

November 7, 2023

RE: Motion Picture Production Tax Credit Program (“Film”) – Summary Report

To Whom It May Concern:

The Department of Economic Development hereby announces its plan to proceed with rule-making by finalizing the Motion Picture Production Tax Credit Program Rules, originally published as a Notice of Intent in the September 20, 2023 *Louisiana Register* on pages 1582-1585.

A public hearing was held on October 25, 2023 with representatives from the Louisiana Film and Entertainment Association and the Louisiana Illuminator in attendance, plus staff from the Legislative Fiscal Office and the House Ways and Means Committee. The overall tone was supportive, with some clarificational and administrative matters discussed.

No written comments were received.

After consideration of all input, LED therefore proposes **to proceed as is with no further changes**. Subject to legislative oversight by the House or Senate Committees on Commerce, the House Committee on Ways and Means or the Senate Committee on Revenue and Fiscal Affairs, the Department intends to submit for final publication as a Rule in the December 20, 2023 *Louisiana Register*.

As always, we welcome your consideration and I can be reached at ph#342-5406 with any questions.

Sincerely,



Stephanie Le Grange
Interim Deputy General Counsel

cc: Senate, Committee on Commerce, Consumer Protection, and International Affairs
Senate, Revenue & Fiscal Affairs Committee
House of Representatives, Committee on Commerce
House of Representatives, Ways & Means Committee

Public Hearing

A virtual public hearing on the proposed Rule will be held at 9:00 a.m. on October 26, 2023, by the Department of Children and Family Services. All interested persons will be afforded an opportunity to submit data, views, or arguments via PC, Mac, Linux, iOS or Android at https://stateofladcfs.zoom.us/j/81921020562; via telephone by dialing (713) 353-0212 and entering conference code 1430033. To find local AT&T numbers visit https://www.teleconference.att.com/servlet/glbAccess?process=1&accessNumber=USA7133530212&accessCode=430033. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Terri Porche Ricks
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Recovery of Overpayments, Standard Medical Deduction, Claims against Households, and Simplified Reporting

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

Other than publication costs associated with the proposed rule changes, which are estimated to be \$1,491, it is not anticipated that state or local governmental units will incur any costs or savings as a result of this rule.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant, DCFS proposes to amend LAC 67:III, Family Support, Sections 1503 and 5383 and adopt Section 5741 related to TANF, Family Independence Temporary Assistance Program (FITAP), Kinship Care Subsidy Program (KCSP), and Strategies to Empower People (STEP).

Specifically, the proposed rule does the following: (1) increases the threshold from \$125 to \$350 for certain FITAP, SNAP, KCSP, and STEP overpayments that shall be subject to recovery, (2) provides that certain SNAP households with medical expenses of at least \$35.01 may receive a standard medical deduction, and (3) extends the certification period from 12 months to 36 months for certain SNAP households.

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

There will be no effect on revenue collections of state or local governmental units as a result of this proposed rule.

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

Implementation of this proposed rule may impact benefit recipients that received certain overpayments. If the overpayment is less than \$350, it will not be subject to collection by DCFS. Collectively, this rule is anticipated improve the application process and provide better customer service to applicants and benefit recipients.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this proposed rule is not expected to have an effect on competition and employment.

Ashley Sias
Assistant Secretary
2309#032

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

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. ...

Commencement of Production—Repealed.

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.

Developer—Repealed.

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. - m. Repealed.

Production Facility—Repealed.

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 49:

§6107. Certification Procedures

A. - 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:

1. - 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. - 4.b. ...

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

a. - 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. ...

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.

i - iii ...

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.

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

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

i. - iii. ...

c. Project-Based Production Tax 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 49:

§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 49:

§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 90 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. 25 percent to LDR for administrative purposes; and

2. 75 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 49:

§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.

1. - 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 49:

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.

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.

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.

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 3rd 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 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

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. 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.

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

Anne G. Villa
Undersecretary
2309#033

Deborah Vivien
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Economic Development
Office of the Secretary**

**Angel Investor Tax Credit Program
(LAC 13:I.3307)**

The Department of Economic Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., R.S. 47:6020 through 6020.4, and R.S. 36:104, hereby give notice of their intent to adopt rules for the administration of the Angel Investor Tax Credit Program.

The purpose of this regulation is to implement legislative changes to the Angel Investor Tax Credit program under R. S. 47:6020 as enacted by Act 253 of the 2023 Regular Session of the Louisiana Legislature.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 33. Angel Investor Tax Credit

§3307. The Amount, Allocation and Limitations of the Angel Investor Tax Credits

A. - G. ...

1. Applications received on or after July 1, 2020, for qualified investments that meet the requirements of Subsection C of this Section and the requirements of 26 U.S.C. 1400Z-1, shall be entitled to an enhanced credit in accordance with the provisions of this Subsection.

2. - 3. ...

4. Repealed

H. No credits shall be granted or reserved under this program for reservation applications received by the department on or after July 1, 2030.

I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:229 (February 2006), amended LR 32:1595 (September 2006), amended by Department of Economic Development, Office of the Secretary, LR 37:3196 (December 2011), amended by the Department of Economic Development, Office of Business Development, LR 42:35 (January 2016), amended by Department of Economic Development, Office of the Secretary, LR 47:37 (January 2021), amended by Department of Economic Development, Office of the Secretary, LR 47:1105 (August 2021), amended by Department of Economic Development, Office of the Secretary, LR 49: