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 DIGEST
 

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SB 13 Reengrossed

2020 First Extraordinary Session

Ward

Present law provides for the Louisiana New Markets Jobs Act tax credit that may be claimed against the insurance premium tax. Eligibility for the credit is based on the investment of private capital in a low-income community business located in La.

Present law provides that the amount of the credit claimed by an entity shall not exceed the amount of such entity's state premium tax liability for the tax year for which the credit is claimed. Any amount of tax credit that the entity is prohibited from claiming in a taxable year as a result of the present law may be carried forward for use in future taxable years for a period not to exceed 10 years. Proposed law changes 10 years to 5 years.

Present law defines "qualified active low-income community business" (QALICB or business) as an entity which under federal law is defined as a business located in either a census tract with a poverty rate of at least 20% or a census tract with a median income that does not exceed 80% of the benchmark median income. Further defines a "qualified community development entity" (QCDE or entity) as a privately managed investment entity that has received New Market Tax Credit allocation authority.

Proposed law adds two additional qualifications to the definition of "qualified active low-income community business" by limiting the QALICB to NAICS codes 11, 21, 23, 31, 32, 33, 42, 48, 49, 54, 56, 62, 72, or 81 and limiting the number of employees to no greater of 250 or the number of employees set forth for the business's NAICS code sector.

- (1) NAICS 11 – Agriculture, Forestry, Fishing and Hunting
- (2) NAICS 21 – Mining
- (3) NAICS 23 – Construction
- (4) NAICS 31 to 33 – Manufacturing
- (5) NAICS 42 – Wholesale Trade
- (6) NAICS 48 and 49 – Transportation and Warehousing
- (7) NAICS 54 – Professional, Scientific, and Technical Services
- (8) NAICS 56 – Administrative and Support and Waste Management and Remediation Services
- (9) NAICS 62 – Health Care and Social Assistance
- (10) NAICS 72 – Accommodation and Food Services
- (11) NAICS 81 – Other Services (except Public Administration)

Present law defines the types of investments required for tax credit eligibility.

Present law caps the amount of qualified low-income community investment in a qualified low-income community business at \$10M dollars.

Proposed law caps the amount of qualified low-income community investment in a qualified low-income community business at \$5M dollars.

Present law provides that the amount of the tax credit shall be the product of multiplying the amount of the investment purchase price (investment authority) by the following percentages: 14% for the first and second years and 8.5% for the third and fourth years. The total of all such credits taken cannot exceed the taxpayer's state premium tax liability for the tax year for which the credit is claimed; however, unused credits may be carried forward for up to 10 years. Unclaimed tax credits are transferable to one or more transferees.

Proposed law retains present law provisions for carry forward and transferability of the credit and provides that the amount of the tax credit shall be the product of multiplying the amount of the investment purchase price (investment authority) by the following percentages: 15% for the fourth, fifth, and sixth years and 10% for the seventh year.

Present law authorizes a total of \$55 million of investment authority for certification and allocation for the purpose of earning tax credits.

Proposed law authorizes an additional \$75 million of investment authority for certification and allocation for the purpose of earning tax credits.

Present law requires that investments eligible for the award of tax credits be certified by the Dept. of Revenue. If a QCDE applies for certification of investments, the department shall inform the entity within 30 days of application whether the application is certified or denied. In the case of a denial, the entity shall have the right to provide additional information regarding the application within 15 days of the denial.

Present law requires the issuance of investments within 20 days of receiving certification.

Proposed law retains present law certification and issuance time lines.

Present law provides for conditions under which the Dept. of Insurance shall recapture tax credits that include a recapture of federal tax credits by the federal government, or a failure to invest an amount equal to 100% of the purchase price of the investment within 12 months of the issuance of the investment.

Proposed law retains present law recapture provisions and adds a recapture condition for investments made on or after August 1, 2020, if there has been a failure to invest an amount equal to 100% of the purchase price of the investment within nine months of the issuance of the investment or less than 50% of the purchase price was invested in "impact businesses".

Proposed law defines "impact business" as qualified active low-income community business either located in a rural parish (population of less than 100,000) or more than 50% owned by women, minorities, or military veterans.

Present law requires the payment of a deposit of \$500,000 for an application for qualification of an investment. The deposit shall be paid to the Dept. of Revenue and deposited into the new markets performance guarantee account which is established by present law. The deposit is returnable after compliance with the requirements of present law.

Present law requires reporting by a QCDE to the Dept. of Revenue within five days of the first anniversary of the initial credit allowance date, as well as annual reporting with regard to the number of employment positions created and retained as a result of the investments and the average annual salary of the positions.

Proposed law retains present law QCDE anniversary date reporting provisions and further authorizes reports to be submitted on the nine-month anniversary date.

Present law requires the Dept. of Revenue to notify the Dept. of Insurance of the name of any insurance company allocated tax credits, as well as the amount of any credits.

Proposed law retains this notification provision.

Effective August 1, 2020.

(Amends R.S. 47:6016.1(B), (C), (E)(5) and (7), (F), (G), (H)(1)(b), and (J)(1); adds R.S. 47:6016.1(E)(1)(f))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Changes required investment percentage in impact businesses from 30% to 50%.

Senate Floor Amendments to engrossed bill

1. Changes the carryforward period from ten to five years.
2. Changes the investment allocation from \$100 million to \$50 million.
3. Changes the credit percentages from 15% for four years to 5% for five years.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the reengrossed bill:

1. Change the definition of "applicable percentage".
2. Increase the amount an applicant must invest in La. qualified active low income community businesses or other La. investments from \$50M to \$100M.
3. Increase the amount of qualified equity investment authority for certification and allocation for applicants beginning August 1, 2020, from \$50M to \$75M.
4. Require the Dept. of Revenue to begin accepting applications on August 1, 2020, for allocation and certification of up to \$75M of qualified equity investments.