

IL H 3431, Introduced

Illinois

SUMMARY: Amends the Film Production Services Tax Credit Act; provides that the term accredited production does not include a talk show produced for a local or regional market and does not include a reality competition production; provides that the credit applies on a permanent basis; provides that the credit includes 5% of the labor expenditures generated by the employment of residents of the State who reside outside of the metropolitan area.~SAME AS:

Changes in Bill text reflected as:

~~Text Deleted~~

Text Added

~~Text Vetoed~~

Current Legislative Status

02/17/2023 INTRODUCED.

02/17/2023 To HOUSE Committee on RULES.

02/28/2023 To HOUSE Committee on REVENUE & FINANCE.

03/09/2023 In HOUSE Committee on REVENUE and FINANCE: To Subcommittee on Sales, Amusement and Other Taxes.

03/10/2023 Rule 19(a)/ Re-referred to RULES Committee.

02/28/2024 To HOUSE Committee on REVENUE & FINANCE.

03/08/2024 In HOUSE Committee on REVENUE and FINANCE: To Subcommittee on Sales, Amusement and Other Taxes.

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Introduced

February 17, 2023

Severin

103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3431

Introduced, by Rep. Dave Severin

SYNOPSIS AS INTRODUCED:

35 ILCS 16/10

35 ILCS 16/42

Amends the Film Production Services Tax Credit Act of 2008. Provides that the term "accredited production" does not include a talk show produced for a local or regional market and does not include a reality competition production. Provides that the credit applies on a permanent basis. Provides that the credit includes 5% of the Illinois labor expenditures generated by the employment of residents of the State who reside outside of the metropolitan area. Provides that the credit amount shall be increased by 5% if 50% or more of the total hours of principal filming or taping of the production are completed in the State but outside of the metropolitan area. Provides that the term "metropolitan area" means the City of Chicago and any part of the State located within 30 miles of the City of Chicago. Effective immediately.

A BILL FOR

AN ACT concerning revenue.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Film Production Services Tax Credit Act of 2008 is amended by changing Sections 10 and 42 as follows:

(35 ILCS 16/10)

Sec. 10. Definitions. As used in this Act:

"Accredited production" means: (i) for productions commencing before May 1, 2006, a film, video, or television production that has been certified by the Department in which the aggregate Illinois labor expenditures included in the cost of the production, in the period that ends 12 months after the time principal filming or taping of the production began, exceed \$100,000 for productions of 30 minutes or longer, or \$50,000 for productions of less than 30 minutes; and (ii) for productions commencing on or after May 1, 2006, a film, video, or television production that has been certified by the Department in which the Illinois production spending included in the cost of production in the period that ends 12 months after the time principal filming or taping of the production began exceeds \$100,000 for productions of 30 minutes or longer or exceeds \$50,000 for productions of less than 30 minutes. "Accredited production" does not include a production that:

- (1) is news, current events, or public programming, or a program that includes weather or market reports;
- (2) is a talk show *produced for local or regional markets*;
- (3) is a production in respect of a game, questionnaire, or contest , *not including a reality competition production*;
- (4) is a sports event or activity;
- (5) is a gala presentation or awards show;
- (6) is a finished production that solicits funds;
- (7) is a production produced by a film production company if records, as required by 18 U.S.C. 2257, are to be maintained by that film production company with respect to any performer portrayed in that single media or multimedia program; or
- (8) is a production produced primarily for industrial, corporate, or institutional purposes.

"Accredited animated production" means an accredited production in which movement and characters' performances are created using a frame-by-frame technique and a significant number of major characters are animated. Motion capture by itself is not an animation technique.

"Accredited production certificate" means a certificate issued by the Department certifying that the production is an accredited production that meets the guidelines of this Act.

"Applicant" means a taxpayer that is a film production company that is operating or has operated an accredited production located within the State of Illinois and that (i) owns the copyright in the accredited production throughout the Illinois production period or (ii) has contracted directly with the owner of the copyright in the accredited production or a person acting on behalf of the owner to provide services for the production, where the owner of the copyright is not an eligible production corporation.

"Credit" means:

(1) for an accredited production approved by the Department on or before January 1, 2005 and commencing before May 1, 2006, the amount equal to 25% of the Illinois labor expenditure approved by the Department. The applicant is deemed to have paid, on its balance due day for the year, an amount equal to 25% of its qualified Illinois labor expenditure for the tax year. For Illinois labor expenditures generated by the employment of residents of geographic areas of high poverty or high unemployment, as determined by the Department, in an accredited production commencing before May 1, 2006 and approved by the Department after January 1, 2005, the applicant shall receive an enhanced credit of 10% in addition to the 25% credit; and

(2) for an accredited production commencing on or after May 1, 2006, the amount equal to:

- (i) 20% of the Illinois production spending for the taxable year; plus
- (ii) 15% of the Illinois labor expenditures generated by the employment of residents of geographic areas of high poverty or high unemployment, as determined by the Department; **and**
- (3) for an accredited production commencing on or after January 1, 2009 **and prior to July 1, 2023**, the amount equal to:

- (i) 30% of the Illinois production spending for the taxable year; plus
- (ii) 15% of the Illinois labor expenditures generated by the employment of residents of geographic areas of high poverty or high unemployment, as determined by the Department ; **and** .

