

2023 Regular Session

SENATE BILL NO. 151

BY SENATOR REESE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ECONOMIC DEVELOPMENT. Provides relative to the Louisiana New Markets Jobs Act.
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AN ACT

To amend and reenact R.S. 47:6016.1(B)(6), (7), and (10)(b), (E)(5)(c), (F)(3) and (4),
(H)(1)(b), and (J)(1) and to enact R.S. 47:6016.1(E)(5)(d) and (F)(5), relative to the
Louisiana New Markets Jobs Tax Credit; to provide relative to eligibility; to provide
for an additional allocation of qualified equity investment authority; to provide for
terms, conditions, and definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:6016.1(B)(6), (7), and (10)(b), (E)(5)(c), (F)(3) and (4), (H)(1)(b),
and (J)(1) are hereby amended and reenacted and R.S. 47:6016.1(E)(5)(d) and (F)(5) are
hereby enacted to read as follows:

§6016.1. Louisiana New Markets Jobs Act; premium tax credit

* * *

B. As used in this Section, the following words, terms, and phrases have the
meaning ascribed to them unless a different meaning is clearly indicated by the
context:

* * *

(6) "Recovery zone" means any parish for which the Federal Emergency

1 Management Agency of the United States Department of Homeland Security has
 2 made a determination that the parish is eligible for both individual and public
 3 assistance under the declaration of major disaster for the state of Louisiana ~~Docket~~
 4 ~~Number FEMA-4559-DR.~~ **for the duration of that declaration. Follow-on**
 5 **investments in a qualified active low-income community business that was**
 6 **qualified by its location in a recovery zone at the time of the initial qualified**
 7 **low-income community investment in that business shall be considered qualified**
 8 **low-income community investments even if made after the end of the**
 9 **declaration, subject to other provisions of this Section.**

10 (7) "Rural parish" means ~~a parish with a population less than one hundred~~
 11 ~~thousand as of the July 1, 2019, census estimate by the United States Census Bureau.~~
 12 **the following:**

13 **(a) With respect to qualified equity investments issued before August 1,**
 14 **2023, a parish with a population less than one hundred thousand as of the July**
 15 **1, 2019 census estimate by the United States Census Bureau.**

16 **(b) With respect to qualified equity investments issued after August 1,**
 17 **2023, a parish with a population less than one hundred thousand as of the most**
 18 **recent federal decennial census.**

19 * * *

20 (10) "Qualified equity investment" means any equity investment in a
 21 qualified community development entity that meets each of the following criteria:

22 * * *

23 (b) Has at least one hundred percent of its cash purchase price used by the
 24 issuer to make qualified low-income community investments in qualified active low-
 25 income community businesses located in this state by the first anniversary of the
 26 initial credit allowance date with respect to qualified equity investments issued prior
 27 to August 1, 2020, **and after August 1, 2023,** and within nine months of the initial
 28 credit allowance date with respect to qualified equity investments issued on or after
 29 August 1, 2020, **and before August 1, 2023.**

1 * * *

2 E.(1) * * *

3 (5)(a) * * *

4 (c) **A total of one hundred fifty million dollars of qualified equity**
5 **investment authority shall be available for certification and allocation for**
6 **applications beginning August 1, 2023. The department shall accept applications**
7 **beginning on August 1, 2023, for allocation and certification of up to one**
8 **hundred fifty million dollars of qualified equity investments.**

9 (d) If a pending request cannot be fully certified due to these limits of
10 qualified equity investment authority, the department shall certify the portion of
11 qualified equity investment authority that may be certified unless the qualified
12 community development entity elects to withdraw its request rather than receive
13 partial certification.

14 * * *

15 F. The Department of Insurance shall recapture, from the entity that claimed
16 the credit on a return, the tax credit allowed pursuant to this Section if any of the
17 following occur:

18 * * *

19 (3) With respect to qualified equity investments issued on or after August 1,
20 2020, **but before August 1, 2023**, the issuer fails to invest an amount equal to one
21 hundred percent of the purchase price of the qualified equity investment in qualified
22 low-income community investments in Louisiana within nine months of the issuance
23 of the qualified equity investment with at least fifty percent of the purchase price
24 invested in qualified low-income community investments in impact businesses.

25 (4) **With respect to qualified equity investments issued on or after**
26 **August 1, 2023, the issuer fails to invest an amount equal to one hundred**
27 **percent of the purchase price of the qualified equity investment in qualified low-**
28 **income community investments in Louisiana within twelve months of the**
29 **issuance of the qualified equity investment with at least fifty percent of the**

1 **purchase price invested in qualified low-income community investments in**
2 **impact businesses.**

3 (5) The issuer fails to maintain ~~such~~ **the** levels of investment set forth in
4 Paragraphs (2) ~~and (3), (3), and (4)~~ of this Subsection in qualified low-income
5 community investments in Louisiana until the last credit allowance date for the
6 qualified equity investment. For purposes of this Section, an investment shall be
7 considered held by an issuer even if the investment has been sold or repaid if the
8 issuer reinvests an amount equal to the capital returned to or recovered by the issuer
9 from the original investment, exclusive of any profits realized, in another qualified
10 low-income community investment within twelve months of the receipt of the
11 capital. Periodic amounts received during a calendar year as repayment of principal
12 on a loan that is a qualified low-income community investment shall be treated as
13 continuously invested in a qualified low-income community investment if the
14 amounts are reinvested in another qualified low-income community investment by
15 the end of the following calendar year as set forth in 26 CFR 1.45D-1. An issuer
16 shall not be required to reinvest capital returned from qualified low-income
17 community investments after the sixth anniversary of the issuance of the qualified
18 equity investment, the proceeds of which were used to make the qualified low-
19 income community investment, and the qualified low-income community investment
20 shall be considered held by the issuer through the seventh anniversary of the
21 qualified equity investment's issuance.

