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EMERGENCY RULE     NOTICE OF INTENT     RULE     POTPOURRI

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This is your authority to publish in the (month) September, 2023 *Louisiana Register* the document indicated above.

**Entertainment Industry Development**

Office/Board/Commission promulgating this document

Anne G. Villa                      Undersecretary

(name)                                      (title)  
 Name and title of person whose signature will appear in the publication (at the end of the document)

**Department of Economic Development**

Department under which office/board/commission is classified

Stephen Hamner 342-5403

(name)                                      (phone)                                      (fax)  
 Name, phone number, and FAX number of person to contact regarding this document

Stephen.Hamner@la.gov

E-mail address of contact person

**Motion Picture Tax Credit Program**

Short descriptive listing for this document to be used in the *Louisiana Register's* TABLE OF CONTENTS/INDEX

File name

*Anne G. Villa*

Signature of Agency Head or Designee

Anne G. Villa, Undersecretary

Print Name and Title of Agency Head or Designee

**Important:** If submitting both an Emergency Rule (ER) and a Notice of Intent (NOI) to be published this month, AND if the rule text in the ER is identical to the rule text in the NOI, check here:

CERTIFICATION OF AVAILABLE FUNDS

DOCUMENT # \_\_\_\_\_

**LAGOV AGENCY:** I certify the availability of fiscal year \_\_\_\_\_ appropriated funds for the payment of the above referenced publication and authorize the processing of an Interagency Billing with the following coding on the 30th of the month of the publication. Attach supplemental sheet for additional lines of coding.

252		2521044000		25200000000			
<b>Business Area</b>	<b>General Ledger</b>	<b>Cost Center</b>	<b>Grant</b>	<b>Fund</b>	<b>WBS</b>	<b>Internal Order</b>	<b>Functional</b>

**NON-LAGOV AGENCY:** I certify the availability of fiscal year \_\_\_\_\_ appropriated funds for the payment of the above referenced publication and agree to place corresponding invoice in line for payment upon receipt.

Billing Contact Information:

**LED**

Agency Name

Taylor Richard

Agency Contact Person for Billing

Taylor.Richard@la.gov

Agency E-Mail Address for Billing

*Stephany B...*                      342-9658  
 Signature of Agency Head or Designee - Phone #

**NOTE: Detailed billing information will be provided via a publishing invoice sent to the Billing Contact Information provided.**

## NOTICE OF INTENT

Department of Economic Development  
Office of Entertainment Industry Development

### Motion Picture Production Tax Credit Program (LAC 61:I.Chapter 61)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Economic Development proposes to amend the Rules for the Motion Picture Production Tax Credit Program (LA R.S. 47: 6007, et seq.) to better align the rules with current statutory provisions and administrative practices, as required by Act 411 of the 2023 Regular Session of the Louisiana Legislature.

Title 61  
REVENUE AND TAXATION  
Part I. Taxes Collected and Administered by the Secretary of Revenue  
Chapter 61. Motion Picture Production Tax Credit Program

#### §6105. Definitions

A. – B. ...

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*Commencement of Production* – [repeal]

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*Cost report submission deadline* – the date detailed in the initial certification letter by which a cost report shall be submitted to LED, after which time all such claims to tax credits shall be deemed waived.

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*Developer*–[repeal]

\*\*\*

*Indirect Costs*—costs of operation that are not directly associated with a state certified production, such as clerical salaries, general administrative costs and other overhead charges.

\*\*\*

*Legacy Tax Credit Reservation* – is a provisional allocation of tax credits in a given fiscal year, as evidenced by an initial certification letter issued prior to July 1, 2023, that has not expired or been released in accordance with the provisions of §6107.

\*\*\*

*Production Expenditures*—preproduction, production and postproduction expenditures directly incurred in this state that are directly used in a state-certified production, whether the production company directly contracts or subcontracts such work, including without limitation the following:

a.- j. ...

k. payments to a loan-out or personal services corporation for the services of an out-of-state hire are allowed as long as the services are performed in Louisiana on a state certified production and all withholding requirements are met.

- l. [repeal]
- m. [repeal]

*Production Facility*—[repeal]

*Program Issuance Cap*—for applications submitted on or after July 1, 2017 and prior to July 1, 2023, the office may issue no more than \$150,000,000 in tax credits (“total cap”) in any fiscal year, with \$7,500,000 reserved for qualified entertainment companies (“QEC cap”), \$7,500,000 reserved for Louisiana screenplay productions (“LA screenplay cap”), \$15,000,000 reserved for independent film productions (“independent film cap”), with the remaining \$120,000,000 available for general allocation to any state certified production (“general cap”); for applications received on or after July 1, 2023, the office may issue no more than \$150,000,000 in tax credits in any fiscal year.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:53 (January 2010), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 43:300 (February 2017), LR 43:2102 (November 2017), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:869 (July 2019), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:179 (February 2020), LR 48:1495 (June 2022), LR 48:1915 (July 2022), LR

**§6107. Certification Procedures**

A.(1) – A (3) ...

B. Qualification. The office and the secretary shall determine whether a production qualifies for certification, by meeting all requirements of R.S. 47:6007 and these regulations, and taking the following factors into consideration:

B (1) – B (3) ...

C. Initial Certification

1. Application Review Process and Reservation of Tax Credits

a. Project-Based Production Tax Credit—For Applications Submitted prior to July 1, 2017

i. After review and upon a determination of qualification, the office and the secretary shall issue an initial certification letter indicating the amount of tax credits certified for the state certified production, or a written denial.

b. Project-Based Production Tax Credit—for Applications Submitted on or after July 1, 2017 but prior to July 1, 2023:

i. Beginning July 1, 2017 and thereafter, the office will accept and review applications on a monthly basis. All applications received by the 15th of the month will be treated as received on the last business day of the month (“monthly initial certification pool”) and processed accordingly.

ii. After review and upon determination of qualification, the office and the secretary shall issue an initial certification letter, or a written denial. The initial certification letter will provisionally allocate tax credits based upon expected the cost report submission date and availability of tax credits in any given year.

c. Project-Based Production Tax Credit—for Applications Submitted on or after July 1, 2023

i. Beginning July 1, 2023 and thereafter, the office will accept and review applications on a monthly basis. All applications received by the 15th of the month will be treated as received on the last business day of the month (“monthly initial certification pool”) and processed accordingly.

ii. After review and upon determination of qualification, the office and the secretary shall issue an initial certification letter, or a written denial.

2. Additional information may be requested by the office or the department in order to make a determination of eligibility for the program.

3. Cap Management—Phase 1- Initial Certification—Tentative Reservation – for applications received on or after July 1, 2017 and prior to July 1, 2023

3 a. – 4b ...

5. Duration of Effect—for Applications Submitted on or after July 1, 2017 and prior to July 1, 2023

5 a. - 5 c (i) ...

6. Duration of Effect—for Applications Submitted on or after July 1, 2023

a. Once an initial certification letter is issued, the applicant or official representative must countersign and return an electronic copy to the office via Fastlane, within 30 business days, acknowledging initial certification status.

b. The initial certification letter shall be effective for qualifying expenditures made within a period of twelve months prior to the date of application and twenty-four months after the date of initial certification letter, except that:

i. state certified productions for scripted episodic content (“SEC’s”), with estimated expenditures of at least \$10,000,000 in state expenditures per calendar year, shall be issued an initial certification letter effective for qualifying expenditures made until 60 months after the date of initial certification, under terms and conditions approved by the office and the secretary, as set forth in the initial certification letter.

D.- D (2) ...

D. (2) a. a cost report uploaded via Fast Lane, which shall be audited by a state licensed, independent certified public accountant assigned by the office and complying with the minimum standards as required by R.S. 47:6007(D)(2)(d). The cost report may be subject to additional audit by the department or the Department of Revenue, at the applicant’s expense.

D (2) a (i)-(iii) ...

D (2) b. a detailed general ledger in an excel spreadsheet format to be uploaded via Fast Lane, or as otherwise approved by LED. Confidential taxpayer information is to be redacted, with only the last four digits to be included on any social security numbers or financial account numbers.

c. additional information as may be requested.

D. (3) – D (3) (a) (i) ...

D (3) (b) Project-Based Production Tax Credit—for Applications Submitted on or after July 1, 2017 and prior to July 1, 2023.

D 3 (b) (i) – D 3 (b) (iii)...

c. Project-Based Production Credit—for Applications Submitted on or after July 1, 2023

i. The issuance of tax credits shall be administered on a first come, first serve basis until the program issuance cap has been met, except that legacy credit reservations shall have priority over other final certification requests received by LED on or after the date of the legacy credit reservation final certification request.

ii. After review and upon a determination of qualification, the office and the secretary shall issue a final certification letter indicating the amount of tax credits certified for the state certified production, or a written denial.

4. Cap Management—Phase 2- Final Certification—Tax Credit Issuance for Applications Submitted on or after July 1, 2017 and prior to July 1, 2023

D 4 a – E 2 e ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:6007 and R.S. 36:104.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:55 (January 2010), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic

Development Corporation, LR 37:514 (February 2011), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:39 (January 2016), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 43:2102 (November 2017), repromulgated LR 43:2473 (December 2017), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:871 (July 2019), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:179 (February 2020), LR 48:1496 (June 2022), LR 48:1916 (July 2022), LR

**§6111. Delinquent tax filing clearance requirement**

A. No motion picture production tax credit may be earned, certified, issued to, transferred by, or used to reduce a Louisiana tax liability if there exists a delinquent federal, state or local tax obligation.

B. Compliance with this requirement shall now be certified by the motion picture production company, irrevocable designee, taxpayer, or claimant before any credit may be certified, transferred, or sold.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR

**§6115. Transfer fee allocation and the Entertainment Development Fund**

A. For applications received on or after July 1, 2017, as a general rule, motion picture production tax credits may not be transferred or sold to another taxpayer;

1. Except that, the motion picture production company that earned the tax credits, or the company's irrevocable designee, may transfer the credits to LDR for ninety percent of the face value of the credits.

2. The transfer notification submitted to LDR shall include a fee of two percent of the tax credit transfer value, which shall be deposited upon receipt in the state treasury and thereafter credited to the Louisiana Entertainment Development Fund.

B. Money in the Louisiana Entertainment Development Fund ("EDF") shall be appropriated as follows:

1. Twenty-five percent to LDR for administrative purposes; and

2. Seventy-five percent to LED for motion picture and television education development initiatives, matching grants for Louisiana filmmakers, Louisiana workforce development programs, and other motion picture production and television related programs.

C. Administration of the EDF fund by LED shall be as follows:

1. Applications shall be accepted on a year round basis, subject to availability of funding in any given year, and shall be administered by LED in accordance with program rules, LAC 61: I, Chapter 21.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR

**§6119. Louisiana Promotional Graphic**

A. For applications for state-certified productions received on or after July 1, 2017 and prior to July 1, 2023 at time of request for final certification, state certified productions shall be required to acknowledge the financial assistance of the state of Louisiana—either through the inclusion of a Louisiana promotional graphic meeting requirements set forth below, or an alternative marketing opportunity that has been approved in writing by LED.

A (1) – A (3) ...

B. For applications for state-certified productions received on or after July 1, 2023 at time of request for final certification, state certified productions shall be required to acknowledge the financial assistance of the state of Louisiana as follows:

1. Logo. Shall include up to a five second long static or animated graphic in the end credits before the below-the line crew crawl for the life of the production, during each broadcast worldwide if applicable; *and*

2. Promotional piece. Shall provide LED with an electronic press kit, customized video, or alternative asset, as may be agreed to by LED, for promotional use by LED.

3. Except that commercials, music videos, or other state-certified productions that are prohibited by federal law or contractual requirements from utilizing the promotional Louisiana graphic may use an alternative marketing option as approved by LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:1656 (October 2016), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:878 (July 2019), LR 48:1497 (June 2022), amended LR 48:1917 (July 2022). LR

#### **Family Impact Statement**

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### **Poverty Statement**

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

#### **Provider Impact Statement**

The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.

#### **Small Business Statement**

The proposed Rule is not anticipated to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

#### **Public Comments**

Interested persons should submit written comments on the proposed Rules to Stephen Hamner through the close of business on **October 24, 2023** at 617 North 3<sup>rd</sup> Street, 11<sup>th</sup> Floor, Baton Rouge, LA 70802 or via email to [stephen.hamner@la.gov](mailto:stephen.hamner@la.gov).

#### **Public Hearing**

A meeting for the purpose of receiving the presentation of oral comments will be held at 2 p.m. on **October 25, 2023** at the La Salle Building, La Belle Room, 617 North Third Street, Baton Rouge, LA 70802.



Anne G. Villa

Undersecretary, LED

## **Chapter 61. Motion Picture Production Tax Credit Program**

### **§6101. Purpose**

A. The purpose of this Chapter is to implement the Motion Picture Investor Tax Credit Program as established by R.S. 47:6007.

B. This Chapter shall be administered to achieve the following:

1. to encourage development of a strong capital base within the state for the motion picture and related industries;
2. to achieve a self-supporting, independent, indigenous industry; and
3. to encourage development of state of the art motion picture production and post-production facilities:
  - a. in the short-term, to attract private investors in state-certified productions;
  - b. in the long-term, to encourage the development of a skilled state workforce trained in the film and video industry.

C. This Chapter shall apply to any person:

1. claiming a credit;
2. transferring or selling a credit; or
3. acquiring a credit under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:52 (January 2010), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:868 (July 2019), amended LR 48:1494 (June 2022).

