



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3251

Introduced 2/19/2021, by Rep. William Davis

SYNOPSIS AS INTRODUCED:

35 ILCS 5/213
35 ILCS 16/10
35 ILCS 16/43

Amends the Film Production Services Tax Credit Act of 2008. Provides that certain non-resident wages qualify as Illinois labor expenditures. Creates the Illinois Production Workforce Development Fund to be funded with a fee imposed on the transfer of film production services credits. Provides that the Fund shall be used exclusively to provide grants to community-based organizations, labor organizations, private and public universities, community colleges, and other organizations and institutions as deemed appropriated by the Department of Commerce and Economic Opportunity to administer workforce training programs that support efforts to recruit, hire, promote, retain, develop, and train a diverse and inclusive workforce in the film industry. Amends the Illinois Income Tax Act to make conforming changes. Effective immediately.

LRB102 14204 HLH 19556 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 3. The Illinois Income Tax Act is amended by
5 changing Section 213 as follows:

6 (35 ILCS 5/213)

7 Sec. 213. Film production services credit. For tax years
8 beginning on or after January 1, 2004, a taxpayer who has been
9 awarded a tax credit under the Film Production Services Tax
10 Credit Act or under the Film Production Services Tax Credit
11 Act of 2008 is entitled to a credit against the taxes imposed
12 under subsections (a) and (b) of Section 201 of this Act in an
13 amount determined by the Department of Commerce and Economic
14 Opportunity under those Acts. If the taxpayer is a partnership
15 or Subchapter S corporation, the credit is allowed to the
16 partners or shareholders in accordance with the determination
17 of income and distributive share of income under Sections 702
18 and 704 and Subchapter S of the Internal Revenue Code.

19 A transfer of this credit may be made by the taxpayer
20 earning the credit within one year after the credit is awarded
21 in accordance with rules adopted by the Department of Commerce
22 and Economic Opportunity. Beginning July 1, 2021, if a credit
23 is transferred under this Section by the taxpayer, then the

1 transferor taxpayer shall pay to the Department, upon
2 notification of a transfer, 2.5% of the transferred credit
3 amount eligible for out-of-state wages, as described in
4 Section 10 of the Film Production Services Tax Credit Act of
5 2008, and an additional 0.25% of the total amount of the
6 transferred credit that is not calculated on out-of-state
7 wages, which shall be deposited into the Illinois Production
8 Workforce Development Fund.

9 The Department, in cooperation with the Department of
10 Commerce and Economic Opportunity, must prescribe rules to
11 enforce and administer the provisions of this Section. This
12 Section is exempt from the provisions of Section 250 of this
13 Act.

14 The credit may not be carried back. If the amount of the
15 credit exceeds the tax liability for the year, the excess may
16 be carried forward and applied to the tax liability of the 5
17 taxable years following the excess credit year. The credit
18 shall be applied to the earliest year for which there is a tax
19 liability. If there are credits from more than one tax year
20 that are available to offset a liability, the earlier credit
21 shall be applied first. In no event shall a credit under this
22 Section reduce the taxpayer's liability to less than zero.

23 (Source: P.A. 94-171, eff. 7-11-05; 95-720, eff. 5-27-08.)

24 Section 5. The Film Production Services Tax Credit Act of
25 2008 is amended by changing Sections 10 and 43 as follows:

1 (35 ILCS 16/10)

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

3 "Accredited production" means: (i) for productions
4 commencing before May 1, 2006, a film, video, or television
5 production that has been certified by the Department in which
6 the aggregate Illinois labor expenditures included in the cost
7 of the production, in the period that ends 12 months after the
8 time principal filming or taping of the production began,
9 exceed \$100,000 for productions of 30 minutes or longer, or
10 \$50,000 for productions of less than 30 minutes; and (ii) for
11 productions commencing on or after May 1, 2006, a film, video,
12 or television production that has been certified by the
13 Department in which the Illinois production spending included
14 in the cost of production in the period that ends 12 months
15 after the time principal filming or taping of the production
16 began exceeds \$100,000 for productions of 30 minutes or longer
17 or exceeds \$50,000 for productions of less than 30 minutes.

