

**2009 DC B 583 , Enrolled**

**DISTRICT OF COLUMBIA**

Current Legislative Status

12/14/2009 INTRODUCED.

12/14/2009 Retained on COUNCIL floor.

12/15/2009 Passed COUNCIL.

12/15/2009 \*\*\*\*\*Eligible for MAYOR.

12/18/2009 \*\*\*\*\*To MAYOR.

01/04/2010 Signed by MAYOR. Expires: 04/04/2010.

01/04/2010 Assigned Act Number 260

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session: District of Columbia Council Period Eighteen

cite: 2009 DC B 583

Enrolled

December 15, 2009

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DC B 583

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fiscal Year 2010 Budget Support Congressional Review Emergency Act of 2009".

TITLE I. GOVERNMENT DIRECTION AND SUPPORT

SUBTITLE A. ONE CARD SERVICE SUPPORT

Sec. 1001. Short title.

This subtitle may be cited as the "Technology Services Support Congressional Review Emergency Act of 2009".

**SECTIONS OMITTED**

SUBTITLE H. FINANCIAL INCENTIVES FOR MOTION PICTURE AND TELEVISION PRODUCTIONS

Sec. 2070. Short title.

This subtitle may be cited as the "Financial Incentives for Motion Picture and Television

Productions Congressional Review Emergency Amendment Act of 2009“.

Sec. 2071. The Film DC Economic Incentive Act of 2006, effective March 14, 2007 (D.C. Law 16-290; D.C. Official Code Section 39-501 et seq.), is amended as follows:

(a) Section 2 (D.C. Official Code Section 39-501) is amended as follows:

(1) The heading is amended by striking the phrase “Film DC Economic Incentive Grant Fund“ and inserting the phrase “Film DC Economic Incentive Fund“ in its place.

(2) Subsection (a) is amended by striking the phrase “Film DC Incentive Grant Fund“ and inserting the phrase “Film DC Economic Incentive Fund“ in its place.

(3) Subsections (b) and (c) are amended to read as follows:

“(b) Subject to section 2a and subject to the availability of funds, the Mayor may provide to an eligible production company, as an incentive for the production of movies, television shows, or other video productions in the District, a payment equal to the following:

“(1) The sum of 42% of the company's qualified production expenditures that are subject to taxation in the District;

“(2) The sum of 21% of the company's qualified production expenditures that are not subject to taxation in the District;

“(3) The sum of 30% of the company's qualified personnel expenditures;

“(4) The sum of 50% of the company's qualified job training expenditures; and

“(5) The sum of 25% of the company's base infrastructure investment; provided, that if the base infrastructure investment is in a facility that may be used for purposes unrelated to production or postproduction activities, then the base infrastructure investment shall be eligible for the 25% incentive payment only if the Mayor determines that the facility will support and be necessary to secure production or postproduction activity.

“(c) Subject to section 2b and subject to the availability of funds, the Mayor may provide to an applicant, as an incentive for the creation of production and postproduction facilities in the District, a payment of 25% of the taxpayer's base infrastructure investment; provided, that if all or a portion of the base infrastructure investment is in a facility that may be used for purposes unrelated to production or postproduction activities, then the base infrastructure investment shall be eligible for the 25% payment only if the Mayor determines that the facility will support and be necessary to secure production or postproduction activity.“.

(b) New sections 2a, 2b, 2c, 2d, and 2e are added to read as follows:

“Sec. 2a. Production incentives.

“(a) To qualify for a payment under section 2(b), an eligible production company shall:

“(1) Spend at least \$250,000 in the District for the development, preproduction, production, or postproduction costs of a qualified production;

“(2) File an application with the Mayor pursuant to subsection (b) of this section;

“(3) Enter into an incentive agreement with the Mayor pursuant to subsection (d) of this section;

“(4) Comply with the terms of the agreement; and

“(5) Not be delinquent in a tax or other obligation owed to the District or be owned or under common control of an entity that is delinquent in a tax or other obligation owed to the District.

“(b) An eligible production company seeking a payment under section 2(b) shall submit an

application to the Mayor. The application shall be submitted in a form, and with such documentation and information, may be prescribed by the Mayor, including:

”(1) An estimate of qualified production expenditures;

“(2) An estimate of qualified personnel expenditures;

”(3) An estimate of qualified job training expenditures; and

“(4) An estimate of and total investment in qualified film and digital media infrastructure projects in the District associated with an identified qualified production.

