

**PROPOSED REGULATION OF THE DIRECTOR OF THE
DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB File No. R103-13

**PROPOSED ADOPTION AND AMENDMENTS TO THE
REGULATIONS OF NEW MARKET JOB ACT**

October 7, 2013

Explanation: Material in *bold italics* is new material; material lined out within ~~bold brackets~~ is material to be omitted.

Purpose: To adopt regulations under chapter 357 of the Nevada Administrative Code, as amended by S.B. 357 (2013), relating to the “New Markets Jobs Act” which permitted the issuing of tax credits against the premium tax imposed on insurance companies in exchange for investing in a Qualified community development entity; providing for certain definitions and policies; and providing other matters properly relating thereto.

General Authority: S.B. 357 (2013), section 5.3, 12.1, 14.4, 16, 19, 20, 22, 23.5, 24, and 27.3, .

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Sec. 1. A Chapter of the NAC is hereby created by adding thereto the provisions set forth as sections 2 through 6, inclusive, of this regulation in order to enact the provisions of S.B. 357 (2013).

- Sec. 2. Requests for clarification or information. (S.B. 357) Any person who wishes:**
- 1. A clarification of the application of the provisions of this chapter or**
 - 2. Information concerning the procedures for submitting requests to the Director,**
- may address a written request therefore as follows:**

Attn: Director

**Department of Business and Industry
555 East Washington Avenue, Suite 4900
Las Vegas, Nevada 89101-1075**

Sec. 3 Definitions

- (1) “Director” (SB 357, section 5.7) “Director” means the Director of the Department of Business and Industry or anyone in that department the Director authorizes to represent the Director.**
- (2) “25 percent of those cash proceeds” (SB 357, section 17.4) “25 percent of those cash proceeds” means the total qualified equity investment (QEI) awarded must be allocated to multiple qualified low-income community investments (QLICI) with no one of the qualified low-income community investment receiving more than 25% of the total QEI.**

Sec. 4 Process

- 1. A qualified community development entity submits a completed application and requisite fees to the Director seeking certification of an equity investment or long-term debt security for New Market Job Act. The Director shall begin accepting application on October 1, 2013. All applications received on or before that day will be deemed to have been received simultaneously.**
- 2. Within thirty (30) days after receipt of a completed application, the Director grants or denies the application in full or in part.**
 - A. If any part of the application is denied, the Director informs the applicant of the grounds for denial.**
 - B. (i) If the application is denied as incomplete, and the applicant provides the additional information or documentation required by the Director, or otherwise completes its application within fifteen (15) days of the notice of denial, the application shall be considered completed as of the original date of submission.**
 - (ii) If the applicant fails to provide the requested information or complete its application within the fifteen (15) day period, the application remains denied and must be resubmitted in full with a new submission date.**
- 3. If the Director determines that the application is complete and meets all application requirements, the Director provides written notice to the applicant certifying that the proposed equity investment or long-term debt security is eligible for a New Market Job Act subject to any limitations in SB 357.**

4. Within thirty (30) days of receiving the Director’s notice of certification, the qualified community development entity or any transferee issues the qualified equity investment and receives cash in the amount certified by the Director.

A. The qualified community development entity provides the Director with:

(i) Evidence of the receipt of the cash investment within ten (10) business days after receipt.

(ii) Identifying information for each entity that will utilize the tax credits earned.

(iii) Any other information required by the Director.

B. If the qualified community development entity or any transferee does not receive the cash investment and issue the qualified equity investment within thirty (30) days following receipt of the certification notice, the certification shall lapse, and qualified equity investments may not be issued without reapplying to the Director for certification. The Director shall reallocate any amounts of lapsed certifications pro rata to any other applicants whose applications were reduced and second according to the application process.

5. The qualified community development entity makes investments in corporations, limited liability companies, associations, partnerships or other business entities meeting the definitions of “qualified active low-income community business” and “eligible businesses” as defined in SB 357.

6. If an applicant has Nevada Qualified Low-Income Community Investment(s) arrangements made at the time of application, information about those QLICI(s) should be included with the application. If an applicant does not have QLICI(s) at the time of application and is certified by the Department, the CDE needs to notify the Department once those QLICI(s) are made. A CDE also needs to report to the Department when it has QLICI(s) totaling at least 85% of its allocation within one year of receiving notice of its certification.

7. A qualified community development entity that issues a qualified equity investment under SB 357, submits a report to the Director within five (5) business days after the first anniversary of the initial credit allowance date and subsequent annual reports within five (5) business days after each of the next six anniversaries of the credit allowance date thereafter.

*8. Tax Credit Allowances **

<i>Tax Credit Date</i>	<i>Applicable Percentage</i>
<i>Date of Initial Qualified Equity Investment</i>	<i>0%</i>
<i>1st Anniversary Date of Equity Investment</i>	<i>0%</i>
<i>2nd Anniversary Date of Equity Investment</i>	<i>12%</i>
<i>3rd Anniversary Date of Equity Investment</i>	<i>12%</i>
<i>4th Anniversary Date of Equity Investment</i>	<i>12%</i>
<i>5th Anniversary Date of Equity Investment</i>	<i>11%</i>

<i>6th Anniversary Date of Equity Investment</i>	<i>11%</i>
<i>Total Credits (percentage)</i>	<i>58%</i>

**The tax credit amount shall be equal to the applicable percentage for the credit allowance date multiplied by the purchase price paid to the issuer of the qualified equity investment, not to exceed the state premium tax liability owed by the taxpayer for the tax year in which the tax credit is claimed.
Unused credits may be carried forward indefinitely and shall not be refundable or saleable on the open market.*

Sec. 5. Application

(SB 357 section 16.1.1) An application for a qualified equity investment pursuant to NRS Chapter 357 must provide the Director of the Department of Business and Industry the information required in S.B. 357 section 16.1.1 plus the following:

- 1. An application for a qualified equity investment must be in writing and filed with the Director on a form provided for that purpose.*
- 2. The application must state:*
 - a) The name of the community development entity and the name under which the community development entity does business or expects to do business.*
 - b) The community development entity (CDE) EIN.*
 - c) State of Organization.*
 - d) The mailing address of the community development entity including County.*
 - e) The physical address of the community development entity.*
 - f) The phone number(s), fax number(s) and email addresses of the community development entity.*
 - g) Web Address*
 - h) Date Established*
 - i) Primary Contact name and title.*
 - j) Any other information required by the Director.*

Sec. 6. Annual Report

A qualified community development entity that issues a qualified equity investment under SB 357 shall submit an initial report to the Director within five (5) business days after the first anniversary of the initial credit allowance date. This report shall provide evidence:

- 1. That at least eighty-five percent (85%) of the cash purchase price for each qualified equity investment was used to make qualified low-income community investments in qualified active low-income community businesses located in Nevada;*
- 2. Of each qualified low-income community investment by providing a bank statement for the qualified community development entity that includes the qualified low-income community investment; and*
- 3. That each business was a qualified low-income community business at the time the qualified low-income community investment was made and shall state*

the name, location, and industry code of each qualified low-income community business receiving a qualified low-income community investment; and

4. The number of jobs projected to be created or retained by each qualifying low-income community investment. For these purposes, jobs created and/or retained should be reported on a full-time equivalent basis and should only include jobs held by individuals who are residents of Nevada or will be residents of Nevada during the year the tax credits are earned.

A. “Jobs” means new full-time permanent employee(s):

a. (i) A job or position that was created pursuant to the qualified low-income community investment and that is filled by one (1) or more employees who:

(a) Are a Nevada resident or will be a resident of Nevada during the year the tax credits are earned; and

(b)(1) Work at the qualified active low-income community business premises,

(2) New employees who do not work at the premises may be counted as new full-time permanent employees if they:

(a) Otherwise meet the definition of “new full-time permanent employee”; and

(b) (i) Are a Nevada resident Nevada resident or will be a resident of Nevada during the year the tax credits are earned and

(ii) The position or job held by the employee or employees shall have been filled for at least twenty-six (26) consecutive weeks with an average of at least thirty (30) hours per week each tax year during the duration of the investment; and

(iii) Retained jobs or positions may not be considered new full-time permanent employees unless they meet the definition of “retained job or position” herein.

b. A contractual employee may qualify as a new full-time permanent employee only when offered a benefits package comparable to a direct employee of the business;

c. Self-employed contractors hired by qualified active low-income community businesses to provide professional services may qualify as full-time permanent employees if they were Nevada taxpayers during the year in which the tax credits were earned and worked a minimum of 1040 hours for the qualified active low-income community business in the tax year in which the tax credits were earned

B. “Retained job or position” means:

a. An employee hired by qualified active low-income community businesses prior to receiving capital or equity investments from qualified community development entities.

b. For the purpose of reporting, a retained job or position may be counted only if:

- (i) The retained job or position is within a business that has been in existence in Nevada for at least two (2) years and has sustained a net loss during the one (1) or two (2) year period prior to the qualified investment of at least twenty percent (20%) of the business' net worth; or*
- (ii) The retained job or position would have been transferred out-of-state, as evidenced by a written offer and acceptance of relocation assistance from an economic development agency from another state; and*

5. Any other information required by the Director.

Subsequent to the initial report, a qualified community development entity shall submit an annual report, in electronic form and as a hard copy, to the Director within five (5) business days after each anniversary of the credit allowance date.

The report shall include, without limitation, the following:

- 1. Minority businesses invested in and minority groups you have worked with (Sec 2.5.3).*
- 2. The number of employment positions created and retained as the result of each qualified low-income community investment;*
- 3. The number of employment positions created and retained for minorities as the result of each qualified low-income community investment;*
- 4. The average annual salary of the positions reported above;*
- 5. Cumulative basis of the qualified equity investment;*
- 6. Any other information submitted by the qualified community development entity to demonstrate the effectiveness of the qualified low-income community investment. A qualified community development entity shall not include in any report a qualified low-income community investment that has been redeemed or repaid;*
- 7. Any other information required by the Director.*