

**SB0427/733122/1**

BY: Senator McCray

AMENDMENTS TO SENATE BILL 427, AS AMENDED

(First Reading File Bill)

AMENDMENT NO. 1

On page 2 of the bill, in line 4, after “programs;” insert “making the film production activity tax credit transferable; authorizing a qualified film production entity to amend its application for the film production activity tax credit under certain circumstances;”.

On page 2 of the Budget and Taxation Committee Amendments (SB0427/973829/1), in line 6 of Amendment No. 1, strike “10-730(a)(1), (4), and (7)”.

On page 5 of the bill, in line 12, after “10-725(d),” insert “10-730(b), (c), and (i).”.

AMENDMENT NO. 2

On page 8 of the Budget and Taxation Committee Amendments, in the first line from the bottom of Amendment No. 2, after “**ELECTRONICALLY.**” insert:

“10-730.

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

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

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

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

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

1. a feature film;
2. a television project;
3. a commercial;
4. a corporate film;
5. a music video;
6. a digital animation project;
7. a documentary; or
8. a talk, reality, or game show.

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

1. a student film;
2. a noncommercial personal video;
3. a sports broadcast;
4. a broadcast of a live event;
5. a video, computer, or social networking game;
6. pornography;

7. an infomercial;
8. a digital project or an animation project other than a digital animation project; or
9. a multimedia project.

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

- (i) is carrying out a film production activity; and
- (ii) the Secretary determines to be eligible for the tax credit under this section in accordance with subsection (c) of this section.

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

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

**(3) (1) IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT AND THE COMPTROLLER UNDER SUBSECTION (1) OF THIS SECTION, THE AMOUNT OF THE TAX CREDIT ALLOWED BUT NOT USED FOR FILM PRODUCTION ACTIVITIES IN THE STATE MAY BE TRANSFERRED IN WHOLE OR IN PART TO ANY INDIVIDUAL OR BUSINESS ENTITY.**

(ii) 1. FOR THE TAXABLE YEAR OF ANY TRANSFER UNDER THIS PARAGRAPH, THE TRANSFEREE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY APPLY THE TAX CREDIT AGAINST THE TOTAL TAX OTHERWISE PAYABLE BY THE TRANSFEREE IN ANY TAXABLE YEAR.

2. IF THE TAX CREDIT EXCEEDS THE STATE INCOME TAX OF THE TRANSFEREE IN ANY TAXABLE YEAR, THE TRANSFEREE:

A. MAY CLAIM A REFUND IN THE AMOUNT OF THE EXCESS; OR

B. MAY TRANSFER THE REMAINDER OF THE TAX CREDIT TO ANY INDIVIDUAL OR BUSINESS ENTITY.

(c) (1) Before beginning a film production activity, a film production entity shall submit to the Department an application to qualify as a film production entity.

(2) The application shall describe the anticipated film production activity, including:

(i) the projected total budget;

(ii) the estimated number of Maryland resident and out-of-state employees and total wages to be paid; and

(iii) the anticipated dates for carrying out the major elements of the film production activity.

(3) Except as provided in subsection (h) of this section, to qualify as a film production entity, the estimated total direct costs incurred in the State must exceed \$250,000.

(4) The application shall include any other information required by the Secretary.

(5) For a film production entity with total direct costs that exceed \$250,000, the Secretary may require the information provided in an application to be verified by an independent auditor selected and paid for by the film production entity seeking certification.

(6) The Secretary shall:

(i) determine if the film production entity qualifies for the credit under this section; and

(ii) notify the Comptroller of the estimated amount of total direct costs and the taxable year the credit will be claimed.

**(7) (I) A QUALIFIED FILM PRODUCTION ENTITY MAY AMEND ITS INITIAL APPLICATION SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION IF AN INDEPENDENT AUDITOR SELECTED AND PAID FOR BY THE QUALIFIED FILM PRODUCTION ENTITY HAS VERIFIED THAT THE PROJECTED TOTAL BUDGET IN ITS INITIAL APPLICATION HAS INCREASED OR DECREASED BY AT LEAST 50%.**

**(II) THE SECRETARY SHALL:**

**1. EVALUATE AN AMENDED APPLICATION SUBMITTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH;**

**2. DETERMINE IF THE FILM PRODUCTION ENTITY CONTINUES TO QUALIFY FOR THE CREDIT UNDER THIS SECTION; AND**

(Over)

**3. IF THE SECRETARY APPROVES THE AMENDED APPLICATION, NOTIFY THE COMPTROLLER OF THE AMENDED ESTIMATED AMOUNT OF TOTAL DIRECT COSTS AND THE TAXABLE YEAR THE CREDIT WILL BE CLAIMED.**

(i) 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, TRANSFER OF, and monitoring of continuing eligibility for the tax credit under this section.”.