### **§6103. General Description**

A. For application received on or after July 1, 2017, state-certified productions may be eligible for up to a 40 percent tax credit on total qualified in-state expenditures, including resident and non-labor as follows:

#### **1. Base Investment Credit**

a. **Base Rate.** State-certified productions with a total base investment greater than \$300,000, or for Louisiana screenplay state-certified productions with a total base investment equal to or greater than \$50,000, a tax credit of 25 percent of the base investment may be allowed;

b. **Louisiana Screenplay.** State-certified productions with expenditures equal to or greater than \$50,000, but not greater than \$5,000,000, based upon a screenplay created by a Louisiana resident, may be eligible for an increased 10 percent credit of the base investment, for a total of 35 percent.

c. **Out of Zone Filming.** State-certified productions that have their production office and at least 60 percent of principal photography based and occurring outside of the New Orleans Metropolitan Statistical Area (NOLA-MSA) may be eligible for an increased 5 percent credit of base investment, for a total of 30 percent or 40 percent total for a Louisiana screenplay shot out of the zone.

i. **In NOLA-MSA zone:** Orleans, Jefferson, Plaquemines, St. Bernard, St. Charles, St. James and St. Tammany Parishes, **Out-of-zone:** All other parishes including St. John the Baptist Parish.

#### **2. Additional Payroll and Visual Effects (VFX) Credits**

a. **Louisiana Resident Payroll.** Compensation for services paid directly to a Louisiana resident may be eligible for an additional 15 percent credit for qualified Louisiana resident payroll only.

i. Payments made to a loan-out company are not eligible for this additional credit.

b. **VFX.** If at least 50 percent of the VFX budget is expended for services performed in Louisiana by an approved qualified entertainment company (QEC), or a minimum of \$1,000,000 in qualified expenditures are made in Louisiana, an additional 5 percent credit may be allowed on the qualified VFX spend only.

3. Tax credits shall be earned at the time expenditures are certified by LED. The maximum credit rate, including base investment increases and additional payroll credits is 40 percent of the base investment.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:1125.1.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:53 (January 2010), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:868 (July 2019), amended LR 48:1494 (June 2022), LR 48:1915 (July 2022).

### **§6105. Definitions**

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 47:6007, unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

*Allocatee*—an individual or entity that received an allocation of investment tax credits.

*Allocator*—an individual or entity that makes an allocation of investment tax credits.

*Base Investment*—cash or cash equivalent investment made and used for production expenditures in the state for a state-certified production.

~~*Commencement of Production*—beginning principal photography or equivalent process.~~

*Completion Notification*—the date all required steps for certification of credits are complete, as confirmed in writing by the department.

*Cost Report of Production Expenditures*—a report of production expenditures formatted in accordance with LED accounting guidelines, which may be issued with initial certification, posted on LED's website or otherwise communicated by LED to applicant in writing.

~~*Cost report submission deadline* – the date detailed in the initial certification letter by which a cost report shall be submitted to LED, after which time all such claims to tax credits shall be deemed waived.~~

*Department*—Louisiana Department of Economic Development, or its successor.

~~*Developer*—a person responsible for the development of a state certification infrastructure project.~~

*Director*—Director of the Office of Entertainment Industry Development (the office).

*Expended in the State*—

- a. an expenditure to lease immovable property located in the state;
- b. an expenditure as compensation for services performed in the state; or
- c. an expenditure to purchase or lease tangible personal property within the state where the transaction is subject to the state sales or lease tax provisions of Title 47 of the Louisiana Revised Statutes of 1950:
  - i. a transaction that is subject to the states sales or lease tax provision of Title 47 of the Louisiana Revised Statutes of 1950 shall include transactions that are also subject to statutory exclusion or exemption.

*Expenditure*—actual payment of cash or cash equivalent, paid by or on behalf of a state certified production exchanged for goods or services, as evidenced by an invoice, receipt or other such document.

*Indirect Costs*—costs of operation that are not directly associated with a ~~specific state certified production or infrastructure project~~, such as clerical salaries, general administrative costs and other overhead charges.

*Investor*—any individual or entity that makes an investment in a state-certified production including but not limited to any individual or entity that is identified as a source of funds for a state certified production on its expenditure verification report, individual or entity identified as an irrevocable designee for receipt of tax credits.

*LDR*—Louisiana Department of Revenue



**Legacy Tax Credit Reservation** – is a provisional allocation of tax credits in a given fiscal year, as evidenced by an initial certification letter issued prior to July 1, 2023, that has not expired or been released in accordance with the provisions of §6107.

**Louisiana Resident**—a natural person who is required to file a Louisiana resident individual income tax return.

**Louisiana Screenplay**—a screenplay created by a Louisiana resident, as evidenced by documents such as certificate of authorship, a WGA registration certificate, the records of the United States Copyright Office, or other documentation approved by the office.

**Non-Applicable Production Expenditures**—the following expenses are not eligible to earn tax credits:

- a. expenditures for marketing and distribution;
- b. non-production related overhead;
- c. amounts reimbursed by the state or any other governmental entity;
- d. costs related to the transfer of tax credits;
- e. amounts that are paid to persons or entities as a result of their participation in profits from the exploitation of the production;
- f. the application fee;
- g. state or local taxes;
- h. any other expenditure not allowed by law or regulation.
- i. expenditure verification report deposit and fees;
- j. For applications received on or after July 1, 2016, bond fees, insurance premiums, finance fees and loan interest fees shall not qualify for tax credits, except for fees paid to certain Louisiana companies, in which case the expenditures to be allocated only on a pro rata basis, allocating the fees based on the relative percentage of production activity occurring in Louisiana;
- k. For applications received on or after July 1, 2017, catering and craft services shall not qualify for tax credits unless such expenditures are made to a source within the state.

**Office**—Office of Entertainment Industry Development.

**Payroll**—all salary, wages and other compensation, including benefits paid to an employee and taxable in this state. However, payroll for purposes of the additional tax credit for Louisiana-resident payroll shall exclude any portion of an individual salary in excess of one-million dollars.

**Person**—there are two kinds of persons; natural and juridical.

- a. A natural person is a human being.
- b. A juridical person is an entity to which the law attributes personality, such as a corporation, partnership or limited liability company.

**Procurement Company**—any person or entity that purchases, leases or otherwise obtains goods or services from sources outside of the state, for the ultimate use, benefit or enjoyment of a state-certified production company.

**Production Expenditures**—preproduction, production and postproduction expenditures directly incurred in this state that are directly used in a state-certified production, whether the production company directly contracts or subcontracts such work, including without limitation the following:

- a. set construction and operation;
- b. wardrobes, make-up, accessories, and related services;
- c. costs associated with photography and sound synchronization, lighting, and related services and materials;
- d. editing and related services;
- e. rental of facilities and equipment;

- f. leasing of vehicles;
- g. costs of food and lodging;
- h. digital or tape editing, film processing, transfer of film to tape or digital format, sound mixing, special and visual effects (if services are performed in Louisiana);
- i. total aggregate payroll (limited to the amount of total payroll expended in Louisiana and which is taxable to the recipient in Louisiana. A Louisiana tax return is required to be filed reflecting the amount of compensation paid while the recipient is located in Louisiana. If the recipient is not a Louisiana resident, then a non-resident income tax return should be filed);
- j. music, if performed, composed or recorded by a Louisiana resident, or released or published by a Louisiana-domiciled and headquartered company;
- ~~k. —airfare, if purchased through a;~~
- ~~l. insurance costs or bonding, if purchased through a Louisiana company;~~
- ~~m.k. payments to a loan-out or personal services corporation for the services of an out-of-state hire are allowed as long as the services are performed in Louisiana on a state certified production and all withholding requirements are met.~~

