

ACT No. 275

2017 Regular Session

HOUSE BILL NO. 646

BY REPRESENTATIVES LEGER, GLOVER, AND WHITE

1 AN ACT

2 To amend and reenact R.S. 47:6023(A)(introductory paragraph), (1)(b), (B),
3 (C)(1)(introductory paragraph) and (b) as amended by Section 2 of Act No. 125 of
4 the 2015 Regular Session of the Legislature and (3)(introductory paragraph) as
5 amended by Section 2 of Act No. 125 of the 2015 Regular Session of the Legislature,
6 (D)(1)(introductory paragraph), (2)(c), (d), and (e), and (4), (E), and (I), to enact R.S.
7 47:6023(C)(1)(c) and (d), (4), and (5), and to repeal R.S. 47:6023(A)(2) and R.S.
8 47:6023(C)(1)(introductory paragraph) and (3)(introductory paragraph) both as
9 amended by Section 5 of Act No. 125 of the 2015 Regular Session of the Legislature,
10 relative to tax credits; to provide with respect to the sound recording investor tax
11 credit; to provide for an additional tax credit; to provide for the amount of the fee
12 associated with certain reports; to provide for definitions; to provide for
13 administration of the tax credit; to provide with respect to certain tax certification
14 letters; to provide for certain requirements and limitations; to provide with respect
15 to review of the tax credit program; to authorize the promulgation of rules and
16 regulations; to provide for the termination of the tax credit program; and to provide
17 for related matters.

18 Be it enacted by the Legislature of Louisiana:

19 Section 1. R.S. 47:6023(A)(introductory paragraph), (1)(b), (B), (C)(1)(introductory
20 paragraph) and (b) and (3)(introductory paragraph), (D)(1)(introductory paragraph), (2)(c),
21 (d), and (e), and (4), (E), and (I) are hereby amended and reenacted and R.S.
22 47:6023(C)(1)(c) and (d), (4), and (5), are hereby enacted to read as follows:

23 §6023. Sound recording investor tax credit

24 A. Purpose. The primary objective of this Section is to encourage
25 development in Louisiana of a strong capital ~~and infrastructure~~ base for sound

1 recording productions in order to achieve a more independent, self-supporting music
2 and sound recording industry. This objective is divided into immediate and long-term
3 objectives as follows:

4 (1) Immediate objectives are to:

5 * * *

6 (b) Develop a tax and capital infrastructure which encourages private
7 investment. This tax infrastructure is to provide for state participation in the form of
8 tax credits to encourage investment in state-certified sound recording productions
9 ~~and infrastructure.~~

10 * * *

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

12 (1) "Base investment" shall mean the actual investment made and expended
13 in the state by a state-certified production as production-related costs and QMC
14 payroll expenditures for Qualified Music Companies approved by the office and the
15 secretary on or after July 1, 2017 ~~or as capital costs of a state-certified sound~~
16 ~~recording infrastructure project.~~ Expenditures comprising the base investment shall
17 not include the expenditure verification report fee paid by the sound recording
18 production company for purposes of verification of the company's cost report for
19 production ~~or project~~ expenditures.

20 (2) "Expended in the state" or an "expenditure in the state" means an
21 expenditure to acquire property from a source within the state which is subject to
22 state sales or use tax, or an expenditure as compensation for services performed
23 within the state which is subject to state income tax.

24 (3) "New jobs" means full-time employment in Louisiana of an average of
25 thirty hours or more per week, filled by Louisiana residents at the project site
26 designated in the contract, who were not previously on the QMC's payroll in
27 Louisiana, nor previously on the payroll of such QMC's parent entity, subsidiary, or
28 affiliate in Louisiana, or previously on the payroll of any business whose physical
29 location and employees are substantially the same as those of the QMC in Louisiana,
30 as approved by the Secretary.

1 (4) "Qualified Music Company" or "QMC" means an entity authorized to do
 2 business in Louisiana, engaged directly or indirectly in the production, distribution
 3 and promotion of music, certified by the secretary as meeting the eligibility
 4 requirements of this Section, and executing a contract providing the terms and
 5 conditions for its participation.

6 (5) "QMC payroll" means wages reported in box 1 on a W-2 form.

7 (6) "Sound recording" means a recording of music, poetry, or spoken-word
 8 performance made in Louisiana, in whole or in part. The term "sound recording"
 9 shall not include the audio portions of dialogue or words spoken and recorded as part
 10 of television news coverage or athletic events.