”(c) After receiving an application under subsection (b) of this section, the Mayor shall review the application and determine whether to enter into an incentive agreement pursuant to subsection (d) of this section with the eligible production company. In determining whether to enter into an incentive agreement with the eligible production company, the Mayor may consider:

“(1) The potential that, in the absence of a payment under section 2b(a), the qualified production will be produced in a location other than the District;

”(2)(A) The qualified production is likely to promote the District as a tourist destination;

“(B) The qualified production is likely to create contracting and procurement opportunities for certified business enterprises;

”(C) The qualified production is likely to:

“(i) Create jobs;

”(ii) Job training opportunities; and

“(iii) Apprenticeships for District residents;

”(D) The qualified production will produce employment opportunities for District youth;

“(E) The qualified production is likely to promote economic development and neighborhood revitalization in the District;

”(F) A payment under section 2b(a) is likely to attract private investment for the production of other qualified productions or base infrastructure investments in the District; and

“(3) The record of the eligible production company in completing commitments to engage in a qualified production.

”(d) An incentive agreement entered into by the Mayor and the eligible production company shall include the following provisions:

“(1) The name of the eligible production company;

”(2) The name and description of the qualified production;

“(3) The eligible production company's:

”(A) Estimated qualified production expenditures;

”(B) Qualified personnel expenditures;

”(C) Qualified job training expenditures; and

”(D) The base infrastructure investment;

”(4) A preliminary estimate of the payment to be made by the District pursuant to the agreement;

“(5) Any obligations of the eligible production company, including obligations such a commitment to hire District residents, provide apprenticeship opportunities for District residents and youth,

provide employment opportunities for District residents and youth, and to contract with certified business entities; and

”(6) Any other provisions considered appropriate by the Mayor.

“(e) If the Mayor determines that an eligible production company, after it completes the qualified production, has complied with the terms of the agreement entered into under this section, the Mayor shall provide to the company the payment authorized by section 2(b).

”(f) The Mayor shall reserve funds sufficient to pay the amount identified in subsection (d)(4) of this section.

“Sec. 2b. Infrastructure incentives.

”(a) To be eligible for a payment under section 2(c), an approved applicant shall:

“(1) Invest and expend at least \$250,000 for a qualified film and digital media infrastructure project in the District;

”(2) File an application with the Mayor pursuant to subsection (b) of this section;

”(3) Enter into an agreement with the Mayor pursuant to subsection (d) of this section;

”(4) Comply with the terms of the agreement; and

“(5) Not be delinquent in a tax or other obligation owed to the District, or be owned or under common control of an entity that is delinquent in a tax or other obligation owed to the District.

”(b) An approved applicant seeking a payment under section 2(c) shall submit an application to the Mayor, in a form and with the documentation and information, including an estimate of total base infrastructure investment, as may be prescribed by the Mayor.

“(c) After receiving an application under subsection (b) of this section, the Mayor shall review the application and determine whether to enter into an incentive agreement with the applicant pursuant to subsection (d) of this section. In determining whether to enter into the incentive agreement, the Mayor may consider:

”(1) The potential that, in the absence of a payment under section 2(c), the qualified film and digital media infrastructure project in which the base infrastructure investment will be made will be constructed in a location other than the District, or not constructed at all;

“(2) The extent to which the qualified film and digital media infrastructure project is likely to:

”(A) Create contracting and procurement opportunities for certified business enterprises;

”(B) Create jobs, job training opportunities, and apprenticeships for District residents and District youth;

”(C) Promote economic development and neighborhood revitalization in the District;

“(3) The extent to which the qualified film and digital media infrastructure project is likely to attract motion picture, television, and video production to the District; and

”(6) The record of the applicant in completing commitments to engage in qualified film and digital media infrastructure projects.

