

RI H 7200, Enacted - Interim

Rhode Island

SUMMARY: Makes appropriations from general revenue and authorizes expenditure of federal funds, restricted receipts, and other funds for the upcoming fiscal year; expands the duties of the Director of the Lottery Division; reflects the newly established regulation of sports wagering; establishes a Collection Unit within the Department of Revenue; expands the distribution of tax revenues to certain districts and authorities; amends and establishes other state revenue funds and projects.~ SAME AS:

Legislative History and Analysis

Changes in Bill text reflected as:

~~Text Deleted~~

Text Added

~~Text Vetoed~~

Current Legislative Status

01/18/2018 INTRODUCED.

01/18/2018 To HOUSE Committee on FINANCE.

06/05/2018 Scheduled for hearing and/or consideration 06/07/2018.

06/06/2018 Scheduled for hearing and/or consideration 06/08/2018.

06/07/2018 Committee meeting postponed 06/07/2018.

06/08/2018 From HOUSE Committee on FINANCE: Recommended as substituted.

06/08/2018 Placed on House Calendar 06/15/2018.

06/15/2018 Amended on HOUSE floor.

06/15/2018 Passed HOUSE. *****To SENATE.

06/16/2018 To SENATE Committee on FINANCE.

06/16/2018 Scheduled for hearing and/or consideration 06/19/2018.

06/19/2018 From SENATE Committee on FINANCE: Recommended passage.

06/19/2018 Placed on Senate Calendar 06/20/2018.

06/20/2018 Passed SENATE.

06/21/2018 *****To GOVERNOR.

06/22/2018 Signed by GOVERNOR.

06/22/2018 Public Law No. 2018-47

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session: Rhode Island 2017-18 Legislative Session cite: 2017 RI H 7200

Enacted - Interim

June 22, 2018

Abney

2018 -- H 7200 SUBSTITUTE A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

AN ACT

MAKING APPROPRIATIONS FOR THE SUPPORT OF THE STATE FOR THE FISCAL YEAR ENDING
JUNE 30, 2019

Introduced By: Representative Marvin L. Abney

Date Introduced: January 18, 2018

Referred To: House Finance

(Governor)

It is enacted by the General Assembly as follows:

ARTICLE 1 RELATING TO MAKING APPROPRIATIONS IN SUPPORT OF FY 2019

ARTICLE 2 RELATING TO STATE FUNDS

ARTICLE 3 RELATING TO GOVERNMENT REFORM

ARTICLE 4 RELATING TO TAXES AND REVENUE

ARTICLE 5 RELATING TO CAPITAL DEVELOPMENT PROGRAM

ARTICLE 6 RELATING TO RHODE ISLAND PUBLIC RAIL CORPORATION

ARTICLE 7 RELATING TO FEES

ARTICLE 8 RELATING TO MOTOR VEHICLES

ARTICLE 9 RELATING TO SCHOOL CONSTRUCTION AND EDUCATION

ARTICLE 10 RELATING TO MAKING REVISED APPROPRIATIONS IN SUPPORT OF FY 2018

ARTICLE 11 RELATING TO WORKFORCE DEVELOPMENT

ARTICLE 12 RELATING TO ECONOMIC DEVELOPMENT

ARTICLE 13 RELATING TO MEDICAL ASSISTANCE

ARTICLE 14 RELATING TO THE EDWARD O. HAWKINS AND THOMAS C. SLATER MEDICAL MARIJUANA ACT

ARTICLE 15 RELATING TO CHILDREN AND FAMILIES

ARTICLE 16 RELATING TO DEBT MANAGEMENT ACT JOINT RESOLUTIONS

ARTICLE 17 RELATING TO EFFECTIVE DATE

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

SECTION 12. Sections 44-31.2-2 and 44-31.2-6 of the General Laws in Chapter 44-31.2 entitled "Motion Picture Production Tax Credits" are hereby amended to read as follows:

44-31.2-2. Definitions.

For the purposes of this chapter:

- (1) "Accountant's certification" as provided in this chapter means a certified audit by a Rhode Island certified public accountant licensed in accordance with chapter 3.1 of title 5.
- (2) "Application year" means within the calendar year the motion picture production company files an application for the tax credit.
- (3) "Base investment" means the actual investment made and expended by a state-certified production in the state as production-related costs.
- (4) "Documentary production" means a non-fiction production intended for educational or commercial distribution that may require out-of-state principal photography.
- (5) "Domiciled in Rhode Island" means a corporation incorporated in Rhode Island or a partnership, limited liability company, or other business entity formed under the laws of the state of Rhode Island for the purpose of producing motion pictures as defined in this section, or an individual who is a domiciled resident of the state of Rhode Island as defined in chapter 30 of this title.
- (6) "Final production budget" means and includes the total pre-production, production, and post-production out-of-pocket costs incurred and paid in connection with the making of the motion picture. The final production budget excludes costs associated with the promotion or marketing of the motion picture.
- (7) "Motion picture" means a feature-length film, documentary production, video, television series, or commercial made in Rhode Island, in whole or in part, for theatrical or television viewing or as a television pilot or for educational distribution. The term "motion picture" shall not include the production of television coverage of news or athletic events, nor shall it apply to any film, video, television series, or commercial or a production for which records are required under 18 U.S.C. Section 2257, to be maintained with respect to any performer in such production or reporting of books, films, etc. with respect to sexually explicit conduct.
- (8) "Motion picture production company" means a corporation, partnership, limited liability company, or other business entity engaged in the business of producing one or more motion pictures as defined in this section. Motion picture production company shall not mean or include:

