

AZ H 2156 , Enacted - Interim

Arizona

SUMMARY: Requires the Arizona Commerce Authority (ACA) to implement an Arizona Motion Picture Production Program (Program); establishes the individual and corporate Credit for Motion Picture Production Costs (Tax Credits) and outlines requirements for the Tax Credits to be claimed.~SAME AS:

Changes in Bill text reflected as:

~~Text Deleted~~

Text Added

~~Text Vetoed~~

Current Legislative Status

01/11/2022 INTRODUCED.

01/18/2022 To HOUSE Committee on HEALTH AND HUMAN SERVICES.

01/18/2022 Additionally referred to HOUSE Committee on RULES.

02/14/2022 From HOUSE Committee on HEALTH AND HUMAN SERVICES: Do pass.

02/21/2022 From HOUSE Committee on RULES: Do pass constitutional and in proper form.

02/21/2022 Withdrawn from HOUSE Consent Calendar.

02/23/2022 HOUSE Engrossed. Printed.

02/23/2022 In HOUSE. Read third time. Passed HOUSE. *****To SENATE.

02/28/2022 To SENATE Committee on HEALTH AND HUMAN SERVICES.

02/28/2022 Additionally referred to SENATE Committee on RULES.

06/22/2022 Withdrawn from SENATE Committee on HEALTH AND HUMAN SERVICES.

06/22/2022 Additionally referred to SENATE Committee on APPROPRIATIONS.

06/22/2022 From SENATE Committee on APPROPRIATIONS: Do pass with amendment. Strike Everything.

06/22/2022 From SENATE Committee on RULES: Do pass proper for consideration.

06/22/2022 To SENATE Committee of the WHOLE.

06/22/2022 In SENATE Committee of the WHOLE. APPROPRIATIONS Committee amendment adopted.

06/22/2022 From SENATE Committee of the WHOLE. To third reading.

06/23/2022 SENATE Engrossed. Printed.

06/23/2022 In SENATE. Read third time. Passed SENATE. *****To HOUSE for concurrence.

06/23/2022 HOUSE concurred in SENATE amendments.

06/23/2022 In HOUSE. Finally passed.

06/24/2022 *****To GOVERNOR.

07/06/2022 Became law without GOVERNOR'S signature.

~

session: Arizona 55th Legislature - Second Regular Session

cite: 2022 AZ H 2156

Enacted - Interim

July 6, 2022

Cobb

Senate Engrossed House Bill

pharmacy board; information change requirement

(now: tax credits; motion picture credits)

State of Arizona

House of Representatives

Fifty-fifth Legislature

Second Regular Session

2022

HOUSE BILL 2156

AN ACT

AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1517; REPEALING SECTION 41-1517, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; AMENDING SECTIONS 42-1122, 42-2003, 43-222 AND 43-1021, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1082; REPEALING SECTION 43-1082, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; AMENDING SECTION 43-1121, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1165; REPEALING SECTION 43-1165, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; RELATING TO INCOME TAX CREDITS

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 41, chapter 10, article 1, Arizona Revised Statutes, is amended by adding section 41-1517, to read:

41-1517. Arizona motion picture production program; duties; preapproval; postapproval; fee; rulemaking; audit; report; definitions

A. THE AUTHORITY SHALL:

1. IMPLEMENT AN ARIZONA MOTION PICTURE PRODUCTION PROGRAM IN THIS STATE TO PROMOTE THE WORKFORCE DEVELOPMENT AND EXPANSION OF THE COMMERCIAL MOTION PICTURE INDUSTRY IN THIS STATE.

2. CERTIFY MOTION PICTURE PRODUCTION COMPANIES THAT PRODUCE ONE OR MORE MOTION PICTURES IN THIS STATE FOR THE PURPOSE OF THE TAX CREDITS ALLOWED UNDER SECTION 43-1082 OR 43-1165.

B. TO QUALIFY FOR THE PROGRAM, A MOTION PICTURE PRODUCTION COMPANY SHALL:

1. DO EITHER OF THE FOLLOWING:

(a) USE A QUALIFIED PRODUCTION FACILITY IN THIS STATE TO PRODUCE THE MOTION PICTURE PRODUCTION.

(b) IF THE MOTION PICTURE PRODUCTION IS FILMED PRIMARILY AT A PRACTICAL LOCATION, PRODUCE AND FILM THE MOTION PICTURE PRODUCTION PRIMARILY IN THIS STATE AND PERFORM ALL PREPRODUCTION, POSTPRODUCTION AND EDITING AT AN INDUSTRY STANDARD FACILITY IN THIS STATE, IF SUCH A FACILITY FOR THOSE FUNCTIONS IS AVAILABLE.

2. MAINTAIN THE MOTION PICTURE PRODUCTION COMPANY'S PRODUCTION LABOR POSITIONS IN THIS STATE.

3. INCLUDE IN THE CREDITS FOR EACH MOTION PICTURE PRODUCTION AN ACKNOWLEDGMENT THAT THE PRODUCTION WAS FILMED IN ARIZONA.

4. SUBMIT A COMPLETED APPLICATION PURSUANT TO SUBSECTION C OF THIS SECTION. AN APPLICATION IS COMPLETE ON RECEIPT OF ALL REQUESTED

INFORMATION.

