

HOUSE COMMITTEE AMENDMENTS

Amendments proposed by House Committee on Ways and Means to Original House Bill No. 377 by Representative Leger

1 AMENDMENT NO. 1

2 On page 1, line 4, after "enact" and before the comma "," delete "R.S. 47:1524" and insert
3 "R.S. 47:1508(B)(33) and 1524"

4 AMENDMENT NO. 2

5 On page 1, line 8, after "registry;" and before "to" insert "to provide with respect to the
6 confidentiality of certain tax records; to authorize the secretary of the Department of
7 Revenue to share certain tax credit transfer information;"

8 AMENDMENT NO. 3

9 On page 1, at the beginning of line 15, delete "47:1524 is" and insert "47:1508(B)(33) and
10 1524 are"

11 AMENDMENT NO. 4

12 On page 1, delete lines 16 through 20 in their entirety and on page 2, delete lines 1 through
13 28 in their entirety and on page 3, delete lines 1 through 23 in their entirety and insert the
14 following:

15 §1508. Confidential character of tax records

16 * * *

17 B. Nothing herein contained shall be construed to prevent:

18 * * *

19 (33) The furnishing of information as requested by the transferor pursuant
20 to the provisions of R.S. 47:1524(F).

21 * * *

22 § 1524. Tax credit registry; requirements; limitations

23 A. Purpose. The intent of this Section is to provide for a centralized
24 registration and recordation system for transferable tax credits granted, issued, and
25 authorized by the State of Louisiana. The provisions of this Section shall be known
26 and cited as the "Louisiana Tax Credit Registry Act".

27 B. Definitions. For purposes of this Section, the following words shall have
28 the following meaning unless the context clearly indicates otherwise:

29 (1) "Department" means the Department of Revenue.

30 (2) "Identification number" means a unique identifying number that shall be
31 assigned to each tax credit certificate registered in the registry. A tax credit's
32 identification number shall remain associated with tax credit from the time the credit
33 is originally entered into the registry through any claim, transfer, or refund
34 associated with the credit, until such time as the tax credit is fully redeemed.

35 (3) "Secretary" means the secretary of the Department of Revenue.

1 (4) "Tax credit" means any transferable tax credit granted, issued, and
 2 authorized by the state applied against taxes collected by the department.

3 (5) "Tax credit certificate" means any document granting tax credits issued
 4 by a state agency administering a tax credit program, including but not limited to tax
 5 credit certification letters which shall include the name of the individual or entity
 6 issued the tax credit, the amount of the tax credit, and any other identifying
 7 information regarding the tax credit.

8 (6) "Transfer" means an assignment, disposition, transfer, or allocation of
 9 tax credits.

10 (7) "Transferee" means an individual or entity that receives a transfer of tax
 11 credits.

12 (8) "Transferor" means an individual or entity that makes a transfer of tax
 13 credits.

14 C. Administration. There is hereby established a central tax credit registry,
 15 hereinafter referred to as "registry", within the department for the registration and
 16 recordation of tax credits granted, issued, and authorized by the state and any
 17 subsequent transfers.

18 (1) Beginning January 1, 2014, all state agencies issuing tax credits to be
 19 applied against taxes collected by the department shall promptly send a copy of any
 20 newly granted, issued, or authorized tax credit certificates to the department. Upon
 21 receipt of this information, the department shall assign an identifying number to each
 22 tax credit, and shall record the tax credit into the registry along with the name of the
 23 individual or entity issued the tax credit, the amount of the tax credit, and any other
 24 information deemed necessary by the secretary.

25 (2) Any state agency that issues or authorizes tax credits shall remit an
 26 electronic report on forms prescribed by the secretary no later than January 31, 2014,
 27 of all tax credit certificates issued prior to January 1, 2014. The Department shall
 28 endeavor to record all tax credit transfers which occurred prior to January 1, 2014,
 29 into the registry.

