

2015 Regular Session

SENATE BILL NO. 95

BY SENATOR MORRELL

TAX/TAXATION. Authorizes certifications of motion picture investor tax credits for Indigenous Louisiana Productions which agree 75% of its expenditures for ATL services will be expended on Louisiana residents and that 75% of its jobs will employ Louisiana residents and provides special tax credit provisions for them. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 47:6007(B)(10), (C)(1)(c)(i), (D)(1)(b), the introductory  
3 paragraph of (D)(2)(a), and (D)(2)(c), and to enact R.S. 47:6007(B)(17) and (18),  
4 (C)(4)(f)(iii), and (D)(2)(a)(ii), relative to motion picture investor tax credits; to  
5 authorize certifications of motion picture investor tax credits for Indigenous  
6 Louisiana Productions; to provide for the conditions and obligations under which  
7 such certifications may be granted or voided; to provide for the base investment  
8 required and the treatment of certain production expenditures and transfers of such  
9 productions; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 47:6007(B)(10), (C)(1)(c)(i), (D)(1)(b), the introductory paragraph  
12 of (D)(2)(a), and (D)(2)(c) are hereby amended and reenacted and R.S. 47:6007(B)(17) and  
13 (18), (C)(4)(f)(iii), and (D)(2)(a)(ii) are hereby enacted to read as follows:

14 §6007. Motion picture investor tax credit

15 \* \* \*

16 B. Definitions. For the purposes of this Section:

17 \* \* \*

1           (10) "Production expenditures" means preproduction, production, and  
2 postproduction expenditures in this state directly relating to a state-certified  
3 production, including without limitation the following: set construction and  
4 operation; wardrobes, makeup, accessories, and related services; costs associated  
5 with photography and sound synchronization, lighting, and related services and  
6 materials; editing and related services; rental of facilities and equipment; leasing of  
7 vehicles; costs of food and lodging; digital or tape editing, film processing, transfer  
8 of film to tape or digital format, sound mixing, special and visual effects; and  
9 payroll. This term shall not include expenditures for marketing and distribution, non-  
10 production related overhead, amounts reimbursed by the state or any other  
11 governmental entity, costs related to the transfer of tax credits, amounts that are paid  
12 to persons or entities as a result of their participation in profits from the exploitation  
13 of the production, the application fee, or state or local taxes. **However, up to one**  
14 **million dollars expended in the state on marketing, advertising, and distribution**  
15 **costs by Indigenous Louisiana Productions shall be considered "production**  
16 **expenditures" for purposes of this Section.**

17                           \*       \*       \*

18           **(17) "Indigenous Louisiana Production (ILP)" means a production**  
19 **which qualifies as a state-certified production and which is additionally certified**  
20 **and approved by the office and the secretary to meet the requirements provided**  
21 **for in Item (C)(2)(c)(ii) of this Section.**

22           **(18) "Above the Line (ATL) services" means services such as those of a**  
23 **producer, executive producer, line producer, coproducer, assistant producer,**  
24 **actor, director, casting director, screenwriter, and other services of job positions**  
25 **that are associated with the creative or financial control of a production and**  
26 **customarily considered as Above the Line services in the film and television**  
27 **industry.**

28                           \*       \*       \*

29           C. Investor tax credit; specific productions and projects.

1               (1) There is hereby authorized a tax credit against state income tax for  
 2 Louisiana taxpayers for investment in state-certified productions. The tax credit shall  
 3 be earned by investors at the time expenditures are made by a motion picture  
 4 production company in a state-certified production. However, credits cannot be  
 5 applied against a tax or transferred until the expenditures are certified by the office  
 6 and the secretary. For state-certified productions, expenditures shall be certified no  
 7 more than twice during the duration of a state-certified production unless the motion  
 8 picture production company agrees to reimburse the office for the costs of any  
 9 additional certifications. The tax credit shall be calculated as a percentage of the total  
 10 base investment dollars certified per project.

11                               \*           \*           \*

12               (c) For state-certified productions approved by the office and the secretary  
 13 on or after July 1, 2009:

14               (i) If the total base investment is greater than three hundred thousand dollars,  
 15 **or, in the case of an Indigenous Louisiana Production greater than fifty**  
 16 **thousand dollars,** each investor shall be allowed a tax credit of thirty percent of the  
 17 base investment made by that investor.

