

(§§ 16, 19)

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FIRST REPRINT

S.B. 357

SENATE BILL NO. 357—SENATOR ROBERSON,
SMITH AND ATKINSON

MARCH 18, 2013

JOINT SPONSORS: ASSEMBLYMEN NEAL,
STEWART AND HAMBRICK

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Provides for tax credits for certain business entities.
(BDR 18-478)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to economic development; enacting the Nevada New Markets Jobs Act which provides for tax credits for certain business entities; authorizing the Director of the Department of Business and Industry to adopt regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Sections 2-27** of this bill enact the Nevada New Markets Jobs Act. Specifically,
2 **section 14** of this bill, in conjunction with **section 27.1** of this bill, allows certain
3 business entities to receive a credit against the premium tax imposed on insurance
4 companies in exchange for investing in a qualified community development entity.
5 **Section 16** sets forth the application procedures, which include the payment of
6 certain fees, which must be followed by a qualified community development entity
7 that seeks to have an equity investment or long-term debt security designated as a
8 qualified equity investment and eligible for tax credits. **Section 16** also sets forth
9 certain requirements that the Department of Business and Industry must follow
10 when determining whether to approve or disapprove such an application.
11 **Section 17** sets forth certain conditions under which the tax credits allowed
12 pursuant to the provisions of this bill must be recaptured. **Section 18** provides that
13 the recapture provisions of **section 17** are subject to a 6-month cure period. **Section**
14 **18** also prohibits any recapture until the qualified community development entity
15 has been given notice of noncompliance and afforded 6 months after the date of
16 notice to cure the noncompliance.



* S B 3 5 7 R 1 *

17 **Section 19** sets forth: (1) the amount of the performance fee that a qualified
18 community development entity must include with an application made to the
19 Department pursuant to **section 16**; and (2) the procedure for obtaining a refund of
20 such a fee.

21 **Section 20** requires the Department to issue letter rulings regarding the tax
22 credit program authorized by this bill and sets forth the procedures for issuing those
23 letter rulings.

24 **Section 22** sets forth the requirements for decertifying a qualified equity
25 investment.

26 **Section 24** authorizes the Director of the Department to adopt regulations to
27 carry out the provisions of this bill.

28 **Sections 25-27** set forth certain further requirements for a long-term debt
29 security, a qualified active low-income community business and a qualified
30 community development entity.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Title 18 of NRS is hereby amended by adding
2 thereto a new chapter to consist of the provisions set forth as
3 sections 2 to 27, inclusive, of this act.

4 **Sec. 2.** *The provisions of this chapter may be cited as the*
5 *Nevada New Markets Jobs Act.*

6 **Sec. 2.5.** *The Legislature hereby finds and declares that:*

7 *1. The purpose of this chapter is to provide community*
8 *development and economic stimulation, particularly to distressed*
9 *areas of this State;*

10 *2. All qualified community development entities, including,*
11 *without limitation, minority-owned community development*
12 *entities and those that have not entered into an allocation*
13 *agreement with the Community Development Financial*
14 *Institutions Fund of the United States Department of the*
15 *Treasury, need to be involved in community development efforts;*
16 *and*

17 *3. To maximize the benefit of this chapter, qualified*
18 *community development entities that have entered into such*
19 *allocation agreements are encouraged to work with all groups that*
20 *are involved in community development in distressed areas,*
21 *including, without limitation, minority-owned qualified*
22 *community development entities, community development entities*
23 *that have not entered into such allocation agreements and other*
24 *Nevada-based entities that engage in community development.*

25 **Sec. 3.** *As used in this chapter, unless the context otherwise*
26 *requires, the words and terms defined in sections 4 to 13,*
27 *inclusive, of this act have the meanings ascribed to them in those*
28 *sections.*



* S B 3 5 7 R 1 *

1 **Sec. 4.** *“Applicable percentage” means 0 percent for the first*
2 *two credit allowance dates, 12 percent for the next three credit*
3 *allowance dates and 11 percent for the next two credit allowance*
4 *dates.*

5 **Sec. 5.** *“Credit allowance date” means, with respect to any*
6 *qualified equity investment:*

7 1. *The date on which the investment is initially made; and*

8 2. *Each of the six anniversary dates immediately following*
9 *the date on which the investment is initially made.*

10 **Sec. 5.3.** *“Department” means the Department of Business*
11 *and Industry.*

12 **Sec. 5.7.** *“Director” means the Director of the Department.*

13 **Sec. 6.** *“Liability for insurance premium tax” means any*
14 *liability incurred by any entity under NRS 680A.330 or 680B.025*
15 *to 680B.039, inclusive, or, if the tax liability under NRS 680A.330*
16 *or 680B.025 to 680B.039, inclusive, is eliminated or reduced, any*
17 *tax liability to the Department of Taxation that is imposed on an*
18 *insurance company or other person who had that tax liability*
19 *under the laws of this State before the elimination or reduction of*
20 *that tax liability.*

21 **Sec. 7.** *“Long-term debt security” means any debt instrument*
22 *which qualifies as such pursuant to section 25 of this act.*

23 **Sec. 8.** (Deleted by amendment.)

