

# SB3905



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3905

Introduced 2/28/2024, by Sen. Cristina Castro

### SYNOPSIS AS INTRODUCED:

35 ILCS 17/10-10  
35 ILCS 17/10-20

Amends the Live Theater Production Tax Credit Act. Provides that a pre-Broadway production must be performed with the goal of having a presentation scheduled for Broadway's Theater District in New York City after its Illinois presentation (currently, the production must have a presentation scheduled for Broadway's Theater District in New York City within 12 months after its Illinois presentation). Provides that the total amount of tax credits awarded pursuant to the Act for the State fiscal year ending on June 30, 2024 shall not exceed \$4,000,000 (currently, \$2,000,000). Effective immediately.

LRB103 37820 HLH 67950 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 Live Theater Production Tax Credit Act is  
5 amended by changing Sections 10-10 and 10-20 as follows:

6 (35 ILCS 17/10-10)

7 Sec. 10-10. Definitions. As used in this Act:

8 "Accredited theater production" means a for-profit live  
9 stage presentation in a qualified production facility, as  
10 defined in this Section, that is either (i) a pre-Broadway  
11 production or (ii) a long-run production for which the  
12 aggregate Illinois labor and marketing expenditures exceed  
13 \$100,000. For credits awarded under this Act in State Fiscal  
14 Year 2023, "accredited theater production" also includes any  
15 commercial Broadway touring show.

16 "Commercial Broadway touring show" means a production that  
17 (i) is performed in a qualified production facility and plays  
18 in more than 2 other markets in North America outside of  
19 Illinois within 12 months of its Illinois presentation and  
20 (ii) has Illinois production spending of not less than  
21 \$100,000, as shown on the applicant's application for the  
22 credit.

23 "Pre-Broadway production" means a live stage production

1 that, in its original or adaptive version, is performed in a  
2 qualified production facility with the goal of having a  
3 presentation scheduled for Broadway's Theater District in New  
4 York City ~~within 12 months~~ after its Illinois presentation.

5 "Long-run production" means a live stage production that  
6 is performed in a qualified production facility for longer  
7 than 8 weeks, with at least 6 performances per week, and  
8 includes a production that spans the end of one tax year and  
9 the commencement of a new tax year that, in combination, meets  
10 the criteria set forth in this definition making it a long-run  
11 production eligible for a theater tax credit award in each tax  
12 year or portion thereof.

13 "Accredited theater production certificate" means a  
14 certificate issued by the Department certifying that the  
15 production is an accredited theater production that meets the  
16 guidelines of this Act.

17 "Applicant" means a taxpayer that is a theater producer,  
18 owner, licensee, operator, or presenter that is presenting or  
19 has presented a live stage presentation located within the  
20 State of Illinois who:

21 (1) owns or licenses the theatrical rights of the  
22 stage presentation for the Illinois production period; or

23 (2) has contracted or will contract directly with the  
24 owner or licensee of the theatrical rights or a person  
25 acting on behalf of the owner or licensee to provide live  
26 performances of the production.

1           An applicant that directly or indirectly owns, controls,  
2 or operates multiple qualified production facilities shall be  
3 presumed to be and considered for the purposes of this Act to  
4 be a single applicant; provided, however, that as to each of  
5 the applicant's qualified production facilities, the applicant  
6 shall be eligible to separately and contemporaneously (i)  
7 apply for and obtain accredited theater production  
8 certificates, (ii) stage accredited theater productions, and  
9 (iii) apply for and receive a tax credit award certificate for  
10 each of the applicant's accredited theater productions  
11 performed at each of the applicant's qualified production  
12 facilities.

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

15           "Director" means the Director of the Department.