~~*Production Facility*—a physical facility that provides the goods or services necessary for completing the major activities of motion picture production.~~

~~*Program Issuance Cap*—for applications submitted on or after July 1, 2017 and prior to July 1, 2023, the office may issue no more than \$150,000,000 in tax credits (“total cap”) in any fiscal year, with \$7,500,000 reserved for qualified entertainment companies (“QEC cap”), \$7,500,000 reserved for Louisiana screenplay productions (“LA screenplay cap”), \$15,000,000 reserved for independent film productions (“independent film cap”), with the remaining \$120,000,000 available for general allocation to any state certified production (“general cap”); for applications received on or after July 1, 2023, the office may issue no more than \$150,000,000 in tax credits in any fiscal year.~~

~~*Released Credits*—tax credits provisionally allocated to motion picture production companies in initial certification letters, which are subsequently unused, released and made available for re-allocation or issuance by the department.~~

~~*Secretary*—Secretary of the Department of Economic Development.~~

~~*Source within the State*—a physical facility in Louisiana, operating with posted business hours and employing at least one full-time equivalent employee. Procurement companies that meet the requirements of La. R.S. 47:6007(B)(30) shall constitute a “source within the state”.~~

~~*State-Certified Production*—a production approved by the office and the secretary which is produced by a motion picture production company domiciled and headquartered in Louisiana and which has a viable multi-market commercial distribution plan.~~

~~*Transferee*—an individual or entity that receives a transfer of investor tax credits.~~

~~*Transferor*—an individual or entity that makes a transfer of an investor tax credit.~~

~~AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.~~

~~HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:53 (January 2010), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 43:300 (February 2017), LR 43:2102 (November 2017), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:869 (July 2019), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:179 (February 2020), LR 48:1495 (June 2022), LR 48:1915 (July 2022).~~

## **§6107. Certification Procedures**

### **A. Application and Expenditure Verification Report Fees**

1. An application for initial certification shall be submitted with an application fee of 0.5 percent of the estimated total tax credits, with a minimum fee of \$500, and a maximum fee of \$15,000, payable to the office, as required by R.S. 36:104.

- a. All applications shall include information as required by R.S. 47:6007(D)(2)(a).
- b. In addition, the following program specific information is required.
  - i. Production:
    - (a). working title of the production. Should the title change, the state-certified production needs to inform the office as soon as that change is made;
    - (b). name of the requesting production company;
    - (c). name, telephone number, e-mail address and attesting signature of the requesting production company's contact person;
    - (d). approximate beginning and ending date of production in Louisiana;
    - (e). Louisiana office address;
    - (f). telephone number of requesting company's Louisiana office address;
    - (g). estimated total production-related costs of production;
    - (h). estimated total amount of production-related costs to be expended in Louisiana;
    - (i). estimated total payroll to be paid by the requesting production company to Louisiana residents employed by the requesting production company in connection with the production;
    - (j). a preliminary budget including the estimated Louisiana payroll and estimated in-state investment;
    - (k). a copy of script (including synopsis) will be made available to OEID and subsequently returned to the applicant;
    - (l). list of principal creative elements such as principal cast, producer, and director; and
    - (m). facts sufficient for the office and the department to determine each of the following:
      - (i). that the requesting production company is a motion picture production company as defined in R.S. 47:6007(B)(6);
      - (ii). that the requesting production company is domiciled and headquartered in Louisiana; and
      - (iii). that the requesting production company has either a viable multi market distribution plan or a signed distribution agreement with either a major theatrical exhibitor, television network or cable television programmer for distribution of the production.
- c. Expenditure Verification Report Fee. The department shall directly engage and assign a CPA to prepare an expenditure verification report on an applicant's cost report of production or project expenditures. Applicants shall submit an advance deposit at the time of application, and shall later be assessed the department's actual cost based upon an hourly rate not to exceed \$250, in the amounts set forth below:
  - i. for applicants with project expenditures greater than \$50,000 but less than \$300,000, an advance deposit of \$5,000, with a maximum fee of \$10,000;
  - ii. for applicants with project expenditures greater than \$300,000 but less than \$25,000,000, an advance deposit of \$7,500, with a maximum fee of \$15,000;
  - iii. for applicants with project expenditures greater than \$25,000,000, an advance deposit of \$15,000, with a maximum fee of \$25,000;
  - iv. if CPA actual costs exceed the advance deposit, the applicant will be billed and LED will not issue any pending final certification letter until receipt of any outstanding balance. Any unused balance shall be refunded to the applicant within 60 days following receipt of CPA's final invoice and payment of all CPA costs;
  - v. if at the time of application for initial certification, the department is notified that post-production activities will take place in Louisiana, and subsequently such activities are performed in Louisiana, a supplemental request for certification of expenditures directly relating to such post-production activity may be submitted. An

advance deposit fee of \$7,500 shall be due at time of request for a supplemental verification report, and applicant will again be liable for the actual costs subject to the conditions set forth above.

2. All applicants shall participate in a career based learning and training program approved by the office. To meet this requirement, at the time of application, applicants may choose a method of participation from the list below:

a. provide a minimum of 3 paid internship positions provided to students enrolled in an accredited high school, community college, university or qualified community based program, for a minimum of 75 hours per student and a total of 225 hours; or

b. a minimum of 8 hours of classroom workshop provided to students enrolled in an accredited high school, community college, university or qualified community based program; or

c. a minimum of 8 hours of studio employment and professional skills tour provided to students enrolled in high school, community college, university or qualified community based program; or

d. a minimum of 8 hours of continuing education for educators or faculty to observe the set operations, post production and other specialized departments;

e. financial contribution or donation to a specific local educational agency or higher education institution specializing in arts, media and entertainment career oriented program. Financial contributions calculated at 0.25 percent of the estimated tax credit reservation; or

f. other method of participation approved by the office.

3. An application is not deemed to be complete until all information requested and required fees are received by LED. Required fees include both an application fee and an expenditure verification deposit fee.

B. Qualification. The office and the secretary, ~~and in the case of infrastructure projects, the division~~, shall determine whether a production qualifies for certification, by meeting all requirements of R.S. 47:6007 and these regulations, and taking the following factors into consideration:

1. the impact of the production on the immediate and long-term objectives of R.S. 47:6007;

2. the impact of the production on the employment of Louisiana residents;

3. the impact of the production on the overall economy of the state.

#### C. Initial Certification

##### 1. Application Review Process, ~~Provisional Allocation~~ and Reservation of Tax Credits

###### a. Project-Based Production Tax Credit—For Applications Submitted prior to July 1, 2017

i. After review and upon a determination of qualification, the office and the secretary shall issue an initial certification letter indicating the amount of tax credits certified for the state certified production, or a written denial.

###### b. Project-Based Production Tax Credit—for Applications Submitted on or after July 1, 2017 ~~but prior to July 1, 2023:~~

i. Beginning July 1, 2017 and thereafter, the office will accept and review applications on a monthly basis. All applications received by the 15th of the month will be treated as received on the last business day of the month (“monthly initial certification pool”) and processed accordingly.

ii. After review and upon determination of qualification, the office and the secretary shall issue an initial certification letter, or a written denial. The initial certification letter will provisionally allocate tax credits based upon expected the cost report submission date and availability of tax credits in any given year.