24 **Sec. 9.** *“Purchase price” means the amount paid to the*
25 *issuer of a qualified equity investment for the qualified equity*
26 *investment.*

27 **Sec. 10.** *“Qualified active low-income community business”*
28 *has the meaning ascribed to it in section 45D of the Internal*
29 *Revenue Code of 1986, 26 U.S.C. § 45D, and 26 C.F.R. § 1.45D-1,*
30 *but is limited to those businesses specified in section 26 of this act.*

31 **Sec. 11.** *“Qualified community development entity” has the*
32 *meaning ascribed to it in section 45D of the Internal Revenue*
33 *Code of 1986, 26 U.S.C. § 45D, but is limited to such an entity*
34 *specified in section 27 of this act.*

35 **Sec. 12.** 1. *“Qualified equity investment” means any equity*
36 *investment in, or long-term debt security issued by, a qualified*
37 *community development entity that:*

38 (a) *Except as otherwise provided in this section, is acquired*
39 *after the effective date of this act solely in exchange for cash at the*
40 *original issuance of the equity investment;*

41 (b) *Has at least 85 percent of the cash purchase price of the*
42 *equity investment used by the issuer to make qualified low-income*
43 *community investments in qualified active low-income community*
44 *businesses located in this State by the first anniversary of the*
45 *initial credit allowance date; and*



1 (c) *Is designated by the issuer as a qualified equity investment*
2 *under this section and is certified by the Department as complying*
3 *with the limitations contained in subsection 5 of section 16 of this*
4 *act.*

5 2. *The term includes an investment that does not meet the*
6 *requirements of subsection 1 if the investment was a qualified*
7 *equity investment in the possession or control of a prior holder.*

8 **Sec. 13.** *“Qualified low-income community investment”*
9 *means any capital or equity investment in, or loan to, any*
10 *qualified active low-income community business.*

11 **Sec. 14.** *An entity that makes a qualified equity investment*
12 *earns a vested right to credit against the entity’s liability for*
13 *insurance premium tax on a premium tax report filed pursuant to*
14 *NRS 680B.030 that may be used as follows:*

15 1. *On each credit allowance date of the qualified equity*
16 *investment, the entity, or the subsequent holder of the qualified*
17 *equity investment, is entitled to use a portion of the credit during*
18 *the taxable year that includes the credit allowance date.*

19 2. *The credit amount is equal to the applicable percentage for*
20 *the credit allowance date multiplied by the purchase price paid to*
21 *the issuer of the qualified equity investment.*

22 3. *Except as otherwise provided in subsection 4, the amount*
23 *of the credit claimed by an entity must not exceed the amount of*
24 *the entity’s liability for insurance premium tax for the tax year for*
25 *which the credit is claimed.*

26 4. *If the insurance premium tax is eliminated or reduced*
27 *below the level that was in effect on the first credit allowance date,*
28 *the entity is entitled to a credit against any other taxes paid to the*
29 *Department of Taxation in an amount equal to the difference*
30 *between the amount the entity would have been able to claim*
31 *against its insurance premium tax liability had the tax not been*
32 *eliminated or reduced and the amount the entity was actually able*
33 *to claim, if any.*

34 ↪ *Any amount of tax credit that the entity is prohibited from*
35 *claiming in a taxable year as a result of subsection 3 or 4 may be*
36 *carried forward for use in any subsequent taxable year.*

37 **Sec. 15.** *No tax credit claimed under this chapter may be*
38 *refunded or sold on the open market. Tax credits earned by a*
39 *partnership, limited-liability company, S corporation or other*
40 *similar pass-through entity may be allocated to the partners,*
41 *members or shareholders of such an entity for their direct use in*
42 *accordance with the provisions of any agreement among such*
43 *partners, members or shareholders. Such an allocation is not*
44 *considered a sale for the purpose of this chapter.*



1 **Sec. 15.5. 1. An insurer or an affiliate of an insurer may**
2 **not:**

3 **(a) Manage a qualified community development entity; or**

4 **(b) Control the direction of equity investments for a qualified**
5 **community development entity.**

6 **2. The provisions of subsection 1 apply to any entity described**
7 **in subsection 1 regardless of whether the entity does business in**
8 **this State.**

9 **3. This section does not preclude an entity described in**
10 **subsection 1 from exercising legal rights or remedies, including**
11 **the interim management of a qualified community development**
12 **entity, with respect to a qualified community development entity**
13 **that is in default of any statutory or contractual obligations to the**
14 **entity described in subsection 1.**

15 **4. This chapter does not limit the amount of nonvoting equity**
16 **interests in a qualified community development entity that an**
17 **entity described in subsection 1 may own.**

18 **5. For the purposes of this section:**

19 **(a) "Affiliate of an insurer" has the meaning ascribed to the**
20 **term "affiliate" in NRS 692C.030.**

21 **(b) "Insurer" has the meaning ascribed to it in NRS 679A.100.**

22 **Sec. 16. 1. A qualified community development entity that**
23 **seeks to have an equity investment or long-term debt security**
24 **designated as a qualified equity investment and eligible for tax**
25 **credits under this chapter must apply to the Department for that**
26 **designation. An application submitted by a qualified community**
27 **development entity must include the following:**

28 **(a) Evidence of the applicant's certification as a qualified**
29 **community development entity.**

30 **(b) A copy of an allocation agreement executed by the**
31 **applicant, or its controlling entity, and the Community**
32 **Development Financial Institutions Fund of the United States**
33 **Department of the Treasury which includes the State of Nevada in**
34 **the service area set forth in the allocation agreement.**

