

SENATE BILL NO. 124

BY SENATOR BROOME

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AN ACT

To enact Subpart B-37 of Part IV of Chapter 1 of Title 33 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 33:130.731 through 130.737 and R.S. 47:6026, relative to community economic development entities and tax credits relating to these entities; to provide for community development corporations and community development financial institutions; to provide definitions; to provide for the duties and responsibilities of the Department of Economic Development relative to such entities; to provide for the establishment of criteria for such entities; to provide for community economic development tax credits; to provide for the expiration of such credits; to provide for audit and performance review procedures for such entities; to provide for the expiration of such provisions; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Subpart B-37 of Part IV of Chapter 1 of Title 33 of the Louisiana Revised Statutes of 1950, comprised of R.S. 33:130.731 through 130.737 is hereby enacted to read as follows:

SUBPART B-37. LOUISIANA COMMUNITY ECONOMIC

DEVELOPMENT ACT

§130.731. Louisiana Community Economic Development Act

1 This Subpart may be cited as the "Louisiana Community Economic
2 Development Act."

3 §130.732. Definitions

4 For the purposes of this Subpart, the following terms shall have the
5 following meanings, unless the context clearly indicates otherwise:

6 (1) "Community development corporation" means a nonprofit
7 corporation which satisfies all of the following:

8 (a) Is chartered pursuant to Chapter 2 of Title 12 of the Louisiana
9 Revised Statutes of 1950.

10 (b) Is tax exempt pursuant to Section 501(c)(3) of the Internal Revenue
11 Code of 1986, as amended.

12 (c) Has a primary mission of developing and improving low-income
13 communities and neighborhoods through economic and related development.

14 (d) Has activities and decisions initiated, managed, and controlled by the
15 constituents of the community served.

16 (e) Has a primary function of developing projects and activities designed
17 to enhance the economic opportunities of the people in the community served,
18 including efforts to enable them to become owners and managers of small
19 businesses, producers of affordable housing, and providers of jobs in the
20 community served.

21 (f) Does not provide credit, capital, or other assistance from public funds
22 in an amount greater than twenty-five thousand dollars at one time or in one
23 transaction.

24 (g) Is not a nonprofit organization with the sole purpose of providing
25 housing to neighborhoods or technical assistance to other nonprofit
26 organizations.

27 (h) Has been certified or re-certified as a community development
28 corporation as provided in this Subpart.

29 (2) "Community development financial institution" means an
30 organization which satisfies all of the following:

1 (a) Has a primary mission of promoting community development by
2 providing credit, capital, or development services to small businesses or home
3 mortgage assistance to individuals, including, but not limited to, capital access
4 programs, micro-lending, franchise financing, and guaranty performance
5 bonds.

6 (b) Maintains, through representation on its governing board,
7 accountability to persons in need of the institution's services.

8 (c) Is not an agent or instrumentality of the United States, or of a state
9 or political subdivision of a state, nor maintains an affiliate relationship with
10 any of these entities.

11 (d) Maintains a goal of providing a majority of its services to low-income
12 individuals, minorities, or females or in rural areas.

13 (e) Provides capital and technical assistance to small or micro-businesses
14 or mortgage assistance to individuals.

15 (f) Does not provide credit, capital, or other assistance in an amount
16 greater than two hundred fifty thousand dollars at one time or in one
17 transaction.

18 (g) Has been certified or re-certified as a community development
19 financial institution as provided in this Subpart.

20 (h) May be a federally-chartered or state-chartered financial institution
21 holding company which qualifies as a community development financial
22 institution only if the holding company and the subsidiaries and affiliates of the
23 holding company collectively satisfy the requirements of this Subpart.

24 (3) "Department" means the Louisiana Department of Economic
25 Development.

26 (4) "Low income" means an income level at or below eighty percent of
27 the mean income for a family of similar size within this state.

28 §130.733. Duties of the department

29 A. The department may use a portion of the funds appropriated for
30 carrying out the provisions of this Subpart to contract with an appropriate

1 entity or entities to assist in carrying out its duties and responsibilities pursuant
2 to this Subpart.

3 B. The duties and responsibilities of the department are as follows:

4 (1) Certifying entities as community development corporations and
5 community development financial institutions.

6 (2) Administering grants and loans to community development
7 corporations and community development financial institutions from grant
8 funds appropriated by the legislature for that specific purpose.

9 (3) Providing technical support to assist community development
10 corporations served pursuant to this Subpart in developing their organizational
11 capacity and implementing projects successfully.

12 (4) Certifying such donations, contributions, and sales below cost that
13 meet the criteria as eligible for a tax credit as specified in R.S. 47:6026.

14 C. The department shall make an annual report to the legislature no less
15 than thirty calendar days prior to each regular legislative session regarding the
16 grants and loans administered and tax credits given pursuant to this Subpart.
17 §130.734. Criteria for certification as a community development corporation
18 or a community development financial institution

19 A. The department shall establish criteria, by rule promulgated in
20 accordance with the Administrative Procedure Act, R.S. 49:950, et seq., for the
21 certification of an entity as a community development corporation and as a
22 community development financial institution consistent with the provisions of
23 this Subpart.

24 B. Application for certification shall comply with all the following:

25 (1) Be in writing, sworn to and signed before a notary public, and in the
26 form prescribed by the department in rule.

27 (2) Contain the information the department requires by rule, including,
28 but not limited to, the names and addresses of the partners, officers, directors
29 or trustees, and those principal owners or members. This information shall
30 provide the basis for investigations and findings contemplated by Subsection D

1 of this Section.

2 C. At the time application is made, the applicant shall pay to the
3 department a fee for investigating the application, as prescribed by the
4 department by rule, in an amount sufficient to defray the department's costs of
5 investigating the applicant.

6 D. Upon the filing of the application and the payment of the fees, the
7 department shall investigate the facts concerning the application and the
8 applicable requirements of Subsection B of this Section.

9 E. Certification of a community development corporation or a
10 community development financial institution shall expire two years from the
11 date of the certification. This certification may be renewed for subsequent two-
12 year periods upon application by the corporation or institution and approval by
13 the department.

14 F. Financial reports.

15 (1) Certified community development corporations and certified
16 community development financial institutions shall file with the department, on
17 or before the anniversary date of their certification, an annual financial report
18 for the preceding calendar year.

19 (2) An analysis and summary of these reports shall be included in the
20 department's annual report to the legislature.

21 (3) Such financial report shall be in writing, sworn to and signed by a
22 notary public, and in the form prescribed by the department by rule.

23 (4) Such financial report shall contain, but is not limited to, the
24 following information:

25 (a) Balance sheets for the beginning and end of the accounting period,
26 including a reconciliation of surplus.

27 (b) A statement of income and expenses for the period.

28 (c) A schedule of assets used by and useful for the corporation or
29 institution to conduct its business.

30 (d) An analysis of charges for the period.

1 (e) A statement of the size and type of loans, either owed by or owed to
2 the corporation or institution.

3 G. The department shall not renew certification of a corporation or an
4 institution upon a finding that the corporation or institution does not comply
5 with the applicable provisions of Subsection B of this Section.

6 H. The department shall revoke the certification of a corporation or an
7 institution upon the finding that the corporation or institution does not comply
8 with the applicable provisions of Subsection B of this Section.

9 I. Denial of certification, denial of renewal of certification or revocation
10 of certification.

11 (1) The department shall serve notice of intent not to grant certification,
12 intent not to renew a certification, or intent to revoke a certification upon the
13 corporation or institution with a brief statement of the reasons alleged.

14 (2) Such notice shall be served by certified mail or by mail service
15 requiring a return receipt.

16 (3) The corporation or institution may request a hearing within thirty
17 days of receiving notice by filing a request for a hearing with the department.
18 Such hearing shall be conducted pursuant to the provisions of the
19 Administrative Procedure Act, R.S. 49:950, et seq.

20 (4) The department shall certify such donations, contributions, and sales
21 below cost, as appropriate, as eligible for a tax credit, as specified in R.S.
22 47:6026.

23 §130.735. Grants and loans to community development corporations and
24 community development financial institutions

25 A. Criteria for grants and loans.

26 (1) The department shall establish and implement criteria for grants
27 and loans to community development corporations and community
28 development financial institutions.

29 (2) Grant and loan criteria shall be set forth in rules, promulgated in
30 accordance with the Administrative Procedure Act, R.S. 40:950, et seq.

1 (3) Such criteria shall require that an applicant demonstrate a capacity
 2 to engage in the community development projects and sufficient organizational
 3 structure to ensure proper management.

4 B. The total amount of grants and loans administered pursuant to this
 5 Subpart shall not exceed one million dollars for all recipients in any one fiscal
 6 year.

7 C. A single community development corporation or community
 8 development financial institution shall not receive more than ten percent of the
 9 total amount of grants and loans funds administered pursuant to this Subpart
 10 in any one fiscal year.

11 D. The department may receive funds from both state appropriations
 12 and private contributions.

13 §130.736. Performance audit required

14 The department shall contract for a performance audit at the end of the
 15 fourth year of implementation of this Subpart.

16 §130.737. Expiration of Subpart

17 Unless re-authorized by the legislature, the provisions of this Subpart
 18 shall expire on August 15, 2012 and this Subpart and all other laws and
 19 regulations governing, authorizing, and otherwise dealing with community
 20 development corporations and community development financial institutions
 21 are deemed repealed on that date. However, any tax credit earned pursuant to
 22 R.S. 47:6026 may be carried forward as a tax credit against taxes as provided
 23 for in that Section.