###### c. Project-Based Production Tax Credit—for Applications Submitted on or after July 1, 2023

i. Beginning July 1, 2023 and thereafter, the office will accept and review applications on a monthly basis. All applications received by the 15th of the month will be treated as received on the last business day of the month (“monthly initial certification pool”) and processed accordingly.

ii. After review and upon determination of qualification, the office and the secretary shall issue an initial certification letter, or a written denial.

2. Additional information may be requested by the office, or the department ~~and/or the division~~ in order to make a determination of eligibility for the program.

3. Cap Management—Phase I- Initial Certification—Tentative Reservation - for applications received on or after July 1, 2017 and prior to July 1, 2023

a. The reservation of tax credits shall be administered on a first come, first serve basis, until any of the caps have been met:

- i. QEC;
- ii. LA screenplay;
- iii. independent film;
- iv. general; or
- iv. total cap.

b. Qualifying LA screenplay or independent film projects shall be allocated credits first from the available LA screenplay or independent film caps. On the day that the LA screenplay or independent film caps are met, credits shall be reserved from any remaining general cap.

c. If the LA screenplay and independent film caps have not been met by April 30 of any year, any residual amount of unreserved credits may be available for general allocation by the office, in addition to any residual general cap.

d. If the QEC cap is not met in any fiscal year, any residual unreserved credits shall carry forward for use by QEC's in subsequent years.

e. On the day that the total or general cap is reached, the credits remaining for allocation shall be reserved on a prorated basis amongst the monthly initial certification submission pool.

f. If the total amount of credits applied for in any particular year exceeds the total or general cap for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

4. Duration of Effect—for Applications Submitted prior to July 1, 2017

a. Once an initial certificate is issued by the office, the department (and the division where appropriate), the applicant or official representative must countersign and return an original to the office, within 30 business days, acknowledging initial certification status.

b. For productions, initial certification shall be effective for a period 12 months prior to and 12 months after the date of initial certification, unless the production has commenced, in which case the initial certification shall be valid until the production is completed.

5. Duration of Effect—for Applications Submitted on or after July 1, 2017 and prior to July 1, 2023.

a. Once an initial certification letter is issued, the applicant or official representative must countersign and return an original to the office, within 30 business days, acknowledging initial certification status and the reporting requirement for start date of principal photography.

b. The initial certification letter shall be effective for qualifying expenditures made within a period of twelve months prior to the date of application and twenty-four months after the date of initial certification letter, except that:

i. state certified productions for scripted episodic content ("SEC's"), with estimated expenditures of at least \$10,000,000 in state expenditures per calendar year, shall be issued an initial certification letter effective for qualifying expenditures made until 60 months after the date of initial certification, under terms and conditions approved by the office and the secretary, as set forth in the initial certification letter.

ii. when determining the amount and appropriate allocation and reservation of credits for SEC's, the office shall review all pertinent information, including but not limited to; whether the project is a pilot, TV series from a pilot formerly shot in Louisiana, a recurring TV series or a relocating TV series.

iii. unless otherwise approved by the office and the secretary, SEC tax credits will be allocated from the general cap, and initially reserved for two seasons. SEC applicants shall periodically provide updates to the office,

and the initial certification letter may be subsequently revised to allow for additional allocations and reservations of credits for seasons three through five, if applicable.

c. **Released Credits.** Tax credits provisionally allocated to motion picture production companies in initial certification letters, which are subsequently unused by their original holders, may be released and made available for re-allocation or issuance by the department. Any release of credits shall be in writing and where possible, may be agreed to between the department and the motion picture production company, except that:

i. the department reserves the right to release credits for effective administration of the annual program issuance cap, by releasing provisionally allocated credits on May 1 of any given fiscal year, for productions with a reservation in that fiscal year but lacking a supporting expenditure verification report on file with the department. After consideration of all relevant factors, the department may issue a revised initial certification letter provisionally allocating credits in the next available fiscal year, and/or, where appropriate, directly issue tax credits in a final certification letter from released credits, according to the provisions of Paragraph D.4 of this Section.

#### 6. Duration of Effect—for Applications Submitted on or after July 1, 2023

a. Once an initial certification letter is issued, the applicant or official representative must countersign and return an electronic copy to the office via Fastlane, within 30 business days, acknowledging initial certification status.

b. The initial certification letter shall be effective for qualifying expenditures made within a period of twelve months prior to the date of application and twenty-four months after the date of initial certification letter, except that:

i. state certified productions for scripted episodic content (“SEC’s”), with estimated expenditures of at least \$10,000,000 in state expenditures per calendar year, shall be issued an initial certification letter effective for qualifying expenditures made until 60 months after the date of initial certification, under terms and conditions approved by the office and the secretary, as set forth in the initial certification letter.

#### D. Final Certification; Audit Requirements

1. Prior to any final certification of credits, the motion picture production company applicant shall submit to the office a notarized statement demonstrating conformity with and agreeing to the following:

- a. to pay all undisputed legal obligations incurred in the state;
- b. to publish upon completion of principal photography a notice at least once a week for three consecutive weeks in local newspapers in regions where filming has taken place, notifying creditors to file any claims within a specific date;
- c. that the outstanding obligations are not waived should a creditor fail to file by the specific date;
- d. to delay any claims for credits until the office delivers written notice to the secretary of the Department of Revenue that the production company has fulfilled all requirements for the credit.

2. When requesting final certification of credits, the motion picture production company applicant shall submit to the office the following:

a. a cost report **uploaded via Fast Lane, certified** ~~certified~~ **which shall be audited** by a state licensed, independent certified public accountant **assigned by the office** and complying with the minimum standards as required by R.S. 47:6007(D)(2)(d). The cost report may be subject to additional audit by the department or the Department of Revenue, at the applicant’s expense.

i. **Incorrect Reporting.** If an applicant submits a cost report required by the provisions of this Chapter and the report made and filed contains material misstatements, including but not limited to misrepresentation in or intentional omission from the cost report of events, transactions, or other significant information there may be cause for an additional audit.

ii. **Related Party Transactions.** If an audit contains related party transactions in excess of 20 percent of the total expenditures reported in the submitted audit there may be cause for an additional audit.

iii. **Reimbursement of Audit Costs.** The department may undertake additional audit at the applicant’s expense, to be performed by a state certified public accountant also certified in financial forensics or also certified as a fraud examiner. Audit fees will be assessed at the department’s contracted fee;

b. a detailed general ledger in an excel spreadsheet format to be uploaded via Fast Lane, or as otherwise approved by LED. Confidential taxpayer information is to be redacted, with only the last four digits to be included on any social security numbers or financial account numbers.

bc. additional information as may be requested.

