Q3 7lr1126

By: Senators Young, Benson, Conway, Currie, Ferguson, Guzzone, Kagan, Lee, Manno, Mathias, McFadden, Muse, Nathan-Pulliam, Peters, Pinsky, Robinson, Rosapepe, Smith, and Zucker

Introduced and read first time: February 3, 2017

Assigned to: Budget and Taxation

AN ACT concerning

A BILL ENTITLED

2	Income Tax - Film Production Activity Tax Credit - Small or Independent Film
3	Entities

- 4 FOR the purpose of authorizing a Maryland small or independent film entity to qualify as 5 a film production entity under certain circumstances; requiring that certain funding 6 in a certain reserve account be reserved for certain purposes; altering a certain audit 7 requirement to apply only to a film production entity with total direct costs that 8 exceed a certain amount; altering the amount of certain tax credit certificates that 9 the Secretary of Commerce may issue under certain circumstances; defining a 10 certain term; providing for the application of this Act; and generally relating to 11 income tax credits for certain film production activities.
- 12 BY repealing and reenacting, with amendments,
- 13 Article Tax General
- 14 Section 10–730
- 15 Annotated Code of Maryland
- 16 (2016 Replacement Volume)
- SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
- 18 That the Laws of Maryland read as follows:
- 19 Article Tax General
- 20 10-730.

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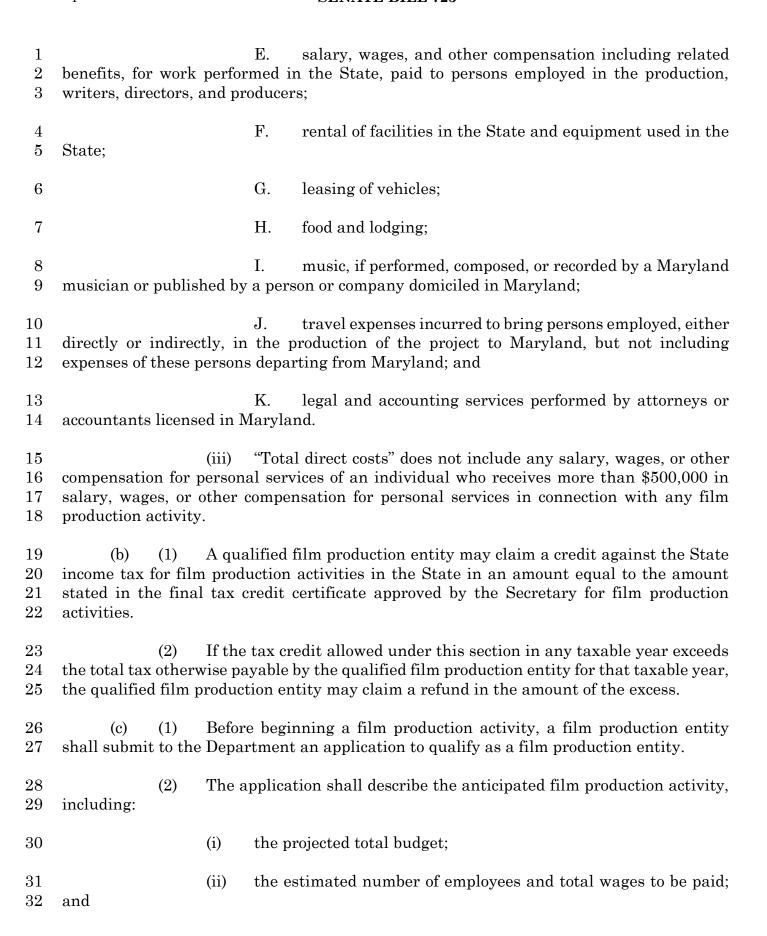
- 21 (a) (1) In this section the following words have the meanings indicated.
- 22 (2) "Department" means the Department of Commerce.