5. PROVIDE SUPPORTING STATEMENTS AND RECORDS REQUESTED BY THE AUTHORITY TO DEMONSTRATE THAT THE MOTION PICTURE PRODUCTION COMPANY SATISFIES THE CRITERIA PROVIDED IN THIS SUBSECTION.

C. THE APPLICATION FOR CERTIFICATION UNDER THIS SECTION SHALL BE ON A FORM PRESCRIBED BY THE AUTHORITY AND SHALL INCLUDE THE FOLLOWING:

1. THE NAME, ADDRESS, TELEPHONE NUMBER AND WEBSITE ADDRESS OF THE MOTION PICTURE PRODUCTION COMPANY.

2. THE NAME AND ADDRESS OF AN INDIVIDUAL WHO WILL MAINTAIN RECORDS OF EXPENDITURES IN THIS STATE.

3. THE PROJECTED FIRST PREPRODUCTION DATE AND LAST PRODUCTION DATE IN THIS STATE.

4. THE PRODUCTION OFFICE ADDRESS AND OFFICE TELEPHONE NUMBER IN THIS STATE.

5. THE ESTIMATED TOTAL BUDGET OF THE PRODUCTION.

6. THE ESTIMATED TOTAL PRODUCTION COST EXPENDITURES IN THIS STATE.

7. THE ESTIMATED TOTAL PERCENTAGE OF THE PRODUCTION THAT WILL TAKE PLACE IN THIS STATE.

8. THE ESTIMATED NUMBER AND DURATION OF FULL-TIME PRODUCTION LABOR EMPLOYMENT POSITIONS IN THIS STATE.

9. THE ESTIMATED NUMBER OF EMPLOYEES WHO ARE RESIDENTS OF THIS STATE IN THE CAST AND CREW.

10. THE ESTIMATED MEDIAN WAGE OF PRODUCTION LABOR EMPLOYMENT POSITIONS IN THIS STATE.

11. A SCRIPT OR SYNOPSIS, THE NAME OF THE PROPOSED DIRECTOR AND A PRELIMINARY LIST OF THE CAST AND PRODUCER.

12. AN AFFIDAVIT THAT ATTESTS THAT THE MOTION PICTURE PRODUCTION COMPANY WILL MEET ALL OF THE REQUIREMENTS TO QUALIFY FOR THE TAX CREDITS, INCLUDING THAT THE MOTION PICTURE PRODUCTION COMPANY WILL USE A QUALIFIED PRODUCTION FACILITY IN THIS STATE TO PRODUCE THE MOTION PICTURE PRODUCTION OR OTHERWISE SATISFY THE REQUIREMENTS PRESCRIBED IN SUBSECTION B, PARAGRAPH 1 OF THIS SECTION.

D. THE AUTHORITY SHALL ESTABLISH PROCESSES TO:

1. REVIEW A COMPLETED INITIAL APPLICATION SUBMITTED PURSUANT TO THIS SECTION WITHIN A TIME PERIOD PRESCRIBED BY THE AUTHORITY BY RULE TO DETERMINE WHETHER THE MOTION PICTURE PRODUCTION COMPANY SATISFIES ALL OF THE CRITERIA PROVIDED IN SUBSECTION B OF THIS SECTION.

2. CERTIFY AND PREAPPROVE A MOTION PICTURE PRODUCTION COMPANY FOR THE MOTION PICTURE PRODUCTION TAX CREDITS UNDER SECTION 43-1082 OR 43-1165. PREAPPROVAL PRIORITY SHALL BE BASED ON THE DATE THAT THE MOTION PICTURE PRODUCTION COMPANY FILES A COMPLETE INITIAL APPLICATION FOR CERTIFICATION WITH THE AUTHORITY.

E. THE PREAPPROVED AMOUNT APPLIES AGAINST THE APPLICABLE DOLLAR LIMIT PRESCRIBED BY SUBSECTION I OF THIS SECTION FOR THE CALENDAR YEAR IN WHICH THE APPLICATION WAS SUBMITTED REGARDLESS OF WHETHER THE PREAPPROVAL PERIOD EXTENDS INTO THE FOLLOWING YEAR OR YEARS.

F. THE AUTHORITY SHALL DENY AN APPLICATION IF THE AUTHORITY DETERMINES THAT:

- 1. THE MOTION PICTURE PRODUCTION COMPANY DOES NOT MEET ALL OF THE ESTABLISHED CRITERIA PROVIDED IN SUBSECTION B OF THIS SECTION.**
- 2. THE PRODUCTION WOULD CONSTITUTE AN OBSCENE MOTION PICTURE FILM OR OBSCENE PICTORIAL PUBLICATION UNDER TITLE 12, CHAPTER 7, ARTICLE 1.1.**
- 3. THE PRODUCTION VIOLATES THE OBSCENITY LAWS UNDER TITLE 13, CHAPTER 35.**
- 4. THE PRODUCTION WOULD CONSTITUTE SEXUAL EXPLOITATION OF A MINOR OR COMMERCIAL SEXUAL EXPLOITATION OF A MINOR UNDER TITLE 13, CHAPTER 35.1.**