### 3. Final Allocation and Issuance of Tax Credits

#### a. Project-Based Production Credit—for Applications Submitted prior to July 1, 2017

i. After review and upon a determination of qualification, the office and the secretary shall issue a final certification letter indicating the amount of tax credits certified for the state certified production, or a written denial.

b. Project-Based Production Tax Credit—for Applications Submitted on or after July 1, 2017 and prior to July 1, 2023.

i. After review and determination of qualification, the office and the secretary shall issue a final certification letter, in accordance with the provisional allocations and amounts set forth in the initial certification letter, or a written denial.

ii. In the event that less than the reserved amount of tax credits has been verified, any unused credits will be released and may be available for issuance by the office.

iii. In the event that more than the reserved amount of tax credits has been verified, the office shall preliminarily issue tax credits in an amount not to exceed the total indicated in the initial certification letter, but may at its discretion, issue any excess credits in the same final certification letter or subsequently issue a supplemental tax credit for any excess expenditures, subject to availability of credits in any given fiscal year.

#### c. Project-Based Production Credit—for Applications Submitted on or after July 1, 2023

i. The issuance of tax credits shall be administered on a first come, first serve basis until the program issuance cap has been met, except that legacy credit reservations shall have priority over other final certification requests received by LED after the date of the legacy credit reservation final certification request.

ii. After review and upon a determination of qualification, the office and the secretary shall issue a final certification letter indicating the amount of tax credits certified for the state certified production, or a written denial.

### 4. Cap Management—Phase 2- Final Certification— for Applications Submitted on or after July 1, 2017 and prior to July 1, 2023

a. The issuance of tax credits shall be administered on a first come, first serve basis, until any of the caps have been met; QEC, LA screenplay, independent film, general or total cap.

b. Qualifying LA screenplay or independent film projects shall be issued credits first from the available LA screenplay or independent film caps. On the day that the LA screenplay or independent film caps are met, credits shall be issued from any remaining general cap.

c. If the LA screenplay and independent film caps have not been met by April 30 of any year, any residual amount of credits may be available for issuance by the office, in addition to any residual general cap.

d. If the QEC cap is not met in any fiscal year, any residual credits shall carry forward for use in subsequent years and may be granted in addition to the QEC cap for each year.

e. If the total amount of credits applied for in any particular year exceeds the total or general cap for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

f. Use of released credits. Released credits shall be available for re-allocation or issuance by the department as follows.

i. Credits released throughout the year shall be made available periodically at the discretion of the department as released credits accumulate, for re-allocation or issuance to qualifying applicants on a first come first served basis, as determined by the completion notification date.

(a). However, any applicants who have received completion notifications on the same business day shall be treated as received at the same time.

(b). For purposes of this Section, a completion notification shall be issued in writing and only upon confirmation by the department that a motion picture production company has completed all required steps for certification of credits, including but not limited to submission of an expenditure verification report and all necessary support documentation, and payment in full of any CPA fees.

ii. To qualify for issuance of credits from the released credits, motion picture production companies shall lack a tax credit reservation, or the necessary amount of tax credit reservation, for issuance of final certification in the requested fiscal year.

iii. If the total amount of released credits available for re-issuance meets or exceeds the amount of requested credits, the department shall make payment in full to all qualifying applicants.

iv. If the total amount of released credits available for re-issuance is less than the total amount of requested credits, the department shall issue credits in full to all qualified applicants on a first come, first served basis, as determined by the completion notification date. Any requests that cannot be paid in full will remain eligible for payment at a later date, on a first come, first served basis, as determined by the completion notification date, subject to availability of released credits. Partial payments will not be made.

E. Appeal Process. In the event that an application for initial or final certification is denied:

1. the office shall promptly provide written notice of such denial to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means;

2. the applicant may appeal as follows:

a. an applicant may appeal within 30 days from receipt of a denial. Receipt will be conclusively presumed from the sending of the denial by electronic mail to an address provided by the applicant or by a return receipt evidencing delivery by U.S. Postal Service or private carrier;

b. the appeal is made by delivery of a written objection, with supporting documentation to the secretary and also in the case of infrastructure projects to the commissioner;

c. within 30 days of receipt of a timely appeal, the secretary (or his designee) and the commissioner, where applicable, will review the appeal, and issue a joint written determination. The secretary and the commissioner may extend the time for the determination for an additional 30 days. In the event the secretary and the commissioner do not agree, or fail to issue a determination within the required time, the appeal is deemed denied;

d. the written determination shall be the final agency decision of the department;

e. the applicant may appeal an adverse decision to the Nineteenth Judicial District Court, which shall be limited to a review of the administrative record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:55 (January 2010), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, LR 37:514 (February 2011), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:39 (January 2016), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 43:2102 (November 2017), repromulgated LR 43:2473 (December 2017), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:871 (July 2019), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:179 (February 2020), LR 48:1496 (June 2022), LR 48:1916 (July 2022).

### **§6109. Additional Program Provisions**

A. The following additional provisions shall apply to applications received on or after July 1, 2017:

1. LED total program issuance cap. The aggregate dollar amount of tax credits issued for all state-certified productions shall not exceed \$150,000,000 per fiscal year;

2. LDR taxpayer claims cap. Tax credit claims and transfers to the state ("buy-back") shall be limited to an aggregate total of \$180,000,000 per fiscal year;



3. LED individual project issuance cap. The maximum amount of credits certified by LED for a single state-certified production shall be \$20,000,000, which may be structured over two or more years in the initial certification letter;

a. Except for state-certified productions for scripted episodic content that may be granted up to \$25,000,000 in credits per season.

4. LED individual salary cap. The maximum amount of qualifying payroll expenditures per individual shall be \$3,000,000. Payroll payments in excess of \$3,000,000 made directly or indirectly to an individual or loan-out shall be excluded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1125.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:56 (January 2010), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:874 (July 2019), amended LR 48:1496 (June 2022).

### **§6111. Delinquent tax filing clearance requirement**

A. No motion picture production tax credit may be earned, certified, issued to, transferred by, or used to reduce a Louisiana tax liability if there exists a delinquent federal, state or local tax obligation.

B. Compliance with this requirement shall now be certified by the motion picture production company, irrevocable designee, taxpayer, or claimant before any credit may be certified, transferred, or sold.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR

### **§6113. Application of the Tax Credit**

A. Prior to claiming a tax credit on any tax return, or transferring any tax credit, a person must apply for and obtain a final certification. The investor tax credit may be earned, transferred, allocated, and claimed as follows.

1. Earn. Individuals or entities may earn investor tax credits pursuant to R.S. 47:6007(C)(1).

a. Once tax credits are earned by an individual or entity, such individual or entity and any subsequent transferee, may transfer or allocate the investor tax credits.

2. Transfer. Any motion picture investor tax credits not previously claimed by any taxpayer against its income tax may be transferred or sold to another Louisiana taxpayer or to the office, pursuant to R.S. 47:6007(C)(4).

a. A single transfer or sale may involve one or more transferees. Transferors and transferees shall submit to the Office and to the Department of Revenue in writing, a notification of any transfer or sale of tax credits within thirty days after the transfer or sale of such credits and shall include a processing fee of two hundred dollars per transferee.

b. If the investor tax credits (evidenced by a certification letter) are transferred to the office:

i. on and after January 1, 2007, and prior to December 31, 2008 the state shall make payment to the investor at a value of 72 percent of the face-value of the credits;

ii. on January 1, 2009, and every second year thereafter, the percent of the value of the tax credits paid by the state shall increase 2 percent until the percentage reaches 80 percent;

iii. for state certified productions which receive initial certification on or after July 1, 2009, the state shall make payment to the investor at a value of 85 percent of the face-value of the credits.