35 **(c) A certificate executed by an executive officer of the**
36 **applicant:**

37 **(1) Attesting that the allocation agreement remains in effect**
38 **and has not been revoked or cancelled by the Community**
39 **Development Financial Institutions Fund; and**

40 **(2) Setting forth the cumulative amount of allocations**
41 **awarded to the applicant by the Community Development**
42 **Financial Institutions Fund.**

43 **(d) A description of the proposed amount, structure and**
44 **purchaser of the qualified equity investment.**



1 (e) *If known at the time of application, identifying information*
2 *for any entity that will use the tax credits earned as a result of the*
3 *issuance of the qualified equity investment.*

4 (f) *Examples of the types of qualified active low-income*
5 *businesses in which the applicant, its controlling entity or the*
6 *affiliates of its controlling entity have invested under the federal*
7 *New Markets Tax Credit Program. An applicant is not required to*
8 *identify the qualified active low-income community businesses in*
9 *which it will invest when submitting an application.*

10 (g) *A nonrefundable application fee of \$5,000. This fee must*
11 *be paid to the Department and is required for each application*
12 *submitted.*

13 (h) *The refundable performance fee required by subsection 1*
14 *of section 19 of this act.*

15 2. *Within 30 days after receipt of a completed application*
16 *containing the information set forth in subsection 1, including the*
17 *payment of the application fee and the refundable performance*
18 *fee, the Department shall grant or deny the application in full or*
19 *in part. If the Department denies any part of the application, it*
20 *shall inform the qualified community development entity of the*
21 *grounds for the denial. If the qualified community development*
22 *entity provides any additional information required by the*
23 *Department or otherwise completes its application within 15 days*
24 *after the date of the notice of denial, the application must be*
25 *considered complete as of the original date of submission. If the*
26 *qualified community development entity fails to provide the*
27 *information or complete its application within the 15-day period,*
28 *the application remains denied and must be resubmitted in full*
29 *with a new date of submission.*

30 3. *If the application is complete, the Department shall certify*
31 *the proposed equity investment or long-term debt security as a*
32 *qualified equity investment that is eligible for tax credits under*
33 *this chapter, subject to the limitations contained in subsection 5.*
34 *The Department shall provide written notice of the certification to*
35 *the qualified community development entity. The notice must*
36 *include the names of those entities who will earn the credits and*
37 *their respective credit amounts. If the names of the entities that*
38 *are eligible to use the credits change as the result of a transfer of a*
39 *qualified equity investment or an allocation pursuant to section 15*
40 *of this act, the qualified community development entity shall notify*
41 *the Department of the change.*

42 4. *The Department shall certify qualified equity investments*
43 *in the order applications are received by the Department.*
44 *Applications received on the same day shall be deemed to have*
45 *been received simultaneously. For applications that are complete*



1 and received on the same day, the Department shall certify,
2 consistent with remaining qualified equity investment capacity, the
3 qualified equity investments in proportionate percentages based
4 upon the ratio that the amount of qualified equity investment
5 requested in an application bears to the total amount of qualified
6 equity investments requested in all applications received on the
7 same day.

8 5. The Department:

9 (a) Shall certify \$200,000,000 in qualified equity investments;

10 (b) Shall not certify any single qualified equity investment of
11 less than \$5,000,000; and

12 (c) Shall not certify more than a total of \$50,000,000 in
13 qualified equity investments to any single applicant, including all
14 affiliates and partners of the applicant which are qualified
15 community development entities.

16 ↪ If a pending request cannot be fully certified because of these
17 limits, the Department shall certify the portion that may be
18 certified unless the qualified community development entity elects
19 to withdraw its request rather than receive partial certification.

20 6. An approved applicant may transfer all or a portion of its
21 certified qualified equity investment authority to its controlling
22 entity or any affiliate or partner of the controlling entity which is
23 also a qualified community development entity, if the applicant
24 provided the information required in the application with respect
25 to the transferee and the applicant notifies the Department of the
26 transfer within 30 days after the transfer.

27 7. Within 30 days after the applicant receives notice of
28 certification, the qualified community development entity or any
29 transferee pursuant to subsection 6 shall issue the qualified entity
30 investment and receive cash in the amount certified by the
31 Department. The qualified community development entity or
32 transferee under subsection 6 must provide the Department with
33 evidence of the receipt of the cash investment within 10 business
34 days after receipt. If the qualified community development entity
35 or any transferee under subsection 6 does not receive the cash
36 investment and issue the qualified equity investment within 30
37 days after receipt of the notice of certification, the certification
38 lapses and the entity may not issue the qualified equity investment
39 without reapplying to the Department for certification. Lapsed
40 certifications revert back to the Department and must be reissued,
41 first, pro rata to other applicants whose qualified equity
42 investment allocations were reduced pursuant to subsection 4 and,
43 thereafter, in accordance with requirements for submitting the
44 application.



1 **Sec. 16.5. 1. A qualified community development entity**
2 **which issues qualified equity investments under this chapter shall**
3 **make qualified low-income community investments in businesses**
4 **located in severely distressed census tracts, on a combined basis**
5 **with all of its affiliated qualified community development entities**
6 **that have issued qualified equity investments under this chapter, in**
7 **an amount equal to at least 30 percent of the purchase price of all**
8 **qualified equity investments issued by such entities.**

9 2. The Director may reduce the requirement in subsection 1
10 to 20 percent if the qualified community development entity uses
11 its commercially reasonable best efforts to satisfy the requirements
12 of subsection 1 and fails to do so within 9 months after its initial
13 credit allowance date.

