

2017 Regular Session

HOUSE BILL NO. 686 (Substitute for House Bill No. 530 by Representative Broadwater)

BY REPRESENTATIVE BROADWATER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ECONOMIC DEVELOPMENT: Provides for the Louisiana Headquartered Motion Picture Production Cooperative Endeavor Program

1 AN ACT

2 To enact R.S. 47:6007(C)(1)(d)(ii)(dd) and R.S. 51:2316, relative to the Louisiana Economic  
3 Development Corporation; to authorize, create, and provide for the establishment of  
4 the Louisiana Headquartered Motion Picture Production Cooperative Endeavor  
5 Program; to provide for the terms, conditions, procedures, and requirements of the  
6 program; to provide for a tax credit; to provide for definitions; to require the  
7 payment of certain fees and deposits; to provide for certain limitations and  
8 requirements for participation in the program; to provide for reporting requirements;  
9 to provide for an effective date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 47:6007(C)(1)(d)(ii)(dd) is hereby enacted to read as follows:

12 §6007. Motion picture production tax credit

13 \* \* \*

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

15 (1)

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17 (d)

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19 (ii)

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(dd) For the fiscal year beginning July 1, 2019, and each fiscal year thereafter, out of the total aggregate amount of credits authorized, not less than twenty million dollars each fiscal year shall be reserved for the Louisiana Headquartered Motion Picture Production Cooperative Endeavor Program established in R.S. 51:2316. Tax credits issued pursuant to R.S. 51:2316 shall have priority over all other claims filed by taxpayers or transfers of tax credits to the Department of Revenue that would otherwise be applied against the total aggregate amount of credits authorized pursuant to the provisions of this Subparagraph. To the extent that the Louisiana Economic Development Corporation does not enter into cooperative endeavor agreements in an amount up to twenty million dollars in any fiscal year, the unallocated portion of the amount reserved shall not be available for allocations to other tax credit applicants.

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Section 2. R.S. 51:2316 is hereby enacted to read as follows:

§2316. Louisiana Headquartered Motion Picture Production Cooperative Endeavor Program

A. There is hereby established the Louisiana Headquartered Motion Picture Production Cooperative Endeavor Program for the purpose of encouraging Louisiana-based financial institutions to extend qualified loans to qualified production companies for use in connection with the financing of qualified productions and qualified media. In recognition of, and to further enhance, the substantial economic benefit to the state of maintaining and further developing Louisiana’s vibrant, Louisiana-based motion picture production activities, while simultaneously encouraging Louisiana based financial institutions to enter new credit markets, in a manner designed to achieve a direct, quantifiable, positive cash-on-cash return to the State of Louisiana while promoting and facilitating the establishment of an independent, self-supporting, sustainable motion picture industry that is less reliant upon traditional tax credit programs, the Louisiana Headquartered Motion

1 Picture Production Cooperative Endeavor Program shall be administered as provided  
2 in this Section.

3 B. Definitions. For purposes of this Section, the following words shall have  
4 the following meanings ascribed to them unless the context clearly indicates  
5 otherwise:

6 (1) "Adjusted bonded budget" means the bonded budget less the following:

7 (a) Non-production related overhead.

8 (b) Amounts reimbursed by the state or any other governmental entity.

9 (c) Costs related to the transfer of tax credits.

10 (d) Amounts that are paid to persons or entities as a result of their  
11 participation in profits from the exploitation of the qualified production.

12 (e) Application fees.

13 (f) State or local taxes.

14 (g) Cost of the production expenditure verification report fee required in this  
15 Section.

16 (h) Expenditures for related party transactions that would be otherwise denied  
17 or limited by the office pursuant to R.S. 47:6007(D)(9).

18 (i) Expenditures for Above the Line services, as defined in R.S. 47:6007, that  
19 exceed forty percent of total production expenditures in the state for the qualified  
20 production.

21 (j) Expenditures for airfare.

22 (k) Expenditures for bond fees, insurance premiums, finance fees, loan  
23 interest fees, or payments of a similar nature, paid to investors in the qualified  
24 production, unless such expenditures are made to a Louisiana resident licensed  
25 insurance producer that has its principal place of business in this state as required by  
26 R.S. 22:1543, a Louisiana financial institution as defined in R.S. 6:2(8), or a  
27 Louisiana Business and Industrial Development Company as defined in and provided  
28 for in Chapter 39-B of Title of the Louisiana Revised Statutes of 1950, R.S. 51:2386  
29 et seq., that is regulated by the office of financial institutions and which have one or

1 more offices in the state, in which case, only to the extent allocated on a pro rata  
2 basis, allocating the fees based on the relative percentage of production activity  
3 occurring in and out of state.

