

2021 Regular Session

SENATE BILL NO. 173

BY SENATOR HEWITT

TAX/TAXATION. Provides relative to the administration of the Motion Picture Production Tax Credit. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 47:6007(C)(1)(a)(i)(aa) and (4)(h)(ii) and (iii)(bb), (D)(2)(d)(i),
3 (I), (J)(1), and (3)(a), relative to the motion picture production tax credit; to provide
4 for the out-of-zone base tax credit enhancement; to provide for the uses of the
5 Louisiana Entertainment Development Fund; to provide for the allocation of tax
6 credits; to provide for rollover of any excess tax credit cap; to increase the per
7 project cap; to extend the program termination date; and to provide for related
8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 47:6007(C)(1)(a)(i)(aa) and (4)(h)(ii) and (iii)(bb), (D)(2)(d)(i), (I),
11 (J)(1), and (3)(a) are hereby amended and reenacted to read as follows:

12 §6007. Motion picture production tax credit

13 * * *

14 C. Production tax credit; specific productions and projects.

15 (1) * * *

16 (a) * * *

17 (i) Base investment credit. If the total base investment is greater than three

1 hundred thousand dollars, or if a production is a Louisiana screenplay production,
 2 each investor shall be allowed a tax credit of twenty-five percent of the base
 3 investment made by the investor. Investors may receive an increased base investment
 4 credit rate by satisfying any of the following criteria:

5 (aa) Out-of-zone filming. A five percent increase in the base investment rate
 6 may be allowed for state-certified productions with their production office and sixty
 7 percent of principal photography based and occurring outside of the New Orleans
 8 Metro Statistical Area, as delineated by the federal Office of Management and
 9 Budget, but not including St. John the Baptist Parish **and St. Tammany Parish.**

10 * * *

11 (4) Transferability of the credit. Except as provided for in Subparagraph (g)
 12 of this Paragraph, motion picture tax credits not previously claimed by any taxpayer
 13 against its income tax may be transferred or sold to another Louisiana taxpayer or
 14 to the Department of Revenue, subject to the following conditions:

15 * * *

16 (h) * * *

17 (ii) There is hereby established in the state treasury a special treasury fund,
 18 the Louisiana Entertainment Development Fund, hereinafter referred to as the
 19 "fund". Out of the funds remaining in the Bond Security and Redemption Fund after
 20 a sufficient amount is allocated from that fund to pay all obligations secured by the
 21 full faith and credit of the state which becomes due and payable within any fiscal
 22 year as required by ~~Article VII, Section 9(B) of this constitution~~ **La. Const. Art.**
 23 **VII, Sec. 9(B)**, the treasurer shall deposit in and credit to the fund the fees deposited
 24 as provided in this Paragraph.

25 (iii) The money in the fund shall be appropriated by the legislature as follows:

26 * * *

27 (bb) Seventy-five percent to the Department of Economic Development,
 28 office for education development initiatives, matching grants for Louisiana
 29 filmmakers, ~~a loan guarantee program, and a deal closing fund~~ **state work force**

1 development programs, and other motion picture and television related
2 programs as determined by rule.

3 * * *

4 D. Certification and administration.

5 * * *

6 (2)(a) Application. An applicant for the motion picture investor credit shall
7 submit an application for initial certification to the office and the secretary of the
8 Department of Economic Development that includes the following information:

9 * * *

10 (d)(i) Project-based production tax credit. After application review and
11 consideration of all discretionary factors, the office and the secretary shall submit
12 their initial certification or written denial of a project as a state-certified production
13 to investors and to the secretary of the Department of Revenue indicating the total
14 base investment which shall be expended in the state on the state-certified production
15 within sixty days of their receipt of all required information. The initial certification
16 shall include a unique identifying number for each state-certified production and
17 ~~shall~~ may provide for a preliminary allocation of tax credits by year.

18 * * *

19 I. No credits shall be allowed pursuant to this Section for applications
20 received on or after July 1, ~~2025~~ 2028.

21 J. Credit caps, structured pay outs, and project size limitations

22 (1) Department of Economic Development program issuance cap.

23 (a) The department shall ~~by rule establish the method of provisionally~~
24 ~~allocating available tax credits in initial certification letters, and the method for~~
25 ~~granting tax credits in final tax credit certification letters, including but not limited~~
26 ~~to a first-come, first-served system, reservation of tax credits for a specific time~~
27 ~~period;~~ grant tax credits in final certification letters on a first-come, first-served
28 system or other method ~~which~~ that the department, ~~in its discretion,~~ may find
29 beneficial to the program.

1 (b)(i) For applications for state-certified productions and qualified
2 entertainment companies submitted on or after July 1, 2017, the total amount of all
3 tax credits granted in a final certification letter by the department in any fiscal year
4 shall not exceed one hundred fifty million dollars.

5 ~~Twenty~~**(ii) For applications submitted before July 1, 2021, twenty** percent
6 of the annual program cap shall be reserved as follows: five percent for qualified
7 entertainment companies, five percent for Louisiana screenplay productions, and ten
8 percent for independent film productions. **For applications submitted on or after**
9 **July 1, 2021, four percent of the annual program cap shall be reserved as**
10 **follows: two percent for qualified entertainment companies and two percent for**
11 **Louisiana screenplay productions. If the total amount of credits granted in any**
12 **fiscal year to qualified entertainment companies or Louisiana screenplay**
13 **productions is less than their respective reservation, any residual amount may**
14 **be available for issuance by the department during that fiscal year as**
15 **established by rule.**

16 **(iii) If the total amount of credits granted in any fiscal year is less than**
17 **the issuance cap, the remaining cap balance shall be available for use in**
18 **subsequent fiscal years until the remaining balance is granted in final**
19 **certification letters.** If the total amount of credits applied for in any particular year
20 exceeds the aggregate amount of tax credits allowed for that year, the excess shall
21 be treated as having been applied for on the first day of the subsequent year.