- (a) Any company owned, affiliated, or controlled, in whole or in part, by any company or person who or that is in default:
 - (i) On taxes owed to the state; or
 - (ii) On a loan made by the state in the application year; or
 - (iii) On a loan guaranteed by the state in the application year; or
- (b) Any company or person who or that has discharged an obligation to pay or repay public funds or monies by:
 - (i) Filing a petition under any federal or state bankruptcy or insolvency law;
 - (ii) Having a petition filed under any federal or state bankruptcy or insolvency law against such company or person;
 - (iii) Consenting to, or acquiescing or joining in, a petition named in (i) or (ii);
 - (iv) Consenting to, or acquiescing or joining in, the appointment of a custodian, receiver, trustee, or examiner for such company's or person's property; or
 - (v) Making an assignment for the benefit of creditors or admitting in writing or in any legal proceeding its insolvency or inability to pay debts as they become due.
- (9) "Primary locations" means the locations that (1) At least fifty-one percent (51%) of the motion picture principal photography days are filmed; or (2) At least fifty-one percent (51%) of the motion picture's final production budget is spent and employs at least five (5) individuals during the production in this state; or (3) For documentary productions, the location of at least fifty-one percent (51%) of the total productions days, which shall include pre-production and post- production locations.
- (10) "Rhode Island film and television office" means an office within the ~~department of administration~~ **Rhode Island Council on the Arts** that has been established in order to promote and encourage the locating of film and television productions within the state of Rhode Island. The office is also referred to within as the "film office".
- (11) "State-certified production" means a motion picture production approved by the Rhode Island film office and produced by a motion picture production company domiciled in Rhode Island, whether or not such company owns or controls the copyright and distribution rights in the motion picture; provided, that such company has either:
 - (a) Signed a viable distribution plan; or (b) Is producing the motion picture for:
 - (i) A major motion picture distributor;
 - (ii) A major theatrical exhibitor;
 - (iii) Television network; or
 - (iv) Cable television programmer.
- (12) "State-certified production cost" means any pre-production, production, and post- production cost that a motion picture production company incurs and pays to the extent it occurs within the state of Rhode Island. Without limiting the generality of the foregoing, "state-certified production costs" include: set construction and operation; wardrobes, make-up, accessories, and related services; costs associated with photography and sound synchronization, lighting, and related services and materials; editing and

related services, including, but not limited to: film processing, transfers of film to tape or digital format, sound mixing, computer graphics services, special effects services, and animation services, salary, wages, and other compensation, including related benefits, of persons employed, either directly or indirectly, in the production of a film including writer, motion picture director, producer (provided the work is performed in the state of Rhode Island); rental of facilities and equipment used in Rhode Island; leasing of vehicles; costs of food and lodging; music, if performed, composed, or recorded by a Rhode Island musician, or released or published by a person domiciled in Rhode Island; travel expenses incurred to bring persons employed, either directly or indirectly, in the production of the motion picture, to Rhode Island (but not expenses of such persons departing from Rhode Island); and legal (but not the expense of a completion bond or insurance and accounting fees and expenses related to the production's activities in Rhode Island); provided such services are provided by Rhode Island licensed attorneys or accountants.

44-31.2-6. Certification and administration.

