

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 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 is entitled to a credit against the taxes imposed
11 under subsections (a) and (b) of Section 201 of this Act in an
12 amount determined by the Department of Commerce and Economic
13 Opportunity ~~Community Affairs~~ under the Film Production
14 Services Tax Credit Act. If the taxpayer is a partnership or
15 Subchapter S corporation, the credit is allowed to the partners
16 or shareholders in accordance with the determination of income
17 and distributive share of income under Sections 702 and 704 and
18 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.

23 The Department, in cooperation with the Department of
24 Commerce and Economic Opportunity ~~Community Affairs~~, must
25 prescribe rules to enforce and administer the provisions of
26 this Section. This Section is exempt from the provisions of
27 Section 250 of this Act.

28 The credit may not be carried ~~forward or~~ back. If the
29 amount of the credit exceeds the tax liability for the year,
30 the excess may be carried forward and applied to the tax
31 liability of the 5 taxable years following the excess credit
32 year. The credit shall be applied to the earliest year for

1 which there is a tax liability. If there are credits from more
2 than one tax year that are available to offset a liability, the
3 earlier credit shall be applied first. In no event shall a
4 credit under this Section reduce the taxpayer's liability to
5 less than zero.

6 (Source: P.A. 93-543, eff. 1-1-04; revised 12-6-03.)

7 Section 10. The Film Production Services Tax Credit Act is
8 amended by changing Sections 10, 15, 20, 30, 45, and 90 and by
9 adding Section 43 as follows:

10 (35 ILCS 15/10)

11 (Section scheduled to be repealed on January 1, 2006)

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

13 "Accredited production" means a film, video, or television
14 production that has been certified by the Department in which
15 the aggregate Illinois labor expenditures included in the cost
16 of the production, in the period that ends 12 months after the
17 time principal filming or taping of the production began,
18 exceed \$100,000 for productions of 30 minutes or longer, or
19 \$50,000 for productions of less than 30 minutes; but does not
20 include a production that:

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

23 (2) is a talk show;

24 (3) is a production in respect of a game,
25 questionnaire, or contest;

26 (4) is a sports event or activity;

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

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

29 (7) is a production produced by a film production
30 company if records, as required by 18 U.S.C. 2257, are to
31 be maintained by that film production company with respect
32 to any performer portrayed in that single media or
33 multimedia program; or

34 (8) is a production produced primarily for industrial,

1 corporate, or institutional purposes.

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

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

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

24 "Department" means the Department of Commerce and Economic
25 Opportunity ~~Community Affairs~~.

26 "Director" means the Director of Commerce and Economic
27 Opportunity ~~Community Affairs~~.

28 "Illinois labor expenditure" means salary or wages paid to
29 employees of the applicant for services on the accredited
30 production;

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

33 (1) Reasonable in the circumstances.

34 (2) Included in the federal income tax basis of the
35 property.

36 (3) Incurred by the applicant for services on or after

1 January 1, 2004.

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

5 (5) Limited to the first \$25,000 of wages paid or
6 incurred to each employee of the production.

7 (6) Exclusive of the salary or wages paid to or
8 incurred for the 2 highest paid employees of the
9 production.

10 (7) Directly attributable to the accredited
11 production.

12 (8) Paid in the tax year for which the applicant is
13 claiming the credit or no later than 60 days after the end
14 of the tax year.

15 (9) Paid to persons resident in Illinois at the time
16 the payments were made.

17 (10) Paid for services rendered in Illinois.

18 (Source: P.A. 93-543, eff. 1-1-04; revised 11-3-04.)

19 (35 ILCS 15/15)

20 (Section scheduled to be repealed on January 1, 2006)

21 Sec. 15. Powers of the Department. The Department, in
22 addition to those powers granted under the Civil Administrative
23 Code of Illinois, is granted and has all the powers necessary
24 or convenient to carry out and effectuate the purposes and
25 provisions of this Act, including, but not limited to, power
26 and authority to:

27 (a) Adopt rules deemed necessary and appropriate for the
28 administration of the tax credit program; establish forms for
29 applications, notifications, contracts, or any other
30 agreements; and accept applications at any time during the
31 year.

