



General Assembly

Amendment

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LCO No. 6446

HB0584306446HDO

Offered by:

REP. AMANN, 118th Dist.

REP. BERGER, 73rd Dist.

REP. LEONE, 148th Dist.

To: House Bill No. 5843

File No. 679

Cal. No. 405

"AN ACT CONCERNING ENTERTAINMENT INDUSTRY TAX CREDITS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 12-217ll of the 2008 supplement to the general
4 statutes is repealed and the following is substituted in lieu thereof
5 (*Effective July 1, 2008*):

6 (a) As used in this section:

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

8 (2) "Commission" means the Connecticut Commission on Culture
9 and Tourism.

10 (3) "Digital animation production company" means a corporation,
11 partnership, limited liability company or other business entity engaged

12 exclusively in digital animation production activity on an ongoing
13 basis, and that is qualified by the Secretary of the State to engage in
14 business in the state.

15 (4) "State-certified digital animation production company" means a
16 digital animation production company that (A) maintains studio
17 facilities located within the state at which digital animation production
18 activities are conducted, (B) employs at least two hundred full-time
19 employees within the state, (C) is in compliance with regulations
20 adopted pursuant to subsection (h) of this section, and (D) has been
21 certified by the commission.

22 (5) "Digital animation production activity" means the creation,
23 development and production of computer-generated animation
24 content for distribution or exhibition to the general public, but not for
25 the production of any material for which records are required to be
26 maintained under 18 USC 2257 with respect to sexually explicit
27 content.

28 (6) "Full-time employee" means an employee required to work at
29 least thirty-five hours or more per week, and who is not a temporary
30 or seasonal employee.

31 (7) "Post-certification remedy" means the recapture, disallowance,
32 recovery, reduction, repayment, forfeiture, decertification or any other
33 remedy that would have the effect of reducing or otherwise limiting
34 the use of a tax credit provided by this section.

35 (8) "Production expenses or costs" means all expenditures clearly
36 and demonstrably incurred in the state in the development,
37 preproduction, production or postproduction costs of a digital
38 animation production activity, including:

39 (A) Expenditures for optioning or purchase of any intellectual
40 property including, but not limited to, books, scripts, music or
41 trademarks relating to the development or purchase of a script,
42 screenplay or format, to the extent that such expenditures are less than

43 thirty-five per cent of the production expenses or costs incurred by a
44 digital animation production company in any income year. Such
45 expenses or costs shall include all expenditures generally associated
46 with the optioning or purchase of intellectual property, including
47 option money, agent fees and attorney fees relating to the transaction,
48 but shall not include any and all deferrals, deferments, profit
49 participation or recourse or nonrecourse loans which the digital
50 animation production company may negotiate in order to obtain the
51 rights to the intellectual property;

52 (B) Expenditures incurred in the form of either compensation or
53 purchases including production work, production equipment not
54 eligible for the infrastructure tax credit provided in section 12-217kk of
55 the 2008 supplement to the general statutes, production software,
56 postproduction work, postproduction equipment, postproduction
57 software, set design, set construction, props, lighting, wardrobe,
58 makeup, makeup accessories, special effects, visual effects, audio
59 effects, actors, voice talent, film processing, music, sound mixing,
60 editing, location fees, soundstages, rent, utilities, insurance,
61 administrative support, systems support, all reasonably-related
62 expenses in connection with digital animation production activity, and
63 any and all other costs or services directly incurred in the state in
64 connection with a state-certified digital animation production
65 company;

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

77 (D) "Production expenses or costs" does not include the following:
78 (i) Compensation in excess of fifteen million dollars paid to any
79 individual or entity representing an individual, for services provided
80 in a digital animation production activity; (ii) media buys, promotional
81 events or gifts or public relations associated with the promotion or
82 marketing of any digital animation production activity; (iii) deferred,
83 leveraged or profit participation costs relating to any and all personnel
84 associated with any and all aspects of the production, including, but
85 not limited to, producer fees, director fees, talent fees and writer fees;
86 (iv) costs relating to the transfer of the digital animation tax credits;
87 and (v) any amounts paid to persons or businesses as a result of their
88 participation in profits from the exploitation of the digital animation
89 production activity.

90 (b) (1) The Connecticut Commission on Culture and Tourism shall
91 administer a system of tax credit vouchers within the resources,
92 requirements and purposes of this section for digital animation
93 production companies undertaking digital animation production
94 activity in the state. For income years commencing on or after January
95 1, 2007, any state-certified digital animation production company
96 incurring production expenses or costs in excess of fifty thousand
97 dollars shall be eligible for a credit against the tax imposed under
98 chapter 207 or this chapter, equal to thirty per cent of such production
99 expenses or costs.

100 (2) Any credit allowed pursuant to this section may be sold,
101 assigned or otherwise transferred, in whole or in part, to one or more
102 taxpayers, provided no credit, after issuance, may be sold, assigned or
103 otherwise transferred, in whole or in part, more than three times.

