



States' Biofuels Statutes

STATE OF LOUISIANA

This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#). These statutes are placed in reverse chronological order using the date of the most recent amendment to the statute. Many biofuels laws were enacted as amendments to previously passed laws.

Current through the 2013 Legislative Session of the Louisiana General Assembly.

§ 6037. Tax credit for “green job industries”

<Section effective upon evidence of obligation of funding. See italic note, post.>

A. Definitions. For the purposes of this Section, the following words shall have the following definitions unless the context clearly indicates otherwise:

(1) “Base investment” means expenditures for the construction, repair, or renovation of state-certified green projects for which a credit is granted in this Section, or investments made by a company or financier which are for such expenditures.

(2) “Company” or “financier” means any individual, firm, partnership, limited liability company, joint venture, association, corporation, estate, trust, or other entity, group, or combination acting as a unit, and the plural as well as the singular number.

(3) “Expended in the state” means expenditures for tangible property to be used within the state; and in the case of services, means expenditures for services performed within the state; and in the case of intangible property, means the acquisition of permits, licenses, or other rights related to state-certified green projects used within the state.

(4) “Green job industry” or “green job industries” shall mean energy efficiency and renewable energy industries, energy-efficient building, construction, and retrofit industries, the renewable electric power industry, the energy efficient and advanced drive train vehicle industry, the biofuels industry, the deconstruction and materials use industries, the energy efficiency assessment industry serving the residential, commercial, or industrial sectors, and manufacturers that produce sustainable products using environmentally sustainable processes and materials approved by a nationally recognized high performance environmental building rating system, or that have the ENERGY STAR designation from the United States Environmental Protection Agency. However, any such rating system that uses a material or product-based credit system which is disadvantageous to materials or products manufactured

or produced in the state of Louisiana shall not be utilized.

(5) "Payroll" means all salary, wages, and other compensation, including related benefits for services performed in Louisiana.

(6) "Resident" or "resident of Louisiana", for the purpose of determining eligibility for the tax incentives provided by this Section, means either:

(a) A natural person who meets any of the following qualifications:

(i) The person is domiciled in the state of Louisiana.

(ii) The person maintains a permanent place of abode within the state and spends in the aggregate more than six months of each year within the state.

(iii) The person pays taxes to the state on the amount of money paid to such person for which a credit is sought pursuant to this Section.

(b) A company owned or controlled by a person qualifying under the provisions of Subparagraph (a) of this Paragraph, and which lends the services of that person for a state-certified green project, if such company is organized or authorized to do business in the state and pays taxes to the state on the amount of money paid to such company for such services of such person.

(7) "State-certified green project" means a capital infrastructure project in the state directly related to green job industries as defined in this Section, and movable and immovable property and equipment related thereto, or any other facility which supports and is a necessary component of such facility, and any expenditures in the state related to the construction, repair, or renovation of such project, which are certified, verified, and approved as provided for in this Section.

B. Income tax credits for state-certified green projects:

(1) There is hereby authorized a base investment tax credit for certified, verified, and approved expenditures in the state for the construction, repair, or renovation of a state-certified green project, or for investments made by a company or a financier in such project which are, in turn, expended for such construction, repair, or renovation, not to exceed one million dollars per state-certified green project. No more than five million dollars in tax credits under this Section shall be granted for state-certified green projects per year.

(a) If all or a portion of a project is a facility which may be used for other purposes not directly related to the green job industry, then the project shall be approved only if a determination is made that the multiple-use facility will support and will be necessary to secure support industries for the green job industry, and the applicant provides sufficient contractual assurances the facility will be used for support industries or as a component thereof, for the useful life of the facility.

(b) No tax credits shall be earned on multiple-use facilities until the facility directly used in the green job industries is complete.

(2)(a) Tax credits for state-certified green projects shall be earned only as follows:

(i) Twenty-five percent of the total base investment provided for in the initial certification of a project pursuant to Subsection D of this Section shall be certified, verified, and approved as expended before any credits may be earned.

