

SENATE BILL 1066

Q3

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By: **Senator Kasemeyer**

Introduced and read first time: March 1, 2012

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Film Production Credit – Extension and Increase**

3 FOR the purpose of extending certain termination provisions for a certain income tax
4 credit allowed for certain entities that carry out certain film production
5 activities in the State; altering the amount of certain tax credit certificates that
6 the Secretary of Business and Economic Development may issue for certain
7 fiscal years; and generally relating to income tax credits for certain film
8 production activities.

9 BY repealing and reenacting, with amendments,
10 Article – Tax – General
11 Section 10–730
12 Annotated Code of Maryland
13 (2010 Replacement Volume and 2011 Supplement)

14 BY repealing and reenacting, with amendments,
15 Chapter 516 of the Acts of the General Assembly of 2011
16 Section 2

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Tax – General**

20 10–730.

21 (a) (1) In this section the following words have the meanings indicated.

22 (2) “Department” means the Department of Business and Economic
23 Development.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) (i) “Film production activity” means the production of a film or
2 video project that is intended for nationwide commercial distribution.

3 (ii) “Film production activity” includes the production of:

- 4 1. a feature film;
- 5 2. a television project;
- 6 3. a commercial;
- 7 4. a corporate film;
- 8 5. an infomercial;
- 9 6. a music video;
- 10 7. a digital project;
- 11 8. an animation project; or
- 12 9. a multimedia project.

13 (iii) “Film production activity” does not include production of:

- 14 1. a student film;
- 15 2. a noncommercial personal video;
- 16 3. a sports broadcast;
- 17 4. a broadcast of a live event;
- 18 5. a talk show;
- 19 6. a video, computer, or social networking game; or
- 20 7. pornography.

21 (4) “Pornography” means any production for which records are
22 required to be maintained under § 2257 of Title 18, U.S.C., with respect to any
23 performer in such production engaging in sexually explicit conduct.

24 (5) “Qualified film production entity” means an entity that:

- 25 (i) is carrying out a film production activity; and

1 (ii) the Secretary determines to be eligible for the tax credit
2 under this section in accordance with subsection (c) of this section.

3 (6) "Secretary" means the Secretary of Business and Economic
4 Development.

5 (7) "Television series" means a group of program episodes intended for
6 television broadcast or transmission with a common series title, with or without a
7 predetermined number of episodes, and shall include a miniseries and a pilot episode
8 produced for an intended television series.

9 (8) (i) "Total direct costs", with respect to a film production
10 activity, means the total costs incurred in the State that are necessary to carry out the
11 film production activity.

12 (ii) "Total direct costs" includes costs incurred for:

13 1. employee wages and benefits;

14 2. fees for services;

15 3. acquiring or leasing property; and

16 4. any other expense necessary to carry out a film
17 production activity, including costs associated with:

18 A. set construction and operation;

19 B. wardrobe, makeup, and related services;

20 C. photography and sound synchronization, lighting, and
21 related services and materials;

22 D. editing and related services, including film processing,
23 transfers of film to tape or digital format, sound mixing, computer graphic services,
24 special effects services, and animation services;

25 E. salary, wages, and other compensation including
26 related benefits, for work performed in the State, paid to persons employed in the
27 production, writers, directors, and producers;

28 F. rental of facilities in the State and equipment used in
29 the State;

30 G. leasing of vehicles;

31 H. food and lodging;

1 I. music, if performed, composed, or recorded by a
2 Maryland musician or published by a person or company domiciled in Maryland;

3 J. travel expenses incurred to bring persons employed,
4 either directly or indirectly, in the production of the project to Maryland, but not
5 including expenses of these persons departing from Maryland; and

6 K. legal and accounting services performed by attorneys
7 or accountants licensed in Maryland.

8 (iii) "Total direct costs" does not include any salary, wages, or
9 other compensation for personal services of an individual who receives more than
10 \$500,000 in salary, wages, or other compensation for personal services in connection
11 with any film production activity.

12 (b) (1) A qualified film production entity may claim a credit against the
13 State income tax for film production activities in the State in an amount equal to the
14 amount stated in the final tax credit certificate approved by the Secretary for film
15 production activities.

16 (2) If the tax credit allowed under this section in any taxable year
17 exceeds the total tax otherwise payable by the qualified film production entity for that
18 taxable year, the qualified film production entity may claim a refund in the amount of
19 the excess.

