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## DIGEST

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Leger

HB No. 377

**Abstract:** Requires the Dept. of Revenue to establish a tax credit registry to track transfers, claims, and refunds of tax credits and changes the time for reporting transfers of various tax credits from 30 days to 10 business days.

Proposed law provides for the establishment of a central tax credit registry within the Department of Revenue (DOR) for the registration and recordation of tax credits granted, issued, and authorized by the state and any subsequent transfers.

Proposed law provides definitions for "identification number", "tax credit certificate", "transfer", and "transferor".

Proposed law requires that, beginning Jan. 1, 2014, all state agencies issuing tax credits to promptly send a copy of any newly granted, issued, or authorized tax credit certificates to the DOR. Upon receipt of this information, DOR shall assign an identifying number to each tax credit, and shall record the tax credit into the registry along with the name of the individual or entity issued the tax credit, the amount of the tax credit, and any other information deemed necessary by the secretary.

Proposed law requires any state agency that issues or authorizes tax credits to remit an electronic report no later than Jan. 31, 2014, of all tax credit certificates issued prior to Jan. 1, 2014. Further requires the department to endeavor to record all tax credit transfers which occurred prior to Jan. 1, 2014, into the registry.

Proposed law requires joint notice from the transferor and the transferee of all tax credit transfers to be submitted to the DOR. Upon receipt of the applicable tax credit information, DOR shall record the transfer of the tax in the registry. Further provides that no issuance or transfer of tax credits after Jan. 1, 2014, shall be effective as to third parties nor recognized by DOR until it has been recorded in the registry.

Proposed law provides for the disallowance and recapture of tax credits if DOR or the agency issuing the tax credit finds that an individual or entity obtained a tax credit in violation of present law, including but not limited to fraud or misrepresentation.

Proposed law provides that if the transferor of a tax credit did not have the right to claim or use the tax credit at the time of the transfer, the transferee's recourse shall be against the transferor, as provided by agreement of the parties. Further provides that DOR shall warrant the validity of the

information recorded in the registry for credits issued after Jan. 1, 2014.

Proposed law provides that in case of disputed title to tax credits, prescription against assessment shall be suspended by the filing of a summary proceeding in any state or federal court, the filing of a written agreement between all interested taxpayers and the secretary, or the filing of any pleading with the Board of Tax Appeals.

Proposed law provides that information in the registry regarding the ownership and value of tax credits and all transfers of tax credits shall be deemed personal and confidential and shall not be available to the public. Further provides that data compiled in the registry shall be available for cross-referencing by other state agencies; however, state agencies shall apply for access to the registry from the department and shall be subject to any permissions, restrictions, and conditions as determined by the department.

Proposed law authorizes the department to promulgate rules and regulations as are necessary to implement the provisions of proposed law.

Present law provides for various tax credit programs, including but not limited to the motion picture investor, new markets, rehabilitation of historic structures, Angel Investor, Brownfields Investor, digital interactive media and software, and musical and theatrical production tax credits. Present law requires, in cases of transferable tax credits, for the transferor and the transferee to submit to the agency administering the tax credit and the department written notification of the transfer or sale of the tax credit within 30 days of the transfer. Proposed law retains present law but changes the period of written notification from 30 days of the transfer or sale of the credit to 10 business days of the transfer or sale of the credit.

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

(Amends R.S. 44:4.1(B)(32) and R.S. 47:6007(C)(4)(b), 6016(F)(1)(b), 6019(A)(3)(b)(i)(cc), 6020(F)(2), 6021(I)(2), 6022(E)(1)(e)(ii), and 6034(D)(1); Adds R.S. 47:1508(B)(33) and 1524)

### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Ways and Means to the original bill.

1. Provided for an exception to the confidentiality of tax records for the furnishing of information as requested by a transferor of tax credits.
2. Changed the date from Sept. 1, 2013, to Jan. 1, 2014, that tax credits must be registered in order to be eligible for transfer.
3. Deleted requirements that transfers or claims against tax credits be registered no later than 10 business days within the date of transfer, claim, or refund of the tax credit and that only properly registered tax credits shall be eligible for transfer.
4. Added provision that no issuance or transfer of tax credits after Jan. 1, 2014, shall be effective as to third parties nor recognized by the DOR until it has been recorded in the registry.
5. Deleted requirement that state agencies which issued tax credits prior to Sept. 1, 2013, remit all information the agency retained regarding the tax credit to the department for entry into the registry. Additionally, deletes requirement that the owner of a tax credit issued prior to Sept. 1, 2013, remit all necessary information to the department or state agency which issued the original credit for entry into the centralized registry.
6. Added provision that makes it the responsibility of the state agency which issued tax credits to report the issuance of the credit to DOR for input in the registry. Further requires state agencies to report to DOR no later than Jan. 31, 2014, all tax credit certificates issued by such agency prior to Jan. 1, 2014.
7. Added requirement that DOR warrant the validity of the information recorded in the registry for credits issued after Jan. 1, 2014.
8. Added provisions for the disallowance and recapture of tax credits and for when prescription begins to run in the case of disputed title of tax credits.