



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB1745

Introduced 2/5/2025, by Sen. Cristina Castro

SYNOPSIS AS INTRODUCED:

35 ILCS 16/10

Amends the Film Production Services Tax Credit Act of 2008. Provides that the term "Illinois labor expenditure" does not include: (1) above-the-line spending exceeding 40% of the total Illinois production spending for the production, unless the Department of Commerce and Economic Opportunity determines that the inclusion of such excess above-the-line spending is necessary for the production to be accredited; (2) above-the-line spending paid to related parties that exceeds, in the aggregate, 12% of the total Illinois production spending for the production; or (3) below-the-line spending paid to a related party that exceeds the fair market value of the transaction. Defines "above-the-line spending" and "below-the-line spending". Provides that the term "Illinois production spending" includes the fair market value of any transaction that (i) is entered into between the taxpayer and a related party or the taxpayer and an unrelated party, (ii) is related to the accredited production, and (iii) has terms that reflect the fair market value of the transaction.

LRB104 10921 HLH 21003 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 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 "Above-the-line spending" means all salary, wages, fees,
9 and fringe benefits paid for services performed by personnel
10 of the production that are considered above-the-line services
11 in the film and television industry, including, but not
12 limited to, services performed by a producer, executive
13 producer, co-producer, director, screenwriter, lead cast,
14 supporting cast, or day player.

15 "Accredited production" means: (i) for productions
16 commencing before May 1, 2006, a film, video, or television
17 production that has been certified by the Department in which
18 the aggregate Illinois labor expenditures included in the cost
19 of the production, in the period that ends 12 months after the
20 time principal filming or taping of the production began,
21 exceed \$100,000 for productions of 30 minutes or longer, or
22 \$50,000 for productions of less than 30 minutes; and (ii) for
23 productions commencing on or after May 1, 2006, a film, video,

1 or television production that has been certified by the
2 Department in which the Illinois production spending included
3 in the cost of production in the period that ends 12 months
4 after the time principal filming or taping of the production
5 began exceeds \$100,000 for productions of 30 minutes or longer
6 or exceeds \$50,000 for productions of less than 30 minutes.

7 "Accredited production" does not include a production that:

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

10 (2) is a talk show produced for local or regional
11 markets;

12 (3) (blank);

13 (4) is a sports event or activity;

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

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

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

21 (8) is a production produced primarily for industrial,
22 corporate, or institutional purposes.

23 "Accredited animated production" means an accredited
24 production in which movement and characters' performances are
25 created using a frame-by-frame technique and a significant
26 number of major characters are animated. Motion capture by

1 itself is not an animation technique.

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
10 with the owner of the copyright in the accredited production
11 or a person acting on behalf of the owner to provide services
12 for the production, where the owner of the copyright is not an
13 eligible production corporation.

14 "Below-the-line spending" means salary, wages, fees, and
15 fringe benefits paid for services performed by a person in a
16 position that is off camera and who provides technical
17 services during the physical production of a film.

18 "Below-the-line spending" does not include salary, wages,
19 fees, or fringe benefits paid to a person who is a producer,
20 executive producer, co-producer, director, screenwriter, lead
21 cast, supporting cast, or day player, or who performs other
22 services that are customarily considered above-the-line
23 services in the film and television industry.

24 "Credit" means:

25 (1) for an accredited production approved by the
26 Department on or before January 1, 2005 and commencing

1 before May 1, 2006, the amount equal to 25% of the Illinois
2 labor expenditure approved by the Department. The
3 applicant is deemed to have paid, on its balance due day
4 for the year, an amount equal to 25% of its qualified
5 Illinois labor expenditure for the tax year. For Illinois
6 labor expenditures generated by the employment of
7 residents of geographic areas of high poverty or high
8 unemployment, as determined by the Department, in an
9 accredited production commencing before May 1, 2006 and
10 approved by the Department after January 1, 2005, the
11 applicant shall receive an enhanced credit of 10% in
12 addition to the 25% credit; and

13 (2) for an accredited production commencing on or
14 after May 1, 2006 and before January 1, 2009, the amount
15 equal to:

16 (i) 20% of the Illinois production spending for
17 the taxable year; plus

18 (ii) 15% of the Illinois labor expenditures
19 generated by the employment of residents of geographic
20 areas of high poverty or high unemployment, as
21 determined by the Department; and

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

24 (i) 30% of the Illinois production spending for
25 the 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.