20 (c) (1) Before beginning a film production activity, a film production
21 entity shall submit to the Department an application to qualify as a film production
22 entity.

23 (2) The application shall describe the anticipated film production
24 activity, including:

25 (i) the projected total budget;

26 (ii) the estimated number of employees and total wages to be
27 paid; and

28 (iii) the anticipated dates for carrying out the major elements of
29 the film production activity.

30 (3) To qualify as a film production entity, the estimated total direct
31 costs incurred in the State must exceed \$500,000.

32 (4) The application shall include any other information required by
33 the Secretary.

1 (5) The Secretary may require the information provided in an
2 application to be verified by an independent auditor selected and paid for by the film
3 production entity seeking certification.

4 (6) The Secretary shall:

5 (i) determine if the film production entity qualifies for the
6 credit under this section; and

7 (ii) notify the Comptroller of the estimated amount of total
8 direct costs and the taxable year the credit will be claimed.

9 (d) (1) After completion of the film production activity, a qualified film
10 production entity shall apply to the Department for a tax credit certificate.

11 (2) The application shall be on a form required by the Secretary and
12 shall include:

13 (i) proof of the total direct costs that qualify for the tax credit;
14 and

15 (ii) the number of employees hired and wages paid.

16 (3) Subject to subsection (f) of this section, the Secretary shall
17 determine the total direct costs that qualify for the tax credit and issue a tax credit
18 certificate for:

19 (i) except as provided in item (ii) of this paragraph, 25% of the
20 total direct costs that qualify for the tax credit; and

21 (ii) for a television series, 27% of the total direct costs that
22 qualify for the tax credit.

23 (4) The Secretary shall notify the Comptroller of the amount of a tax
24 credit certificate issued under this subsection.

25 (e) On or before January 1 of each year, the Department shall report to the
26 Governor and, subject to § 2-1246 of the State Government Article, the General
27 Assembly, on:

28 (1) the number of film production entities submitting applications
29 under subsection (c) of this section;

30 (2) the number and amount of tax credit certificates issued under
31 subsection (d) of this section;

1 (3) the number of local technicians, actors, and extras hired for film
2 production activity during the reporting period;

3 (4) a list of companies doing business in the State, including hotels,
4 that directly provided goods or services for film production activity during the
5 reporting period; and

6 (5) any other information that indicates the economic benefits to the
7 State resulting from film production activity during the reporting period.

8 (f) (1) Except as provided in paragraph (2) of this subsection, for any
9 fiscal year, the Secretary may not issue tax credit certificates for credit amounts in the
10 aggregate totaling more than ~~[\$7,500,000]~~ **\$22,500,000**.

11 (2) If the aggregate credit amounts under the tax credit certificates
12 issued by the Secretary total less than ~~[\$7,500,000]~~ **\$22,500,000** in any fiscal year,
13 any excess amount may be carried forward and issued under tax credit certificates in a
14 subsequent fiscal year.

15 (g) The Department and the Comptroller jointly shall adopt regulations to
16 carry out the provisions of this section and to specify criteria and procedures for the
17 application for, approval of, and monitoring of continuing eligibility for the tax credit
18 under this section.

19 Chapter 516 of the Acts of 2011

20 SECTION 2. AND BE IT FURTHER ENACTED, That **THE FILM PRODUCTION**
21 **ACTIVITY TAX CREDIT UNDER § [10-729] 10-730** of the Tax – General Article as
22 enacted by this Act shall take effect July 1, 2011, and shall be applicable to all taxable
23 years beginning after December 31, 2010. ~~[Section 10-729]~~ **THE FILM PRODUCTION**
24 **ACTIVITY TAX CREDIT UNDER § 10-730** of the Tax – General Article as enacted by
25 this Act shall remain effective for a period of ~~[3]~~ **5** years and, at the end of July 1,
26 ~~[2014]~~ **2016**, with no further action required by the General Assembly, shall be
27 abrogated and of no further force and effect. The Secretary of Business and Economic
28 Development may not issue **FILM PRODUCTION ACTIVITY TAX** credit certificates
29 under § ~~[10-729]~~ **10-730** of the Tax – General Article for any fiscal year beginning on
30 or after July 1, ~~[2014]~~ **2016**.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 July 1, 2012.