G. ON A DETERMINATION BY THE AUTHORITY THAT A MOTION PICTURE PRODUCTION COMPANY QUALIFIES FOR THE MOTION PICTURE PRODUCTION TAX CREDITS UNDER SECTION 43-1082 OR 43-1165, THE AUTHORITY SHALL ISSUE THE MOTION PICTURE PRODUCTION COMPANY A PREAPPROVAL LETTER AND TRANSMIT A COPY OF THE PREAPPROVAL LETTER TO THE DEPARTMENT OF REVENUE. A PREAPPROVAL LETTER IS EFFECTIVE FOR A TIME PERIOD PRESCRIBED BY THE AUTHORITY BY RULE THAT SHALL BE STATED IN THE PREAPPROVAL LETTER. A MOTION PICTURE PRODUCTION COMPANY MAY APPLY TO THE AUTHORITY TO EXTEND THE PREAPPROVAL PERIOD IF THE MOTION PICTURE PRODUCTION COMPANY CAN DEMONSTRATE THAT AN ACT OF FORCE MAJEURE OCCURRED AND THAT THE PREAPPROVAL LETTER WILL EXPIRE BEFORE THE PRODUCTION IS COMPLETE.

H. ON COMPLETION OF THE MOTION PICTURE PRODUCTION, A MOTION PICTURE PRODUCTION COMPANY THAT IS PREAPPROVED FOR THE MOTION PICTURE PRODUCTION TAX CREDITS UNDER SECTION 43-1082 OR 43-1165 SHALL APPLY TO THE AUTHORITY, ON A FORM PRESCRIBED BY THE AUTHORITY, FOR APPROVAL OF MOTION PICTURE PRODUCTION TAX CREDITS AND PROVIDE AN AUDITED STATEMENT COMPLETED BY A CERTIFIED PUBLIC ACCOUNTANT IN THIS STATE THAT CERTIFIES THE TOTAL AMOUNT OF ELIGIBLE PRODUCTION COSTS ASSOCIATED WITH THE PRODUCTION. THE AUTHORITY SHALL PROVIDE POSTAPPROVAL TO A MOTION PICTURE PRODUCTION COMPANY THAT THE MOTION PICTURE PRODUCTION COMPANY HAS MET THE ELIGIBILITY REQUIREMENTS OF THIS SECTION AND NOTIFY THE DEPARTMENT OF REVENUE THAT THE MOTION PICTURE PRODUCTION COMPANY MAY CLAIM THE TAX CREDITS UNDER SECTION 43-1082 OR 43-1165.

I. THE AUTHORITY MAY NOT PREAPPROVE TAX CREDITS EXCEEDING THE FOLLOWING AMOUNTS IN A CALENDAR YEAR, OF WHICH UP TO \$25,000,000 IN EACH CALENDAR YEAR MAY BE USED FOR MOTION PICTURE PRODUCTIONS THAT QUALIFY FOR THE PROGRAM PURSUANT TO SUBSECTION B, PARAGRAPH 1, SUBDIVISION (b) OF THIS SECTION:

- 1. IN CALENDAR YEAR 2023, \$75,000,000.**
- 2. IN CALENDAR YEAR 2024, \$100,000,000.**
- 3. IN CALENDAR YEAR 2025, AND EACH CALENDAR YEAR THEREAFTER, \$125,000,000.**

J. ANY INFORMATION GATHERED FROM MOTION PICTURE PRODUCTION COMPANIES FOR THE PURPOSES OF THIS SECTION IS CONSIDERED CONFIDENTIAL TAXPAYER INFORMATION AND SHALL BE DISCLOSED ONLY AS PROVIDED IN SECTION 42-2003, SUBSECTION B, PARAGRAPH 12.

K. THE AUTHORITY SHALL ADOPT FEES AND DEPOSIT REQUIREMENTS AND

RULES AND SHALL PUBLISH AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY TO ADMINISTER THIS SECTION AND PROVIDE ADMINISTRATIVE SUPPORT SERVICES.

L. THE AUTHORITY SHALL SUBMIT A REPORT ON OR BEFORE DECEMBER 31 EACH YEAR TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND SHALL PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF STATE. THE AUTHORITY SHALL ALSO MAKE THE REPORT AVAILABLE TO THE GENERAL PUBLIC ON REQUEST. THE REPORT SHALL INCLUDE:

1. INFORMATION RELATING TO THE PROGRAM'S ACTIVITIES, RECEIPTS AND EXPENDITURES.

2. INFORMATION COMPARING THE ANNUAL AMOUNT OF MONIES CREDITED TO CERTIFIED MOTION PICTURE PRODUCTION COMPANIES TO THE ESTIMATED AMOUNT OF MONIES SPENT ON IN-STATE PRODUCTION COSTS BY MOTION PICTURE PRODUCTION COMPANIES.

3. QUARTERLY DATA ON THE GROWTH AND DEVELOPMENT OF MOTION PICTURE INDUSTRY EMPLOYMENT AND WAGES IN THIS STATE.

4. A THIRD-PARTY REVIEW OF THE RELATIVE ECONOMIC BENEFITS TO THIS STATE BASED ON AN ANALYSIS OF THE FOLLOWING:

(a) A COMPARISON OF THE ESTIMATED STATE TAX REVENUES GENERATED BY MOTION PICTURE PRODUCTION ACTIVITY TO THE CALCULATED VALUE OF THE TAX CREDIT. STATE TAX REVENUE ESTIMATES SHALL INCLUDE THE SUM OF ALL INCOME TAXES, TRANSACTION PRIVILEGE TAXES AND OTHER TAXES IMPOSED BY THIS STATE.

