



General Assembly

January Session, 2007

Raised Bill No. 7400

LCO No. 6124

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Referred to Committee on Finance, Revenue and Bonding

Introduced by:
(FIN)

AN ACT CONCERNING MOTION PICTURE TAX CREDITS.

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

1 Section 1. Section 12-217jj of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2007, and*
3 *applicable to income years commencing on or after January 1, 2007*):

4 (a) As used in this section:

5 (1) "Commissioner" means the Commissioner of Revenue Services.

6 (2) "Commission" means the Connecticut Commission on Culture
7 and Tourism.

8 (3) (A) "Qualified production" means [the process of producing any
9 type of] entertainment content [which shall include] created in whole
10 or in part within the state, including motion pictures; documentaries;
11 long-form, specials, mini-series, series, videos and music videos and
12 interstitials television programming; interactive television; interactive
13 games; videogames; commercials; infomercials; any format of digital
14 media created [primarily] for distribution or exhibition to the general
15 public; and any trailer, pilot, video teaser or demo created primarily to

16 stimulate the sale, marketing, promotion or exploitation of future
17 investment in either a product or a qualified production via any means
18 and media in any digital media format, film or videotape, provided
19 such program meets all the underlying criteria of a qualified
20 production.

21 (B) "Qualified production" shall not include [(A)] any ongoing
22 program created primarily as news, weather or financial market
23 reports, a production featuring current events, sporting events, an
24 awards show or other gala event, a production whose sole purpose is
25 fundraising, a long-form production that primarily markets a product
26 or service, a production used for corporate training or in-house
27 corporate advertising or other similar productions, or [(B)] any
28 production [containing any material or performance that is obscene, as
29 defined in section 53a-193] for which records are required to be
30 maintained under 18 USC 2257 with respect to sexually explicit
31 content.

32 (4) "Eligible production company" means a corporation, partnership,
33 limited liability company, or other business entity engaged in the
34 business of producing qualified productions on a one-time or ongoing
35 basis, and qualified by the Secretary of the State to engage in business
36 in the state.

37 (5) "Production expenses or costs" means all expenditures clearly
38 and demonstrably incurred [in the state] in the development,
39 preproduction, production or postproduction costs of a qualified
40 production, including:

41 [(A) Expenditures for optioning or purchase of any intellectual
42 property including, but not limited to, books, scripts, music or
43 trademarks relating to the development or purchase of a script,
44 screenplay or format, provided (i) the intellectual property was
45 produced primarily in the state, (ii) seventy-five per cent of the
46 qualified production based on such intellectual property is produced
47 in the state, and (iii) the production expenses or costs for such

48 optioning or purchase are less than thirty-five per cent of the
49 production expenses or costs incurred in the state. Such expenses or
50 costs shall include all expenditures generally associated with the
51 optioning or purchase of intellectual property, including option
52 money, agent fees and attorney fees relating to the transaction, but
53 shall not include any and all deferrals, deferments, royalties, profit
54 participation or recourse or nonrecourse loans which the eligible
55 production company may negotiate in order to obtain the rights to the
56 intellectual property;]

57 [(B)] (A) Expenditures incurred [in the state] in the form of either
58 compensation or purchases including production work, production
59 equipment, production software, postproduction work,
60 postproduction equipment, postproduction software, set design, set
61 construction, props, lighting, wardrobe, makeup, makeup accessories,
62 special effects, visual effects, audio effects, film processing, music,
63 sound mixing, editing, location fees, soundstages and any and all other
64 costs or services directly incurred [in the state] in connection with a
65 state-certified qualified production;

66 [(C)] (B) Expenditures for distribution, including preproduction,
67 production or postproduction costs relating to the creation of trailers,
68 marketing videos, commercials, point-of-purchase videos and any and
69 all content created on film or digital media, including the duplication
70 of films, videos, CDs, DVDs and any and all digital files now in
71 existence and those yet to be created for mass consumer consumption;
72 the purchase, by a company in the state, of any and all equipment
73 relating to the duplication or mass market distribution of any content
74 created or produced in the state by any digital media format which is
75 now in use and those formats yet to be created for mass consumer
76 consumption; and

77 [(D)] (C) "Production expenses or costs" does not include the
78 following: (i) [Talent fees for extras, principal day players and
79 atmosphere, as defined by the Screen Actors Guild, to the extent the

80 individual performer costs exceed the rates of the Screen Actors Guild
81 for double scale wages under the current collective bargaining
82 agreements] Compensation in excess of ten million dollars paid to any
83 individual or entity representing an individual, for services provided
84 in the production of a qualified production; (ii) media buys,
85 promotional events or gifts or public relations associated with the
86 promotion or marketing of any qualified production; (iii) deferred,
87 leveraged or profit participation costs relating to any and all personnel
88 associated with any and all aspects of the production, including, but
89 not limited to, producer fees, director fees, talent fees and writer fees;
90 (iv) costs relating to the transfer of the production tax credits; and (v)
91 any amounts paid to persons or businesses as a result of their
92 participation in profits from the exploitation of the qualified
93 production.

