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By: **The President (By Request - Administration) and Senators Astle, Brinkley, Colburn, Greenip, Haines, Harris, Jacobs, Kittleman, Klausmeier, McFadden, Munson, Ruben, Schrader, and Stoltzfus**

Introduced and read first time: January 21, 2005

Assigned to: Budget and Taxation

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A BILL ENTITLED

1 AN ACT concerning

2 **Film Production Activity - Employer Wage Rebate Grant Program**

3 FOR the purpose of establishing a program within the Department of Business and  
4 Economic Development to provide grants to rebate a certain proportion of  
5 certain wages paid in the State by employers engaged in certain film production  
6 activity, up to a specified maximum; providing for the application process and  
7 criteria for eligibility for the grants; declaring the intent of the General  
8 Assembly; authorizing the Secretary of Business and Economic Development to  
9 adopt certain regulations; requiring the Department to report to the Governor  
10 and the General Assembly on or before a certain date each year; defining certain  
11 terms; and generally relating to film production activity in the State.

12 BY adding to  
13 Article 83A - Department of Business and Economic Development  
14 Section 5-1801 through 5-1807 to be under the new subtitle "Subtitle 18. Film  
15 Production Activity - Employer Wage Rebate Grant Program"  
16 Annotated Code of Maryland  
17 (2003 Replacement Volume and 2004 Supplement)

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

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

21 **SUBTITLE 18. FILM PRODUCTION ACTIVITY - EMPLOYER WAGE REBATE GRANT**  
22 **PROGRAM.**

23 5-1801.

24 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
25 INDICATED.

1 (B) (1) "FILM PRODUCTION ACTIVITY" MEANS THE PRODUCTION OF FILM OR  
2 VIDEO PROJECTS FOR WHICH THE TOTAL DIRECT COSTS INCURRED IN THE STATE  
3 ARE AT LEAST \$500,000 AND WHICH ARE INTENDED FOR NATIONWIDE COMMERCIAL  
4 DISTRIBUTION.

5 (2) "FILM PRODUCTION ACTIVITY" INCLUDES THE PRODUCTION OF  
6 FEATURE FILMS, TELEVISION PROJECTS, COMMERCIALS, CORPORATE FILMS,  
7 INFOMERCIALS, MUSIC VIDEOS, DIGITAL, ANIMATION, AND MULTIMEDIA PROJECTS.

8 (3) "FILM PRODUCTION ACTIVITY" DOES NOT INCLUDE:

9 (I) PRODUCTION OF:

- 10 A. STUDENT FILMS;
- 11 B. NONCOMMERCIAL PERSONAL VIDEOS;
- 12 C. SPORTS BROADCASTS;
- 13 D. BROADCASTS OF LIVE EVENTS;
- 14 E. TALK SHOWS; OR

15 (II) ANY ACTIVITY NOT NECESSARY TO AND UNDERTAKEN  
16 DIRECTLY AND EXCLUSIVELY FOR THE MAKING OF A MASTER FILM, TAPE, OR IMAGE.

17 (C) "FUND" MEANS THE FILM PRODUCTION EMPLOYER WAGE REBATE FUND  
18 ESTABLISHED UNDER § 5-1805 OF THIS SUBTITLE.

19 (D) (1) "QUALIFIED EMPLOYEE WAGES" MEANS THE FIRST \$25,000 OF THE  
20 PORTION OF AN EMPLOYEE'S WAGES THAT ARE DIRECTLY ATTRIBUTABLE TO THE  
21 EMPLOYEE'S WORK ON THE FILM PRODUCTION ACTIVITY IN THE STATE.

22 (2) "QUALIFIED EMPLOYEE WAGES" DOES NOT INCLUDE ANY PORTION  
23 OF THE WAGES OF AN EMPLOYEE WHOSE WAGES IN CONNECTION WITH THE FILM  
24 PRODUCTION ACTIVITY EQUAL OR EXCEED \$1,000,000.

25 (E) "QUALIFIED FILM PRODUCTION EMPLOYER" MEANS AN EMPLOYER THAT  
26 IS CARRYING OUT A FILM PRODUCTION ACTIVITY AND IS DETERMINED BY THE  
27 SECRETARY UNDER § 5-1804 OF THIS SUBTITLE TO BE AN EMPLOYER ELIGIBLE FOR  
28 THE REBATE PROVIDED UNDER THIS SUBTITLE.

29 (F) (1) "TOTAL DIRECT COSTS OF A FILM PRODUCTION ACTIVITY" MEANS  
30 THE TOTAL OF COSTS INCURRED THAT ARE NECESSARY TO CARRY OUT A FILM  
31 PRODUCTION ACTIVITY.

32 (2) "TOTAL DIRECT COSTS OF A FILM PRODUCTION ACTIVITY" INCLUDE  
33 COSTS INCURRED FOR:

34 (I) EMPLOYEE WAGES AND BENEFITS;

1 (II) FEES FOR SERVICES;

2 (III) ACQUIRING OR LEASING REAL PROPERTY OR TANGIBLE OR  
3 INTANGIBLE PERSONAL PROPERTY; OR

4 (IV) ANY OTHER EXPENSE NECESSARY TO CARRY OUT A FILM  
5 PRODUCTION ACTIVITY.