(ii) No tax credit shall be allowed for expenditures made for any state-certified green project two years after its initial certification, unless fifty percent of total base investment provided for in the initial certification of the project has been expended prior to that time. The expenditures may be finally certified at a later date.

(iii) The initial certification may require the tax credits to be taken or transferred in the tax period in which the credit is earned, or the tax credit may be structured in the initial certification of the project to provide that only a portion of the tax credit be taken over the course of two or more tax years.

(b) The base investment credit for state-certified green projects shall be for the following amounts:

(i) If the total base investment is greater than one hundred thousand dollars and less than or equal to three hundred thousand dollars, a company shall be allowed a tax credit of ten percent of the base investment made by that company.

(ii) If the total base investment is greater than three hundred thousand dollars and less than or equal to one million dollars, a company shall be allowed a tax credit of twenty percent of the base investment made by that company.

(iii) If the total base investment is greater than one million dollars, a company shall be allowed a tax credit of twenty-five percent of the base investment made by that company.

(c) To the extent that base investment is expended on payroll for Louisiana residents employed in connection with the construction of a state-certified green project, a company shall be allowed an additional tax credit of ten percent of the payroll; however, if the amount paid to any one person exceeds one million dollars, the additional credit shall not include any amount paid to that person that exceeds one million dollars.

(d) To the extent that base investment is expended on payroll for Louisiana residents employed in connection with a state-certified green project, who are graduates of an institution within the Louisiana Community and Technical College System or graduates of an apprenticeship program registered with the Louisiana Workforce Commission, each investor shall be allowed an additional tax credit of one percent of such payroll.

(3)(a) The tax credits shall be earned each calendar year to the extent the Department of Economic Development verifies in writing that expenditures qualifying for a credit pursuant to this Section have been expended for the calendar year in accordance with the estimates of such expenditures for the calendar year set forth in the certification of the project.

(b) In addition, a state-certified green project which receives tax credits pursuant to the provisions of this Chapter shall not be eligible to receive the rebates provided for in R.S. 51:2451 through 2461 in connection with the activity for which the tax credits were received.

(4) Tax credits associated with a state-certified green project shall never exceed the total base investment in the project.

(5) The granting of credits under this Section shall be on a first-come, first-served basis. If the total amount of credits applied for in any particular year exceeds the aggregate amount of tax credits allowed for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

C. (1) The credit shall be allowed against individual or corporate income tax of the companies or financiers of the project in accordance with their share of the credit as provided for in the application for certification for the project. A company or financier may on a one-time basis, transfer the credit, or any refund of an overpayment, to an individual or other entity including without limitation a bank or other lender, provided that the transfer shall not be effective until receipt by the Department of Revenue of written notice of such transfer. The credit shall be allowed for the taxable period in which expenditures eligible for a credit are expended. Any excess of the credit over the income tax liability against which the credit may be applied shall constitute an overpayment, as defined in R.S. 47:1621(A), and the secretary shall make a refund of such overpayment from the current collections of the taxes imposed by Chapter 1 of Subtitle II of this Title, as amended. The right to a refund of any such overpayment shall not be subject to the requirements of R.S. 47:1621(B).

(2) Application of the credit.

(a) Individuals, estates, and trusts shall claim their share of any credit on their income tax return.

(b) Entities not taxed as corporations shall claim their share of any credit on the returns of the partners or members.

(c) Corporate partners or members shall claim their share of any credit on their corporation income tax returns.

(d) Individual partners or members shall claim their share of any credit on their individual income tax returns.

(e) Partners or members that are estates or trusts shall claim their share of any credit on their fiduciary income tax returns.