3. Allocate. If the investor tax credits are earned by, or allocated or transferred to, an entity not taxed as a corporation, the entity may allocate the credit by issuing ownership interests to any individuals or other entities on such terms that are agreed to by the relevant parties and in accordance with the terms of the allocating entity's operating

agreement or partnership agreement. These terms may result in the allocation of up to 100 percent of the investor tax credits to any individual or entity regardless of the federal tax treatment of the allocation:

a. the allocating entity:

- i. may be treated as a partnership for federal or state tax purposes; or
- ii. may be treated as an entity that is disregarded as an entity separate from its owners for federal or state tax purposes, and in which case, each holder may agree that it will not treat the allocating entity as a partnership or itself as a partner or the ownership interest in the allocating entity as a partnership interest for federal tax or state tax purposes.

4. Claim. Tax credits may be claimed as follows:

a. an owner of tax credits may apply the credits to offset an outstanding Louisiana income tax liability for any tax year beginning in the year that the investor initially earned the tax credit or in any year thereafter within the 10 year carry forward period;

b. in the case of tax credits owned (held) by an entity not taxed as a corporation, the credits shall be deemed to flow through or be allocated to partners or members at the end of the tax year in which the entity acquired the credits unless the partnership or membership agreement provides otherwise;

c. any individual or entity shall be allowed to claim the investor tax credit against its Louisiana income tax liability:

- i. whether or not any such individual is a Louisiana resident; and
- ii. whether or not any such entity is domiciled in Louisiana, organized under Louisiana law, or headquartered in Louisiana;

d. an investor tax credit, in the hands of the taxpayer that earned the credit or received it by flow-through, cannot be used to eliminate any penalties and interest on overdue income taxes from prior tax years:

i. however, an investor tax credit that is purchased is treated as property and can be applied to penalties and interest on overdue income taxes from prior tax years pursuant to R.S. 47:1675(H)(1)(c):

(a). penalties and interest will continue to accrue until the taxes on which such penalties and interest are accruing are paid;

(b). the date of payment is the date that the Louisiana Department of Revenue receives a return from a taxpayer on which the investor tax credits are claimed.

B. If the investor tax credits (evidenced by a tax credit certification letter) are transferred or allocated as provided herein.

1. The transferor shall submit to the office the original certificate of ownership, evidencing the investor tax credits being transferred or allocated, as required by R.S. 47:6007(C)(5).

2. After receipt, the office may issue to each transferee or allocatee, a certificate of ownership signed by the director reflecting:

- a. such transferee's or allocatee's name;
- b. the dollar amount of investor tax credits transferred or allocated;
- c. the calendar year in which the investor tax credits were originally earned;
- d. the state-certified infrastructure project or the state-certified production with respect to which such investor earned the investor tax credits; and
- e. the identifying number assigned to such state-certified infrastructure project or state-certified production.

3. If the certificate of ownership submitted evidences more investor tax credits than actually transferred or allocated, then the office may issue an additional certificate of ownership, reflecting any remaining investor tax credit balance.

4. Any person or entity engaged in the business of buying and reselling tax credits may elect to maintain its certificate of ownership on file with the office, such that it need not surrender, and have reissued, its certificate of ownership each time it sells a tax credit.

a. In such cases, the office may issue comportsing certificates of ownership to transferees or allocates, designated by the transferor or allocator in writing, until such time as the tax credits represented in the original certificate have been exhausted.

5. Any taxpayer claiming investor tax credits against its Louisiana income tax liability shall submit to the Department of Revenue, with its Louisiana income tax return for the year in which the taxpayer is claiming the investor tax credits, an original certificate of ownership issued by the office or the transfer notice pursuant to this rule, evidencing the dollar amount of the investor tax credits being claimed.

6. The failure of the office to timely issue a certificate of ownership in accordance with this rule shall not:

a. void or otherwise affect, in any way, the legality or validity of any transfer of investor tax credits;

b. prohibit any Louisiana taxpayer from claiming investor tax credits against its Louisiana income tax liability, if the investor tax credits are otherwise transferred or claimed in accordance with R.S. 47:6007 and these rules; or

c. result in any recapture, forfeiture or other disallowance of investor tax credits under R.S. 47:6007(E) or (F) or otherwise.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:6007.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:57 (January 2010), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development, and the Louisiana Economic Development Corporation, LR 37:515 (February 2011), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:876 (July 2019).

#### **§6115. Transfer fee allocation and the Entertainment Development Fund**

**A.** For applications received on or after July 1, 2017, as a general rule, motion picture production tax credits may not be transferred or sold to another taxpayer;

1. Except that, the motion picture production company that earned the tax credits, or the company's irrevocable designee, may transfer the credits to LDR for ninety percent of the face value of the credits.

2. The transfer notification submitted to LDR shall include a fee of two percent of the tax credit transfer value, which shall be deposited upon receipt in the state treasury and thereafter credited to the Louisiana Entertainment Development Fund.

**B.** Money in the Louisiana Entertainment Development Fund ("EDF") shall be appropriated as follows:

1. Twenty-five percent to LDR for administrative purposes; and

2. Seventy-five percent to LED for motion picture and television education development initiatives, matching grants for Louisiana filmmakers, Louisiana workforce development programs, and other motion picture production and television related programs.

**C.** Administration of the EDF fund by LED shall be as follows:

1. Applications shall be accepted on a year round basis, subject to availability of funding in any given year, and shall be administered by LED in accordance with program rules, LAC 61: I, Chapter 21.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:6007

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR

### **§6119. Louisiana Promotional Graphic**

A. For applications for state-certified productions ~~initially certified~~ received on or after July 1, 2017 and prior to July 1, 2023 at time of request for final certification, state certified productions shall be required to acknowledge the financial assistance of the state of Louisiana—either through the inclusion of a Louisiana promotional graphic meeting requirements set forth below, or ~~that~~ an alternative marketing opportunity ~~that~~ has been approved in writing by LED.

1. Approved Louisiana promotional graphic requirements:

a. a five-second long static or animated graphical brand or logo promoting Louisiana, that has been approved in writing by LED;

b. for feature films, or other production types with a customary end credit crawl, the approved logo is to be placed in the end credits, before the below-the line crawl for the life of the production;

i. LED shall deem “life of the production” to mean that the approved logo is permanently embedded within the subject of the state certified production; and

c. the production company includes an approved Louisiana promotional link or prominent credit to Louisiana on its own website, or that of an approved affiliated company.

