

HOUSE BILL 270

Q3
HB 432/22 – W&M

3lr0508

By: **Delegate Wells**

Introduced and read first time: January 25, 2023

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 5, 2023

CHAPTER _____

1 AN ACT concerning

2 ~~Income Tax~~ **Film Production Activity Income Tax Credit – Alterations and**
3 **Maryland Entertainment Council**

4 FOR the purpose of altering the aggregate amount of film production activity tax credit
5 certificates that the Secretary of Commerce may issue each fiscal year; establishing
6 the Maryland Entertainment Council to study and make recommendations
7 regarding Maryland’s film, television, and entertainment industry; and generally
8 relating to the film production activity tax credit and the Maryland Entertainment
9 Council.

10 BY repealing and reenacting, without amendments,
11 Article – Tax – General
12 Section 10–730(a)(1), (4), and (7) and (b)
13 Annotated Code of Maryland
14 (2022 Replacement Volume)

15 BY repealing and reenacting, with amendments,
16 Article – Tax – General
17 Section 10–730(f)
18 Annotated Code of Maryland
19 (2022 Replacement Volume)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **Article – Tax – General**

2 10–730.

3 (a) (1) In this section the following words have the meanings indicated.

4 (4) (i) “Film production activity” means:

5 1. the production of a film or video project that is intended
6 for nationwide commercial distribution; and

7 2. for a television series, each season of the television series.

8 (ii) “Film production activity” includes the production of:

9 1. a feature film;

10 2. a television project;

11 3. a commercial;

12 4. a corporate film;

13 5. a music video; or

14 6. a digital animation project.

15 (iii) “Film production activity” does not include production of:

16 1. a student film;

17 2. a noncommercial personal video;

18 3. a sports broadcast;

19 4. a broadcast of a live event;

20 5. a talk show;

21 6. a video, computer, or social networking game;

22 7. pornography;

23 8. an infomercial;

24 9. a digital project or an animation project other than a
25 digital animation project; or

1 10. a multimedia project.

2 (7) “Qualified film production entity” means an entity that:

3 (i) is carrying out a film production activity; and

4 (ii) the Secretary determines to be eligible for the tax credit under
5 this section in accordance with subsection (c) of this section.

6 (b) (1) A qualified film production entity may claim a credit against the State
7 income tax for film production activities in the State in an amount equal to the amount
8 stated in the final tax credit certificate approved by the Secretary for film production
9 activities.

10 (2) If the tax credit allowed under this section in any taxable year exceeds
11 the total tax otherwise payable by the qualified film production entity for that taxable year,
12 the qualified film production entity may claim a refund in the amount of the excess.

13 (f) (1) Except as provided in paragraph (2) of this subsection, the Secretary
14 may not issue tax credit certificates for credit amounts in the aggregate totaling more than:

15 (i) for fiscal year 2014, \$25,000,000;

16 (ii) for fiscal year 2015, \$7,500,000;

17 (iii) for fiscal year 2016, \$7,500,000;

18 (iv) for fiscal year 2019, \$8,000,000;

19 (v) for fiscal year 2020, \$11,000,000; [and]

20 (vi) for EACH OF fiscal [year] YEARS 2021 [and each fiscal year
21 thereafter] THROUGH 2023, \$12,000,000;

22 ~~(VII) FOR FISCAL YEAR 2024, \$25,000,000; AND~~

23 (VII) FOR EACH OF FISCAL YEARS 2024 THROUGH 2026,
24 \$15,000,000; AND

25 (VIII) FOR FISCAL YEAR ~~2025~~ 2027 AND EACH FISCAL YEAR
26 THEREAFTER, ~~\$50,000,000~~ \$12,000,000.

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

1 subsection in any fiscal year, any excess amount may be carried forward and issued under
2 tax credit certificates in a subsequent fiscal year.

3 (3) The Secretary may not issue tax credit certificates for credit amounts
4 totaling more than \$10,000,000 in the aggregate for a single film production activity.

5 (4) (i) For fiscal year 2019 and each fiscal year thereafter, the Secretary
6 shall make 10% of the credit amount authorized under paragraph (1) of this subsection
7 available for Maryland small or independent film entities.

8 (ii) If the total amount of credits applied for by Maryland small or
9 independent film entities is less than the amount made available under subparagraph (i)
10 of this paragraph, the Secretary shall make available the unused amount of credits for use
11 by qualified film production entities.

12 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July~~
13 ~~1, 2023, and shall be applicable to all taxable years beginning after December 31, 2022.~~

14 SECTION 2. AND BE IT FURTHER ENACTED, That:

15 (a) There is a Maryland Entertainment Council.

