

2015 Regular Session

HOUSE BILL NO. 748

BY REPRESENTATIVE STOKES

TAX CREDITS: Provides relative to the motion picture investor tax credit and the motion picture infrastructure investor tax credit

1 AN ACT

2 To amend and reenact R.S. 47:6007(B)(5), (10) through (16), (C)(1)(introductory

3 paragraph), (a)(iii) and (b)(iii), (D)(2)(d)(i), (E), and (F)(1), and to add R.S.

4 47:6007(B)(17), (C)(1), and (c)(iii), (D)(1)(d)(iv) and (v) and (2)(d)(iii), G, and H,

5 relative to income tax credits; to provide with respect to the motion picture investor

6 tax credit; to provide for definitions; to provide eligibility for certain types of

7 productions; to provide requirements for the completion of projects and certification

8 of expenditures; to authorize assignment of credits to a lender under certain

9 circumstances; to provide for recapture of tax credits; to provide for the final

10 certification of certain expenditures for state-certified infrastructure projects; to

11 provide for effectiveness; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 47:6007(B)(5), (10) through (16), (C)(1)(introductory paragraph),

14 (a)(iii) and (b) (iii), (D)(2)(d)(i), (E), and (F)(1) are hereby amended and reenacted, and R.S.

15 47:6007(B)(17), (C)(1)(c)(iii) , (D)(1)(d)(iv) and (v) and (2)(d)(iii), G, and H are hereby

16 enacted, to read as follows:

17 §6007. Motion picture investor tax credit

18 \* \* \*

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

20 \* \* \*



1           ~~(12)~~(13) "Resident" or "resident of Louisiana" means a natural person  
2 domiciled in the state. A person who maintains a permanent place of abode within  
3 the state and spends in the aggregate more than six months of each year within the  
4 state shall be presumed to be domiciled in the state.

5           ~~(13)~~(14) "Secretary" means the secretary of the Department of Economic  
6 Development.

7           ~~(14)~~(15) "Source within the state" means a physical facility in Louisiana,  
8 operating with posted business hours and employing at least one full-time equivalent  
9 employee.

10          ~~(15)~~(16) "State" means the state of Louisiana.

11          ~~(16)~~(17) "State-certified production" shall mean a production approved by  
12 the office and the secretary which is produced by a motion picture production  
13 company domiciled and headquartered in Louisiana and which has a viable multi-  
14 market commercial distribution plan.

15           C. Investor tax credit; specific productions and projects.

16           (1) There is hereby authorized a tax credit against state income tax for  
17 Louisiana taxpayers for investment in state-certified productions. The tax credit  
18 shall be earned ~~by investors at the time expenditures are made by a motion picture~~  
19 ~~production company in a state-certified production~~ when certified by the office,  
20 according to the total base investment certified per calendar year, as set forth in the  
21 final certification issued to the motion picture production company. However,  
22 credits cannot be applied against a tax or transferred until the expenditures are  
23 certified by the office and the secretary. For state-certified productions, expenditures  
24 shall be certified no more than ~~twice during the duration of a state-certified~~  
25 ~~production unless the motion picture production company agrees to reimburse the~~  
26 ~~office for the costs of any additional certifications~~ once per production, after project  
27 completion. The tax credit shall be calculated as a percentage of the total base  
28 investment dollars certified per project.

1 (a) For state-certified productions approved by the office and the secretary  
2 on or after January 1, 2004, but before January 1, 2006:

3 \* \* \*

4 (iii) The initial certification shall be effective for qualifying expenditures  
5 made within a period twelve months prior to and twelve months after the date of  
6 initial certification, ~~unless the production has commenced, in which case the initial~~  
7 ~~certification shall be valid until the production is completed.~~

8 (b) For state-certified productions approved by the office and the secretary  
9 on or after January 1, 2006, but before July 1, 2009:

10 \* \* \*

11 (iii) The initial certification shall be effective for qualifying expenditures  
12 made within a period twelve months prior to and twelve months after the date of  
13 initial certification, ~~unless the production has commenced, in which case the initial~~  
14 ~~certification shall be valid until the production is completed.~~

15 (c) For state-certified productions approved by the office and the secretary  
16 on or after July 1, 2009:

17 \* \* \*

18 (iii) The initial certification shall be effective for qualifying expenditures  
19 within a period twelve months prior to and twenty-four months after the date of the  
20 initial certification.

21 \* \* \*

22 D. Certification and administration.

23 (1)

24 \* \* \*

25 (d) When determining which productions may qualify, the office and the  
26 secretary of the Department of Economic Development shall take the following  
27 factors into consideration:

28 \* \* \*



1 ~~respect to a state-certified production within twenty-four months of the date that such~~  
 2 ~~credits are earned, then the investor's state income tax for such taxable period a~~  
 3 taxpayer has obtained a tax credit in violation of the provisions of this Chapter,  
 4 including but not limited to fraud or misrepresentation, any tax liability of the  
 5 taxpayer collected under Title 47 of the Louisiana Revised Statutes, as amended,  
 6 shall be increased by such amount necessary for the recapture of credit provided by  
 7 this Section.