(4) for an accredited production commencing on or after July 1, 2023, the amount equal to:

(i) 30% of the Illinois production spending for the taxable year; plus

(ii) 15% of the Illinois labor expenditures generated by the employment of residents of geographic areas of high poverty or high unemployment, as determined by the Department; plus

(iii) 5% of the Illinois labor expenditures generated by the employment of residents of the State who reside outside of the metropolitan area; if the person is a resident of a geographic area of high poverty or high unemployment and also resides outside of the metropolitan area, then the credit includes both paragraphs (ii) and (iii); plus

(iv) if 50% or more of the total hours of principal filming or taping of the production are completed in the State but outside of the metropolitan area, as determined by the Department, then the total amount of the credit under paragraphs (i), (ii), and (iii), as applicable, shall be increased by 5%.

"Department" means the Department of Commerce and Economic Opportunity.

"Director" means the Director of Commerce and Economic Opportunity.

"Illinois labor expenditure" means salary or wages paid to employees of the applicant for services on the accredited production.

To qualify as an Illinois labor expenditure, the expenditure must be:

- (1) Reasonable in the circumstances.
- (2) Included in the federal income tax basis of the property.
- (3) Incurred by the applicant for services on or after January 1, 2004.
- (4) Incurred for the production stages of the accredited production, from the final script stage to the end of the post-production stage.
- (5) Limited to the first \$25,000 of wages paid or incurred to each employee of a production commencing before May 1, 2006 and the first \$100,000 of wages paid or incurred to each employee of a production commencing on or after May 1, 2006 and prior to July 1, 2022. For productions commencing on or after July 1, 2022, limited to the first \$500,000 of wages paid or incurred to each nonresident or resident employee of a production company or loan out company that provides in-State services to a production, whether those wages are paid or incurred by the production company, loan out company, or both, subject to withholding payments provided for in Article 7 of the Illinois Income Tax Act. For purposes of calculating Illinois labor expenditures for a television series, the nonresident wage limitations provided under this subparagraph are applied to the entire season.
- (6) For a production commencing before May 1, 2006, exclusive of the salary or wages paid to or incurred for the 2 highest paid employees of the production.
- (7) Directly attributable to the accredited production.
- (8) (Blank).
- (9) Prior to July 1, 2022, paid to persons resident in Illinois at the time the payments were made. For a production commencing on or after July 1, 2022, paid to persons resident in Illinois and nonresidents at the time the payments were made. For purposes of this subparagraph, only wages paid to nonresidents working in the following positions shall be considered Illinois labor expenditures: Writer, Director, Director of Photography, Production Designer,

Costume Designer, Production Accountant, VFX Supervisor, Editor, Composer, and Actor, subject to the limitations set forth under this subparagraph. For an accredited Illinois production spending of \$25,000,000 or less, no more than 2 nonresident actors' wages shall qualify as an Illinois labor expenditure. For an accredited production with Illinois production spending of more than \$25,000,000, no more than 4 nonresident actor's wages shall qualify as Illinois labor expenditures.

(10) Paid for services rendered in Illinois.

"Illinois production spending" means the expenses incurred by the applicant for an accredited production, including, without limitation, all of the following:

(1) expenses to purchase, from vendors within Illinois, tangible personal property that is used in the accredited production;

(2) expenses to acquire services, from vendors in Illinois, for film production, editing, or processing; and

(3) for a production commencing before July 1, 2022, the compensation, not to exceed \$100,000 for any one employee, for contractual or salaried employees who are Illinois residents performing services with respect to the accredited production. For a production commencing on or after July 1, 2022, the compensation, not to exceed \$500,000 for any one employee, for contractual or salaried employees who are Illinois residents or nonresident employees, subject to the limitations set forth under Section 10 of this Act.

"Loan out company" means a personal service corporation or other entity that is under contract with the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" does not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

"Metropolitan area" means the City of Chicago and any part of the State located within 30 miles of the City of Chicago.

"Qualified production facility" means stage facilities in the State in which television shows and films are or are intended to be regularly produced and that contain at least one sound stage of at least 15,000 square feet.

Rulemaking authority to implement Public Act 95-1006, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

(Source: P.A. 102-558, eff. 8-20-21; 102-700, eff. 4-19-22.)

(35 ILCS 16/42)

Sec. 42. Sunset of credits. ***This Act is exempt from the provisions of Section 250 of the Illinois Income Tax Act. The application of credits awarded pursuant to this Act shall be limited by a reasonable and appropriate sunset date. A taxpayer shall not be awarded any new credits pursuant to this Act for tax years beginning on or after January 1, 2027.***

(Source: P.A. 101-178, eff. 8-1-19; 102-700, eff. 4-19-22.)

Section 99. Effective date. This Act takes effect upon becoming law.