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HOUSE FLOOR AMENDMENTS

2015 Regular Session

Amendments proposed by Representative Robideaux to Reengrossed Senate Bill No. 106
by Senator Morrell

1 AMENDMENT NO. 1

2 On page 1, line 2, after "reenact" delete the remainder of the line and insert the following:

3 "R.S. 47:6007(B), (C)(1)(introductory paragraph), (c), and (d), (2), and (D)(4)(ii)(aa)
4 and to enact R.S. 47:6007(C)(1)(e) and (G), relative to motion"

5 AMENDMENT NO. 2

6 On page 1, line 3, after "for the credits;" and before "to provide" insert the following:

7 "to provide for certain definitions; to provide for the certification of credits; to
8 authorize credits for certain investors; to authorize a credit for certain state certified
9 productions which employ certain residents; to authorize a credit for investments on
10 certain music; to provide for an annual program cap on the tax credit; to provide for
11 a cap on certain productions; to provide for the transfer of credits; to provide for use
12 of the monies collected as a result of the application fee; to provide for tax credit
13 requirements and limitations;"

14 AMENDMENT NO. 3

15 On page 1, delete line 7 in its entirety and insert the following:

16 "Section 1. R.S. 47:6007(B), (C)(1)(introductory paragraph), (c), and (d) and (2),
17 and (D)(4)(ii)(aa) are hereby amended and reenacted and R.S. 47:6007(C)(1)(e) and
18 (G) are hereby"

19 AMENDMENT NO. 4

20 On page 1, delete line 12 in its entirety and insert the following:

21 "(1) "Above the line services" means services such as those of a
22 producer, executive producer, line producer, co-producer, assistant producer,
23 actor, director, casting director, screenwriter, and other services performed by
24 personnel of the production that are associated with the creative or financial
25 control of a production and customarily considered above the line services in
26 the film and television industry.

27 ~~(1)~~ **(2)** "Base investment" means cash or cash equivalent investment made
28 and used for production expenditures in the state for a state-certified production.

29 ~~(2)~~ **(3)** "Expended in the state" means an expenditure to lease immovable
30 property located in the state; an expenditure as compensation for services performed
31 in the state; or an expenditure to purchase or lease tangible personal property within
32 the state where the transaction is subject to the state sales or lease tax provisions of
33 Title 47 of the Louisiana Revised Statutes of 1950. A transaction that is subject to
34 the state sales or lease tax provisions of Title 47 of the Louisiana Revised Statutes

1 of 1950 shall include transactions which are also subject to a statutory exclusion or
 2 exemption.

3 ~~(3)~~ (4) "Expenditure" means actual cash or cash equivalent exchanged for
 4 goods or services.

5 ~~(4)~~ (5) "Headquartered in Louisiana" means a corporation incorporated in
 6 Louisiana or a partnership, limited liability company, or other business entity
 7 domiciled and headquartered in Louisiana for the purpose of producing nationally
 8 or internationally distributed motion pictures as defined in this Section.

9 ~~(5)~~ (6) **"Louisiana resident company" means a motion picture**
 10 **production company licensed to conduct business in the state of Louisiana, with**
 11 **its principal place of business in this state, which is owned one hundred percent**
 12 **by a Louisiana resident or residents as defined in this Section. A Louisiana**
 13 **resident company is required to file a Louisiana income tax return and maintain**
 14 **a physical location in the state.**

15 (7) "Louisiana screenplay" means a screenplay directly related to the
 16 state-certified production, such as a screenplay created by a Louisiana resident,
 17 copyright, or right of use held by a Louisiana resident with ongoing business
 18 activities in the state, or other economic nexus with the state.

19 (8) "Marketing and promotion expenses" means expenditures included
 20 in the production budget and made in this state for services performed in this
 21 state directly relating to the development of advertising and marketing
 22 campaigns for a state-certified production, such as the creation of film trailers
 23 and posters, not exceeding the lesser of one million dollars or fifteen percent of
 24 the total state-certified tax credits for the production. Marketing and
 25 promotion expenses shall not include media buys except as established by rule
 26 for a fixed fee or commission payment made to a Louisiana company for
 27 services performed in the state in accordance with standard business practices.

28 (9) "Motion picture" means a nationally or internationally distributed
 29 feature-length film, **short film**, video, television pilot, television series, television
 30 movie of the week, animated feature film, **animated short film**, animated television
 31 series, or commercial, **documentary**, made in Louisiana, in whole or in part, for
 32 theatrical, or television viewing, or any online digital platform viewing approved
 33 by the office and established by rule in accordance with the provisions of the
 34 Administrative Procedure Act. The term "motion picture" shall not include the
 35 production of television coverage of news and athletic events."

