



General Assembly

February Session, 2006

Substitute Bill No. 5797

* HB05797GAE 041806 *

AN ACT CONCERNING DIGITAL MEDIA AND MOTION PICTURE DEVELOPMENT IN THE STATE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2006*) (a) There is established the
2 Connecticut Office of Digital Media and Motion Pictures. Such office
3 shall be within the Connecticut Commission on Culture and Tourism.
4 The office shall be administered by an executive director, who shall be
5 appointed by the Connecticut Digital Media and Motion Picture
6 Commission established pursuant to section 4 of this act.

7 (b) The Connecticut Commission on Culture and Tourism shall
8 provide resources necessary for the office to perform its tasks under
9 the provisions of sections 2, 3, 9 and 10 of this act.

10 (c) The office shall have the following powers and duties:

11 (1) To promote the use of Connecticut locations, structures, facilities
12 and services for the production and post-production of all digital
13 media, motion pictures and any other media-related products;

14 (2) To provide support services to visiting and in-state production
15 companies, including assistance to digital media and motion picture
16 producers in securing permits from state agencies, authorities or
17 institutions or municipalities or other political subdivisions of the

18 state;

19 (3) To develop and update an on-line resource library concerning
20 the many possible state sites which are suitable for production;

21 (4) To develop and update an on-line and printed production
22 manual of available facilities and services in the state;

23 (5) To conduct and attend trade shows and production workshops
24 to promote Connecticut locations and facilities;

25 (6) To implement the tax credits provided for in sections 8 to 10,
26 inclusive, of this act;

27 (7) To formulate and propose guidelines for state agencies for a "one
28 stop permitting" process, for matters including, but not limited to, the
29 use of state roads and highways, the use of state-owned real or
30 personal property for production activities and the conduct of
31 regulated activities, and to hold workshops to assist state agencies in
32 implementing such process;

33 (8) To formulate and recommend to municipalities model local
34 ordinances to assist production activities, including, but not limited to,
35 "one stop permitting" of digital media, motion picture and other
36 production activity to be conducted in a municipality, and to hold
37 workshops to assist municipalities in implementing such ordinances;

38 (9) To accept any funds, gifts, donations, bequests or grants of funds
39 from private and public sources for the purposes of the activities
40 relating to the Connecticut Office of Digital Media and Motion
41 Pictures;

42 (10) To request and obtain from any state agency, authority or
43 institution or any municipality or other political subdivision of the
44 state such assistance and data as will enable the office to carry out the
45 purposes of the activities relating to the Connecticut Office of Digital
46 Media and Motion Pictures;

47 (11) To assist and promote cooperation among all segments of
48 management and labor that are engaged in the activities of the
49 Connecticut Office of Digital Media and Motion Pictures; and

50 (12) To take any other administrative action which may improve the
51 position of the state's digital media and motion picture production
52 industries in national and international markets.

53 (d) On or before January 15, 2007, and annually thereafter, the
54 executive director of the Connecticut Office of Digital Media and
55 Motion Pictures shall submit a report to the Connecticut Digital Media
56 and Motion Picture Commission and to the General Assembly on the
57 activities of the office and the estimated direct and indirect economic
58 impact of all digital media, motion pictures and related production
59 activity in the state, during the preceding calendar year. Each report
60 shall also include an analysis of the impact on the state of each
61 qualified production, as defined in section 8 of this act.

62 Sec. 2. (NEW) (*Effective July 1, 2006*) Notwithstanding any provision
63 of the general statutes, each state agency, department or institution
64 issuing a request for proposals for any digital media, motion picture or
65 related production activity shall, at the time of such issuance, transmit
66 a copy of such request for proposals to the Connecticut Office of
67 Digital Media and Motion Pictures. The Connecticut Commission on
68 Culture and Tourism shall notify the executive head of each state
69 agency of the requirements of this section.

