

2019 Regular Session

HOUSE BILL NO. 331

BY REPRESENTATIVES LEGER, ABRAHAM, BAGNERIS, BOUIE, BOURRIAQUE,
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STOKES, AND WHITE AND SENATORS MORRELL AND PETERSON

TAX CREDITS: Changes the sound recording investment credit to a refundable tax credit
and authorizes an additional base investment tax credit for resident copyrighted
sound recordings

1 AN ACT

2 To amend and reenact R.S. 47:6023(B)(6), (7), and (8), (C)(1)(d)(introductory paragraph)
3 and (4)(b), and (I), to enact R.S. 47:6023(B)(9) and (C)(1)(e), and to repeal R.S.
4 47:6023(C)(4)(a)(iv) and (J), relative to the sound recording investor tax credit; to
5 provide for definitions; to authorize an additional tax credit for certain copyrighted
6 recordings; to limit the annual number of certain copyrighted recordings that qualify
7 for tax credits; to authorize the payment of refunds under certain circumstances; to
8 provide for certain requirements and limitations; to extend the sunset of the tax
9 credit; to provide for effective date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 47:6023(B)(6), (7), and (8), (C)(1)(d)(introductory paragraph) and
12 (4)(b), and (I) are hereby amended and reenacted and R.S. 47:6023(B)(9) and (C)(1)(e) are
13 hereby enacted to read as follows:

14 §6023. Sound recording investor tax credit

15 * * *

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

17 * * *

1 (6) "Resident copyright" means the copyright of a musical composition
2 written by a Louisiana resident or owned by a Louisiana-domiciled music company
3 as evidenced by documents of ownership such as registrations with the United States
4 Copyright Office or performing rights organizations which denote authors and music
5 publishing entities.

6 ~~(6)~~(7) "Sound recording" means a recording of music, poetry, or spoken-
7 word performance made in Louisiana, in whole or in part. The term "sound
8 recording" shall not include the audio portions of dialogue or words spoken and
9 recorded as part of television news coverage or athletic events.

10 ~~(7)~~(8) "Sound recording production company" shall mean a company
11 engaged in the business of producing sound recordings as defined in this Section.
12 Sound recording production company shall not mean or include any person or
13 company, or any company owned, affiliated, or controlled, in whole or in part, by
14 any company or person, which is in default on a loan made by the state or a loan
15 guaranteed by the state, nor which has ever declared bankruptcy under which an
16 obligation of the company or person to pay or repay public funds or monies was
17 discharged as a part of such bankruptcy.

18 ~~(8)~~(9) "State-certified production" means a sound recording production, or
19 a series of productions, including but not limited to master and demonstration
20 recordings, occurring over the course of a twelve-month period, and base investment
21 related to such production or productions that are approved by the Louisiana
22 Department of Economic Development within one hundred eighty days of the receipt
23 by the Department of Economic Development of a complete application for initial
24 certification of a production. If the production is not approved within one hundred
25 eighty days, the Department of Economic Development shall provide a written report
26 to the Senate Committee on Revenue and Fiscal Affairs and the House Committee
27 on Ways and Means which states the reason that the production has not been
28 approved.

29 C. Investor tax credit; state-certified productions.

1 (1) There is hereby authorized a credit against the state income tax for
2 investments made in state-certified productions. The tax credit shall be earned by
3 investors at the time expenditures are certified by the Louisiana Department of
4 Economic Development according to the total base investment certified for the sound
5 recording production company per calendar year; however, no credit shall be allowed
6 under this Section for any expenditures for which a credit was granted under R.S.
7 47:6007, 6022, or 6034.

8 * * *

9 (d) Company-based QMC payroll credit. For applications for Qualified
10 Music Companies received on or after July 1, 2017, or for applications for Qualified
11 Music Companies that have been submitted but that have not received final
12 certification by July 1, 2019, to the extent that base investment is expended on
13 payroll for Louisiana residents in connection with a QMC, tax credits shall be earned
14 at the following rates:

15 (e) Resident copyright credit. To the extent that the base investment by a
16 QMC is expended on a sound recording production of a resident copyright, the
17 investor shall be allowed an additional ten percent increase in the base investment
18 rate.

