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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 "R.S.
3 47:6007(B)(2) through (16), (E), and (F) and enact R.S. 47:6007(B)(17) through (21) and
4 (D)(10), relative to motion"

5 AMENDMENT NO. 2

6 On page 1, line 7, after "Section 1." delete the remainder of the line and insert "R.S.
7 47:6007(B)(2) through (16), (E), and (F) are hereby amended and reenacted and R.S.
8 47:6007(B)(17) through (21) and (D)(10) are hereby"

9 AMENDMENT NO. 3

10 On page 1, delete lines 13 through 17 in their entirety and on page 2, delete lines 1 through
11 11 in their entirety and insert the following:

12 **(2) "Good Faith Transferee" shall mean a transferee of a tax**
13 **credit pursuant to this Section who relied on the validity of the credit**
14 **recorded in the tax credit registry pursuant to the provisions of R.S.**
15 **47:1524.**

16 ~~(2)~~ **(3)** "Expended in the state" means an expenditure to lease
17 immovable property located in the state; an expenditure as compensation for
18 services performed in the state; or an expenditure to purchase or lease
19 tangible personal property within the state where the transaction is subject to
20 the state sales or lease tax provisions of Title 47 of the Louisiana Revised
21 Statutes of 1950. A transaction that is subject to the state sales or lease tax
22 provisions of Title 47 of the Louisiana Revised Statutes of 1950 shall include
23 transactions which are also subject to a statutory exclusion or exemption.

24 ~~(3)~~ **(4)** "Expenditure" means actual cash or cash equivalent exchanged
25 for goods or services.

26 ~~(4)~~ **(5)** "Headquartered in Louisiana" means a corporation
27 incorporated in Louisiana or a partnership, limited liability company, or other
28 business entity domiciled and headquartered in Louisiana for the purpose of
29 producing nationally or internationally distributed motion pictures as defined
30 in this Section.

31 ~~(5)~~ **(6)** "Motion picture" means a nationally or internationally
32 distributed feature-length film, video, television pilot, television series,
33 television movie of the week, animated feature film, animated television
34 series, or commercial made in Louisiana, in whole or in part, for theatrical
35 or television viewing. The term "motion picture" shall not include the
36 production of television coverage of news and athletic events.
37

1 **(1) If the office or Department of Revenue finds that a person**
 2 **has obtained a tax credit in violation of the provisions of this Chapter,**
 3 **including but not limited to convictions related to material**
 4 **misrepresentation or fraud, that person shall be assessed by the**
 5 **Department of Revenue for the tax period in which the tax credits are**
 6 **invalidated in an amount necessary for the recapture of the tax credits**
 7 **pursuant to the provisions of Subsection (F).**

8 **(2) Recapture in the Event of Fraud or Material**
 9 **Misrepresentation. (a) If at any time after the issuance of a tax credit**
 10 **certification letter, the office makes a final determination that there was**
 11 **a material misrepresentation or fraud on the part of a person in**
 12 **connection with the submission of a production audit report, that**
 13 **auditor's report will be deemed to be a wrongful production audit**
 14 **report. If the office further determines that the result of the material**
 15 **misrepresentation or fraud was that a specific amount of tax credits**
 16 **were reflected on the tax credit certification letter issued in response to**
 17 **the wrongful production audit report that would not have otherwise**
 18 **been so reflected and the tax credits would otherwise be subject to a**
 19 **post-certification remedy, then the sole and exclusive remedy for the**
 20 **office, by request to the Department of Revenue, as provided for in**
 21 **Subsection (F), shall be against the individual or entity that committed**
 22 **the material misrepresentation or fraud. Neither the office, nor the**
 23 **Department of Revenue, shall have a remedy against a good faith**
 24 **transferee for the wrongful tax credits. In the case of wrongful tax**
 25 **credits, the office shall not request that the Department of Revenue**
 26 **pursue a post-certification remedy against any good faith transferee of**
 27 **the wrongful tax credits or approve the Department of Revenue's**
 28 **pursuing a post-certification remedy against any good faith transferee**
 29 **of the wrongful tax credits.**

30 **(b) The office shall immediately notify the Department of**
 31 **Revenue of the requirement to recapture wrongful tax credits from the**
 32 **individual or entity that committed the material misrepresentation or**
 33 **fraud.**

34 F. Recovery of credits by Department of Revenue. ~~(1) Credits~~
 35 ~~previously granted to a taxpayer, but later disallowed, may be recovered by~~
 36 ~~the secretary of the Department of Revenue through any collection remedy~~
 37 ~~authorized by R.S. 47:1561 and initiated within three years from December~~
 38 ~~thirty-first of the year in which the twenty-four-month investment period~~
 39 ~~specified in Subsection E of this Section ends.~~

40 ~~(2) The only interest that may be assessed and collected on recovered~~
 41 ~~credits is interest at a rate three percentage points above the rate provided in~~
 42 ~~R.S. 9:3500(B)(1), which shall be computed from the original due date of the~~
 43 ~~return on which the credit was taken.~~

44 **(1) Except as provided for in Paragraphs (2) and (4) of this**
 45 **Subsection, credits previously granted, certified, claimed or obtained by**
 46 **a taxpayer, but later disallowed, may be recovered by the secretary of**
 47 **the Department of Revenue through any collection remedy authorized**
 48 **by R.S. 47:1561, plus interest and penalties provided by law for the**
 49 **delinquent payment of taxes.**

50 **(2) Recovery of Credits; Material Misrepresentation or Fraud.**
 51 **With respect to wrongful tax credits, any and all individuals or entities**
 52 **that have made a material misrepresentation or committed fraud**
 53 **resulting in the issuance of wrongful tax credits shall be assessed for the**

1 tax periods in question in the amount necessary to recover the wrongful
 2 tax credits. The secretary of the Department of Revenue shall initiate an
 3 action to recover wrongful tax credits from any and all individuals or
 4 entities that have committed fraud or made a material misrepresentation
 5 resulting in the issuance of wrongful tax credits through any collection
 6 remedy authorized by 47:1561, and shall assess interest and penalties as
 7 provided for in connection with the fraudulent and delinquent
 8 nonpayment of taxes. The statute of limitations that shall apply to any
 9 such action by the Department is the statute of limitations applicable
 10 upon failure to file a return for the applicable tax period.

11 (3) The provisions of this Subsection are in addition to and shall not
 12 limit the authority of the secretary of the Department of Revenue to assess
 13 or to collect under any other provision of law.

14 (4) No post-certification remedy shall be pursued against a good
 15 faith transferee who acquired the credits through a transfer authorized
 16 pursuant to this Section."

17 AMENDMENT NO. 4

18 On page 2, delete lines 13 through 29 in their entirety and on page 3, delete lines 1 through
 19 14

20 AMENDMENT NO. 5

21 On page 3, at the beginning of line 15, change "Section 3." to "Section 2."

22 AMENDMENT NO. 6

23 On page 3, at the beginning of line 16, change "Section 4." to "Section 3."