

# SB2098



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2098

Introduced 2/9/2023, by Sen. Javier L. Cervantes

### SYNOPSIS AS INTRODUCED:

35 ILCS 16/10

Amends the Film Production Services Tax Credit Act of 2008. Provides that "accredited production" also includes productions in which only post production activities occur in Illinois. Provides that an accredited animated production also includes a production using visual effects (VFX), augmented reality (AR), mixed reality (MR), or virtual reality (VR). Provides for a credit in an amount equal to 10% of the Illinois production spending incurred for the purpose of building a soundstage or digital wall. Effective immediately.

LRB103 29088 HLH 55474 b

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 For productions commencing on or after May 1, 2006 and before

1 July 1, 2023, Illinois production spending includes only  
2 spending for the period that ends 12 months after the time  
3 principal filming or taping of the production began. On and  
4 after July 1, 2023, "accredited production" also includes  
5 productions in which only post production activities occur in  
6 Illinois. "Accredited production" does not include a  
7 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;

11 (3) is a production in respect of a game,  
12 questionnaire, or contest;

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, visual effects  
26 (VFX), augmented reality (AR), mixed reality (MR), or virtual

1 reality (VR) and a significant number of major characters are  
2 animated. Motion capture by itself is not an animation  
3 technique.

4 "Accredited production certificate" means a certificate  
5 issued by the Department certifying that the production is an  
6 accredited production that meets the guidelines of this Act.

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

16 "Credit" means:

17 (1) for an accredited production approved by the  
18 Department on or before January 1, 2005 and commencing  
19 before May 1, 2006, the amount equal to 25% of the Illinois  
20 labor expenditure approved by the Department. The  
21 applicant is deemed to have paid, on its balance due day  
22 for the year, an amount equal to 25% of its qualified  
23 Illinois labor expenditure for the tax year. For Illinois  
24 labor expenditures generated by the employment of  
25 residents of geographic areas of high poverty or high  
26 unemployment, as determined by the Department, in an

1 accredited production commencing before May 1, 2006 and  
2 approved by the Department after January 1, 2005, the  
3 applicant shall receive an enhanced credit of 10% in  
4 addition to the 25% credit; and

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

7 (i) 20% of the Illinois production spending for  
8 the taxable year; plus

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

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

15 (i) 30% of the Illinois production spending for  
16 the taxable year; plus

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

21 (4) for an accredited production commencing on or  
22 after July 1, 2023, the amount calculated under paragraph  
23 (3), plus 10% of the Illinois production spending incurred  
24 for the purpose of building a soundstage or digital wall.

25 "Department" means the Department of Commerce and Economic  
26 Opportunity.

1 "Director" means the Director of Commerce and Economic  
2 Opportunity.

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

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

8 (1) Reasonable in the circumstances.

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

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

13 (4) Incurred for the production stages of the  
14 accredited production, from the final script stage to the  
15 end of the post-production stage.

16 (5) Limited to the first \$25,000 of wages paid or  
17 incurred to each employee of a production commencing  
18 before May 1, 2006 and the first \$100,000 of wages paid or  
19 incurred to each employee of a production commencing on or  
20 after May 1, 2006 and prior to July 1, 2022. For  
21 productions commencing on or after July 1, 2022, limited  
22 to the first \$500,000 of wages paid or incurred to each  
23 nonresident or resident employee of a production company  
24 or loan out company that provides in-State services to a  
25 production, whether those wages are paid or incurred by  
26 the production company, loan out company, or both, subject

1 to withholding payments provided for in Article 7 of the  
2 Illinois Income Tax Act. For purposes of calculating  
3 Illinois labor expenditures for a television series, the  
4 nonresident wage limitations provided under this  
5 subparagraph are applied to the entire season.

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

9 (7) Directly attributable to the accredited  
10 production.

11 (8) (Blank).

12 (9) Prior to July 1, 2022, paid to persons resident in  
13 Illinois at the time the payments were made. For a  
14 production commencing on or after July 1, 2022, paid to  
15 persons resident in Illinois and nonresidents at the time  
16 the payments were made. For purposes of this subparagraph,  
17 only wages paid to nonresidents working in the following  
18 positions shall be considered Illinois labor expenditures:  
19 Writer, Director, Director of Photography, Production  
20 Designer, Costume Designer, Production Accountant, VFX  
21 Supervisor, Editor, Composer, and Actor, subject to the  
22 limitations set forth under this subparagraph. For an  
23 accredited Illinois production spending of \$25,000,000 or  
24 less, no more than 2 nonresident actors' wages shall  
25 qualify as an Illinois labor expenditure. For an  
26 accredited production with Illinois production spending of

1 more than \$25,000,000, no more than 4 nonresident actor's  
2 wages shall qualify as Illinois labor expenditures.

3 (10) Paid for services rendered in Illinois.

4 "Illinois production spending" means the expenses incurred  
5 by the applicant for an accredited production, including,  
6 without limitation, all of the following:

7 (1) expenses to purchase, from vendors within  
8 Illinois, tangible personal property that is used in the  
9 accredited production;

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

12 (3) for a production commencing before July 1, 2022,  
13 the compensation, not to exceed \$100,000 for any one  
14 employee, for contractual or salaried employees who are  
15 Illinois residents performing services with respect to the  
16 accredited production. For a production commencing on or  
17 after July 1, 2022, the compensation, not to exceed  
18 \$500,000 for any one employee, for contractual or salaried  
19 employees who are Illinois residents or nonresident  
20 employees, subject to the limitations set forth under  
21 Section 10 of this Act.

22 "Loan out company" means a personal service corporation or  
23 other entity that is under contract with the taxpayer to  
24 provide specified individual personnel, such as artists, crew,  
25 actors, producers, or directors for the performance of  
26 services used directly in a production. "Loan out company"



1 does not include entities contracted with by the taxpayer to  
2 provide goods or ancillary contractor services such as  
3 catering, construction, trailers, equipment, or  
4 transportation.

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

9 Rulemaking authority to implement Public Act 95-1006, if  
10 any, is conditioned on the rules being adopted in accordance  
11 with all provisions of the Illinois Administrative Procedure  
12 Act and all rules and procedures of the Joint Committee on  
13 Administrative Rules; any purported rule not so adopted, for  
14 whatever reason, is unauthorized.

15 (Source: P.A. 102-558, eff. 8-20-21; 102-700, eff. 4-19-22.)

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law.