

Regular Session, 2013

SENATE BILL NO. 208

BY SENATOR RISER AND REPRESENTATIVES LEGER AND PATRICK WILLIAMS
AND SENATOR BUFFINGTON

TAX/TAXATION. Extends the tax credit for the rehabilitation of historic structures and provides for the applicability of such credit. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 47:6019(A)(1)(a), (2)(a), (3)(a), (3)(b)(i)(aa), and (cc),
3 (3)(b)(ii)(aa) and (dd)(I), (B)(1)(a) and (C) and to enact R.S. 22:832(F) and R.S.
4 47:6019(3)(b)(i)(dd) and (3)(b)(ii)(ee), relative to tax credits for the rehabilitation of
5 historic structures; to provide for income, premium, and corporation franchise tax
6 credits for costs associated with the rehabilitation of historic structures; to provide
7 for eligibility and qualifications to receive the credit; to provide with respect to
8 definitions; to provide for certain notifications and requirements; to extend the
9 taxable periods in which the tax credit shall be applicable; to provide for an effective
10 date; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 22:832(F) is hereby enacted to read as follows:

13 §832. Reduction of tax when certain investments are made in Louisiana

14 * * *

15 **F. There shall be a premium tax reduction credit for costs associated**
16 **with the rehabilitation of historic structures, as provided for in R.S. 47:6019, on**
17 **taxes charged on insurance premiums under this Title, including but not limited**

1 to, R.S. 22:345, 439, 831, 836, 837, 838, and 842. No premium tax reduction
 2 credit shall be allowed for any eligible costs and expenses, as defined in R.S.
 3 47:6019, that would entitle the insurer to a reduction in premium tax under
 4 Subsection A of this Section as a qualifying Louisiana investment in real
 5 property located in this state. Notwithstanding any other provisions of law to
 6 the contrary, the premium tax reduction credits authorized under this
 7 Subsection may be sold or transferred as provided for in R.S. 47:6019(A)(3)(b)
 8 and carried forward as provided for in R.S. 47:6019(A)(3)(a).

9 Section 2. R.S. 47:6019(A)(1)(a), (2)(a), (3)(a), (3)(b)(i)(aa), and (cc), (3)(b)(ii)(aa)
 10 and (dd)(I), (B)(1)(a) and (C) are hereby amended and reenacted and R.S.
 11 47:6019(3)(b)(i)(dd) and (3)(b)(ii)(ee) are hereby enacted to read as follows:

12 §6019. Tax credit; rehabilitation of historic structures

13 A.(1)(a) There shall be a credit against the premium tax as provided for in
 14 R.S. 22:832(F), income and corporation franchise tax for the amount of eligible
 15 costs and expenses incurred during the rehabilitation of a historic structure located
 16 in a downtown development, or a cultural ~~product~~ district, or in a municipality with
 17 a population of less than fifteen thousand persons according to the latest federal
 18 decennial census. The credit shall not exceed twenty-five percent of the eligible
 19 costs and expenses of the rehabilitation. No taxpayer, or any entity affiliated with
 20 such taxpayer, shall ~~receive claim~~ more than five million dollars of credit annually
 21 for any number of structures rehabilitated within a particular downtown
 22 development, or cultural ~~product~~ district, or municipality with a population of less
 23 than fifteen thousand persons according to the latest federal decennial census.

24 * * *

25 (2)(a) In order to qualify for the credit, the historic structure located in the
 26 downtown development, or cultural ~~product~~ district, or municipality with a
 27 population of less than fifteen thousand persons according to the latest federal
 28 decennial census, shall also be listed on the National Register of Historic Places or
 29 be certified by the state historic preservation office as contributing to the historical

1 significance of the district.