- (a) Initial certification of a production. The applicant shall properly prepare, sign and submit to the film office an application for initial certification of the Rhode Island production. The application shall include such information and data as the film office deems necessary for the proper evaluation and administration of said application, including, but not limited to, any information about the motion picture production company, and a specific Rhode Island motion picture. The film office shall review the completed application and determine whether it meets the requisite criteria and qualifications for the initial certification for the production. If the initial certification is granted, the film office shall issue a notice of initial certification of the motion picture production to the motion picture production company and to the tax administrator. The notice shall state that, after appropriate review, the initial application meets the appropriate criteria for conditional eligibility. The notice of initial certification will provide a unique identification number for the production and is only a statement of conditional eligibility for the production and, as such, does not grant or convey any Rhode Island tax benefits.
- (b) Final certification of a production. Upon completion of the Rhode Island production activities, the applicant shall request a certificate of good standing from the Rhode Island division of taxation. Such certificates shall verify to the film office the motion picture production company's compliance with the requirements of subsection 44-31.2-2(5). The applicant shall properly prepare, sign and submit to the film office an application for final certification of the production and which must include the certificate of good standing from the division of taxation. In addition, the application shall contain such information and data as the film office determines is necessary for the proper evaluation and administration, including, but not limited to, any information about the motion picture production company, its investors and information about the production previously granted initial certification. The final application shall also contain a cost report and an "accountant's certification". The film office and tax administrator may rely without independent investigation, upon the accountant's certification, in the form of an opinion, confirming the accuracy of the information included in the cost report. Upon review of a duly completed and filed application, the film office will make a determination pertaining to the final certification of the production. Within ninety (90) days after the division of taxation's receipt of the motion picture production company final certification and cost report, the division of taxation shall issue a certification of the amount of credit for which the motion picture production company qualifies under Section 44-31.2-5. To claim the tax credit, the division of taxation's certification as to the amount of the tax credit shall be attached to all state tax returns on which the credit is claimed.
- (c) Final certification and credits. Upon determination that the motion picture production company qualifies for final certification, the film office shall issue a letter to the production company indicating "certificate of completion of a state certified production". A motion picture production company is prohibited from using state funds, state loans or state guaranteed loans to qualify for the motion picture tax credit. All documents that are issued by the film office pursuant to this section shall reference the identification number that was issued to the production as part of its initial certification.

- (d) The director of ~~the department of administration,~~ *the Rhode Island Council on the Arts*, in consultation as needed with the tax administrator, shall promulgate such rules and regulations as are necessary to carry out the intent and purposes of this chapter in accordance with the general guidelines provided herein for the certification of the production and the resultant production credit.
- (e) The tax administrator of the division of taxation, in consultation with the director of the Rhode Island film and television office, shall promulgate such rules and regulations as are necessary to carry out the intent and purposes of this chapter in accordance with the general guidelines for the tax credit provided herein.
- (f) Any motion picture production company applying for the credit shall be required to reimburse the division of taxation for any audits required in relation to granting the credit.

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

SECTION 16. Sections 44-31.2-2 and 44-31.2-5 of the General Laws in Chapter 44-31.2 entitled "Motion Picture Production Tax Credits" are hereby amended to read as follows:

44-31.2-2. Definitions.

For the purposes of this chapter:

- (1) "Accountant's certification" as provided in this chapter means a certified audit by a Rhode Island certified public accountant licensed in accordance with chapter 3.1 of title 5.
- (2) "Application year" means within the calendar year the motion picture production company files an application for the tax credit.
- (3) "Base investment" means the actual investment made and expended by a state-certified production in the state as production-related costs.
- (4) "Documentary production" means a non-fiction production intended for educational or commercial distribution that may require out-of-state principal photography.
- (5) "Domiciled in Rhode Island" means a corporation incorporated in Rhode Island or a partnership, limited liability company, or other business entity formed under the laws of the state of Rhode Island for the purpose of producing motion pictures as defined in this section, or an individual who is a domiciled resident of the state of Rhode Island as defined in chapter 30 of this title.
- (6) "Final production budget" means and includes the total pre-production, production, and post-production out-of-pocket costs incurred and paid in connection with the making of the motion picture. The final production budget excludes costs associated with the promotion or marketing of the motion picture.
- (7) "Motion picture" means a feature-length film, documentary production, video, television series, or commercial made in Rhode Island, in whole or in part, for theatrical or television viewing or as a television pilot or for educational distribution. The term "motion picture" shall not include the production of television coverage of news or athletic events, *reality television show(s)* nor shall it apply to any film, video, television series, or commercial or a production for which records are required under 18 U.S.C. Section 2257, to be maintained with respect to any performer in such production or reporting of books, films, etc. with respect to sexually explicit conduct.

