



Sen. Cristina Castro

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10400SB1745sam001

LRB104 10921 HLH 23662 a

1 AMENDMENT TO SENATE BILL 1745

2 AMENDMENT NO. _____. Amend Senate Bill 1745 by replacing
3 everything after the enacting clause with the following:

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

1 production that has been certified by the Department in which
2 the aggregate Illinois labor expenditures included in the cost
3 of the production, in the period that ends 12 months after the
4 time principal filming or taping of the production began,
5 exceed \$100,000 for productions of 30 minutes or longer, or
6 \$50,000 for productions of less than 30 minutes; and (ii) for
7 productions commencing on or after May 1, 2006, a film, video,
8 or television production that has been certified by the
9 Department in which the Illinois production spending included
10 in the cost of production in the period that ends 12 months
11 after the time principal filming or taping of the production
12 began exceeds \$100,000 for productions of 30 minutes or longer
13 or exceeds \$50,000 for productions of less than 30 minutes.

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

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

17 (2) is a talk show produced for local or regional
18 markets;

19 (3) (blank);

20 (4) is a sports event or activity;

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

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

23 (7) is a production produced by a film production
24 company if records, as required by 18 U.S.C. 2257, are to
25 be maintained by that film production company with respect
26 to any performer portrayed in that single media or

1 multimedia program; or

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

4 "Accredited animated production" means an accredited
5 production in which movement and characters' performances are
6 created using a frame-by-frame technique and a significant
7 number of major characters are animated. Motion capture by
8 itself is not an animation technique.

9 "Accredited production certificate" means a certificate
10 issued by the Department certifying that the production is an
11 accredited production that meets the guidelines of this Act.

12 "Applicant" means a taxpayer that is a film production
13 company that is operating or has operated an accredited
14 production located within the State of Illinois and that (i)
15 owns the copyright in the accredited production throughout the
16 Illinois production period or (ii) has contracted directly
17 with the owner of the copyright in the accredited production
18 or a person acting on behalf of the owner to provide services
19 for the production, where the owner of the copyright is not an
20 eligible production corporation.

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

25 "Below-the-line spending" does not include salary, wages,
26 fees, or fringe benefits paid to a person who is a producer,

1 executive producer, co-producer, director, screenwriter, lead
2 cast, supporting cast, or day player, or who performs other
3 services that are customarily considered above-the-line
4 services in the film and television industry.

5 "Credit" means:

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

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

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

25 (ii) 15% of the Illinois labor expenditures
26 generated by the employment of residents of geographic

1 areas of high poverty or high unemployment, as
2 determined by the Department; and

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

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

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

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

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

15 "Fair market value" means:

16 (1) for unrelated parties, the value established
17 through comparable transactions between unrelated parties
18 for substantially similar goods and services considering
19 the geographic market and other pertinent variables as
20 specified by the Department by rule; and

21 (2) for related parties, the value established through
22 the related party's historical dealings with unrelated
23 parties or established by comparable transactions between
24 other unrelated parties for substantially similar goods
25 and services considering the geographic market and other
26 pertinent variables as specified by the Department by

1 rule.

2 "Illinois labor expenditure" means salary or wages paid to
3 employees of the applicant for services on the accredited
4 production.

5 To qualify as an Illinois labor expenditure, the
6 expenditure must be:

7 (1) Reasonable in the circumstances. The following
8 expenditures are deemed to be reasonable in the
9 circumstances:

10 (A) wages paid to employees of the applicant
11 pursuant to a union contract;

12 (B) wages that do not exceed 3 times the
13 applicable union agreement rate for the qualified
14 position; for the purposes of this subparagraph (B),
15 the applicable union agreement rate is:

16 (i) for above-the-line spending, the Directors
17 Guild of America basic agreement Director's day
18 rate;

19 (ii) for below-the-line spending, the
20 Directors Guild of America basic agreement Unit
21 Production Manager's day rate; and

22 (C) wages that are approved by the Department.

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

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

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

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

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

1 (7) Directly attributable to the accredited
2 production.

3 (8) (Blank).

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

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

24 For purposes of this subparagraph, if the production
25 is accredited by the Department on or after the effective
26 date of this amendatory Act of the 102nd General Assembly,

1 wages paid to nonresidents shall qualify as Illinois labor
2 expenditures only under the following conditions:

3 (A) the nonresident must be employed in a
4 qualified position;

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

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

13 (D) for an accredited production with Illinois
14 production spending of more than \$25,000,000, no more
15 than 4 nonresident actors' wages shall qualify as
16 Illinois labor expenditures.

17 As used in this paragraph (9), "qualified position"
18 means: Writer, Director, Director of Photography,
19 Production Designer, Costume Designer, Production
20 Accountant, VFX Supervisor, Editor, Composer, or Actor.

21 (10) Paid for services rendered in Illinois.

22 For a production commencing on or after the effective date
23 of this amendatory Act of the 104th General Assembly,
24 "Illinois labor expenditure" does not include:

25 (1) above-the-line spending paid to related parties
26 that exceeds, in the aggregate, 12% of the total Illinois

1 production spending for the production; or

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

4 "Illinois production spending" means the expenses incurred
5 by the applicant for an accredited production that are
6 reasonable under the circumstances, but does not include any
7 monetary prize or the cost of any non-monetary prize awarded
8 pursuant to a production in respect of a game, questionnaire,
9 or contest. "Illinois production spending" includes, without
10 limitation, unless otherwise specified in this definition, all
11 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 film production, editing, or processing; ~~and~~

17 (3) for a production commencing before July 1, 2022,
18 the compensation, not to exceed \$100,000 for any one
19 employee, for contractual or salaried employees who are
20 Illinois residents performing services with respect to the
21 accredited production. For a production commencing on or
22 after July 1, 2022, Illinois labor expenditure ~~the~~
23 compensation, not to exceed \$500,000 for any one employee,
24 for contractual or salaried employees who are Illinois
25 residents or nonresident employees, subject to the
26 limitations set forth under Section 10 of this Act; and -

1 (4) for a production commencing on or after the
2 effective date of this amendatory Act of the 104th General
3 Assembly, the fair market value of any transaction that
4 (i) is entered into between the taxpayer and a related
5 party or the taxpayer and an unrelated party, (ii) is for
6 the accredited production, and (iii) has terms that
7 reflect the fair market value of the transaction.

8 The following expenses are deemed to be reasonable under
9 the circumstances:

10 (A) in the case of compensation paid to an employee
11 under item (3) of this definition, wages that are deemed
12 to be reasonable in the circumstances under the definition
13 of "Illinois labor expenditure", subject to the monetary
14 limitations set forth in item (3) of this definition;

15 (B) payments made to vendors for goods and services at
16 fair market value;

17 (C) payments that are approved by the Department.

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

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

5 "Related party" means a party that is deemed to be related
6 to the taxpayer by common ownership or control according to
7 generally accepted accounting standards, generally accepted
8 accounting principles, and regulations issued by the United
9 States Department of the Treasury.

10 "Unrelated party" means a party that is not a related
11 party with respect to the taxpayer.

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

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

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