24 Section 2. R.S. 47:6026 is hereby enacted to read as follows:

25 §6026. Louisiana Community Economic Development Act; tax credits;
 26 amount; duration; forfeit

27 A.(1)(a) Except as provided in Subsection B of this Section, a taxpayer
 28 may earn and apply for and, if qualified, be granted a credit on any income or
 29 corporation franchise tax liability owed to the state by the taxpayer seeking to
 30 claim the credit, in the amount approved by the secretary of the Department of

1 Economic Development for the amount of money donated, contributed, or
2 represented by a sale below cost by the taxpayer to a certified community
3 development corporation or a certified community development financial
4 institution, as defined in R.S. 33:130.731, et seq. The value of such tax credit
5 shall not exceed five hundred thousand dollars per year per individual or one
6 million dollars per year per business and one million total per individual and
7 two million total per business.

8 (b) Except as otherwise provided in this Section, the credit shall be
9 allowed against the income tax for the taxable period in which the credit is
10 earned and the franchise tax for the taxable period following the period in
11 which the credit is earned.

12 (2)(a) The credits approved by the Department of Economic
13 Development shall be granted at the rate of twenty-five percent of the amount
14 of the donation, contribution, or sale below cost, with the credit for businesses
15 divided in equal portions for five years, subject to the limitations provided for
16 in Paragraph (1) of this Subsection.

17 (b) After certifying the eligibility of the certified community
18 development corporation or the certified community development financial
19 institution and the amount of the donation, contribution or sale below cost, the
20 Department of Economic Development shall issue a tax credit certificate, a copy
21 of which is to be attached to the tax return of the taxpayer.

22 (c) The tax credit certificate shall contain the taxpayer's name, whether
23 an individual or a corporation, address, social security or tax identification
24 number, the amount of the credit and the name of the certified community
25 development corporation or the certified community development financial
26 institution, and other information required by the Department of Revenue.

27 (d) The tax credit certificate, unless rescinded by the Department of
28 Economic Development, shall be accepted by the Department of Revenue as
29 proof of the credit.

30 (e) The Department of Economic Development shall maintain a list of

1 the tax credit certificates issued.

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

5 (b) Individuals shall claim any credit allowed under this Section on their
6 individual income tax return.

7 (c) Estates or trusts shall claim any tax credit allowed under this Section
8 on their fiduciary income tax returns.

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

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

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

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

17 B. A tax credit granted pursuant to this Section shall expire and have no
18 value or effect on tax liability beginning with the sixth tax year after the tax
19 year in which it was originally granted.

20 C. Cash donation or contribution. Any donation or contribution of cash
21 to a certified community development corporation or to a certified community
22 development financial institution will not qualify for this tax credit unless
23 approved and accepted by the governing board of the certified community
24 development corporation or the certified community development financial
25 institution, and certified by the Department of Economic Development.

26 D. Donation or sale below cost of tangible movable property.

27 (1) New property.

28 (a) The value of the credit against income tax liability shall be based
29 upon the donor's or seller's actual cost of new items of property, not on retail
30 value.

1 **(b) An invoice or receipt showing the donor's or seller's actual purchase**
2 **price shall accompany all donations or sales below cost of new tangible movable**
3 **property valued at five thousand dollars or more.**

4 **(2) Used property.**

5 **(a) The value of the credit against income tax liability for used property**
6 **donated or sold below cost shall be based upon an appraisal obtained by the**
7 **certified community development corporation or the certified community**
8 **development financial institution.**

9 **(b) Used property sold below cost shall mean a sale below the appraised**
10 **value of the tangible movable property.**

11 **(3) Any donation or sale below cost of tangible movable property the**
12 **cost or appraised value of which is greater than five thousand dollars shall be**
13 **approved and accepted by the governing board of the certified community**
14 **development corporation or the certified community financial institution and**
15 **certified by the Department of Economic Development.**

16 **(4) The donor or seller shall attach the certification to the income tax**
17 **return filed with the Department of Revenue.**

18 **(5) The amount of credit shall be the value of the credit as determined**
19 **in this Subsection, less the price received by the tax payer from the certified**
20 **community development corporation or the certified community financial**
21 **institution.**

22 **E. Unless re-authorized by the legislature, the provisions of this Section**
23 **shall expire on August 15, 2010 and this Section and all other laws and**
24 **regulations governing, authorizing, and otherwise dealing with community**
25 **development corporations and community development financial institutions**
26 **are deemed repealed on that date. However, any tax credit earned pursuant to**
27 **this Section may be carried forward as a tax credit against taxes as provided for**
28 **herein.**

29 Section 3. This Act shall become effective upon signature by the governor or, if not
30 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
3 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____