14 3. As used in this section, "severely distressed census tract"
15 means a census tract that, in the immediately preceding census,
16 had:

17 (a) More than 30 percent of households with a household
18 income below the federally designated level signifying poverty;

19 (b) A median household income of less than 60 percent of the
20 median household income in this State; or

21 (c) A rate of unemployment that was equal to or greater than
22 150 percent of the national average.

23 **Sec. 17. Except as otherwise provided in section 18 of this**
24 **act, the Department shall recapture, from the entity that claimed**
25 **the credit on a return, the tax credit allowed under this chapter if:**

26 1. Any amount of a federal tax credit available with respect to
27 a qualified equity investment that is eligible for a credit under this
28 chapter is recaptured under section 45D of the Internal Revenue
29 Code of 1986, 26 U.S.C. § 45D. In such a case, the Department's
30 recapture must be proportionate to the federal recapture with
31 respect to the qualified equity investment.

32 2. The issuer redeems or makes principal repayment with
33 respect to a qualified equity investment before the seventh
34 anniversary of the issuance of the qualified equity investment. In
35 such a case, the Department's recapture must be proportionate to
36 the amount of the redemption or repayment with respect to the
37 qualified equity investment.

38 3. The issuer fails to invest an amount equal to 85 percent of
39 the purchase price of the qualified equity investment in qualified
40 low-income community investments in this State within 12 months
41 after the issuance of the qualified equity investment and maintain
42 at least an 85-percent level of investment in qualified low-income
43 community investments in the State until the last credit allowance
44 date for the qualified equity investment. For the purposes of this
45 chapter, an investment shall be deemed held by an issuer even if



1 *the investment has been sold or repaid if the issuer reinvests an*
2 *amount equal to the capital returned to or recovered by the issuer*
3 *from the original investment, exclusive of any profits realized, in*
4 *another qualified low-income community investment within 12*
5 *months after the receipt of such capital. An issuer is not required*
6 *to reinvest capital returned from qualified low-income community*
7 *investments after the earlier of:*

8 *(a) The sixth anniversary of the issuance of the qualified*
9 *equity investment, the proceeds of which were used to make the*
10 *qualified low-income community investment; or*

11 *(b) The date by which a qualified community development*
12 *entity has made qualified low-income community investments with*
13 *the proceeds of the qualified equity investment on a cumulative*
14 *basis equal to at least 150 percent of those proceeds, in which case*
15 *the qualified low-income community investment must be*
16 *considered held by the issuer through the seventh anniversary of*
17 *the qualified equity investment's issuance.*

18 *4. At any time before the final credit allowance date of a*
19 *qualified equity investment, the issuer uses the cash proceeds of*
20 *the qualified equity investment to make qualified low-income*
21 *community investments in any one qualified active low-income*
22 *community business, including affiliated qualified active low-*
23 *income community businesses, exclusive of reinvestments of*
24 *capital returned or repaid with respect to earlier investments in the*
25 *qualified active low-income community business and its affiliates,*
26 *in excess of 25 percent of those cash proceeds.*

27 **Sec. 18.** *Enforcement of each of the recapture provisions set*
28 *forth in section 17 of this act is subject to a 6-month cure period.*
29 *No recapture may occur until the qualified community*
30 *development entity has been given notice of noncompliance and*
31 *afforded 6 months after the date of the notice to cure the*
32 *noncompliance.*

33 **Sec. 19.** *1. A qualified community development entity that*
34 *seeks to have an equity investment or long-term debt security*
35 *designated as a qualified equity investment and eligible for tax*
36 *credits under this chapter must pay a fee in the amount of 0.5*
37 *percent of the amount of the equity investment or long-term debt*
38 *security requested to be designated as a qualified equity*
39 *investment to the Department. The fee must be deposited in the*
40 *New Markets Performance Guarantee Account, which is hereby*
41 *created in the State General Fund. The entity forfeits the fee in its*
42 *entirety if:*

43 *(a) The qualified community development entity and its*
44 *affiliates and partners which are also qualified community*
45 *development entities fail to issue the total amount of qualified*



1 *equity investments certified by the Department and receive cash in*
2 *the total amount certified pursuant to subsection 3 of section 16 of*
3 *this act; or*

4 *(b) The qualified community development entity or any*
5 *affiliate or partner which is also a qualified community*
6 *development entity that issues a qualified equity investment*
7 *certified under this chapter fails to meet the investment*
8 *requirement specified in subsection 3 of section 17 of this act by*
9 *the second credit allowance date of the qualified equity*
10 *investment. Forfeiture of the fee under this paragraph is subject to*
11 *the 6-month cure period established pursuant to section 18 of this*
12 *act.*

13 *2. The fee required pursuant to subsection 1 must be paid to*
14 *the Department and held in the New Markets Performance*
15 *Guarantee Account until such time as compliance with the*
16 *provisions of subsection 1 has been established. The qualified*
17 *community development entity may request a refund of the fee*
18 *from the Department no sooner than 30 days after having met all*
19 *the requirements of subsection 1. The Department shall refund the*
20 *fee within 30 days after such a request or being given notice of*
21 *noncompliance.*