4 (2) “Bonded amount” means the “strike price”, as the term is generally  
5 understood within the motion picture industry, of the bonded budget, as is set forth  
6 in the completion bond with respect to the applicable qualified production.

7 (3) “Bonded budget” means the budget for a qualified production for which  
8 a completion bond has been issued.

9 (4) “CEA tax credit” means tax credits earned and issued pursuant to this  
10 Section.

11 (5) “Completion bond” means a bond, surety, or completion guarantee with  
12 respect to a qualified production issued by a Louisiana approved completion  
13 guarantor specializing in motion picture completion bonds.

14 (6) “Cooperative endeavor program” means the Louisiana Headquartered  
15 Motion Picture Production Cooperative Endeavor Program.

16 (7) “Corporation” means the Louisiana Economic Development Corporation.

17 (8) “Distribution contract” means a fully executed bilateral contract pursuant  
18 to which a domestic or foreign distributor agrees to pay a certain designated price for  
19 the right to distribute a qualified production in a given territory or medium,  
20 conditioned only upon the completion and delivery of specified deliverables to the  
21 distributor.

22 (9) “Diversity plan” means a written document through which the qualified  
23 production company commits to:

24 (a) Ensure that minorities and females have equal opportunities in  
25 recruitment, selection, appointment, promotion, training, and related employment  
26 areas in connection with the qualified production or qualified media; and

27 (b) Use good faith efforts to solicit bids from vendors certified as a  
28 Disadvantaged Business Enterprises under the Louisiana Unified Certification  
29 Program with respect to the qualified production or qualified media by soliciting bids

1 from relevant vendors in the parish or parishes in which the qualified production or  
2 qualified media will take place by utilizing the Louisiana Unified Certification  
3 Program Directory Search.

4 (10) “Louisiana bank” means a financial institution as defined in R.S. 6:2(8)  
5 that is regulated by the office of financial institutions and that has one or more  
6 branches in the state.

7 (11) “Louisiana education plan” means a written document through which the  
8 qualified production company commits to use good faith efforts to seek qualified  
9 graduates of accredited vocational-technical schools, technical and community  
10 colleges, and institutions of higher education located in Louisiana for recruitment,  
11 selection, appointment, promotion, training, and related employment areas in  
12 connection with the qualified production or qualified media.

13 (12) “Louisiana internship program” means an agreement between a qualified  
14 production company and an accredited vocational-technical school, technical college,  
15 community college, or institution of higher education located in Louisiana in which  
16 the qualified production company agrees to maintain no less than two internship  
17 positions for students enrolled in such school, college or institution of higher  
18 education.

19 (13) “Net proceeds” means all revenues from the exploitation of a qualified  
20 production or qualified media net of third-party distribution and marketing fees and  
21 costs, and customary payments such as those required by creative guilds and  
22 licensing agencies.

23 (14) “Producer net profits” means with respect to a qualified production or  
24 qualified media, one hundred percent of all funds derived from worldwide  
25 exploitation after the repayment of all true debt obligations, distribution marketing  
26 costs and fees, residuals, and reasonable deferred fees owed to writers, directors,  
27 producers, and cast.

28 (15) “Production expenditure verification report” means a report issued by  
29 a qualified accountant who is unrelated to the qualified production company and that

1        contains the qualified accountant's verification of the qualified production's cost  
2        report of production expenditures. The production expenditure verification report  
3        shall contain an opinion from the qualified accountant stating that the production's  
4        cost report of production expenditures presents fairly, in all material aspects, the  
5        production expenditures expended in Louisiana pursuant to the provisions of this  
6        Section. The production expenditure verification report shall:

7                (a) Be performed in accordance with the accounting standards generally  
8                accepted in the United States.

9                (b) Be addressed to the party which has engaged the qualified accountant,  
10               with a copy addressed to the qualified production company and Louisiana bank.

11               (c) Contain the qualified accountant's name, address, and telephone number.

12               (d) Contain a certification that the qualified accountant is unrelated to the  
13               qualified production company.

14               (e) Be dated as of the date of completion of the qualified accountant's field  
15               work.

16               (f) Contain a statement of acknowledgment by the qualified accountant that  
17               the state is relying on the qualified production expenditure verification report in the  
18               issuance of the CEA tax credits under the provisions of this Section.

19               (16) "Qualified accountant" shall have the same meaning as the definition in  
20               R.S. 47:6007(B).

21               (17) "Qualified indebtedness" means, with respect to a specific qualified  
22               production, all indebtedness lawfully owed to a Louisiana bank on account of the  
23               qualified production in accordance with a cooperative endeavor agreement executed  
24               pursuant to this Section.

25               (18) "Qualified media" means a component part of a project that would  
26               otherwise meet the definition of a qualified production, such as CGI, edited, color  
27               corrected or otherwise modified or augmented footage, or visual effects that are  
28               generated in the state by a qualified production company.

1           (19)(a) “Qualified production” means a feature-length film, short film, video,  
2           television pilot, television series, television movie of the week, animated feature  
3           film, animated short film, animated television series, documentary made in  
4           Louisiana, in whole or in part, for theatrical or television viewing, or for viewing on  
5           any digital or online platform, that is produced by a qualified production company  
6           and is subject to a completion bond that guarantees all of the following:

7                   (i) The qualified production will be completed and delivered in accordance  
8                   with all applicable distribution contracts; however, if the production is not completed  
9                   and delivered in accordance with the contract, the completion guarantor shall remit  
10                  to the Louisiana bank, or the state, as applicable, the full principal amount of all  
11                  amounts financed by, or owed to, such party pursuant to this Section.

12                   (ii) No less than eighty-five percent of the bonded budget will be spent  
13                  within Louisiana.

14                   (iii) The copyright for which is owned by a qualified production company or  
15                  a wholly-owned subsidiary of a qualified production company until the qualified  
16                  indebtedness has been repaid in full.

17                   (iv) At least fifty percent of the producer net profits of which shall inure to  
18                  the benefit of Louisiana residents.

19                   (b) The term "qualified production" shall not include the production of news  
20                  coverage, athletic events, music or other festivals, commercials, or what is generally  
21                  considered or marketed to be, reality television or reality programming or any other  
22                  production that is required to maintain records pursuant to 18 U.S.C. 2257.

23                   (20) “Qualified Production Company” means a person, corporation,  
24                  partnership, limited liability company, or other business entity, organized, domiciled  
25                  and headquartered in Louisiana, that is primarily engaged in the business of creating  
26                  qualified productions or qualified media, or a wholly owned subsidiary of a person  
27                  or entity that is organized, domiciled and headquartered in Louisiana and complies  
28                  with all of the following:

29                   (a) Is in good standing with the Secretary of State.

1           (b) Has its principal place of business in Louisiana and does not have any  
2           fixed locations outside of Louisiana in which executive management activities are  
3           conducted.

4           (c) Is seventy-five percent directly or indirectly owned by Louisiana  
5           domiciled natural persons.

6           (d) Is not directly or indirectly owned by any person or entity domiciled  
7           outside of Louisiana.

8           (e) Is subject to Louisiana income tax jurisdiction and is required to file  
9           Louisiana income tax returns. In the case of entities taxed as partnerships, the  
10          partners or members are required to file Louisiana income tax returns.

11          (f) Maintains a physical office location in the state and either owns the  
12          property, or is a tenant pursuant to a long-term arms-length fair market value lease  
13          of not less than twenty-four months.

14          (g) Has a Louisiana internship program.

15          (21) “Redemption Date” means the date not later than thirty days after written  
16          notice to the state following the second anniversary of execution of a production  
17          financing loan agreement between the Louisiana bank and the qualified production  
18          company party to a cooperative endeavor agreement with the state with respect to a  
19          specific qualified production.

20          (22) “Senior bank” means any state or federal banking institution that  
21          provides debt financing to a qualified production collateralized by a first-position  
22          security interest or mortgage in and to specific collateral that may include, but not  
23          be limited to, the copyright or distribution rights of the qualified production or  
24          qualified media.

25          C. Certification of Qualified Production Companies. The corporation shall,  
26          within thirty days after receipt of a request for certification, certify qualified  
27          production companies that meet the following criteria:

28                 (1) The company meets the definition of Qualified Production Company  
29                 contained in this Section.