2.a. Alternative marketing opportunities shall be proposed to LED at the time of application for initial certification, setting forth the details and estimated value of the proposed opportunity or justification of value taking into consideration the additional five percent credit being sought. LED shall either approve or deny such options in writing at time of initial certification.

b. Acceptable examples of alternative marketing opportunities may include, but not be limited to a combination of the following:

i. a produced in Louisiana card featuring an approved version of the logo during the opening credits of a feature film;

ii. an approved promotional featurette highlighting Louisiana as a tourist destination included on the DVD release of the production;

iii. an approved version of the logo placed in the opening title sequence or as a bumper into or out of commercial breaks for Television productions;

iv. significant community service projects in Louisiana;

v. red carpet screening event in Louisiana;

vi. sponsorship of a film festival or other approved event in Louisiana;

vii. an official advertising poster for the state-certified production and a still frame from the production, or, at the discretion of LED, a significant set piece, prop, or costume from the production may be donated on the condition that they may be used for unlimited marketing purposes by the state;

viii. access to a standard or electronic press kit, clip from the motion picture or special interview with the principals involved in the production (actors, directors, producers, etc) promoting Louisiana as a business destination for unlimited use for marketing purposes by LED;

ix. other alternatives as proposed by production companies and approved by LED.

3. A donation to a Louisiana nonprofit film grant program, as approved by LED.

B. For applications for state-certified productions received on or after July 1, 2023 at time of request for final certification, state certified productions shall be required to acknowledge the financial assistance of the state of Louisiana as follows:

1. Logo. Shall include up to a five second long static or animated graphic in the end credits before the below-the line crew crawl for the life of the production, during each broadcast worldwide if applicable; *and*

2. Promotional piece. Shall provide LED with an electronic press kit, customized video, or alternative asset, as may be agreed to by LED, for promotional use by LED.

3. Except that commercials, music videos, or other state-certified productions that are prohibited by federal law or contractual requirements from utilizing the promotional Louisiana graphic may use an alternative marketing option as approved by LED.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:6007

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:1656 (October 2016), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:878 (July 2019), LR 48:1497 (June 2022), amended LR 48:1917 (July 2022).

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

Person Preparing Statement:	<u>Stephanie Le Grange</u>	Dept:	<u>Economic Development</u>
Phone:	<u>(225) 229-0040</u>	Office:	<u>Entertainment Industry Development</u>
Return Address:	<u>P.O. Box 94815</u> <u>Baton Rouge, LA 70804</u>	Rule Title:	<u>Mohon Picture Production Tax Credit</u>
		Date Rule Takes Effect:	<u>Upon promulgation</u>

**SUMMARY**  
(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes are not anticipated to result in any direct material effect on governmental expenditures or savings for state or local governmental units. The changes better align the rules with current statutory provisions and administrative practices as required by Act 411 of the 2023 Regular Session. Any administrative duties brought about by the proposed rule changes will be carried out utilizing existing staff and resources at the LA Dept. of Economic Development (LED) and the Department of Revenue (LDR).

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes update provisions for program applicants on or after July 1, 2023, including the elimination of the division and tentative allocation of tax credits toward specific production types. However, all issuance activity still operates under a cap of \$150 M each fiscal year. Furthermore, film tax credit claims are capped at \$180 M each fiscal year. Because the rule revisions occur under the auspices of these statutory credit issuance and claims caps, aggregate revenue for the state will not be affected beyond the impacts of loosening specific production type eligibility and program extension. Act 411 extends the program application sunset by six years. Therefore, the state general fund beginning in FY 26 is expected to decrease by an unspecified amount as projects become eligible that otherwise would not be.

NOTE: The \$150 M annual cap applies to LED's issuance of credits. The \$180 M annual cap applies to taxpayer claims with LDR. These are statutory, and have no bearing on this rule.

The proposed rule changes will not affect local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)**

Firms who are eligible for film tax credits will realize a reduction in tax liabilities to the extent they qualify for the credit.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Companies receiving benefits under this program will continue to gain competitively over companies that do not receive the program's benefits.

\_\_\_\_\_  
Signature of Agency Head or Designee

Anne G. Villa

Anne G. Villa, Undersecretary

9.7.2023

Date of Signature

[Signature]

Legislative Fiscal Officer or Designee

9.7.23

Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The proposed rule changes extend the sunset of the program applications by six years and update provisions for program applicants on or after July 1, 2023, including the elimination of the division and tentative allocation of tax credits toward specific production types. These amendments better align the rules with current statutory provisions and administrative practices.

- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

Changes to the rules are required to incorporate statutory changes from Act 411 of the 2023 Regular Legislative Session.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding

No. The proposed rule changes will not result in any increase in the expenditure of public funds.

(2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) \_\_\_\_\_ Yes. If yes, attach documentation.

(b) \_\_\_\_\_ NO. If no, provide justification as to why this rule change should be published at this time

**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET**

**I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED**

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 24	FY 25	FY 26
Personal Services			
Operating Expenses			
Professional Services			
Other Charges			
Equipment			
Major Repairs & Constr.			
<b>TOTAL</b>			
<b>POSITIONS (#)</b>			

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The proposed rule changes are not anticipated to result in any direct material effect on governmental expenditures or savings for state or local governmental units. The changes better align the rules with current statutory provisions and administrative practices as required by Act 411 of the 2023 Regular Session. Any administrative duties brought about by the proposed rule changes will be carried out utilizing existing staff and resources at the LA Dept. of Economic Development (LED) and the Department of Revenue (LDR).

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 24	FY 25	FY 26
State General Fund			
Agency Self-Generated			
Dedicated			
Federal Funds			
Other (Specify)			
<b>TOTAL</b>			

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

LED & LDR anticipate that funds currently allocated are sufficient to implement the proposed actions.

**B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.**

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There will be no costs or savings to local government.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

No sources of funding of local government will be affected.



**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET**

**II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS**

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 24	FY 25	FY 26
State General Fund		DECREASE	DECREASE
Agency Self-Generated			
Dedicated Funds*			
Federal Funds			
Local Funds			
<b>TOTAL</b>		DECREASE	DECREASE

\*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

The proposed rule changes update provisions for program applicants on or after July 1, 2023, including the elimination of the division and tentative allocation of tax credits towards specific production types. However, all issuance activity still operates under a cap of \$150 M each fiscal year. Furthermore, film tax credit claims are capped at \$180 M each fiscal year. Because the rule revisions occur under the auspices of these statutory credit issuance and claims caps, aggregate revenue for the state will not be affected beyond the impacts of loosening specific production type eligibility and program extension. Act 411 extends the program application sunset by six years. Therefore, the state general fund beginning in FY 26 is expected to decrease by an unspecified amount as projects become eligible that otherwise would not be.

NOTE: The \$150 M annual cap applies to LED's issuance of credits. The \$180 M annual cap applies to taxpayer claims with LDR. These are statutory, and have no bearing on this rule.

The proposed rule changes will not affect local governmental units.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET**

**III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS**

- A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

**Firms who are eligible for film tax credits will realize a reduction in tax liabilities to the extent they qualify for the credit.**

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

**There is no impact on receipts and/or income resulting from this rule change to these groups.**

**IV. EFFECTS ON COMPETITION AND EMPLOYMENT**

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

**Companies receiving benefits under this program will continue to gain competitively over companies that do not receive the program's benefits.**