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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO TAXATION - MOTION PICTURE TAX CREDIT

Introduced By: Representatives O'Neill, Lombardi, and Lima

Date Introduced: February 27, 2013

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 44-31.2-5 and 44-31.2-6 of the General Laws in Chapter 44-31.2
2 entitled "Motion Picture Production Tax Credits" are hereby amended to read as follows:

3 **44-31.2-5. Motion picture production company tax credit.** -- (a) A motion picture
4 production company shall, [subject to general assembly approval](#) be allowed a credit to be
5 computed as provided in this chapter against a tax imposed by chapters 11, 14, 17 and 30 of this
6 title. The amount of the credit shall be twenty-five percent (25%) of the state certified production
7 costs incurred directly attributable to activity within the state, provided that the primary locations
8 are within the state of Rhode Island and the total production budget as defined herein is a
9 minimum of one hundred thousand dollars (\$100,000). The credit shall be earned in the taxable
10 year in which production in Rhode Island is completed, as determined by the film office in final
11 certification pursuant to subsection 44-31.2-6(c).

12 (b) For the purposes of this section: "total production budget" means and includes the
13 motion picture production company's pre-production, production and post-production costs
14 incurred for the production activities of the motion picture production company in Rhode Island
15 in connection with the production of a state-certified production. The budget shall not include
16 costs associated with the promotion or marketing of the film, video or television product.

17 (c) Notwithstanding subsection (a), the credit shall not exceed five million dollars
18 (\$5,000,000) and shall be allowed against the tax for the taxable period in which the credit is
19 earned and can be carried forward for not more than three (3) succeeding tax years. ~~Pursuant to~~

1 ~~rules promulgated by the tax administrator, the administrator may~~ The general assembly may
2 issue a waiver of the five million dollar (\$5,000,000) tax credit cap for any feature-length film or
3 television series up to the remaining funds available pursuant to section (e).

4 (d) Credits allowed to a motion picture production company, which is a subchapter S
5 corporation, partnership, or a limited liability company that is taxed as a partnership, shall be
6 passed through respectively to persons designated as partners, members or owners on a pro rata
7 basis or pursuant to an executed agreement among such persons designated as subchapter S
8 corporation shareholders, partners, or members documenting an alternate distribution method
9 without regard to their sharing of other tax or economic attributes of such entity.

10 (e) No more than fifteen million dollars (\$15,000,000) in total may be issued for any tax
11 year beginning after December 31, 2007 for motion picture tax credits pursuant to this chapter
12 and/or musical and theatrical production tax credits pursuant to chapter 31.3 of this title. Said
13 credits shall be equally available to motion picture productions and musical and theatrical
14 productions. No specific amount shall be set aside for either type of production.

15 **44-31.2-6. Certification and administration.** -- (a) Initial certification of a production. -
16 The applicant shall properly prepare, sign and submit to the film office an application for initial
17 certification of the Rhode Island production. The application shall include such information and
18 data as the film office deems necessary for the proper evaluation and administration of said
19 application, including, but not limited to, any information about the motion picture production
20 company, and a specific Rhode Island motion picture. The film office shall review the completed
21 application and determine whether it meets the requisite criteria and qualifications for the initial
22 certification for the production. If the initial certification is granted, the film office shall issue a
23 notice of initial certification of the motion picture production to the motion picture production
24 company and to the tax administrator. The notice shall state that, after appropriate review, the
25 initial application meets the appropriate criteria for conditional eligibility. The notice of initial
26 certification will provide a unique identification number for the production and is only a
27 statement of conditional eligibility for the production and, as such, does not grant or convey any
28 Rhode Island tax benefits.

29 (b) Final certification of a production. - Upon completion of the Rhode Island production
30 activities, the applicant shall request a certificate of good standing from the Rhode Island division
31 of taxation. Such certificates shall verify to the film office the motion picture production
32 company's compliance with the requirements of subsection 44-31.2-2(5). The applicant shall
33 properly prepare, sign and submit to the film office an application for final certification of the
34 production and which must include the certificate of good standing from the division of taxation.

1 In addition, the application shall contain such information and data as the film office determines
2 is necessary for the proper evaluation and administration, including, but not limited to, any
3 information about the motion picture production company, its investors and information about the
4 production previously granted initial certification. The final application shall also contain a cost
5 report and an "accountant's certification". The film office and tax administrator may rely without
6 independent investigation, upon the accountant's certification, in the form of an opinion,
7 confirming the accuracy of the information included in the cost report. Upon review of a duly
8 completed and filed application, the film office will make a ~~determination~~ [recommendation to the](#)
9 [general assembly](#) pertaining to the final certification of the production. [The application shall be](#)
10 [forwarded to the general assembly for final approval.](#) Within ninety (90) days after the division of
11 taxation's receipt of the motion picture production company final certification and cost report [and](#)
12 [general assembly approval](#), the division of taxation shall issue a certification of the amount of
13 credit for which the motion picture production company qualifies under section 44-31.2-5. To
14 claim the tax credit, the division of taxation's certification as to the amount of the tax credit shall
15 be attached to all state tax returns on which the credit is claimed.

16 (c) Final certification and credits. - Upon determination that the motion picture
17 production company qualifies for final certification, [and has received general assembly approval](#),
18 the film office shall issue a letter to the production company indicating "certificate of completion
19 of a state certified production". A motion picture production company is prohibited from using
20 state funds, state loans or state guaranteed loans to qualify for the motion picture tax credit. All
21 documents that are issued by the film office pursuant to this section shall reference the
22 identification number that was issued to the production as part of its initial certification.

23 (d) The director of the department of administration, in consultation as needed with the
24 tax administrator, shall promulgate such rules and regulations as are necessary to carry out the
25 intent and purposes of this chapter in accordance with the general guidelines provided herein for
26 the certification of the production and the resultant production credit.

27 (e) The tax administrator of the division of taxation, in consultation with the director of
28 the Rhode Island film and television office, shall promulgate such rules and regulations as are
29 necessary to carry out the intent and purposes of this chapter in accordance with the general
30 guidelines for the tax credit provided herein.

31 (f) Any motion picture production company applying for the credit shall be required to
32 reimburse the division of taxation for any audits required in relation to granting the credit.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would require general assembly approval for all motion picture production
2 company tax credits.

3 This act would take effect upon passage.

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