The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Danielle Doiron.

DIGEST

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

Proposed law creates the Louisiana New Markets Jobs Act which provides an income tax credit against the premium tax liability for any entity which makes an investment of private capital into a "qualified community development entity" (QCDE or "entity") located in Louisiana. The QCDE must have at least 100% of its cash purchase price used by the issuer to make "qualified low-income community investments" in "qualified active low-income community businesses" located in the state.

The tax credit is equal to 0% of the purchase price of the "qualified equity investment" [QEI] for the first two years and 10% of the purchase price for the next four years. The total of all such credits taken cannot exceed the entity's state premium tax liability for the tax year for which the credit is claimed; however, any credits that are not used are carried forward for up to 10 years. A total of $125,000,000 of QEI investment authority is available for certification and allocation by the Department of Insurance. The department is required to accept applications beginning September 1, 2013, for allocation of up to $62,500,000.00 of QEI.

"Qualified equity investment" [QEI or "investment"] is defined as an equity investment in a "qualified active low-income community business" (QALICB or "business") that meets certain criteria. A business is considered a QALICB for the duration of the qualified community development entity's investment in, or loan to, the business if the entity reasonably expects, at the time it makes the investment or loan, that the business will continue to satisfy the requirements for being a qualified active low-income community business throughout the entire period of the investment or loan.

Proposed law provides several definitions, including a "qualified community development entity" (QCDE or "entity") to mean that which is ascribed in Section 45D of the Internal Revenue Code. Under federal law, a QALICB 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. QCDE are privately managed investment entities that have received New Market Tax Credit allocation authority.

Proposed law provides that the premium tax credits earned by partnerships, limited liability companies, S-corporations, or other pass through entities can be allocated to the partners, members, or shareholders of such entities and provides that any unclaimed tax credits are transferable to one or more transferees.

Proposed law provides that a QCDE entity seeking to have an equity investment designated as a QEI investment must apply to the Department of Insurance (department) in an application for certification. Proposed law requires the department to grant or deny such application by a QCDE entity within 20 days after receipt. Further requires the department to inform such entity of the grounds for denial of any part of the application, extending such entity the right to provide additional information or to complete its application within 15 days of notice of the denial.

Proposed law requires the department to certify QEI investments in the order in which the applications are received by the department.

Proposed law requires QCDE entities or their transferees to issue the QEI investment within 30 days of receiving notice of certification. Further requires the entities or their transferees to provide the department with evidence of the receipt of the cash investment and the designation of the investment within five business days after receipt. Proposed law provides that in the event that a QCDE entity or its transferee does not receive the cash investment within 30 days of receipt of the certification notice, the certification lapses.

Proposed law further requires the department to recapture the tax credit from the entity that claimed such tax credit following the occurrence of either of the following events:

(1) Any amount of a federal tax credit available with respect to a QEI investment that is eligible for a credit under proposed law is recaptured under Section 45D of the Internal Revenue Code, as amended. Proposed law requires the department's recapture to be proportionate to the federal recapture.

(2) The issuer fails to invest an amount equal to 100% of the purchase price of the QEI investment in a QLICI investment in Louisiana within 12 months of the issuance of the QEI investment and to further maintain such level of investment until the last credit allowance date for the qualified equity investment.

Proposed law provides for a six month cure period before the department recaptures an entity's credits. A recapture can only occur after the entity has been given notice of noncompliance and six months from the date of such notice to cure such noncompliance.

Proposed law requires any QCDE entity seeking to have an equity investment qualified must pay a $500,000 deposit to the department for deposit in the New Markets performance guarantee account. Proposed law requires the department to hold the $500,000 deposit in the New Markets performance guarantee account until such time as the entity meets compliance standards set forth by proposed law. Further allows the entity to request a return of such deposit after 30 days of meeting compliance requirements.

Proposed law requires the department, upon request, to issue letter rulings regarding the tax credit program. Further requires the department to seek guidance from Section 45D of the Internal Revenue Code of 1986 in issuing such letter rulings and to respond to such requests within 60 days.

Proposed law requires QCDE entities that issue QEI investments to submit a report to the department within the first five business days after the first anniversary of the initial credit allowance date. Such report must provide documentation as to the investment of 100% of the purchase price in QLICI investments in a QALICB businesses located in Louisiana. Proposed law further requires the entity to submit an annual report to the department within 45 days of the beginning of the calendar year for the compliance period. The report must include the number of employment positions created and retained as a result of the investments and the average annual salary of such positions.

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

Proposed law applies to tax returns or reports originally due on or after January 1, 2014.

(Adds R.S. 22:832.1)