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DIGEST

Martiny (SB 165)

Present law provides for motion picture investor tax credits for certain state-certified productions by a motion picture production company.

Proposed law defines a " production audit report" as an audit report issued by a qualified accountant who is unrelated to the motion picture production company and that is a report of the qualified accountant's audit of the motion picture production's cost report of production expenditures. The production audit report shall contain an opinion from the qualified accountant stating that the production's cost report of production expenditures presents fairly, the production expenditures expended in Louisiana. The production audit shall require:

- (1) The production audit report be performed in accordance with the auditing standards generally accepted in the United States of America.
- (2) The production audit report is addressed to the party which has engaged the qualified accountant.
- (3) The production audit report contains the qualified accountant's name, address, and telephone number.
- (4) The production audit report be dated as of the date of completion of the qualified accountant's field work.
- (5) The production audit report contains a statement of acknowledgment by the qualified accountant that the state is relying on the qualified cost report in the issuance of the tax credits under the provisions of this Section.

Present law requires the office of entertainment industry development and the secretary of the Department of Economic Development (DED) submit their initial certification of a project as a state-certified production to investors and to the secretary of the Department of Revenue indicating the total base investment which is to be expended in the state on the state-certified production. Proposed law retains these provisions but requires that the initial certification be submitted within 30 days of receipt of all required information.

Present law requires that prior to any final certification of the state-certified production, the motion picture production company submit to the office of entertainment industry development and the secretary of DED an audit of the production expenditures certified by an independent certified public accountant. Requires that the office and the secretary review the audit, the

production expense details, and may require additional information needed to make a determination.

Proposed law requires a production audit report by a qualified accountant.

Present law requires that upon approval of the audit, that a final tax credit certification letter be sent to the investors indicating the amount of tax credits certified for the state-certified production. Proposed law requires that this letter be issued within 60 days after receipt of the qualified cost report and that it indicate the credits certified which are uncontested and if there is a contested amount, then the office and the secretary of DED are required to diligently work to resolve the outstanding issues in a timely manner.

Proposed law provides that no motion picture investor tax credit be allowed for fees, interest, or payments of a similar nature paid to related parties and that it only be allowed if received by investors in the production who own 20% or less of the financial rewards based on sales, exploitation of the product, or the success in lining up distribution agreements. Further provides that no motion picture investor tax credit shall be allowed for any percentage of the financial awards but shall only be allowed for actually paid financing fees and interest.

Proposed law requires that when producing the production audit report, the qualified accountant perform certain sampling and verification procedures enumerated in proposed law.

Effective August 1, 2013.

(Amends R.S. 47:6007(B)(9)(10), (11), (12), (13), (14), (D)(2)(a)(intro para) and (D)(2)(c) and (d); adds R.S. 47:6007(B)(15) and (16), (G) and 6007.1)

Summary of Amendments Adopted by Senate

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

1. Changed "qualified cost report" to "production audit report" and provided for definition.
2. Removed requirements of qualified cost report and added requirements of production audit reports.
3. Changed qualifications for a "qualified accountant", requiring the accountant to be authorized to practice instead of licensed.
4. Changed the number of individual payroll disbursements needed for an additional sample from the lesser of 60 to the lesser of 120 disbursements, or 50 percent of the payroll disbursements, not already selected for further testing.