



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

SB3249

Introduced 2/6/2024, by Sen. Dale Fowler

#### SYNOPSIS AS INTRODUCED:

35 ILCS 16/10

Amends the Film Production Services Tax Credit Act of 2008. Provides that, for an accredited production that commences on or after July 1, 2024, the credit includes the sum of the following: 30% of the Illinois production spending for the taxable year; 15% of the Illinois labor expenditures generated by the employment of residents of geographic areas of high poverty or high unemployment, as determined by the Department of Commerce and Economic Opportunity; an additional 5% of the Illinois labor expenditures generated by the employment of residents of the State who reside outside of the metropolitan area if the person is a resident of a geographic area of high poverty or high unemployment and also resides outside of the metropolitan area; and (iv) an additional 5% if 50% or more of the total hours of principal filming or taping of the production are completed in the State but outside of the metropolitan area, as determined by the Department. Provides that the term "metropolitan area" means the City of Chicago and any part of the State located within 30 miles of the City of Chicago. Effective immediately.

LRB103 37843 HLH 67973 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 "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) is a production produced primarily for industrial,  
15 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  
3 with the owner of the copyright in the accredited production  
4 or a person acting on behalf of the owner to provide services  
5 for 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  
23 after May 1, 2006 and before January 1, 2009, the amount  
24 equal to:

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

1 (ii) 15% of the Illinois labor expenditures  
2 generated by the employment of residents of geographic  
3 areas of high poverty or high unemployment, as  
4 determined by the Department; ~~and~~

5 (3) for an accredited production commencing on or  
6 after January 1, 2009 and before July 1, 2024, the amount  
7 equal to:

8 (i) 30% of the Illinois production spending for  
9 the taxable year; plus

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

14 (4) for an accredited production commencing on or  
15 after July 1, 2024, the amount equal to:

16 (i) 30% 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; plus

22 (iii) 5% of the Illinois labor expenditures  
23 generated by the employment of residents of the State  
24 who reside outside of the metropolitan area; if the  
25 person is a resident of a geographic area of high  
26 poverty or high unemployment and also resides outside

1           of the metropolitan area, then the credit includes  
2           both subparagraph (ii) and this subparagraph (iii);  
3           plus  
4           (iv) if 50% or more of the total hours of principal  
5           filming or taping of the production are completed in  
6           the State but outside of the metropolitan area, as  
7           determined by the Department, then the total amount of  
8           the credit under subparagraphs (i), (ii), and (iii),  
9           as applicable, shall be increased by 5%.

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

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

14           "Illinois labor expenditure" means salary or wages paid to  
15           employees of the applicant for services on the accredited  
16           production.

17           To qualify as an Illinois labor expenditure, the  
18           expenditure must be:

19           (1) Reasonable in the circumstances.

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

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

24           (4) Incurred for the production stages of the  
25           accredited production, from the final script stage to the  
26           end of the post-production stage.

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

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

24           (7) Directly attributable to the accredited  
25 production.

26           (8) (Blank).

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

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

21           For purposes of this subparagraph, if the production  
22 is accredited by the Department on or after the effective  
23 date of this amendatory Act of the 102nd General Assembly,  
24 wages paid to nonresidents shall qualify as Illinois labor  
25 expenditures only under the following conditions:

26           (A) the nonresident must be employed in a



1 qualified position;

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

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

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

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

18 (10) Paid for services rendered in Illinois.

19 "Illinois production spending" means the expenses incurred  
20 by the applicant for an accredited production, including,  
21 without limitation, all of the following:

22 (1) expenses to purchase, from vendors within  
23 Illinois, tangible personal property that is used in the  
24 accredited production;

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

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

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

20          "Metropolitan area" means the City of Chicago and any part  
21          of the State located within 30 miles of the corporate limits of  
22          the City of Chicago.

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

1           Rulemaking authority to implement Public Act 95-1006, if  
2 any, is conditioned on the rules being adopted in accordance  
3 with all provisions of the Illinois Administrative Procedure  
4 Act and all rules and procedures of the Joint Committee on  
5 Administrative Rules; any purported rule not so adopted, for  
6 whatever reason, is unauthorized.

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

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