

2023 Regular Session

HOUSE BILL NO. 510

BY REPRESENTATIVE FARNUM

TAX CREDITS: Provides relative to tax credits and equity investments allocated pursuant to the La. New Markets Jobs Act

1 AN ACT

2 To amend and reenact R.S. 47:6016.1(B)(introductory paragraph), (6), (7), and (10)(b),

3 (D)(1) and (2)(a)(introductory paragraph), (E)(5)(c), (F)(3) and (4),

4 (H)(1)(introductory paragraph), (b), and (2), and (J)(1)(a)(introductory paragraph)

5 and (ii) and (b)(introductory paragraph) and (2) and to enact R.S. 47:6016.1(E)(5)(d)

6 and (F)(5), relative to credits against state taxes; to provide with respect to the

7 Louisiana New Markets Jobs Act; to provide relative to eligibility for tax credits

8 granted pursuant to such law; to provide for tax credits associated with qualified

9 equity investments as defined in such law; to provide for credits against state

10 insurance premium taxes authorized by such law; to authorize the Department of

11 Insurance to recapture, in certain circumstances, tax credits issued pursuant to such

12 law; to allocate additional equity investment authority in accordance with such law;

13 to provide for definitions; to provide for reporting requirements; and to provide for

14 related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 47:6016.1(B)(introductory paragraph), (6), (7), and (10)(b), (D)(1)

17 and (2)(a)(introductory paragraph), (E)(5)(c), (F)(3) and (4), (H)(1)(introductory paragraph),

18 (b), and (2), and (J)(1)(a)(introductory paragraph) and (ii) and (b)(introductory paragraph)

19 and (2) are hereby amended and reenacted and R.S. 47:6016.1(E)(5)(d) and (F)(5) are hereby

20 enacted to read as follows:

1 §6016.1. Louisiana New Markets Jobs Act; premium tax credit

2 * * *

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

6 * * *

7 (6) "Recovery zone" means any parish for which the Federal Emergency
8 Management Agency of the United States Department of Homeland Security has
9 made a determination that the parish is eligible for both individual and public
10 assistance under the declaration of major disaster for the state of Louisiana ~~Docket~~
11 ~~Number FEMA-4559-DR~~ for the duration of that declaration. Follow-on
12 investments in a qualified active low-income community business that was qualified
13 by its location in a recovery zone at the time of the initial qualified low-income
14 community investment in such business shall be considered qualified low-income
15 community investments even if made after the end of such declaration, subject to
16 other applicable provisions of this Section.

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

20 (a) With respect to qualified equity investments issued before August 1,
21 2023, a parish with a population of less than one hundred thousand as of the July 1,
22 2019, census estimate by the United States Census Bureau.

23 (b) With respect to qualified equity investments issued after August 1, 2023,
24 a parish with a population of less than one hundred thousand according to the 2020
25 federal decennial census.

26 * * *

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

29 * * *

1 (b) Has at least one hundred percent of its cash purchase price used by the
 2 issuer to make qualified low-income community investments in qualified active
 3 low-income community businesses located in this state by the first anniversary of the
 4 initial credit allowance date with respect to qualified equity investments issued prior
 5 to August 1, 2020, and after August 1, 2023; and within nine months of the initial
 6 credit allowance date with respect to qualified equity investments issued on or after
 7 August 1, 2020, and on or before August 1, 2023.

8 * * *

9 D.(1) Tax credits earned by a partnership, limited liability company,
 10 ~~S-corporation~~ S corporation, or other ~~pass-through~~ pass-through entity may be
 11 allocated to the partners, members, or shareholders of such entity for their direct use
 12 in accordance with the provisions of any agreement among such partners, members,
 13 or shareholders.

14 (2)(a) Any tax credits not previously claimed by a taxpayer against its state
 15 premium tax liability may be transferred or sold to another Louisiana taxpayer,
 16 subject to the following conditions:

17 * * *

18 E.

19 * * *

20 (5)

21 * * *

22 (c) A total of one hundred fifty million dollars of qualified equity investment
 23 authority shall be available for certification and allocation for applications beginning
 24 August 1, 2023. The department shall accept applications beginning on August 1,
 25 2023, for allocation and certification of up to one hundred fifty million dollars of
 26 qualified equity investments.

27 (d) If a pending request cannot be fully certified due to ~~these~~ the limits of
 28 qualified equity investment authority provided in this Paragraph, the department
 29 shall certify the portion of qualified equity investment authority that may be certified

1 unless the qualified community development entity elects to withdraw its request
2 rather than receive partial certification.

3 * * *

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

7 * * *

8 (3) With respect to qualified equity investments issued on or after August 1,
9 2020, but before August 1, 2023, the issuer fails to invest an amount equal to one
10 hundred percent of the purchase price of the qualified equity investment in qualified
11 low-income community investments in Louisiana within nine months of the issuance
12 of the qualified equity investment with at least fifty percent of the purchase price
13 invested in qualified low-income community investments in impact businesses.

14 (4) With respect to qualified equity investments issued on or after August 1,
15 2023, the issuer fails to invest an amount equal to one hundred percent of the
16 purchase price of the qualified equity investment in qualified low-income
17 community investments in Louisiana within twelve months of the issuance of the
18 qualified equity investment with at least fifty percent of the purchase price invested
19 in qualified low-income community investments in impact businesses.

