

RI H 8180, Introduced

Rhode Island

SUMMARY: Would clarify that all costs of goods used and services performed in Rhode Island shall qualify as state-certified production costs. This act would take effect upon passage.~SAME AS:

Changes in Bill text reflected as:

~~Text Deleted~~

Text Added

~~Text Vetoed~~

Current Legislative Status

04/12/2024 INTRODUCED.

04/12/2024 To HOUSE Committee on FINANCE.

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session: Rhode Island 2023-24 Legislative Session

cite: 2023 RI H 8180

Introduced

April 12, 2024

Baginski

2024 -- H 8180

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

AN ACT

RELATING TO TAXATION -- MOTION PICTURE PRODUCTION TAX CREDITS

Introduced By: Representatives Baginski, Finkelman, J. Brien, and Solomon

Date Introduced: April 12, 2024

Referred To: House Finance

It is enacted by the General Assembly as follows:

SECTION 1. Section 44-31.2-2 of the General Laws in Chapter 44-31.2 entitled "Motion Picture Production Tax Credits" is 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, or 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. § 2257 to be maintained with respect to any performer in such production or reporting of books, films, or other works or materials 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 that or person who 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 the 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 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 the company owns or controls the copyright and distribution rights in the motion picture; provided, that the 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) (i) "State-certified production cost" means any pre-production, production, and post- production cost **incurred and paid by that** a motion picture production company **for the performance of services and use of property in Rhode Island for the production of a film** ~~incurs and pays to the extent it occurs within the state of Rhode Island~~. **Except as specifically required in this subsection for music, legal or accounting services, state-certified production costs shall include, without limitation as to the person or business providing the goods or services, those costs, as long as services are performed in Rhode Island, tangible personal property is used in Rhode Island and real property used by the motion picture production company is located in 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. **Vendors providing goods and services in Rhode Island to a motion picture production company shall comply with applicable Rhode Island laws, including, where required, registering with the office of the secretary of state; provided, however, a vendor's failure to comply is not a basis to disqualify a motion picture production company's state-certified production costs provided by that vendor. If a vendor does not maintain a place of business in Rhode Island, that failure is not a basis to disqualify a motion picture production company's state-certified production costs provided by that vendor.**

(ii) This definition shall apply to all state-certified productions, including state-certified productions aggrieved by the tax administrator's denial, in whole or in part, of a tax credit or tax benefit, that have requested a hearing relative to the denial of a tax credit or tax benefit and have not received a final decision by the tax administrator or a final decision that has been appealed for judicial review until a final decision is entered by the court.

SECTION 2. This act shall take effect upon passage.

EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

AN ACT

RELATING TO TAXATION -- MOTION PICTURE PRODUCTION TAX CREDITS

This act would clarify that all costs of goods used and services performed in Rhode Island shall qualify as state-certified production costs.

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