
HOUSE COMMITTEE AMENDMENTS

Amendments proposed by House Committee on Ways and Means to Original House Bill No. 693 by Representative Leger

1 AMENDMENT NO. 1

2 On page 1, line 2, after "reenact" delete the remainder of the line, from the beginning of line
3 3, delete "paragraph), and (E)" and insert the following:

4 "R.S. 47:6007(B), (C)(1)(introductory paragraph), (c)(introductory paragraph) and
5 (d), (2)(introductory paragraph), (4)(introductory paragraph) and (f)(ii), (D)(1)(a),
6 (2)(b)(introductory paragraph), (c), and (d)(introductory paragraph), (3), (6), (7), and
7 (8), (E), and (F)(3) and to enact R.S. 47:6007(C)(1)(e), (D)(9), and (F)(4)"

8 AMENDMENT NO. 2

9 On page 1, line 4, after "credit;" and before "to authorize" insert the following:

10 "to provide for definitions; to provide for the amount of tax credits; to provide for
11 requirements for receipt of tax credits; to provide with respect to rulemaking; to
12 provide with respect to a long-term strategic plan; to establish a committee and
13 provide for its membership; to provide with respect to the recapture of tax credits;"

14 AMENDMENT NO. 3

15 On page 1, line 5, after "franchise" and before the semi-colon ";" delete "and severance
16 taxes" and insert "tax"

17 AMENDMENT NO. 4

18 On page 1, line 8, after "Section 1." delete the remainder of the line, delete line 9 in its
19 entirety, and insert the following:

20 "R.S. 47:6007(B), (C)(1)(introductory paragraph), (c)(introductory paragraph) and
21 (d), (2)(introductory paragraph), (4)(introductory paragraph) and (f)(ii), (D)(1)(a),
22 (2)(b)(introductory paragraph), (c), and (d)(introductory paragraph), (3), (6), (7), and
23 (8), (E), and (F)(3) are hereby amended and reenacted and R.S. 47:6007(C)(1)(e),
24 (D)(9), and (F)(4) are hereby enacted to read as follows:"

25 AMENDMENT NO. 5

26 On page 1, between lines 11 and 12, insert the following:

27 "B. Definitions. For the purposes of this Section:

28 (1) "Base investment" means cash or cash equivalent investment made and
29 used for production expenditures in the state for a state-certified production.

30 (2) "Below the line crewmember" means a person employed by a motion
31 picture production company for a state-certified production that is not a producer,
32 associate producer, coproducer, line producer, executive producer, director, director
33 of photography, production designer, writer, actor, stunt performer, or other onscreen
34 performer with spoken lines.

35 (3) "Box rental" means private property owned by an employee or individual
36 contractor and leased to a state-certified production for use in Louisiana on a state-
37 certified production, which is designated as additional income on a W-2 or 1099
38 federal income tax form.

1 ~~(3)~~ (4) "Expenditure" means actual cash or cash equivalent exchanged for
2 goods or services.

3 ~~(2)~~ ~~Expended~~ (5) "Expenditure in the state" means an expenditure to lease
4 immovable property located in the state; an expenditure as compensation for services
5 performed in the state; or an expenditure to purchase or lease tangible personal
6 property from a source within the state where the transaction is subject to the state
7 sales or lease tax provisions of Title 47 of the Louisiana Revised Statutes of 1950.
8 A transaction that is subject to the state sales or lease tax provisions of Title 47 of the
9 Louisiana Revised Statutes of 1950 shall include transactions which are also subject
10 to a statutory exclusion or exemption.

11 ~~(4)~~ (6) "Headquartered in Louisiana" means a corporation incorporated in
12 Louisiana or a partnership, limited liability company, or other business entity
13 domiciled ~~and in Louisiana and having its principal place of business in Louisiana.~~
14 An entity shall not be deemed to be headquartered in Louisiana for the purpose of
15 producing nationally or internationally distributed motion pictures as defined in this
16 Section; if it is controlled, directly or indirectly, by a nonresident individual or entity.

17 ~~(5)~~ (7) "Motion picture" means a nationally or internationally distributed
18 feature-length film, video, television pilot, television series, television movie of the
19 week, animated feature film, animated television series, or commercial made in
20 Louisiana, in whole or in part, for theatrical or television viewing. The term "motion
21 picture" shall not include the production of television coverage of news and athletic
22 events.