1           (2) The company has provided the corporation with all of the following:

2           (a) A commitment letter from a Louisiana bank committing to participate,  
3           subject to satisfaction of all applicable underwriting criteria, in a cooperative  
4           endeavor agreement with the state and the company as authorized by this Section.

5           (b) In the case of qualified media, a copy of the underlying motion picture's  
6           completion bond and bonded budget reflecting coverage of the qualified media; and  
7           for a qualified productions, a letter of recommendation from a corporation-approved  
8           completion guarantor willing to issue, subject to satisfaction of issuance criteria, a  
9           completion bond with respect to the qualified production.

10          (c) A commitment from a corporation-approved internationally recognized  
11          collection account management company, which has not defaulted on any obligation  
12          to the state that is willing to provide collection account management services.

13          (d) A statement of interest from one or more corporation approved  
14          distributors or sales agents.

15          (e) A non-refundable application fee of ten thousand dollars, and a  
16          commitment to, within ten days of certification as a qualified production company,  
17          deposit, escrow, or ensure via reputable bank letter of credit, guaranty, surety or  
18          payment bond of up to one hundred thousand dollars to be applied against the state's  
19          legal fees in connection with the cooperative endeavor process.

20          (f) A commitment to, together with its qualified production company owners  
21          and any wholly owned or commonly owned production company affiliates, within  
22          thirty days of being certified as a qualified production company, employ no fewer  
23          than three full-time, year-round employees domiciled in Louisiana for state income  
24          tax purposes, and to, subject to reasonable short-term interruptions due to ordinary  
25          employee transitions, continue to employ not less than three full-time, year-round  
26          employees until the repayment of all qualified indebtedness owned by the company  
27          and its affiliates.

28          (g) A Louisiana education plan.

1           (h) A statement that the qualified production company shall not be required  
2           to maintain records pursuant to 18 U.S.C. 2257 in connection with any qualified  
3           production.

4           D. Cooperative Endeavor Agreements. The state, through the corporation, is  
5           authorized and directed to enter into cooperative endeavor agreements within thirty  
6           days of a request submitted by a Louisiana bank and qualified production company,  
7           each with a Louisiana Bank and a qualified production company, for the purpose of  
8           financing a portion of the production expenses of a qualified production undertaken  
9           by the qualified production company, that, in addition to requiring the satisfaction  
10          of all underwriting criteria and conditions precedent required by the Louisiana bank,  
11          provide as follows:

12           (1) On or prior to the redemption date, the state shall issue CEA tax credits  
13           equal to the full amount of qualified indebtedness, subject to the following  
14           limitations:

15           (a) The CEA tax credits issued with respect to any particular qualified  
16           production shall not exceed the lesser of:

17           (i) Fifty percent of the adjusted bonded budget, increased by an additional  
18           fifteen percent if a diversity plan is approved by the corporation; or

19           (ii) If the qualified production or qualified media has distribution contracts  
20           in an aggregate amount exceeding fifteen percent of the bonded budget, five million  
21           dollars; or

22           (iii) If the qualified production or qualified media has distribution contracts  
23           in an aggregate amount exceeding thirty-five percent of the bonded budget, eight  
24           million dollars.

25           (b) In the aggregate, Above the Line producer and production company fees  
26           related to any recognized category of producers or production companies who are  
27           directly or indirectly related to the qualified production company shall not exceed  
28           fifteen percent of the bonded budget. This limitation shall not apply to fees paid for  
29           bona fide separate and distinct production-related services, such as writing, directing,

1 distributing, and financing activities, but in no case shall fees paid to related parties  
2 exceed twenty five percent of the bonded budget.

3 (c) Subject to customary motion picture industry limitations, the Louisiana  
4 bank's loan shall be secured by the qualified production or qualified media and all  
5 proceeds of the foregoing. The Louisiana bank's loan may be subject to the terms of  
6 an inter-creditor agreement with a senior bank and other financiers with respect to  
7 the applicable qualified production or qualified media; provided that the Louisiana  
8 bank shall be granted a security interest, all or part of which may be subordinate to  
9 the senior bank, in the same collateral as the senior bank to the extent the collateral  
10 is specific, and relative, to the qualified production or qualified media, and the  
11 Louisiana bank's rights shall not be subordinate to any party other than the senior  
12 bank, and, with respect to the state, the senior bank's rights with respect to the  
13 applicable qualified production shall be exclusive of any cross-collateralization in  
14 favor of senior bank with respect to any indebtedness not directly used in connection  
15 with the production of the applicable qualified production.

