

# ACT No. 361

2015 Regular Session

HOUSE BILL NO. 773

BY REPRESENTATIVE LEGER

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AN ACT

To amend and reenact R.S. 36:104(B)(7), R.S. 47:6007(D)(2)(b) and (4), 6015(B)(3)(introductory paragraph), 6034(E)(2)(a)(i)(aa) and (iii)(aa), and R.S. 51:2317, to enact R.S. 36:104(C) and (D), and to repeal R.S. 51:936.2, relative to fees assessed by the secretary of the Department of Economic Development; to provide a uniform authorized fee schedule for economic development incentive and financial assistance programs; to provide for the recovery of costs associated with certain administrative functions; to provide for establishment and collection of authorized fees and costs; to authorize the promulgation of rules and regulations; to provide for certain limitations; to provide for disposition of fees; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 36:104(B)(7) is hereby amended and reenacted and R.S. 36:104(C) and (D) are hereby enacted to read as follows:

§104. Powers and duties of the secretary of economic development

\* \* \*

B. The secretary shall have the authority to:

\* \* \*

(7) Establish and collect fees and recover costs from any person applying for financial incentives or assistance granted by the department, not exceeding the amounts provided for in Subsection C of this Section. The amount of the fees shall be established in rules promulgated in accordance with the Administrative Procedure Act. The rules may also include provisions for the reduction or waiver of fees and

1 advance deposit for costs. All fees shall be nonrefundable unless otherwise provided  
 2 for by rules. The fees shall be established and collected as provided in R.S. 51:936.2  
 3 and in accordance with procedures adopted in accordance with the provisions of the  
 4 Administrative Procedure Act.

5 \* \* \*

6 C. The amount of fees and costs shall not exceed the following:

7 (1) The fee for an advance notification shall not exceed two hundred fifty  
 8 dollars.

9 (2) The fee for filing an application shall be equal to one-half of one percent  
 10 of the amount of the incentives or exempted taxes. However, the minimum amount  
 11 shall be five hundred dollars and the maximum amount of the fee shall be fifteen  
 12 thousand dollars.

13 (3) The fee for a loan guaranty shall not exceed four percent of the  
 14 guaranteed loan amount.

15 (4) The fee for an affidavit of final cost or project completion report,  
 16 regardless of whether it is the original report or an amended report, shall not exceed  
 17 two hundred fifty dollars.

18 (5) The fee for an annual certification report, including but not limited to  
 19 compliance reports, employee reports, and payroll reports shall not exceed two  
 20 hundred fifty dollars.

21 (6) The fee for a contract amendment, including but not limited to a transfer  
 22 or name change shall not exceed two hundred fifty dollars.

23 (7) The fee for a contract renewal shall not exceed two hundred fifty dollars.

24 (8) The fee for a statutorily required verification report, including but not  
 25 limited to an expenditure verification by a certified public accountant or tax attorney,  
 26 audits, attestations, tax opinions, or other reports under agreed-upon procedures shall  
 27 not exceed the actual cost to the department based on hours expended at a rate not  
 28 to exceed two hundred fifty dollars an hour for department-contracted services or  
 29 salary and benefits for department employee services.

1                    D. Fees collected pursuant to Subsection C of the Section shall be used  
 2                    solely for costs associated with the administration of department programs.

3                    Section 2. R.S. 47:6007(D)(2)(b) and (4), 6015(B)(3)(introductory paragraph), and  
 4                    6034(E)(2)(a)(i)(aa) and (iii)(aa) are hereby amended and reenacted to read as follows:

5                    §6007. Motion picture investor tax credit

6    \*         \*         \*

7                    D. Certification and administration.

8    \*         \*         \*

9                    (2)

10     \*         \*         \*

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

15     (i) ~~Two-tenths of one percent times the estimated total incentive tax credits.~~

16     (ii) ~~The minimum application fee is two hundred dollars, and the maximum~~  
 17                    ~~application fee is five thousand dollars.~~ in accordance with R.S. 36:104.

18     \*         \*         \*

19     (4)(i) Any taxpayer applying for the credit shall be required to reimburse the  
 20                    office for any audits required in relation to granting the credit.

21     (ii)(aa) ~~The production application fee provided for in Subparagraph (2)(b)~~  
 22                    ~~of this Subsection received by the office shall be deposited upon receipt in the state~~  
 23                    ~~treasury. After compliance with the requirements of Article VII, Section 9(B) of the~~  
 24                    ~~Constitution of Louisiana relative to the Bond Security and Redemption Fund and~~  
 25                    ~~prior to any money being placed into the general fund or any other fund, an amount~~  
 26                    ~~equal to that deposited as required by this Item shall be credited by the treasurer to~~  
 27                    ~~a special fund hereby created in the state treasury to be known as the Entertainment~~  
 28                    ~~Promotion and Marketing Fund. The money in the fund shall be appropriated by the~~  
 29                    ~~legislature to be used solely for promotion and marketing of Louisiana's~~  
 30                    ~~entertainment industry.~~

1                   ~~(bb) The money in the fund shall be invested by the treasurer in the same~~  
 2                   ~~manner as money in the state general fund and interest earned on the investment of~~  
 3                   ~~the money shall be credited to the fund after compliance with the requirements of~~  
 4                   ~~Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond~~  
 5                   ~~Security and Redemption Fund. All unexpended and unencumbered money in the~~  
 6                   ~~fund at the end of the year shall remain in the fund.~~

