

# DEADLINE

## Georgia Streamlines Multibillion-Dollar Film & TV Tax Credit Process: Clearer Guidelines, Required Audits

Jill Goldsmith | August 5, 2020



Georgia Film Office

**A**n amendment to a Georgia law will streamline the process of applying film and television tax credits in the state as officials said current rules have been outstripped by the explosion production in the state over the past decade.

Gov. Brian Kemp last week approved changes to the Georgia Entertainment Industry Investment Incentive Act that require mandatory audits by productions before applying for the 30% tax credit the state's offered since 2008. Regulators are codifying a set of rules aimed at making the process clearer and quicker, compiling a list of approved auditors and tweaking the timing of when tax credits can be transferred. Productions don't usually use tax credits themselves; they sell them through brokers to a range of other entities in a state that do.

The law has been amended multiple times for various reasons, most recently two years ago when stand-alone post-production was added.

Steve Weizenecker, Vice Chair of Kemp's Advisory Commission on Film, Music and Digital Entertainment, told Deadline the changes have been in the works for over a year and are meant to "increase integrity in the program by introducing an audit process so that there is no questions about the tax credit."

He called it a "win-win," helping the entertainment industry "because they know what the rules of the road are and how their credits will be reviewed." It was necessary as production in the state surged from \$100 million enterprise to a \$10 billion business – or \$3 billion in tax credits. The sheer size attracted increasing scrutiny and, according to lawmakers, required additional accountability.

Most other states that offer tax credits require audits, Weizenecker said.

Georgia Film Office director Lee Thomas called the update "a sensible, phased approach to audits for companies seeking a tax credit for film or television productions in Georgia." She said it was supported jointly by the Governor's office, the Georgia Department of Revenue, the film industry, the Georgia Film Office, and the Georgia General Assembly.

The process will work like this: A production closes out its books, usually month or two after it's done, and enlists an approved auditor to review the numbers, along with someone in the state, and issues a certificate. Producers and auditors will work off of clear guidelines on what qualifies and what doesn't.

Regulators will publish a draft of the guidelines relatively soon so they can be opened to public comment for a month and changed if needed so they can into effect by January 2021.

Starting in 2021, audits will be limited to film or television productions seeking to claim a credit value in excess of \$2.5 million. In 2022, the requirement would also apply to productions claiming more than \$1.25 million in credits, and in 2023, it would apply to all productions in the state.

Tax credits can't be transferred until the audit is complete under the new law. Currently, they can be transferred at any time. And going forward, credits would last for three years from the date the audit is completed. Currently, they're good for five years from when an application is completed.

"Third-party auditors will also increase the saleability of the credits. – so [producers] will have more valuable credits," said Weizenecker.

The shift was prompted by the fast growth of the industry, not by any particular malfeasance. "This program grew so quickly. I wouldn't have believed there would be these big Marvel adventure movies running through it," Weizenecker said. (Disney produced Avengers: Infinity War and Avengers: Endgame in Georgia.) "From 2008 it was almost a straight line up from \$100 million to multi-billion pretty quickly," accelerated by the rise of Netflix and other streamers.

"It's a great law. They did a really, really smart thing. There is nothing negative, it is all just positive cleanup," said Ryan Millsap, CEO of Blackhall Studios, a large production studio in Atlanta. "They basically mandate that when you make a movie in Georgia, the whole movie accounting process has to be audited. It means no fraud, and that the program will last a long, long time." ■