

SENATE BILL NO. 13

BY SENATORS WARD, BARROW, BERNARD, BOUIE, CARTER, CLOUD, CORTEZ, FIELDS, HARRIS, JACKSON, LUNEAU, MCMATH, MILLIGAN, ROBERT MILLS, MIZELL, PRICE, REESE, SMITH AND TARVER AND REPRESENTATIVES ADAMS, AMEDEE, BACALA, BAGLEY, BUTLER, CARRIER, DAVIS, EDMONDS, FARNUM, FIRMENT, FREEMAN, FREIBERG, GADBERRY, GOUDEAU, GREEN, HARRIS, HORTON, JENKINS, MIKE JOHNSON, LARVADAIN, MCCORMICK, MCFARLAND, MCKNIGHT, MCMAHEN, MIGUEZ, CHARLES OWEN, PIERRE, RISER, ROMERO, SCHAMERHORN, SEABAUGH, SELDERS, STEFANSKI AND THOMAS

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AN ACT

To amend and reenact R.S. 47:6016.1(B), (C), (E)(5) and (7), (F), (G), (H)(1)(b), and (J)(1) and to enact R.S. 47:6016.1(E)(1)(f), relative to the Louisiana New Markets Jobs Tax Credit; to provide relative to eligibility for the credit; to provide for definitions; to provide for an additional allocation of qualified equity investment authority; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:6016.1(B), (C), (E)(5) and (7), (F), (G), (H)(1)(b), and (J)(1) are hereby amended and reenacted and R.S. 47:6016.1(E)(1)(f) is hereby enacted to read as follows:

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

* * *

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

1 context:

2 (1)~~(a)~~ "Applicable percentage" means fourteen percent for the first and
3 second credit allowance dates and eight and one-half percent for the third and fourth
4 credit allowance dates for all qualified equity investments issued after August 1,
5 2013, and before August 1, 2020.

6 (b) "Applicable percentage" means fifteen percent for the fourth
7 through sixth credit allowance dates and ten percent for the seventh credit
8 allowance for all qualified equity investments issued on or after August 1, 2020.

9 (2) "Credit allowance date" means, with respect to any qualified equity
10 investment, the following:

11 (a) The date on which such investment is initially made.

12 (b) Each of the six anniversary dates of such date thereafter.

13 (3) "Department" means the Department of Revenue, unless otherwise noted.

14 (4) "Impact business" means a qualified active low-income community
15 business located in Louisiana that is either located in a rural parish or more
16 than fifty percent owned by women, minorities, or military veterans.

17 ~~(4)~~(5) "Purchase price" means the amount paid to the issuer of a qualified
18 equity investment for such qualified equity investment.

19 (6) "Rural parish" means a parish with a population less than one
20 hundred thousand as of the July 1, 2019, census estimate by the United States
21 Census Bureau.

22 ~~(5)~~(7) "Qualified active low-income community business" has the meaning
23 given such term in Section 45D of the Internal Revenue Code of 1986, as amended,
24 and 26 CFR 1.45D-1. With respect to qualified equity investments issued on or
25 after August 1, 2020, a qualified active low-income community business shall
26 also be engaged in an industry assigned a primary North American Industry
27 Classification System code within sector 11, 21, 23, 31, 32, 33, 42, 48, 49, 54, 56,
28 62, 72, or 81 and have total employees that do not exceed the greater of two
29 hundred fifty and the number of employees set forth for the business's North
30 American Industry Classification System code sector in 13 CFR 121.201.

1 ~~(6)~~**(8)** "Qualified community development entity" has the meaning given
 2 such term in Section 45D of the Internal Revenue Code of 1986, as amended;
 3 provided that such entity has entered into, for the current year or any prior year, an
 4 allocation agreement with the Community Development Financial Institutions Fund
 5 of the U.S. Department of Treasury with respect to credits authorized by Section 45D
 6 of the Internal Revenue Code of 1986, as amended, which includes the state of
 7 Louisiana within the service area set forth in such allocation agreement. The term
 8 shall include qualified community development entities that are controlled by or
 9 under common control with any such qualified community development entity. **With**
 10 **respect to qualified equity investments issued on or after August 1, 2020, the**
 11 **term excludes any qualified community development entity that, together with**
 12 **its affiliates, has invested less than one hundred million dollars in Louisiana**
 13 **qualified active low-income community businesses or other Louisiana**
 14 **investments.**

15 ~~(7)~~**(9)** "Qualified equity investment" means any equity investment in a
 16 qualified community development entity that meets each of the following criteria:

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

20 (b) Has at least one hundred percent of its cash purchase price used by the
 21 issuer to make qualified low-income community investments in qualified active low-
 22 income community businesses located in this state by the first anniversary of the
 23 initial credit allowance date **with respect to qualified equity investments issued**
 24 **prior to August 1, 2020, and within nine months of the initial credit allowance**
 25 **date with respect to qualified equity investments issued on or after August 1,**
 26 **2020.**

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

30 ~~(8)~~**(10)** "Qualified low-income community investment" means any capital or

1 equity investment in, or loan to, any qualified active low-income community
 2 business. With respect to any one qualified active low-income community business,
 3 the maximum amount of qualified low-income community investments made in that
 4 business, on a collective basis with all of its affiliates that may be counted towards
 5 satisfaction of Subparagraph ~~(7)~~(9)(b) of this Subsection is ten million dollars **for**
 6 **qualified equity investments issued prior to August 1, 2020, and five million**
 7 **dollars for qualified equity investments issued on or after August 1, 2020,**
 8 whether issued by one or several qualified community development entities. Any
 9 amounts returned or repaid by such qualified active low-income community business
 10 to a qualified community development entity may be reinvested in such qualified
 11 active low-income community business by such qualified community development
 12 entity and not be counted against the ten million dollar limit provided for in this
 13 Paragraph.

14 ~~(9)~~(11) "State premium tax liability" means any liability incurred by any
 15 entity under the provisions of R.S. 22:831, 836, 838, and 842 **except for liability**
 16 **incurred under R.S. 22:842(C).**

17 C. * * *

18 (2) The amount of the credit claimed by an entity shall not exceed the amount
 19 of such entity's state premium tax liability for the tax year for which the credit is
 20 claimed. Any amount of tax credit that the entity is prohibited from claiming in a
 21 taxable year as a result of this Paragraph may be carried forward for use in future
 22 taxable years for a period not to exceed ~~ten~~ **five** years.

23 * * *

24 E.(1) A qualified community development entity that seeks to have an equity
 25 investment designated as a qualified equity investment and eligible for tax credits
 26 under this Section shall apply to the department. On a form prescribed by the
 27 department, the qualified community development entity shall include each of the
 28 following in or attached to its application:

29 * * *

30 **(f) Evidence that the applicant, on a collective basis with its affiliates, has**

1 invested at least one hundred million dollars in Louisiana qualified active
 2 low-income community businesses or other Louisiana investments.

3 * * *

4 (5)(a) A total of fifty-five million dollars of qualified equity investment
 5 authority shall be available for certification and allocation. The department shall
 6 accept applications beginning on August 1, 2013, for allocation and certification of
 7 up to fifty-five million dollars of qualified equity investments.

8 (b) A total of seventy-five million dollars of qualified equity investment
 9 authority shall be available for certification and allocation for applications
 10 beginning August 1, 2020. The department shall accept applications beginning
 11 on August 1, 2020, for allocation and certification of up to seventy-five million
 12 dollars of qualified equity investments.

13 (c) If a pending request cannot be fully certified due to these limits of
 14 qualified equity investment authority, the department shall certify the portion of
 15 qualified equity investment authority that may be certified unless the qualified
 16 community development entity elects to withdraw its request rather than receive
 17 partial certification.

18 * * *

19 (7) Within thirty days of the applicant receiving certification of qualified
 20 equity investment authority, the qualified community development entity or any
 21 transferee under Paragraph (6) of this Subsection shall issue the qualified equity
 22 investment, receive cash in the amount of the certified amount; and, with respect to
 23 qualified equity investments issued before August 1, 2020, designate an amount
 24 equal to the certified amount as a federal qualified equity investment with the
 25 Community Development Financial Institutions Fund. The qualified community
 26 development entity or transferee under Paragraph (6) of this Subsection shall provide
 27 the department with evidence of the receipt of the cash investment and, with respect
 28 to qualified equity investments issued before August 1, 2020, designation of the
 29 qualified equity investment as a federal qualified equity investment within five
 30 business days after receipt. If the qualified community development entity or any

1 transferee pursuant to Paragraph (6) of this Subsection does not receive the cash
 2 investment within thirty days following receipt of the certification notice, the
 3 certification shall lapse and the entity may not issue the qualified equity investment
 4 without reapplying to the department for certification. Lapsed certifications revert
 5 back to the department and shall be reissued, first, pro rata to other applicants whose
 6 qualified equity investment allocations were reduced pursuant to Paragraph (4) of
 7 this Subsection and, thereafter, in accordance with the application process.

8 F. The Department of Insurance shall recapture, from the entity that claimed
 9 the credit on a return, the tax credit allowed pursuant to this Section if ~~either~~ any of
 10 the following occur:

11 (1) Any amount of a federal tax credit available with respect to a qualified
 12 equity investment that is eligible for a credit under this Section is recaptured under
 13 Section 45D of the Internal Revenue Code of 1986, as amended. In such case, the
 14 Department of Insurance's recapture shall be proportionate to the federal recapture
 15 with respect to ~~such~~ the qualified equity investment.

16 (2) The **With respect to qualified equity investments issued before**
 17 **August 1, 2020, the** issuer fails to invest an amount equal to one hundred percent of
 18 the purchase price of the qualified equity investment in qualified low-income
 19 community investments in Louisiana within twelve months of the issuance of the
 20 qualified equity investment.

21 **(3) With respect to qualified equity investments issued on or after**
 22 **August 1, 2020, the issuer fails to invest an amount equal to one hundred**
 23 **percent of the purchase price of the qualified equity investment in qualified**
 24 **low-income community investments in Louisiana within nine months of the**
 25 **issuance of the qualified equity investment with at least fifty percent of the**
 26 **purchase price invested in qualified low-income community investments in**
 27 **impact businesses.**

28 **(4) The issuer fails to** and maintain such ~~level~~ levels of investment **set forth**
 29 **in Paragraphs (2) and (3) of this Subsection** in qualified low-income community
 30 investments in Louisiana until the last credit allowance date for the qualified equity

1 investment. For purposes of this Section, an investment shall be considered held by
 2 an issuer even if the investment has been sold or repaid if the issuer reinvests an
 3 amount equal to the capital returned to or recovered by the issuer from the original
 4 investment, exclusive of any profits realized, in another qualified low-income
 5 community investment within twelve months of the receipt of ~~such~~ the capital.
 6 Periodic amounts received during a calendar year as repayment of principal on a loan
 7 that is a qualified low-income community investment shall be treated as continuously
 8 invested in a qualified low-income community investment if the amounts are
 9 reinvested in another qualified low-income community investment by the end of the
 10 following calendar year as set forth in 26 CFR 1.45D-1. An issuer shall not be
 11 required to reinvest capital returned from qualified low-income community
 12 investments after the sixth anniversary of the issuance of the qualified equity
 13 investment, the proceeds of which were used to make the qualified low-income
 14 community investment, and the qualified low-income community investment shall
 15 be considered held by the issuer through the seventh anniversary of the qualified
 16 equity investment's issuance.

17 G. Enforcement of the recapture provisions of Subsection F of this Section
 18 shall be subject to a six-month cure period with respect to qualified equity
 19 investments issued before August 1, 2020, and a three-month cure period with
 20 respect to qualified equity investments issued on or after August 1, 2020. No
 21 recapture shall occur until the qualified community development entity has been
 22 given notice of noncompliance by the Department of Insurance and afforded six
 23 months from the date of such notice to cure the noncompliance.

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

29 * * *

30 (b) The qualified community development entity or any transferee pursuant

1 to Paragraph (E)(6) of this Section that issues a qualified equity investment certified
 2 pursuant to this Section fails to meet the investment requirement under Paragraph
 3 (F)(2) of this Section by the second credit allowance date of such benefit of the six-
 4 month cure period established pursuant to Subsection G of this Section or
 5 **Paragraph (F)(3) of this Section by the nine-month anniversary of the initial**
 6 **credit allowance date without the benefit of the three-month cure period**
 7 **established pursuant to Subsection G of this Section.**

8 * * *

9 J.(1)(a) Qualified community development entities that issue qualified equity
 10 investments **before August 1, 2020,** shall submit a report to the department within
 11 the first five business days after the first anniversary of the initial credit allowance
 12 date that provides documentation as to the investment of one hundred percent of the
 13 purchase price in qualified low-income community investments in qualified active
 14 low-income community businesses located in Louisiana. ~~Such~~ **The** report shall
 15 include:

16 ~~(a)~~(i) A bank statement of ~~such~~ **the** qualified community development entity
 17 evidencing each qualified low-income community investment.

18 ~~(b)~~(ii) Evidence that ~~such~~ **the** business was a qualified active low-income
 19 community business at the time of such qualified low-income community
 20 investment.

21 **(b) Qualified community development entities that issue qualified equity**
 22 **investments on or after August 1, 2020, shall submit a report to the department**
 23 **within the first five business days after the nine-month anniversary of the initial**
 24 **credit allowance date that provides documentation as to the investment of one**
 25 **hundred percent of the purchase price in qualified low-income community**
 26 **investments in qualified active low-income community businesses, including**
 27 **qualified low-income community investments made in satisfaction of Paragraph**
 28 **(F)(3) of this Section, located in Louisiana. The report shall include:**

29 **(i) A bank statement of the qualified community development entity**
 30 **evidencing each qualified low-income community investment.**