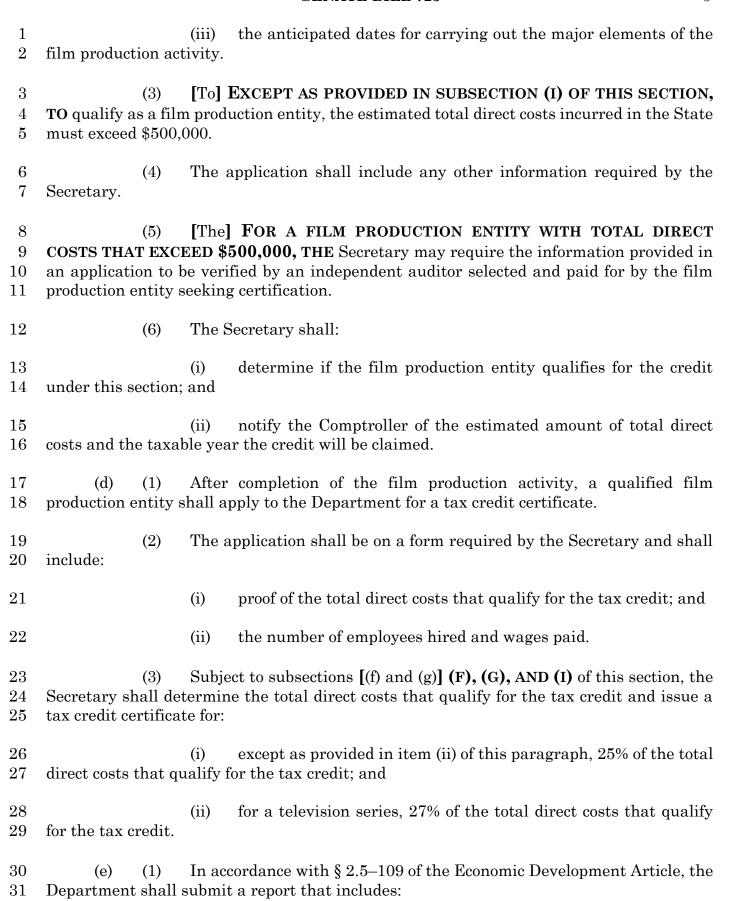


SENATE BILL 723

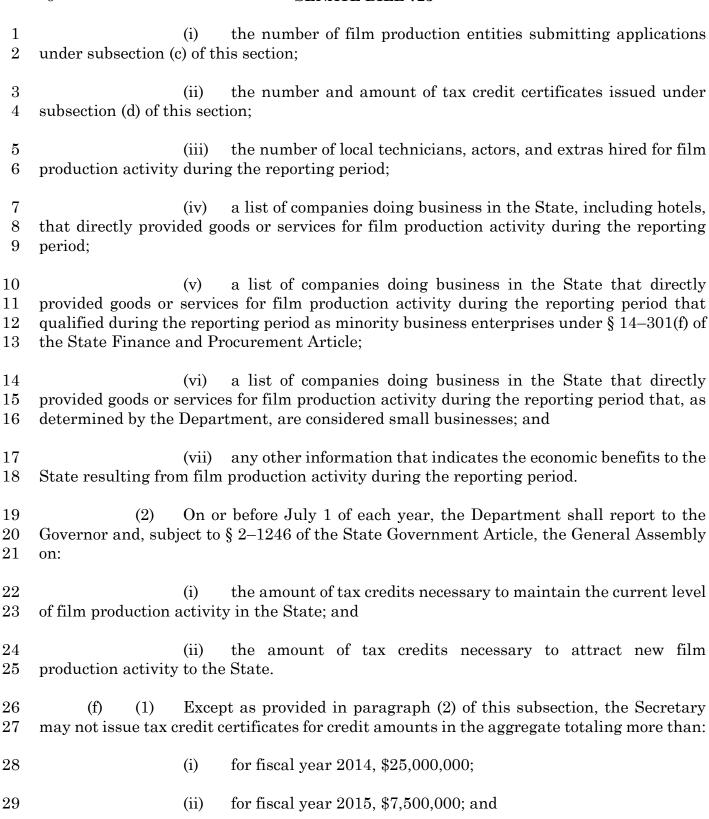
$\frac{1}{2}$	(3) project that is int	(i) tended		m production activity" means the production of a film or video cionwide commercial distribution.
3		(ii)	"Filı	n production activity" includes the production of:
4			1.	a feature film;
5			2.	a television project;
6			3.	a commercial;
7			4.	a corporate film;
8			5.	an infomercial;
9			6.	a music video;
10			7.	a digital project;
11			8.	an animation project; or
12			9.	a multimedia project.
13		(iii)	"Filı	n production activity" does not include production of:
14			1.	a student film;
15			2.	a noncommercial personal video;
16			3.	a sports broadcast;
17			4.	a broadcast of a live event;
18			5.	a talk show;
19			6.	a video, computer, or social networking game; or
20			7.	pornography.
21 22	(4) "MARYLAND SMALL OR INDEPENDENT FILM ENTITY" MEANS A QUALIFIED FILM PRODUCTION ENTITY THAT:			
23 24	YEAR; AND	(I)	HAS	BEEN INCORPORATED IN MARYLAND FOR AT LEAST 1