“(d) An incentive agreement entered into by the Mayor and the eligible production company shall include the following provisions:

”(1) The name of the applicant;

“(2) A description of the qualified film and digital media infrastructure project;

”(3) The applicant's estimated base investment;

“(4) A preliminary estimate of the payment to be made by the District pursuant to this agreement;

”(5) Any obligations of the eligible production company, including obligations such as a commitment to hire District residents, provide apprenticeship opportunities for District residents and youth, provide employment opportunities for District residents and youth, and to contract with certified business entities; and

“(6) Any other provisions considered appropriate by the Mayor.

”(e) If the Mayor determines, after the qualified film and digital media infrastructure project is complete, that an applicant has complied with the terms of the agreement under this section, the Mayor may provide to the company the payment authorized by section 2(c).

“Sec. 2c. Definitions.

”For the purposes of this act, the term:

“(1) ”Base infrastructure investment“ means the cost, including fabrication and installation, expended by a person in the development of a qualified film and digital media infrastructure project for tangible assets of a type that are, or under the United States Internal Revenue Code will become, eligible for depreciation, amortization, or accelerated capital cost recovery for federal income tax purposes that are physically located in the District for use in a business activity in the District and that are not mobile tangible assets. The term ”base infrastructure investment“ does not include qualified production expenditure or qualified personnel expenditure.

”(2) ”Below-the-line crew“ means a person employed by an eligible production company for a qualified production after production begins and before production is completed, including a producer, director, writer, actor, or other person in a similar position.

“(3) ”Eligible production company“ means an entity in the business of producing qualified productions.

”(4) ”Postproduction expenditure“ means a direct expenditure for editing, Foley recording, automatic dialogue replacement, sound editing, special or visual effects, including computer-generated imagery or other effects, scoring and music editing, beginning and end credits, negative cutting, soundtrack production, dubbing, subtitling, addition of sound or visual effects, advertising, marketing, distribution, and related expenses.

“(5) ”Qualified film and digital media infrastructure project“ means a film, video, television, or digital media production and postproduction facility located in the District, movable and immovable property and equipment related to the facility, and any other facility that is a necessary component of the primary facility. The term ”qualified film and digital media infrastructure project“ does not include a movie theater or other commercial exhibition facility.

”(6) ”Qualified job training expenditure“ means salary and other expenditures paid by an eligible production company to provide qualified personnel with on-the-job training to upgrade or enhance the skills of the qualified personnel as a member of the below-the-line crew for a qualified production.

“(7) ”Qualified personnel“ means a District resident that is legally eligible for employment.

”(8) ”Qualified personnel expenditure“ means an expenditure made in the District directly attributable to the production or distribution of a qualified production that is a transaction subject to taxation in the District and is a payment of wages, benefits, or fees to below-the-line crew members, and includes a payment to a personal services corporation or professional employer organization for

the services of qualified personnel as below-the-line crew members.

“(9) ”Qualified production“ means motion picture, television, or video content created in whole or in part in the District, intended for nationwide distribution or exhibition by any means, including by motion picture, documentary, television programming, commercials, or internet video production and includes a trailer, pilot, or any video teaser associated with a qualified production. The term ”qualified production“ does not include:

”(A) A production that:

“(i) Consists primarily of televised news or current events;

”(ii) Consists primarily of a live sporting event;

“(iii) Consists primarily of political advertising;

”(iv) Primarily markets a product or service other than a qualified production; or

“(B) A radio program.

”(10) “Qualified production expenditure” means a development, preproduction, production, or postproduction expenditure made in the District that is:

”(i) Directly attributable to the production or distribution of a qualified production;

”(ii) Is for the production or distribution of a qualified production;

”(iii) In accordance with generally accepted entertainment industry practices; and

”(iv) Not a qualified personnel expenditure.

“(B) Qualified production expenditure includes the purchase of tangible personal property or services related to producing or distributing a qualified production, production work, production equipment, production software, development work, postproduction work, postproduction equipment, postproduction software, set design, set construction, set operations, props, lighting, wardrobe, catering, lodging, use of vehicles directly attributable to the production or distribution of a qualified production, and any purchase of equipment relating to the duplication or market distribution of any content created or produced in the District, and payment of wages, benefits, or fees to any contractual or salaried employee excluding below-the-line crew who performs services in the District, including a payment to a personal services corporation or professional employer organization for the services of qualified personnel.

**SECTIONS NOT PERTAINING TO THE FILM INCENTIVE HAVE BEEN OMITTED**