2 * * *

3 (3)(a) The credit shall be allowed against the income tax for the taxable
4 period in which the credit is earned, **the premium tax for the taxable period in**
5 **which the credit is earned**, and against the franchise tax for the taxable period
6 following the taxable period in which the credit is earned. If the tax credit allowed
7 pursuant to this Section exceeds the amount of such taxes due, any unused credit
8 may be carried forward as a credit against subsequent tax liability for a period not
9 to exceed five years. This credit may be used in addition to the twenty percent
10 federal tax credit for such purposes.

11 (b)(i)(aa) Persons who are awarded tax credits may elect to sell their
12 unused tax credits to one or more individuals or entities. The tax credits may be
13 transferred or sold by a taxpayer or any subsequent transferee an unlimited number
14 of times. **Notwithstanding any other provisions of law to the contrary, once a tax**
15 **credit is claimed by a taxpayer against the premium tax, any subsequent**
16 **transferee of such tax credit shall be limited to claim the credit against the same**
17 **tax.**

18 * * *

19 (cc) Transferors and transferees shall submit to ~~the state historic preservation~~
20 ~~office and to~~ the Department of Revenue in writing a notification of any transfer or
21 sale of tax credits within thirty days after the transfer or sale of such tax credits. The
22 notification shall include the transferor's tax credit balance prior to transfer, the
23 credit identification number assigned by the state historic preservation office, the
24 remaining balance after transfer, all federal and Louisiana tax identification numbers
25 for both transferor and transferee, the date of transfer, the amount transferred, and
26 any other information required by ~~the state historic preservation office or the~~
27 Department of Revenue. Failure to comply with this notification provision will result
28 in the disallowance of the tax credit until the parties are in full compliance.

29 **(dd) Taxpayers claiming tax credits against premium taxes received by**

1 transfer shall include a notification of transfer or sale of tax credits as an
 2 attachment to the premium tax return filed with the Department of Insurance.
 3 The notification shall include the transferor's tax credit balance prior to the
 4 transfer, the credit identification number assigned by the state historic
 5 preservation office, the remaining balance after transfer, all federal tax
 6 identification numbers and Department of Insurance account numbers for both
 7 transferor and transferee, the date of transfer, the amount transferred, and any
 8 other information required by the Department of Insurance. Failure to comply
 9 with this notification provision will result in the disallowance of the tax credit
 10 until the taxpayer is in full compliance.

11 (ii)(aa) All entities taxed as corporations for Louisiana income, premium,
 12 or corporation franchise tax purposes shall claim any credit allowed under this
 13 Section on their corporation income, corporation premium, and corporation
 14 franchise tax return.

15 * * *

16 (dd) Entities not taxed as corporations shall claim any credit allowed under
 17 this Section on the returns of the partners or members as follows:

18 (I) Corporate partners or members shall claim their share of the credit on their
 19 corporation income, corporation premium, or corporation franchise tax returns.

20 * * *

21 (ee) All taxpayers required to pay the insurance premium tax shall claim
 22 any credit allowed under this Section on their annual premium tax statement.

23 B.(1) Definitions. For purposes of this Section, the following words and
 24 phrases shall have the meanings ascribed to them in this Subsection:

25 (a) "Cultural ~~product~~ district" shall mean a district designated by a local
 26 governing authority in accordance with law for the purpose of revitalizing a
 27 community by creating a hub of cultural activity, including affordable artist housing
 28 and workspace. The Department of Culture, Recreation and Tourism shall develop
 29 standard criteria for cultural product districts. Such criteria shall include that the

1 district must be geographically contiguous and distinguished by cultural resources
 2 that play a vital role in the life and cultural development of a community. The district
 3 shall focus on a cultural compound, a major art institution, art and entertainment
 4 businesses, an area with arts and cultural activities or cultural or artisan production
 5 and be engaged in the promotion, preservation, and educational aspects of the arts
 6 and culture of the locale and contribute to the public through interpretive and
 7 educational uses. The Department of Culture, Recreation and Tourism may
 8 determine whether or not a district complies with this definition.