16 (b) (1) Subject to paragraph (2) of this subsection, the Council consists of:

17 (i) one member of the Senate of Maryland, appointed by the
18 President of the Senate;

19 (ii) one member of the House of Delegates, appointed by the Speaker
20 of the House;

21 (iii) the Governor's appointed Senior Advisor on Film, Television, and
22 Entertainment; and

23 (iv) the following members, appointed by the Governor:

24 1. one expert in the business of the film, television, and
25 entertainment industry, such as an executive, producer, studio representative, or an
26 individual holding a leadership role within the industry;

27 2. one expert in workforce development or higher education
28 related to the film, television, and entertainment industry;

29 3. one expert in emerging technologies or specialties of the
30 film, television, and entertainment industry, such as an expert in gaming, artificial
31 intelligence, visual effects, animation, post-production, or another related specialty;

1 4. one expert in legal or policy fields specific to the film,
2 television, and entertainment industry;

3 5. one representative of the independent film and television
4 community; and

5 6. one representative of nongovernmental entities or
6 philanthropic institutions that support film, television, or entertainment directly or
7 creative economies more broadly.

8 (2) The Governor may appoint up to three additional individuals as
9 honorary cochairs of the Council who are:

10 (i) individuals with extraordinary cultural capital and commanding
11 significant influence within the film, television, and entertainment industry;

12 (ii) business leaders commanding a significant stake within the film,
13 television, and entertainment industry; or

14 (iii) individuals who have defined the current cultural brand of the
15 film, television, and entertainment industry within the State.

16 (3) An individual appointed as an honorary cochair of the Council shall be
17 a nonvoting member of the Council whose responsibilities shall be limited to the promotion
18 and business development of Maryland's film, television, and entertainment industry.

19 (c) The Senior Advisor on Film, Television, and Entertainment shall chair the
20 Council.

21 (d) The Department of Commerce shall provide staff for the Council.

22 (e) A member of the Council:

23 (1) may not receive compensation as a member of the Council; but

24 (2) is entitled to reimbursement for expenses under the Standard State
25 Travel Regulations, as provided in the State budget.

26 (f) The Council shall:

27 (1) assess Maryland's existing assets, opportunities, and competitive
28 position within the film, television, and entertainment industry;

29 (2) study:

30 (i) Maryland's State, local, and private assets that currently
31 support Maryland's film, television, and entertainment industry, including key

1 infrastructure, existing workforce, workforce pipelines, scenic profile, emerging specialties,
2 and independent creative communities;

3 (ii) existing State programs, agencies, offices, grant programs, and
4 commissions across State agencies that support the film, television, and entertainment
5 industry;

6 (iii) models, competitive profiles, methods, and legislation that states
7 have utilized to incentivize necessary infrastructure and workforce to support the film,
8 television, and entertainment industry;

9 (iv) industry needs, disruptive trends, and emerging technologies
10 within the film, television, and entertainment industry; and

11 (v) complementary industries, aligned businesses, and potential
12 corporate, philanthropic, and other partners for the film, television, and entertainment
13 industry; and

14 (3) make recommendations on the development of a coordinated,
15 comprehensive strategic plan to position Maryland as an emerging leader in the film,
16 television, and entertainment industry.

17 (g) On or before December 1, 2023, the Council shall submit a preliminary report
18 to the Governor, the Secretary of Commerce, and, in accordance with § 2-1257 of the State
19 Government Article, the General Assembly that includes:

20 (1) an assessment of Maryland's existing infrastructure, creative profile,
21 and core structural advantages that the State is uniquely positioned to leverage;

22 (2) recommendations on how to best utilize existing State offices,
23 commissions, and programs to advance Maryland's film, television, and entertainment
24 industry and what, if any, additional investments should be made to support these State
25 functions;

26 (3) a clear definition of Maryland's creative and competitive profile; and

27 (4) recommendations to measure the economic impact of additional
28 investment in the film, television, and entertainment industry.

29 (h) On or before September 1, 2024, the Council shall submit its final report to
30 the Governor, the Secretary of Commerce, and, in accordance with § 2-1257 of the State
31 Government Article, the General Assembly on:

32 (1) the matters included in the Council's preliminary report;

1 (2) recommendations to strengthen the structure and funding of the State’s
2 existing film and theatrical production incentives to ensure a greater return on investment
3 on Maryland’s investment in the film, television, and entertainment industry;

4 (3) recommendations for additional State investment to bolster identified
5 specialties and high–leverage growth opportunities in the film, television, and
6 entertainment industry;

7 (4) recommendations to support and grow Maryland’s independent
8 creative community and incentivize export promotions of Maryland–based talent;

9 (5) methods to bolster film–, television–, and entertainment–related
10 business development and identify potential industry partnerships;

11 (6) methods to sustainably grow the film, television, and entertainment
12 workforce and identify potential workforce development and higher education partners;
13 and

14 (7) other recommendations, as appropriate, to support and grow the
15 economic impact of Maryland’s film, television, and entertainment industry.

16 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be
17 applicable to all taxable years beginning after December 31, 2022.

18 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July
19 1, 2023. Section 2 of this Act shall remain effective for a period of 2 years and, at the end of
20 June 30, 2025, Section 2 of this Act, with no further action required by the General
21 Assembly, shall be abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.