

2021 Regular Session

HOUSE BILL NO. 160

BY REPRESENTATIVE DEVILLIER AND SENATOR HENRY

TAX CREDITS: Provides for the eligibility for the Angel Investor Tax Credit Program

1 AN ACT

2 To amend and reenact R.S. 47:6020(C)(1)(a) and (D)(5)(b)(introductory paragraph) and (iv),  
3 relative to income and corporate franchise tax credits; to expand the types of  
4 investments that qualify for the Angel Investor Tax Credit; to provide for alternative  
5 investment instruments that are considered equity for purposes of recapturing an  
6 Angel Investor Tax Credit; to provide for effectiveness; and to provide for related  
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:6020(C)(1)(a) and (D)(5)(b)(introductory paragraph) and (iv) are  
10 hereby amended and reenacted to read as follows:

11 §6020. Angel Investor Tax Credit Program

12 \* \* \*

13 C. Qualifications. (1) To qualify for a tax credit, the investor and the  
14 investment shall meet all of the following requirements:

15 (a) The investment in the Louisiana Entrepreneurial Business must be an  
16 investment that is at risk and not secured or guaranteed by any person or entity other  
17 than the Louisiana Entrepreneurial Business. "At risk" means that the repayment of  
18 the investment is entirely dependent on the success of the Louisiana Entrepreneurial  
19 Business. The funds invested by the applicant cannot have been raised as a result of  
20 illegal activity.

21 \* \* \*

1 D. Tax credits.

2 \* \* \*

3 (5)

4 \* \* \*

5 (b) If at the close of any calendar year in the three-year period beginning  
6 with the first year a tax credit certificate was issued to an investor, the investor  
7 transfers the equity, note, convertible debt, or other similar investment instrument  
8 received in connection with the qualified investment, the tax credit shall be  
9 recaptured from the investor unless the transfer results from any of the following  
10 circumstances:

11 \* \* \*

12 (iv) The transfer of the equity, ~~in the Louisiana Entrepreneurial Business~~  
13 note, convertible debt, or other similar investment instrument by the investor is to an  
14 entity, trust, or other organization under the control of the investor. For purposes of  
15 this Subparagraph, an entity shall be deemed to be in control of an investor if the  
16 investor is the beneficiary owner of at least a majority of the outstanding equity  
17 securities of the entity or has the right to control the voting power of the entity, trust,  
18 or other organization to which the securities are transferred.

19 \* \* \*

20 Section 2. This Act shall become effective upon signature by the governor or, if not  
21 signed by the governor, upon expiration of the time for bills to become law without signature  
22 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
23 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
24 effective on the day following such approval.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 160 Original

2021 Regular Session

DeVillier

**Abstract:** Expands the types of investments that qualify for the Angel Investor Tax Credit to include investments secured or guaranteed by the La. Entrepreneurial Business and to provide for alternative investment instruments considered as equity for purposes of recapturing an Angel Investor Tax Credit.

Present law establishes the Angel Investor Tax Credit program which authorizes a 25% income or corporate franchise tax credit on investments in certain La. businesses certified by the Department of Economic Development (DED) as "Louisiana Entrepreneurial Businesses."

Present law provides eligible investments must be at risk and not secured or guaranteed. "At risk" investment means an investment in which the repayment is entirely dependent on the success of the La. Entrepreneurial Business.

Proposed law retains present law but permits a guarantee by the La. Entrepreneurial Business itself.

Present law limits the total amount of credits granted by the program to \$3.6 million per year but authorizes the department to carry forward residual unused credits in any calendar year to subsequent calendar years without regard to the annual credit cap.

Present law provides that the amount of the tax credit shall be based on the amount of money invested in the La. Entrepreneurial Business, not to exceed \$720,000 per year per business and \$1,440,000 total per business.

Present law mandates a tax credit be recaptured from an investor under certain scenarios including when the investor within three years of the tax credit certificate being issued transfers the equity received in connection with the investment. Provides for limited exceptions to this requirement.

Proposed law retains present law but adds notes, convertible debt, and other similar investment instruments as things received in connection with the qualified investment that if transferred trigger recapture of the tax credit.

Proposed law provides that recapture does not apply if the note, convertible debt, or other similar investment instrument is transferred to an entity, trust, or other organization under the control of the investor.

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

(Amends R.S. 47:6020(C)(1)(a) and (D)(5)(b)(intro. para.) and (iv))