94 (6) "State-certified qualified production" means a qualified
95 production produced by an eligible production company that (A) is in
96 compliance with regulations adopted pursuant to subsection (e) of this
97 section, (B) is authorized to conduct business in this state, and (C) has
98 been approved by the commission as qualifying for a production tax
99 credit under this section.

100 (b) (1) The Connecticut Commission on Culture and Tourism shall
101 administer a system of tax credit vouchers within the resources,
102 requirements and purposes of this section for eligible production
103 companies producing a state-certified qualified production in the state.
104 For income years commencing on or after January 1, [2006] 2007, any
105 eligible production company incurring production expenses or costs in
106 excess of fifty thousand dollars shall be eligible for a credit against the
107 tax imposed under this chapter equal to thirty per cent of such
108 production expenses or costs, provided (A) fifty per cent of such
109 expenses or costs shall be counted toward such credit when incurred
110 outside the state and used within the state, and one hundred per cent
111 of such expenses or costs shall be counted toward such credit when
112 incurred within the state and used within the state, and (B) on and

113 after January 1, 2012, no expenses or costs incurred outside the state
114 and used within the state shall be eligible for a credit, and one hundred
115 per cent of such expenses or costs shall be counted toward such credit
116 when incurred within the state and used within the state.

117 (2) Any credit allowed pursuant to this subsection may be sold,
118 assigned or otherwise transferred, in whole or in part, to one or more
119 taxpayers, [provided such taxpayers may claim such credit only for an
120 income year in which the eligible production company would have
121 been eligible to claim such credit.] and such taxpayers may sell, assign
122 or otherwise transfer, in whole or in part, such credit.

123 (3) Any such credit allowed under this subsection shall be claimed
124 against the tax imposed under this chapter for the income year in
125 which [final certification for the state-certified qualified production is
126 made by the commission pursuant to this section,] the production
127 expenses or costs were incurred and for which a tax credit voucher
128 was issued pursuant to subsection (c) of this section and may be
129 carried forward for the three immediately succeeding income years.
130 Any production tax credit allowed under this subsection shall be
131 nonrefundable.

132 (c) (1) An eligible production company shall apply to the
133 commission for [an eligibility certificate] a tax credit voucher not later
134 than ninety days after the first production expenses or costs are
135 incurred in the production of a qualified production, and shall provide
136 with such application such information as the commission may require
137 to determine such company's eligibility to claim a credit under this
138 section.

139 (2) Not earlier than three months after the application in subdivision
140 (1) of this subsection, an eligible production company may apply to the
141 commission for a production tax credit voucher, and shall provide
142 with such application such information as the commission may require
143 pertaining to the amount of such company's production expenses or
144 costs to date. If the commission determines that such company is

145 eligible to be issued a production tax credit voucher, the commission
146 shall enter on the voucher the amount of production expenses or costs
147 that has been established to the satisfaction of the commission, and the
148 amount of such company's credit under this section. The commission
149 shall provide a copy of such voucher to the commissioner, upon
150 request.

151 [(2)] (3) Not later than ninety days after the last production expenses
152 or costs are incurred in the production of a qualified production, an
153 eligible production company shall apply to the commission for a
154 production tax credit [certificate] voucher, and shall provide with such
155 application such information as the commission may require
156 pertaining to the amount of [the] such company's production expenses
157 or costs. If the commission determines that [the] such company is
158 eligible to be issued a production tax credit [certificate] voucher, the
159 commission shall enter on the [certificate] voucher the amount of
160 production expenses or costs that has been established to the
161 satisfaction of the commission, minus the amount of any credit issued
162 pursuant to subdivision (2) of this subsection, and the amount of [the]
163 such company's credit under this section. The commission shall
164 provide a copy of such [certificate] voucher to the commissioner, upon
165 request.

166 (d) If an eligible production company sells, assigns or otherwise
167 transfers a credit under this section to another taxpayer, the transferor
168 and transferee shall jointly submit written notification of such transfer
169 to the commission not later than thirty days after such transfer. If such
170 transferee sells, assigns or otherwise transfers a credit under this
171 section to a subsequent transferee, such transferee and such
172 subsequent transferee shall jointly submit written notification of such
173 transfer to the commission not later than thirty days after such
174 transfer. The notification after each transfer shall include the credit
175 [certificate] voucher number, the date of transfer, the amount of such
176 credit transferred, the tax credit balance before and after the transfer,
177 the tax identification numbers for both the transferor and the

178 transferee, and any other information required by the commission.
179 Failure to comply with this subsection will result in a disallowance of
180 the tax credit until there is full compliance on [both] the part of the
181 transferor and the transferee, and for a second transfer on the part of
182 the transferee and the subsequent transferee. The commission shall
183 provide a copy of the notification of assignment to the commissioner
184 upon request.