32 (b) Assist applicants pursuant to the provisions of this
33 Act to promote, foster, and support film production and its
34 related job creation or retention within the State.

35 (c) Gather information and conduct inquiries, in the manner

1 and by the methods as it deems desirable, including any
2 information required for the Department to comply with Section
3 45 and, without limitation, gathering information with respect
4 to applicants for the purpose of making any designations or
5 certifications necessary or desirable or to gather information
6 to assist the Department with any recommendation or guidance in
7 the furtherance of the purposes of this Act, including, but not
8 limited to, information as to whether the applicant
9 participated in training, education, and recruitment programs
10 that are organized in cooperation with Illinois colleges and
11 universities, labor organizations, and the motion picture
12 industry, and are designed to promote and encourage the
13 training and hiring of Illinois residents who represent the
14 diversity of the Illinois population.

15 (d) Provide for sufficient personnel to permit
16 administration, staffing, operation, and related support
17 required to adequately discharge its duties and
18 responsibilities described in this Act from funds as may be
19 appropriated by the General Assembly for the administration of
20 this Act.

21 (e) Require applicants, upon written request, to issue any
22 necessary authorization to the appropriate federal, state, or
23 local authority for the release of information concerning a
24 project being considered under the provisions of this Act, with
25 the information requested to include, but not be limited to,
26 financial reports, returns, or records relating to the
27 applicant or the accredited production.

28 (f) Require that an applicant must at all times keep proper
29 books of record and account in accordance with generally
30 accepted accounting principles consistently applied, with the
31 books, records, or papers related to the accredited production
32 in the custody or control of the taxpayer open for reasonable
33 Department inspection and audits, and including, without
34 limitation, the making of copies of the books, records, or
35 papers, and the inspection or appraisal of any of the assets of
36 the applicant or the accredited production.

1 (g) Take whatever actions are necessary or appropriate to
2 protect the State's interest in the event of bankruptcy,
3 default, foreclosure, or noncompliance with the terms and
4 conditions of financial assistance or participation required
5 under this Act, including the power to sell, dispose, lease, or
6 rent, upon terms and conditions determined by the Director to
7 be appropriate, real or personal property that the Department
8 may receive as a result of these actions.

9 (Source: P.A. 93-543, eff. 1-1-04.)

10 (35 ILCS 15/20)

11 (Section scheduled to be repealed on January 1, 2006)

12 Sec. 20. Tax credit awards. Subject to the conditions set
13 forth in this Act, an applicant is entitled to a credit as of
14 ~~25% of the Illinois labor expenditure~~ approved by the
15 Department under Section 40 of this Act.

16 (Source: P.A. 93-543, eff. 1-1-04.)

17 (35 ILCS 15/30)

18 (Section scheduled to be repealed on January 1, 2006)

19 Sec. 30. Review of application for accredited production
20 certificate.

21 (a) In determining whether to issue an accredited
22 production certificate, the Department must determine that a
23 preponderance of the following conditions exist:

24 (1) The applicant's production intends to make the
25 expenditure in the State required for certification.

26 (2) The applicant's production is economically sound
27 and will benefit the people of the State of Illinois by
28 increasing opportunities for employment and strengthen the
29 economy of Illinois.

