



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5426

Introduced 2/9/2024, by Rep. Kelly M. Burke

SYNOPSIS AS INTRODUCED:

35 ILCS 17/10-10
35 ILCS 17/10-20

Amends the Live Theater Production Tax Credit Act. Provides that, for credits awarded in the State fiscal year ending on June 30, 2024, a pre-Broadway production must be performed with the goal of having a presentation scheduled for Broadway's Theater District in New York City after its Illinois presentation (currently, the production must have a presentation scheduled for Broadway's Theater District in New York City within 12 months after its Illinois presentation). Provides that the total amount of tax credits awarded pursuant to the Act for the State fiscal year ending on June 30, 2024 shall not exceed \$4,000,000 (currently, \$2,000,000). Effective immediately.

LRB103 37825 HLH 67955 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 Live Theater Production Tax Credit Act is
5 amended by changing Sections 10-10 and 10-20 as follows:

6 (35 ILCS 17/10-10)

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

8 "Accredited theater production" means a for-profit live
9 stage presentation in a qualified production facility, as
10 defined in this Section, that is either (i) a pre-Broadway
11 production or (ii) a long-run production for which the
12 aggregate Illinois labor and marketing expenditures exceed
13 \$100,000. For credits awarded under this Act in State Fiscal
14 Year 2023, "accredited theater production" also includes any
15 commercial Broadway touring show.

16 "Commercial Broadway touring show" means a production that
17 (i) is performed in a qualified production facility and plays
18 in more than 2 other markets in North America outside of
19 Illinois within 12 months of its Illinois presentation and
20 (ii) has Illinois production spending of not less than
21 \$100,000, as shown on the applicant's application for the
22 credit.

23 "Pre-Broadway production" means, for credits awarded in

1 State fiscal years other than the State fiscal year ending on
2 June 30, 2024, a live stage production that, in its original or
3 adaptive version, is performed in a qualified production
4 facility having a presentation scheduled for Broadway's
5 Theater District in New York City within 12 months after its
6 Illinois presentation. "Pre-Broadway production" means, for
7 credits awarded in the State fiscal year ending on June 30,
8 2024, a live stage production that, in its original or
9 adaptive version, is performed in a qualified production
10 facility with the goal of having a presentation scheduled for
11 Broadway's Theater District in New York City after its
12 Illinois presentation.

13 "Long-run production" means a live stage production that
14 is performed in a qualified production facility for longer
15 than 8 weeks, with at least 6 performances per week, and
16 includes a production that spans the end of one tax year and
17 the commencement of a new tax year that, in combination, meets
18 the criteria set forth in this definition making it a long-run
19 production eligible for a theater tax credit award in each tax
20 year or portion thereof.

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

25 "Applicant" means a taxpayer that is a theater producer,
26 owner, licensee, operator, or presenter that is presenting or

1 has presented a live stage presentation located within the
2 State of Illinois who:

3 (1) owns or licenses the theatrical rights of the
4 stage presentation for the Illinois production period; or

5 (2) has contracted or will contract directly with the
6 owner or licensee of the theatrical rights or a person
7 acting on behalf of the owner or licensee to provide live
8 performances of the production.

9 An applicant that directly or indirectly owns, controls,
10 or operates multiple qualified production facilities shall be
11 presumed to be and considered for the purposes of this Act to
12 be a single applicant; provided, however, that as to each of
13 the applicant's qualified production facilities, the applicant
14 shall be eligible to separately and contemporaneously (i)
15 apply for and obtain accredited theater production
16 certificates, (ii) stage accredited theater productions, and
17 (iii) apply for and receive a tax credit award certificate for
18 each of the applicant's accredited theater productions
19 performed at each of the applicant's qualified production
20 facilities.

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

23 "Director" means the Director of the Department.

