

SENATE BILL NO. 317—SENATORS
ROBERSON; AND SETTELMAYER

MARCH 16, 2015

Referred to Committee on Revenue and
Economic Development

SUMMARY—Makes certain changes relating to economic
development. (BDR 18-91)

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; revising provisions of
the Nevada New Markets Jobs Act, which authorizes tax
credits for certain business entities to use against the
insurance premium tax; and providing other matters
properly relating thereto.

Legislative Counsel's Digest:

Under existing law, certain business entities are allowed to receive a credit
against the premium tax imposed on insurance companies in exchange for investing
in a qualified community development entity. (NRS 231A.200) Existing law
requires a qualified equity investment to have at least 85 percent of the cash
purchase price of the equity investment used by the issuer of the investment to
make qualified low-income community investments in qualified active low-income
community businesses located in this State within 1 year of the date on which the
credit against the premium tax was allowed. (NRS 231A.130) **Section 4** of this bill
allows the issuer of the investment to: (1) use a special purpose entity to indirectly
comply with the requirements of existing law; and (2) comply with the
requirements of existing law within 2 years after the date on which the credit
against the premium tax was allowed.

Existing law requires a qualified active low-income community business to
meet certain size eligibility standards of the Small Business Administration. (NRS
231A.170) **Sections 3 and 5** of this bill eliminate this requirement.

Existing law prohibits the decertification of a qualified equity investment until,
in addition to meeting certain other requirements, its proceeds have been invested
in qualified active low-income community investments exceeding 150 percent of its
qualified equity investment. (NRS 231A.300) **Section 6** of this bill eliminates this
requirement.



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

Section 1. Chapter 231A of NRS is hereby amended by adding thereto a new section to read as follows:

“Special purpose entity” means an entity which is created solely to make qualified low-income community investments in qualified active low-income community businesses located in this State regardless of whether the entity is related to or controlled by the issuer of a qualified equity investment or has received a tax credit under this chapter.

Sec. 2. NRS 231A.030 is hereby amended to read as follows:

231A.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 231A.040 to 231A.140, inclusive, *and section 1 of this act* have the meanings ascribed to them in those sections.

Sec. 3. NRS 231A.110 is hereby amended to read as follows:

231A.110 “Qualified active low-income community business” has the meaning ascribed to it in section 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D, and 26 C.F.R. § 1.45D-1, but ~~is limited to those~~ *does not include* businesses *as* specified in NRS 231A.170.

Sec. 4. NRS 231A.130 is hereby amended to read as follows:

231A.130 1. “Qualified equity investment” means any equity investment in, or long-term debt security issued by, a qualified community development entity that:

(a) Except as otherwise provided in this section, is acquired after October 1, 2013, solely in exchange for cash at the original issuance of the equity investment;

(b) Has at least 85 percent of the cash purchase price of the equity investment used by the issuer *directly or indirectly through one or more special purpose entities* to make qualified low-income community investments in qualified active low-income community businesses located in this State *, including, without limitation, the refinancing of a special purpose entity which makes qualified low-income community investments in qualified active low-income community businesses located in this State in an amount of at least 85 percent of the cash purchase price of the equity investment,* by the ~~first~~ *second* anniversary of the initial credit allowance date; and

(c) Is designated by the issuer as a qualified equity investment under this section and is certified by the Department as complying with the limitations contained in subsection 5 of NRS 231A.230.



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

Sec. 5. NRS 231A.170 is hereby amended to read as follows:

231A.170 ~~[(1)]~~ For the purpose of NRS 231A.110, a qualified active low-income community business ~~is limited to those businesses meeting the Small Business Administration size eligibility standards established in 13 C.F.R. §§ 121.101 to 201, inclusive, at the time the qualified low income community investment is made. A business must be considered a qualified active low income community business for the duration of the qualified community development entity's investment in, or loan to, the business if the entity reasonably expects, at the time it makes the investment or loan, that the business will continue to satisfy the requirements for being a qualified active low income community business, other than the Small Business Administration size standards, throughout the entire period of the investment or loan.~~

~~2. Except as otherwise provided in this subsection, the businesses limited by this section do~~ **does** not include ~~[any]~~ :

1. *Any* business that derives or projects to derive 15 percent or more of its annual revenue from the rental or sale of real estate. ~~[This]~~ **The** exclusion **in this subsection** does not apply to a business that is controlled by, or under common control with, another business if the second business:

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

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

~~[(3)] The following businesses are not qualified active low-income community businesses:~~

~~—(a)]~~ **2.** A business that has received an abatement from taxation pursuant to NRS 274.310, 274.320, 274.330 or 360.750.

~~[(b)]~~ **3.** An entity that has liability for insurance premium tax on a premium tax report filed pursuant to NRS 680B.030.

~~[(c)]~~ **4.** A business engaged in banking or lending.

~~[(d)]~~ **5.** A massage parlor.

~~[(e)]~~ **6.** A bath house.

~~[(f)]~~ **7.** A tanning salon.

~~[(g)]~~ **8.** A country club.

~~[(h)]~~ **9.** A business operating under a nonrestricted license for gaming issued pursuant to NRS 463.170.

~~[(i)]~~ **10.** A liquor store.

~~[(j)]~~ **11.** A golf course.



Sec. 6. NRS 231A.300 is hereby amended to read as follows:

231A.300 1. Once certified under subsection 3 of NRS 231A.230, a qualified equity investment may not be decertified unless all the requirements of subsection 2 have been met. Until all qualified equity investments issued by a qualified community development entity are decertified under this section, the qualified community development entity is not entitled to distribute to its equity holders or make cash payments on long-term debt securities that have been designated as qualified equity investments in an amount that exceeds the sum of:

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

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

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

(a) Be beyond its seventh credit allowance date; *and*

(b) Have been in compliance with NRS 231A.250 through its seventh credit allowance date, including coming into compliance during any cure period allowed pursuant to NRS 231A.260. *†; and*

~~(c) Have had its proceeds invested in qualified active low-income community investments such that the total qualified active low-income community investments made, cumulatively including reinvestments, exceeds 150 percent of its qualified equity investment.†~~

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

Sec. 7. This act becomes effective on July 1, 2015.