(b) THE DIRECT, INDIRECT AND INDUCED INPUTS THAT RELY ON COMMONLY USED INPUT-OUTPUT ECONOMIC MODELING FOR GENERATING ECONOMIC MULTIPLIERS AND THAT MEASURE THE DIRECT AND INDIRECT IMPACT OF THE MOTION PICTURE PRODUCTION INDUSTRY AND IDENTIFIABLE INDUCED ECONOMIC ACTIVITY IN THIS STATE, INCLUDING BENEFITS RELATED TO CONSTRUCTION ACTIVITY AND THE ASSOCIATED STATE TRANSACTION PRIVILEGE TAX.

(c) THE DIFFERENCE BETWEEN THE STATE TAX REVENUES ESTIMATED PURSUANT TO SUBDIVISION (a) OF THIS PARAGRAPH AND THE AMOUNT OF MONIES CREDITED PURSUANT TO SECTIONS 43-1082 AND 43-1165, AGGREGATED EACH YEAR AND REPORTED ON A CUMULATIVE BASIS IN EACH SUCCEEDING YEAR.

M. BEGINNING ON THE FIFTH YEAR AFTER THE AUTHORITY ISSUES THE FIRST PREAPPROVAL LETTER AND AT LEAST EVERY FIFTH YEAR THEREAFTER, THE AUTHORITY SHALL PERFORM AN AUDIT OF THE PROGRAM. ON OR BEFORE JUNE 30 OF THE RESPECTIVE YEAR, THE AUTHORITY SHALL ISSUE A PUBLIC REPORT OF THE AUDIT AND SUBMIT THE REPORT OF THE AUDIT TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND SHALL PROVIDE A COPY TO THE SECRETARY OF STATE. THE AUDITOR GENERAL SHALL REVIEW EACH AUDIT PERFORMED PURSUANT TO THIS SUBSECTION AND REPORT THE AUDITOR GENERAL'S FINDINGS TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND SHALL PROVIDE A COPY TO THE SECRETARY OF STATE. THE AUDIT PERFORMED ON THE TENTH YEAR AFTER THE FIRST AUDIT BY THE AUTHORITY SHALL INCLUDE A RECOMMENDATION FOR WHETHER THE PROGRAM IS ECONOMICALLY VIABLE AND EFFECTIVE.

N. EACH AUDIT REPORT REQUIRED BY SUBSECTION M OF THIS SECTION MUST INCLUDE:

1. THE CUMULATIVE TOTAL NUMBER OF PRODUCTION LABOR EMPLOYMENT POSITIONS AND LABOR COSTS RELATED TO THOSE POSITIONS THAT QUALIFIED FOR THE TAX CREDITS ALLOWED UNDER SECTION 43-1082, SUBSECTION A, PARAGRAPH 2 OR SECTION 43-1165, SUBSECTION A, PARAGRAPH 2 FOR EACH YEAR THE CREDIT IS TAKEN.

2. A COMPARISON OF THE MEDIAN WAGE OF PRODUCTION LABOR EMPLOYMENT POSITIONS IN EACH COUNTY AND THE MEDIAN WAGE IN THE COUNTY IN WHICH A PRODUCTION LABOR EMPLOYMENT POSITION IS LOCATED.

3. THE CUMULATIVE TOTAL OF WORKER-DAYS CALCULATED BY MULTIPLYING THE TOTAL NUMBER OF PRODUCTION LABOR EMPLOYMENT POSITIONS BY THE NUMBER OF DAYS WORKED FOR EACH POSITION DURING THE EMPLOYMENT.

O. FOR THE PURPOSES OF THIS SECTION:

1. "MOTION PICTURE PRODUCTION" MEANS A SINGLE MEDIUM OR MULTIMEDIA PROGRAM, INCLUDING A FEATURE FILM, EPISODIC SERIES OR COMMERCIAL ADVERTISEMENT MESSAGE, THAT:

(a) IS CREATED BY PRODUCTION ACTIVITIES CONDUCTED IN THIS STATE.

(b) CAN BE VIEWED OR REPRODUCED.

(c) IS INTENDED FOR COMMERCIAL DISTRIBUTION OR LICENSING IN THE DELIVERY MEDIUM USED.

2. "MOTION PICTURE PRODUCTION COMPANY" MEANS ANY PERSON THAT IS PRIMARILY ENGAGED IN THE BUSINESS OF PRODUCING MOTION PICTURES AND THAT HAS A PHYSICAL BUSINESS OFFICE IN THIS STATE.

3. "PRACTICAL LOCATION" MEANS A LOCATION AT WHICH A MOTION PICTURE PRODUCTION IS FILMED THAT IS NOT AND THAT DOES NOT USE AN INDUSTRY STANDARD SOUND STAGE OR PRODUCTION FACILITY TO PRODUCE AND FILM THE MOTION PICTURE PRODUCTION.

4. "PRODUCTION COSTS":

(a) MEANS COSTS FOR THE FOLLOWING THAT ARE INCURRED AND TAXABLE IN THIS STATE:

(i) ALL COMPENSATION PAID TO TALENT, WRITERS, DIRECTORS AND MANAGEMENT.

(ii) ALL COMPENSATION PAID FOR PRODUCTION LABOR.