70 Sec. 3. (*Effective July 1, 2006*) There is established an account within
71 the General Fund to be known as the "Connecticut Office of Digital
72 Media and Motion Pictures account". Any funds received by the state
73 as the result of an activity originated or sponsored by the Connecticut
74 Office of Digital Media and Motion Pictures, including, but not limited
75 to, advertising revenue or payments from film premieres or screenings,
76 or other film or video products, shall be deposited in the account. All
77 moneys in said account shall be held separate and apart from all other
78 moneys, funds and accounts. Investment earnings from any moneys in

79 the account shall be credited to the account and shall become part of
80 the assets of the account. Any balance remaining in the account at the
81 end of any fiscal year shall not lapse and shall be available for use for
82 the fiscal year next succeeding. Any moneys in said account shall be
83 used by the Connecticut Office of Digital Media and Motion Pictures to
84 carry out activities relating to the office.

85 Sec. 4. (NEW) (*Effective July 1, 2006*) (a) There is established a
86 Connecticut Digital Media and Motion Picture Commission. The
87 commission shall be within the Connecticut Commission on Culture
88 and Tourism.

89 (b) The commission shall consist of the following members:

90 (1) Five appointed by the Governor, two of whom shall be either
91 broadcasting executives, attorneys with broadcasting, digital media or
92 motion picture production experience, corporate communications
93 executives, executives of advertising agencies that produce digital
94 media or motion picture projects, or executives of audio or
95 postproduction facilities relating to digital media and motion pictures,
96 and three of whom shall be other professionals whose primary
97 occupation and experience relates directly to the production of digital
98 media or motion pictures;

99 (2) Two appointed by the president pro tempore of the Senate, one
100 of whom shall be a digital media or motion picture producer and one
101 of whom shall be either a broadcasting executive, an attorney with
102 broadcasting, digital media or motion picture production experience, a
103 corporate communications executive, an executive of an advertising
104 agency that produces digital media or motion picture projects, or an
105 executive of an audio or postproduction facility relating to digital
106 media and motion pictures;

107 (3) One appointed by the majority leader of the Senate, who shall be
108 a digital media or motion picture producer;

109 (4) One appointed by the minority leader of the Senate, who shall be

110 a director, writer or a performer in digital media or motion pictures;

111 (5) Two appointed by the speaker of the House of Representatives,
112 one of whom shall be a working professional in the digital media or
113 motion picture production field and one of whom shall be another
114 professional whose primary occupation and experience relates directly
115 to the production of digital media or motion pictures;

116 (6) One appointed by the majority leader of the House of
117 Representatives, who shall be a director, writer or performer in the
118 digital media and motion picture production fields; and

119 (7) One appointed by the minority leader of the House of
120 Representatives, who shall be a representative of academia.

121 (c) The Governor shall appoint from among the members of the
122 commission a chairperson who shall serve at the pleasure of the
123 Governor.

124 (d) The term of each appointed member of the commission
125 beginning on or after July 1, 2006, shall be coterminous with the term
126 of the appointing authority or until a successor is chosen, whichever is
127 later. Vacancies shall be filled by the appointing authority.

128 (e) The members of the commission shall receive no compensation
129 for their services but shall be reimbursed for any necessary expenses
130 incurred in the performance of their duties.

131 (f) The commission shall organize itself in such a manner as it
132 deems desirable and necessary. Seven members of the commission
133 shall constitute a quorum and the affirmative vote of a majority of the
134 members present at a meeting shall be necessary to take any action or
135 adopt any motion or resolution.