16 (2) In exchange for issuing the CEA tax credits, the cooperative endeavor  
17 agreement shall provide for the state to receive revenues derived from commercial  
18 exploitation of the qualified production in all territories worldwide up to the face  
19 value of the CEA tax credits.

20 (3) In addition to the right of repayment of the face value of the CEA tax  
21 credits issued to the qualified production company, the state shall receive ten percent  
22 of one hundred percent of all producer net profits of the qualified production. The  
23 state shall be afforded "most-favored nations" treatment with respect to its profit  
24 interest vis-à-vis all other producer net profit participants and shall receive  
25 distributions from the collection account manager on a pro rata and pari passu basis  
26 with all other producer net profits participants.

27 (4) The qualified production shall engage an internationally recognized  
28 collection account management company which has not defaulted on any obligation  
29 to the state, which shall commit to receive all proceeds into an account controlled by

1        it and, after the satisfaction of any senior bank obligations, remit proceeds first to the  
2        state and then, and only after the state has fully recouped an amount equal to the face  
3        value of the CEA tax credits issued to qualified production, to any other financiers,  
4        equity investors or profit participants, including, without limitation, the state.  
5        Notwithstanding the foregoing, the collection account management company may  
6        make customary payments to itself for its fees and cost reimbursement, and to guilds  
7        on account of the qualified production.

8                (5) Upon execution of a cooperative endeavor agreement pursuant to this  
9        Section, the state shall reserve the requested amount from the first available fiscal  
10       year allocation of CEA tax credits for ninety days. If the Louisiana bank's loan does  
11       not close within ninety days, then the cooperative endeavor agreement and initial  
12       reservation of CEA tax credits shall be terminated. No individual qualified  
13       production company shall be allowed more than two reservations for the same  
14       qualified production or qualified media, unless granting additional reservations  
15       would have no impact on other qualified productions having applied for participation  
16       in the program. To the extent evidenced by a written statement from a Louisiana  
17       bank with respect to the whole or partial repayment of qualified indebtedness, the  
18       corporation may release reservations with respect CEA tax credits. To the extent of  
19       any unreserved CEA tax credits for any given fiscal year CEA tax credit allocation,  
20       the corporation may authorize and enter into additional cooperative endeavor  
21       agreements in accordance with this Section.

22                (6) Except with respect to qualified media, the state's role shall be recognized  
23       in the opening credits of the motion picture, or if a feature-length film, short film,  
24       television pilot, television series, television movie of the week, animated feature  
25       film, animated short film, animated television series, or documentary, on a single  
26       card that reads: "Made in Louisiana", and otherwise, the credit shall appear in the  
27       end credits.

28                (7) The qualified production shall maintain all standard liability insurance  
29       and the state shall be an additional insured under all policies of insurance.

1           (8) A cooperative endeavor agreement shall in no way limit the Louisiana  
2           bank’s ability to syndicate, allow participation, or assign to any third party, in whole  
3           or in part, its rights and obligations in connection with the underlying loan to the  
4           qualified production company.

5           (9) The corporation shall issue CEA tax credits pursuant to the contractual  
6           terms of a cooperative endeavor agreement, when due, provided the production  
7           expenditure verification report requirements in Subsection (F) of this Section have  
8           been completed.

9           (10) The corporation shall engage legal counsel to represent the state’s  
10           interests in connection with the negotiation, drafting, execution and enforcement of  
11           the cooperative endeavor agreement. The legal counsel shall be identified by the  
12           qualified production company, acceptable to the Louisiana bank, and subject to the  
13           approval of the corporation at its next scheduled meeting, or within thirty days,  
14           whichever is sooner. All fees and expenses due and payable to counsel shall be paid  
15           directly by the qualified production company.

16           E. Cooperative Endeavor Agreement Program Tax Credits

17           (1) There is hereby authorized a tax credit against state income tax for  
18           Louisiana taxpayers awarded CEA tax credits pursuant to a cooperative endeavor  
19           agreement as described in this Section. The CEA tax credits shall be earned by a  
20           qualified production company as described in this Section. CEA tax credits shall be  
21           regarded as separate and distinct from all other tax credits described in R.S. 47:6007;  
22           however, CEA tax credits shall be recorded in the tax credit registry in accordance  
23           with R.S. 47:1524 as with any other transferable tax credit.

