

Regular Session, 2014

SENATE BILL NO. 632

BY SENATOR RISER

TAX/TAXATION. Authorizes the secretary of the Department of Revenue to establish a Solar Credit Secured Refund Pilot Program to allow taxpayers who are eligible to receive a solar credit refund to authorize their refunds to be paid directly to a properly secured third party lender. (gov sig)

1 AN ACT

2 To enact R.S. 47:1628, relative to refunds; to authorize the secretary of the Department of
3 Revenue to establish a Solar Credit Secured Refund Pilot Program; to provide for
4 certain requirements, restrictions, and regulations; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 47:1628 is hereby enacted to read as follows:

7 **§1628. Solar Credit Secured Refund Pilot Program**

8 **A.(1) The secretary of the Department of Revenue shall establish a pilot**
9 **program which will allow a taxpayer, or a group of taxpayers, who are eligible**
10 **to receive a refund pursuant to the provisions of the solar energy systems tax**
11 **credit in R.S. 47:6030(F) to authorize all or a portion of any refund to which he**
12 **or they may be lawfully entitled to in a specific tax year or years, whether by**
13 **reason of R.S. 47:6030(F) or any other provision of law, to be paid directly to**
14 **a properly secured third party lender. The program shall be effective on a date**
15 **selected by the secretary, but no later than January 1, 2015.**

16 **(2)(a) The program shall be available only for a properly secured third**
17 **party lender who will be entitled to be paid a refund, or a group of refunds,**

1 whose aggregate amount is reasonably likely to be five hundred thousand
2 dollars or more as determined by the secretary after review according to
3 program guidelines of documentation submitted by such lender.

4 B. The program shall include the following:

5 (1) An application form.

6 (2) A requirement that sufficient documentation shall be provided to the
7 secretary in order for him to determine the following:

8 (a) That the taxpayer who would otherwise be due the refund has
9 voluntarily waived his right to the confidentiality of his tax information and
10 agreed that it be shared with the properly secured third party lender.

11 (b) That the taxpayer who would otherwise be due the refund is eligible
12 to receive a refund pursuant to the provisions of R.S. 47:6030(F) and has
13 voluntarily conferred upon the properly secured third party lender his right to
14 receive a refund for the specific tax year or years to which the taxpayer is
15 lawfully entitled whether by reason of R.S. 47:6030(F) or any other provision
16 of law, and has executed a limited power of attorney on behalf of such lender for
17 purposes of receiving his refund.

18 (c) That the aggregate amount of the refund or group of refunds is
19 reasonably likely to be five hundred thousand dollars or more.

20 (d) That the lender does, in fact, have a security interest in all or a
21 portion of the refund or refunds to which the taxpayer is lawfully entitled
22 whether by reason of R.S. 47:6030(F) or any other provision of law through a
23 properly executed security instrument or agreement, the types of instruments
24 or agreements acceptable to be set forth in the regulations required for the
25 program as provided for in this Section.

26 (3) A reasonable period of time for the secretary to review and approve
27 or reject the application of the lender, which shall run from the time the
28 documentation required by Paragraph (2) of this Subsection, and any additional
29 information from the taxpayer or lender reasonably necessary for the

1 secretary's review, is received by the secretary.

2 (4) A requirement that written notice of the acceptance or rejection of
3 the application be delivered to the lender.

4 C.(1) The right of the properly secured third party lender to obtain the
5 refund or refunds shall become effective thirty days after the secretary has
6 reviewed and approved the application, or such shorter period as indicated on
7 the written notice of acceptance.

8 (2) Any refund secured pursuant to the program shall be subject to any
9 offset or reduction authorized or required by law. The program shall confer
10 upon the properly secured third party lender only the right to the refund which
11 would otherwise be due to the taxpayer and no more. If the amount of the
12 refund is less than the amount secured by the lender, the Department of
13 Revenue shall not be responsible for the deficiency.

14 D. The proposed program shall be set forth in proposed regulations
15 which shall be submitted to both the Senate Committee on Revenue and Fiscal
16 Affairs and the House Committee on Ways and Means by October 31, 2014, for
17 their oversight pursuant to the Administrative Procedure Act.

18 Section 2. The secretary of the Department of Revenue shall provide written
19 notification to the Louisiana State Law Institute of the date which he selects as the effective
20 date of the program provided for in this Act.

21 Section 3. This Act shall become effective upon signature by the governor or, if not
22 signed by the governor, upon expiration of the time for bills to become law without signature
23 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
24 vetoed by the governor and subsequently approved by the legislature, this Act shall become
25 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 Riley Boudreaux.

DIGEST

Riser (SB 632)

Present law authorizes a refundable income tax credit for the cost of purchase and installation of certain solar electric systems or solar thermal systems.

Proposed law requires the secretary of the Department of Revenue to establish the "Solar Credit Secured Refund Pilot Program". The program will allow a taxpayer, or a group of taxpayers, who are eligible to receive a solar energy systems tax credit refund to authorize all or a portion of any refund to which he or they may be entitled to in a specific tax year or years whether by reason of the solar credit or any other provision of law to be paid directly to a properly secured third party lender.

The program is effective on a date selected by the secretary, but no later than January 1, 2015.

The program is available only for a lender who will be entitled to be paid a refund, or a group of refunds, whose aggregate amount is reasonably likely to be \$500,000 or more as determined by the secretary after review according to program guidelines of documentation submitted by such lender.

Proposed law sets out certain requirements for the program including a requirement that sufficient documentation be provided to the secretary to determine that the lender does, in fact, have a security interest in all or a portion of the refund or refunds to which the taxpayer is lawfully entitled whether by reason of the solar credits or any other provision of law through a properly executed security instrument or agreement, the types of instruments or agreements acceptable to be set forth in regulations.

Proposed law provides that any refund secured pursuant to the program is subject to any offset or reduction authorized or required by law and the lender has only the right to the refund which would otherwise be due to the taxpayer and no more. If the amount of the refund is less than the amount secured by the lender, the Department of Revenue is not responsible for the deficiency.

Proposed law requires the program to be set forth in proposed regulations which must be submitted to both the Senate Revenue and Fiscal Affairs and House Ways and Means by October 31, 2014, for their oversight pursuant to the APA.

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

(Adds R.S. 47:1628)