23 ~~(6)~~ (8) "Motion picture production company" means a company engaged in
24 the business of producing nationally or internationally distributed motion pictures
25 as defined in this Section. Motion picture production company shall not mean or
26 include any company owned, affiliated, or controlled, in whole or in part, by any
27 company or person which is in default on a loan made by the state or a loan
28 guaranteed by the state, nor with any company or person who has ever declared
29 bankruptcy under which an obligation of the company or person to pay or repay
30 public funds or monies was discharged as a part of such bankruptcy.

31 ~~(7)~~ (9) "Office" means the Governor's Office of Film and Television
32 Development until August 15, 2006; thereafter, the term "office" means the office
33 of entertainment industry development in the Department of Economic Development
34 provided for in R.S. 51:938.1.

35 ~~(8)~~ (10) "Payroll" means all salary, wages, and other compensation, including
36 benefits paid to an employee for services relating to a state-certified production and
37 taxable in this state. However, "payroll" for purposes of the additional tax credit for
38 Louisiana-resident payroll shall exclude any portion of an individual salary in excess
39 of one million dollars.

40 (11) "Post-production work" means film or digital dailies, editorial services,
41 providing post-production facilities, color correction, sound and music editing,
42 rerecording and mixing, post-production lab services, title sequence creation,
43 animation, transfer of film to tape or digital format, sound synchronization, foley,
44 and visual effects.

45 ~~(9)~~ (12) "Production expenditures" means preproduction, production, and
46 qualified postproduction expenditures in this the state directly relating to a state-
47 certified production, including without limitation the following: set construction and
48 operation; wardrobes, makeup, accessories, and related services; costs associated
49 with photography and sound synchronization, lighting, and related services and
50 materials; editing and related services; rental of facilities and equipment; leasing of
51 vehicles; costs of food and lodging; digital or tape editing, film processing, transfer
52 of film to tape or digital format, sound mixing, special and visual effects; financing
53 and interest costs if such financing or loan is obtained from a financier headquartered
54 in Louisiana; and payroll. This term shall include the cost of customization or
55 custom development of a tangible good specifically designed for use by a state-
56 certified production in Louisiana if the customization services are performed in
57 Louisiana. This term shall not include expenditures for marketing and distribution,
58 non-production nonproduction related overhead, amounts reimbursed by the state or
59 any other governmental entity, costs related to the transfer of tax credits, amounts

1 that are paid to persons or entities as a result of their participation in profits from the
 2 exploitation of the production, the application fee, box or kit rentals paid to an
 3 individual who is not a Louisiana resident for the use of property that does not
 4 originate from a source within the state, or state or local taxes.

5 (13) "Qualified post-production expenditures" means only such costs that are
 6 attributable to the use of tangible property or the performance of post-production
 7 services by a qualified post-production facility within the state and related to a state-
 8 certified production. This shall include only those costs and their pro rata portions
 9 which occur directly within the state, no cost or salary which is incurred outside of
 10 Louisiana can be considered eligible; thus services contracted to subsidiaries, third-
 11 party companies, satellite offices or individuals performing the work outside the state
 12 are not qualified post-production costs. A production company claiming qualified
 13 post-production expenditures mt sign a statement attesting that, to the best of its
 14 knowledge, all services being submitted as eligible meet the requirements of this
 15 Paragraph. Additionally, it shall be required that the qualified post-production
 16 facility performing the claimed post-production services must sign a statement
 17 attesting that all claimed qualified post-production expenditures meet the
 18 requirements of this Paragraph. Should it be found that a post-production facility
 19 fradulently misrepresents the eligibility of expenditures, such post-production facility
 20 shall be deemed ineligible to serve as a qualified post-production facility for a period
 21 of eighteen months.

22 (14) "Qualified post-production facility" means:

23 (a) For state-certified productions with a total base investment of more than
 24 one million dollars, a permanent facility located within the state which is designed
 25 for the performance of post-production work, at which all necessary equipment is
 26 maintained on a permanent basis, and which meets either of the following criteria:

27 (i) If used for picture-based post-production, it contains a minimum of two
 28 thousand five hundred square feet of workable space, and has a minimum of four
 29 full-time employees.

30 (ii) If used for sound-based post production, it contains a minimum of one
 31 thousand two hundred fifty square feet of workable space and it maintains a
 32 minimum of two full-time employees.