22 * * *

23 H.(1) A qualified community development entity that seeks to have an equity
24 investment designated as a qualified equity investment and eligible for tax credits
25 pursuant to this Section shall pay a deposit in the amount of five hundred thousand
26 dollars payable to the department. The entity shall forfeit the deposit in its entirety
27 if either:

28 * * *

29 (b) The qualified community development entity or any transferee pursuant

1 to Paragraph (E)(6) of this Section that issues a qualified equity investment certified
 2 pursuant to this Section fails to meet the investment requirement under Paragraph
 3 (F)(2) of this Section by the second credit allowance date of such benefit of the six-
 4 month cure period established pursuant to Subsection G of this Section or Paragraph
 5 (F)(3) of this Section by the nine-month anniversary of the initial credit allowance
 6 date without the benefit of the three-month cure period established pursuant to
 7 Subsection G of this Section or Paragraph (F)(4) of this Section by the
 8 twelve-month anniversary of the initial credit allowance date without the benefit
 9 of the three-month cure period established pursuant to Subsection G of this
 10 Section.

11 * * *

12 J.(1)(a) Qualified community development entities that issue qualified equity
 13 investments before August 1, 2020, **and after August 1, 2023**, shall submit a report
 14 to the department within the first five business days after the first anniversary of the
 15 initial credit allowance date that provides documentation as to the investment of one
 16 hundred percent of the purchase price in qualified low-income community
 17 investments in qualified active low-income community businesses, **including**
 18 **qualified low-income community investments made in satisfaction of Paragraph**
 19 **(F)(4) of this Section**, located in Louisiana. The report shall include:

20 (i) A bank statement of the qualified community development entity
 21 evidencing each qualified low-income community investment.

22 (ii) Evidence that the business was a qualified active low-income community
 23 business **or impact business** at the time of such qualified low-income community
 24 investment.

25 (b) Qualified community development entities that issue qualified equity
 26 investments on or after August 1, 2020, **but before August 1, 2023**, shall submit a
 27 report to the department within the first five business days after the nine-month
 28 anniversary of the initial credit allowance date that provides documentation as to the
 29 investment of one hundred percent of the purchase price in qualified low-income

1 community investments in qualified active low-income community businesses,
 2 including qualified low-income community investments made in satisfaction of
 3 Paragraph (F)(3) of this Section, located in Louisiana. The report shall include:

4 (i) A bank statement of the qualified community development entity
 5 evidencing each qualified low-income community investment.

6 (ii) Evidence that the business was a qualified active low-income community
 7 business or impact business at the time of such qualified low-income community
 8 investment.

9 * * *

10 Section 2. This Act shall become effective upon signature by the governor or, if not
 11 signed by the governor, upon expiration of the time for bills to become law without signature
 12 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 13 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 14 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Xavier I. Alexander.

DIGEST

SB 151 Engrossed

2023 Regular Session

Reese

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

Present law defines "recovery zone" as any parish for which FEMA has made a determination that the parish is eligible for both individual and public assistance under the declaration of major disasters in the state.

Proposed law retains the present law and adds to the definition of "recovery zone" follow-on investments in a qualified active low-income community business that was qualified by its location in a recovery zone shall be considered qualified low-income community investments even if made after the end of such declaration.

Present law defines "rural parish" as a parish with a population of less than 100,000 as of the July 1, 2019 census estimate by the United States Census Bureau.

Proposed law retains present law and further defines "rural parish" as a parish with a population less than 100,000 as of the most recent federal decennial census.

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

Proposed law retains present law and further provides that the issuer make qualified low-income community investments of at least 100% of the cash purchase price in the

qualified active low-income community business by the first anniversary of the initial credit allowance date with respect to investments issued prior to August 1, 2020, and after August 1, 2023, and within nine months of the initial allowance date with respect to investments issued on or before August 1, 2023.

Present law authorizes a total of \$55 million and \$75 million of investment authority for certification and allocation for the purpose of earning tax credits.

Proposed law authorizes a total of \$150 million of investment authority for certification and allocation for the purpose of earning tax credits.

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 nine months of the issuance of the investment or less than 50% of the purchase price was invested in "impact businesses".

Proposed law retains present law recapture provision and adds a recapture condition for investments made on or after August 1, 2023, if there has been 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 or less than 50% of the purchase price was invested in impact businesses.

Proposed law requires reporting by a qualified community development entity that issues qualified equity investments on or after August 1, 2020, but before August 1, 2023, to the Dept. of Revenue within five days of the first anniversary of the initial credit allowance date. Provides that the report shall include evidence that the business was a qualified active low-income community business or impact business at the time of the qualified low-income community investment.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 47:6016.1(B)(6), (7), and (10)(b), (E)(5)(c), (F)(3) and (4), (H)(1)(b), and (J)(1); adds R.S. 47:6016.1(E)(5)(d) and (F)(5))