualified active low-income  
4 community investments such that the total qualified active low income  
5 community investments made, cumulatively including reinvestments, exceeds one  
6 hundred fifty percent (150%) of its qualified equity investment.

7 (c)(1) A qualified community development entity that seeks to have a  
8 qualified equity investment decertified under this section shall send notice  
9 to the commission of its request for decertification along with evidence  
10 supporting the request.

11 (2)(A) A request under subdivision (c)(1) of this section shall  
12 not be unreasonably denied and shall be responded to within thirty (30) days  
13 of receiving the request.

14 (B) If the request is denied for any reason, the burden of  
15 proof shall be on the commission in any administrative or legal proceeding  
16 that follows to establish that the request was not unreasonably denied.

17  
18 15-4-3512. Reports.

19 (a)(1) A qualified community development entity that issues a  
20 qualified equity investment under this subchapter shall submit a report to  
21 the Arkansas Economic Development Commission within five (5) business days  
22 after the first anniversary of the initial credit allowance date.

23 (2) The report required under subdivision (a)(1) of this section  
24 shall provide evidence:

25 (A) That at least eighty-five percent (85%) of the cash  
26 purchase price for each qualified equity investment was used to make  
27 qualified low-income community investments in qualified active low-income  
28 community businesses located in Arkansas;

29 (B) Of each qualified low-income community investment by  
30 providing a bank statement for the qualified community development entity  
31 that includes the qualified low-income community investment; and

32 (C) That each business was a qualified low-income  
33 community business at the time the qualified low-income community investment  
34 was made.

35 (b)(1) After submitting the report required under subsection (a) of  
36 this section, a qualified community development entity shall submit an annual

1 report to the commission within five (5) business days after each anniversary  
 2 of the credit allowance date.

3 (2) The report required under subdivision (b)(1) of this section  
 4 shall:

5 (A) Be submitted to the commission in electronic form and  
 6 as a hard copy;

7 (B) Include without limitation the following:

8 (i) The number of employment positions created and  
 9 retained as the result of each qualified low-income community investment; and

10 (ii) The average annual salary of the positions  
 11 described in subdivision (b)(2)(B)(i) of this section.

12 (c) A qualified community development entity shall not include in a  
 13 report required under this section a qualified low-income community  
 14 investment that has been redeemed or repaid.

15  
 16 15-4-3513. Rules.

17 The Arkansas Economic Development Commission shall promulgate rules to  
 18 implement this subchapter.

19  
 20 SECTION 2. Arkansas Code Title 19, Chapter 5, Subchapter 12, is  
 21 amended to add an additional section to read as follows:

22 19-5-1249. New Markets Performance Guarantee Fund.

23 (a) There is created on the books of the Treasurer of State, the  
 24 Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous  
 25 fund to be known as the "New Markets Performance Guarantee Fund".

26 (b) The fund shall consist of:

27 (1) Fees paid under § 15-4-3509;

28 (2) Grants made by a person, organization, or federal or state  
 29 government agency; and

30 (3) Any other funds provided by law.

31 (c) The fund shall be used by the Arkansas Economic Development  
 32 Commission to guarantee qualified community development entities' performance  
 33 under the New Markets Jobs Act of 2013, § 15-4-3501 et seq.

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 35 SECTION 3. DO NOT CODIFY. Applicability. This act applies only to a  
 36 return or report originally due on or after the effective date of this act.



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SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the unemployment rate in Arkansas is high; that the high rate of unemployment in this state hinders Arkansas's economic recovery; that there is an urgent need to create jobs in this state; and that this act is immediately necessary to encourage the creation of additional jobs for Arkansans and to support Arkansas's continual economic recovery. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.