

**ACT No. 404**

2023 Regular Session

HOUSE BILL NO. 255

BY REPRESENTATIVES LANDRY, GAROFALO, AND KNOX

1 AN ACT

2 To enact R.S. 47:6043, relative to income tax credits; to establish a refundable tax credit for  
3 restaurants that recycle oyster shells; to provide for qualifications for the credit; to  
4 provide for the amount of the credit; to provide for means by which corporations,  
5 individuals, estates, trusts, and partners and members of entities not taxed as  
6 corporations may claim the credit; to provide for limitations with respect to the  
7 credit; to require the secretary of the Department of Revenue to promulgate  
8 administrative rules with respect to the credit; to require the secretary of the  
9 Department of Revenue to collaborate with the secretary of the Department of  
10 Wildlife and Fisheries in developing such rules; to provide for applicability; and to  
11 provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 47:6043 is hereby enacted to read as follows:

14 §6043. Recycling of oyster shells; restaurant tax credit

15 A. The purpose of this Section is to create an incentive for Louisiana  
16 restaurants to divert from landfills a natural resource that would otherwise be a waste  
17 product and instead facilitate the use of that resource in improving water quality,  
18 benefitting aquatic habitats, supporting local economies, and protecting the coastline  
19 of this state.

20 B.(1) There shall be allowed a refundable credit against Louisiana income  
21 tax for restaurants that donate oyster shells for beneficial use in accordance with the  
22 qualifications provided in this Subsection.

23 (2) In order to be eligible for the credit in a taxable year, a restaurant  
24 claiming the credit shall, during the taxable year, have donated oyster shell material  
25 to the Oyster Shell Recycling Program of the Coalition to Restore Coastal Louisiana  
26 or any other oyster shell recycling program or activity designated in rule by the  
27 Department of Revenue as an approved program or activity.

1           C.(1) The amount of the credit shall equal one dollar for each fifty-pound  
2           increment of oyster shell material donated to a qualifying oyster shell recycling  
3           program or activity or two thousand dollars, whichever is less.

4           (2) The total amount of credits granted pursuant to the provisions of this  
5           Section shall not exceed one hundred thousand dollars per calendar year.

6           (3) The granting of tax credits authorized by this Section shall be on a  
7           first-come, first-served basis. If the total amount of credits claimed in a particular  
8           calendar year exceeds the amount of tax credits authorized for that year, the  
9           Department of Revenue shall treat the excess as having been applied for on the first  
10           day of the subsequent year. The department shall treat all requests received on the  
11           same business day as received at the same time. If the aggregate amount of the  
12           requests received on a single business day exceeds the total amount of available tax  
13           credits, the department shall approve tax credits on a pro rata basis.

14           D. If the amount of the credit authorized by this Section exceeds the amount  
15           of the taxpayer's tax liability for the taxable year, the excess tax credit amount shall  
16           constitute an overpayment as defined in R.S. 47:1621(A), and the secretary shall  
17           make a refund of the overpayment from the current collections of the taxes imposed  
18           pursuant to Chapter 1 of Subtitle II of this Title. The right to a refund shall not be  
19           subject to the requirements of R.S. 47:1621(B).

20           E. Any taxpayer claiming the credit authorized in this Section shall maintain  
21           all records necessary to verify his eligibility for the credit and for the amount of  
22           credit claimed. If requested by the Department of Revenue, a taxpayer shall submit  
23           to the department, in connection with the filing of his corporation, individual, or  
24           fiduciary income tax return, any records required to be maintained by the provisions  
25           of this Subsection.

26           F. The credit authorized in this Section may be claimed by corporations,  
27           individuals, and other entities in accordance with the following provisions:

28           (1) An entity taxed as a corporation for Louisiana income tax purposes shall  
29           claim any credit authorized by this Section on its corporation income and franchise  
30           tax return.

1                   (2) An individual, estate, or trust shall claim any credit authorized by this  
2                   Section on its income tax return.

3                   (3) An entity that is not taxed as a corporation shall claim any credit  
4                   authorized by this Section on the returns of the partners or members in accordance  
5                   with the following requirements:

6                   (a) Corporate partners or members shall claim their share of the credit,  
7                   respectively, on their corporation income tax returns.

8                   (b) Individual partners or members shall claim their share of the credit,  
9                   respectively, on their individual income tax returns.

10                  (c) Partners or members that are estates or trusts shall claim their share of the  
11                  credit, respectively, on their fiduciary income tax returns.

12                  G. The secretary of the Department of Revenue shall promulgate rules in  
13                  accordance with the Administrative Procedure Act as are necessary to implement the  
14                  provisions of this Section. In developing such rules, the secretary of the Department  
15                  of Revenue shall engage and collaborate with the secretary of the Department of  
16                  Wildlife and Fisheries and may incorporate recommendations of the secretary of the  
17                  Department of Wildlife and Fisheries in any final rules designating approved oyster  
18                  shell recycling programs and activities.

19                  H. No credits authorized by this Section may be claimed for any taxable year  
20                  beginning after December 31, 2028.

21                  Section 2. The provisions of this Act shall apply to taxable periods beginning on or  
22                  after January 1, 2024.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_