



Rep. Fred Crespo

Filed: 9/27/2013

09800HB0381ham001

LRB098 03211 HLH 48538 a

1 AMENDMENT TO HOUSE BILL 381

2 AMENDMENT NO. _____. Amend House Bill 381 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Interactive Digital Media Tax Credit Act.

6 Section 5. Definitions; rules.

7 (a) As used in this Act:

8 "Base Illinois production spending" is the average amount
9 of expenses incurred by the applicant for all productions in
10 calendar years 2011, 2012, and 2013, including, without
11 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 an accredited production, including services

1 for editing and processing; and

2 (3) compensation paid to vendors for contractual or
3 salaried employees of the vendor who are Illinois residents
4 and who perform services with respect to the accredited
5 production, not to exceed \$100,000 for any one employee.

6 "Base number of employees" is the average of all full-time
7 employees who were employed by an applicant in calendar years
8 2011, 2012, and 2013.

9 "Interactive digital media project" means:

10 (1) a production of interactive entertainment which is
11 produced for distribution in commercial or educational
12 markets, including computer games, video games, and
13 simulation or animation; or

14 (2) a production intended for Internet or wireless
15 distribution.

16 "Accredited production" means the production of an
17 interactive digital media project that has been certified by
18 the Department in which the Illinois production spending
19 included in the cost of the production exceeds \$100,000 per
20 year.

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

25 "Applicant" means a taxpayer that is an interactive digital
26 media company that is operating or has operated an accredited

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

8 "Credit" means, for an interactive digital media
9 accredited production commencing on or after January 1, 2014:

10 (1) an amount equal to 30% of the Illinois production
11 spending and Illinois labor expenditure for the taxable
12 year; and

13 (2) an additional amount equal to 5% of the Illinois
14 production spending if the accredited production company
15 is located in a geographic area of high poverty or high
16 unemployment, as determined by the Department.

17 "Department" means the Department of Commerce and Economic
18 Opportunity.

19 "Director" means the Director of Commerce and Economic
20 Opportunity.

21 "Illinois labor expenditure" means salary or wages paid to
22 employees of the applicant for services on the accredited
23 production. To qualify as an Illinois labor expenditure, the
24 expenditure must be all of the following:

25 (1) reasonable in the circumstances;

26 (2) included in the applicant's federal income tax

1 basis;

2 (3) incurred by the applicant for services performed on
3 or after January 1, 2014;

4 (4) incurred during the production stages of the
5 accredited production;

6 (5) limited to the first \$100,000 of wages paid to or
7 incurred with respect to each new employee of a production
8 commencing on or after January 1, 2014;

9 (6) directly attributable to the accredited
10 production;

11 (7) paid in the tax year for which the applicant is
12 claiming the credit or no later than 60 days after the end
13 of the tax year;

14 (8) paid to persons residing in Illinois at the time
15 the payments were made; and

16 (9) paid for services rendered in Illinois.

17 "Illinois production spending" means the expenses incurred
18 by the applicant for an accredited production above the base
19 Illinois production spending, including, without limitation,
20 all of the following:

21 (1) expenses to purchase, from vendors located in
22 Illinois, tangible personal property that is used in the
23 accredited production;

24 (2) expenses to acquire services from vendors located
25 in Illinois for an accredited production, including
26 services related to editing or processing; and

1 (3) the compensation paid by a vendor, not to exceed
2 \$100,000 for any one employee, for contractual or salaried
3 employees of the vendor who are Illinois residents
4 performing services with respect to the accredited
5 production.

6 "New employee" means a full-time employee who: (i) is first
7 employed by an applicant on or after January 1, 2014; and (ii)
8 is in excess of, or in addition to, the applicant's base number
9 of employees. The term "new employee" does not include:

10 (1) an employee of the eligible employer who performs a
11 job that existed for at least 6 months before the employee
12 was hired and was previously performed by another employee;

13 (2) an employee of the eligible employer who was
14 previously employed in Illinois by a related member of the
15 eligible employer and whose employment was shifted to the
16 eligible employer after the eligible employer entered into
17 the agreement; or

18 (3) a child, grandchild, parent, or spouse, other than
19 a spouse who is legally separated from the individual, of
20 any individual who has a direct or indirect ownership
21 interest of at least 5% in the profits, capital, or value
22 of the eligible employer.

23 "Qualified production facility" means a facility in the
24 State in which interactive digital media projects are or are
25 intended to be regularly produced.