136 Sec. 5. (NEW) (*Effective July 1, 2006*) The commission shall:

137 (1) Monitor the activities of the Connecticut Office of Digital Media
138 and Motion Pictures and make recommendations to the executive

139 director to improve state services for the state's digital media and
140 motion picture production industries;

141 (2) Make recommendations to the Governor, the General Assembly
142 and state agencies concerning administrative actions which it deems
143 necessary or helpful to improve such industries;

144 (3) Appoint the executive director of the Connecticut Office of
145 Digital Media and Motion Pictures. The executive director shall have
146 substantial experience in the film, video and media fields and shall be
147 exempt from the classified service. The commission shall design and
148 implement job evaluation criteria for the executive director. The
149 commission shall propose job evaluation criteria for the following
150 positions in such office: (A) Production coordinator, (B) location
151 specialist, (C) tax credit administrator, (D) marketing and business
152 developer, (E) administrative associate, (F) administrative assistant,
153 (G) a work force development coordinator, and (H) any other positions
154 relating to the facilitation or implementation of the activities of the
155 Connecticut Office of Digital Media and Motion Pictures. Some of such
156 positions may be exempt from the classified service;

157 (4) Identify and make recommendations to state agencies and
158 municipalities on revision to actions or procedures which may have a
159 negative impact on digital media and motion picture production in the
160 state or that may appear to discourage or impose unnecessarily costly
161 burdens on such production in the state; and

162 (5) Assist and advise the Connecticut Office of Digital Media and
163 Motion Pictures.

164 Sec. 6. (NEW) (*Effective July 1, 2006*) On or before January 31, 2007,
165 and annually thereafter, the commission shall make a report on the
166 activities of the commission to the Governor, the General Assembly
167 and the joint standing committees of the General Assembly having
168 cognizance of matters relating to commerce and finance, revenue and
169 bonding. The report shall include a summary of the activities of the
170 commission for the preceding year, a copy of the report submitted to

171 the commission by the executive director of the Connecticut Office of
172 Digital Media and Motion Pictures and any recommendations for
173 legislation as may be necessary to promote the purposes of sections 1
174 to 10, inclusive, of this act.

175 Sec. 7. (NEW) (*Effective July 1, 2006*) The Connecticut Commission
176 on Culture and Tourism, with the advice of the Connecticut Digital
177 Media and Motion Picture Commission, shall adopt regulations, in
178 accordance with the provisions of chapter 54 of the general statutes, to
179 carry out the provisions of sections 1 to 10, inclusive, of this act.

180 Sec. 8. (NEW) (*Effective from passage and applicable to taxable years*
181 *commencing on or after January 1, 2006*) As used in this section and
182 sections 9 and 10 of this act:

183 (1) "Qualified production" means the process of producing any type
184 of entertainment content which shall include motion pictures;
185 documentaries; long-form specials, mini-series, series, music videos
186 and interstitials; television programming; interactive television;
187 interactive games; videogames; commercials; infomercials and any
188 format of digital media created primarily for distribution or exhibition
189 to the general public. The term "qualified production" includes any
190 trailer, pilot, video teaser or demo created primarily to stimulate the
191 sale, marketing, promotion or exploitation of future investment in
192 either a product or a qualified production by any means and media in
193 any digital media format, film or videotape, provided such program
194 meets all the criteria of a qualified production. The term "qualified
195 production" shall not include (A) any ongoing production created
196 primarily as news, weather or financial market reports, except for an
197 initial pilot, demo or prototype presentation or informational series
198 programming relating to any qualified production, or (B) any
199 production containing obscene material or performances.

200 (2) "Eligible production company" means a corporation, partnership,
201 limited liability company or other business entity engaged in the
202 business of producing qualified productions on a one-time or ongoing

203 basis and qualified by the Secretary of the State to engage in business
204 in the state.