8 F. Recovery of credits by Department of Revenue. (1) Credits previously  
 9 ~~granted paid~~ paid to a taxpayer, but later disallowed, may be recovered by the secretary  
 10 of the Department of Revenue through any collection remedy authorized by R.S.  
 11 47:1561 and initiated ~~within three years from December thirty-first of the year in~~  
 12 ~~which the twenty-four-month investment period specified in Subsection E of this~~  
 13 ~~Section ends.~~ the latter of any of the following:

14 (a) Two years from December thirty-first in the year in which the tax credit  
 15 was paid, or

16 (b) Three years from December thirty-first of the year in which the taxes for  
 17 the filing period were due.

18 \* \* \*

19 G. Tax credits provided for in this Section shall not be considered  
 20 entitlements, and the motion picture production company shall bear the burden of  
 21 clearly and unequivocally establishing eligibility for tax credits.

22 H. Audit reports for certification of expenditures for state-certified motion  
 23 picture infrastructure program tax credits shall be submitted in accordance with the  
 24 provisions of this Subsection.

25 (1) State-certified infrastructure project applicants may submit to the office  
 26 on or before December 31, 2015, all requests and required documentation for final  
 27 certification of all tax credits granted by this provision, after which time all such  
 28 claims to tax credits are deemed waived.

1           (2) Any request shall be accompanied by an audit performed by an  
2           independent certified public accountant.

3           (3) The office, the secretary, and the division shall review the audit, and may  
4           required additional information needed to make a determination.

5           (4) The office may request an additional audit report of expenditures  
6           submitted by the state-certified motion picture infrastructure project applicant, with  
7           the cost of the additional report paid by the applicant.

8           (5) Within three hundred and sixty five days after receipt of the audit report  
9           and all required supporting information, or December 31, 2016, whichever occurs  
10          first, the office, the secretary, and the division shall issue a denial letter or a tax  
11          credit certification letter to the investors indicating the amount of the tax credits  
12          certified for the state-certified infrastructure project for all qualifying expenditures  
13          verified by the office.

14          (6) Tax credits provided for in this Section shall not be considered  
15          entitlements, and the state-certified motion picture infrastructure applicant shall bear  
16          the burden of clearly and unequivocally establishing eligibility for tax credits.

17          (7) In the event that a request for final certification is denied, an applicant  
18          may appeal in accordance with program rules.

19          (8) No motion picture infrastructure tax credits shall be certified after July  
20          1, 2017.

21                 Section 2. This Act shall become effective upon signature by the governor  
22 or, if not signed by the governor, upon expiration of the time for bills to become law without  
23 signature by the governor, as provided by Article III, Section 18 of the Constitution of  
24 Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act  
25 shall become 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 748 Original

2015 Regular Session

Stokes

**Abstract:** Numerous procedural changes to the motion picture investor tax credit program, also includes addition of eligibility for online productions, and requirements specific to final certifications of project expenditures for motion picture *infrastructure* investor tax credits.

Present law authorizes a tax credit against state income tax based on motion picture production expenditures for state-certified productions. The tax credit is calculated as a percentage of the total base investment dollars certified per project.

Present law authorizes an income tax credit equal to 30% of production expenditures for all state-certified productions approved after July 1, 2009. Also provided is an additional tax credit equal to 5% of the base investment expended on payroll for La. residents employed in connection with all state-certified productions.

Proposed law changes present law definition for motion picture to include eligibility for motion pictures developed for viewing online.

Proposed law makes several changes regarding the procedures and time periods involved with initial certification of expenditures.

Present law provides that the tax credit is earned when production expenditures are "certified" by the office of entertainment industry development within the Dept. of Economic Development ("DED"). Expenditures may be certified no more than twice during the duration of a state-certified production, unless the motion picture production company agrees to reimburse DED for the cost of additional certifications.

Proposed law specifies that the initial certification shall be effective for qualifying expenditures made within 12 months before and 24 months after the date of initial certification.

Proposed law adds a limitation regarding initial certification of expenditures by restricting the expenditures which may receive initial certification to those made within six months of the application for initial certification.

Proposed law adds a requirement that no later than six months after the expiration of the initial certification period for the applicable state-certified production, a taxpayer is required to submit to the office all requests and required documentation for final certification of all tax credits or the claims to such tax credits shall be deemed waived.

Proposed law changes present law by reducing the number of times and changing the timing of certifications for expenditures from twice during the production to once after the project is completed.

Proposed law adds requirements for consideration of productions for initial certification by requiring DED to consider criminal convictions related to motion picture investor tax credits, or any other serious issues which may impact the approval of the application for initial certification.



Proposed law changes the time period within which the Dept. of Revenue may recapture credits which were issued and then disallowed.

Prior law sunset the motion picture *infrastructure* investor tax credit on Dec. 31, 2008, by repealing the authority to issue credits for any state-certified project for which less than 50% of the base investment provided for in the initial certification had been expended by Dec. 31, 2008.

Proposed law adds requirements regarding submission and consideration of audit reports for final certification of state-certified expenditures for the motion picture *infrastructure* investor tax credits.

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

(Amends R.S. 47:6007(B)(5), (10) through (16), (C)(1)(intro. para.), (a)(iii) and (b)(iii), (D)(2)(d)(i), (E), and (F)(1); Adds R.S. 47:6007(B)(17), (C)(1)(c)(iii), (D)(1)(d)(iv) and (v) and (2)(d)(iii), (G), and (H))