
By: **Delegates D'Amato, Rosso, Bartlett, Hubers, V. Jones, Bozman, and Rudolph**

Introduced and read first time: January 27, 2000

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Film and Video Productions - Tax Incentives**

3 FOR the purpose of requiring the Maryland Film Office to obtain, where possible, the
4 free use of State and local government buildings and sites for location filming on
5 a certain basis; exempting from the sales and use tax the sale of tangible
6 personal property or a taxable service to a person engaged in certain film or
7 video productions for use by the person directly and primarily in the film or
8 video production; exempting from the sales and use tax certain sales of food or
9 drink for consumption by the staff or employees of a film or video producer;
10 exempting certain personal property used in certain film or video productions
11 from property tax; allowing a credit against the State income tax for certain
12 wages paid or incurred during the taxable year in certain qualified film or video
13 productions; making the credit refundable under certain circumstances;
14 defining certain terms; providing for the application of this Act; and generally
15 relating to certain tax incentives for film and video productions in the State.

16 BY repealing and reenacting, with amendments,
17 Article 83A - Department of Business and Economic Development
18 Section 4-403
19 Annotated Code of Maryland
20 (1998 Replacement Volume and 1999 Supplement)

21 BY adding to
22 Article - Tax - General
23 Section 11-226
24 Annotated Code of Maryland
25 (1997 Replacement Volume and 1999 Supplement)

26 BY adding to
27 Article - Tax - Property
28 Section 7-241
29 Annotated Code of Maryland

1 (1994 Replacement Volume and 1999 Supplement)

2 BY adding to

3 Article - Tax - General

4 Section 10-718

5 Annotated Code of Maryland

6 (1997 Replacement Volume and 1999 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article 83A - Department of Business and Economic Development**

10 4-403.

11 The Office shall develop and implement a program to promote the production of
12 motion pictures and television within this State, including:

13 (1) The preparation and distribution of appropriate promotional and
14 informational materials pointing out desirable locations within the State for the
15 production of motion pictures and television, explaining the benefits and advantages
16 of producing motion pictures and television within the State, and detailing the
17 services and assistance available within State government as well as services
18 available at the local level and within the industry;

19 (2) Assisting motion picture and television companies to secure location
20 permits and other appropriate services connected with motion picture and television
21 production; [and]

22 (3) Facilitating cooperation from local government, State, and federal
23 government agencies and private sector groups in the location and production of
24 motion pictures and television; AND

25 (4) OBTAINING THE FREE USE OF STATE AND LOCAL GOVERNMENT
26 BUILDINGS AND SITES FOR LOCATION FILMING, ON AN AS-AVAILABLE BASIS NOT TO
27 INTERFERE WITH OFFICIAL GOVERNMENT FUNCTIONS.

28 **Article - Tax - General**

29 11-226.

30 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
31 INDICATED.

32 (2) "FILM OR VIDEO" INCLUDES A FEATURE FILM, SHORT OR
33 DOCUMENTARY, TELEVISION FILM OR EPISODE, OR SIMILAR MOTION PICTURE
34 PRODUCTION.

1 (3) (I) "QUALIFIED FILM OR VIDEO PRODUCTION" MEANS A
2 PRODUCTION, FOR CONSIDERATION, OF A FILM OR VIDEO THAT IS INTENDED FOR
3 NATIONAL DISTRIBUTION, WHETHER FOR BROADCAST, CABLE, CLOSED CIRCUIT, OR
4 UNIT DISTRIBUTION, AND WHETHER IN THE FORM OF FILM, TAPE, OR OTHER
5 ANALOG OR DIGITAL MEDIUM.

6 (II) "QUALIFIED FILM OR VIDEO PRODUCTION" INCLUDES:

7 1. THE CREATION OF DIGITAL ANIMATION AND SPECIAL
8 EFFECTS FOR USE IN A FILM OR VIDEO;

9 2. THE CREATION OF INTERACTIVE DIGITAL MEDIA
10 PRODUCTS; AND

11 3. SOUND RECORDING OR MIXING FOR USE IN A FILM OR
12 VIDEO.

13 (III) "QUALIFIED FILM OR VIDEO PRODUCTION" DOES NOT INCLUDE
14 A PRODUCTION OF:

15 1. A NEWS OR PUBLIC AFFAIRS SHOW, INCLUDING A
16 WEATHER, FINANCIAL, ENTERTAINMENT NEWS OR GOSSIP, SPORTS NEWS OR EVENT,
17 TALK, OR VARIETY SHOW;

18 2. A GAME SHOW, COURTROOM SHOW, OR AUDIENCE
19 PARTICIPATION SHOW;

20 3. AN AWARD OR TRIBUTE SHOW;

21 4. A TELETHON OR FUNDRAISING SHOW;

22 5. AN INFOMERCIAL;

23 6. A POLITICAL COMMERCIAL;

24 7. A COMMERCIAL OR A PROMOTIONAL SHOW FOR A
25 TELEVISION SHOW OR OTHER FILM OR VIDEO;

26 8. A CORPORATE OR INSTITUTIONAL SHOW INTENDED FOR
27 IN-HOUSE BROADCAST OR DISTRIBUTION;

28 9. ANY TELEVISION SHOW THAT CONTAINS PRIMARILY
29 STOCK, NEWS, OR PUBLIC RECORD FOOTAGE, OR FOOTAGE SOLICITED FROM THE
30 GENERAL PUBLIC; OR

31 10. A LOCAL ADVERTISEMENT.

32 (B) THE SALES AND USE TAX DOES NOT APPLY TO:

33 (1) A SALE OF TANGIBLE PERSONAL PROPERTY OR A TAXABLE SERVICE
34 TO A PERSON ENGAGED IN A QUALIFIED FILM OR VIDEO PRODUCTION FOR USE BY

1 THE PERSON DIRECTLY AND PRIMARILY IN THE QUALIFIED FILM OR VIDEO
2 PRODUCTION; OR

3 (2) A SALE OF FOOD OR DRINK DELIVERED TO OR PREPARED AT THE
4 LOCATION OR STUDIO OF A QUALIFIED FILM OR VIDEO PRODUCTION FOR
5 CONSUMPTION BY THE STAFF OR EMPLOYEES OF THE FILM OR VIDEO PRODUCER
6 DURING THE PRODUCTION OF A FILM OR VIDEO FOR SALE.

7 **Article - Tax - Property**

8 7-241.

9 (A) IN THIS SECTION, "QUALIFIED FILM OR VIDEO PRODUCTION" HAS THE
10 MEANING STATED IN § 11-226 OF THE TAX- GENERAL ARTICLE.

11 (B) PERSONAL PROPERTY IS NOT SUBJECT TO VALUATION OR PROPERTY TAX
12 IF THE PROPERTY IS USED DIRECTLY AND PRIMARILY IN A QUALIFIED FILM OR
13 VIDEO PRODUCTION.

14 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
15 read as follows:

16 **Article - Tax - General**

17 10-718.

18 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
19 INDICATED.

20 (2) "QUALIFIED FILM OR VIDEO PRODUCTION" HAS THE MEANING
21 STATED IN § 11-226 OF THIS ARTICLE.

22 (3) "QUALIFIED MARYLAND FILM OR VIDEO PRODUCTION" MEANS A
23 QUALIFIED FILM OR VIDEO PRODUCTION, AT LEAST 50% OF THE PRODUCTION COSTS
24 OF WHICH ARE INCURRED IN MARYLAND.

25 (4) (I) "QUALIFIED MARYLAND FILM OR VIDEO PRODUCTION
26 EMPLOYEE" MEANS, WITH RESPECT TO ANY PERIOD, AN EMPLOYEE IF
27 SUBSTANTIALLY ALL OF THE SERVICES PERFORMED DURING THE PERIOD BY THE
28 EMPLOYEE FOR THE EMPLOYER ARE PERFORMED IN AN ACTIVITY RELATED TO A
29 QUALIFIED MARYLAND FILM OR VIDEO PRODUCTION.

30 (II) "QUALIFIED MARYLAND FILM OR VIDEO PRODUCTION
31 EMPLOYEE" DOES NOT INCLUDE:

32 1. AN INDIVIDUAL RELATED TO THE EMPLOYER WITHIN THE
33 MEANING OF § 51(I)(1) OF THE INTERNAL REVENUE CODE; OR

34 2. A 5-PERCENT OWNER OF THE EMPLOYER WITHIN THE
35 MEANING OF § 416(I)(1)(B) (I) OF THE INTERNAL REVENUE CODE.