D. Certification and administration. (1) The secretary of the Department of Economic Development, the commissioner of administration, and the office of the governor shall determine which state-certified green projects shall be certified pursuant to this Section through the adoption and promulgation of rules by the department, in consultation with the commissioner and the office of the governor. The rules shall also provide for all of the following:

- (a) The minimum criteria for such certification.
 - (b) The manner in which the department shall decide which expenditures for such projects will qualify for the credits provided for in this Section.
 - (c) An appeals process in the event that an application for or the certification of a project, or an expenditure related to such project, is denied.
- (2) In addition, these rules shall be approved by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs.
- (3) State certification shall not be granted to a project by any person or company, or financed by any person or company, or any company or financier owned, affiliated, or controlled, in whole or in part, by any company or person, which is in default on a loan made by the state or a loan guaranteed by the state, or which has ever declared bankruptcy under which an obligation of the company or person to pay or repay public funds or monies was discharged as a part of such bankruptcy.
- (4) When determining which projects qualify for certification, the Department of Economic Development, the commissioner of administration, and the office of the governor shall take the following factors into consideration:
- (a) The impact of the state-certified green project on the employment of Louisiana residents.
 - (b) The extent to which students in Louisiana colleges, universities, and vocational-technical schools will have an opportunity to work in a facility which manufactures green products.
 - (c) The impact of the project on the overall economy of the state including the manner in which available federal and state incentives will be utilized in the financing or operation of the project.
- (5) Upon approval by the Department of Economic Development, the commissioner of administration, and the office of the governor, the department shall initially certify a project as a state-certified green project and send notice of such certification to the applicant and to the secretary of the Department of Revenue. The initial certification shall include all of the following:
- (a) The total base investment to be expended on the state-certified green project.
 - (b) The companies or financiers to whom the credits shall be allocated.
 - (c) The estimated amounts of the credits to be allocated to each.
 - (d) When the tax credits may be taken or transferred.
 - (e) A unique identifying number for the state-certified green project.
- (6) An applicant applying for the credits shall be required to reimburse the Department of Economic Development for any audits required in relation to granting the certification or tax credits.

(7) The Department of Economic Development shall provide for the implementation of this Section with existing personnel and resources and shall not hire any additional personnel for this purpose.

E. Application. (1) An applicant for the tax credit shall submit an application for initial certification to the Department of Economic Development that includes the following information:

(a) A preliminary budget including estimated Louisiana payroll, estimated base investment, including the manner in which available federal and state incentives will be utilized in the financing or operation of the project.

(b) A general description of the project.

(c) Estimated dates for start and completion of the construction of the project.

(d) The names of the companies and financiers to whom the credits shall be allocated and the estimated amounts of the credits to be allocated to each.

(2) Additional information may be requested if deemed necessary by the Louisiana Department of Economic Development.

F. (1) Recapture of credits. If the office of the governor, the Department of Economic Development, or the Department of Revenue find that funds for which a taxpayer received credits according to this Section were not expended for expenditures qualifying for a credit as provided in this Section, then the taxpayer's state income tax for such taxable period shall be increased by such amount necessary for the recapture of credit provided by this Section.

(2)(a) Recovery of credits by Department of Revenue. Credits granted to a taxpayer, but later disallowed, may be recovered by the secretary of the Department of Revenue through any collection remedy authorized by R.S. 47:1561 and initiated within three years from December thirty-first of the year in which the credit was taken.

(b) The only interest that may be assessed and collected on recovered credits is interest at a rate three percentage points above the rate provided in R.S. 9:3500(B)(1), which shall be computed from the original date of the return on which the credit was taken.

(3) The provisions of this Subsection are in addition to and shall not limit the authority of the secretary of the Department of Revenue to assess or to collect under any other provision of law.

G. The division of administration and the Department of Economic Development shall prepare, with input from the Legislative Fiscal Office, a written report to be submitted to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means no less than sixty days prior to the start of the 2010 Regular Session of the Legislature, and every second year thereafter. The report shall include the overall impact of the tax credits, the amount of the tax credits issued, the number of net new jobs created, the amount of Louisiana payroll created, the economic impact of the tax credits, and any other factors that describe the impact of the program.

H. Within one hundred eighty days of the effective date of this Act, the secretary of the Department of Revenue shall establish rules and regulations to provide for the implementation of the provisions of this Act. Such rules shall provide for the taxable periods for which the tax credit for “green job industries” shall apply, including an end date for the availability and application of the tax credit due to the exhaustion of federal funding.

Credits: Added by Acts 2009, No. 520, § 1.