(iii) SET CONSTRUCTION AND OPERATION COSTS PAID PURSUANT TO CONSTRUCTION CONTRACTS WITH CONTRACTORS THAT ARE LICENSED UNDER TITLE 32, CHAPTER 10.

(iv) WARDROBE, PROPS, ACCESSORIES AND RELATED SERVICES.

(v) PHOTOGRAPHY, SOUND SYNCHRONIZATION, LIGHTING AND RELATED COSTS.

(vi) EDITING AND RELATED SERVICES.

(vii) RENTAL OF QUALIFIED PRODUCTION FACILITIES.

(viii) RENTAL OF EQUIPMENT.

(ix) CATERED FOOD, DRINK AND CONDIMENT PURCHASED FROM A QUALIFIED PRODUCTION FACILITY.

(x) OTHER DIRECT IN-STATE COSTS OF PRODUCING THE MOTION PICTURE PRODUCTION PURSUANT TO RULES ADOPTED BY THE AUTHORITY.

(b) DOES NOT INCLUDE PAYMENTS FOR PENALTIES AND FINES OR FEES OR

DEPOSITS ESTABLISHED BY THE AUTHORITY OR THE DEPARTMENT OF REVENUE TO ADMINISTER THE PROGRAM.

5. "PRODUCTION LABOR" MEANS ALL LABORERS WORKING ON A PRODUCTION THAT ARE NOT TALENT, WRITERS, DIRECTORS, PRODUCERS OR MANAGEMENT.

6. "PROGRAM" MEANS THE ARIZONA MOTION PICTURE PRODUCTION PROGRAM IMPLEMENTED PURSUANT TO THIS SECTION.

7. "QUALIFIED PRODUCTION FACILITY" MEANS A STRUCTURE THAT IS BUILT FOR FILM INDUSTRY PURPOSES, IS LOCATED IN THIS STATE, IS AT LEAST TEN THOUSAND SQUARE FEET AND MEETS GENERALLY ACCEPTED INDUSTRY STANDARDS, INCLUDING STANDARDS FOR SOUNDPROOFING, LIGHTING, AIR CONDITIONING AND MOTION PICTURE PRODUCTION QUALITY TECHNOLOGY FOR PRODUCING, FILMING OR OTHERWISE CREATING A MOTION PICTURE PRODUCTION.

Sec. 2. Delayed repeal

Section 41-1517, Arizona Revised Statutes, as added by this act, is repealed from and after December 31, 2043.

*****TEXT OMITTED, DOES NOT PERTAIN TO FILM*****

In computing Arizona adjusted gross income, the following amounts shall be added to Arizona gross income:

*****TEXT OMITTED, DOES NOT PERTAIN TO FILM*****

16. THE AMOUNT OF ANY MOTION PICTURE PRODUCTION COSTS THAT WAS DEDUCTED PURSUANT TO THE INTERNAL REVENUE CODE FOR WHICH A TAX CREDIT IS CLAIMED UNDER SECTION 43-1082.

Sec. 7. Title 43, chapter 10, article 5, Arizona Revised Statutes, is amended by adding section 43-1082, to read:

43-1082. Credit for motion picture production costs; qualifications; data maintenance; rules; definitions

A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2022, A TAX CREDIT IS ALLOWED AGAINST PRODUCTION COSTS PAID BY A MOTION PICTURE PRODUCTION COMPANY IN THIS STATE THAT ARE SUBJECT TO TAXATION BY THIS STATE AND THAT ARE DIRECTLY ATTRIBUTABLE TO A MOTION PICTURE PRODUCTION. THE AMOUNT OF THE CREDIT SHALL BE DETERMINED AS FOLLOWS:

1. AN AMOUNT EQUAL TO A PERCENTAGE OF THE TOTAL AMOUNT OF THE QUALIFIED PRODUCTION COSTS AS APPROVED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1517 AS FOLLOWS:

(a) FOR A MOTION PICTURE PRODUCTION COMPANY THAT SPENDS UP TO \$10,000,000, FIFTEEN PERCENT.

(b) FOR A MOTION PICTURE PRODUCTION COMPANY THAT SPENDS MORE THAN \$10,000,000 BUT LESS THAN \$35,000,000, SEVENTEEN AND ONE-HALF PERCENT.

(c) FOR A MOTION PICTURE PRODUCTION COMPANY THAT SPENDS MORE THAN \$35,000,000, TWENTY PERCENT.

2. AN ADDITIONAL TWO AND ONE-HALF PERCENT OF THE MOTION PICTURE PRODUCTION COMPANY'S PRODUCTION LABOR COSTS RELATED TO POSITIONS HELD BY RESIDENTS OF THIS STATE AS APPROVED BY THE

ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1517.

3. IF THE MOTION PICTURE PRODUCTION COMPANY EITHER:

(a) USES A QUALIFIED PRODUCTION FACILITY IN THIS STATE TO PRODUCE THE MOTION PICTURE PRODUCTION, AN ADDITIONAL TWO AND ONE-HALF PERCENT OF THE TOTAL AMOUNT OF QUALIFIED PRODUCTION COSTS AS APPROVED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1517.