4 "Department" means the Department of Commerce and Economic
5 Opportunity.

6 "Director" means the Director of Commerce and Economic
7 Opportunity.

8 "Fair market value" means:

9 (1) for unrelated parties, the value established
10 through comparable transactions between unrelated parties
11 for substantially similar goods and services considering
12 the geographic market and other pertinent variables as
13 specified by the Department by rule; and

14 (2) for related parties, the value established through
15 the related party's historical dealings with unrelated
16 parties or established by comparable transactions between
17 other unrelated parties for substantially similar goods
18 and services considering the geographic market and other
19 pertinent variables as specified by the Department by
20 rule.

21 "Illinois labor expenditure" means salary or wages paid to
22 employees of the applicant for services on the accredited
23 production.

24 To qualify as an Illinois labor expenditure, the
25 expenditure must be:

26 (1) Reasonable in the circumstances.

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

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

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

8 (5) Limited to the first \$25,000 of wages paid or
9 incurred to each employee of a production commencing
10 before May 1, 2006 and the first \$100,000 of wages paid or
11 incurred to each employee of a production commencing on or
12 after May 1, 2006 and prior to July 1, 2022. For
13 productions commencing on or after July 1, 2022, limited
14 to the first \$500,000 of wages paid or incurred to each
15 eligible nonresident or resident employee of a production
16 company or loan out company that provides in-State
17 services to a production, whether those wages are paid or
18 incurred by the production company, loan out company, or
19 both, subject to withholding payments provided for in
20 Article 7 of the Illinois Income Tax Act. For purposes of
21 calculating Illinois labor expenditures for a television
22 series, the eligible nonresident wage limitations provided
23 under this subparagraph are applied to the entire season.
24 For the purpose of this paragraph (5), an eligible
25 nonresident is a nonresident whose wages qualify as an
26 Illinois labor expenditure under the provisions of

1 paragraph (9) that apply to that production.

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

5 (7) Directly attributable to the accredited
6 production.

7 (8) (Blank).

8 (9) Prior to July 1, 2022, paid to persons resident in
9 Illinois at the time the payments were made. For a
10 production commencing on or after July 1, 2022, paid to
11 persons resident in Illinois and nonresidents at the time
12 the payments were made.

13 For purposes of this subparagraph, if the production
14 is accredited by the Department before the effective date
15 of this amendatory Act of the 102nd General Assembly, only
16 wages paid to nonresidents working in the following
17 positions shall be considered Illinois labor expenditures:
18 Writer, Director, Director of Photography, Production
19 Designer, Costume Designer, Production Accountant, VFX
20 Supervisor, Editor, Composer, and Actor, subject to the
21 limitations set forth under this subparagraph. For an
22 accredited Illinois production spending of \$25,000,000 or
23 less, no more than 2 nonresident actors' wages shall
24 qualify as an Illinois labor expenditure. For an
25 accredited production with Illinois production spending of
26 more than \$25,000,000, no more than 4 nonresident actor's

1 wages shall qualify as Illinois labor expenditures.

2 For purposes of this subparagraph, if the production
3 is accredited by the Department on or after the effective
4 date of this amendatory Act of the 102nd General Assembly,
5 wages paid to nonresidents shall qualify as Illinois labor
6 expenditures only under the following conditions:

7 (A) the nonresident must be employed in a
8 qualified position;

9 (B) for each of those accredited productions, the
10 wages of not more than 9 nonresidents who are employed
11 in a qualified position other than Actor shall qualify
12 as Illinois labor expenditures;

13 (C) for an accredited production with Illinois
14 production spending of \$25,000,000 or less, no more
15 than 2 nonresident actors' wages shall qualify as
16 Illinois labor expenditures; and

17 (D) for an accredited production with Illinois
18 production spending of more than \$25,000,000, no more
19 than 4 nonresident actors' wages shall qualify as
20 Illinois labor expenditures.