24           (2) The CEA tax credit shall be allowed against the income tax for the taxable  
25           period in which the CEA tax credit is reserved by the secretary of the Department of  
26           Revenue pursuant to R.S. 47:6007(C). If the CEA tax credit allowed pursuant to this  
27           Paragraph exceeds the amount of taxes due for the taxable period, then any unused  
28           credit may be carried forward as a credit against subsequent tax liability for a period  
29           not to exceed five years.

1                   (3) Application of the credit.

2                   (a) All entities taxed as corporations for Louisiana income tax purposes shall  
3                   claim the credit allowed under this Section on their corporation income tax return.

4                   (b) Individuals, estates, and trusts shall claim any credit allowed under this  
5                   Section on their income tax return.

6                   (c) Entities not taxed as corporations shall claim any credit allowed under this  
7                   Section on the returns of the partners or members as follows:

8                   (i) Corporate partners or members shall claim their share of the credit on their  
9                   corporation income tax returns.

10                  (ii) Individual partners or members shall claim their share of the credit on  
11                  their individual income tax returns.

12                  (iii) Partners or members that are estates or trusts shall claim their share of  
13                  the credit on their fiduciary income tax returns.

14                  (4) Transferability of the credit. CEA tax credits not previously claimed by  
15                  any taxpayer against its income tax may be transferred or sold to another Louisiana  
16                  taxpayer or to the Department of Revenue, subject to the following conditions:

17                  (a) A single transfer or sale may involve one or more transferees. The  
18                  transferee of the CEA tax credits may transfer or sell such CEA tax credits subject  
19                  to the conditions of this Subsection.

20                  (b) Transferors and transferees shall submit to the Department of Revenue  
21                  in writing, a notification of any transfer or sale of CEA tax credits within ten  
22                  business days after the transfer or sale of such CEA tax credits. No transfer or sale  
23                  of CEA tax credits shall be effective until recorded in the tax credit registry in  
24                  accordance with R.S. 47:1524. The notification shall include the transferor's CEA tax  
25                  credit balance prior to transfer, a copy of any CEA tax credit certification letter  
26                  issued by the corporation, the transferor's remaining CEA tax credit balance after  
27                  transfer, all tax identification numbers for both transferor and transferee, the date of  
28                  transfer, the amount transferred, a copy of the credit certificate, and price paid by the  
29                  transferee to the transferor. The CEA tax credit transfer value means the percentage

1 as determined by the price paid by the transferee to the transferor divided by the  
2 dollar value of the CEA tax credits that were transferred in return. The notification  
3 submitted to the Department of Revenue shall include a processing fee of not more  
4 than two hundred dollars per transferee, and any information submitted by a  
5 transferor or transferee shall be treated by the office and the Department of Revenue  
6 as proprietary to the entity reporting the information and therefore confidential.  
7 However, this shall not prevent the publication of summary data that includes no  
8 fewer than three transactions.

9 (c) Failure to comply with this Subsection shall result in the disallowance of  
10 the CEA tax credit until the taxpayer is in full compliance.

11 (d) The transfer or sale of this CEA tax credit shall not extend the time in  
12 which the credit can be used. The carryforward period for the credit that is  
13 transferred or sold begins on the date on which the credit was earned.

14 (e) To the extent that the transferor did not have rights to claim or use the  
15 credit at the time of the transfer, the Department of Revenue shall either disallow the  
16 credit claimed by the transferee or recapture the credit from the transferee through  
17 any collection method authorized by R.S. 47:1561. The transferee's recourse is  
18 against the transferor.

19 (f)(i) The qualified production company that earns CEA tax credits or the  
20 company's irrevocable designee, as provided for in Item (iii) of this Subparagraph,  
21 may transfer the credits to the Department of Revenue for one hundred percent of the  
22 face value of the CEA tax credits in accordance with the procedures and  
23 requirements of Item (iii) of this Subparagraph.

24 (ii) The Department of Revenue may require the transferor to submit  
25 additional information as may be necessary to administer the provisions of this  
26 Section. The secretary of the Department of Revenue shall make payment to the  
27 qualified production company or its irrevocable designee in the amount to which he  
28 is entitled from the current collections of the taxes collected pursuant to Chapter 1  
29 of Subtitle II, of this Title provided the tax credits are transferred to the Department

1 of Revenue within one calendar year of certification by the corporation.