20 (5) The issuer fails to maintain such levels of investment set forth in
21 ~~Paragraphs (2) and (3)~~ Paragraphs (2), (3), and (4) of this Subsection in qualified
22 low-income community investments in Louisiana until the last credit allowance date
23 for the qualified equity investment. For purposes of this Section, an investment shall
24 be considered held by an issuer even if the investment has been sold or repaid if the
25 issuer reinvests an amount equal to the capital returned to or recovered by the issuer
26 from the original investment, exclusive of any profits realized, in another qualified
27 low-income community investment within twelve months of the receipt of the
28 capital. Periodic amounts received during a calendar year as repayment of principal
29 on a loan that is a qualified low-income community investment shall be treated as

1 continuously invested in a qualified low-income community investment if the
 2 amounts are reinvested in another qualified low-income community investment by
 3 the end of the following calendar year as set forth in 26 CFR 1.45D-1. An issuer
 4 shall not be required to reinvest capital returned from qualified low-income
 5 community investments after the sixth anniversary of the issuance of the qualified
 6 equity investment, the proceeds of which were used to make the qualified
 7 low-income community investment, and the qualified low-income community
 8 investment shall be considered held by the issuer through the seventh anniversary of
 9 the qualified equity investment's issuance.

10 * * *

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

16 * * *

17 (b) The qualified community development entity or any transferee pursuant
 18 to Paragraph (E)(6) of this Section that issues a qualified equity investment certified
 19 pursuant to this Section fails to meet the investment requirement under Paragraph
 20 (F)(2) of this Section by the second credit allowance date of such benefit of the
 21 six-month cure period established pursuant to Subsection G of this Section or
 22 Paragraph (F)(3) of this Section by the nine-month anniversary of the initial credit
 23 allowance date without the benefit of the three-month cure period established
 24 pursuant to Subsection G of this Section or Paragraph (F)(4) of this Section by the
 25 twelve-month anniversary of the initial credit allowance date without the benefit of
 26 the three-month cure period established pursuant to Subsection G of this Section.

27 (2) The deposit required by Paragraph (1) of this Subsection shall be
 28 deposited with the department and held until such time as compliance with the
 29 provisions of this Subsection shall have been established. The qualified community

1 development entity may request a return of the deposit from the department no
 2 earlier than thirty days after having met all the requirements of Paragraph (1) of this
 3 Subsection. The department shall have thirty days to comply with such request or
 4 give notice of noncompliance. ~~In the event~~ If the qualified community development
 5 entity fails to fulfill the conditions of Subparagraph (1)(a) of this ~~Section~~ Subsection,
 6 then the amount payable from such deposit shall be retained by the department as
 7 self-generated funds.

8 * * *

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

18 * * *

19 (ii) Evidence that the business was a qualified active low-income community
 20 business or impact business at the time of such qualified low-income community
 21 investment.

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

1 Paragraph (F)(3) of this Section, located in Louisiana. The report shall include all
2 of the following:

3 * * *

4 (2) Thereafter, the qualified community development entity ~~will~~ shall submit
5 an annual report to the department within forty-five days of the beginning of the
6 calendar year during the compliance period. No annual report shall be due prior to
7 the first anniversary of the initial credit allowance date. The report shall include but
8 is not limited to the following:

9 * * *

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 510 Original

2023 Regular Session

Farnum

Abstract: Provides relative to credits against state insurance premium taxes authorized in the La. New Markets Jobs Act and allocates additional equity investment authority in accordance with that law.

Present law known as the Louisiana New Markets Jobs Act provides tax incentives for investment of private capital in low-income community businesses that are located in rural parishes or in areas designated by present law as recovery zones, or are more than 50% owned by women, minorities, or military veterans.

Present law authorizes credits against state insurance premium taxes imposed by present law (R.S. 22:831 et seq.) for qualified equity investments in qualified community development entities that meet the requirements of present law. Defines "qualified equity investment", "qualified community development entity", and other key terms for purposes of present law.

Proposed law revises the definitions of "recovery zone", "rural parish", and "qualified equity investment" for purposes of present law and proposed law.

Proposed law provides that a total of \$150,000,000 of qualified equity investment authority shall be available for certification and allocation for tax credit applications beginning Aug. 1, 2023. Requires the Dept. of Revenue to accept applications beginning on Aug. 1, 2023, for such certification and allocation.

Present law authorizes the Dept. of Insurance to recapture insurance premium tax credits issued in accordance with present law under certain circumstances and conditions specified in present law. Proposed law retains present law and adds thereto an authorization for the Dept. of Insurance to recapture tax credits when, in connection with qualified equity investments issued on or after Aug. 1, 2023, the investor fails to invest a requisite amount in qualified low-income community businesses in La. within 12 months of the issuance of the qualified equity investment.

Present law requires qualified community development entities that issue qualified equity investments before Aug. 1, 2020, to submit a report to the Dept. of Revenue within the first five business days after the first anniversary of the initial credit allowance date that provides documentation as to the investment of 100% of the purchase price in qualified low-income community investments in low-income community businesses. Proposed law retains present law and provides that this reporting requirement also applies to qualified community development entities that issue qualified equity investments after Aug. 1, 2023.

(Amends R.S. 47:6016.1(B)(intro. para.), (6), (7), and (10)(b), (D)(1) and (2)(a)(intro. para.), (E)(5)(c), (F)(3) and (4), (H)(1)(intro. para.), (b), and (2), and (J)(1)(a)(intro. para.) and (ii) and (b)(intro. para.) and (2); Adds R.S. 47:6016.1(E)(5)(d) and (F)(5))