185 (e) Any eligible production company that wilfully submits
186 information to the commission that it knows to be fraudulent or false
187 shall, in addition to any other penalties provided by law, be liable for a
188 penalty equal to the amount of such company's credit entered on the
189 production tax credit certificate issued under this section.

190 ~~[(e)]~~ (f) The commission, in consultation with the commissioner,
191 shall adopt regulations, in accordance with the provisions of chapter
192 54, as may be necessary for the administration of this section.

193 Sec. 2. (NEW) (*Effective July 1, 2007, and applicable to income years*
194 *commencing on or after January 1, 2007*) (a) There is established an
195 account to be known as the "film and media infrastructure investment
196 revolving loan account" which shall be a separate nonlapsing account
197 within the General Fund. The account may contain any moneys
198 required by law to be deposited in the account, and repayment of
199 principal and interest on loans provided pursuant to this section shall
200 be credited to such account and shall become part of the assets of the
201 account.

202 (b) The state, acting through Connecticut Innovations, Incorporated,
203 may provide financial aid, as defined in section 32-34 of the general
204 statutes, from the film and media infrastructure investment revolving
205 loan account to persons developing or constructing the basic buildings,
206 facilities or installations needed for the functioning of the media and
207 motion picture industry in this state. Application for such financial aid
208 shall be made in accordance with the provisions of section 32-40 of the
209 general statutes.

210 Sec. 3. (NEW) (*Effective July 1, 2007*) (a) For the purposes described
211 in subsection (b) of this section, the State Bond Commission shall have
212 the power, from time to time, to authorize the issuance of bonds of the
213 state in one or more series and in principal amounts not exceeding in
214 the aggregate fifty million dollars.

215 (b) The proceeds of the sale of said bonds, to the extent of the
216 amount stated in subsection (a) of this section, shall be used by
217 Connecticut Innovations, Incorporated for the purpose of providing
218 funding for the film and media infrastructure investment revolving
219 loan account established pursuant to section 2 of this act.

220 (c) All provisions of section 3-20 of the general statutes, or the
221 exercise of any right or power granted thereby, which are not
222 inconsistent with the provisions of this section are hereby adopted and
223 shall apply to all bonds authorized by the State Bond Commission
224 pursuant to this section, and temporary notes in anticipation of the
225 money to be derived from the sale of any such bonds so authorized
226 may be issued in accordance with said section 3-20 and from time to
227 time renewed. Such bonds shall mature at such time or times not
228 exceeding twenty years from their respective dates as may be provided
229 in or pursuant to the resolution or resolutions of the State Bond
230 Commission authorizing such bonds. None of said bonds shall be
231 authorized except upon a finding by the State Bond Commission that
232 there has been filed with it a request for such authorization which is
233 signed by or on behalf of the Secretary of the Office of Policy and
234 Management and states such terms and conditions as said commission,
235 in its discretion, may require. Said bonds issued pursuant to this
236 section shall be general obligations of the state and the full faith and
237 credit of the state of Connecticut are pledged for the payment of the
238 principal of and interest on said bonds as the same become due, and
239 accordingly and as part of the contract of the state with the holders of
240 said bonds, appropriation of all amounts necessary for punctual
241 payment of such principal and interest is hereby made, and the State
242 Treasurer shall pay such principal and interest as the same become

243 due.

244 Sec. 4. (NEW) (*Effective July 1, 2007*) (a) The Office of Workforce
 245 Competitiveness, in consultation with the Labor Commissioner, the
 246 Commissioners of Education and Economic and Community
 247 Development, and the Connecticut Commission on Culture and
 248 Tourism, shall establish a film, media and entertainment workforce
 249 pilot program. The pilot program shall be located in northeastern
 250 Connecticut, in collaboration with an arts magnet school. Such
 251 program shall develop a model for training a workforce for the media,
 252 film and entertainment industry.

253 (b) Not later than February 15, 2008, and annually thereafter, the
 254 Office of Workforce Competitiveness shall report to the joint standing
 255 committees of the General Assembly having cognizance of matters
 256 relating to higher education and employment advancement and
 257 finance, revenue and bonding, regarding the collaborative measures
 258 taken pursuant to this section, and the status of the pilot program.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>July 1, 2007, and applicable to income years commencing on or after January 1, 2007</i> | 12-217jj |
| Sec. 2 | <i>July 1, 2007, and applicable to income years commencing on or after January 1, 2007</i> | New section |
| Sec. 3 | <i>July 1, 2007</i> | New section |
| Sec. 4 | <i>July 1, 2007</i> | New section |

Statement of Purpose:

To make certain changes to the film production tax credit, including allowing a credit of one hundred per cent for allowable production expenditures made and used within the state, but limiting the credit to fifty per cent of expenses when an expenditure is made outside the state, even though for use in the state; allowing interim credits and

transferability of such credits; to set up a loan fund through Connecticut Innovations, Incorporated, to promote the development and construction of infrastructure to support the film industry in this state; and to support a pilot program to train persons for the film, media and entertainment industry.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]