2 (iii) A bank or other lender may be named as an irrevocable designee in a  
3 cooperative endeavor agreement described in this Section. As an irrevocable  
4 designee, a bank or other lender may elect to have the CEA tax credits issued directly  
5 to it from the corporation, and in addition to the rights of a transferee, may also elect  
6 to transfer the credits to the Department of Revenue in accordance with the  
7 provisions of Items (i) and (ii) of this Subparagraph.

8 F. Data Collection and Verification Report.

9 (1) Each Louisiana bank participating in the program shall deliver to the  
10 corporation, on a quarterly basis, a statement with respect to each qualified  
11 production with respect to which qualified indebtedness was outstanding during the  
12 immediately preceding calendar quarter in a form acceptable to the corporation.

13 (2) To identify and track in-state spending for purposes of economic impact  
14 analyses, ensure compliance with the cooperative endeavor agreement, and to  
15 determine the amount of CEA tax credits to be issued by the state, the corporation  
16 shall directly engage and assign a qualified accountant to prepare for the corporation,  
17 the required production expenditure verification report on a qualified production's  
18 cost report of expenditures or claims. The qualified production company shall be  
19 responsible for and assessed any production expenditure verification report fee which  
20 may be required by law, including any up-front deposit of the fee. For purposes of  
21 the report, the qualified production company shall make all records available to the  
22 qualified accountant. The qualified production company shall be assessed the  
23 corporation's actual cost for the production expenditure verification report fee. The  
24 maximum fee for the report shall be fifteen thousand dollars for verification of a cost  
25 report reflecting production expenditures between three hundred thousand dollars  
26 and twenty-five million dollars, and the maximum fee shall be twenty-five thousand  
27 dollars for verification of a cost report reflecting production expenditures in excess  
28 of twenty-five million dollars.

29 (3) At the time of the request for a production expenditure verification report

1 and before the redemption date, the qualified production company shall submit a  
2 deposit of the production expenditure verification report fee of seven thousand five  
3 hundred dollars for a production with qualified expenditures projected to be between  
4 three hundred thousand dollars and twenty-five million dollars, and a deposit of  
5 fifteen thousand dollars for those projected to be in excess of twenty-five million  
6 dollars.

7 (4) At the time of the request for a production expenditure verification report,  
8 the qualified production company shall submit to the office a notarized statement  
9 demonstrating conformity with, and agreeing to, the following:

10 (a) To pay all undisputed legal obligations the qualified production company  
11 has incurred in Louisiana with respect to the qualified production.

12 (b) To publish, at completion of principal photography, a notice at least once  
13 a week for three consecutive weeks in local newspapers in regions where filming has  
14 taken place in order to notify the public of the need to file creditor claims against the  
15 qualified production by a specified date; however, outstanding obligations shall not  
16 be waived if a creditor fails to file by the specified date.

17 (5) In addition to any other requirements of this Subsection, the production  
18 expenditure verification report shall include information concerning the total number  
19 of people who were paid salary, wages, benefits, and other compensation which was  
20 included as payroll, and the number of those who were Louisiana residents.

21 (6) In addition to any other requirements of this Subsection, the production  
22 expenditure verification report shall include a sworn affidavit by the individual  
23 responsible for providing the accounts, documents, records and any other  
24 information necessary to the accountant charged with preparing and filing the  
25 production expenditure verification report that the accounts, documents, records, and  
26 other information are true and correct; and that all related party transactions are  
27 accurately reported in accordance with this Subsection; all to the best of the affiant's  
28 knowledge, information, and belief. Any false statement under oath contained in the  
29 affidavit required by this Subparagraph shall constitute perjury and shall be punished

1 as provided by R.S. 14:123(C)(4).

2 (7) Qualified productions or qualified media that are already subject to the  
3 requirements of R.S. 47:6007(D) shall not also be subject to Paragraphs (2) through  
4 (6) of this Subsection.

