

Regular Session, 2009

HOUSE BILL NO. 753

BY REPRESENTATIVE RICHMOND

TAX CREDITS: Increases the credit cap for a single business under the New Markets Tax Credit Program

1 AN ACT

2 To amend and reenact R.S. 47:6016(B)(1)(c) and (E), relative to the new markets tax credit;
3 to increase the maximum amount of qualified low-income community investments
4 that may be issued by a single business; to provide for the allocation of tax credits;
5 to provide for an effective date; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:6016(B)(1)(c) and (E) are hereby amended and reenacted to read
8 as follows:

9 §6016. New markets tax credit

10 * * *

11 B. As used in this Section, the following terms shall have the following
12 meanings:

13 (1) "Adjusted purchase price" shall mean the product of:

14 * * *

15 (c)(i) The maximum amount of qualified low-income community
16 investments that may be issued by a single business, on an aggregate basis with all
17 of its affiliates, and be included in the calculation of the fraction described in R.S.
18 47:6016(B)(1)(b) for qualified equity investments issued after July 1, 2007, and
19 before April 1, 2008, whether to one or more issuers of qualified equity investments,
20 shall not exceed fifteen million dollars.

21 (ii) For qualified equity investments issued on or after April 1, 2008, and
22 before October 1, 2009, the maximum amount of qualified low-income community

1 investments that may be issued by a single business, on an aggregate basis with all
2 of its affiliates, and be included in the calculation of the fraction described in R.S.
3 47:6016(B)(1)(b), whether to one or more issuers of qualified equity investments,
4 shall not exceed five million dollars.

5 (iii) For qualified equity investments issued on or after October 1, 2009, the
6 maximum amount of qualified low-income community investments that may be
7 issued by a single business, on an aggregate basis with all of its affiliates, and be
8 included in the calculation of the fraction described in R.S. 47:6016(B)(1)(b),
9 whether to one or more issuers of qualified equity investments, shall not exceed
10 seven million five hundred thousand dollars.

11 ~~(iii)~~ (iv) For qualified equity investments issued on or after April 1, 2008,
12 the maximum amount of qualified low-income community investments that may be
13 issued by a single business that are consistent with Department of Economic
14 Development target industries shall not exceed fifteen million dollars. Target
15 industries include but are not limited to the housing industry, the medical industry,
16 and the industries referenced in ~~R.S. 51:2453(2)(b)(i)~~ R.S. 51:2453(2)(b)(i). The
17 Department of Economic Development shall certify that qualified low-income
18 investments are consistent with the target industries. The taxpayer shall include any
19 Department of Economic Development certification with his application to the
20 Department of Revenue for credits.

21 (aa) The Department of Economic Development shall grant or deny a request
22 for certification as an investment consistent with the target industries no more than
23 sixty days after submission of the request.

24 (bb) If a request for certification is not denied within sixty days of the
25 certified delivery date of the request, as evidenced by a receipt from the United
26 States Postal Service or private delivery company, the request is deemed to be
27 granted certifying the investment as consistent with the target industries.

28 * * *

1 E.(1)(a) The aggregate amount of credit for all qualified equity investments
2 issued to taxpayers before July 1, 2007, under this Section shall not exceed five
3 million dollars, in the aggregate, annually.

4 (b) The aggregate amount of credit for all qualified equity investments issued
5 to taxpayers on and after July 1, 2007, and before April 1, 2008, under this Section
6 shall not exceed fifty million dollars in the aggregate over the life of the program.

7 (2)(a) The aggregate amount of credit for all qualified equity investments
8 issued to taxpayers, on or after April 1, 2008, under this Section shall not exceed
9 fifty million dollars in the aggregate over the life of the program, based upon the
10 following schedule:

11 (i) A maximum of twenty-five million dollars of the total aggregate amount
12 of credit shall be available for issuance during the period beginning April 1, 2008,
13 and ending December 31, 2008.

14 (ii) A maximum of twelve million five hundred thousand dollars of the total
15 aggregate amount of credit, plus any unissued credits from any prior taxable year,
16 shall be available for issuance during the period beginning on January 1, 2009, and
17 ending on ~~December 31, 2009~~ September 30, 2009.

18 (iii) A maximum of twelve million five hundred thousand dollars of the total
19 aggregate amount of credit, plus any unissued credits from any prior taxable year,
20 shall be available for issuance during the period beginning on ~~January 1, 2010~~
21 October 1, 2009, and ending on December 31, 2010.

22 (iv) For all taxable periods beginning on or after January 1, 2011, the only
23 amount of credit allowable for issuance shall be the amount of unissued, disallowed,
24 or recaptured credits from any prior taxable year.

25 (b) For purposes of this Subsection, the term "aggregate amount of credit"
26 shall mean the sum of credits from all applicable credit allowance dates due to an
27 investment.

1 (c) Qualified equity investments made after July 1, 2008, shall ~~only~~ be
2 eligible only for credits available for issuance during the period which includes the
3 initial credit allowance date.

4 (3)(a) An application for a tax credit pursuant to this Section shall be
5 submitted to the secretary on forms established by the secretary prior to the use of
6 the credit, and the allocation of tax credits under this Section shall be on a first-come,
7 first-served basis; however, all tax credit requests received on the same business day
8 shall be treated as received at the same time, and if the aggregate amount of the tax
9 credit requests received on a single business day exceed the total amount of available
10 tax credits, tax credits shall be approved on a pro rata basis.

11 (b) The secretary shall review all applications for tax credits and provide a
12 response to the applicant regarding the allocation no more than sixty days after
13 submission of the application.

14 (4)(a) All entities taxed as corporations for Louisiana income tax and
15 franchise tax purposes shall claim any credit allowed under this Section on their
16 corporation income and franchise tax return.

17 (b) Individuals, estates, and trusts shall claim any credit allowed under this
18 Section on their income tax return.

19 (c) Entities not taxed as corporations shall claim any credit allowed under
20 this Section on the returns of the partners or members as follows:

21 (i) Corporate partners or members shall claim their share of the credit on
22 their corporation income tax or franchise tax returns.

23 (ii) Individual partners or members shall claim their share of the credit on
24 their individual income tax or franchise tax returns.

25 (iii) Partners or members that are estates or trusts shall claim their share of
26 the credit on their fiduciary income tax returns.

27 (5) No credit issued on or after April 1, 2008, shall be claimed on a return
28 due on or before December 31, 2008.

- (a) 10% for the first two credit allowance dates.
- (b) 5% for the remainder.

Present law provides that the aggregate amount of credit for all qualified equity investments issued to taxpayers on or after April 1, 2008, shall not exceed \$50 million dollars in the aggregate based on the following schedule:

- (1) \$25 million between April 1, 2008, and Dec. 31, 2008.
- (2) \$12.5 million, plus any unissued credits from any prior taxable year, between Jan. 1, 2009, and Dec. 31, 2009.
- (3) \$12.5 million, plus any unissued credits from any prior taxable year, between Jan. 1, 2010, and Dec. 31, 2010.

Proposed law retains present law but changes the dates for issuance of tax credits on the schedule as follows:

- (1) \$12.5 million, plus any unissued credits from any prior taxable year, between Jan. 1, 2009, and Sept. 30, 2009.
- (2) \$12.5 million, plus any unissued credits from any prior taxable year, between Oct. 1, 2009, and Dec. 31, 2010.

Proposed law requires that all tax credit requests received on the same business day be treated as received at the same time, and if the aggregate amount of requests received on a single business day exceed the total amount of available tax credits, tax credits shall be approved on a pro rata basis.

Proposed law adds requirement that the secretary of the Dept. of Economic Development must review all applications for tax credits and provide a response no more than 60 days after submission of the application.

Proposed law adds that no credit issued on or after Oct. 1, 2009, shall be claimed on a return due on or before Dec. 31, 2010.

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

(Amends R.S. 47:6016(B)(1)(c) and (2) and (E))

Summary of Amendments Adopted by House

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

- 1. Changes the date the investment must be issued from on or after April 1, 2008, and before July 15, 2009 to on or after April 1, 2008, and before October 1, 2009.
- 2. Changes the date for issuance of qualified equity investments to qualify for the \$7.5 million cap from July 1, 2009, to October 1, 2009.
- 3. Extends the amount of time the Dept. of Economic Development has to grant or deny a request for certification from no more than 30 days after the request is submitted to no more than 60 days after the request is submitted.

4. Deletes changes in the definition of "applicable percentage" for qualified equity investments issued to taxpayers on or after July 15, 2009.
5. Decreases the maximum aggregate amount of the credit issued to taxpayers from \$62.5 million to \$50 million.
6. Changes the dates for issuance of \$12.5 million of the tax credits from between Jan. 1, 2009, and Dec. 31, 2009, to between Jan. 1, 2009, and Sept. 30, 2009.
7. Changes the increase in the aggregate amount of credits available for issuance from \$25 million to \$12.5 million and changes the dates for issuance of the tax credits from between Jan. 1, 2010, and Dec. 31, 2010, to between Oct. 1, 2009, and Dec. 31, 2010.
8. Provides for the allocation of credits received on the same business day.
9. Provides that no credit issued on or after Oct. 1, 2009, shall be claimed on a return due on or before Dec. 31, 2010.