16           "Illinois labor expenditure" means gross salary or wages  
17 including, but not limited to, taxes, benefits, and any other  
18 consideration incurred or paid to non-talent employees of the  
19 applicant for services rendered to and on behalf of the  
20 accredited theater production. To qualify as an Illinois labor  
21 expenditure, the expenditure must be:

22           (1) incurred or paid by the applicant on or after the  
23 effective date of the Act for services related to any  
24 portion of an accredited theater production from its  
25 pre-production stages, including, but not limited to, the  
26 writing of the script, casting, hiring of service

1 providers, purchases from vendors, marketing, advertising,  
2 public relations, load in, rehearsals, performances, other  
3 accredited theater production related activities, and load  
4 out;

5 (2) directly attributable to the accredited theater  
6 production;

7 (3) limited to the first \$100,000 of wages incurred or  
8 paid to each employee of an accredited theater production  
9 in each tax year;

10 (4) included in the federal income tax basis of the  
11 property;

12 (5) paid in the tax year for which the applicant is  
13 claiming the tax credit award, or no later than 60 days  
14 after the end of the tax year;

15 (6) paid to persons residing in Illinois at the time  
16 payments were made; and

17 (7) reasonable in the circumstances.

18 "Illinois production spending" means any and all expenses  
19 directly or indirectly incurred relating to an accredited  
20 theater production presented in any qualified production  
21 facility of the applicant, including, but not limited to,  
22 expenditures for:

23 (1) national marketing, public relations, and the  
24 creation and placement of print, electronic, television,  
25 billboard, and other forms of advertising; and

26 (2) the construction and fabrication of scenic

1 materials and elements; provided, however, that the  
2 maximum amount of expenditures attributable to the  
3 construction and fabrication of scenic materials and  
4 elements eligible for a tax credit award shall not exceed  
5 \$500,000 per applicant per production in any single tax  
6 year.

7 "Qualified production facility" means a facility located  
8 in the State in which live theatrical productions are, or are  
9 intended to be, exclusively presented that contains at least  
10 one stage, a seating capacity of 1,200 or more seats, and  
11 dressing rooms, storage areas, and other ancillary amenities  
12 necessary for the accredited theater production.

13 "Tax credit award" means the issuance to a taxpayer by the  
14 Department of a tax credit award in conformance with Sections  
15 10-40 and 10-45 of this Act.

16 "Tax year" means a calendar year for the period January 1  
17 to and including December 31.

18 (Source: P.A. 102-1112, eff. 12-21-22.)

19 (35 ILCS 17/10-20)

20 Sec. 10-20. Tax credit award. Subject to the conditions  
21 set forth in this Act, an applicant is entitled to a tax credit  
22 award as approved by the Department for qualifying Illinois  
23 labor expenditures and Illinois production spending for each  
24 tax year in which the applicant is awarded an accredited  
25 theater production certificate issued by the Department. The

1 amount of tax credits awarded pursuant to this Act shall not  
2 exceed \$2,000,000 in any State fiscal year, except that the  
3 amount of tax credits awarded pursuant to this Act for the  
4 State fiscal year ending on June 30, 2023 and the State fiscal  
5 year ending on June 30, 2024 shall not exceed \$4,000,000 in  
6 either of those fiscal years. For the State fiscal year ending  
7 on June 30, 2023 and the State fiscal year ending on June 30,  
8 2024, no more than \$2,000,000 in credits may be awarded in  
9 either of those fiscal years to accredited theater productions  
10 that are not commercial Broadway touring shows, and no more  
11 than \$2,000,000 in credits may be awarded in either of those  
12 fiscal years to commercial Broadway touring shows. Credits  
13 shall be awarded on a first-come, first-served basis.  
14 Notwithstanding the foregoing, if the amount of credits  
15 applied for in any fiscal year exceeds the amount authorized  
16 to be awarded under this Section, the excess credit amount  
17 shall be awarded in the next fiscal year in which credits  
18 remain available for award and shall be treated as having been  
19 applied for on the first day of that fiscal year.

20 (Source: P.A. 102-700, eff. 4-19-22; 102-1112, eff. 12-21-22.)

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law.