5 G. Reports. (1) With input from the Legislative Fiscal Office, the corporation  
6 shall prepare an interim written report to be submitted to the Senate Committee on  
7 Revenue and Fiscal Affairs and the House of Representatives Committee on Ways  
8 and Means no less than sixty days prior to the start of the Regular Session of the  
9 Legislature in 2021, and every second year thereafter. The report shall include the  
10 overall impact of the cooperative endeavor program, the amount of agreements  
11 executed, CEA tax credits issued per qualified production and in the aggregate,  
12 payments received per qualified production and in the aggregate, the number of net  
13 new jobs created, the amount of Louisiana payroll created, the economic impact of  
14 the cooperative endeavor program, and any other factors that describe the impact of  
15 the program.

16 (2) It is anticipated that the distribution window for motion pictures is  
17 approximately seven years, and therefore at the conclusion of the eighth year of the  
18 program, the corporation shall annually issue a final report for each particular year  
19 of the program beginning with the first year. The corporation shall report to the  
20 Senate Committee on Revenue and Fiscal Affairs and the House of Representatives  
21 Committee on Ways and Means the average return on investment for all motion  
22 pictures included in the program year.

23 Section 3. This Act shall become effective upon signature by the governor  
24 or, if not signed by the governor, upon expiration of the time for bills to become law without  
25 signature by the governor, as provided by Article III, Section 18 of the Constitution of  
26 Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act  
27 shall become effective on the day following such approval.

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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)]

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HB 686 Original

2017 Regular Session

Broadwater

**Abstract:** Establishes the La. Motion Picture Production Cooperative Endeavor Program and authorizes a tax credit against state income tax pursuant to the cooperative endeavor agreement.

Proposed law establishes the Louisiana Headquartered Motion Picture Production Cooperative Endeavor Program.

Proposed law defines a “Louisiana bank” as a financial institution that is regulated by the office of financial institutions and that has one or more branches in the state.

Proposed law defines a “qualified production company” as a person, corporation, partnership, limited liability company, or other business entity, organized, domiciled and headquartered in Louisiana, that is primarily engaged in the business of creating qualified productions or qualified media, or a wholly owned subsidiary of such a person or entity that is organized, domiciled and headquartered in Louisiana and complies with certain requirements as provided in proposed law.

Proposed law defines a “qualified production” as a feature-length film, short film, video, television pilot, television series, television movie of the week, animated feature film, animated short film, animated television series, documentary made in Louisiana, in whole or in part, for theatrical or television viewing, or for viewing on any digital or online platform, that is produced by a qualified production company and is subject to a completion bond that makes certain guarantees as provided in proposed law. Further, the term "qualified production" shall not include the production of news coverage, athletic events, music or other festivals, commercials, or what is generally considered or marketed to be, reality television or reality programming or any other production that is required to maintain records pursuant to federal law.

Proposed law authorizes the state, through the Louisiana Economic Development Corporation, to enter into cooperative endeavor agreements with a Louisiana Bank and a qualified production company for the purpose of financing a portion of the production expenses of a qualified production undertaken by the qualified production company.

Proposed law authorizes a tax credit against state income tax for Louisiana taxpayers pursuant to a Louisiana Headquartered Motion Picture Production Cooperative Endeavor agreement ("CEA tax credit"). The CEA tax credits shall be earned by a qualified production company. CEA tax credits shall be regarded as separate and distinct from all other tax credits provided in present law regarding the motion picture production tax credit.

Present law (R.S. 47:6007) authorizes a tax credit for state-certified motion picture productions. Further provides that in Fiscal Years 2016 through 2018, the tax credit is limited to an aggregate total of \$180 million each fiscal year.

Proposed law provides that beginning in Fiscal Year 2019-2020, and each fiscal year thereafter, credits in an amount not to exceed \$20 million issued under the provisions of present law shall be reserved for the Louisiana Headquartered Motion Picture Production Cooperative Endeavor Program established in proposed law. Credits available for the cooperative endeavor program shall be included in the total aggregate amount of caps authorized pursuant to the provisions of present law and shall have priority over all other

claims filed by taxpayers or transfers of tax credits to the Dept. of Revenue that would otherwise be applied against the total aggregate amount of caps authorized pursuant to the provisions of this present law. To the extent that the Louisiana Economic Development Corporation does not enter into cooperative endeavor agreements in an amount up to \$20 million dollars in any fiscal year, the unallocated portion shall not otherwise be available to be earned.

Effective upon signature of the governor.

(Adds R.S. 47:6007(C)(1)(d)(ii)(dd) and R.S. 51:2316)