26 (b) The Department may adopt rules necessary to implement

1 this Act.

2 Section 10. Tax credit awards. Subject to the conditions
3 set forth in this Act, an applicant is entitled to a credit
4 against the tax imposed under subsections (a) and (b) of
5 Section 201 of the Illinois Income Tax Act as approved by the
6 Department under Section 25 of this Act.

7 Section 15. Application for certification of accredited
8 production. Any applicant proposing an interactive digital
9 media production located or planned to be located in Illinois
10 may request an accredited production certificate by formal
11 application to the Department.

12 Section 20. Issuance of tax credit certificate.

13 (a) In order to qualify for a tax credit under this Act, an
14 applicant must file an application, on forms prescribed by the
15 Department, providing information necessary to calculate the
16 tax credit and any additional information as required by the
17 Department.

18 (b) Upon satisfactory review of the application, the
19 Department shall issue a tax credit certificate stating the
20 amount of the tax credit to which the applicant is entitled.
21 The tax credit certificate shall be effective for expenditures
22 made prior to the date of initial certification and shall be
23 valid until the production is completed.

1 Section 25. Amount and duration of the credit. The amount
2 of the credit awarded under this Act is based on the amount of
3 the Illinois labor expenditure and Illinois production
4 spending approved by the Department for the production as set
5 forth under Section 5. The credit may be taken beginning with
6 the taxable year in which the accredited production company has
7 met the investment requirement. For each year in which such
8 accredited production company either claims or transfers the
9 credit, the accredited production company shall attach a
10 schedule to the accredited production company's Illinois
11 income tax return.

12 Section 30. Transfer of tax credits.

13 (a) Upon application and granting of an accredited
14 production certificate by the Department, an accredited
15 production company, or a partner or member that has received a
16 distribution under that certificate, may elect to transfer, in
17 whole or in part, any unused credit amount granted under this
18 Act. An election to transfer any unused credit amount must be
19 made no later than 5 years after the date the credit is
20 awarded, after which period the credit expires and may not be
21 used. The Department shall notify the Department of Revenue of
22 the election and transfer.

23 (b) An accredited production company that elects to apply a
24 credit amount against taxes remitted is permitted a one-time

1 transfer of unused credits to one transferee. An accredited
2 production company that elects to apply a credit amount against
3 taxes due is permitted a one-time transfer of unused credits to
4 no more than 4 transferees, and such transfers must occur in
5 the same taxable year.

6 (c) The transferee is subject to the same rights and
7 limitations as the accredited production company awarded the
8 credit, except that the transferee may not sell or otherwise
9 transfer the credit.

10 (d) The Department of Revenue may adopt rules to administer
11 this Section.

12 Section 35. Interactive Digital Media Tax Credit Report.
13 The Department shall submit to the General Assembly, no later
14 than July 1, 2018, a report that includes, without limitation:

15 (1) an assessment of the economic impact of the tax
16 credit program created under this Act, including the number
17 of jobs created and retained, and whether the job positions
18 are entry level, management, vendor, or production
19 related;

20 (2) an assessment of the revenue impact of the program,
21 including, but not limited to, the amount of Illinois labor
22 expenditure and Illinois production expenditure brought to
23 Illinois, including the amount of spending and the type of
24 Illinois vendors hired in connection with an accredited
25 production company;

1 (3) in the discretion of the Department, a review of
2 the practices and experiences of other states or nations
3 with similar programs;

4 (4) a determination of whether those receiving
5 qualifying Illinois labor expenditure salaries or wages
6 reflect the geographical, racial, ethnic, gender, and
7 income level diversity of the State of Illinois; and

8 (5) an assessment of the overall success of the
9 program.

10 Section 60. Repealer. This Act is repealed July 1, 2019.

11 Section 90. The Illinois Income Tax Act is amended by
12 adding Section 224 as follows:

13 (35 ILCS 5/224 new)

14 Sec. 224. Interactive Digital Media Tax Credit. For tax
15 years beginning on or after January 1, 2014, taxpayers who have
16 been awarded a credit under the Interactive Digital Media Tax
17 Credit Act are entitled to a credit against the tax imposed
18 under subsections (a) and (b) of Section 201 of this Act as
19 provided in the Interactive Digital Media Tax Credit Act.

20 The credit may not be carried back. If the amount of the
21 credit exceeds the tax liability for the year, the excess may
22 be carried forward and applied to the tax liability of the 5
23 taxable years following the excess credit year. The credit

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