



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3431

Introduced 2/17/2023, 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.

LRB103 28568 HLH 54949 b

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

6 (35 ILCS 16/10)

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

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

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

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

3 (2) is a talk show produced for local or regional
4 markets;

5 (3) is a production in respect of a game,
6 questionnaire, or contest, not including a reality
7 competition production;

8 (4) is a sports event or activity;

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

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

11 (7) is a production produced by a film production
12 company if records, as required by 18 U.S.C. 2257, are to
13 be maintained by that film production company with respect
14 to any performer portrayed in that single media or
15 multimedia program; or

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

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

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

26 "Applicant" means a taxpayer that is a film production

1 company that is operating or has operated an accredited
2 production located within the State of Illinois and that (i)
3 owns the copyright in the accredited production throughout the
4 Illinois production period or (ii) has contracted directly
5 with the owner of the copyright in the accredited production
6 or a person acting on behalf of the owner to provide services
7 for the production, where the owner of the copyright is not an
8 eligible production corporation.

9 "Credit" means:

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

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

26 (i) 20% of the Illinois production spending for

1 the taxable year; plus

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

6 (3) for an accredited production commencing on or
7 after January 1, 2009 and prior to July 1, 2023, the amount
8 equal to:

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

11 (ii) 15% of the Illinois labor expenditures
12 generated by the employment of residents of geographic
13 areas of high poverty or high unemployment, as
14 determined by the Department; and -

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

17 (i) 30% 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; plus

23 (iii) 5% of the Illinois labor expenditures
24 generated by the employment of residents of the State
25 who reside outside of the metropolitan area; if the
26 person is a resident of a geographic area of high

1 poverty or high unemployment and also resides outside
2 of the metropolitan area, then the credit includes
3 both paragraphs (ii) and (iii); plus
4 (iv) if 50% or more of the total hours of principal
5 filming or taping of the production are completed in
6 the State but outside of the metropolitan area, as
7 determined by the Department, then the total amount of
8 the credit under paragraphs (i), (ii), and (iii), as
9 applicable, shall be increased by 5%.

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

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

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

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

19 (1) Reasonable in the circumstances.

20 (2) Included in the federal income tax basis of the
21 property.

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

24 (4) Incurred for the production stages of the
25 accredited production, from the final script stage to the
26 end of the post-production stage.

1 (5) Limited to the first \$25,000 of wages paid or
2 incurred to each employee of a production commencing
3 before May 1, 2006 and the first \$100,000 of wages paid or
4 incurred to each employee of a production commencing on or
5 after May 1, 2006 and prior to July 1, 2022. For
6 productions commencing on or after July 1, 2022, limited
7 to the first \$500,000 of wages paid or incurred to each
8 nonresident or resident employee of a production company
9 or loan out company that provides in-State services to a
10 production, whether those wages are paid or incurred by
11 the production company, loan out company, or both, subject
12 to withholding payments provided for in Article 7 of the
13 Illinois Income Tax Act. For purposes of calculating
14 Illinois labor expenditures for a television series, the
15 nonresident wage limitations provided under this
16 subparagraph are applied to the entire season.

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

20 (7) Directly attributable to the accredited
21 production.

22 (8) (Blank).

23 (9) Prior to July 1, 2022, paid to persons resident in
24 Illinois at the time the payments were made. For a
25 production commencing on or after July 1, 2022, paid to
26 persons resident in Illinois and nonresidents at the time

1 the payments were made. For purposes of this subparagraph,
2 only wages paid to nonresidents working in the following
3 positions shall be considered Illinois labor expenditures:
4 Writer, Director, Director of Photography, Production
5 Designer, Costume Designer, Production Accountant, VFX
6 Supervisor, Editor, Composer, and Actor, subject to the
7 limitations set forth under this subparagraph. For an
8 accredited Illinois production spending of \$25,000,000 or
9 less, no more than 2 nonresident actors' wages shall
10 qualify as an Illinois labor expenditure. For an
11 accredited production with Illinois production spending of
12 more than \$25,000,000, no more than 4 nonresident actor's
13 wages shall qualify as Illinois labor expenditures.

14 (10) Paid for services rendered in Illinois.

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

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

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

23 (3) for a production commencing before July 1, 2022,
24 the compensation, not to exceed \$100,000 for any one
25 employee, for contractual or salaried employees who are
26 Illinois residents performing services with respect to the

1 accredited production. For a production commencing on or
2 after July 1, 2022, the compensation, not to exceed
3 \$500,000 for any one employee, for contractual or salaried
4 employees who are Illinois residents or nonresident
5 employees, subject to the limitations set forth under
6 Section 10 of this Act.

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

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

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

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

1 whatever reason, is unauthorized.

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

3 (35 ILCS 16/42)

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

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

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