36 AMENDMENT NO. 5

37 On page 1, at the beginning of line 13, delete "(6)" and insert "(10)"

38 AMENDMENT NO. 6

39 On page 2, between lines 11 and 12 insert the following:

40 ~~(7)~~ (11) "Office" means the Governor's Office of Film and Television
 41 Development until August 15, 2006; thereafter, the term "office" means the office
 42 of entertainment industry development in the Department of Economic Development
 43 provided for in R.S. 51:938.1.

44 ~~(8)~~ (12) "Payroll" means all salary, wages, and other compensation,
 45 including benefits paid to an employee for services relating to a state-certified
 46 production and taxable in this state. ~~However, "payroll" for purposes of the~~
 47 ~~additional tax credit for Louisiana-resident payroll shall exclude any portion of an~~

1 individual salary in excess of one million dollars. However, payroll shall exclude
 2 any portion of an individual salary in excess of one million dollars.

3 (13) "Principal place of business" means the state where the
 4 administrative or management activities of a business are conducted. A
 5 company claiming that its principal place of business is in Louisiana must be a
 6 motion picture production company headquartered in this state and shall not
 7 have any fixed locations outside of Louisiana in which administrative or
 8 management activities are conducted, and the company shall be required to
 9 maintain a physical location in the state. The company shall be licensed to
 10 conduct business in this state and shall be required to file a Louisiana income
 11 tax return.

12 ~~(9)~~ (14) "Production audit report" means an audit report issued by a qualified
 13 accountant who is unrelated to the motion picture production company and that is a
 14 report of the qualified accountant's audit of the motion picture production's cost
 15 report of production expenditures. The production audit report shall contain an
 16 opinion from the qualified accountant stating that the production's cost report of
 17 production expenditures presents fairly, in all material aspects, the production
 18 expenditures expended in Louisiana pursuant to the provisions of this Section. The
 19 production audit shall require:

20 (a) The production audit report to be performed in accordance with the
 21 auditing standards generally accepted in the United States.

22 (b) The production audit report to be addressed to the party which has
 23 engaged the qualified accountant.

24 (c) The production audit report to contain the qualified accountant's name,
 25 address, and telephone number.

26 (d) The production audit report to contain a certification that the qualified
 27 accountant is unrelated to the motion picture production company.

28 (e) The production audit report to be dated as of the date of completion of
 29 the qualified accountant's field work.

30 (f) The production audit report to contain a statement of acknowledgment by
 31 the qualified accountant that the state is relying on the qualified cost report in the
 32 issuance of the tax credits under the provisions of this Section.

33 ~~(10)~~ (15) "Production expenditures" means preproduction, production, and
 34 postproduction expenditures in this state directly relating to a state-certified
 35 production, including without limitation the following: set construction and
 36 operation; wardrobes, makeup, accessories, and related services; costs associated
 37 with photography and sound synchronization, lighting, and related services and
 38 materials; editing and related services; rental of facilities and equipment; leasing of
 39 vehicles; costs of food and lodging; digital or tape editing, film processing, transfer
 40 of film to tape or digital format, sound mixing, special and visual effects; and
 41 payroll. For all state-certified productions approved on or after January 1,
 42 2004, this This term shall not include expenditures for marketing and distribution,
 43 non-production related overhead, amounts reimbursed by the state or any other
 44 governmental entity, costs related to the transfer of tax credits, amounts that are paid
 45 to persons or entities as a result of their participation in profits from the exploitation
 46 of the production, the application fee, ~~or~~ state or local taxes, or any expenditures
 47 incurred outside of Louisiana. For all state certified productions approved on
 48 or after July 1, 2015, this term shall include marketing and promotion expenses
 49 of the state certified production incurred in this state.

1 (i) If the total base investment is greater than three hundred thousand dollars,
 2 each investor shall be allowed a tax credit of thirty percent of the base investment
 3 made by that investor.

4 **(ii) If the total base investment is greater than fifty thousand dollars, but**
 5 **less than three hundred thousand dollars, for each state certified production**
 6 **which has employed a director or directors who is a resident of this state and**
 7 **can prove Louisiana residency for a minimum of two years, there shall be**
 8 **allowed a tax credit of thirty percent of the total base investment made by that**
 9 **investor. However, each applicant shall accept as a condition for earning this**
 10 **tax credit, that no less than seventy-five percent of the total amount of the**
 11 **applicant's expenditures for above the line services shall be expended on**
 12 **residents of Louisiana and that seventy-five percent or more of the total number**
 13 **of jobs in the production shall be jobs in which the applicant will employ**
 14 **residents of Louisiana. Failure to comply with these requirements for which**
 15 **certification of the tax credits is granted, shall void the certification and no tax**
 16 **credits shall be certified by the office or the secretary or earned by the**
 17 **applicant.**

