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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~~ Stoltzfus, Kramer, and Stone**

Introduced and read first time: January 21, 2005

Assigned to: Budget and Taxation

Re-referred to: Finance and Budget and Taxation, January 28, 2005

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 21, 2005

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CHAPTER \_\_\_\_\_

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~~ requiring the Secretary of Business and Economic  
 9 Development to adopt certain regulations; requiring the Department to report to  
 10 the Governor and the General Assembly on or before a certain date each year;  
 11 specifying information that must be included in the report; requiring the  
 12 Department to submit a certain interim report to the Governor and the General  
 13 Assembly on or before a certain date; defining certain terms; and generally  
 14 relating to film production activity in the State.

15 BY adding to

16 Article 83A - Department of Business and Economic Development  
 17 Section 5-1801 through 5-1807 to be under the new subtitle "Subtitle 18. Film  
 18 Production Activity - Employer Wage Rebate Grant Program"  
 19 Annotated Code of Maryland  
 20 (2003 Replacement Volume and 2004 Supplement)

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

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

2 SUBTITLE 18. FILM PRODUCTION ACTIVITY - EMPLOYER WAGE REBATE GRANT  
3 PROGRAM.

4 5-1801.

5 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
6 INDICATED.

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

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

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

15 (I) PRODUCTION OF:

- 16 A. STUDENT FILMS;
- 17 B. NONCOMMERCIAL PERSONAL VIDEOS;
- 18 C. SPORTS BROADCASTS;
- 19 D. BROADCASTS OF LIVE EVENTS; OR
- 20 E. TALK SHOWS; OR

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

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

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

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

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

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

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

6 (I) EMPLOYEE WAGES AND BENEFITS;

7 (II) FEES FOR SERVICES;

8 (III) ACQUIRING OR LEASING REAL PROPERTY OR TANGIBLE OR  
9 INTANGIBLE PERSONAL PROPERTY; OR

10 (IV) ANY OTHER EXPENSE NECESSARY TO CARRY OUT A FILM  
11 PRODUCTION ACTIVITY.

12 5-1802.

13 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE REBATE PROVIDED  
14 UNDER THIS SUBTITLE IS FOR THE PURPOSE OF INCREASING FILM PRODUCTION  
15 ACTIVITY CARRIED OUT IN THE STATE, BRINGING ECONOMIC BENEFITS TO THE  
16 CITIZENS OF THE STATE, AND GENERATING INCREASED EMPLOYMENT  
17 OPPORTUNITIES ~~IN~~ FOR THE CITIZENS OF THE STATE.

18 5-1803.

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

23 5-1804.

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

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

29 (1) A DESCRIPTION OF THE ANTICIPATED FILM PRODUCTION ACTIVITY,  
30 INCLUDING ITS PROJECTED TOTAL BUDGET WITH ESTIMATED NUMBER OF  
31 EMPLOYEES AND TOTAL WAGES, AND ANTICIPATED DATES FOR CARRYING OUT THE  
32 MAJOR ELEMENTS OF THE FILM PRODUCTION ACTIVITY; AND

33 (2) ANY OTHER INFORMATION RELATED TO THE FILM PRODUCTION  
34 ACTIVITY AND THE EMPLOYER SEEKING THE REBATE THAT THE SECRETARY  
35 REQUIRES.

1 (C) THE SECRETARY MAY REQUIRE ANY INFORMATION REQUIRED UNDER  
2 THIS SECTION TO BE VERIFIED BY AN INDEPENDENT AUDITOR SELECTED AND PAID  
3 BY THE EMPLOYER SEEKING THE REBATE CERTIFICATION AND APPROVED BY THE  
4 SECRETARY.

5 (D) AS A CONDITION TO APPLYING FOR AND RECEIVING THE REBATE, THE  
6 QUALIFIED FILM PRODUCTION EMPLOYER SHALL ENTER INTO A GRANT  
7 AGREEMENT WITH THE DEPARTMENT IN FORM AND SUBSTANCE SATISFACTORY TO  
8 THE DEPARTMENT.

9 5-1805.

10 (A) THERE IS A FILM PRODUCTION EMPLOYER WAGE REBATE FUND WITHIN  
11 THE DEPARTMENT.

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

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

16 (2) PAY THE ADMINISTRATIVE, LEGAL, AND ACTUARIAL EXPENSES OF  
17 THE FUND.

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

20 (2) THE STATE TREASURER SHALL HOLD THE FUND AND THE STATE  
21 TREASURER SHALL ACCOUNT FOR IT.

22 (3) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO  
23 THE FUND.

24 (D) THE FUND CONSISTS OF:

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

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

27 (3) ANY OTHER MONEY MADE AVAILABLE TO THE DEPARTMENT FOR  
28 THE FUND.

29 5-1806.

30 THE SECRETARY ~~MAY~~ SHALL ADOPT REGULATIONS TO SPECIFY CRITERIA FOR  
31 ELIGIBILITY FOR, AND PROCEDURES FOR APPLYING FOR, THE REBATE PROVIDED  
32 UNDER THIS SUBTITLE.

1 5-1807.

2 (A) ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE DEPARTMENT SHALL  
3 REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT  
4 ARTICLE, TO THE GENERAL ASSEMBLY ~~BY DECEMBER 31 OF EACH YEAR~~ ON THE  
5 REBATES PROVIDED FOR FILM PRODUCTION ACTIVITY IN ~~THAT~~ THE PRIOR FISCAL  
6 YEAR.

7 (B) THE REPORT SHALL INCLUDE:

8 (1) THE NUMBER OF LOCAL TECHNICIANS, ACTORS, AND EXTRAS HIRED  
9 FOR FILM PRODUCTION ACTIVITY DURING THE REPORTING PERIOD;

10 (2) A LIST OF COMPANIES DOING BUSINESS IN THE STATE THAT  
11 PROVIDED GOODS OR SERVICES DIRECTLY FOR FILM PRODUCTION ACTIVITY,  
12 INCLUDING HOTELS, DURING THE REPORTING PERIOD; AND

13 (3) ANY OTHER INFORMATION THAT INDICATES THE ECONOMIC  
14 BENEFITS TO THE STATE AS A RESULT OF FILM PRODUCTION ACTIVITY DURING THE  
15 REPORTING PERIOD.

16 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December  
17 31, 2005, the Department of Business and Economic Development shall submit an  
18 interim report to the Governor and, subject to § 2-1246 of the State Government  
19 Article, to the General Assembly that includes the information required under Article  
20 83A, § 5-1807 of the Code, as enacted by Section 1 of this Act, for the period beginning  
21 July 1, 2005 through November 30, 2005.

22 SECTION 2-3. AND BE IT FURTHER ENACTED, That this Act shall take  
23 effect July 1, 2005.