

Regular Session, 2009

SENATE BILL NO. 339

BY SENATOR MARIONNEAUX

TAX/TAXATION. Provides relative to the Louisiana Capital Companies Tax Credit Program concerning the placement of the investment pool in qualified investments. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 51:1927.1(C), relative to the Louisiana Capital Companies Tax
3 Credit Program; to provide relative to the placement of the investment pool in
4 qualified investments; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 51:1927.1(C) is hereby amended and reenacted to read as follows:

7 §1927.1. Annual audit; annual rate of return; appreciation excess; remittance to
8 Louisiana Economic Development Fund

9 * * *

10 C. The calculation of internal rate of return shall include all cash distributions
11 to equity investors out of the certified capital company's investment pool, except for
12 tax distributions and management fees. Management fees shall not exceed two and
13 one-half percent per annum of the total certified capital of the pool without the prior
14 approval of the secretary. Notwithstanding any other provisions in this Chapter to the
15 contrary, for all certified capital pools formed after December 31, 2001, if a certified
16 Louisiana capital company does not place (1) forty percent of the investment pool
17 in qualified investments within three years after the investment date, (2) sixty percent

1 of the investment pool in qualified investments within five years of the investment
 2 date, and (3) upon the certified Louisiana capital company's option either (a) one
 3 hundred percent of the investment pool in qualified investments within seven years
 4 of the investment date or (b) one hundred and ten percent of the investment pool
 5 in qualified investments within eight years of the investment date, then following
 6 a decertification pursuant to R.S. 51:1928(B)(3), such company shall remit to the
 7 Louisiana Economic Development Fund twenty-five percent of all distributions,
 8 other than tax distributions and management fees, until the Louisiana Economic
 9 Development Fund shall have received one hundred percent of the tax credits granted
 10 for such pool and thereafter the company shall remit ten percent of all distributions,
 11 other than tax distributions and management fees to the Louisiana Economic
 12 Development Fund. If a certified Louisiana capital company has not decertified an
 13 investment pool formed after December 31, 2001, pursuant to R.S. 51:1928(B)(3)
 14 within ten years from the investment date, such company shall remit to the Louisiana
 15 Economic Development Fund fifty percent of all distributions until the Louisiana
 16 Economic Development Fund shall have received one hundred percent of the tax
 17 credits granted for such pool, and thereafter the company shall remit twenty percent
 18 of all distributions to the Louisiana Economic Development Fund.

19 * * *

20 Section 2. This Act shall become effective upon signature by the governor or, if not
 21 signed by the governor, upon expiration of the time for bills to become law without signature
 22 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 23 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 24 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 Jerry J. Guillot.

DIGEST

Present law, relative to the Louisiana Capital Companies Tax Credit Program, provides that the calculation of internal rate of return shall include all cash distributions to equity investors out of the certified capital company's investment pool, except for tax distributions and management fees. Provides that management fees shall not exceed two and one-half percent

per annum of the total certified capital of the pool without the prior approval of the secretary.

Present law provides for all certified capital pools formed after December 31, 2001, if a certified Louisiana capital company does not place (1) 40% of the investment pool in qualified investments within three years after the investment date, (2) 60% of the investment pool in qualified investments within five years of the investment date, and (3) 100% of the investment pool in qualified investments within seven years of the investment date, then following a decertification pursuant to present law, such company shall remit to the Louisiana Economic Development Fund 25% of all distributions, other than tax distributions and management fees, until the Louisiana Economic Development Fund shall have received 100% of the tax credits granted for such pool and thereafter the company shall remit 10% of all distributions, other than tax distributions and management fees to the Louisiana Economic Development Fund. Provides that if a certified Louisiana capital company has not decertified an investment pool formed after December 31, 2001, pursuant present law within 10 years from the investment date, such company shall remit to the Louisiana Economic Development Fund 50% percent of all distributions until the Louisiana Economic Development Fund shall have received 100% of the tax credits granted for such pool, and thereafter the company shall remit 20% of all distributions to the Louisiana Economic Development Fund.

Proposed law provides for all certified capital pools formed after December 31, 2001, if a certified Louisiana capital company does not place (1) 40% of the investment pool in qualified investments within three years after the investment date, (2) 60% of the investment pool in qualified investments within five years of the investment date, and (3) upon the company's option either (a) 100% of the investment pool in qualified investments within seven years of the investment date or (b) 110% of the investment pool in qualified investments within eight years of the investment date, then following a decertification pursuant to present law, such company shall remit to the Louisiana Economic Development Fund as provided in present law. Otherwise retains present law.

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

(Amends R.S. 51:1927.1(C))