205 (3) "Eligible development and production costs" means all cash
206 expenditures relating to a qualified production, in whole or in part in
207 the state, relating to development, preproduction, production and
208 postproduction costs of a qualified production including: (A)
209 Expenditures for optioning or purchase of any intellectual property,
210 including, but not limited to, books, scripts, music or trademarks
211 relating to the development or purchase of a script, screenplay or
212 format, provided (i) the holder of the intellectual property is either a
213 company authorized to do business in the state or an individual who is
214 a resident of the state of Connecticut, (ii) seventy-five per cent of the
215 qualified production based on the intellectual property is produced in
216 the state, and (iii) the development costs are less than thirty-five per
217 cent of the actual cash expenditures within the budget allocated for the
218 production of the qualified production in the state. Such costs shall
219 include all expenditures generally associated with the optioning or
220 purchase of intellectual property, including option money, agent fees
221 and attorney fees relating to the transaction and shall exclude any and
222 all deferrals, deferments, royalties, profit participation or recourse or
223 nonrecourse loans which the eligible production company may
224 negotiate in order to obtain the rights to the intellectual property; (B)
225 expenditures in the form of either compensation or purchases paid
226 directly to individuals or companies authorized to do business in the
227 state, including, but not limited to, production work, production
228 equipment, production software, all postproduction work,
229 postproduction equipment, postproduction software, set design, set
230 construction, props, lighting, wardrobe, makeup, makeup accessories,
231 special effects, visual effects, audio effects, film processing, music,
232 sound mixing, editing, location fees, soundstages and any and all other
233 costs or services directly incurred in the state in connection with a
234 state-certified qualified production. "Eligible development and
235 production costs" shall not include the following: (i) Media buys,
236 promotional events or gifts or public relations associated with the

237 promotion or marketing of any qualified production, (ii) deferrals or
238 deferments leveraged or profit participation costs relating to any and
239 all personnel associated with any and all aspects of the production,
240 including, but not limited to, producer fees, director fees, talent fees
241 and writer fees, and (iii) costs relating to the transfer of the production
242 tax credits and any amounts paid to persons or businesses as a result
243 of their participation in profits from the exploitation of the qualified
244 production. "Eligible development and production costs" shall include
245 (I) any and all preproduction, production or postproduction costs
246 relating to the creation of trailers, marketing videos, commercials,
247 point-of-purchase videos and any and all content created on film or
248 digital media, including the duplication of films, videos, CDs, DVDs
249 and any and all digital files now in existence and those yet to be
250 created for mass consumer consumption, and (II) the purchase, by a
251 company in the state, of any and all equipment relating to the
252 duplication or mass market distribution of any content from within the
253 state by any digital media format which is now in use and those
254 formats yet to be created for mass consumer consumption.

255 (4) "State certified production" means a qualified production
256 produced by an eligible production company that is in compliance and
257 is authorized to conduct business in the state, and that has been
258 approved by the Connecticut Office of Digital Media and Motion
259 Pictures as qualifying for a production tax credit under sections 9 and
260 10 of this act.

261 Sec. 9. (NEW) (*Effective from passage and applicable to taxable years*
262 *commencing on or after January 1, 2006*) (a) (1) An eligible production
263 company producing a qualified production shall be allowed a
264 production tax credit against the tax imposed under chapter 208 of the
265 general statutes as follows: (A) For a qualified production incurring at
266 least fifty thousand dollars of eligible production and development
267 costs, a credit of twenty-five per cent of such costs, and (B) for a
268 qualified production incurring at least one million dollars of eligible
269 production costs, a credit of thirty per cent of such costs. Any credit
270 under this subdivision shall be applied within three years of issuance

271 and may be sold, assigned or otherwise transferred, in whole or in
272 part, to one or more taxpayers except where otherwise noted.

273 (2) A company or individual investors reinvesting revenue derived
274 from a qualified production in another qualified production shall be
275 eligible for a production tax credit in an amount equal to fifty per cent
276 of the actual reinvestment, not exceeding their initial investment. Any
277 credit under this subdivision shall be nontransferable, and may not
278 exceed the taxes due from such company or invested in the year that
279 they are applied.

280 (3) The production tax credit allowed under this subsection shall be
281 against the actual tax for the taxable year in which final certificate for
282 the state-certified production is made by the Connecticut Office of
283 Digital Media and Motion Pictures pursuant to section 10 of this act.