11 ~~(4)~~ (7) "Sound recording production company" shall mean a company
 12 engaged in the business of producing sound recordings as defined in this Section.
 13 Sound recording production company shall not mean or include any person or
 14 company, or any company owned, affiliated, or controlled, in whole or in part, by
 15 any company or person, which is in default on a loan made by the state or a loan
 16 guaranteed by the state, nor which has ever declared bankruptcy under which an
 17 obligation of the company or person to pay or repay public funds or monies was
 18 discharged as a part of such bankruptcy.

19 ~~(5)~~ (8) "State-certified production" means a sound recording production, or
 20 a series of productions occurring over the course of a twelve-month period, and base
 21 investment related to such production or productions that are approved by the
 22 Louisiana Department of Economic Development within one hundred eighty days
 23 of the receipt by the Department of Economic Development of a complete
 24 application for initial certification of a production. If the production is not approved
 25 within one hundred eighty days, the Department of Economic Development shall
 26 provide a written report to the Senate Committee on Revenue and Fiscal Affairs and
 27 the House Committee on Ways and Means which states the reason that the
 28 production has not been approved.

29 ~~(6) "State-certified sound recording infrastructure project" means a sound~~
 30 ~~recording capital infrastructure project and base investment related to such project~~

1 that are approved by the Louisiana Department of Economic Development within
 2 one hundred eighty days of the receipt by the Department of Economic Development
 3 of a complete application for initial certification of an infrastructure project. If the
 4 infrastructure project is not approved within one hundred eighty days, the
 5 Department of Economic Development shall provide a written report to the Senate
 6 Committee on Revenue and Fiscal Affairs and the House Committee on Ways and
 7 Means which states the reason that the infrastructure project has not been approved.

8 C. Investor tax credit; state-certified productions ~~and infrastructure projects.~~

9 (1) ~~Until January 1, 2020, there~~ There is hereby authorized a credit against
 10 the state income tax for investments made in state-certified productions ~~and state-~~
 11 ~~certified sound recording infrastructure projects.~~ The tax credit shall be earned by
 12 investors at the time expenditures are certified by the Louisiana Department of
 13 Economic Development according to the total base investment certified for the sound
 14 recording production company per calendar year; however, no credit shall be allowed
 15 under this Section for any expenditures for which a credit was granted under R.S.
 16 47:6007, 6022, or 6034.

17 * * *

18 (b) For state-certified productions certified on and after July 1, 2015, ~~and~~
 19 ~~state-certified infrastructure projects~~ which have been applied on or after July 1,
 20 2015, and before July 1, 2017, each investor shall be allowed a tax credit of eighteen
 21 percent of the base investment made by that investor in excess of fifteen thousand
 22 dollars or, if a resident of this state, in excess of five thousand dollars.

23 (c) Project-based production credit. For applications for state-certified
 24 productions received on or after July 1, 2017, each investor shall be allowed a tax
 25 credit of eighteen percent of the base investment made by that investor in excess of
 26 twenty-five thousand dollars. However, if the investor who is applying for the tax
 27 credit is a Louisiana resident, the eighteen percent tax credit shall be allowed on base
 28 investments which exceed ten thousand dollars.

29 (d) Company-based QMC payroll credit. For applications for Qualified
 30 Music Companies received on or after July 1, 2017, to the extent that base

1 investment is expended on payroll for Louisiana residents in connection with a
2 QMC, tax credits shall be earned at the following rates:

3 (i) Tier 1. A payroll credit of ten percent shall be earned for each new job
4 whose QMC payroll is equal to or greater than thirty-five thousand dollars per year,
5 up to sixty-six thousand dollars per year.

6 (ii) Tier 2. A payroll credit of fifteen percent shall be earned for each new
7 job whose QMC payroll is equal to or greater than sixty-six thousand dollars per
8 year, but no greater than two hundred thousand dollars per year.

9 * * *

10 (3) Except as otherwise provided in this Paragraph, the aggregate amount of
11 credits certified for all investors pursuant to this Section during any calendar year
12 shall not exceed two million one hundred sixty thousand dollars. However, fifty
13 percent of the aggregate amount of credits certified each year shall be reserved for
14 QMCs. No more than one hundred thousand dollars in tax credits may be granted
15 per project, per calendar year.

16 * * *

17 (4)(a) Company-based QMC payroll credit. A business shall be eligible for
18 participation in the program if the business meets all of the following criteria:

19 (i) The business is engaged directly or indirectly in the production,
20 distribution, and promotion of music.

