

2015 Regular Session

SENATE BILL NO. 106

BY SENATOR MORRELL AND REPRESENTATIVE TALBOT

TAX/TAXATION. Requires recovery of motion picture investor tax credits issued in violation of the tax credit law or its administrative interpretation and those issued to an investor convicted of a criminal violation related to such tax credits. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 47:6007(B)(6) and to enact R.S. 47:6007(G), relative to motion
3 picture investor tax credits; to provide for eligibility for the credits; to provide for the
4 invalidity of credits and their recovery under certain circumstances; to provide for
5 retroactivity and severability; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:6007(B)(6) is hereby amended and R.S. 47:6007(G) is hereby
8 enacted to read as follows:

9 §6007. Motion picture investor tax credit

10 * * *

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

12 * * *

13 (6) "Motion picture production company" means a company engaged in the
14 business of producing nationally or internationally distributed motion pictures as
15 defined in this Section. Motion picture production company shall not mean or
16 include any company owned, affiliated, or controlled, in whole or in part, by **any of**
17 **the following companies or persons:**

1 (a) ~~any~~ **Any** company or person which is in default on a loan made by the
 2 state or a loan guaranteed by the state;

3 (b) ~~nor with any~~ **Any** company or person who has ever declared bankruptcy
 4 under which an obligation of the company or person to pay or repay public funds or
 5 monies was discharged as a part of such bankruptcy.

6 (c) **Any company or person who has been convicted of a criminal**
 7 **violation related to the tax credits provided for in this Section.**

8 (d) **Any company or person who was granted, or was required to be**
 9 **granted, tax credits in violation of the provisions of this Section or the**
 10 **administrative interpretation of this Section by the office or the office's**
 11 **predecessors.**

12 * * *

13 **G. Notwithstanding the provisions of Subsections E and F of this Section**
 14 **or any other law to the contrary:**

15 (1)(a) **If the office determines that an investor was granted, or was**
 16 **required to be granted, tax credits in violation of the provisions of this Section**
 17 **or the administrative interpretation of this Section by the office or the office's**
 18 **predecessors, such tax credits granted shall be invalidated and the amount shall**
 19 **be recovered by the secretary of the Department of Revenue.**

20 (b) **If the office determines that any investor who was granted a tax**
 21 **credit pursuant to this Section has been convicted of a criminal violation related**
 22 **to the tax credits provided for in this Section, no further tax credits shall be**
 23 **issued and all tax credits previously issued to such investor shall be invalidated**
 24 **and shall be recovered by the secretary of the Department of Revenue by an**
 25 **action for recovery initiated at any time, and the running of any prescription**
 26 **against such claim shall be interrupted until the action for recovery is filed by**
 27 **the secretary.**

28 (c) **An investor under Paragraph (1) or Paragraph (2) of this Subsection**
 29 **shall be assessed for the tax period in which the tax credits are invalidated by**

1 the amount necessary for the recapture of tax credits provided for in this
 2 Subsection and the secretary of the Department of Revenue shall recover such
 3 tax credits through any collection remedy authorized by R.S. 47:1561, plus
 4 interest and penalties provided for the delinquent payment of taxes.

5 (d) The provisions of this Subsection shall not apply to a good faith
 6 transferee of tax credits, which transfer has completed the procedure provided
 7 for in Paragraph (C)(4) of this Section.

8 (2) If the office determines that any investor has been charged with a
 9 criminal violation related to tax credits provided for in this Section, the office
 10 shall defer issuance of any credits until conviction or acquittal of such charges.

11 (3) For purposes of this Subsection, "investor" shall mean any investor,
 12 applicant production company, or any individual with an ownership interest of
 13 five percent or more in an applicant production company.

14 Section 2. The provisions of this Act shall be retroactive.

15 Section 3. The provisions of this Act shall be severable.

16 Section 4. This Act shall become effective upon signature by the governor or, if not
 17 signed by the governor, upon expiration of the time for bills to become law without signature
 18 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 19 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 20 effective on the day following such approval.

The original instrument was prepared by Riley Boudreaux. The following digest, which does not constitute a part of the legislative instrument, was prepared by Ann S. Brown.

DIGEST

SB 106 Reengrossed 2015 Regular Session Morrell

Present law defines a "motion picture production company" eligible for motion picture investor tax credits.

Proposed law adds to that definition that such a "motion picture production company" shall not include any company owned, affiliated, or controlled, in whole or in part, by:

- (1) Any company or person who has been convicted of a criminal violation related to the tax motion picture investor tax credits.
- (2) Any company or person who was granted, or was required to be granted, tax credits

in violation of the provisions of the motion picture investor tax credit law or the administrative interpretation of the law by the office of entertainment industry development in the Department of Economic Development, or that office's predecessors.

Proposed law requires motion picture investor tax credits to be invalidated and the amount recovered by the secretary of the Department of Revenue if:

- (1) The office of entertainment industry development determines that an investor was granted, or was required to be granted, the credits in violation of the provisions of the motion picture investor tax credit law or the administrative interpretation of the law by the office, or that office's predecessors.
- (2) If the office determines that any investor who was granted motion picture investor tax credits has been convicted of a criminal violation related to the tax credits, no further tax credits shall be issued and all tax credits previously issued investor must be invalidated and must be recovered by the secretary of LDR by an action for recovery initiated at any time, and the running of any prescription against such claim is interrupted until the action for recovery is filed by the secretary.

Proposed law requires certain investor shall be assessed for the state income tax period in which the tax credits are invalidated by the amount necessary for the recapture of tax credits and the secretary of LDR must recover such tax credits through any collection remedy authorized by R.S. 47:1561, plus interest and penalties provided for the delinquent payment of taxes.

Proposed law shall not apply to a good faith transferee of tax credits, which transfer has completed the procedure provided in present law.

Proposed law provides that if the office determines that any investor has been charged with a criminal violation related to tax credits, the office shall defer issuance of any credits until conviction or acquittal of such charges.

Proposed law clarifies that "investor" shall mean any investor, applicant production company, or any individual with an ownership interest of five percent or more in an applicant production company.

Provides that the provisions of the proposed law are retroactive and specifies that its provisions are severable.

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

(Amends R.S. 47:6007(B)(6); adds R.S. 47:6007(G))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Removes the provision that states that a motion picture production company shall not include any company owned, affiliated, or controlled, in whole or in part, by any company or person who has only been charged with a criminal violation of the tax motion picture investor tax credits.
2. Provides that no further tax credits shall be issued and all previously issued tax credits shall be invalidated and recovered by LDR's secretary when the office determines that an investor who was granted motion picture tax credits has been convicted of a criminal violation related to the tax credits.

3. Provides a definition of "investor".
4. Provides that the provision of proposed law shall not apply to a good faith transferee of tax credits when the transfer has been completed in accordance to present law.
5. Requires the office to defer issuance of any tax credits until conviction or acquittal of such charges when the office has determined that an investor has been charged with a criminal violation related to tax credits.
6. Technical amendments.