18 "Accredited production" does not include a production that:

19 (1) is news, current events, or public programming, or
20 a program that includes weather or market reports;

21 (2) is a talk show;

22 (3) is a production in respect of a game,
23 questionnaire, or contest;

24 (4) is a sports event or activity;

25 (5) is a gala presentation or awards show;

1 (6) is a finished production that solicits funds;

2 (7) is a production produced by a film production
3 company if records, as required by 18 U.S.C. 2257, are to
4 be maintained by that film production company with respect
5 to any performer portrayed in that single media or
6 multimedia program; or

7 (8) is a production produced primarily for industrial,
8 corporate, or institutional purposes.

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

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

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

26 "Credit" means:

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

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

17 (i) 20% of the Illinois production spending for
18 the taxable year; plus

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

23 (3) for an accredited production commencing on or
24 after January 1, 2009, the amount equal to:

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

1 (ii) 15% of the Illinois labor expenditures
2 generated by the employment of residents of geographic
3 areas of high poverty or high unemployment, as
4 determined by the Department.

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

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

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

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

14 (1) Reasonable in the circumstances.

15 (2) Included in the federal income tax basis of the
16 property.

17 (3) Incurred by the applicant for services on or after
18 January 1, 2004.

19 (4) Incurred for the production stages of the
20 accredited production, from the final script stage to the
21 end of the post-production stage.

22 (5) Limited to the first \$25,000 of wages paid or
23 incurred to each employee of a production commencing
24 before May 1, 2006 and the first \$100,000 of wages paid or
25 incurred to each employee of a production commencing on or
26 after May 1, 2006 and prior to July 1, 2021. For

1 productions commencing on or after July 1, 2021, the first
2 \$500,000 of out-of-state wages of each non-resident paid
3 or incurred by the production company and loan out
4 corporations qualify, subject to withholding payments
5 provided for in Article 7 of the Illinois Income Tax Act.
6 Additionally, all resident wages paid or incurred by the
7 production company qualify. For purposes of calculating
8 Illinois labor expenditures for a television series, the
9 non-resident wage limitations are applied to the entire
10 season.

11 (6) For a production commencing before May 1, 2006,
12 exclusive of the salary or wages paid to or incurred for
13 the 2 highest paid employees of the production.

14 (7) Directly attributable to the accredited
15 production.

16 (8) (Blank).

17 (9) Prior to July 1, 2021, paid ~~paid~~ to persons
18 resident in Illinois at the time the payments were made.
19 For a production company commencing production on or after
20 July 1, 2021, resident and non-resident wages will qualify
21 as an Illinois labor expenditure. Notwithstanding the
22 foregoing, only wages paid to non-residents working in the
23 following positions shall be qualified Illinois labor
24 expenditures: Writers, Director, Director of Photography,
25 Production Designer, Costume Designer, Production
26 Accountant, VFX Supervisor, Editor, Composer. For a film

1 with Illinois production spending of \$25,000,000 or less,
2 a television production or video, no more than 2
3 non-resident actors' wages shall qualify as an Illinois
4 labor expenditure. For a film with Illinois production
5 spending of more than \$25,000,000 no more than 4
6 non-resident actors' wages shall qualify as Illinois labor
7 expenditures.

8 (10) Paid for services rendered in Illinois.

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

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

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

17 (3) before July 1, 2021, the compensation, not to
18 exceed \$100,000 for any one employee, for contractual or
19 salaried employees who are Illinois residents performing
20 services with respect to the accredited production. After
21 July 1, 2021 resident wages and non-resident wages
22 described above are Illinois Labor Expenditures.

23 "Loan out company" means a personal service corporation or
24 other entity that is under contract with the taxpayer to
25 provide specified individual personnel, such as artists, crew,
26 actors, producers, or directors for the performance of

1 services used directly in a production. "Loan out company"
2 does not include entities contracted with by the taxpayer to
3 provide goods or ancillary contractor services such as
4 catering, construction, trailers, equipment, or
5 transportation.

