

2020 Second Extraordinary Session

SENATE BILL NO. 14

BY SENATORS JOHNS, MCMATH, REESE, SMITH AND WARD

TAX/TAXATION. Expands the Louisiana New Markets Jobs Act tax credit to certain recovery zones. (gov sig) (Item #65)

1 AN ACT

2 To amend and reenact R.S. 47:6016.1(B)(4), (6), (7), (8), (9), (10), and (11) and to enact
3 R.S. 47:6016.1(B)(12), relative to the Louisiana New Markets Jobs Act tax
4 incentives; to add businesses impacted by Hurricane Laura to the eligible qualified
5 active low-income community businesses; to provide an effective date; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:6016.1(B)(4), (6), (7), (8), (9), (10), and (11) are hereby amended
9 and 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 or **in the**

1 **recovery zone or is** more than fifty percent owned by women, minorities, or military
 2 veterans.

3 * * *

4 **(6) "Recovery zone" means any parish for which the Federal Emergency**
 5 **Management Agency of the United States Department of Homeland Security**
 6 **has made a determination that the parish is eligible for both individual and**
 7 **public assistance under the declaration of major disaster for the state of**
 8 **Louisiana Docket Number FEMA-4559-DR.**

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

11 ~~(7)~~**(8)** "Qualified active low-income community business" has the meaning
 12 given such term in Section 45D of the Internal Revenue Code of 1986, as amended,
 13 and 26 CFR 1.45D-1.

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

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

26 ~~(8)~~**(9)** "Qualified community development entity" has the meaning given
 27 such term in Section 45D of the Internal Revenue Code of 1986, as amended;
 28 provided that such entity has entered into, for the current year or any prior year, an
 29 allocation agreement with the Community Development Financial Institutions Fund

1 of the U.S. Department of Treasury with respect to credits authorized by Section 45D
2 of the Internal Revenue Code of 1986, as amended, which includes the state of
3 Louisiana within the service area set forth in such allocation agreement. The term
4 shall include qualified community development entities that are controlled by or
5 under common control with any such qualified community development entity. With
6 respect to qualified equity investments issued on or after August 1, 2020, the term
7 excludes any qualified community development entity that, together with its
8 affiliates, has invested less than one hundred million dollars in Louisiana qualified
9 active low-income community businesses or other Louisiana investments.

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

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

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

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

24 ~~(10)~~**(11)** "Qualified low-income community investment" means any capital
25 or equity investment in, or loan to, any qualified active low-income community
26 business. With respect to any one qualified active low-income community business,
27 the maximum amount of qualified low-income community investments made in that
28 business, on a collective basis with all of its affiliates that may be counted towards
29 satisfaction of Subparagraph (9)(b) of this Subsection is ten million dollars for

1 qualified equity investments issued prior to August 1, 2020, and five million dollars
 2 for qualified equity investments issued on or after August 1, 2020, whether issued
 3 by one or several qualified community development entities. Any amounts returned
 4 or repaid by such qualified active low-income community business to a qualified
 5 community development entity may be reinvested in such qualified active low-
 6 income community business by such qualified community development entity and
 7 not be counted against the ten million dollar limit provided for in this Paragraph.

8 ~~(11)~~**(12)** "State premium tax liability" means any liability incurred by any
 9 entity under the provisions of R.S. 22:831, 836, 838, and 842 except for liability
 10 incurred under R.S. 22:842(C).

11 * * *

12 Section 2. This Act shall become effective upon signature by the governor or, if not
 13 signed by the governor, upon expiration of the time for bills to become law without signature
 14 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 15 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 16 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 Leonore Heavey.

DIGEST

SB 14 Engrossed

2020 Second Extraordinary Session

Johns

Present law provides for the Louisiana 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 an applicable NAICS code of 11, 21, 23, 31, 32, 33, 42, 48, 49, 54, 56, 62, 72, or 81 and no more than 250 employees or the number of employees set forth for the business's NAICS code sector.

Proposed law further defines "qualified active low-income community business" to include businesses in the recovery zone that 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 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 the governor or lapse of time for gubernatorial action.

(Amends R.S. 47:6016.1(B)(4), (6), (7), (8), (9), (10), and (11); adds R.S. 47:6016.1(B)(12))