

2017 Regular Session

HOUSE BILL NO. 454

BY REPRESENTATIVE ABRAMSON

TAX CREDITS: Extends the sunset and provides for the amount of the Angel Investor Tax Credit

1 AN ACT

2 To amend and reenact R.S. 47:6020(C)(2)(b), (D)(1), (2)(a) and (b), and (5)(a) and (b), and

3 (F)(2), to enact R.S. 47:6020(G), and to repeal R.S. 47:6020(D)(1) and (2)(a) and

4 Section 3 of Act No. 414 of the 2011 Regular Session of the Legislature, as amended

5 by Act No. 104 of the 2015 Regular Session of the Legislature relative to tax credits;

6 to provide for the termination date for the Angel Investor Tax Credit Program; to

7 provide for the amount of the credit; to provide with respect to the claiming of the

8 credit; to provide for effectiveness; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 47:6020(G) is hereby enacted to read as follows:

11 §6020. Angel Investor Tax Credit Program

12 * * *

13 G. The provisions of this Section shall be null and void and of no effect on

14 and after July 1, 2021.

15 Section 2. R.S. 47:6020(C)(2)(b), (D)(1), (2)(a) and (b), and (5)(a) and (b), and

16 (F)(2) are hereby amended and reenacted to read as follows:

17 §6020. Angel Investor Tax Credit Program

18 * * *

19 C. Qualifications.

20 * * *

1 (2) To qualify for an angel investor tax credit, the Louisiana Entrepreneurial
2 Business in which the investment is made shall meet all the following requirements:

3 * * *

4 (b) Prior to the ~~investment~~ award of the credit, the department has ~~approved~~
5 certified the business as ~~one which may receive investments which may qualify for~~
6 ~~a tax credit~~ a Louisiana Entrepreneurial Business under the program.

7 * * *

8 D. Tax credits. (1) The total amount of tax credits granted by the
9 department in any calendar year shall not exceed three million six hundred thousand
10 dollars. The department shall by rule establish the method of allocating available tax
11 credits to investors including but not limited to a first-come, first-served system,
12 reservation of tax credits for a specific time period, or other method which the
13 department, in its discretion, may find beneficial to the program. If the department
14 does not grant the entire three million six hundred thousand dollars in tax credits in
15 any calendar year, the amount of residual unused tax credits shall carry forward to
16 subsequent calendar years and may be granted in any year without regard to the three
17 million six hundred thousand dollar per year limitation. After the approval of an
18 investor pool, the department shall issue a letter identifying the amount of tax credits
19 that are available to that pool; however, no tax credit shall be granted to an investor
20 until the investment has been made in the Louisiana Entrepreneurial Business.

21 (2)(a) An investor may apply for and, if qualified, be granted a credit on any
22 income or corporation franchise tax liability owed to the state by the taxpayer
23 seeking to claim the credit in the amount approved by the secretary of the
24 department. The amount of the tax credit shall be based upon the amount of money
25 invested by the investor in the Louisiana Entrepreneurial Business, which investment
26 shall not exceed seven hundred twenty thousand dollars per year per business and
27 one million four hundred forty thousand dollars total per business. Except as
28 otherwise provided in Subparagraph (b) of this Paragraph, the credit shall be allowed
29 against the income tax for the taxable period in which the credit is earned and the

1 franchise tax for the taxable period following the period in which the credit is earned.

2 The credits approved by the department shall be granted at the rate of twenty-five

3 percent of the amount of the investment with the credit divided in equal portions for

4 three years.

5 (b) After certifying the eligibility of the Louisiana Entrepreneurial Business
6 and the amount of the investment, the secretary of the department shall issue a tax
7 credit certificate, a copy of which is to be attached to the tax return of the angel
8 investor. The tax credit available in the first year shall become deductible from tax
9 liability in the taxpayer's income tax year which occurs twenty-four months from the
10 date the department certifies the amount of the investment.

11 * * *

12 (5)(a) If at the close of any calendar year in the five-year period beginning
13 with the first year in which a tax credit certificate was issued to an investor, the
14 Louisiana Entrepreneurial Business is no longer domiciled in Louisiana, the tax
15 credit shall be recaptured from the investor unless change of domicile is the result
16 of a merger, consolidation, or other acquisition of such business or all or
17 substantially all of the assets of the business with or by a party not affiliated with the
18 business.

19 (b) If at the close of any calendar year in the three-year period beginning
20 with the first year a tax credit certificate was issued to an investor, the investor
21 transfers the equity received in connection with the qualified investment, the tax
22 credit shall be recaptured from the investor unless the transfer results from any of the
23 following circumstances:

24 (i) The liquidation of the business issuing the equity;

25 (ii) The merger, consolidation, or other acquisition of ~~such~~ the business or
26 all or substantially all of the assets of the business with or by a party not affiliated
27 with the business; ~~or~~

28 (iii) The death of the investor: ~~;~~ or

1 (iv) The investor transfers the equity in the Louisiana Entrepreneurial
2 Business to an entity, trust, or other organization under the control of the investor.
3 For purposes of this Subparagraph, an entity shall be deemed to be in control of an
4 investor if the investor is the beneficiary owner of at least a majority of the
5 outstanding equity securities of the entity or has the right to control the voting power
6 of the entity, trust, or other organization to which the securities are transferred.

