

## RÉSUMÉ DIGEST

ACT 17 (SB 13)

2020 First Extraordinary Session

Ward

Prior law provided 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.

Prior law provided 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 was prohibited from claiming in a taxable year as a result of the prior law may be carried forward for use in future taxable years for a period not to exceed 10 years. New law changes 10 years to five years.

Prior law defined "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 defined a "qualified community development entity" (QCDE or entity) as a privately managed investment entity that has received New Market Tax Credit allocation authority.

New 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)

Prior law defined the types of investments required for tax credit eligibility.

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

New law caps the amount of qualified low-income community investment in a qualified low-income community business at five million dollars.

Prior law provided 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.

New law retains prior 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.

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

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

Prior law required that investments eligible for the award of tax credits be certified by the Dept. of Revenue. If a QCDE applied 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.

Prior law required the issuance of investments within 20 days of receiving certification.

New law retains prior law certification and issuance time lines.

Prior law provided 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.

New law retains prior 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".

New 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.

Prior law required 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 prior law. The deposit is returnable after compliance with the requirements of prior law.

Prior law required 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.

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

Prior law required 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.

New law retains this notification provision.

Effective August 29, 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))