7   \*           \*           \*

8                   §6015. Research and development tax credit

9   \*           \*           \*

10                   B.

11   \*           \*           \*

12                   (3) Each taxpayer seeking the credits authorized in this Section shall apply  
 13                   to the Department of Economic Development for the credits. The taxpayer shall  
 14                   remit an application fee ~~of two hundred fifty dollars with the application in~~  
 15                   accordance with R.S. 36:104. The application shall include all of the following:

16   \*           \*           \*

17                   §6034. Musical and theatrical production income tax credit

18   \*           \*           \*

19                   E. Certification and administration:

20   \*           \*           \*

21                   (2)(a) Application. An applicant for the tax credit shall submit an  
 22                   application for initial certification to the Department of Economic Development that  
 23                   includes the following information:

24                   (i) The application for state-certified productions shall include:

25                   (aa) An application fee ~~received by the Department of Economic~~  
 26                   ~~Development based on the following:~~ in an amount set in accordance with R.S.  
 27                   36:104.

28                   ~~(f) Two-tenths of one percent times the estimated total incentive tax credits.~~

29                   ~~(H) The minimum application fee shall not be less than two hundred dollars,~~  
 30                   ~~and the maximum application fee shall not be more than five thousand dollars.~~

1           ~~(III) The application fee shall be deposited upon receipt in the state treasury.~~  
 2           ~~After compliance with the requirements of Article VII, Section 9(B) of the~~  
 3           ~~Constitution of Louisiana relative to the Bond Security and Redemption Fund and~~  
 4           ~~prior to any money being placed into the general fund or any other fund, an amount~~  
 5           ~~equal to that deposited as required by this Item shall be credited by the treasurer to~~  
 6           ~~a special fund which is hereby created in the state treasury to be known as the~~  
 7           ~~Entertainment Promotion and Marketing Fund.~~

8           ~~(IV) The money in the fund shall be appropriated by the legislature to be~~  
 9           ~~used solely for promotion and marketing of Louisiana's entertainment industry. The~~  
 10          ~~money in the fund shall be invested by the treasurer in the same manner as money~~  
 11          ~~in the state general fund and interest earned on the investment of the money shall be~~  
 12          ~~credited to the fund after compliance with the requirements of Article VII, Section~~  
 13          ~~9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption~~  
 14          ~~Fund. All unexpended and unencumbered money in the fund at the end of the year~~  
 15          ~~shall remain in the fund.~~

16   \*       \*       \*

17           (iii) The application for state-certified musical or theatrical facility  
 18           infrastructure projects shall include:

19           (aa) An application fee ~~received by the Department of Economic~~  
 20           ~~Development based on the following:~~ in an amount set in accordance with R.S.  
 21           36:104.

22           ~~(I) Two-tenths of one percent times the estimated total incentive tax credits.~~

23           ~~(II) The minimum application fee shall not be less than two hundred dollars,~~  
 24           ~~and the maximum application fee shall not be more than five thousand dollars.~~

25           ~~(III) The application fee shall be deposited upon receipt in the state treasury.~~  
 26           ~~After compliance with the requirements of Article VII, Section 9(B) of the~~  
 27           ~~Constitution of Louisiana relative to the Bond Security and Redemption Fund and~~  
 28           ~~prior to any money being placed into the general fund or any other fund, an amount~~  
 29           ~~equal to that deposited as required by this Item shall be credited by the treasurer to~~  
 30           ~~a special fund known as the Entertainment Promotion and Marketing Fund.~~

1           ~~(IV) The money in the fund shall be appropriated by the legislature to be~~  
 2           ~~used solely for promotion and marketing of Louisiana's entertainment industry. The~~  
 3           ~~money in the fund shall be invested by the treasurer in the same manner as money~~  
 4           ~~in the state general fund and interest earned on the investment of the money shall be~~  
 5           ~~credited to the fund after compliance with the requirements of Article VII, Section~~  
 6           ~~9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption~~  
 7           ~~Fund. All unexpended and unencumbered money in the fund at the end of the year~~  
 8           ~~shall remain in the fund.~~

\*       \*       \*

10           Section 3. R.S. 51:2317 is hereby amended and reenacted to read as follows:

11           §2317. Application fees and origination fees

12           ~~A.~~ A. The corporation, through the secretary, may charge application fees and  
 13           other fees as necessary to cover costs associated with administering its programs in  
 14           a manner consistent with the financial and economic benefits and risks of the  
 15           programs to the state. Adoption of such charges shall be published in the Louisiana  
 16           Register in conformance with the provisions of the Administrative Procedure Act.

17           ~~B. The fees authorized by this Section shall not exceed the following~~  
 18           ~~amounts for the programs listed below:~~

19           ~~(1) Small business loan program:~~

20           ~~(a) Application fee ————— \$100.00~~

21           ~~(b) Guaranty fee ————— 4 percent of the guaranty amount~~

22           ~~(2) Micro loan program:~~

23           ~~(a) Application fee ————— \$100.00~~

24           ~~(b) Guaranty fee ————— 4 percent of the guaranty amount~~

25           ~~(3) Contract loan program:~~

26           ~~(a) Application fee ————— \$ 100.00~~

27           ~~(b) Guaranty fee ————— 4 percent of the guaranty amount~~

28           ~~(4) Small business bonding assistance program:~~

29           ~~(a) Application fee ————— \$ 100.00~~

30           ~~(b) Guaranty fee ————— 2 percent of the guaranty amount~~

1 Section 4. R.S. 51:936.2 is hereby repealed in its entirety.

2 Section 5. This Act shall become effective on July 1, 2015.

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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: \_\_\_\_\_