6 5-1802.

7 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE REBATE PROVIDED  
8 UNDER THIS SUBTITLE IS FOR THE PURPOSE OF INCREASING FILM PRODUCTION  
9 ACTIVITY CARRIED OUT IN THE STATE, BRINGING ECONOMIC BENEFITS TO THE  
10 CITIZENS OF THE STATE, AND GENERATING INCREASED EMPLOYMENT  
11 OPPORTUNITIES IN THE STATE.

12 5-1803.

13 A QUALIFIED FILM PRODUCTION EMPLOYER MAY RECEIVE A REBATE IN THE  
14 AMOUNT OF 50% OF THE AMOUNT OF QUALIFIED EMPLOYEE WAGES THAT THE  
15 QUALIFIED FILM PRODUCTION EMPLOYER HAS PAID, UP TO A MAXIMUM REBATE  
16 AMOUNT OF \$2,000,000 FOR ANY PARTICULAR FILM PRODUCTION ACTIVITY.

17 5-1804.

18 (A) TO QUALIFY FOR THE REBATE PROVIDED UNDER THIS SUBTITLE, A FILM  
19 PRODUCTION EMPLOYER MUST NOTIFY THE DEPARTMENT OF ITS INTENT TO SEEK  
20 THE REBATE BEFORE COMMENCING THE FILM PRODUCTION ACTIVITY.

21 (B) TO APPLY FOR THE REBATE, THE FILM PRODUCTION EMPLOYER SHALL  
22 SUBMIT THE FOLLOWING TO THE SECRETARY:

23 (1) A DESCRIPTION OF THE ANTICIPATED FILM PRODUCTION ACTIVITY,  
24 INCLUDING ITS PROJECTED TOTAL BUDGET WITH ESTIMATED NUMBER OF  
25 EMPLOYEES AND TOTAL WAGES, AND ANTICIPATED DATES FOR CARRYING OUT THE  
26 MAJOR ELEMENTS OF THE FILM PRODUCTION ACTIVITY; AND

27 (2) ANY OTHER INFORMATION RELATED TO THE FILM PRODUCTION  
28 ACTIVITY AND THE EMPLOYER SEEKING THE REBATE THAT THE SECRETARY  
29 REQUIRES.

30 (C) THE SECRETARY MAY REQUIRE ANY INFORMATION REQUIRED UNDER  
31 THIS SECTION TO BE VERIFIED BY AN INDEPENDENT AUDITOR SELECTED AND PAID  
32 BY THE EMPLOYER SEEKING THE REBATE CERTIFICATION AND APPROVED BY THE  
33 SECRETARY.

34 (D) AS A CONDITION TO APPLYING FOR AND RECEIVING THE REBATE, THE  
35 QUALIFIED FILM PRODUCTION EMPLOYER SHALL ENTER INTO A GRANT  
36 AGREEMENT WITH THE DEPARTMENT IN FORM AND SUBSTANCE SATISFACTORY TO  
37 THE DEPARTMENT.

1 5-1805.

2 (A) THERE IS A FILM PRODUCTION EMPLOYER WAGE REBATE FUND WITHIN  
3 THE DEPARTMENT.

4 (B) THE DEPARTMENT MAY USE THE FUND TO:

5 (1) MAKE A GRANT TO A QUALIFIED FILM PRODUCTION EMPLOYER TO  
6 REBATE 50% OF THE QUALIFIED EMPLOYEE WAGES PAID BY THE QUALIFIED FILM  
7 PRODUCTION EMPLOYER FOR A FILM PRODUCTION ACTIVITY; AND

8 (2) PAY THE ADMINISTRATIVE, LEGAL, AND ACTUARIAL EXPENSES OF  
9 THE FUND.

10 (C) (1) THE FUND IS A SPECIAL, NONLAPSING REVOLVING FUND THAT IS  
11 NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

12 (2) THE STATE TREASURER SHALL HOLD THE FUND AND THE STATE  
13 TREASURER SHALL ACCOUNT FOR IT.

14 (3) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO  
15 THE FUND.

16 (D) THE FUND CONSISTS OF:

17 (1) MONEY APPROPRIATED TO THE STATE TO THE FUND;

18 (2) REPAYMENTS OF ANY DEFAULTED GRANT FROM THE FUND; AND

19 (3) ANY OTHER MONEY MADE AVAILABLE TO THE DEPARTMENT FOR  
20 THE FUND.

21 5-1806.

22 THE SECRETARY MAY ADOPT REGULATIONS TO SPECIFY CRITERIA FOR  
23 ELIGIBILITY FOR, AND PROCEDURES FOR APPLYING FOR, THE REBATE PROVIDED  
24 UNDER THIS SUBTITLE.

25 5-1807.

26 ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE DEPARTMENT SHALL  
27 REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT  
28 ARTICLE, TO THE GENERAL ASSEMBLY BY DECEMBER 31 OF EACH YEAR ON THE  
29 REBATES PROVIDED FOR FILM PRODUCTION ACTIVITY IN THAT YEAR.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
31 effect July 1, 2005.