

2020 Second Extraordinary Session

HOUSE BILL NO. 25

BY REPRESENTATIVE FARNUM

TAX CREDITS: Expands the Louisiana New Markets Jobs Act tax credit to certain recovery zones (Item #65)

1 AN ACT

2 To amend and reenact R.S. 47:6016.1(B)(4) and (6) through (11) and to enact R.S.
3 47:6016.1(B)(12), relative to Louisiana New Markets Jobs Act tax incentives; to add
4 businesses impacted by Hurricane Laura to eligible qualified active low-income
5 community businesses; to provide for definitions; to provide for an effective date;
6 and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:6016.1(B)(4) and (6) through (11) are hereby amended and
9 reenacted and R.S. 47:6016.1(B)(12) is hereby enacted to read as follows:

10 §6016.1. Louisiana New Markets Jobs Act; premium tax credit

11 * * *

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

15 * * *

16 (4) "Impact business" means a qualified active low-income community
17 business located in Louisiana that is either located in a rural parish, located in the
18 recovery zone, or is ~~or~~ more than fifty percent owned by women, minorities, or
19 military veterans.

20 * * *

1 (6) "Recovery zone" means any parish for which the Federal Emergency
2 Management Agency of the United States Department of Homeland Security has
3 made a determination that the parish is eligible for both individual and public
4 assistance under the declaration of major disaster for the State of Louisiana docket
5 number FEMA 4559-DR.

6 (7) "Rural parish" means a parish with a population less than one hundred
7 thousand as of the July 1, 2019, census estimate by the United States Census Bureau.

8 ~~(7)~~(8) "Qualified active low-income community business" has the meaning
9 given such term in Section 45D of the Internal Revenue Code of 1986, as amended,
10 and 26 CFR 1.45D-1.

11 (a) With respect to qualified equity investments issued on or after August 1,
12 2020, a qualified active low-income community business shall also be engaged in an
13 industry assigned a primary North American Industry Classification System code
14 within sector 11, 21, 23, 31, 32, 33, 42, 48, 49, 54, 56, 62, 72, or 81 and have total
15 employees that do not exceed the greater of two hundred fifty and the number of
16 employees set forth for the business's North American Industry Classification
17 System code sector in 13 CFR 121.201.

18 (b) With respect to qualified equity investments issued on or after August 1,
19 2020, a business that otherwise satisfies this definition but for being located in a
20 low-income community, as defined in Section 45D of the Internal Revenue Code of
21 1986, as amended and 26 CFR 1.45D-1, shall satisfy this definition if the business
22 is located in the recovery zone.

23 ~~(8)~~(9) "Qualified community development entity" has the meaning given
24 such term in Section 45D of the Internal Revenue Code of 1986, as amended;
25 provided that such entity has entered into, for the current year or any prior year, an
26 allocation agreement with the Community Development Financial Institutions Fund
27 of the U.S. Department of Treasury with respect to credits authorized by Section 45D
28 of the Internal Revenue Code of 1986, as amended, which includes the state of
29 Louisiana within the service area set forth in such allocation agreement. The term

1 shall include qualified community development entities that are controlled by or
2 under common control with any such qualified community development entity. With
3 respect to qualified equity investments issued on or after August 1, 2020, the term
4 excludes any qualified community development entity that, together with its
5 affiliates, has invested less than one hundred million dollars in Louisiana qualified
6 active low-income community businesses or other Louisiana investments.

7 ~~(9)~~(10) "Qualified equity investment" means any equity investment in a
8 qualified community development entity that meets each of the following criteria:

9 (a) Is acquired after August 1, 2013, at its original issuance solely in
10 exchange for cash or, if not so acquired, was a qualified equity investment in the
11 hands of a prior holder.

12 (b) Has at least one hundred percent of its cash purchase price used by the
13 issuer to make qualified low-income community investments in qualified active low-
14 income community businesses located in this state by the first anniversary of the
15 initial credit allowance date with respect to qualified equity investments issued prior
16 to August 1, 2020, and within nine months of the initial credit allowance date with
17 respect to qualified equity investments issued on or after August 1, 2020.

18 (c) Is designated by the issuer as a qualified equity investment under this
19 Paragraph and is certified by the department as not exceeding the limitation
20 contained in Paragraph (E)(5) of this Section.

21 ~~(10)~~(11) "Qualified low-income community investment" means any capital
22 or equity investment in, or loan to, any qualified active low-income community
23 business. With respect to any one qualified active low-income community business,
24 the maximum amount of qualified low-income community investments made in that
25 business, on a collective basis with all of its affiliates that may be counted towards
26 satisfaction of Subparagraph ~~(9)~~(10)(b) of this Subsection is ten million dollars
27 for qualified equity investments issued prior to August 1, 2020, and five million
28 dollars for qualified equity investments issued on or after August 1, 2020, whether
29 issued by one or several qualified community development entities. Any amounts

1 returned or repaid by such qualified active low-income community business to a
2 qualified community development entity may be reinvested in such qualified active
3 low-income community business by such qualified community development entity
4 and not be counted against the ten million dollar limit provided for in this Paragraph.

5 ~~(11)~~(12) "State premium tax liability" means any liability incurred by any
6 entity under the provisions of R.S. 22:831, 836, 838, and 842 except for liability
7 incurred under R.S. 22:842(C).

8 * * *

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

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 25 Original 2020 Second Extraordinary Session Farnum

Abstract: Adds businesses located in the Hurricane Laura recovery zone as declared by FEMA to the qualified active low-income community businesses eligible to participate in La. New Markets Jobs Act tax credits.

Present law provides for the La. New Markets Jobs Act tax credit that may be claimed against 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 defines "qualified active low-income community 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 and has certain applicable NAICS code sectors and no more than 250 employees or the number of employees set forth for the business's NAICS code sector.

Proposed law adds to the definition of "qualified active low-income community business", businesses in the recovery zone that otherwise meet the requirements of federal law but are not located in a low-income community and defines "recovery zone" as those parishes declared by FEMA to be eligible for both individual and public assistance due to Hurricane Laura.

Present law includes 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".

Present law defines "impact business" as a 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.

Proposed law adds businesses located in the recovery zone to the definition of "impact business".

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

(Amends R.S. 47:6016.1(B)(4) and (6)-(11); Adds R.S. 47:6016.1(B)(12))