

2015 Regular Session

HOUSE BILL NO. 633

BY REPRESENTATIVES JAMES, GAINES, HALL, HUNTER, JACKSON, AND SMITH

TAX CREDITS: Provides relative to the motion picture investor tax credit

1 AN ACT

2 To amend and reenact R.S. 47:6007(B)(8), (9)(introductory paragraph), and (10), (C)(4) and
3 (5), and (D)(2)(d)(i) to enact R.S. 47:6007(C)(1)(e) and (f) and to repeal
4 R.S.47:6006(C)(6), relative to income tax credits; to provide with respect to the
5 motion picture investor income tax credit; to provide for definitions; to provide for
6 transferability of the motion picture investor credit; to provide for an annual program
7 cap for the motion picture investor tax credit; to require publication of production
8 audit reports; to provide for an effective date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 47:6007(B)(8), (9)(introductory paragraph), and (10), (C)(4) and (5),
11 and (D)(2)(d)(i) are hereby amended and reenacted and R.S. 47:6007(C)(1)(e) and (f) are
12 hereby enacted to read as follows:

13 §6007. Motion picture investor tax credit

14 * * *

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

16 * * *

17 (8) "Payroll" means all salary, wages, and other compensation, including
18 benefits paid to an employee for services relating to a state-certified production and
19 taxable in this state. However, "payroll" ~~for purposes of the additional tax credit for~~
20 ~~Louisiana-resident payroll~~ shall exclude any portion of an individual salary in excess
21 of one million dollars.

1 expenditures for marketing and distribution, non-production related overhead,
2 amounts reimbursed by the state or any other governmental entity, costs related to
3 the transfer of tax credits, amounts that are paid to persons or entities as a result of
4 their participation in profits from the exploitation of the production, the application
5 fee, or state or local taxes.

6 * * *

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

8 (1)

9 * * *

10 (e) For state-certified productions approved by the office and the secretary
11 on or after January 1, 2016:

12 (i) If the total base investment is greater than three hundred thousand dollars
13 and at least seventy-five percent of the "below the line" employees who are
14 employed in connection with the state-certified production are Louisiana residents,
15 each investor shall be allowed a tax credit of thirty percent of the base investment
16 made by that investor. For purposes of this Section, "below the line" employees
17 shall include all persons employed by the state-certified production except for actors,
18 directors, writers, and producers of the state-certified production

19 (ii) To the extent that base investment is expended on payroll for Louisiana
20 residents employed in connection with a state-certified production, each investor
21 shall be allowed an additional tax credit of five percent of such payroll.

22 (f)(i) Beginning on January 1, 2016, the aggregate amount of credits certified
23 for all investors pursuant to this Section during any calendar year shall not exceed
24 one hundred fifty million dollars. An application for initial certification of a project
25 shall be submitted to the Louisiana Department of Economic Development prior to
26 the granting of the credit, and the granting of credits under this Section shall be on
27 a first-come, first-served basis. If the total amount of credits applied for in any
28 particular year exceeds the aggregate amount of tax credits allowed for that year, the
29 excess will be treated as having been applied for on the first day of the subsequent

1 ~~the Department of Revenue as proprietary to the entity reporting such information~~
2 ~~and therefore confidential. However, this shall not prevent the publication of~~
3 ~~summary data that includes no fewer than three transactions.~~

4 ~~(c) Failure to comply with this Paragraph will result in the disallowance of~~
5 ~~the tax credit until the taxpayers are in full compliance.~~

6 ~~(d) The transfer or sale of this credit does not extend the time in which the~~
7 ~~credit can be used. The carryforward period for credit that is transferred or sold~~
8 ~~begins on the date on which the credit was earned.~~

9 ~~(e) To the extent that the transferor did not have rights to claim or use the~~
10 ~~credit at the time of the transfer, the Department of Revenue shall either disallow the~~
11 ~~credit claimed by the transferee or recapture the credit from the transferee through~~
12 ~~any collection method authorized by R.S. 47:1561. The transferee's recourse is~~
13 ~~against the transferor.~~

14 ~~(f)(i)~~ (a)(i) Beginning on and after January 1, 2007, the investor who earned
15 the motion picture investor tax credits may transfer the credits to the office for
16 seventy-two percent of the face value of the credits. Beginning January 1, 2009, and
17 every second year thereafter, the percent of the face value of the tax credits allowed
18 for transferring credits to the office shall increase two percent until the percentage
19 reaches eighty percent. Upon the transfer, the Department of Economic
20 Development shall notify the Department of Revenue and shall provide it with a
21 copy of the transfer documentation. The Department of Revenue may require the
22 transferor to submit such additional information as may be necessary to administer
23 the provisions of this Section. The secretary of the Department of Revenue shall
24 make payment to the investor in the amount to which he is entitled from the current
25 collections of the taxes collected pursuant to Chapter 1 of Subtitle II, provided such
26 credits are transferred to the office within one calendar year of certification.