18                               \*           \*           \*

19               (4) Transferability of the credit. Any motion picture tax credits not previously  
 20 claimed by any taxpayer against its income tax may be transferred or sold to another  
 21 Louisiana taxpayer or to the office, subject to the following conditions:

22                               \*           \*           \*

23               (f)                               \*           \*           \*

24               **(iii) For projects which receive a certification as an Indigenous Louisiana**  
 25 **Production, the investor who earned the motion picture investor tax credits**  
 26 **pursuant to such certification may transfer up to five million dollars of the**  
 27 **credits to the office for ninety percent of the face value of such credits in**  
 28 **accordance with the procedures and requirements of Item (i) of this**  
 29 **Subparagraph.**

1 D. Certification and administration.

2 (1) \* \* \*

3 (b) The secretary, the office, and the division of administration shall  
4 determine, through the promulgation of rules, an appeals process in the event that an  
5 application for or the certification of motion picture production tax credit or  
6 **certification as an Indigenous Louisiana Production** is denied. The office shall  
7 promptly provide written notice of such denial to the Senate Committee on Revenue  
8 and Fiscal Affairs and the House Committee on Ways and Means.

9 \* \* \*

10 (2)(a) Application. An applicant for the motion picture investor credit shall  
11 submit an application for initial certification **and application for certification as an**  
12 **Indigenous Louisiana Production** to the office and the secretary of the Department  
13 of Economic Development that includes the following information:

14 \* \* \*

15 **(ii) The application for certification as an Indigenous Louisiana**  
16 **Production shall also include an estimate of the amount of expenditures for**  
17 **Above the Line services that shall be expended on Louisiana residents and the**  
18 **percentage of the total number of jobs in which the applicant will employ**  
19 **Louisiana residents.**

20 \* \* \*

21 (c)(i) The office and the secretary shall submit their initial certification or  
22 written denial of a project as a state-certified production or as an Indigenous  
23 **Louisiana Production, including the conditions under which certification as an**  
24 **Indigenous Louisiana Production is granted,** to investors and to the secretary of  
25 the Department of Revenue indicating the total base investment which shall be  
26 expended in the state on the state-certified production within sixty days of their  
27 receipt of all required information. The initial certification shall include a unique  
28 identifying number for each state-certified production or Indigenous Louisiana  
29 **Production.**

1 (ii) A production shall only be certified as an Indigenous Louisiana  
2 Production if the applicant accepts as a condition for earning any tax credits  
3 that seventy-five percent or more of the total amount of the applicant's  
4 expenditures for Above the Line services shall be expended on Louisiana  
5 residents and that seventy-five percent or more of the total number of jobs in  
6 the production will be those in which the applicant will employ Louisiana  
7 residents. Violation of the obligations of the conditions under which such  
8 certification is granted shall void the certification and no tax credits shall be  
9 certified or earned under the certification.

10 \* \* \*

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

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Riley Boudreaux.

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DIGEST

SB 95 Original                              2015 Regular Session                              Morrell

Proposed law allows a production to be certified as an Indigenous Louisiana Production (ILP) if the applicant for motion picture investor tax credits accepts as a condition for earning any tax credits that 75% or more of the total amount of the applicant's expenditures for "Above the Line services" will be expended on Louisiana residents and that 75% or more of the total number of jobs in the production will be those in which the applicant will employ Louisiana residents.

"Above the Line (ATL) services" is defined in proposed law as services such as those of a producer, executive producer, line producer, coproducer, assistant producer, actor, director, casting director, screenwriter, and other services of job positions that are associated with the creative or financial control of a production and customarily considered as Above the Line services in the film and television industry.

"Resident" or "resident of Louisiana" is defined in present law as a natural person domiciled in the state and further provides that a person who maintains a permanent place of abode within the state and spends in the aggregate more than six months of each year within the state must be presumed to be domiciled in the state.

Proposed law provides that a violation of the obligations of the conditions under which the ILP is granted voids the certification and no tax credits can be certified or earned under the certification.

Present law grants a motion picture investor tax credit as a percentage of the "base investment" made and used for "production expenditures" in the state for a "state-certified production". The term "production expenditures" is defined in present law.

Present law allows a motion picture investor tax credit of 30% (and an extra 5% for the payroll of Louisiana residents) if the total "base investment" made and used for "production expenditures" in the state for a "state-certified production" is greater than \$300,000.

Proposed law allows the credit in the case of an "Indigenous Louisiana Production" if the total base investment in the state is greater than \$50,000.

Present law defines the term "production expenditures" eligible for the credit, but specifies that certain expenditures, including marketing, advertising, and distribution costs are not included.

Proposed law allows up to \$1 million expended in the state on marketing, advertising, and distribution costs by ILPs to be considered eligible "production expenditures" for "Indigenous Louisiana Productions".

Present law authorizes investors who earn the motion picture investor tax credits to transfer to the office of entertainment industry development in the Department of Economic Development for 85% of the face value of the credits.

Proposed law authorizes investors in projects which receive a certification as an ILP to transfer up to \$5 million of the credits to the office for 90% of the face value of the credits.

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

(Amends R.S. 47:6007(B)(10), (C)(1)(c)(i), (D)(1)(b), (D)(2)(a)(intro para), and (D)(2)(c); adds R.S. 47:6007(B)(17) and (18), (C)(4)(f)(iii), and (D)(2)(a)(ii))