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

10 Rulemaking authority to implement Public Act 95-1006 ~~this~~
11 ~~amendatory Act of the 95th General Assembly,~~ if any, is
12 conditioned on the rules being adopted in accordance with all
13 provisions of the Illinois Administrative Procedure Act and
14 all rules and procedures of the Joint Committee on
15 Administrative Rules; any purported rule not so adopted, for
16 whatever reason, is unauthorized.

17 (Source: P.A. 97-796, eff. 7-13-12; revised 7-18-19.)

18 (35 ILCS 16/43)

19 Sec. 43. Training programs for skills in critical demand.

20 (a) To accomplish the purposes of this Act, the Department
21 may use the training programs provided for Illinois under
22 Section 605-800 of the Department of Commerce and Economic
23 Opportunity Law of the Civil Administrative Code of Illinois.

24 (b) The Illinois Production Workforce Development Fund is
25 created as a special fund in the State Treasury. Beginning

1 July 1, 2021, amounts paid to the Department of Commerce and
2 Economic Opportunity under Section 213 of the Illinois Income
3 Tax Act, a film production services credit shall be deposited
4 into the Fund. The Fund shall be used exclusively to provide
5 grants to community-based organizations, labor organizations,
6 private and public universities, community colleges, and other
7 organizations and institutions as deemed appropriated by the
8 Department to administer workforce training programs that
9 support efforts to recruit, hire, promote, retain, develop,
10 and train a diverse and inclusive workforce in the film
11 industry.

12 Pursuant to Section 213 of the Illinois Income Tax Act,
13 the Fund shall receive deposits in amounts not to exceed 0.25%
14 of the amount of each credit certificate issued that is not
15 calculated on out-of-state wages and transferred or claimed on
16 an Illinois tax return in the quarter such credit was
17 transferred or claimed, however, in addition to the foregoing,
18 such amount shall also include 2.5% of the credit amount
19 calculated on wages paid to non-residents that is transferred
20 or claimed on an Illinois tax return in the quarter such credit
21 was transferred or claimed.

22 At the request of the Department, the State Comptroller
23 and the State Treasurer may advance amounts to the Fund on an
24 annual basis not to exceed \$1,000,000 in any fiscal year. The
25 fund from which the moneys are advanced shall be reimbursed in
26 the same fiscal year for any such advance payments as

1 described in this subsection. The method of reimbursement
2 shall be set forth in rules.

3 Of the appropriated funds in a given fiscal year, 50% of
4 the appropriated funds shall be reserved for organizations
5 that meet one of the following criteria. The organization is:
6 (1) a minority-owned business as defined by the Business
7 Enterprise for Minorities, Women, and Persons with
8 Disabilities Act; (2) located in an underserved area as
9 defined by the Economic Development for a Growing Economy Tax
10 Credit Act; or (3) on an annual basis, training a cohort of
11 program participants where at least 50% of the program
12 participants are either a minority person as defined by the
13 Business Enterprise for Minorities, Women, and Persons with
14 Disabilities Act or reside in an underserved area as defined
15 by the Economic Development for a Growing Economy Tax Credit
16 Act.

17 The Illinois Production Workforce Development Fund shall
18 be administered by the Department. The Department may adopt
19 rules necessary to administer the provisions of this Section.

20 Notwithstanding any other law to the contrary, the
21 Illinois Production Workforce Development Fund is not subject
22 to sweeps, administrative charge-backs, or any other fiscal or
23 budgetary maneuver that would in any way transfer any amounts
24 from the Illinois Production Workforce Development Fund.

25 (c) By June 30 of each fiscal year, the Department must
26 submit to the General Assembly a report that includes the

1 following information:

2 (1) an identification of the organizations and
3 institutions that received funding to administer workforce
4 training programs during the fiscal year;

5 (2) the number of total persons trained and the number
6 of persons trained per workforce training program in the
7 fiscal year; and

8 (3) in the aggregate, per organization, the number of
9 persons identified as a minority person or that reside in
10 an underserved area that received training in the fiscal
11 year.

12 (Source: P.A. 95-720, eff. 5-27-08.)

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