22 ~~(c)(i) If the total amount of credits granted to QECs in any fiscal year is less~~
23 ~~than the QEC cap, any residual amount of unused credits shall carry forward for use~~
24 ~~in subsequent years and may be granted in addition to the QEC cap for each year.~~

25 ~~(ii) If the total amount of credits granted in any fiscal year to screenplay~~
26 ~~productions or independent film productions is less than their respective caps, any~~
27 ~~residual amount may be available for issuance by the department during that fiscal~~
28 ~~year as established by rule.~~

29 (d) The department shall make reasonable efforts to post a listing of

1 estimated amounts available under the cap on its website.

2 * * *

3 (3) Department of Economic Development individual project issuance cap.

4 (a) Project-based production tax credit. For applications for state-certified
 5 productions on or after July 1, 2017, the maximum amount of credits that may be
 6 granted for a single state-certified production shall not exceed twenty million dollars,
 7 except for state-certified productions for scripted episodic content that may be
 8 granted up to twenty-five million dollars per season. **For applications for**
 9 **state-certified productions on or after July 1, 2021, the maximum amount of**
 10 **credits that may be granted for a single state-certified production that is not a**
 11 **production for scripted episodic content shall not exceed twenty-two million**
 12 **dollars.**

13 * * *

14 Section 2. This Act shall become effective upon signature by the governor or, if not
 15 signed by the governor, upon expiration of the time for bills to become law without signature
 16 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 17 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 18 effective on the day following such approval.

The original instrument was prepared by Leonore Heavey. The following digest, which does not constitute a part of the legislative instrument, was prepared by Carla S. Roberts.

DIGEST

SB 173 Reengrossed

2021 Regular Session

Hewitt

Present law authorizes a motion picture production base investment tax credit of 25% of production expenditures in this state for productions with a base investment greater than \$300,000 and authorizes an additional base investment credit of 5% for projects filmed outside the New Orleans Metro Zone, as delineated by the federal Office of Management and Budget, but not including St. John the Baptist Parish.

Proposed law retains present law and adds St. Tammany Parish to the parishes inside the New Orleans Metro Zone that qualify for the out-of-zone base investment credit enhancement.

Present law authorizes the expenditure of 75% of the funds in the La. Entertainment Development Fund for education development initiatives, matching grants for Louisiana filmmakers, a loan guarantee program, and a deal closing fund.

Proposed law removes the loan guarantee program and deal closing fund from the permissible uses of the La. Entertainment Development Fund and adds state work force development programs and other motion picture and television related programs as determined by rule by the department.

Present law requires that initial certification submitted by the film office, the investors, and the Department of Revenue provide for a preliminary allocation of tax credits by year.

Proposed law makes the provision of a preliminary allocation of tax credits by year permissive.

Present law provides that no credits shall be authorized for applications received after July 1, 2025.

Proposed law extends the program termination date from July 1, 2025, to July 1, 2028.

Present law authorizes the department to establish the method of provisionally allocating available tax credits by rule.

Proposed law requires the department to grant tax credits in final certification letters on a first-come, first-served basis or by any method determined to be beneficial to the program.

Present law provides for a \$150 million credit granting cap per fiscal year and does not allow the rollover of excess credit cap in the event that the entire \$150 million is not granted in a fiscal year.

Proposed law allows the rollover of any credit cap in excess of credits granted in a fiscal year to be used in subsequent fiscal years.

Present law provides that 20% of the annual program cap is reserved as follows: 5% for qualified entertainment companies, 5% for La. screenplay productions, and 10% percent for independent film productions.

Proposed law retains present law as it relates to applications submitted before July 1, 2021. Proposed law reduces the reserved amount for applications submitted on or after July 1, 2021 from 20% to 4% of the annual program cap to be reserved as follows: 2% for qualified entertainment companies and 2% for La. screenplay productions and removes independent films from reserved funding. If the total amount of credits granted in any fiscal year to qualified entertainment companies or La. screenplay productions is less than their respective reservation, any residual amount may be available for issuance by the dept. during that fiscal year as established by rule.

Present law provides that the maximum amount of credits that may be granted for a single state-certified production shall not exceed \$20 million, except for state-certified productions for scripted episodic content that may be granted up to \$25 million per season.

Proposed law increases the maximum per production cap to \$22 million for productions that are not for scripted episodic content and retains the \$25 million per season cap.

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

(Amends R.S. 47:6007(C)(1)(a)(i)(aa) and (4)(h)(ii) and (iii)(bb), (D)(2)(d)(i), (I), (J)(1), and (3)(a))

Summary of Amendments Adopted by SenateCommittee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Extends the program termination date from July 1, 2025, to July 1, 2028.
2. Increases the maximum per production cap to \$22 million for single productions.
3. Requires the department to grant tax credits in final certification letters on a first-come, first-served basis or by any method determined to be beneficial to the program.

Senate Floor Amendments to engrossed bill

1. Changes the amount of reserved project funding from 20% to 4% for applications submitted on or after July 1, 2021.
2. Removes independent film productions from the list of projects which receive a reserved percentage of funding on or after July 1, 2021.
3. Allows that any amounts left over from the reserved projects may be available for issuance to other projects.