(b) FILMS PRIMARILY AT A PRACTICAL LOCATION, PRODUCES AND FILMS THE MOTION PICTURE PRODUCTION PRIMARILY IN THIS STATE AND PERFORMS ALL PREPRODUCTION, POSTPRODUCTION AND EDITING AT A QUALIFIED PRODUCTION FACILITY IN THIS STATE, AN ADDITIONAL TWO AND ONE-HALF PERCENT OF THE TOTAL QUALIFIED PRODUCTION COSTS AS APPROVED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1517.

4. AN ADDITIONAL TWO AND ONE-HALF PERCENT OF THE TOTAL AMOUNT OF QUALIFIED PRODUCTION COSTS AS APPROVED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1517 IF THE MOTION PICTURE PRODUCTION IS PRODUCED AND FILMED IN ASSOCIATION WITH A LONG-TERM TENANT OF A QUALIFIED PRODUCTION FACILITY.

B. TAX CREDITS UNDER THIS SECTION MAY NOT EXCEED THE AMOUNT PROVIDED IN THE POSTAPPROVAL ISSUED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1517, SUBSECTION H. THE TAXPAYER MUST INCLUDE A COPY OF THE POSTAPPROVAL WITH THE TAXPAYER'S INCOME TAX RETURN FOR THE TAXABLE YEAR IN WHICH THE ARIZONA COMMERCE AUTHORITY ISSUED THE POSTAPPROVAL.

C. THE DEPARTMENT MAY NOT ALLOW A TAX CREDIT UNDER THIS SECTION TO A TAXPAYER WHO HAS A DELINQUENT TAX BALANCE OWED TO THE DEPARTMENT UNDER THIS TITLE.

D. TO QUALIFY FOR A TAX CREDIT UNDER THIS SECTION, THE MOTION PICTURE PRODUCTION COMPANY MUST:

1. DO EITHER OF THE FOLLOWING:

(a) USE A QUALIFIED PRODUCTION FACILITY IN THIS STATE TO PRODUCE THE MOTION PICTURE PRODUCTION.

(b) IF THE MOTION PICTURE PRODUCTION IS FILMED PRIMARILY AT A PRACTICAL LOCATION, PRODUCE AND FILM THE MOTION PICTURE PRODUCTION PRIMARILY IN THIS STATE AND PERFORM ALL PREPRODUCTION, POSTPRODUCTION AND EDITING AT AN INDUSTRY STANDARD FACILITY, IF SUCH A FACILITY FOR THOSE FUNCTIONS IS AVAILABLE.

2. MAINTAIN THE MOTION PICTURE PRODUCTION COMPANY'S PRODUCTION LABOR POSITIONS IN THIS STATE.

3. INCLUDE IN THE CREDITS FOR EACH MOTION PICTURE PRODUCTION AN ACKNOWLEDGMENT THAT THE PRODUCTION WAS FILMED IN ARIZONA.

4. RECEIVE PREAPPROVAL AND POSTAPPROVAL FROM THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1517.

5. CLAIM THE TAX CREDIT BY USING THE FORM PRESCRIBED BY THE DEPARTMENT AND INCLUDE THE FORM WITH THE MOTION PICTURE PRODUCTION COMPANY'S INCOME TAX RETURN FOR THE TAXABLE YEAR IN WHICH THE ARIZONA COMMERCE AUTHORITY ISSUED THE POSTAPPROVAL.

E. CO-OWNERS OF A MOTION PICTURE PRODUCTION COMPANY, INCLUDING PARTNERS IN A PARTNERSHIP, MEMBERS OF A LIMITED LIABILITY COMPANY AND SHAREHOLDERS OF AN S CORPORATION, AS DEFINED IN SECTION 1361 OF

THE INTERNAL REVENUE CODE, MAY EACH CLAIM THE PRO RATA SHARE OF THE TAX CREDIT ALLOWED UNDER THIS SECTION BASED ON OWNERSHIP INTERESTS. THE TOTAL OF THE TAX CREDITS ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED A SOLE OWNER.

F. IF THE ALLOWABLE TAX CREDIT FOR A TAXABLE YEAR EXCEEDS THE INCOME TAXES OTHERWISE DUE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME TAXES DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN OFFSET AGAINST INCOME TAXES SHALL BE PAID TO THE TAXPAYER IN THE SAME MANNER AS A REFUND UNDER SECTION 42-1118. REFUNDS MADE PURSUANT TO THIS SUBSECTION ARE SUBJECT TO SETOFF UNDER SECTION 42-1122. IF THE DEPARTMENT DETERMINES THAT A REFUND IS INCORRECT OR INVALID, THE EXCESS REFUND MAY BE TREATED AS A TAX DEFICIENCY PURSUANT TO SECTION 42-1108.

G. THE DEPARTMENT SHALL MAINTAIN ANNUAL DATA ON THE TOTAL AMOUNT OF MONIES CREDITED PURSUANT TO THIS SECTION AND SHALL PROVIDE THE DATA TO THE ARIZONA COMMERCE AUTHORITY ON REQUEST.

H. THE DEPARTMENT SHALL ADOPT FEES AND RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY TO ADMINISTER THIS SECTION AND PROVIDE ADMINISTRATIVE SUPPORT SERVICES.

I. THE TAX CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY ALLOWANCE FOR STATE TAX PURPOSES OF A DEDUCTION OF THOSE EXPENSES ALLOWED BY THE INTERNAL REVENUE CODE.