22 **Sec. 20.** *1. The Department shall issue letter rulings*
23 *regarding the tax credit program authorized under this chapter,*
24 *subject to the terms and conditions set forth in this section.*

25 *2. The Department shall respond to a request for a letter*
26 *ruling within 60 days after receipt of the request. The applicant*
27 *may provide a draft letter ruling for the Department's*
28 *consideration. The applicant may withdraw the request for a letter*
29 *ruling, in writing, before the issuance of the letter ruling. The*
30 *Department may refuse to issue a letter ruling for good cause, but*
31 *must list the specific reasons for refusing to issue the letter ruling.*
32 *Good cause includes, but is not limited to:*

33 *(a) The applicant requests the Department to determine*
34 *whether a statute is constitutional or a regulation is lawful;*

35 *(b) The request involves a hypothetical situation or alternative*
36 *plans;*

37 *(c) The facts or issues presented in the request are unclear,*
38 *overbroad, insufficient or otherwise inappropriate as a basis upon*
39 *which to issue a letter ruling; and*

40 *(d) The issue is currently being considered in a rulemaking*
41 *procedure, contested case, or other agency or judicial proceeding*
42 *that may definitively resolve the issue.*

43 *3. Letter rulings bind the Department and the Department's*
44 *agents and their successors until such time as the entity or its*
45 *shareholders, members or partners, as applicable, claim all the*



1 covered tax credits on a tax return or report, subject to the terms
2 and conditions set forth in any regulations adopted by the Director
3 pursuant to section 24 of this act. A letter ruling applies only to the
4 applicant.

5 4. In rendering letter rulings and making other
6 determinations under this chapter, to the extent applicable, the
7 Department of Business and Industry and the Department of
8 Taxation shall look for guidance to section 45D of the Internal
9 Revenue Code of 1986, 26 U.S.C. § 45D, and the rules and
10 regulations issued thereunder.

11 5. For the purposes of this section, "letter ruling" means a
12 written interpretation of law to a specific set of facts provided by
13 the applicant requesting the ruling.

14 **Sec. 21.** 1. An entity claiming a credit under this chapter is
15 not required to pay any additional retaliatory tax levied pursuant
16 to NRS 680A.330 as a result of claiming that credit.

17 2. In addition to the exclusion in subsection 1, an entity
18 claiming a credit under this chapter is not required to pay any
19 other additional tax as a result of claiming that credit.

20 **Sec. 22.** 1. Once certified under subsection 3 of section 16
21 of this act, a qualified equity investment may not be decertified
22 unless all the requirements of subsection 2 have been met. Until
23 all qualified equity investments issued by a qualified community
24 development entity are decertified under this section, the qualified
25 community development entity is not entitled to distribute to its
26 equity holders or make cash payments on long-term debt securities
27 that have been designated as qualified equity investments in an
28 amount that exceeds the sum of:

29 (a) The cumulative operating income, as defined by
30 regulations adopted under section 45D of the Internal Revenue
31 Code of 1986, 26 U.S.C. § 45D, earned by the qualified community
32 development entity since issuance of the qualified equity
33 investment, before giving effect to any interest expense from the
34 long-term debt securities designated as qualified equity
35 investments; and

36 (b) Fifty percent of the purchase price of the qualified equity
37 investments issued by the qualified community development entity.

38 2. To be decertified, a qualified equity investment must:

39 (a) Be beyond its seventh credit allowance date;

40 (b) Have been in compliance with section 17 of this act
41 through its seventh credit allowance date, including coming into
42 compliance during any cure period allowed pursuant to section 18
43 of this act; and

44 (c) Have had its proceeds invested in qualified active low-
45 income community investments such that the total qualified active



1 *low-income community investments made, cumulatively including*
2 *reinvestments, exceeds 150 percent of its qualified equity*
3 *investment.*

4 *3. A qualified community development entity that seeks to*
5 *have a qualified equity investment decertified pursuant to this*
6 *section must send notice to the Department of its request for*
7 *decertification together with evidence supporting the request. The*
8 *provisions of paragraph (b) of subsection 2 shall be deemed to be*
9 *met if no recapture action has been commenced by the*
10 *Department as of the seventh credit allowance date. The*
11 *Department shall respond to such a request within 30 days after*
12 *receiving the request. Such a request must not be unreasonably*
13 *denied. If the request is denied for any reason, the burden of proof*
14 *is on the Department in any subsequent administrative or legal*
15 *proceeding.*

16 **Sec. 23.** *A qualified community development entity is not*
17 *entitled to pay to any affiliate of the qualified community*
18 *development entity any fees in connection with any activity under*
19 *this chapter before decertification pursuant to section 22 of this*
20 *act of all qualified equity investments issued by the qualified*
21 *community development entity. This section does not prohibit a*
22 *qualified community development entity from allocating or*
23 *distributing income earned by it to such affiliates or paying*
24 *reasonable interest on amounts loaned to the qualified community*
25 *development entity by those affiliates.*

26 **Sec. 23.5.** *1. The Director shall conduct an annual review*
27 *of each qualified community development entity that has been*
28 *granted an application for a qualified equity investment pursuant*
29 *to section 16 of this act to ensure that:*

30 *(a) The qualified community development entity remains in*
31 *compliance with the provisions of this chapter and any regulations*
32 *adopted pursuant thereto; and*