284 (4) Any production tax credit allowed under this subsection is
285 nonrefundable and any such credit not applied in any year may be
286 carried forward and used to offset the tax under chapter 208 of the
287 general statutes in the succeeding three years, except where otherwise
288 provided.

289 (b) (1) An eligible production company producing a qualified
290 production shall be allowed a wage tax credit against the tax imposed
291 under chapter 208 of the general statutes in an amount equal to fifty
292 per cent of the per cent of Connecticut residents employed on a
293 qualified production.

294 (2) Any wage tax credit allowed under this section is nonrefundable,
295 nontransferable and may be carried over a three-year period from the
296 date that credits are authorized and may not exceed the tax liability of
297 the eligible production company in the year in which they are applied.

298 Sec. 10. (NEW) (*Effective from passage and applicable to taxable years*
299 *commencing on or after January 1, 2006*) (a) The Connecticut Office of
300 Digital Media and Motion Pictures shall establish and administer a
301 certification process for eligible production companies to claim the

302 production tax credit and wage tax credit allowed under section 9 of
303 this act.

304 (b) Upon receipt of a production budget for a production
305 demonstrating that such production meets the requirements of section
306 9 of this act, the Connecticut Office of Digital Media and Motion
307 Pictures shall issue an initial certification of the production as a
308 qualified production of an eligible production company. The initial
309 certification shall include a unique certificate number for each
310 qualified production and shall indicate that the certification is subject
311 to a final certification by the Connecticut Office of Digital Media and
312 Motion Pictures upon completion of the production.

313 (c) Not more than six months after completion of the qualified
314 production, the eligible production company shall submit a detailed
315 list of the eligible production costs for the qualified production to the
316 Connecticut Office of Digital Media and Motion Pictures. The office
317 shall review such eligible production costs and, after verifying that
318 such costs meet the requirements of section 9 of this act, issue a final
319 certification of the qualified production to the eligible production
320 company.

321 (d) If a taxpayer sells, assigns or otherwise transfers a production
322 tax credit to another taxpayer, the transferor and the transferee shall
323 jointly submit written notification of such transfer to the Connecticut
324 Office of Digital Media and Motion Pictures not more than thirty days
325 after such transfer. The notification shall include the certificate
326 number, the date of the transfer, the amount of the production tax
327 credit transferred, the production tax credit balance before and after
328 the transfer, the tax identification numbers for both the transferor and
329 the transferee, and any other information required by the Connecticut
330 Office of Digital Media and Motion Pictures.

331 (e) Any tax credit under this section not used by a production
332 company shall be recaptured in accordance with regulations adopted
333 under subsection (f) of this section, except that any amount of such

334 recaptured credit has not been paid to the Commissioner of Revenue
 335 Services on or before the due date, such amount shall bear interest at
 336 the rate of one per cent per month or fraction thereof from such due
 337 date to the date of payment.

338 (f) The Connecticut Office of Digital Media and Motion Pictures
 339 shall adopt regulations in accordance with the provisions of chapter 54
 340 of the general statutes to implement this section. Such regulations shall
 341 include provisions to applications for a certificate and for recapture of
 342 any unused production tax credit.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2006</i>	New section
Sec. 2	<i>July 1, 2006</i>	New section
Sec. 3	<i>July 1, 2006</i>	New section
Sec. 4	<i>July 1, 2006</i>	New section
Sec. 5	<i>July 1, 2006</i>	New section
Sec. 6	<i>July 1, 2006</i>	New section
Sec. 7	<i>July 1, 2006</i>	New section
Sec. 8	<i>from passage and applicable to taxable years commencing on or after January 1, 2006</i>	New section
Sec. 9	<i>from passage and applicable to taxable years commencing on or after January 1, 2006</i>	New section
Sec. 10	<i>from passage and applicable to taxable years commencing on or after January 1, 2006</i>	New section

CE *Joint Favorable Subst.*

APP *Joint Favorable*

GAE *Joint Favorable*