J. FOR THE PURPOSES OF THIS SECTION:

1. "LONG-TERM TENANT" MEANS A PERSON THAT ENTERS INTO A LEASE OF AT LEAST FIVE YEARS FOR THE USE OF A QUALIFIED PRODUCTION FACILITY.

2. "MOTION PICTURE PRODUCTION" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-1517.

3. "MOTION PICTURE PRODUCTION COMPANY" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-1517.

4. "PRACTICAL LOCATION" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-1517.

5. "PRODUCTION COSTS" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-1517.

6. "PRODUCTION LABOR" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-1517.

7. "QUALIFIED PRODUCTION FACILITY" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-1517.

Sec. 8. Delayed repeal

Section 43-1082, Arizona Revised Statutes, as added by this act, is repealed from and after December 31, 2043.

Sec. 9. Section 43-1121, Arizona Revised Statutes, is amended to read:

43-1121. Additions to Arizona gross income; corporations

In computing Arizona taxable income for a corporation, the following amounts shall be added to Arizona gross income:

*****TEXT OMITTED, DOES NOT PERTAIN TO FILM*****

26. THE AMOUNT OF ANY MOTION PICTURE PRODUCTION COSTS THAT WAS

DEDUCTED PURSUANT TO THE INTERNAL REVENUE CODE FOR WHICH A TAX CREDIT IS CLAIMED UNDER SECTION 43-1165.

Sec. 10. Title 43, chapter 11, article 6, Arizona Revised Statutes, is amended by adding section 43-1165, to read:

43-1165. Credit for motion picture production costs; qualifications; data maintenance; rules; definitions

A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2022, A TAX CREDIT IS ALLOWED AGAINST PRODUCTION COSTS PAID BY A MOTION PICTURE PRODUCTION COMPANY IN THIS STATE THAT ARE SUBJECT TO TAXATION BY THIS STATE AND THAT ARE DIRECTLY ATTRIBUTABLE TO A MOTION PICTURE PRODUCTION. THE AMOUNT OF THE CREDIT SHALL BE DETERMINED AS FOLLOWS:

1. AN AMOUNT EQUAL TO A PERCENTAGE OF THE TOTAL AMOUNT OF THE QUALIFIED PRODUCTION COSTS AS APPROVED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1517 AS FOLLOWS:

(a) FOR A MOTION PICTURE PRODUCTION COMPANY THAT SPENDS UP TO \$10,000,000, FIFTEEN PERCENT.

(b) FOR A MOTION PICTURE PRODUCTION COMPANY THAT SPENDS MORE THAN \$10,000,000 BUT LESS THAN \$35,000,000, SEVENTEEN AND ONE-HALF PERCENT.

(c) FOR A MOTION PICTURE PRODUCTION COMPANY THAT SPENDS MORE THAN \$35,000,000, TWENTY PERCENT.

2. AN ADDITIONAL TWO AND ONE-HALF PERCENT OF THE MOTION PICTURE PRODUCTION COMPANY'S PRODUCTION LABOR COSTS RELATED TO POSITIONS HELD BY RESIDENTS OF THIS STATE AS APPROVED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1517.

3. IF THE MOTION PICTURE PRODUCTION COMPANY EITHER:

(a) USES A QUALIFIED PRODUCTION FACILITY IN THIS STATE TO PRODUCE THE MOTION PICTURE PRODUCTION, AN ADDITIONAL TWO AND ONE-HALF PERCENT OF THE TOTAL AMOUNT OF QUALIFIED PRODUCTION COSTS AS APPROVED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1517.

(b) FILMS PRIMARILY AT A PRACTICAL LOCATION, PRODUCES AND FILMS THE MOTION PICTURE PRODUCTION PRIMARILY IN THIS STATE AND PERFORMS ALL PREPRODUCTION, POSTPRODUCTION AND EDITING AT A QUALIFIED PRODUCTION FACILITY IN THIS STATE, AN ADDITIONAL TWO AND ONE-HALF PERCENT OF THE TOTAL QUALIFIED PRODUCTION COSTS AS APPROVED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1517.

4. AN ADDITIONAL TWO AND ONE-HALF PERCENT OF THE TOTAL AMOUNT OF QUALIFIED PRODUCTION COSTS AS APPROVED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1517 IF THE MOTION PICTURE PRODUCTION IS PRODUCED AND FILMED IN ASSOCIATION WITH A LONG-TERM TENANT OF A QUALIFIED PRODUCTION FACILITY.

B. TAX CREDITS UNDER THIS SECTION MAY NOT EXCEED THE AMOUNT PROVIDED IN THE POSTAPPROVAL ISSUED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1517, SUBSECTION H. THE TAXPAYER MUST INCLUDE A COPY OF THE POSTAPPROVAL WITH THE TAXPAYER'S INCOME TAX RETURN FOR THE TAXABLE YEAR IN WHICH THE ARIZONA COMMERCE AUTHORITY ISSUED THE POSTAPPROVAL.

C. THE DEPARTMENT MAY NOT ALLOW A TAX CREDIT UNDER THIS SECTION TO A TAXPAYER THAT HAS A DELINQUENT TAX BALANCE OWED TO THE

DEPARTMENT UNDER THIS TITLE.

D. TO QUALIFY FOR A TAX CREDIT UNDER THIS SECTION, THE MOTION PICTURE PRODUCTION COMPANY MUST:

1. DO EITHER OF THE FOLLOWING:

(a) USE A QUALIFIED PRODUCTION FACILITY IN THIS STATE TO PRODUCE THE MOTION PICTURE PRODUCTION.