24 "Illinois labor expenditure" means gross salary or wages
25 including, but not limited to, taxes, benefits, and any other
26 consideration incurred or paid to non-talent employees of the

1 applicant for services rendered to and on behalf of the
2 accredited theater production. To qualify as an Illinois labor
3 expenditure, the expenditure must be:

4 (1) incurred or paid by the applicant on or after the
5 effective date of the Act for services related to any
6 portion of an accredited theater production from its
7 pre-production stages, including, but not limited to, the
8 writing of the script, casting, hiring of service
9 providers, purchases from vendors, marketing, advertising,
10 public relations, load in, rehearsals, performances, other
11 accredited theater production related activities, and load
12 out;

13 (2) directly attributable to the accredited theater
14 production;

15 (3) limited to the first \$100,000 of wages incurred or
16 paid to each employee of an accredited theater production
17 in each tax year;

18 (4) included in the federal income tax basis of the
19 property;

20 (5) paid in the tax year for which the applicant is
21 claiming the tax credit award, or no later than 60 days
22 after the end of the tax year;

23 (6) paid to persons residing in Illinois at the time
24 payments were made; and

25 (7) reasonable in the circumstances.

26 "Illinois production spending" means any and all expenses

1 directly or indirectly incurred relating to an accredited
2 theater production presented in any qualified production
3 facility of the applicant, including, but not limited to,
4 expenditures for:

5 (1) national marketing, public relations, and the
6 creation and placement of print, electronic, television,
7 billboard, and other forms of advertising; and

8 (2) the construction and fabrication of scenic
9 materials and elements; provided, however, that the
10 maximum amount of expenditures attributable to the
11 construction and fabrication of scenic materials and
12 elements eligible for a tax credit award shall not exceed
13 \$500,000 per applicant per production in any single tax
14 year.

15 "Qualified production facility" means a facility located
16 in the State in which live theatrical productions are, or are
17 intended to be, exclusively presented that contains at least
18 one stage, a seating capacity of 1,200 or more seats, and
19 dressing rooms, storage areas, and other ancillary amenities
20 necessary for the accredited theater production.

21 "Tax credit award" means the issuance to a taxpayer by the
22 Department of a tax credit award in conformance with Sections
23 10-40 and 10-45 of this Act.

24 "Tax year" means a calendar year for the period January 1
25 to and including December 31.

26 (Source: P.A. 102-1112, eff. 12-21-22.)

1 (35 ILCS 17/10-20)

2 Sec. 10-20. Tax credit award. Subject to the conditions
3 set forth in this Act, an applicant is entitled to a tax credit
4 award as approved by the Department for qualifying Illinois
5 labor expenditures and Illinois production spending for each
6 tax year in which the applicant is awarded an accredited
7 theater production certificate issued by the Department. The
8 amount of tax credits awarded pursuant to this Act shall not
9 exceed \$2,000,000 in any State fiscal year, except that the
10 amount of tax credits awarded pursuant to this Act for the
11 State fiscal year ending on June 30, 2023 and the State fiscal
12 year ending on June 30, 2024 shall not exceed \$4,000,000 in
13 either of those fiscal years. For the State fiscal year ending
14 on June 30, 2023 and the State fiscal year ending on June 30,
15 2024, no more than \$2,000,000 in credits may be awarded in
16 either of those fiscal years to accredited theater productions
17 that are not commercial Broadway touring shows, and no more
18 than \$2,000,000 in credits may be awarded in either of those
19 fiscal years to commercial Broadway touring shows. Credits
20 shall be awarded on a first-come, first-served basis.
21 Notwithstanding the foregoing, if the amount of credits
22 applied for in any fiscal year exceeds the amount authorized
23 to be awarded under this Section, the excess credit amount
24 shall be awarded in the next fiscal year in which credits
25 remain available for award and shall be treated as having been

1 applied for on the first day of that fiscal year.

2 (Source: P.A. 102-700, eff. 4-19-22; 102-1112, eff. 12-21-22.)