33 (b) For state-certified productions with a total base investment of one million
 34 dollars or less, a facility located within the state which is designed for the
 35 performance of post-production work, at which all necessary equipment is
 36 maintained on a permanent basis, and which meets either of the following criteria:

37 (i) If used for picture-based post-production, it contains a minimum of one
 38 thousand two hundred fifty square feet of workable space, and has a minimum of two
 39 full-time employees.

40 (ii) If used for sound-based post production, it contains a minimum of seven
 41 hundred fifty square feet of workable space and it maintains a minimum of one full-
 42 time employee.

43 (c) A production which performs post-production services on its own behalf
 44 shall be exempt from the requirement to use a qualified post-production facility;
 45 provided, however, expenditures shall ony be eligible for earning tax credits under
 46 the cost-recovery method of accounting.

47 ~~(10)~~ (15) "Resident" or "resident of Louisiana" means a natural person
 48 domiciled in the state who has a driver's license issued by the state of Louisiana, and
 49 who can provide either a utility bill or real property lease which indicates the same
 50 address as that on the driver's license, and which document is dated at least six
 51 months and no more than one year prior to employment. A person who maintains
 52 a permanent place of abode within the state and spends in the aggregate more than
 53 six months of each year within the state shall be presumed to be domiciled in the
 54 state.

55 ~~(11)~~ (16) "Secretary" means the secretary of the Department of Economic
 56 Development.

57 ~~(12)~~ (17) "Source within the state" means a resident, corporation,
 58 partnership, limited liability company, or other business entity, or division or

1 subsidiary thereof, with a physical facility in Louisiana, operating with posted
2 business hours and employing at least one full-time equivalent employee.

3 (18) "Special events" means an event that occurs irrespective of filming,
4 such as Mardi Gras, music festivals, concerts, or other similarly situated events.

5 (19) "Special event production expenditures" means only costs directly
6 related to filming the special event.

7 (20) For state-certified productions receiving initial certification on or after
8 January 1, 2014, costs that are indirectly related to filming shall not qualify for tax
9 credits. Such indirect costs shall include, but not be limited to artist compensation
10 for festival or concert appearances or costs associated with the usual activities of a
11 reality show or documentary.

12 ~~(13)~~ (21) "State" means the state of Louisiana.

13 ~~(14)~~ (22) "State-certified production" shall mean a production approved by
14 the office and the secretary which is produced by a motion picture production
15 company domiciled and headquartered in Louisiana and which has a viable multi-
16 market multimarket commercial distribution plan."

17 AMENDMENT NO. 6

18 On page 1, delete lines 13 through 20 in their entirety, delete page 2 in its entirety, and on
19 page 3, delete lines 1 through 13 in their entirety, and insert the following:

20
21 "(1) There is hereby authorized a tax credit against state income and
22 corporation franchise tax for Louisiana taxpayers for investment in state-certified
23 productions. The tax credit shall be earned by investors at the time expenditures are
24 made by a motion picture production company in a state-certified production.
25 However, credits cannot be applied against a tax or transferred until the expenditures
26 are certified by the office and the secretary. For state-certified productions,
27 expenditures shall be certified no more than twice during the duration of a state-
28 certified production unless the motion picture production company agrees to
29 reimburse the office for the costs of any additional certifications. The tax credit shall
30 be calculated as a percentage of the total base investment dollars certified per
31 project.

32 * * *

33 (c) For state-certified productions approved by the office and the secretary
34 on or after July 1, 2009, but before January 1, 2014:

35 * * *

36 (d) For state-certified productions approved by the office and the secretary
37 on or after January 1, 2014:

38 (i) If the total base investment is greater than three hundred thousand dollars,
39 each motion picture production company shall be allowed a tax credit of thirty
40 percent of the base investment made by that motion picture production company
41 excluding any portion of the base investment that is expended on payroll for below
42 the line crewmembers that are not residents of Louisiana.

43 (aa) To the extent that base investment is expended on payroll for Louisiana
44 residents employed in connection with a state-certified production, each motion
45 picture production company shall be allowed an additional tax credit of five percent
46 of such payroll; however, if such payroll contains compensation to any individual
47 which exceeds one million dollars, this additional credit shall exclude any
48 compensation for that individual that exceeds one million dollars.

49 (bb) To the extent that base investment is expended on payroll for below the
50 line crewmembers that are not residents of Louisiana employed in connection with
51 a state-certified production, each motion picture production company shall be
52 allowed a tax credit of twenty percent of such payroll.

