§ 964. Empire zone capital corporations. (a) No more than three empire zone capital corporations may be established in each zone for the purpose of raising funds through private and public grants, donations or investments, to be used in making investments in, and loans to, business firms certified pursuant to subdivision (a) of section nine hundred fifty-nine of this article for the purpose of encouraging the establishment or expansion of businesses and the provision of additional job opportunities within such area. A zone capital corporation may serve one or more zones within an economic development region or zones within two or more regions. Prior to the establishment of a zone capital corporation, the zone board and the commissioner of the department of economic development shall approve the formation of the proposed zone capital corporation, its board of directors and management, and its procedures for making, servicing and monitoring investments. In no event, however, shall an empire zone capital corporation acquire an ownership interest in any certified business firm which amounts to more than twenty-five percent of the ownership interest of such certified business firm. No loan to or investment in any business firm shall be made by an empire zone capital corporation located in a zone within a town with a population of more than twenty-five thousand, until such corporation has accumulated at least two hundred thousand dollars in capital stock. No loan or investment in any business firm shall be made by an empire zone capital corporation located in a zone within a town with a population of less than twenty-five thousand until such corporation has accumulated at least one hundred thousand dollars in capital stock. A zone capital corporation shall submit to the zone board an annual report on its activities.

(b) Each zone capital corporation shall establish an investment committee for the purpose of evaluating applications for loans and equity investments. Each committee shall be comprised of members who possess the requisite business and financial expertise necessary to evaluate applications for loans and/or equity investments.

(c) Each empire zone capital corporation shall, to the maximum extent feasible, undertake measures and procedures to ensure meaningful participation by minority-owned and women-owned business enterprises in the activities and investments of such corporation. Each such corporation shall additionally, to the maximum extent feasible,

undertake measures and procedures to ensure meaningful participation by locally owned business enterprises in the activities and investments of such corporation.

(d) The total amount of tax credits available to each zone pursuant to subdivision twenty of section two hundred ten, subsection (l) of section six hundred six, subsection (d) of section fourteen hundred fifty-six and subdivision (h) of section fifteen hundred eleven of the tax law, shall be two million five hundred thousand dollars, (provided, however, that in no event shall the credits available in any zone exceed five hundred thousand dollars in the case of qualified investments in certified zone businesses as described in such subdivisions and subsections). Apportionment of credits within a zone between capital investments in and contributions to zone capital corporations, direct investments in certified zone businesses or contributions to community development projects will be determined and accounted for by the local zone administrative board in consultation with the zone administrative entity, subject to regulations promulgated by the commissioner of the department of economic development. Credits not used by a zone within four years of their apportionment may, after a public hearing, be reallocated pursuant to regulations promulgated by the commissioner. Certifications under subdivision twenty of section two hundred ten, subsection (l) of section six hundred six, subsection (d) of section fourteen fifty-six and subdivision (h) of section fifteen hundred eleven of the tax law shall be consistent with the provisions of this subdivision.

(e) The commissioner shall promulgate regulations governing the criteria of eligibility for the tax credits, referred to in subdivision (d) of this section, applicable to direct equity investments in certified zone businesses and to contributions to community development projects provided for in this section. Such regulations shall establish requirements including, but not limited to: (i) a demonstration that the direct equity investment in a certified zone business will contribute, significantly, to an activity having tangible economic benefits, such as start-up, expansion or industrial modernization of such zone business; (ii) a demonstration that the certified zone business has the potential to create jobs; and (iii) a demonstration that the direct equity investment is necessary to increase the amount of capital available to

the certified zone business, provided, however, that such investment is not intended nor shall it be used to refinance existing debt or replace existing equity in such zone business.

(f) In addition to the duties set forth in subdivision (b) of section nine hundred sixty-three of this article, the zone administrative board shall, consistent with the regulations promulgated by the commissioner, determine the eligibility of direct equity investments in certified zone businesses and contributions to community development projects for the tax credits, described in subdivision (d) of this section, that are available to such zone. Such determination by the zone administrative board shall be subject to review by the commissioner in his or her discretion. The commissioner, upon review of a zone board determination made pursuant to this subdivision, shall accept or reject such determination as may be deemed appropriate.