33 *(b) Any qualified equity investment certified pursuant to*
34 *section 16 of this act meets the eligibility criteria prescribed in this*
35 *chapter and any regulations adopted pursuant thereto.*

36 *2. On June 30 of each even-numbered year, the Director*
37 *shall submit a report to the Director of the Legislative Counsel*
38 *Bureau for transmittal to the Legislature. The report must include,*
39 *for each qualified equity investment certified pursuant to section*
40 *16 of this act:*

41 *(a) Information on the impact of the qualified equity*
42 *investment on the economy of this State, including, without*
43 *limitation, the number of jobs created by the qualified equity*
44 *investment; and*



1 ***(b) Proof that the qualified community development entity***
2 ***responsible for the qualified equity investment is in compliance***
3 ***with the provisions of this chapter and any regulations adopted***
4 ***pursuant thereto.***

5 **Sec. 24.** ***The Director may adopt regulations to carry out the***
6 ***provisions of this chapter.***

7 **Sec. 25.** ***To qualify as long-term debt security, a debt***
8 ***instrument must be issued by a qualified community development***
9 ***entity, at par value or a premium, with an original maturity date of***
10 ***at least 7 years after the date of its issuance, with no acceleration***
11 ***of repayment, amortization or prepayment features before its***
12 ***original maturity date. The qualified community development***
13 ***entity that issues the debt instrument must not make interest***
14 ***payments in the form of cash on the debt instrument during the***
15 ***period beginning on the date of issuance and ending on the final***
16 ***credit allowance date in an amount that exceeds the cumulative***
17 ***operating income, as defined by regulations adopted under section***
18 ***45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D, of the***
19 ***qualified community development entity for that period before***
20 ***giving effect to the interest expense of the long-term debt security.***
21 ***This section does not limit the holder's ability to accelerate***
22 ***payments on the debt instrument in situations in which the issuer***
23 ***has defaulted on covenants designed to ensure compliance with***
24 ***this chapter or section 45D of the Internal Revenue Code of 1986,***
25 ***26 U.S.C. § 45D.***

26 **Sec. 26. 1.** ***For the purpose of section 10 of this act, a***
27 ***qualified active low-income community business is limited to those***
28 ***businesses meeting the Small Business Administration size***
29 ***eligibility standards established in 13 C.F.R. §§ 121.101 to 201,***
30 ***inclusive, at the time the qualified low-income community***
31 ***investment is made. A business must be considered a qualified***
32 ***active low-income community business for the duration of the***
33 ***qualified community development entity's investment in, or loan***
34 ***to, the business if the entity reasonably expects, at the time it***
35 ***makes the investment or loan, that the business will continue to***
36 ***satisfy the requirements for being a qualified active low-income***
37 ***community business, other than the Small Business***
38 ***Administration size standards, throughout the entire period of the***
39 ***investment or loan.***

40 **2.** ***Except as otherwise provided in this subsection, the***
41 ***businesses limited by this section do not include any business that***
42 ***derives or projects to derive 15 percent or more of its annual***
43 ***revenue from the rental or sale of real estate. This exclusion does***
44 ***not apply to a business that is controlled by, or under common***
45 ***control with, another business if the second business:***



* S B 3 5 7 R 1 *

1 (a) Does not derive or project to derive 15 percent or more of
2 its annual revenue from the rental or sale of real estate; and

3 (b) Is the primary tenant of the real estate leased from the first
4 business.

5 3. The following businesses are not qualified active low-
6 income community businesses:

7 (a) A business that has received an abatement from taxation
8 pursuant to NRS 274.310, 274.320, 274.330 or 360.750.

9 (b) An entity that has liability for insurance premium tax on a
10 premium tax report filed pursuant to NRS 680B.030.

11 (c) A business engaged in banking or lending.

12 (d) A massage parlor.

13 (e) A bath house.

14 (f) A tanning salon.

15 (g) A country club.

16 (h) A business operating under a nonrestricted license for
17 gaming issued pursuant to NRS 463.170.

18 (i) A liquor store.

19 (j) A golf course.

20 **Sec. 27.** For the purpose of section 11 of this act, a qualified
21 community development entity is limited to an entity that has
22 entered into, for the current year or any prior year, an allocation
23 agreement with the Community Development Financial
24 Institutions Fund of the United States Department of the Treasury
25 with respect to credits authorized by section 45D of the Internal
26 Revenue Code of 1986, 26 U.S.C. § 45D, which includes the State
27 of Nevada within the service area set forth in the allocation
28 agreement. Such an entity also includes any:

29 1. Affiliated qualified community development entities of any
30 such qualified community development entity; and

31 2. Partners of any such qualified community development
32 entity which are also qualified community development entities,
33 regardless of whether any such partner has entered into an
34 allocation agreement with the Community Development Financial
35 Institutions Fund of the United States Department of the Treasury
36 with respect to credits authorized by section 45D of the Internal
37 Revenue Code of 1986, 26 U.S.C. § 45D.

