

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~~ means a production  
12 approved by the office and the secretary which is produced by a motion picture  
13 production company domiciled and headquartered in Louisiana and which has a  
14 viable multi-market commercial distribution plan.

15          (18) "Taxpayer" means an investor, motion picture production company  
16 applicant, individual with an ownership interest in a motion picture production  
17 company applicant, or a subsequent transferee of the tax credit.

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

19           (1) There is hereby authorized a tax credit against state income tax for  
20 Louisiana taxpayers for investment in state-certified productions for initial  
21 certifications issued on or after January 1, 2016. The tax credit shall be earned ~~by~~  
22 ~~investors at the time expenditures are made by a motion picture production company~~  
23 ~~in a state-certified production~~ when certified by the office, according to the total base  
24 investment certified per calendar year, as set forth in the final certification issued to  
25 the motion picture production company. ~~However, credits~~ Credits cannot be applied  
26 against a tax or transferred until the expenditures are certified by the office and the  
27 secretary. For state-certified productions, expenditures shall be certified no more  
28 than ~~twice during the duration of a state-certified production unless the motion~~  
29 ~~picture production company agrees to reimburse the office for the costs of any~~

1 ~~additional certifications once per production, after project completion.~~ The tax credit  
2 shall be calculated as a percentage of the total base investment dollars certified per  
3 project.

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

6 \* \* \*

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

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

13 \* \* \*

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

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

20 \* \* \*

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

24 \* \* \*

25 D. Certification and administration.

26 (1)

27 \* \* \*

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

4 \* \* \*

5 (iv) Conviction for a criminal offense as an incident to obtaining or  
6 attempting to obtain motion picture investor tax credits.

7 (v) Any other cause the secretary determinates to be so serious and  
8 compelling that denial of certification is in the best interest of the state.

9 (2)

10 \* \* \*

11 ~~(d)(i) Prior to any final certification of the state-certified production, the~~  
12 ~~motion picture production company shall submit to the office and the secretary a~~  
13 ~~production audit report. No later than six months after the expiration of the initial~~  
14 ~~certification period for the applicable state-certified production, a taxpayer shall~~  
15 ~~submit to the office all requests and required documentation for final certification of~~  
16 ~~all tax credits granted by this provision, after which time all such claims to tax~~  
17 ~~credits shall be deemed waived.~~ The office and the secretary shall review the  
18 production audit report and may require additional information needed to make a  
19 determination as to certification. Within one hundred twenty days of the receipt of  
20 the production audit report and all required supporting information, the office and  
21 the secretary shall issue a tax credit certification letter indicating the amount of tax  
22 credits certified for the state-certified production to the investors for all qualifying  
23 expenditures verified by the office. Any expenditures for which tax credits were  
24 neither denied nor certified due to insufficient information or other issues, the office  
25 and secretary shall diligently work to resolve the outstanding issues in a timely  
26 manner, and the office and secretary may subsequently issue a supplemental tax  
27 credit certification at the time of such resolution.

28 \* \* \*



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

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

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

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

13           (3) The office, the secretary, and the division shall review the audit, and may  
14           require additional information needed to make a determination as to certification.

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

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

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

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

1                   (8) No motion picture infrastructure tax credits shall be certified after July  
2                   1, 2017.

3                   Section 2. This Act shall become effective upon signature by the governor  
4 or, if not signed by the governor, upon expiration of the time for bills to become law without  
5 signature by the governor, as provided by Article III, Section 18 of the Constitution of  
6 Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act  
7 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 Engrossed

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 provides 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, for productions granted initial certification on or after Jan. 1, 2016, makes several changes regarding the procedures and time periods involved with initial certification of expenditures.

Proposed law changes the present law definition for motion picture to include eligibility for motion pictures developed for viewing online, and adds a definition for "taxpayer".

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

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 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 the time period within which the Dept. of Revenue may recapture credits which were granted and then disallowed, providing for specific time periods based upon whether the credit was paid, claimed, or registered with the La. Tax Credit Registry.

Prior law sunsets 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)-(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))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Add a starting date for provisions of proposed law with regard to the motion picture investor tax credit.
2. Add a definition for "taxpayer" for purposes of the motion picture investor tax credit.
3. Add provisions governing the time period authorized for the recovery of disallowed tax credits by the Dept. of Revenue.