

Regular Session, 2005

HOUSE BILL NO. 673

BY REPRESENTATIVE K. CARTER

TAX CREDITS: Extends the Louisiana motion picture tax credit and enacts the Louisiana music tax credit

1 AN ACT

2 To amend and reenact R.S. 47:1125.1 and to enact R.S. 47:1123(10) through (12) and  
3 1125.2, relative to tax credits; to extend the motion picture employment tax credit;  
4 to provide a credit for the use of Louisiana music in certain motion picture  
5 productions; to provide for the transferability of such credits; and to provide for  
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:1125.1 is hereby amended and reenacted and R.S. 47:1123(10)  
9 through (12) and 1125.2 are hereby enacted to read as follows:

10 §1123. Definitions

11 The following words and phrases as used in this Chapter shall have the  
12 following meanings unless the context of use clearly indicates otherwise:

13 \* \* \*

14 (10) "Louisiana music expenditure: means those costs approved by the  
15 Governor's Office of Film and Television Development and the Louisiana Music  
16 Commission.

17 (11) "Louisiana music" means music that meets one of the following criteria  
18 as determined by the Governor's Office of Film and Television Development and the  
19 Louisiana Music Commission:

20 (a) It is composed by a Louisiana resident.

21 (b) It is performed by a Louisiana resident.

22 (c) It is recorded in a Louisiana studio.



1           D. Any tax credits acquired by or awarded to a person or entity and not  
2           previously claimed by any person or entity against its income tax may be transferred  
3           or sold, subject to the following conditions:

4           (1) A single transfer or sale may involve one or more transferees. The  
5           transferee of the tax credits may transfer or sell such tax credits subject to the  
6           conditions on this Subsection.

7           (2) Transferors and transferees shall submit to the Governor's Office of Film  
8           and Television Development, and to the Department of Revenue in writing, a  
9           notification of any transfer or sale of tax credits within thirty days after the transfer  
10          or sale of such tax credits. The notification shall include the transferor's tax credit  
11          balance prior to transfer, the credit certificate number, the name of the production,  
12          the transferor's remaining tax credit balance after transfer, all tax identification  
13          numbers for both the transferor and transferee, the date of transfer, the amount  
14          transferred, a copy of the credit certificate, and any other information required by the  
15          Department of Revenue, the Governor's Office of Film and Television Development,  
16          or the Louisiana Music Commission.

17          (3) Failure to comply with this Paragraph will result in the disallowance of  
18          the tax credit until the taxpayers are in full compliance.

19          (4) The transfer or sale of this credit does not extend the time in which the  
20          credit can be used. The carry-forward period for credit that is transferred or sold  
21          begins on the date on which the credit was originally earned.

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

27          E. The transferee shall apply such credits in the same manner and against the  
28          same taxes as the person or entity originally awarded the credits.

1           ~~D.F.~~ Any unused credit may be carried forward no more than ten years from  
2           the date the credit was earned.

3           E.G. The ~~secretary~~ secretaries of the Department of Revenue and the  
4           Department of Economic Development, in consultation with the Governor's Office  
5           of Film and Television Development and the Louisiana Music Commission, shall  
6           promulgate such rules and regulations as may be necessary to administer this  
7           Section.

8           §1125.2 Louisiana music tax credit

9           A. A motion picture production company or a video game production  
10          company shall be entitled to a tax credit for the use of Louisiana music in connection  
11          with the production of a motion picture or a video game. The Louisiana music tax  
12          credit shall be equal to ten percent of the total music budget for the project when  
13          total Louisiana music expenditures exceed thirty thousand dollars. The credit may  
14          be earned in connection with a state-certified production or in connection with a  
15          production that is not state-certified. The credit shall be equal to twenty percent of  
16          the total music budget for the project when total Louisiana music expenditures  
17          exceed two hundred fifty thousand dollars. The credit may be earned in connection  
18          with a state-certified production or in connection with a production that is not state-  
19          certified. The amount of credits earned may never exceed the total Louisiana music  
20          expenditure.

21          B. The music tax credit provided for in this Section shall be transferable in  
22          the same manner, and shall be claimed, applied, and be otherwise subject to the rules  
23          and procedures provided for employment tax credits is R.S. 47:1125.1(B) through  
24          (G).

25          C. The secretaries of the Department of Revenue and the Department of  
26          Economic Development, in consultation with the Governor's Office of Film and  
27          Television Development and the Louisiana Music Commission, shall promulgate  
28          such rules and regulations as may be necessary to administer this Section.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

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K. Carter

HB No. 673

**Abstract:** Extends the Louisiana motion picture tax credit and enacts the Louisiana music tax credit.

Present law grants a credit until July 1, 2006, against individual and corporate income tax and corporate franchise tax for the employment of residents in connection with a production of a motion picture. The credit is equal to 10% of the total aggregate payroll of residents employed when total production costs in Louisiana equal or exceed \$300,000, but total less than \$1,000,000 during the taxable year; 20% when total production costs exceed \$1,000,000. The credit may be carried forward for 10 years.

Proposed law eliminates the termination date and makes the credits transferable in the same manner and according to the same procedures as is provided in present law for motion picture investor tax credits.

Proposed law grants a Louisiana music tax credit to a motion picture production company or a video game production company for the use of "Louisiana music" in connection with the production of a motion picture or a video game. The tax credits are transferable in the same manner, and are claimed, applied, and are otherwise subject to the rules and procedures provided for employment tax credits above.

"Louisiana music" is defined as music that meets one of the following criteria as determined by the Governor's Office of Film and Television Development (GOFTD) and the Louisiana Music Commission:

- (1) It is composed by a Louisiana resident.
- (2) It is performed by a Louisiana resident.
- (3) It is recorded in a Louisiana studio.
- (4) It is released by a record company headquartered in Louisiana.
- (5) It is published by a publishing company headquartered in Louisiana.

The music tax credit is equal to 10% of "the total music budget" for a project when total "Louisiana music expenditures" exceed \$30,000; 20% of "the total music budget" if total "Louisiana music expenditures" exceed \$250,000. The credits earned may never exceed the total "Louisiana music expenditure."

"Louisiana music expenditure" means those costs approved by the GOFTD and the Louisiana Music Commission.

The credit may be earned in connection with a "state-certified production" - that is, a motion picture produced by a company domiciled and headquartered in Louisiana, which has signed a certain distribution agreement and is approved by the GOFTD and DED - or one that is not state certified.

Applicable to productions occurring on and after July 1, 2005.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:1125.1; Adds R.S. 47:1123 (10)-(12) and 1125.2)