30 (3) The applicant has filed a diversity plan with the
31 Department outlining specific goals (i) for hiring
32 minority persons and females, as defined in the Business
33 Enterprise for Minorities, Females, and Persons with
34 Disabilities Act, and (ii) for using vendors receiving

1 certification under the Business Enterprise for
2 Minorities, Females, and Persons with Disabilities Act;
3 the Department has approved the plan as meeting the
4 requirements established by the Department; and the
5 Department has verified that the applicant has met or made
6 good-faith efforts in achieving those goals. The
7 Department must adopt any rules that are necessary to
8 ensure compliance with the provisions of this item (3) and
9 that are necessary to require that the applicant's plan
10 reflects the diversity of this State. ~~The applicant's~~
11 ~~production application includes a provision setting forth~~
12 ~~the percentage of minority workers that the production~~
13 ~~company plans to employ, subject to any applicable~~
14 ~~collective bargaining agreements with a labor organization~~
15 ~~to which the applicant is a signatory, to perform work on~~
16 ~~the production. This provision should stress the~~
17 ~~importance of hiring the percentage of minorities that is~~
18 ~~set out in the application.~~

19 (4) The applicant's production application indicates
20 whether the applicant intends to participate in training,
21 education, and recruitment programs that are organized in
22 cooperation with Illinois colleges and universities, labor
23 organizations, and the motion picture industry and are
24 designed to promote and encourage the training and hiring
25 of Illinois residents who represent the diversity of the
26 Illinois population.

27 (5) That, if not for the credit, the applicant's
28 production would not occur in Illinois, which may be
29 demonstrated by any means including, but not limited to,
30 evidence that the applicant has multi-state or
31 international location options and could reasonably and
32 efficiently locate outside of the State, or demonstration
33 that at least one other state or nation is being considered
34 for the production, or evidence that the receipt of the
35 credit is a major factor in the applicant's decision and
36 that without the credit the applicant likely would not

1 create or retain jobs in Illinois, or demonstration that
2 receiving the credit is essential to the applicant's
3 decision to create or retain new jobs in the State.

4 (6) Awarding the credit will result in an overall
5 positive impact to the State, as determined by the
6 Department using the best available data.

7 (b) If any of the provisions in this Section conflict with
8 any existing collective bargaining agreements, the terms and
9 conditions of those collective bargaining agreements shall
10 control.

11 (Source: P.A. 93-543, eff. 1-1-04.)

12 (35 ILCS 15/43 new)

13 Sec. 43. Training programs for skills in critical demand.
14 To accomplish the purposes of this Act, the Department may use
15 the training programs provided for Illinois under Section
16 605-800 of the Department of Commerce and Economic Opportunity
17 Law of the Civil Administrative Code of Illinois.

18 (35 ILCS 15/45)

19 (Section scheduled to be repealed on January 1, 2006)

20 Sec. 45. Evaluation of tax credit program; reports to the
21 General Assembly.

22 (a) The Department shall evaluate the tax credit program.
23 The evaluation must include an assessment of the effectiveness
24 of the program in creating and retaining new jobs in Illinois
25 and of the revenue impact of the program, and may include a
26 review of the practices and experiences of other states or
27 nations with similar programs. Upon completion of this
28 evaluation, the Department shall determine the overall success
29 of the program, and may make a recommendation to extend,
30 modify, or not extend the program based on this evaluation.

31 (b) At the end of each fiscal quarter, the Department must
32 submit to the General Assembly a report that includes, without
33 limitation, the following information:

34 (1) the economic impact of the tax credit program,

1 including the number of jobs created and retained,
2 including whether the job positions are entry level,
3 management, talent-related, vendor-related, or
4 production-related;

5 (2) the amount of film production spending brought to
6 Illinois, including the amount of spending and type of
7 Illinois vendors hired in connection with an accredited
8 production; and

9 (3) an overall picture of whether the human
10 infrastructure of the motion picture industry in Illinois
11 reflects the geographical, racial and ethnic, gender, and
12 income-level diversity of the State of Illinois.

13 (Source: P.A. 93-543, eff. 1-1-04.)

14 (35 ILCS 15/90)

15 (Section scheduled to be repealed on January 1, 2006)

16 Sec. 90. Repeal. This Act is repealed on January 1, 2007 ~~2~~
17 ~~years after its effective date.~~

18 (Source: P.A. 93-543, eff. 1-1-04; 93-840, eff. 7-30-04.)

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