

SB1816



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1816

Introduced 2/15/2013, by Sen. Patricia Van Pelt

SYNOPSIS AS INTRODUCED:

35 ILCS 16/10

Amends the Film Production Services Tax Credit Act of 2008. Removes a provision excluding industrial, corporate, or institutional productions from the definition of "accredited production". Provides that the term "Illinois production spending" includes compensation paid to performing artists. Defines "performing artist". Provides that the term "Illinois labor expenditure" includes the first \$1,000,000 of wages paid to or incurred in connection with the employment of each performing artist, except that, if the performing artist is not an Illinois resident, the first \$100,000 of wages paid to that performing artist shall be excluded. Effective immediately.

LRB098 10312 HLH 40497 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 5. The Film Production Services Tax Credit Act of
5 2008 is amended by changing Section 10 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;

4 (3) is a production in respect of a game,
5 questionnaire, or contest;

6 (4) is a sports event or activity;

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

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

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

14 (8) (blank). ~~is a production produced primarily for~~
15 ~~industrial, corporate, or institutional purposes.~~

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

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

24 "Applicant" means a taxpayer that is a film production
25 company that is operating or has operated an accredited
26 production located within the State of Illinois and that (i)

1 owns the copyright in the accredited production throughout the
2 Illinois production period or (ii) has contracted directly with
3 the owner of the copyright in the accredited production or a
4 person acting on behalf of the owner to provide services for
5 the production, where the owner of the copyright is not an
6 eligible production corporation.

7 "Credit" means:

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

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

24 (i) 20% of the Illinois production spending for the
25 taxable year; plus

26 (ii) 15% of the Illinois labor expenditures

1 generated by the employment of residents of geographic
2 areas of high poverty or high unemployment, as
3 determined by the Department; and

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

6 (i) 30% of the Illinois production spending for the
7 taxable year; plus

8 (ii) 15% of the Illinois labor expenditures
9 generated by the employment of residents of geographic
10 areas of high poverty or high unemployment, as
11 determined by the Department.

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

14 "Director" means the Director of Commerce and Economic
15 Opportunity.

16 "Illinois labor expenditure" means salary or wages paid to
17 employees of the applicant for services on the accredited
18 production;

19 To qualify as an Illinois labor expenditure, the
20 expenditure must be:

21 (1) Reasonable in the circumstances.

22 (2) Included in the federal income tax basis of the
23 property.

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

26 (4) Incurred for the production stages of the

1 accredited production, from the final script stage to the
2 end of the post-production stage.

3 (5) Except as otherwise provided in this item (5),
4 limited ~~limited~~ to the first \$25,000 of wages paid or
5 incurred to each employee of a production commencing before
6 May 1, 2006 and the first \$100,000 of wages paid or
7 incurred to each employee of a production commencing on or
8 after May 1, 2006. For performing artists who provide
9 services with respect to an accredited production
10 commencing on or after the effective date of this
11 amendatory Act of the 98th General Assembly, limited to the
12 first \$1,000,000 of wages paid or incurred to that
13 performing artist, except that, if the performing artist is
14 not an Illinois resident, the first \$100,000 of wages paid
15 to that performing artist shall be excluded.

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

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

21 (8) (Blank).

22 (9) Paid to persons resident in Illinois at the time
23 the payments were made, except that this requirement does
24 not apply to performing artists.

25 (10) Paid for services rendered in Illinois.

26 "Illinois production spending" means the expenses incurred

1 by the applicant for an accredited production, including,
2 without limitation, all of the following:

3 (1) expenses to purchase, from vendors within
4 Illinois, tangible personal property that is used in the
5 accredited production;

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

8 (3) the compensation, not to exceed \$100,000 for any
9 one employee, for contractual or salaried employees who are
10 Illinois residents performing services with respect to the
11 accredited production, except that this item (3) does not
12 apply to compensation paid to performing artists; and -

13 (4) for productions commencing on or after the
14 effective date of this amendatory Act of the 98th General
15 Assembly, the compensation, not to exceed \$1,000,000, for
16 any performing artist providing services with respect to
17 the accredited production.

18 "Performing artist" means a person who provides services as
19 an actor or actress and does not include persons who themselves
20 are not performing artists including, but not limited to,
21 managers or promoters of those artists, persons who are
22 employed in other trades or business related to the performing
23 arts, persons who broadcast, or athletes.

24 "Qualified production facility" means stage facilities in
25 the State in which television shows and films are or are
26 intended to be regularly produced and that contain at least one

1 sound stage of at least 15,000 square feet.

2 Rulemaking authority to implement this amendatory Act of
3 the 95th General Assembly, if any, is conditioned on the rules
4 being adopted in accordance with all provisions of the Illinois
5 Administrative Procedure Act and all rules and procedures of
6 the Joint Committee on Administrative Rules; any purported rule
7 not so adopted, for whatever reason, is unauthorized.

8 (Source: P.A. 97-796, eff. 7-13-12.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.