

Notices of Intent

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 (R.S. 47: 6007, et seq.) to better align the rules with current statutory provisions and administrative practices, as required by portions of Act 309 of the 2017 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

§6101. Purpose

A. ...

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. - C.3. ...

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), LR 48:

§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 36:52 (January 2010), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:868 (July 2019), LR 48:

§6105. Definitions

A. - B. ...

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

Begin Construction—Repealed.

Commissioner—Repealed.

Division—Repealed.

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.

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

Louisiana Publisher—Repealed.

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. - h. ...

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.

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. - l. ...

m. 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.

Qualified Louisiana Production Company—Repealed.

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 Infrastructure Project—Repealed.

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 48:

§6107. Certification Procedures

A. - A.1.b.i.(m).(iii). ...

ii. - ii.(j). Repealed.

1.c. - 2.f. ...

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. - C.1.b.ii. ...

iii. - vii. Repealed.

C.2. - D.1.d. ...

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

a. a cost report, certified by a state licensed, independent certified public accountant 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. - ii. ...

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. additional information as may be requested.

3. - 3.a.i. ...

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

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.

D.4 - E.2.c. ...

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.

3. Repealed.

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), LR 48:

§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), LR 48:

§6111. Additional Program Provisions—Infrastructure

Repealed.

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), repealed LR 48:

§6115. Louisiana Screenplay Credit

Repealed

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 43:301 (February 2017), repromulgated by the Department of Economic

Development, Office of Business Development, LR 45:877 (July 2019), repealed LR 48:

§6117. Louisiana Music

Repealed.

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 45:877 (July 2019), repealed LR 48:

§6119. Louisiana Promotional Graphic

A. For applications for state-certified productions initially certified received on or after July 1, 2017 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 has been approved in writing by LED.

1. - 2.ix. ...

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

B. Repealed.

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), amended LR 48:

§6121. Louisiana Filmmaker Credit

Repealed.

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 43:301 (February 2017), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:878 (July 2019), repealed LR 48:

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 Analysis

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 Tuesday, March 29, 2022 at 617 North Third Street, 11th Floor, Baton Rouge, LA 70802 or via email to stephen.hamner@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 10 a.m. on Wednesday, March 30, 2022 at the La Salle Building, Griffon Room, 617 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Motion Picture Production Tax Credit Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT 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. They better align the rules with current statutory provisions and administrative practices as required by portions of Act 309 of the 2017 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).

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, 2017. However, all issuance activity 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. NOTE: The \$150 M cap applies to LED's issuance of credits. The \$180 M 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 OR NONGOVERNMENTAL GROUPS (Summary)

Firms who are eligible for film tax credits may realize a reduction in tax liabilities to the extent they qualify for the credit and are able to receive additional credits to the extent other firms do not utilize the entirety of their initial film tax credit allocation

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.

Anne G. Villa
Undersecretary
2202#030

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools
(LAC 28:CXXXIX.4003)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education proposes to amend LAC 28:CXXXIX. Bulletin 126—*Charter Schools* in response to Act 353 of the 2021 Regular Legislative Session regarding annual in-service training on recognizing adverse childhood experiences and the utilization of trauma-informed education.

Title 28

EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 40. Charter School Autonomy

§4003. Applicability of State Laws

A. Notwithstanding any state law, rule, or regulation to the contrary and except as may be otherwise specifically provided for in an approved charter, a charter school established and operated in accordance with the provisions of this Chapter and its approved charter and the school's officers and employees shall be exempt from all statutory mandates or other statutory requirements that are applicable to public schools and to public school officers and employees except for the following laws otherwise applicable to public schools with the same grades:

A.1 - 44....

45. participation in one hour of annual in-service training on recognizing adverse childhood experiences and the utilization of trauma-informed education, R.S. 17:437.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3996.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 44:246 (February 2018), amended LR 48:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.