

2015 Regular Session

SENATE BILL NO. 98

BY SENATOR MORRELL

TAX/TAXATION. Requires sellers of motion picture investor tax credits to qualify for and be included in a Public Registry of Motion Picture Investor Tax Credit Brokers. (1/1/16)

1 AN ACT

2 To enact R.S. 15:587(A)(1)(h) and R.S. 47:6007(C)(7), relative to motion picture investor
3 tax credits; to create the Public Registry of Motion Picture Investor Tax Credit
4 Brokers and require certain persons to qualify for and register; to provide for
5 criminal penalties; to require a criminal history background examination; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 15:587(A)(1)(h) is hereby enacted to read as follows:

9 §587. Duty to provide information; processing fees; Louisiana Bureau of Criminal

10 Identification and Information

11 A.(1) * * *

12 **(h)The office of entertainment industry development of the Department**
13 **of Economic Development provided for in R.S. 51:938.1 shall be entitled to the**
14 **criminal history record and identification files of the bureau of any person who**
15 **is required to qualify and register for the Public Registry of Motion Picture**
16 **Investor Tax Credit Brokers pursuant to R.S. 47:6007(C)(7). Such office shall**
17 **submit fingerprint cards or other identifying information of the applicant for**

1 qualification and registry and the bureau shall, upon request and after receipt
 2 of such fingerprint cards or other identifying information from the office, make
 3 available to the office all arrest and conviction information contained in the
 4 bureau's criminal history record and identification files which pertain to the
 5 applicant for qualification and registry. In addition, the fingerprints shall be
 6 forwarded by the bureau to the Federal Bureau of Investigation for a national
 7 criminal history record check.

8 * * *

9 Section 2. R.S. 47:6007(C)(7) is hereby enacted to read as follows:

10 §6007. Motion picture investor tax credit

11 * * *

12 C. Investor tax credit; specific productions and projects.

13 * * *

14 (7)(a)(i) Any person selling or brokering tax credits issued pursuant to
 15 this Section on behalf of an investor shall meet the following qualifications:

16 (aa) The person has no prior conviction for any matter related to taxes,
 17 tax credits, or fraud.

18 (bb) No member of the person's immediate family, as defined in R.S.
 19 42:1102(13), is employed by the office.

20 (cc) The person has not been employed by the office in the last two
 21 years.

22 (ii) The office may promulgate rules as provided for in the
 23 Administrative Procedure Act to ensure that an applicant for the registry is
 24 qualified pursuant to Item (i) of this Subparagraph. The rules shall specifically
 25 require that any applicant for registration shall undergo a criminal history
 26 background examination by the Louisiana Bureau of Criminal Identification
 27 and Information as provided for in R.S. 15:587(A)(1)(h) at the expense of the
 28 applicant.

29 (iii) If qualified, the person shall be included in a Public Registry of

Motion Picture Investor Tax Credit Brokers to be created and maintained by the office.

(iv) The office shall provide that an updated list of those eligible to sell or broker tax credits is available to the public and is maintained on its website.

(b) Failure of any person selling or brokering tax credits issued pursuant to this Section on behalf of an investor to qualify and register with the office shall be punished by a fine of not more than ten thousand dollars or imprisonment at hard labor for not more than five years, or both. In addition, a person convicted under the provisions of this Subparagraph shall be ordered to make full restitution to any person who has suffered a financial loss as a result of the offense. If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

* * *

Section 3. The provisions of this Section shall apply to transfers occurring on and after regulations of the office of entertainment industry development of the Department of Economic Development providing for the qualifications of persons to be included in the Public Registry of Motion Picture Investor Tax Credit Brokers provided for in this Act are finalized and become effective. Such office shall provide written notice to the Louisiana State Law Institute of the date upon which such regulations become effective.

Section 4. This Act shall become effective on January 1, 2016.

The original instrument was prepared by Riley Boudreaux. The following digest, which does not constitute a part of the legislative instrument, was prepared by Laura Gail Sullivan.

DIGEST

SB 98 Engrossed

2015 Regular Session

Morrell

Present law authorizes any motion picture tax credits not previously claimed by any taxpayer against its income tax to be transferred or sold to another Louisiana taxpayer or to the office of entertainment industry development ("office") of the Dept. of Economic Development.

Present law (R.S. 42:1102(13)) in the Ethics Code defines "immediate family" as a person's children, the spouses of his children, his brothers and their spouses, his sisters and their

spouses, his parents, his spouse, and the parents of his spouse.

Proposed law requires any person selling or brokering motion picture tax credits on behalf of an investor to meet the following qualifications:

- (1) The person has no prior conviction for any matter related to taxes, tax credits, or fraud.
- (2) No member of the person's immediate family, as defined in present law provisions of the Ethics Code, is employed by the office.
- (3) The person has not been employed by the office in the last two years.

Proposed law provides that the office may promulgate rules under the APA to ensure that an applicant for the registry is qualified under proposed law. Specifies that the rules shall require that any applicant for registration to undergo a criminal history background check at the expense of the applicant.

Proposed law requires the office to create and maintain a Public Registry of Motion Picture Investor Tax Credit Brokers and to include in the registry any person who meets the qualifications under proposed law.

Proposed law requires the office to make available to the public and to maintain on its website an updated list of those eligible to sell or broker tax credits.

Proposed law subjects any person selling or brokering tax credits on behalf of an investor who fails to qualify and register to punishment by a fine of not more than \$10,000 or imprisonment at hard labor for not more than five years, or both. In addition, a person must be ordered to make full restitution to any person who has suffered a financial loss as a result of the offense. If a person ordered to make restitution is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court must order a periodic payment plan consistent with the person's financial ability.

Applicable to transfers occurring on and after regulations of the providing for the qualifications of persons to be included in the registry are finalized and become effective.

Effective January 1, 2016.

(Adds R.S. 15:587(A)(1)(h) and R.S. 47:6007(C)(7))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Provides bright line qualification standards for inclusion in the registry.