$\frac{1}{2}$	(II) WORKFORCE IN THE FI		LOYS MARYLAND RESIDENTS AS AT LEAST 40% OF ITS ODUCTION ACTIVITY.			
3 4 5	[(4)] (5) "Pornography" means any production for which records are required to be maintained under § 2257 of Title 18, U.S.C., with respect to any performer in such production engaging in sexually explicit conduct.					
6	[(5)] (6)	"Qual	ified film production entity" means an entity that:			
7	(i)	is car	rying out a film production activity; and			
8 9	(ii) this section in accordance		ecretary determines to be eligible for the tax credit under subsection (c) of this section.			
10	[(6)] (7)	"Secre	etary" means the Secretary of Commerce.			
11 12 13 14	for television broadcast or transmission with a common series title, with or without a predetermined number of episodes, and shall include a miniseries and a pilot episode					
15 16 17	activity, means the total costs incurred in the State that are necessary to carry out the film					
18	(ii)	"Tota	l direct costs" includes costs incurred for:			
19		1.	employee wages and benefits;			
20		2.	fees for services;			
21		3.	acquiring or leasing property; and			
22 23						
24		A.	set construction and operation;			
25		В.	wardrobe, makeup, and related services;			
26 27	related services and mate	C. erials;	photography and sound synchronization, lighting, and			
28 29 30	transfers of film to tape or digital format, sound mixing, computer graphic services, specia					





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31 (2) If the aggregate credit amounts under the tax credit certificates issued 32 by the Secretary total less than the maximum provided under paragraph (1) of this

for fiscal year 2016, \$7,500,000.

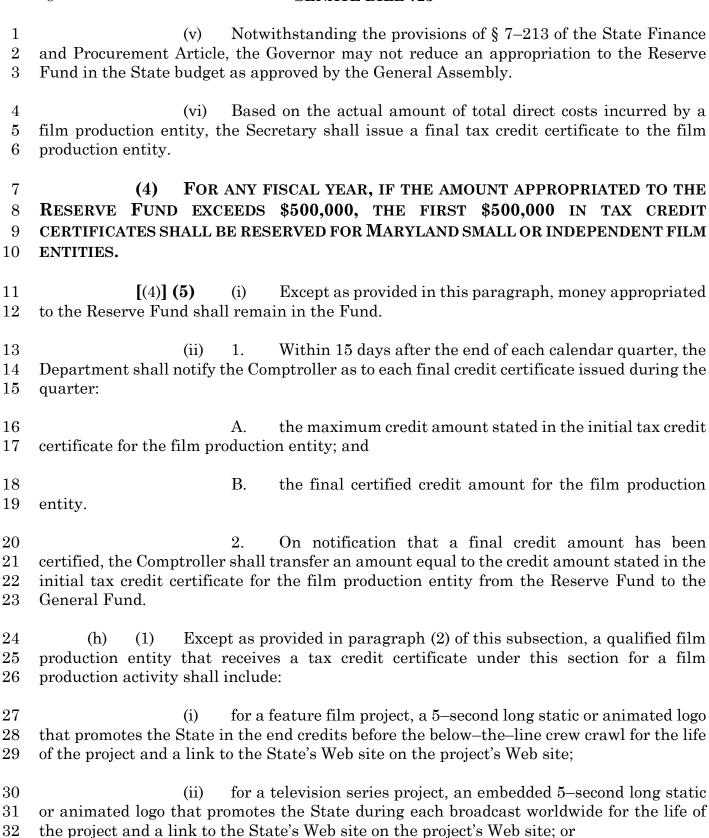
(iii)

