HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 515 New Markets Development Program
SPONSOR(S): Oliva
TIED BILLS: **IDEN./SIM. BILLS:** SB 98

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee		Duncan	West
2) Finance & Tax Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

HB 515 increases the total amount of tax credits available to be allocated for the New Markets Development Program from $163.8 million to $263.8 million and increases the amount of tax credits that the state may award in a single fiscal year from $33.6 million to $53.6 million.

The bill has an effective date of July 1, 2013.

The Revenue Estimating Conference has not determined the fiscal impact to the state as a result of this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Federal New Markets Tax Credit[1]

Created by Congress in 2000, the Federal New Markets Tax Credit (NMTC) Program[2] permits taxpayers to receive a credit against federal income taxes for making qualified equity investments in designated Community Development Entities (CDEs). The CDE must in turn invest the qualified equity investments in low-income communities. The credit provided to the investor totals 39 percent of the cost of the investment and is claimed over a seven-year period. In each of the first three years, the investor receives a credit equal to five percent of the total amount paid for the stock or capital interest at the time of purchase. For the final four years, the value of the credit is six percent annually. Investors may not redeem their investments in CDEs prior to the conclusion of the seven-year period.

An organization wishing to receive allocations under the federal NMTC Program must be certified as a CDE by the U. S. Department of Treasury.[3] To qualify as a CDE, an organization must:

- Be a domestic corporation or partnership at the time of the certification application;
- Demonstrate a primary mission of serving, or providing investment capital for low-income communities or low-income persons; and
- Maintain accountability to residents of low-income communities through representation on a governing board of or advisory board to the entity.

Since the Federal NMTC Program's inception, the CDFI Fund has made 664 awards allocating a total of $33 billion in tax credit authority to CDEs through a competitive application process.[4]

How Florida's New Markets Development Program Works

Mirrored after the federal program, Florida's New Markets Development Program, established by the Legislature in 2009,[5] encourages "capital investment in rural and urban low-income communities by allowing taxpayers to earn credits against specified taxes by investing in qualified community development entities that qualified low-income community investments in qualified active low-income community businesses to create and retain jobs."[6]

Under the program, federally-certified Community Development Entities (CDEs), which have entered into allocation agreements with the U.S. Department of Treasury, have the ability to apply to the Department of Economic Opportunity (DEO) for a certification of Florida tax credits. The CDE must show that it is prepared to invest capital into qualified businesses in Florida's low-income communities. The certification process includes proof of the CDE's eligibility, identification of its investors, description of the investments to be raised by the CDE, information regarding how the investments will be used, and a description of the CDE's efforts to partner with local community-based groups.

DEO is also authorized to request additional information needed to verify continued certification. DEO certifies qualified applications on a first-come, first-served basis. Once DEO certifies a CDE's qualified

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[1] Federal New Markets Tax Credit Program, Overview, http://cdfifund.gov/what_we_do/programs_id.asp?programID=5 (last visited February 14, 2013).

[2] The Federal New Markets Tax Credit Program was enacted as P.L. 106-554, Community Tax Relief Act of 2000 and signed into law on December 21, 2000.

[3] The Community Development Financial Institutions Fund is the entity within the U.S. Department of Treasury that administers the federal New Markets Tax Credit Program. The CDFI Fund was created for the purpose of promoting economic development through investment in and assistance to community development financial institutions. U.S. Department of Treasury, Community Development Financial Institutions Fund, About the CDFI Fund, http://cdfifund.gov/who_we_are/about_us.asp (last visited February 14, 2013).

[4] *See supra* note 1.

[5] Chapter 2009-50, L.O.F.

[6] Section 288.912, F.S.

equity investment, the CDE has 30 days to raise its investment capital (the qualified equity investment) and then 12 months to invest a minimum of 85 percent of the purchase price in qualified low-income investments. Thereafter, the CDE must annually report to DEO information including:[7]

- Audited financial statements;
- The industries for the investments;
- The counties investments were made in;
- The number of jobs created; and
- Verification that the average wages paid are at least equal to 115 percent of the federal poverty income guidelines for a family of four.

Any failure by a CDE to follow either Florida or federal law may result in the state recapturing tax credits claimed, together with interest and penalties.[8]

<u>Tax Credits</u>

The New Markets Tax Credit Program (NMTC) allows a tax credit to be taken against the corporate income tax found in s. 220.11, F. S. or the insurance premium tax found in s. 624.509, F.S. This credit may be claimed after the investment has been made and held for a minimum of two years. Therefore, no credit can be claimed in the first two years. In year three the credit is worth seven percent of the investment, and from the fourth year through the seventh year the credit is worth eight percent.

As in the federal program, over seven years this credit totals 39 percent of the total investment. Therefore, a qualified taxpayer with a qualified investment approved for both the federal and state program could receive 78 percent of the purchase price of the investment in tax credits over seven years. In addition to the tax credits that are received, the investor also has the potential to receive benefit from the results of the investment and eventual return of their principal.

Any unused portion of the tax credit may be carried forward for future tax years; however, all tax credits expire on December 31, 2022.[9] The program has a cap of $163.8 million on the total of tax credits allowed to be allocated to all investments or $33.6 million in tax credits in a single state fiscal year.[10] The transfer or sale of tax credits is not permitted; however, a tax credit may travel with the purchase of an investment to a new owner.[11]

Effect of Proposed Changes

The bill increases the total amount of tax credits available to be allocated for the New Markets Development Program from $163.8 million to $263.8 million and increases the amount of tax credits that the state may award in a single fiscal year from $33.6 million to $53.6 million.

B. SECTION DIRECTORY:

Section 1: Amends s. 288.914, F.S., to increase the total amount of tax credits available to be allocated for the New Markets Development Program from $163.8 million to $263.8 million and increase the amount of tax credits that the state may award in a single fiscal year from $33.6 million to $53.6 million.

Section 2: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

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[7] *See* s. 288.9918, F.S.
[8] *See* s. 288.9920, F.S.
[9] Section 15, ch. 2009-50, L.O.F.
[10] Section 288.914(3)(c), F.S. *See* s. 16, ch. 2012-32, L.O.F.
[11] *See* s. 288.9916(2), F.S.

1. Revenues:

   The Revenue Estimating Conference has not determined the fiscal impact to the state as a result of this bill.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that the New Markets Development Program encourages private sector capital investment in rural and urban low-income communities, the private sector and the communities where such investments are made will benefit.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES