DIGEST

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HB 45 Original | 2020 First Extraordinary Session | Duplessis

Abstract: Authorizes an additional allocation and certification of New Markets Tax Credits beginning August 1, 2020.

Present law establishes the La. New Markets Jobs Act to provide credits against the insurance premium tax. Eligibility for the credit is based on the investment of private capital in a low-income community business located in La.

Present law taxes insurers based on the amount of premiums, called a "premium tax".

Present law defines "qualified active low-income community business" (QALICB or business) as an entity which under federal law is defined as a business located in either a census tract with a poverty rate of at least 20% or a census tract with a median income that does not exceed 80% of the benchmark median income.

Proposed law retains present law but specifies that for qualified equity investments (QEI) issued after August 1, 2020, the QALICB shall be engaged in an industry assigned a North American Industry Classification System (NAICS) code of 11, 21, 23, 31, 32, 33, 42, 48, 49, 54, 56, 62, 72, or 81 and have a total number of employees that do not exceed the greater of either 250 or the number of employees set forth for the business's NAICS code sector as provided for in federal law.

Proposed law defines a "qualified community development entity" (QCDE or entity) as a privately managed investment entity that has received New Market Tax Credit allocation authority.

Proposed law retains present law but specifies that for purposes of QEIs issued after August 1, 2020, a QCDE excludes any entity that, together with its affiliates, has invested less than $100M in La. QALICBs or other La. investments.

Present law defines the types of investments required for tax credit eligibility. Further requires that the investment have at least 100% of its cash purchase price issued by the issuer by the first anniversary of the initial credit allowance date.

Proposed law retains present law but specifies that for purposes of QEIs issued after August 1, 2020, that the investment have at least 100% of its cash purchase price within nine months of the first anniversary of the initial credit allowance date.

Present law defines a "qualified low-income community investment" as any capital or equity investment to any QALICB. The maximum amount of qualified low-income community investments made in a business, on a collective basis, that may be counted towards satisfaction of its qualified equity investment is $10M for purposes of qualified equity investments issued prior to August 1, 2020.

Proposed law retains present law but specifies that for purposes of qualified low-income community investments issued after August 1, 2020,the maximum amount of qualified low-income community investments made in a business, on a collective basis, that may be counted towards satisfaction of its qualified equity investment is $5M.

Present law provides that the amount of the tax credit shall be the product of multiplying the amount of the investment purchase price by the following percentages: 14% for the first and second credit allowance dates and 8.5% for the third and fourth credit allowance dates. The total of all such credits taken cannot exceed the taxpayer's state premium tax liability for the tax year for which the credit is claimed; however, unused credits may be carried forward for up to 10 years. Unclaimed tax credits are transferable to one or more transferees.

Proposed law provides that for purposes of qualified equity investments issued after August 1, 2020, applicable percentage shall mean 0% for the first three credit allowance dates and 15% for the fourth through seventh credit allowance dates.

Present law requires that investments eligible for the award of tax credits be certified by the Dept. of Revenue. If an ACDE applies for certification of investments, the department shall inform such entity within 30 days of application whether there is certification or a denial of an application. In the case of a denial, the entity shall have the right to provide additional information regarding the application within 15 days of the denial.

Present law authorizes the department to allocate and certify up to $55,000,000 of QEI.

Proposed law authorizes, beginning August 1, 2020, the department to accept applications for an additional allocation and certification of up to $100M of QEI. Further requires the applicant, on a collective basis with its affiliates, to include evidence in its application for tax credits evidence of investment of at least $100M in.

Present law provides for conditions under which the Dept. of Insurance shall recapture tax credits which include a recapture of federal tax credits by the federal government, or a failure to invest an amount equal to 100% of the purchase price of the investment within 12 months of the issuance of the investment.

Proposed law retains present law buts adds a requirement that, purposes of QEI issued after August 1, 2020, the Dept. of Insurance shall recapture a tax credit if the issuer fails to invest an amount equal to 100% of the purchase price of the QEI in qualified low-income community investments in La. within nine months of the issuance of the QEI with at least 30% of the purchase price invested in qualified low-income community investments in impact businesses.

Proposed law defines an "impact business" as located in a rural parish with a population of less than 100,000 people as of the July 1, 2019, census estimate by the U.S. Census Bureau or a QALICB that is owned 50% or more by women, minorities, or veterans.

Present law requires enforcement of the recapture provisions in present law to be subject to a six-month cure period.

Proposed law requires enforcement of the recapture provisions in present law for QEI issued after August 1, 2020, to be subject to a three-month cure period.

Present law requires reporting by a QCDE to the Dept. of Revenue within five days of the first anniversary of the initial credit allowance date, as well as annual reporting with regard to the number of employment positions created and retained as a result of the investments and the average annual salary of such positions.

Proposed law retains present law but specifies that the reporting for QEI made after August 1, 2020, shall be due within the first five business days after the nine-month anniversary of the initial credit allowance date. Further requires the report to provide documentation as to the investment of 100% of the purchase price in investments in QALICBs and a bank statement evidencing each qualified low-income community investment and evidence that the business was a QALICB or impact business at the time of the investment.

Present law requires the Dept. of Revenue to notify the Dept. of Insurance of the name of any insurance company allocated tax credits, as well as the amount of any credits.

Proposed law authorizes the department to promulgate rules to implement the provisions of proposed law.

Effective July 1, 2020.

(Amends R.S. 47:6016.1(B), (E)(5) and (7), (F), (G), (H)(1)(b), and (J)(1); Adds R.S. 47:6016.1(E)(1)(f))