

House File 2443

S-5146

1 Amend House File 2443, as amended, passed, and  
2 reprinted by the House, as follows:

3 1. By striking page 12, line 31, through page 13,  
4 line 29, and inserting:

5 <(2) If an eligible taxpayer obtains a tax credit  
6 certificate from the ~~department~~ authority by way of  
7 a prohibited activity, the eligible taxpayer and any  
8 transferee shall be jointly and severally liable to  
9 the state for the amount of the tax credits so issued,  
10 interest and penalties allowed under chapter 422,  
11 and reasonable attorney fees and litigation costs,  
12 except that the liability of the transferee shall not  
13 exceed an amount equal to the amount of the tax credits  
14 acquired by the transferee. The department of revenue,  
15 upon notification or discovery that a tax credit  
16 certificate was issued to an eligible taxpayer by way  
17 of a prohibited activity, shall revoke any outstanding  
18 tax credit and seek repayment of the value of any tax  
19 credit already claimed, and the failure to make such a  
20 repayment may be treated by the department of revenue  
21 in the same manner as a failure to pay the tax shown  
22 due or required to be shown due with the filing of a  
23 return or deposit form. A qualifying transferee is not  
24 subject to the liability, revocation, and repayment  
25 imposed under this subparagraph.

26 Sec. \_\_\_\_\_. Section 404A.3, subsection 4, paragraph  
27 c, subparagraph (3), Code 2016, is amended by adding  
28 the following new subparagraph division:

29 NEW SUBPARAGRAPH DIVISION. (0a) "*Control*" means  
30 when a person, directly or indirectly or acting through  
31 or together with one or more persons, satisfies any of  
32 the following:

33 (i) Owns, controls, or has the power to vote fifty  
34 percent or more of any class of voting securities or  
35 voting membership interests of another person.

1 (ii) Controls, in any manner, the election of a  
2 majority of the directors, managers, trustees, or other  
3 persons exercising similar functions of another person.

4 (iii) Has the power to exercise a controlling  
5 influence over the management or policies of another  
6 person.

7 Sec. \_\_\_\_\_. Section 404A.3, subsection 4, paragraph  
8 c, subparagraph (3), subparagraph division (b),  
9 unnumbered paragraph 1, Code 2016, is amended to read  
10 as follows:

11 "*Qualifying transferee*" means a transferee who  
12 acquires a tax credit certificate issued under this  
13 chapter for value, in good faith, without ~~actual~~  
14 express or ~~constructive~~ implied notice of a prohibited  
15 activity of the eligible taxpayer who was originally  
16 issued the tax credit, and without ~~actual~~ express or  
17 ~~constructive~~ implied notice of any other claim to or  
18 defense against the tax credit, and which transferee is  
19 not associated with the eligible taxpayer by being one  
20 or more of the following:

21 Sec. \_\_\_\_\_. Section 404A.3, subsection 4, paragraph  
22 c, subparagraph (3), subparagraph division (b),  
23 subparagraph subdivision (i), Code 2016, is amended to  
24 read as follows:

25 (i) An owner, member, shareholder, or partner of  
26 the eligible taxpayer who directly or indirectly owns  
27 ~~or~~ and controls, in whole or in part, the eligible  
28 taxpayer.>

29 2. By striking page 15, line 22, through page 16,  
30 line 8.

31 3. Page 17, after line 12 by inserting:

32 <Sec. \_\_\_\_\_. TRANSITION PROVISIONS. The department  
33 of cultural affairs shall cooperate with the economic  
34 development authority to ensure the effective  
35 transition of powers, duties, and funds from the

1 department to the authority in implementing this  
2 division of this Act.

3     Sec. \_\_\_\_\_. EFFECTIVE DATE. This division of this  
4 Act takes effect August 15, 2016.>

5     4. Page 17, line 16, by striking <July 1,> and  
6 inserting <August 15,>

7     5. By renumbering as necessary.

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COMMITTEE ON WAYS AND MEANS  
JOE BOLKCOM, CHAIRPERSON