53 (ii) If the total base investment is greater than fifty thousand dollars, but less
54 than three hundred thousand dollars, each investor who can prove Louisiana
55 residency for a minimum of three years shall be allowed a tax credit for thirty
56 percent of the base investment made by that investor.

1 ~~(d)~~ (e) Motion picture investor tax credits associated with a state-certified
 2 production shall never exceed the total base investment in that production.

3 (2) The credit shall be allowed against the income and corporation franchise
 4 tax for the taxable period in which the credit is earned ~~or for the taxable period in~~
 5 ~~which initial certification authorizes the credit to be taken.~~ If the tax credit allowed
 6 pursuant to this Section exceeds the amount of such taxes due for such tax period,
 7 then any unused credit may be carried forward as a credit against subsequent tax
 8 liability for a period not to exceed ten years.

9 * * *

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

14 * * *

15 (f)

16 * * *

17 (ii) For projects which receive initial certification on and after July 1, 2009,
 18 the investor or motion picture production company who earned the motion picture
 19 investor tax credits pursuant to such certification may transfer the credits to the
 20 office for eighty-five percent of the face value of the credits in accordance with the
 21 procedures and requirements of Item (i) of this Subparagraph.

22 * * *

23 D. Certification and administration.

24 (1)(a) The secretary of the Department of Economic Development and the
 25 office shall determine through the promulgation of rules the minimum criteria that
 26 a project must meet in order to qualify according to this Section. ~~The secretary, the~~
 27 ~~office, and the division of administration shall determine through the promulgation~~
 28 ~~of rules the minimum criteria that a project must meet in order to qualify according~~
 29 ~~to this Section.~~ However, rulemaking authority shall not extend to the setting of a
 30 specific cap, proportion, percentage, or similar limit or restriction with regard to the
 31 scope or qualification of production expenditures as defined in this Section. The
 32 qualification of production expenditures shall be confirmed through the audit process
 33 associated with final certification as provided for in Subparagraph (2)(d) of this
 34 Subsection.

35 * * *

36 (2)

37 * * *

38 (b) If the application is incomplete, additional information may be requested
 39 ~~prior to further action~~ by the office or the secretary of the Department of Economic
 40 Development. An application fee shall be submitted with the application based on
 41 the following:

42 * * *

43 (c) The office and the secretary shall submit their initial certification of a
 44 project as a state-certified production to ~~investors~~ both the motion picture production
 45 company and to the secretary of the Department of Revenue ~~indicating~~ . The initial
 46 certification shall indicate the total base investment which shall be expended in the
 47 state on the state-certified production. ~~The initial certification~~ and shall include a
 48 unique identifying number for each state-certified production.

49 (d) Prior to any final certification of the state-certified production, the
 50 motion picture production company shall submit to the office and the secretary an
 51 audit of the production expenditures certified by an independent certified public
 52 accountant as determined by rule. The office and the secretary shall review the audit;
 53 and the production expense details, and may require additional information needed
 54 to make a determination. Upon approval of the audit, the office and the secretary
 55 shall issue a final tax credit certification letter indicating the amount of tax credits
 56 certified for the state-certified production to the ~~investors~~ motion picture production
 57 company. The rules required by this Subparagraph shall, at a minimum, require that:
 58

 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 (3) The secretary of the Department of Revenue, in consultation with the
 2 office and the secretary of the Department of Economic Development shall
 3 promulgate such rules and regulations as are necessary to carry out the intent and
 4 purposes of this Section in accordance with the general guidelines provided herein.
 5 However, rulemaking authority shall not extend to the setting of a specific cap,
 6 proportion, percentage, or similar limit or restriction with regard to the scope or
 7 qualification of production expenditures as defined in this Section. The qualification
 8 of production expenditures shall be confirmed through the audit process associated
 9 with final certification as provided for in Subparagraph (2)(d) of this Subsection.

10 * * *

11 (6) Prior to any final certification of a state-certified production, the motion
 12 picture production company applying for the credit must ensure and be able to
 13 demonstrate that all taxes related to production expenditures paid to an individual,
 14 or to a loan out, personal services corporation, professional employer organization,
 15 or employee leasing company for the services of an individual that are performed in
 16 this state are withheld and paid to this state pursuant to R.S. 47:112. Any amounts
 17 so withheld shall be deemed to have been withheld by the loan out, personal services
 18 corporation, professional employer organization, or employee leasing company on
 19 wages paid to its employees for services performed in Louisiana.