19 * * *

20 (4)(a) Company-based QMC payroll credit. A business shall be eligible for
21 participation in the program if the business meets all of the following criteria:

22 * * *

23 (b) ~~Notwithstanding the amount of the credit earned by the investor pursuant~~
24 ~~to this Section, application of tax credits earned and claimed against an investor's~~
25 ~~income tax liability shall never reduce the investor's income tax liability below fifty~~
26 ~~percent of the amount of the liability prior to application of the credit. Any excess~~
27 ~~credit may be carried forward for up to five years and shall be applied against the~~
28 ~~subsequent income tax liability of the taxpayer. If the amount of the credit~~
29 authorized pursuant to the provisions of this Section exceeds the amount of

1 taxpayer's tax liability for the tax year, the excess credit amount shall be refunded to
2 the taxpayer. The secretary shall make refunds to the taxpayer in the amount to
3 which he is entitled from the current collections of the taxes collected pursuant to
4 Chapter 1 and Chapter 5 of Subtitle II of this Title.

* * *

6 I. No credits shall be granted pursuant to the provisions of this Section for
7 applications received on or after ~~July 1, 2021~~ July 1, 2026.

* * *

9 Section 2. R.S. 47:6023(C)(4)(a)(iv) and (J) are hereby repealed in their entirety.

10 Section 3. This Act shall become effective upon signature by the governor or, if not
11 signed by the governor, upon expiration of the time for bills to become law without signature
12 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
13 vetoed by the governor and subsequently approved by the legislature, this Act shall become
14 effective on the day following such approval.

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 331 Reengrossed

2019 Regular Session

Leger

Abstract: Authorizes an additional 10% base investment credit if the base investment is expended by a Qualified Music Company (QMC) on a sound recording production of a resident copyright, changes the credit from a non-refundable credit to a refundable tax credit, and extends sunset of the tax credit from July 1, 2021, to July 1, 2026.

Present law authorizes a state income tax credit for investments made in state-certified productions until July 1, 2021. The tax credit shall be earned by investors at the time expenditures are certified by the Dept. of Economic Development (DED) according to the total base investment certified for the sound recording production company per calendar year. The aggregate amount of credits that can be certified each year is limited to \$2,160,000; however, 50% of the credits certified each year shall be reserved for QMCs.

Present law provides that the amount of the credit for each investor for state-certified productions received on or after July 1, 2017, is 18% of the base investment made by that investor in excess of \$25,000 or, if a resident of this state, in excess of \$10,000. Present law provides for the following additional tax credits for state-certified productions:

- (1) QMC Tier 1 payroll credit of 10% for each new job with a salary of \$35,000 through \$66,000 per year.

- (2) QMC Tier 2 payroll credit of 15% for each new job with a salary of \$66,000 or more.

Proposed law retains present law but adds an additional 10% increase in the base investment credit if the base investment is expended by a QMC on a sound recording production of a resident copyright. Proposed law defines a "resident copyright" as a copyright of a musical composition written by a La. resident or owned by a La. domiciled music company as evidenced by documents of ownership such as registrations with the U.S. Copyright Office or performing rights organizations which denote authors and music publishing entities.

Present law sets forth criteria a company must meet in order to be eligible for the QMC payroll credit. The criteria includes that the business be engaged directly or indirectly in the production, distribution, and promotion of music, that the business create a minimum of three new jobs meeting or exceeding the Tier 1 minimum wage requirements, and that the business be a music publisher, sound recording studio, booking agent, or artist management.

Proposed law retains present law but extends eligibility for the QMC payroll credit to applications that were submitted but that have not received final certification by July 1, 2019, and repeals the requirement that the business be a music publisher, sound recording studio, booking agent, or artist management in order to qualify for the QMC payroll.

Present law prohibits the application of tax credits earned and claimed against an investor's income tax liability from reducing the investor's income tax liability below 50% prior to application of the credit, regardless of the amount of the credit the investor earned. Further authorizes the investor to carry forward unused tax credits for up to five years to be applied against the investor's tax liability in subsequent years.

Proposed law changes present law to delete the limitation on the amount of credit that may be used in any taxable year to offset the investor's tax liability *and* converts the tax credit from a credit that requires the carry forward of unused credits for up to five years to a refundable tax credit wherein the amount of the tax credit which exceeds the taxpayer's liability is refunded to the taxpayer. Proposed law requires the secretary of the Dept. of Revenue to make refunds from the current income and corporate franchise tax collections.

Present law prohibits credits from being granted for applications received on or after July 1, 2021.

Proposed law changes present law by extending the credit from July 1, 2021, to July 1, 2026.

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

(Amends R.S. 47:6023(B)(6), (7), and (8), (C)(1)(d)(intro. para.) and (4)(b), and (I); Adds R.S. 47:6023(B)(9) and (C)(1)(e); Repeals R.S. 47:6023(C)(4)(a)(iv) and (J))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Extend sunset of the tax credit from July 1, 2021, to July 1, 2026.

The House Floor Amendments to the engrossed bill:

1. Extend eligibility for the QMC payroll credit to applications that were submitted but have not received final certification by July 1, 2019.