- (8) "Motion picture production company" means a corporation, partnership, limited liability company, or other business entity engaged in the business of producing one or more motion pictures as defined in this section. Motion picture production company shall not mean or include:
- (a) Any company owned, affiliated, or controlled, in whole or in part, by any company or person who or that is in default:
 - (i) On taxes owed to the state; or
 - (ii) On a loan made by the state in the application year; or
 - (iii) On a loan guaranteed by the state in the application year; or
 - (b) Any company or person who or that has discharged an obligation to pay or repay public funds or monies by:
 - (i) Filing a petition under any federal or state bankruptcy or insolvency law;
 - (ii) Having a petition filed under any federal or state bankruptcy or insolvency law against such company or person;
 - (iii) Consenting to, or acquiescing or joining in, a petition named in (i) or (ii);
 - (iv) Consenting to, or acquiescing or joining in, the appointment of a custodian, receiver, trustee, or examiner for such company's or person's property; or
 - (v) Making an assignment for the benefit of creditors or admitting in writing or in any legal proceeding its insolvency or inability to pay debts as they become due.
- (9) "Primary locations" means the locations that (1) At least fifty-one percent (51%) of the motion picture principal photography days are filmed; or (2) At least fifty-one percent (51%) of the motion picture's final production budget is spent and employs at least five (5) individuals during the production in this state; or (3) For documentary productions, the location of at least fifty-one percent (51%) of the total productions days, which shall include pre-production and post- production locations.
- (10) "Rhode Island film and television office" means an office within the department of administration that has been established in order to promote and encourage the locating of film and television productions within the state of Rhode Island. The office is also referred to within as the "film office".
- (11) "State-certified production" means a motion picture production approved by the Rhode Island film office and produced by a motion picture production company domiciled in Rhode Island, whether or not such company owns or controls the copyright and distribution rights in the motion picture; provided, that such company has either:
- (a) Signed a viable distribution plan; or
 - (b) Is producing the motion picture for:
 - (i) A major motion picture distributor;
 - (ii) A major theatrical exhibitor;
 - (iii) Television network; or
 - (iv) Cable television programmer.

(12) "State-certified production cost" means any pre-production, production, and post- production cost that a motion picture production company incurs and pays to the extent it occurs within the state of Rhode Island. Without limiting the generality of the foregoing, "state-certified production costs" include: set construction and operation; wardrobes, make-up, accessories, and related services; costs associated with photography and sound synchronization, lighting, and related services and materials; editing and related services, including, but not limited to: film processing, transfers of film to tape or digital format, sound mixing, computer graphics services, special effects services, and animation services, salary, wages, and other compensation, including related benefits, of persons employed, either directly or indirectly, in the production of a film including writer, motion picture director, producer (provided the work is performed in the state of Rhode Island); rental of facilities and equipment used in Rhode Island; leasing of vehicles; costs of food and lodging; music, if performed, composed, or recorded by a Rhode Island musician, or released or published by a person domiciled in Rhode Island; travel expenses incurred to bring persons employed, either directly or indirectly, in the production of the motion picture, to Rhode Island (but not expenses of such persons departing from Rhode Island); and legal (but not the expense of a completion bond or insurance and accounting fees and expenses related to the production's activities in Rhode Island); provided such services are provided by Rhode Island licensed attorneys or accountants.

44-31.2-5. Motion picture production company tax credit.

- (a) A motion picture production company shall be allowed a credit to be computed as provided in this chapter against a tax imposed by chapters 11, 14, 17 and 30 of this title. The amount of the credit shall be ~~twentyfive percent (25%)~~ **thirty percent (30%)** of the state certified production costs incurred directly attributable to activity within the state, provided that the primary locations are within the state of Rhode Island and the total production budget as defined herein is a minimum of one hundred thousand dollars (\$100,000). The credit shall be earned in the taxable year in which production in Rhode Island is completed, as determined by the film office in final certification pursuant to subsection 44-31.2-6(c).
- (b) For the purposes of this section: "total production budget" means and includes the motion picture production company's pre-production, production and post-production costs incurred for the production activities of the motion picture production company in Rhode Island in connection with the production of a state-certified production. The budget shall not include costs associated with the promotion or marketing of the film, video or television product.
- (c) Notwithstanding subsection (a), the credit shall not exceed ~~five million dollars (\$5,000,000)~~ **seven million dollars (\$7,000,000)** and shall be allowed against the tax for the taxable period in which the credit is earned and can be carried forward for not more than three (3) succeeding tax years. Pursuant to rules promulgated by the tax administrator, the administrator may issue a waiver of the ~~five million dollars (\$5,000,000)~~ **seven million dollars (\$7,000,000)** tax credit cap for any feature-length film or television series up to the remaining funds available pursuant to section (e).
- (d) Credits allowed to a motion picture production company, which is a subchapter S corporation, partnership, or a limited liability company that is taxed as a partnership, shall be passed through respectively to persons designated as partners, members or owners on a pro rata basis or pursuant to an executed agreement among such persons designated as subchapter S corporation shareholders, partners, or members documenting an alternate distribution method without regard to their sharing of other tax or economic attributes of such entity.
- (e) No more than fifteen million dollars (\$15,000,000) in total may be issued for any tax year beginning after December 31, 2007 for motion picture tax credits pursuant to this chapter and/or musical and theatrical production tax credits pursuant to chapter 31.3 of this title. Said credits shall be equally available to motion picture productions and musical and theatrical productions. No specific amount shall be set aside for either type of production.

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

ARTICLE 17

RELATING TO EFFECTIVE DATE

SECTION 1. This Act shall take effect as of July 1, 2018, except as otherwise provided herein.

SECTION 2. This Article shall take effect upon passage.