20 ~~(6)~~ (7)(a) With input from the Legislative Fiscal Office, the office shall
 21 prepare a written report to be submitted to the Senate Committee on Revenue and
 22 Fiscal Affairs and the House of Representatives Committee on Ways and Means no
 23 less than sixty days prior to the start of the Regular Session of the Legislature in
 24 2007, and every second year thereafter. The report shall include the overall impact
 25 of the tax credits, the amount of the tax credits issued, the number of net new jobs
 26 created, the amount of Louisiana payroll created, the economic impact of the tax
 27 credits and film industry, and any other factors that describe the impact of the
 28 program.

29 (b) For the year 2015, the report shall include a long-term strategic plan for
 30 the development of an indigenous self-sustaining entertainment industry and shall
 31 include recommendations for legislative and policy changes that will help reduce
 32 industry dependence on tax credits and government subsidy.

33 (c) The long-term plan with recommendations shall be developed by a
 34 committee of industry experts named "The Entertainment Industry Advisory
 35 Committee", hereafter referred to as "committee". The committee shall meet a
 36 minimum of eight times without compensation and will convene no later than
 37 December 1, 2013. The committee's final report shall be due to the office, the House
 38 Committee on Ways and Means, and the Senate Committee on Revenue and Fiscal
 39 Affairs no later than February 1, 2015.

40 (d) The committee shall be appointed by the secretary of the Louisiana
 41 Department of Economic Development and shall be composed of the following:

42 (i) The director of the Office of Entertainment Industry Development;

43 (ii) The secretary of the Department of Economic Development, or his
 44 designee;

45 (iii) The chairman of the House Committee on Ways & Means, or his
 46 designee;

47 (iv) The chairman of the Senate Committee on Revenue and Fiscal Affairs,
 48 or his designee;

49 (v) An economist with the Legislative Fiscal Office;

50 (vi) Three representatives of the entertainment business community selected
 51 from a list provided by the Louisiana Film and Entertainment Association.

52 (vii) A representative of the banking or investment community with
 53 experience in film financing, start up investment or intellectual property selected
 54 from a list provided by the Louisiana Bankers Association.

55 (viii) A representative from a Louisiana university which offers degreed
 56 programs in at least two of the following areas: film, music business, animation,
 57 video game development, or dramatic arts;

1 (e) Any expenses incurred by the committee for research, facilitation, or
2 compilation of the strategic plan may be paid from the Entertainment Promotion and
3 Marketing Fund, but shall not exceed a total of twenty-five thousand dollars.

4 ~~(7)~~ (8) The Department of Economic Development may request an additional
5 audit of the expenditures submitted by the motion picture production company at the
6 cost of the motion picture production company.

7 ~~(8)~~ (9) As a condition for receiving certification of tax credits under this
8 Section, state-certified productions may be required to display ~~an animated~~ a state
9 brand or logo, or both, which includes a fleur de lis as prescribed by the secretary of
10 the Department of Economic Development as long as the ~~animated~~ state brand or
11 logo is not contrary to any rule or regulation of the Federal Communications
12 Commission.

13 E. Recapture of credits. If the office finds that monies for which ~~an investor~~
14 a motion picture production company received tax credits according to this Section
15 are not ~~invested in and~~ expended with respect to a state-certified production ~~within~~
16 ~~twenty-four months of the date that such credits are earned, then the investor's~~ then
17 the motion picture production company's state income tax for such taxable period
18 shall be increased by such amount necessary for the recapture of credit provided by
19 this Section.

20 F. Recovery of credits by Department of Revenue.

21 * * *

22 (3) No tax credits transferred to another Louisiana taxpayer pursuant to this
23 Section shall be subject to recovery or recapture. Once tax credits are granted and
24 issued, the office and Department of Revenue shall have no right, except in the case
25 of possible material misrepresentation or fraud, to conduct any further or additional
26 review, examination, or audit of the production expenditures for which such tax
27 credits were granted. The sole and exclusive remedy of the office and Department
28 of Revenue shall be to seek collection of the amount of such tax credits from the
29 entity that committed the fraud or misrepresentation.

30 ~~(3)~~ (4) The provisions of this Subsection are in addition to and shall not limit
31 the authority of the secretary of the Department of Revenue to assess or to collect
32 under any other provision of law."