1 (5) (I) "QUALIFIED MARYLAND FILM OR VIDEO PRODUCTION WAGES"
2 MEANS ANY WAGES PAID OR INCURRED BY AN EMPLOYER FOR SERVICES
3 PERFORMED BY AN EMPLOYEE WHILE THE EMPLOYEE IS A QUALIFIED MARYLAND
4 FILM OR VIDEO PRODUCTION EMPLOYEE.

5 (II) "QUALIFIED MARYLAND FILM OR VIDEO PRODUCTION WAGES"
6 DO NOT INCLUDE ANY WAGES IN EXCESS OF 50% OF THE TOTAL PRODUCTION COSTS
7 OF A QUALIFIED FILM OR VIDEO PRODUCTION.

8 (6) "TOTAL PRODUCTION COSTS" INCLUDES COSTS INCURRED IN THE
9 DELIVERY OF THE FINAL MASTER COPY BUT DOES NOT INCLUDE DEVELOPMENT,
10 ACQUISITION, AND MARKETING COSTS OF A QUALIFIED FILM OR VIDEO
11 PRODUCTION.

12 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND
13 SUBJECT TO THE LIMITATION IN SUBSECTION (C) OF THIS SECTION, A FILM OR VIDEO
14 PRODUCER MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN AMOUNT
15 EQUAL TO 25% OF THE QUALIFIED MARYLAND FILM OR VIDEO PRODUCTION WAGES
16 PAID OR INCURRED BY THE FILM OR VIDEO PRODUCER DURING THE TAXABLE YEAR.

17 (2) IF THE QUALIFIED FILM OR VIDEO PRODUCTION IS THE FILM OR
18 VIDEO PRODUCER'S FIRST QUALIFIED MARYLAND FILM OR VIDEO PRODUCTION, THE
19 CREDIT IS 33% OF THE QUALIFIED MARYLAND FILM OR VIDEO PRODUCTION WAGES
20 PAID OR INCURRED BY THE FILM OR VIDEO PRODUCER DURING THE TAXABLE YEAR.

21 (C) (1) THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED
22 \$2,000,000 FOR ANY QUALIFIED FILM OR VIDEO PRODUCTION.

23 (2) THE CREDIT UNDER THIS SECTION IS NOT ALLOWED FOR ANY
24 WAGES PAID TO AN EMPLOYEE IF THE FILM OR VIDEO PRODUCER IS ALLOWED A
25 CREDIT UNDER ANY OTHER PROVISION OF THIS SUBTITLE FOR ANY OF THE WAGES
26 PAID TO THE EMPLOYEE.

27 (3) ALL EMPLOYERS TREATED AS A SINGLE EMPLOYER UNDER § 52(A) OR
28 (B) OF THE INTERNAL REVENUE CODE SHALL BE TREATED AS A SINGLE EMPLOYER
29 FOR PURPOSES OF THIS SECTION.

30 (D) A FILM OR VIDEO PRODUCER MAY CLAIM A REFUND OF THE AMOUNT BY
31 WHICH THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE STATE INCOME
32 TAX IMPOSED FOR THE TAXABLE YEAR.

33 (E) SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE
34 COMPTROLLER SHALL REPORT ANNUALLY TO THE GENERAL ASSEMBLY ON THE
35 TOTAL AMOUNT OF CREDITS CLAIMED UNDER THIS SECTION.

36 (F) SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE
37 DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT SHALL REPORT
38 ANNUALLY TO THE GENERAL ASSEMBLY ON THE DIRECT AND INDIRECT ECONOMIC
39 IMPACT OF THE CREDIT ALLOWED UNDER THIS SECTION ON THE FILM AND VIDEO
40 PRODUCTION INDUSTRY IN THE STATE.

1 SECTION 3. AND BE IT FURTHER ENACTED, That the property tax
2 exemption under § 7-241 of the Tax - Property Article as enacted under Section 1 of
3 this Act shall be applicable to all taxable years beginning on or after July 1, 2000.

4 SECTION 4. AND BE IT FURTHER ENACTED, That the income tax credit
5 under § 10-718 of the Tax - General Article as enacted under Section 2 of this Act
6 shall be applicable to all taxable years beginning after December 31, 2000.

7 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to Sections 3 and
8 4 of this Act, this Act shall take effect July 1, 2000.