21 (ii) The business creates a minimum of three new jobs meeting or exceeding
22 the Tier 1 minimum wage requirements, in accordance with the provisions of
23 Subparagraph (C)(1)(d) of this Section.

24 (iii) The business is approved by the secretary of the Department of
25 Economic Development.

26 (iv) The business is a music publisher, sound recording studio, booking
27 agent, or artist management. The secretary, in his discretion may approve other
28 businesses which are related to the music and sound recording industry which
29 permanently locate or expand existing operations in Louisiana.

1 ~~thousand dollars for verification of a cost report reflecting production or project~~
2 ~~expenditures of between five thousand dollars and fifty thousand dollars, and a~~
3 ~~maximum fee of fifteen thousand dollars for verification of a cost report reflecting~~
4 ~~production or project expenditures in excess of fifty thousand dollars. shall be as~~
5 ~~follows:~~

6 ~~(aa) One thousand five hundred dollars for verification of a cost report~~
7 ~~reflecting expenditures of at least ten thousand dollars but less than twenty-five~~
8 ~~thousand dollars.~~

9 ~~(bb) Three thousand dollars for verification of a cost report reflecting~~
10 ~~expenditures of at least twenty-five thousand dollars but less than fifty thousand~~
11 ~~dollars.~~

12 ~~(cc) Five thousand dollars for verification of a cost report reflecting~~
13 ~~expenditures of at least fifty thousand dollars, but less than one hundred thousand~~
14 ~~dollars.~~

15 ~~(dd) Seven thousand five hundred dollars for verification of a cost report~~
16 ~~reflecting expenditures of more than one hundred thousand dollars.~~

17 ~~(iii) At the time of application, the applicant shall submit a deposit of in an~~
18 ~~amount equal to fifty percent of the expenditure verification report fee of two~~
19 ~~thousand five hundred dollars for productions or projects with qualified expenditures~~
20 ~~projected to be between five thousand dollars and fifty thousand dollars, and a~~
21 ~~deposit of five thousand dollars for those projected to be in excess of fifty thousand~~
22 ~~dollars required pursuant to the provisions of Item (ii) of this Subparagraph.~~

23 ~~(d) The Louisiana Department of Economic Development shall submit its~~
24 ~~initial certification of a project as a state-certified production or a state-certified~~
25 ~~sound recording infrastructure project to investors and to the secretary of the~~
26 ~~Department of Revenue. The initial certification shall include a unique identifying~~
27 ~~number for each state-certified production or state-certified project.~~

28 ~~(e) Upon project completion, the applicant shall make a request to the~~
29 ~~Louisiana Department of Economic Development to proceed to final certification by~~
30 ~~Qualified Music Companies may submit one request for final certification of tax~~

1 administer the provisions of this Section. Upon receipt of the tax credit certification
2 letter and any necessary additional information, the secretary of the Department of
3 Revenue shall make payment to the investor in the amount to which he is entitled
4 from the current collections of the taxes collected pursuant to Chapter 1 of Subtitle
5 II of this Title, as amended.

6 * * *

7 I. ~~Commencing no later than January 31, 2016, the House Committee on~~
8 ~~Ways and Means and the Senate Committee on Revenue and Fiscal Affairs shall~~
9 ~~review the credit authorized pursuant to the provisions of this Section to determine~~
10 ~~if the economic benefit provided by such credit outweigh the loss of revenue realized~~
11 ~~by the state as a result of awarding such credit. The House and Senate committees~~
12 ~~shall make a specific recommendation no later than March 1, 2017, to either continue~~
13 ~~the credit or to terminate the credit. No credits shall be granted pursuant to the~~
14 ~~provisions of this Section for applications received on or after July 1, 2021.~~

15 Section 2. R.S. 47:6023(A)(2) and R.S. 47:6023(C)(1)(introductory paragraph) and
16 (3)(introductory paragraph) both as amended by Section 5 of Act No. 125 of the 2015
17 Regular Session of the Legislature are hereby repealed in their entirety.

18 Section 3. Notwithstanding Section 8 of Act No. 125 of the 2015 Regular Session,
19 as amended by Act No. 29 of the 2016 First Extraordinary Session, R.S. 47:6023(C)(1) and
20 (3)(introductory paragraph) as enacted by Section 5 of that Act shall not become effective
21 and R.S. 47:6023(C)(1) and (3)(introductory paragraph) as amended and reenacted by
22 Section 2 of that Act shall remain effective.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____