9 * * *

10 C. The provisions of this Section shall be effective for the taxable years
 11 ending prior to January 1, ~~2016~~ **2018**.

12 Section 3. 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 Danielle Doiron.

DIGEST

Present law provides for a reduction in the insurance premium for certain investments made in the state.

Proposed law authorizes a premium reduction in taxes charged on insurance premiums for the amount of eligible costs and expenses incurred during the rehabilitation of a historic structure located within a cultural district, downtown development district or a municipality with a population of less than 15,000 persons according to the latest federal decennial census.

Present law authorizes an income and corporation franchise tax credit for the amount of eligible costs and expenses incurred during the rehabilitation of a historic structure located in a downtown development or a cultural product district. Provides that credit not exceed 25% of the eligible costs and expenses of the rehabilitation. Present law prohibits a taxpayer from receiving more than \$5 million of credit for any number of structures rehabilitated within a particular downtown development or cultural product district.

Proposed law retains present law but changes the name of a "cultural product district" to a "cultural district" and provides that historic structures in a municipality with a population of less than 15,000 persons are eligible for the tax credit.

Present law requires that to qualify for the credit the historic structure be listed on the National Register of Historic Places or be certified by the state historic preservation office as contributing to the historical significance of the district.

Proposed law retains present law and includes such structure located in a municipality with a population of less than 15,000 thousand persons.

Present law provides insurers taxed as corporations for Louisiana income and corporation franchise tax purposes shall claim a tax credit on their corporation income and corporation franchise tax return based on premium taxes paid. Provides that if the amount of the credit exceeds the amount of taxes due, any unused credit may be carried forward as a credit against subsequent tax liability for a period not to exceed five years. Provides that this credit is in addition to the 20% federal tax credit for such purposes.

Proposed law provides that the tax credit may be claimed against the premium tax for the period in which the credit is earned.

Present law authorizes taxpayers to sell their unused tax credits to one or more individuals or entities and may be transferred or sold by a taxpayer or any subsequent transferee an unlimited number of times.

Proposed law retains these provisions but provides that once claimed against the premium tax any subsequent transferee is limited to claim the credit against the same tax.

Present law requires the transferors and transferees to submit to the state historic preservation office and to the Department of Revenue a written notification of any transfer or sale of tax credits within 30 days after the transfer or sale of such tax credits. Further requires the notification to include the tax credit balance prior to the transfer, the credit identification number assigned by the state historic preservation office, the remaining balance after the transfer, the amount of the transfer, and any other information required by the state historic preservation office or the Department of Revenue.

Proposed law removes the state historic preservation office from such notifications and requirements.

Proposed law requires taxpayers claiming tax credits against premium taxes received by transfer to include a notification of transfer or sale of tax credits as an attachment to the premium tax return filed with the Department of Insurance. Requires that the notification include the transferor's tax credit balance prior to the transfer, the credit identification number assigned by the state historic preservation office, the remaining balance after transfer, all federal tax identification numbers and Department of Insurance account numbers for both transferor and transferee, the date of transfer, the amount transferred, and any other information as required by the Department of Insurance. Provides that failure to comply notification provisions shall result in the disallowance of the tax credit until the taxpayer is in full compliance.

Proposed law requires all taxpayers to pay the insurance premium tax and claim any credit against the tax on their annual premium tax statement.

Present law provides that the provisions of present law shall be effective for all taxable years ending prior to Jan. 1, 2016.

Proposed law extends the tax credit applicability from taxable years ending prior to Jan. 1, 2016, to taxable years ending prior to Jan. 1, 2018.

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

(Amends R.S. 47:6019(A)(1)(a), (2)(a), (3)(a), (3)(b)(i)(aa), and (cc), (3)(b)(ii)(aa) and

(dd)(I), (B)(1)(a) and (C); and adds R.S. 22:832(F) and R.S. 47:6019(3)(b)(i)(dd) and (3)(b)(ii)(ee))