27 (ii) For projects which receive initial certification on and after July 1, 2009,
28 the investor who earned the motion picture investor tax credits pursuant to such
29 certification may transfer the credits to the office for eighty-five percent of the face

1 value of the credits in accordance with the procedures and requirements of Item (i)
2 of this Subparagraph.

3 ~~(5) The transferee shall apply such credits in the same manner and against~~
4 ~~the same taxes as the taxpayer originally awarded the credit.~~

5 ~~(6)~~(5) Notwithstanding any other provision of law, on or after January 1,
6 2006, a state-certified production which receives tax credits pursuant to the
7 provisions of this Chapter shall not be eligible to receive the rebates provided for in
8 R.S. 51:2451 through 2461 in connection with the activity for which the tax credits
9 were received.

10 D. Certification and administration.

11 * * *

12 (2)(a)

13 * * *

14 (d)(i) Prior to any final certification of the state-certified production, the
15 motion picture production company shall submit to the office and the secretary a
16 production audit report and the department shall make available to the public the
17 production audit report on the website for the department. The office and the
18 secretary shall review the production audit report and may require additional
19 information needed to make a determination. Within one hundred twenty days of
20 the receipt of the production audit report and all required supporting information, the
21 office and the secretary shall issue a tax credit certification letter indicating the
22 amount of tax credits certified for the state-certified production to the investors for
23 all qualifying expenditures verified by the office. Any expenditures for which tax
24 credits were neither denied nor certified due to insufficient information or other
25 issues, the office and secretary shall diligently work to resolve the outstanding issues
26 in a timely manner, and the office and secretary may subsequently issue a
27 supplemental tax credit certification at the time of such resolution.

28 * * *

29 Section 2. R.S. 47:6007(C)(6) is hereby repealed in its entirety.

1 Section 3. This Act shall become effective on January 1, 2016; if vetoed by the
2 governor and subsequently approved by the Legislature, this Act shall become effective on
3 January 1, 2016, or on the day following such approval by the Legislature, whichever is
4 later.

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)]

HB 633 Original

2015 Regular Session

James

Abstract: Beginning Jan. 1, 2016, establishes an annual \$150 million program cap on the amount of motion picture investor tax credits certified by the office.

Present law provides for an income tax credit for La. taxpayers for investment in state-certified productions earned at the time expenditures are made by a motion picture production company in a state-certified production. The amount of the credit shall be equal to 30% of the base investment made by the investor if the total base investment is more than \$300,000. Additionally provides for a credit equal to 5% of base investment expended on payroll for La. residents employed in connection with a state-certified production. However, this credit does not apply to the payroll of any one person that exceeds \$1 million dollars.

Present law excludes from the definition of "payroll" any portion of an individual salary in excess of \$1M for purposes of the additional tax credit for La. resident payroll.

Proposed law changes present law to excludes from the definition of "payroll" any portion of any individual's salary that is in excess of \$1M.

Present law defines "production audit report" to mean an audit report issued by a qualified accountant who is unrelated to the motion picture production company. Further requires that certain information be contained in the production audit report.

Proposed law retains present law but also requires the production audit report to contain an accounting of the total number of people employed by the state-certified production, the aggregate payroll of the production, and the number of days and hours worked by "below the line" employees. Further requires the report to specify the number of employees who are La. residents, their percentage of payroll for the production, and the number of hours and days worked by La. residents.

Present law defines "production expenditures" to include preproduction, production, and postproduction expenditures in this state directly relating to a state-certified production.

Proposed law retains present law but specifies that the expenditures are incurred in La. and requires certain related services to be contracted for through a La. company.

Proposed law retains present law but requires at least 75% of the "below the line" employees who are employed in connection with the state-certified production to be Louisiana residents in order for the production to be eligible to receive the credit. Further defines "below the line" employees as any employee who is not an actor, writer, director, or producer.

Proposed law retains present law but limits the program to an annual \$150 million cap in tax credits that may be certified each year. Credits shall be granted on a first-come, first-served basis. If the total amount of credits applied for in any particular year exceeds the aggregate amount of credits allowed for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

Proposed law requires the secretary to promulgate rules and regulations for administration of the annual cap in accordance with the procedures of the Administrative Procedures Act, subject to oversight by the House Ways and Means Committee and the Senate Revenue and Fiscal Affairs Committee.

Proposed law requires the secretary to publish the production audit reports submitted to the department for final certification on the department's website.

Effective Jan. 1, 2016.

(Amends R.S. 47:6007(B)(8), (9)(intro. para.), and (10), (C)(4) and (5), and (D)(2)(d)(i); Adds R.S. 47:6007(C)(1)(e) and (f); Repeals R.S. 47:6007(C)(6))