

GREEN SHEET REDIGEST

HB 444

2019 Regular Session

McFarland

TAX CREDITS: Establishes the La. Rural Jobs Act Tax Credit Program and authorizes a tax credit for rural growth investments made by rural growth funds.

DIGEST

Present law taxes insurers based on the amount of premiums, known as "premium tax".

Proposed law establishes the "La. Rural Jobs Act" for purposes of a tax credit which may be claimed against insurance premium tax. Eligibility for the credit is based on the investment of private capital in a rural business located in the state.

Proposed law defines "rural business" as a business, together with its affiliates, with fewer than 100 employees, which maintains its principal operations in one or more rural areas of the state, and is engaged in a business with certain NAICS codes.

Proposed law defines a "rural growth fund" as an entity certified by the Dept. of Revenue pursuant to proposed law. Further defines a "La. bank" as a bank, savings bank, or savings and loan association that is a member of the Federal Deposit Insurance Corporation and is operating in this state with a main office or one or more branches in this state.

Proposed law defines a "La. bank participation loan" as a secured loan to a rural business made by a La. bank with a main office or branch located in the parish or a parish contiguous to the parish containing the location of the rural business's principal business operations and where a rural growth fund provides a portion of the total amount financed. Proposed law further establishes requirements such as provides that in order to be considered a La. bank participation loan, the La. bank shall be given the opportunity to obtain superior encumbrances over certain property of the rural business relative to the encumbrances of the rural growth fund, unless the La. bank agrees to subordinate its ranking priority, and the bank shall also be given the opportunity to decide its percentage of participation in the total financing provided to the rural business relative to the rural growth fund's participation.

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

Proposed law requires a rural business obtaining a rural growth fund investment to maintain its operating deposit account at the same La. bank participating in the loan unless the bank agrees to waive this requirement or, if no La. bank is participating in the loan, then the rural business shall maintain its operating deposit account at any La. bank.

Proposed law excludes a loan secured by accounts receivable or inventory of a rural business or any loan secured by other property of a rural business, unless a La. bank participation loan is made or a La. bank declined to make a La. bank participation loan. If a Louisiana bank declines to make a Louisiana bank participation loan, then prior to making the loan, from being considered a rural growth investment. However, proposed law provides for an exception to the loan secured by property of a rural business if the La. bank has an outstanding loan to the rural business, a La. bank participates in the loan, or prior to making the loan, the rural growth fund and the chief executive officer of the rural business makes certain certifications. A rural growth fund shall submit the certification to the department prior to making a rural growth investment secured by immovable property or other movable property.

Proposed law authorizes a maximum of \$75 million of investment authority and \$56 million of investor contributions for certification and allocation for the purpose of earning tax credits. The department shall begin accepting applications on Oct. 1, 2019.

Proposed law requires that investments eligible for the award of tax credits be certified by the Dept. of Revenue. If an applicant applies for approval as a rural growth fund, the department shall inform the entity within 30 days of application whether the application is

certified or denied. In the case of denial, the entity shall have the right to provide additional information regarding the application within 15 days of receipt of the denial. If an application is subsequently approved, the application shall be considered approved as of its original submission date and shall receive the pro rata allocation the application would have received if it was approved on the original date of submission.

Proposed law provides that the amount of the tax credit shall be equal to the investor contribution and shall be allowed to be taken in an amount equal to 1/5 each year beginning with the third year through the seventh year of the investment. 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. The credit can only be sold, transferred, or allocated to a related entity that has an insurance premium tax liability at the time the rural growth fund application was originally submitted.

Proposed law excludes taxes collected from healthcare premium assessments paid by Medicaid-enrolled managed care organizations from state premium tax liability under proposed law.

Proposed law provides for the Dept. of Revenue to recapture any tax credit if the rural growth fund exits the program when the rural growth fund has not invested 100% of its investment authority in investments in La., including at least 50% of its investment authority in rural businesses that maintain their principal business operations in rural parishes within two years of the closing date, fails to maintain investments equal to at least 100% of its investment authority, including at least 50% of its investment authority in rural businesses that maintain their principal business operations in rural parishes until the 7th anniversary of the closing date, makes a distribution or payment that results in the rural growth fund having less than 100% of its investment authority invested in rural growth investments in the state or available for investment in rural growth investments or held in case or other marketable securities, or makes an investment in certain rural business.