21 As used in this paragraph (9), "qualified position"
22 means: Writer, Director, Director of Photography,
23 Production Designer, Costume Designer, Production
24 Accountant, VFX Supervisor, Editor, Composer, or Actor.

25 (10) Paid for services rendered in Illinois.

26 For a production commencing on or after the effective date

1 of this amendatory Act of the 104th General Assembly,
2 "Illinois labor expenditure" does not include:

3 (1) above-the-line spending exceeding 40% of the total
4 Illinois production spending for the production, unless
5 the Department determines, through a process specified by
6 administrative rule, that inclusion as an Illinois labor
7 expenditure of above-the-line spending for the production
8 in an amount that exceeds 40% of the production's total
9 Illinois production spending is necessary for the
10 production to meet the conditions set forth in subsection
11 (a) of Section 30;

12 (2) above-the-line spending paid to related parties
13 that exceeds, in the aggregate, 12% of the total Illinois
14 production spending for the production; or

15 (3) below-the-line spending paid to a related party
16 that exceeds the fair market value of the transaction.

17 "Illinois production spending" means the expenses incurred
18 by the applicant for an accredited production that are
19 reasonable under the circumstances, but does not include any
20 monetary prize or the cost of any non-monetary prize awarded
21 pursuant to a production in respect of a game, questionnaire,
22 or contest. "Illinois production spending" includes, without
23 limitation, unless otherwise specified in this definition, all
24 of the following:

25 (1) expenses to purchase, from vendors within
26 Illinois, tangible personal property that is used in the

1 accredited production;

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

4 (3) for a production commencing before July 1, 2022,
5 the compensation, not to exceed \$100,000 for any one
6 employee, for contractual or salaried employees who are
7 Illinois residents performing services with respect to the
8 accredited production. For a production commencing on or
9 after July 1, 2022, Illinois labor expenditure ~~the~~
10 compensation, not to exceed \$500,000 for any one employee,
11 for contractual or salaried employees who are Illinois
12 residents or nonresident employees, subject to the
13 limitations set forth under Section 10 of this Act; and ~~and~~

14 (4) for a production commencing on or after the
15 effective date of this amendatory Act of the 104th General
16 Assembly, the fair market value of any transaction that
17 (i) is entered into between the taxpayer and a related
18 party or the taxpayer and an unrelated party, (ii) is for
19 the accredited production, and (iii) has terms that
20 reflect the fair market value of the transaction.

21 "Loan out company" means a personal service corporation or
22 other entity that is under contract with the taxpayer to
23 provide specified individual personnel, such as artists, crew,
24 actors, producers, or directors for the performance of
25 services used directly in a production. "Loan out company"
26 does not include entities contracted with by the taxpayer to

1 provide goods or ancillary contractor services such as
2 catering, construction, trailers, equipment, or
3 transportation.

4 "Qualified production facility" means stage facilities in
5 the State in which television shows and films are or are
6 intended to be regularly produced and that contain at least
7 one sound stage of at least 15,000 square feet.

8 "Related party" means a party that is deemed to be related
9 to the taxpayer by common ownership or control according to
10 generally accepted accounting standards and generally accepted
11 accounting principles.

12 "Unrelated party" means a party that is not a related
13 party with respect to the taxpayer.

14 The Department shall adopt rules to implement the changes
15 made to this Section within one year after the effective date
16 of this amendatory Act of the 104th General Assembly.

17 ~~Rulemaking authority to implement Public Act 95-1006, if~~
18 ~~any, is conditioned on the rules being adopted in accordance~~
19 ~~with all provisions of the Illinois Administrative Procedure~~
20 ~~Act and all rules and procedures of the Joint Committee on~~
21 ~~Administrative Rules; any purported rule not so adopted, for~~
22 ~~whatever reason, is unauthorized.~~

23 (Source: P.A. 102-558, eff. 8-20-21; 102-700, eff. 4-19-22;
24 102-1125, eff. 2-3-23; 103-595, eff. 6-26-24.)