30 D. Transfers.

31 (1) Joint notice from the transferor and the transferee of all tax credit
 32 transfers shall be submitted to the department, including additional information
 33 which the secretary deems necessary and appropriate. Upon receipt of the
 34 applicable tax credit information, the department shall record the transfer of the tax
 35 credit by recording the applicable identification numbers, the name of the transferor
 36 and transferee, the amount of the tax credits being transferred, and any other
 37 information deemed necessary by the secretary.

38 (2) Notwithstanding any other provision of law to the contrary, no issuance
 39 or transfer of tax credits after January 1, 2014, shall be effective as to third parties
 40 nor recognized by the department until it has been recorded in the registry.

41 (3) The effectiveness of a tax credit transfer as between the transferor and
 42 the transferee shall be provided by agreement of the parties or, in the absence of an
 43 agreement, in accordance with the provisions of the Louisiana Civil Code and its
 44 ancillaries.

45 E. Disallowance and recapture of tax credits. A tax credit shall be
 46 disallowed and recaptured if the department or state agency issuing the tax credit
 47 finds that an individual or entity obtained a tax credit in violation of the provisions

1 of the statute authorizing issuance of the tax credit, including but not limited to fraud
 2 or misrepresentation. Any tax credit previously granted to an individual or entity,
 3 but later disallowed may be recovered by the secretary pursuant to the provisions of
 4 R.S. 47:1561. The provisions of this Subsection are in addition to and shall not limit
 5 the authority of the secretary of the department to assess, collect, or recapture under
 6 any other provision of law.

7 (1) If the transferor of a tax credit did not have the right to claim or use the
 8 tax credit at the time of the transfer, the transferee's recourse shall be against the
 9 transferor, as provided by agreement of the parties. The department shall warrant the
 10 validity of the information recorded in the registry for credits issued after January 1,
 11 2014. A good faith transferee, as determined by the department at the time of
 12 transfer, that relied on the validity of the credits recorded in the registry shall not be
 13 subject to the provisions of this Subsection. For purposes of this Subsection, "good
 14 faith" shall mean honesty in fact and the observance of reasonable commercial
 15 standards of fair dealing.

16 (2) Notwithstanding any other provision of law, the department may
 17 recapture any amounts and other damages from any individual or entity determined
 18 not to be in good faith as provided for in Paragraph (1) of Subsection E.

19 F. Prescription. (1) In case of disputed title to tax credits, prescription
 20 against assessment shall be suspended by any of the following:

21 (a) The filing of a summary proceeding in any state or federal court.

22 (b) A written agreement between all interested taxpayers and the secretary;

23 or

24 (c) The filing of any pleading, either by the secretary or any taxpayer, with
 25 the Board of Tax Appeals.

26
 27 (2) Prescription shall begin to run again upon the issuance of a final
 28 administrative decision, or by a judgment which has become final and non-
 29 appealable.

30 G. Registry Access. Information contained in the registry regarding the
 31 ownership of tax credits, all transfers of tax credits, and the value of tax credits shall
 32 be deemed personal and confidential under the provisions of R.S. 47:1508 and shall
 33 not be available to the public. The data compiled in the registry shall be available
 34 for cross-referencing by other state agencies; however, state agencies shall apply for
 35 access to the registry from the department and shall be subject to any permissions,
 36 restrictions, and conditions as determined by the department. Upon application by
 37 a transferor, on a form prescribed by the secretary, the department shall provide
 38 information sufficient to certify the transferor is the record owner of tax credits
 39 issued on or after January 1, 2014, which are registered in the transferor's name in
 40 the registry. The secretary shall prescribe the application required by the provisions
 41 of this Subsection to be submitted by a transferor to certify the record owner of tax
 42 credits.

43 H. Rules. The secretary of the department may promulgate rules and
 44 regulations in accordance with the Administrative Procedure Act as may be
 45 necessary to implement the provisions of this Section."

46 AMENDMENT NO. 5

47 On page 4, line 17, after "by rule." delete the remainder of the line and delete lines 18
 48 through 20 in their entirety and insert "The tax credit transfer value means the"

1 AMENDMENT NO. 6

- 2 On page 4, line 23, after "submitted to the" and before "shall" delete "office" and insert
3 "Department of Revenue"