CONFERENCE COMMITTEE REPORT

HB 735   **2015 Regular Session**   **Stokes**

June 11, 2015

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 735 by Representative Stokes, recommend the following concerning the Reengrossed bill:

1.   That the set of Senate Committee Amendments proposed by the Senate Committee on Revenue and Fiscal Affairs and adopted by the Senate on June 5, 2015, be adopted.

2.   That the set of Senate Floor Amendments proposed by the Senator Martiny and adopted by the Senate on June 6, 2015, be adopted.

3.   That the set of Senate Floor Amendments proposed by the Senator Heitmeier and adopted by the Senate on June 6, 2015, be adopted.

4.   That the Reengrossed bill be amended as follows:

AMENDMENT NO. 1

In Senate Committee Amendment No. 12 proposed by the Senate Committee on Revenue and Fiscal Affairs and adopted by the Senate on June 5, 2015, on page 2, at the beginning of line 10, delete "(6)" and insert "(e)"

AMENDMENT NO. 2

In Senate Floor Amendment No. 6 proposed by the Senator Martiny and adopted by the Senate on June 6, 2015, on page 1, at the end of line 24, delete "include"

Respectfully submitted,

Representative Joel C. Robideaux	Senator Neil Riser
Representative Julie Stokes	Senator Robert Adley
Representative Michael E. Danahay	Senator Jean-Paul J. Morrell

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

CONFERENCE COMMITTEE REPORT DIGEST

HB 735   **2015 Regular Session**   **Stokes**

Keyword and oneliner of the instrument as it left the House

TAX/INCOME TAX: Requires the withholding of individual income taxes from income earned by certain individuals for purposes of the motion picture investor tax credit

Report adopts with technical changes Senate amendments to:

1.   Delete the requirement for annual electronic reporting of a list of payees by production company or payroll services company.

2.   Change requirements for reporting with respect to related party transactions from those involving a payee's relation to a loan-out company to those involving a production company's relation to a loan-out company.

Digest of the bill as proposed by the Conference Committee

Present law allows a motion picture investor tax credit in an amount equal to a certain percentage of the "base investment" made in a state-certified production. The "base investment" is a cash or cash equivalent investment made and used for "production expenditures" in the state. "Production expenditures" includes compensation paid to employees for services related to the production.

Proposed law specifies that any individual receiving any payments for the performance of services used directly in a production activity, and claimed as a production expenditure for certification of a tax credit (individual), is deemed to be receiving La. taxable income whether directly, or indirectly through an agent or agency, loan-out company, a personal service company, an employee leasing company, or other entity.

Proposed law provides that any motion picture production company, motion picture payroll services company, or other entity (company) making or causing to be made payments to an individual, or to an agent or agency, loan-out company, personal service company, employee leasing company, or other entity is considered to be paying compensation taxable by the state. For purposes of eligibility of payments for certification of tax credits, the company is required to withhold taxes from those payments at the rate of 6%.

Proposed law requires the company to electronically report and remit the withholdings made pursuant to proposed law to the Dept. of Revenue quarterly. The Dept. of Revenue is authorized to share with the Dept. of Economic Development information contained in the report, in accordance with confidentiality requirements of present law regarding the exchange of information between these two departments. The report shall contain the following information:

(1)   Name, address, and taxpayer identification number of the loan-out company, if any.

(2)   Identification of entity type: C Corp; S Corp; L.L.C; or other entity with tax type specified, if applicable.

(3)   Name, address, and social security number of the payee.

(4)   An estimated amount of what the loan-out company will pay the payee, if applicable.

(5)   An affirmative statement of whether the production company is a related party to the loan-out company, and if so, provision of an affidavit stating that the transaction is valued at the same value that an unrelated party would value the same transaction. Further, if the production company is a related party to the loan-out company, the reports required relative to income withholding shall also contain information on the ownership structure of the loan-out company, and an estimate amount of what the loan-out company or other entity will pay the payee.

Proposed law authorizes the Dept. of Revenue to collect a one-time fee of $200 per production for purposes of administering the reporting provisions required by proposed law.

Proposed law redefines "payroll" for purposes of the motion picture investor tax credit to include per diem, housing, box rentals, and any other type of benefit paid to an individual for the performance of services in a production. Proposed law further requires taxes to be withheld and remitted to the Dept. of Revenue in accordance with proposed law in order for the payroll to be qualified as "base investment" for purposes of the tax credit.

Applicable to productions receiving initial certification on or after Jan. 1, 2016.

(Amends R.S. 47:164(D) and 6007(B)(8) and (D)(5))