7 * * *

8 F. Transferability of the credit. Any Angel Investor Tax Credits not
9 previously claimed by any taxpayer against its tax may be transferred or sold to
10 another Louisiana taxpayer, subject to the following conditions:

11 * * *

12 (2) Transferors and transferees shall submit to the Department of Revenue,
13 in writing, a notification of any transfer or sale of tax credits within ten business days
14 after the transfer or sale of such tax credits. The notification shall include the
15 transferor's tax credit balance prior to transfer, a copy of any tax credit certificate
16 issued by the secretary of the Department of Economic Development, the transferor's
17 remaining tax credit balance after transfer, all tax identification numbers for both
18 transferor and transferee, the date of transfer, the amount transferred, the price paid
19 by the transferee to the transferor, and any other information required by the
20 department or the Department of Revenue. Any information submitted by a
21 transferor or transferee shall be treated by the department and the Department of
22 Revenue as proprietary to the entity or person reporting such information and
23 therefore confidential. However, this shall not prevent the publication of summary
24 data that includes no fewer than three transactions.

25 * * *

26 Section 3. The provisions of Section 5 of Act No. 125 of the 2015 Regular Session
27 of the Legislature of Louisiana amending R.S. 47:6020(D)(1) and (2)(a) and Section 3 of Act
28 No. 414 of the 2011 Regular Session of the Legislature as amended by Act No. 104 of the
29 2015 Regular Session of the Legislature are hereby repealed in their entirety.

- 1 Section 4. Sections 1, 4, and 5 of this Act shall become effective on July 1, 2017.
- 2 Section 5. Sections 2 and 3 of this Act shall become effective on July 1, 2018.

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 454 Reengrossed

2017 Regular Session

Abramson

Abstract: Extends the sunset of the Angel Investor Tax Credit Program and provides for the amount of and period of time to claim the credit.

Present law establishes the Angel Investor Tax Credit Program which authorizes a tax credit for certain investments in a qualifying 'La. Entrepreneurial Business' (business), as such term is defined under present law. The program is administered by the Dept. of Economic Development (Dept.).

Present law sunsets the program on July 1, 2017.

Proposed law extends the sunset through July 1, 2021.

Present law establishes requirements for eligibility of investments for award of the tax credit, including a requirement that prior to an investment in a business, the business shall have been approved by the Dept. as one which meets the qualifications of a La. Entrepreneurial Business.

Proposed law changes present law by changing the conditions based on the timing of the Dept.'s certification of the La. Entrepreneurial Business from before the investment is made to before the award of the tax credit.

Present law effective July 1, 2018, provides that the amount of the tax credit shall be equal to 35% of the amount of the investment, and that the credit be divided into equal portions over five years.

Proposed law changes present law effective July 1, 2018, by reducing the amount of the credit from 35% to 25% of the investment, and by reducing the number of years over which the credit shall be taken from five to three years.

Present law effective July 1, 2018, limits the amounts of qualified investments which may be made in a La. Entrepreneurial Business, with an annual limit of \$1 million per year per business, and an overall total limit per business of \$2 million.

Proposed law changes present law effective July 1, 2018, by reducing the annual limit per business from \$1 million to \$720,000, and the overall limit per business from \$2 million to \$1.44 million.

Present law establishes conditions under which a tax credit shall be recaptured from an investor during the three-year period after the tax credit certificate is issued based upon the the investor transferring the equity received in connection with the qualified investment.

Proposed law changes present law by adding an exception for the instance where the investor transfers the equity in the business to an entity, trust, or other organization under the control of the investor.

Provisions of proposed law concerning the sunset of the program and effectiveness provisions of this Act become effective July 1, 2017.

Provisions of proposed law concerning the amount of the credit, the number of years over which it may be taken, and other program modifications become effective July 1, 2018.

(Amends R.S. 47:6020(C)(2)(b), (D)(1), (2)(a) and (b), and (5)(a) and (b), and (F)(2); Adds R.S. 47:6020(G); Repeals R.S. 47:6020(D)(1) and (2)(a) and Sec. 3 of Act No. 414 of the 2011 R.S. as amended by Act No. 104 of the 2015 R.S.)

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Change the number of years during which the credit is paid out from two to three.
2. Remove the reduction in the duration of the waiting period for the time until the credit can be taken.
3. Repeal obsolete provisions from Act No. 414 of the 2011 R.S.