18 **(iii) Beginning January 1, 2016, if the total base investment is greater**
 19 **than three hundred thousand dollars and the state certified production is based**
 20 **on a screenplay, the copyright of which or the right of use of the copyright of**
 21 **which, is owned by a Louisiana resident company for a minimum of twelve**
 22 **months prior to production or a Louisiana company with its principal place of**
 23 **business in the state which employs a minimum of three full-time Louisiana**
 24 **residents for a minimum of twelve months prior to production, each investor**
 25 **shall be allowed a tax credit of fifteen percent of the base investment of the**
 26 **production. The tax credit authorized in this Item shall be in addition to the tax**
 27 **credit authorized in Item (i) of this Subparagraph. However, prior to the office**
 28 **certifying any credits pursuant to the provisions of this Item, the secretary shall**
 29 **promulgate rules and regulations pursuant to the Administrative Procedure**
 30 **Act, subject to oversight by the House Ways and Means and the Senate Revenue**
 31 **and Fiscal Affairs Committees, setting forth the criteria a Louisiana resident**
 32 **company or Louisiana company with its principal place of business in this state**
 33 **shall meet in order to qualify for the additional tax credit. The secretary shall**
 34 **commence the process for the promulgation of the rules no later than October**
 35 **1, 2015. If the office and the secretary determine that an expenditure is a**
 36 **related party transaction, that expenditure shall not qualify for the additional**
 37 **fifteen percent tax credit.**

38 ~~(ii) (iv)~~ To the extent that base investment is expended on payroll for
 39 Louisiana residents employed in connection with a state-certified production, each
 40 investor shall be allowed ~~an additional a~~ tax credit of ~~five ten~~ percent of such payroll
 41 **expended for Louisiana residents. The tax credit authorized in this Item shall**
 42 **be in addition to the tax credit authorized in Item (i) of this Subparagraph.**
 43 However, if the payroll to any one person exceeds one million dollars, this additional
 44 credit shall exclude any salary for that person that exceeds one million dollars.

45 **(v) To the extent that the base investment is expended on music, the**
 46 **sound recording copyright of which, or musical copyright of which, is owned in**
 47 **whole or in part at no less than twenty-five percent by a resident of Louisiana**
 48 **or a Louisiana company headquartered in the state with a majority ownership**
 49 **of residents of Louisiana, each investor shall be allowed a tax credit of fifteen**
 50 **percent of the musical copyright's expenditures. The tax credit authorized in**
 51 **this Item shall be in addition to the tax credit authorized in Item (i) of this**
 52 **Subparagraph.**

53 **(d) For applications initially certified before July 1, 2015, and each fiscal**
 54 **year beginning on or after July 1, 2015, the maximum amount of credits which**

1 may be certified by the office and the secretary shall not exceed two hundred
2 million dollars. If the total amount of credits certified in any particular fiscal
3 year exceeds the aggregate amount of tax credits allowed for that year, the
4 excess shall be treated as having been applied for on the first day of the
5 subsequent year. For state-certified productions approved on or after July 1,
6 2015, the maximum amount of credits that may be certified for any single state-
7 certified production shall not exceed thirty million dollars.

8 (d) (e) Motion picture investor tax credits associated with a state-certified
9 production shall never exceed the total base investment in that production.

10 (2) The credit shall be allowed against the income tax for the taxable period
11 in which the credit is ~~earned or for the taxable period in which initial certification~~
12 ~~authorizes the credit to be taken~~ certified. If the tax credit allowed pursuant to this
13 Section exceeds the amount of such taxes due for such tax period, then any unused
14 credit may be carried forward as a credit against subsequent tax liability for a period
15 not to exceed ten years.

16 * * *

17 D. Certification and administration.

18 * * *

19 (4)(i) Any taxpayer applying for the credit shall be required to reimburse the
20 office for any audits required in relation to granting the credit.

21 (ii)(aa) The production application fee provided for in Subparagraph (2)(b)
22 of this Subsection received by the office shall be deposited upon receipt in the state
23 treasury. After compliance with the requirements of Article VII, Section 9(B) of the
24 Constitution of Louisiana relative to the Bond Security and Redemption Fund and
25 prior to any money being placed into the general fund or any other fund, an amount
26 equal to that deposited as required by this Item shall be credited by the treasurer to
27 a special fund hereby created in the state treasury to be known as the Entertainment
28 Promotion and Marketing Fund. The money in the fund shall be appropriated by the
29 legislature to be used solely for promotion and marketing of Louisiana's
30 entertainment industry or for costs associated with the administration of the
31 motion picture investor tax credit program by the office and the secretary."

32 AMENDMENT NO. 7

33 On page 3, delete lines 16 through 20 in their entirety and insert the following:

34 "Section 4. This Act shall become effective on July 1, 2015; if vetoed by the
35 governor and subsequently approved by the legislature, this Act shall become effective on
36 July 1, 2015, or on the day following such approval by the legislature, whichever is later."