38 **Sec. 27.1.** Chapter 680B of NRS is hereby amended by adding
39 thereto a new section to read as follows:

40 *Each insurer that makes a qualified equity investment, as*
41 *defined in section 12 of this act, or is allocated a credit pursuant to*
42 *section 15 of this act is entitled to a credit against the premium tax*
43 *in the manner provided in section 14 of this act.*



1 **Sec. 27.2.** NRS 680B.025 is hereby amended to read as
2 follows:

3 680B.025 For the purposes of NRS 680B.025 to 680B.039,
4 inclusive ~~+~~, *and section 27.1 of this act:*

5 1. "Total income derived from direct premiums written":

6 (a) Does not include premiums written or considerations
7 received from life insurance policies or annuity contracts issued in
8 connection with the funding of a pension, annuity or profit-sharing
9 plan qualified or exempt pursuant to sections 401, 403, 404, 408,
10 457 or 501 of the United States Internal Revenue Code as
11 renumbered from time to time.

12 (b) Does not include payments received by an insurer from the
13 Secretary of Health and Human Services pursuant to a contract
14 entered into pursuant to section 1876 of the Social Security Act, 42
15 U.S.C. § 1395mm.

16 (c) As to title insurance, consists of the total amount charged by
17 the company for the sale of policies of title insurance.

18 2. Money accepted by a life insurer pursuant to an agreement
19 which provides for an accumulation of money to purchase annuities
20 at future dates may be considered as "total income derived from
21 direct premiums written" either upon receipt or upon the actual
22 application of the money to the purchase of annuities, but any
23 interest credited to money accumulated while under the latter
24 alternative must also be included in "total income derived from
25 direct premiums written," and any money taxed upon receipt,
26 including any interest later credited thereto, is not subject to taxation
27 upon the purchase of annuities. Each life insurer shall signify on its
28 return covering premiums for the calendar year 1971 or for the first
29 calendar year it transacts business in this State, whichever is later,
30 its election between those two alternatives. Thereafter an insurer
31 shall not change his or her election without the consent of the
32 Commissioner. Any such money taxed as "total income derived
33 from direct premiums written" is, in the event of withdrawal of the
34 money before its actual application to the purchase of annuities,
35 eligible to be included as "return premiums" pursuant to the
36 provisions of NRS 680B.030.

37 **Sec. 27.3.** NRS 680B.039 is hereby amended to read as
38 follows:

39 680B.039 Any insurer that fails to file the report or pay the tax
40 as required by NRS 680B.025 to 680B.039, inclusive, *and section*
41 *27.1 of this act*, within the time for filing and payment as provided
42 in those sections shall in addition to any other applicable penalty
43 pay a penalty of not more than 10 percent of the amount of the tax
44 which is owed, as determined by the Department of Taxation, in
45 addition to the tax, plus interest at the rate of 1.5 percent per month,



1 or fraction of a month, from the date on which the tax should have
2 been paid until the date of payment.

3 **Sec. 27.4.** NRS 680B.0395 is hereby amended to read as
4 follows:

5 680B.0395 An insurer who holds a certificate of authority as a
6 reinsurer is exempt from the requirements of NRS 680B.025 to
7 680B.039, inclusive **H**, *and section 27.1 of this act.*

8 **Sec. 27.5.** NRS 680B.050 is hereby amended to read as
9 follows:

10 680B.050 1. Except as otherwise provided in this section, a
11 domestic or foreign insurer which owns and substantially occupies
12 and uses any building in this state as its home office or as a regional
13 home office is entitled to the following credits against the tax
14 otherwise imposed by NRS 680B.027:

15 (a) An amount equal to 50 percent of the aggregate amount of
16 the tax as determined under NRS 680B.025 to 680B.039, inclusive
17 **H**, *and section 27.1 of this act;* and

18 (b) An amount equal to the full amount of ad valorem taxes paid
19 by the insurer during the calendar year next preceding the filing of
20 the report required by NRS 680B.030, upon the home office or
21 regional home office together with the land, as reasonably required
22 for the convenient use of the office, upon which the home office or
23 regional home office is situated.

24 ➤ These credits must not reduce the amount of tax payable to less
25 than 20 percent of the tax otherwise payable by the insurer under
26 NRS 680B.027.

27 2. As used in this section, a “regional home office” means an
28 office of the insurer performing for an area covering two or more
29 states, with a minimum of 25 employees on its office staff, the
30 supervision, underwriting, issuing and servicing of the insurance
31 business of the insurer.

32 3. The insurer shall, on or before March 15 of each year,
33 furnish proof to the satisfaction of the Executive Director of the
34 Department of Taxation, on forms furnished by or acceptable to the
35 Executive Director, as to its entitlement to the tax reduction
36 provided for in this section. A determination of the Executive
37 Director of the Department of Taxation pursuant to this section is
38 not binding upon the Commissioner for the purposes of
39 NRS 682A.240.

40 4. An insurer is not entitled to the credits provided in this
41 section unless:

42 (a) The insurer owned the property upon which the reduction is
43 based for the entire year for which the reduction is claimed; and

44 (b) The insurer occupied at least 70 percent of the usable space
45 in the building to transact insurance or the insurer is a general or



1 limited partner and occupies 100 percent of its ownership interest in
2 the building.

3 5. If two or more insurers under common ownership or
4 management and control jointly own in equal interest, and jointly
5 occupy and use such a home office or regional home office in this
6 state for the conduct and administration of their respective insurance
7 businesses as provided in this section, each of the insurers is entitled
8 to the credits provided for by this section if otherwise qualified
9 therefor under this section.

10 **Sec. 27.6.** NRS 682A.080 is hereby amended to read as
11 follows:

12 682A.080 1. An insurer may invest any of its funds in
13 obligations other than those eligible for investment under NRS
14 682A.230, relating to real property mortgages, if they are issued,
15 assumed or guaranteed by any solvent institution and are qualified
16 under any of the following:

17 (a) Obligations which are secured by adequate collateral security
18 and bear fixed interest if, during each of any 3, including the last 2,
19 of the 5 fiscal years next preceding the date of acquisition by the
20 insurer, the net earnings of the issuing, assuming or guaranteeing
21 institution available for its fixed charges, as defined in NRS
22 682A.090, have been not less than 1 1/2 times the total of its fixed
23 charges for that year. In determining the adequacy of collateral
24 security, not more than one-third of the total value of the required
25 collateral may consist of stock other than stock meeting the
26 requirements of NRS 682A.100, relating to preferred or guaranteed
27 stock.

28 (b) Fixed interest-bearing obligations, other than those described
29 in paragraph (a), if the net earnings of the issuing, assuming or
30 guaranteeing institution available for its fixed charges for a period
31 of 5 fiscal years next preceding the date of acquisition by the insurer
32 have averaged per year not less than 1 1/2 times its average annual
33 fixed charges applicable to that period and if, during the last year of
34 that period, the net earnings have been not less than 1 1/2 times its
35 fixed charges for that year.

36 (c) Adjustment, income or other contingent interest obligations
37 if the net earnings of the issuing, assuming or guaranteeing
38 institution available for its fixed charges for a period of 5 fiscal
39 years next preceding the date of acquisition by the insurer have
40 averaged per year not less than 1 1/2 times the sum of its average
41 annual fixed charges and its average annual maximum contingent
42 interest applicable to such period and if, during each of the last 2
43 years of that period, the net earnings have not been less than 1 1/2
44 times the sum of its fixed charges and maximum contingent interest
45 for such year.



1 (d) Capital stock and other securities of:

2 (1) A state development corporation organized under the
3 provisions of chapter 670 of NRS.

4 (2) A corporation for economic revitalization and
5 diversification organized under the provisions of chapter 670A of
6 NRS, if the insurer is a member of the corporation, and to the extent
7 of its loan limit established under NRS 670A.200.

8 *(3) A qualified community development entity as defined in*
9 *section 11 of this act, and to the extent in compliance with the*
10 *investment limitations established pursuant to section 16 of this*
11 *act.*

12 2. No insurer may invest in any such bonds or evidences of
13 indebtedness in excess of 10 percent of any issue of such bonds or
14 evidences of indebtedness or, subject to subsection 1 of NRS
15 682A.050, relating to diversification, more than an amount equal to
16 10 percent of the insurer's admitted assets in any issue.

17 **Sec. 27.7.** NRS 695C.055 is hereby amended to read as
18 follows:

19 695C.055 1. The provisions of NRS 449.465, 679A.200,
20 679B.700, subsections 2, 4, 18, 19 and 32 of NRS 680B.010, NRS
21 680B.020 to 680B.060, inclusive, *and section 27.1 of this act*, and
22 chapters 686A and 695G of NRS apply to a health maintenance
23 organization.

24 2. For the purposes of subsection 1, unless the context requires
25 that a provision apply only to insurers, any reference in those
26 sections to "insurer" must be replaced by "health maintenance
27 organization."

28 **Sec. 27.8.** NRS 695F.090 is hereby amended to read as
29 follows:

30 695F.090 Prepaid limited health service organizations are
31 subject to the provisions of this chapter and to the following
32 provisions, to the extent reasonably applicable:

33 1. NRS 687B.310 to 687B.420, inclusive, concerning
34 cancellation and nonrenewal of policies.

35 2. NRS 687B.122 to 687B.128, inclusive, concerning
36 readability of policies.

37 3. The requirements of NRS 679B.152.

38 4. The fees imposed pursuant to NRS 449.465.

39 5. NRS 686A.010 to 686A.310, inclusive, concerning trade
40 practices and frauds.

41 6. The assessment imposed pursuant to NRS 679B.700.

42 7. Chapter 683A of NRS.

43 8. To the extent applicable, the provisions of NRS 689B.340 to
44 689B.590, inclusive, and chapter 689C of NRS relating to the
45 portability and availability of health insurance.



- 1 9. NRS 689A.035, 689A.410, 689A.413 and 689A.415.
2 10. NRS 680B.025 to 680B.039, inclusive, *and section 27.1 of*
3 *this act* concerning premium tax, premium tax rate, annual report
4 and estimated quarterly tax payments. For the purposes of this
5 subsection, unless the context otherwise requires that a section apply
6 only to insurers, any reference in those sections to “insurer” must be
7 replaced by a reference to “prepaid limited health service
8 organization.”
9 11. Chapter 692C of NRS, concerning holding companies.
10 12. NRS 689A.637, concerning health centers.
11 **Sec. 28.** Notwithstanding the provisions of section 16 of this
12 act, the Department of Business and Industry shall begin accepting
13 applications for certification of qualified equity investments not
14 later than October 1, 2013.
15 **Sec. 29.** This act applies only to a return or premium tax report
16 filed under title 57 originally due on or after the effective date of
17 this act.
18 **Sec. 30.** This act becomes effective:
19 1. Upon passage and approval for the purpose of adopting
20 regulations and performing any other preparatory administrative
21 tasks that are necessary to carry out the provisions of this act; and
22 2. On October 1, 2013, for all other purposes.