Proposed law requires the rural growth fund, before exiting the program, to pay any management fee to its affiliates in connection with any activity under proposed law.

Proposed law prohibits a rural growth fund from making any distribution to its equity holders or pay management fees to any of its affiliates after exiting the program unless the fund has made rural growth investments equal to at least 150% of its investment authority.

Proposed law requires reporting by each rural growth fund to the Dept. of Revenue, the House Committee on Ways and Means, and the Senate Committee on Revenue and Fiscal Affairs within five days of each anniversary closing date. Additionally requires the rural growth fund to submit a redacted annual report to the House Committee on Ways and Means and Senate Committee on Revenue and Fiscal Affairs which includes bank statements evidencing each rural growth investment within 15 business days of submitting any report required pursuant to proposed law.

Proposed law authorizes a rural growth fund to apply to exit the program on or after the seventh anniversary of the closing date.

Proposed 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 authorizes the Dept. of Revenue to promulgate rules to implement the provisions of proposed law in accordance with the Administrative Procedure Act.

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

(Adds R.S. 47:6016.2)

Summary of Amendments Adopted by House

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

1. Define "Louisiana bank" and "rural parish" for purposes of proposed law.
2. Add requirement that a rural business obtaining a rural growth fund investment maintain its operating deposit account at the La. bank participating in the loan.
3. Exclude certain loans from being considered rural growth investments.
4. Require the rural growth fund and the chief executive officer of the rural business to make certain certifications before a loan secured by property of a rural business can qualify as a rural growth investment.
5. Exclude taxes collected from healthcare premium assessments paid by Medicaid-enrolled managed care organizations from state premium tax liability under proposed law.
6. Specify when applications that were originally denied and subsequently approved are considered approved and set forth the applications's pro rata allocation.
7. Add authorization for the recapture of credits if the rural growth fund does not invest at least 50% of its investment authority in rural businesses that maintain their principal business operations in rural parishes.
8. Add provisions relative to the amount of the payment due to the department when a rural growth fund exits the program.
9. Require the rural growth fund to submit a redacted annual report to the House Committee on Ways and Means and Senate Committee on Revenue and Fiscal Affairs which includes bank statements evidencing each rural growth investment.

The House Floor Amendments to the engrossed bill:

1. Define "Louisiana bank participation loan" for purposes of proposed law and establishes requirements relative to the La. bank being given the opportunity to obtain superior encumbrances over certain property of the rural business, unless the La. bank agrees to subordinate its ranking priority, and the bank shall also be given the opportunity to decide its percentage of participation in the total financing provided to the rural business.
2. Decrease the maximum amount of investment authority from \$150 million to \$100 million and reduces the maximum amount of investor contribution for certification and allocation for the purpose of earning tax credits from \$112,500,000 to \$75 million.
3. Change the application of the credit from the taxable year containing the second anniversary of the closing date to the fourth anniversary of the closing date.
4. Change the limitation on the amount of credit that can be applied from no more than 1/5 of the total amount of the credit in each of the taxable years beginning with the taxable year containing the third anniversary of the closing date through the taxable year containing the seventh anniversary of the closing date to no more than 1/3 of the total amount of the credit in each of the taxable years beginning with the taxable year containing the fourth anniversary of the closing date through the taxable year containing the sixth anniversary of the closing date.
5. Require the rural growth fund, before exiting the program, to pay any management fee to its affiliates in connection with any activity under proposed law.

6. Delete prohibition for the rural growth fund to exit the program unless the rural growth fund has made investments equal to at least 150% of its investment authority.
7. Add prohibition for the rural growth fund to make distributions to its equity holders or pay management fees after exiting the program unless the fund has made rural growth investments equal to at least 150% of its investment authority.
8. Technical amendments.

Summary of Amendments Adopted by Senate

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

1. Decrease the maximum amount of investment authority from \$100 million to \$75 million and reduces the maximum amount of investor contribution for certification and allocation for the purpose of earning tax credits from \$75 million to \$56 million.
2. Change the limitation on the amount of credit that can be applied from no more than 1/3 of the total amount of the credit in each of the taxable years beginning with the taxable year containing the fourth anniversary of the closing date to no more than 1/5 of the total amount of the credit in each of the taxable years beginning with the taxable year containing the third anniversary of the closing date through the taxable year containing the seventh anniversary of the closing date.