- subsection in any fiscal year, any excess amount may be carried forward and issued under tax credit certificates in a subsequent fiscal year.
- 3 (g) (1) In this subsection, "Reserve Fund" means the Maryland Film 4 Production Activity Tax Credit Reserve Fund established under paragraph (2) of this 5 subsection.
- 6 (2) (i) There is a Maryland Film Production Activity Tax Credit 7 Reserve Fund that is a special continuing, nonlapsing fund that is not subject to § 7–302 of 8 the State Finance and Procurement Article.
- 9 (ii) The money in the Reserve Fund shall be invested and reinvested 10 by the Treasurer, and interest and earnings shall be credited to the General Fund.
- 11 (3) (i) Subject to the provisions of this subsection, the Secretary shall 12 issue an initial tax credit certificate for the total direct costs incurred by a film production 13 entity that qualifies for a tax credit.
- 14 (ii) An initial tax credit certificate issued under this subsection shall state the maximum amount of tax credit for which the film production entity is eligible.
- 16 (iii) 1. Except as otherwise provided in this subparagraph, for 17 any fiscal year, the Secretary may not issue initial tax credit certificates for credit amounts 18 in the aggregate totaling more than the amount appropriated to the Reserve Fund for that 19 fiscal year in the State budget as approved by the General Assembly.
- 20 2. If the aggregate credit amounts under initial tax credit certificates issued in a fiscal year total less than the amount appropriated to the Reserve Fund for that fiscal year, any excess amount shall remain in the Reserve Fund and may be issued under initial tax credit certificates for the next fiscal year.
- 3. For any fiscal year, if funds are transferred from the Reserve Fund under the authority of any provision of law other than under paragraph [(4)]

 (5) of this subsection, the maximum credit amounts in the aggregate for which the Secretary may issue initial tax credit certificates shall be reduced by the amount transferred.
- (iv) For fiscal year 2017 and each fiscal year thereafter, it is the intent of the General Assembly that the Governor include in the budget bill an appropriation to the Reserve Fund in an amount equal to the amount the Department reports as necessary under subsection (e)(2) of this section to:
- 33 1. maintain the current level of film production activity in 34 the State; and

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2. attract new film production activity to the State.



33 (iii) for any other project, the State logo at the end of each project and 34 in online promotions.

- 1 (2) In lieu of including a State logo as required under paragraph (1) of this 2 subsection, the qualified film production entity may offer alternative marketing 3 opportunities to be evaluated by the Department to ensure that those opportunities offer 4 equal or greater promotional value to the State.
- 5 (I) (1) FOR A MARYLAND SMALL OR INDEPENDENT FILM ENTITY TO 6 QUALIFY AS A FILM PRODUCTION ENTITY:
- 7 (I) THE ESTIMATED TOTAL DIRECT COSTS INCURRED IN THE 8 STATE SHALL EXCEED \$25,000; AND
- 9 (II) AT LEAST **50**% OF THE FILMING OF THE FILM PRODUCTION 10 ACTIVITY MUST BE IN THE STATE.
- 11 (2) SUBJECT TO SUBSECTION (G) OF THIS SECTION, THE SECRETARY
 12 SHALL DETERMINE THE TOTAL DIRECT COSTS THAT QUALIFY FOR THE TAX CREDIT
 13 AND ISSUE A TAX CREDIT CERTIFICATE TO A MARYLAND SMALL OR INDEPENDENT
 14 FILM ENTITY FOR 25% OF THE TOTAL DIRECT COSTS THAT QUALIFY FOR THE TAX
 15 CREDIT, NOT TO EXCEED \$125,000.
- [(i)] (J) The Department and the Comptroller jointly shall adopt regulations to carry out the provisions of this section and to specify criteria and procedures for the application for, approval of, and monitoring of continuing eligibility for the tax credit under this section.
- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017, and shall be applicable to all film production activity tax credit certificates issued after June 30, 2017.