(b) IF THE MOTION PICTURE PRODUCTION IS FILMED PRIMARILY AT A PRACTICAL LOCATION, PRODUCE AND FILM THE MOTION PICTURE PRODUCTION PRIMARILY IN THIS STATE AND PERFORM ALL PREPRODUCTION, POSTPRODUCTION AND EDITING AT AN INDUSTRY STANDARD FACILITY, IF SUCH A FACILITY FOR THOSE FUNCTIONS IS AVAILABLE.

2. MAINTAIN THE MOTION PICTURE PRODUCTION COMPANY'S PRODUCTION LABOR POSITIONS IN THIS STATE.

3. INCLUDE IN THE CREDITS FOR EACH MOTION PICTURE PRODUCTION AN ACKNOWLEDGMENT THAT THE PRODUCTION WAS FILMED IN ARIZONA.

4. RECEIVE PREAPPROVAL AND POSTAPPROVAL FROM THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1517.

5. CLAIM THE TAX CREDIT BY USING THE FORM PRESCRIBED BY THE DEPARTMENT AND INCLUDE THE FORM WITH THE MOTION PICTURE PRODUCTION COMPANY'S INCOME TAX RETURN FOR THE TAXABLE YEAR IN WHICH THE ARIZONA COMMERCE AUTHORITY ISSUED THE POSTAPPROVAL.

E. CO-OWNERS OF A MOTION PICTURE PRODUCTION COMPANY, INCLUDING CORPORATE PARTNERS IN A PARTNERSHIP, MAY EACH CLAIM THE PRO RATA SHARE OF THE TAX CREDIT ALLOWED UNDER THIS SECTION BASED ON OWNERSHIP INTEREST. THE TOTAL OF THE TAX CREDITS ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN ALLOWED A SOLE OWNER.

F. IF THE ALLOWABLE TAX CREDIT FOR A TAXABLE YEAR EXCEEDS THE INCOME TAXES OTHERWISE DUE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO STATE INCOME TAXES DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CLAIM NOT USED AS AN OFFSET AGAINST INCOME TAXES SHALL BE PAID TO THE TAXPAYER IN THE SAME MANNER AS A REFUND UNDER SECTION 42-1118. REFUNDS MADE PURSUANT TO THIS SUBSECTION ARE SUBJECT TO SETOFF UNDER SECTION 42-1122. IF THE DEPARTMENT DETERMINES THAT A REFUND IS INCORRECT OR INVALID, THE EXCESS REFUND MAY BE TREATED AS A TAX DEFICIENCY PURSUANT TO SECTION 42-1108.

G. THE DEPARTMENT SHALL MAINTAIN ANNUAL DATA ON THE TOTAL AMOUNT OF MONIES CREDITED PURSUANT TO THIS SECTION AND SHALL PROVIDE THE DATA TO THE ARIZONA COMMERCE AUTHORITY ON REQUEST.

H. THE DEPARTMENT SHALL ADOPT FEES AND RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY TO ADMINISTER THIS SECTION AND PROVIDE ADMINISTRATIVE SUPPORT SERVICES.

I. THE TAX CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY ALLOWANCE FOR STATE TAX PURPOSES OF A DEDUCTION OF THOSE EXPENSES ALLOWED BY THE INTERNAL REVENUE CODE.

J. FOR THE PURPOSES OF THIS SECTION:

1. "LONG-TERM TENANT" MEANS A PERSON THAT ENTERS INTO A LEASE OF AT LEAST FIVE YEARS FOR THE USE OF A QUALIFIED PRODUCTION FACILITY.

2. "MOTION PICTURE PRODUCTION" HAS THE SAME MEANING PRESCRIBED IN

SECTION 41-1517.

3. “MOTION PICTURE PRODUCTION COMPANY” HAS THE SAME MEANING PRESCRIBED IN SECTION 41-1517.

4. “PRACTICAL LOCATION” HAS THE SAME MEANING PRESCRIBED IN SECTION 41-1517.

5. “PRODUCTION COSTS” HAS THE SAME MEANING PRESCRIBED IN SECTION 41-1517.

6. “PRODUCTION LABOR” HAS THE SAME MEANING PRESCRIBED IN SECTION 41-1517.

7. “QUALIFIED PRODUCTION FACILITY” HAS THE SAME MEANING PRESCRIBED IN SECTION 41-1517.

Sec. 11. Delayed repeal

Section 43-1165, Arizona Revised Statutes, as added by this act, is repealed from and after December 31, 2043.

Sec. 12. Exemption from rulemaking

Notwithstanding any other law, for the purposes of this act, the Arizona commerce authority and the department of revenue are exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, for one year after the effective date of this act.

Sec. 13. Purpose; intent

Pursuant to section 43-223, Arizona Revised Statutes, the legislature enacts sections 43-1082 and 43-1165, Arizona Revised Statutes, as added by this act, to create a competitive motion picture production industry presence and market in this state that will develop a substantial motion picture production industry workforce and encourage major capital investment in qualified production facilities in this state, and accordingly, the intent of the legislature is to provide a program that creates long-term economic benefits to this state, including the development of high-paying employment opportunities for residents of this state.