104 (3) Any credit allowed pursuant to this section shall be claimed
105 against the tax imposed under chapter 207 or this chapter, for the
106 income year in which the production expenses or costs were incurred,
107 and may be carried forward for the three immediately succeeding
108 income years. Any digital animation tax credit allowed under this
109 section shall be nonrefundable.

110 (4) Any digital animation production company receiving a digital
111 animation tax credit pursuant to this section shall not be eligible to
112 apply for or receive a tax credit pursuant to section 12-217jj of the 2008
113 supplement to the general statutes.

114 (c) Not more frequently than twice during the income year of a
115 state-certified digital animation production company, such company
116 may apply to the commission for a digital animation tax credit
117 voucher, and shall provide with such application such information and
118 independent certification as the commission may require pertaining to
119 the amount of such company's production expenses or costs incurred
120 during the period for which such application is made. If the
121 commission determines that the company is eligible to be issued a tax
122 credit voucher, the commission shall enter on the voucher the amount
123 of production expenses and costs incurred during the period for which
124 the voucher is issued and the amount of tax credits issued pursuant to
125 such voucher. The commission shall provide a copy of such voucher to
126 the commissioner upon request.

127 (d) If a state-certified digital animation production company sells,
128 assigns or otherwise transfers a credit under this section to another
129 taxpayer, the transferor and transferee shall jointly submit written
130 notification of such transfer to the commission not later than thirty
131 days after such transfer. If such transferee sells, assigns or otherwise
132 transfers a credit under this section to a subsequent transferee, such
133 transferee and such subsequent transferee shall jointly submit written
134 notification of such transfer to the commission not later than thirty
135 days after such transfer. The notification after each transfer shall
136 include the credit voucher number, the date of transfer, the amount of
137 such credit transferred, the tax credit balance before and after the
138 transfer, the tax identification numbers for both the transferor and the
139 transferee, and any other information required by the commission.
140 Failure to comply with this subsection will result in a disallowance of
141 the tax credit until there is full compliance on the part of the transferor
142 and the transferee, and for a second or third transfer, on the part of all
143 subsequent transferors and transferees. The commission shall provide

144 a copy of the notification of assignment to the commissioner upon
145 request.

146 (e) Any state-certified digital animation production company that
147 wilfully submits information to the commission that it knows to be
148 fraudulent or false shall, in addition to any other penalties provided by
149 law, be liable for a penalty equal to the amount of such company's
150 credit entered on the digital animation tax credit certificate issued
151 under this section.

152 (f) The issuance by the commission of a digital animation tax credit
153 voucher with respect to an amount of tax credits stated thereon shall
154 mean that none of such tax credits are subject to a post-certification
155 remedy, and that the commission and the commissioner shall have no
156 right, except in the case of possible material misrepresentation or
157 fraud, to conduct any further or additional review, examination or
158 audit of the expenditures or costs for which such tax credits were
159 issued. If at any time after the issuance of a tax credit voucher the
160 commission or the commissioner determines that there was a material
161 misrepresentation or fraud on the part of a state-certified digital
162 animation production company in connection with the submission of
163 an expense report and the result of such material misrepresentation or
164 fraud was that (1) a specific amount of tax credits was reflected on the
165 tax credit voucher issued in response to such expense report that
166 would not have otherwise been so reflected, and (2) such tax credits
167 would otherwise be subject to a post-certification remedy, such tax
168 credits shall not be subject to any post-certification remedy and the
169 sole and exclusive remedy of the commission and the commissioner
170 shall be to seek collection of the amount of such tax credits from the
171 digital animation production company that committed the fraud or
172 misrepresentation, not from any transferee of the tax credits.

173 (g) The aggregate amount of all tax credits which may be reserved
174 by the commission pursuant to this section shall not exceed fifteen
175 million dollars in any one fiscal year, provided: (1) The aggregate
176 amount of tax credits that may be approved by the commission shall

177 be increased by two million five hundred thousand dollars for the
178 fiscal year ending June 30, 2010, if aggregate qualifying production
179 expenses or costs for said year equal or exceed fifty-nine million
180 dollars; (2) the aggregate amount of tax credits shall be increased by
181 five million dollars for the fiscal year ending June 30, 2011, if aggregate
182 qualifying production expenses or costs for said year equal or exceed
183 sixty-seven million five hundred thousand dollars; (3) the aggregate
184 amount of tax credits shall be increased by seven million five hundred
185 thousand dollars for the fiscal year ending June 30, 2012, if aggregate
186 qualifying production expenses or costs for said year equal or exceed
187 seventy-five million five hundred thousand dollars; and (4) the
188 aggregate amount of tax credits shall be increased by ten million
189 dollars for each fiscal year ending after June 30, 2012, if aggregate
190 qualifying production expenses or cost for any such year equal or
191 exceed eighty-four million five hundred thousand dollars. Not later
192 than thirty days after the end of any fiscal year for which tax credits
193 reserved by the commission pursuant to this section exceed fifteen
194 million dollars, the commission shall submit to the joint standing
195 committee of the General Assembly having cognizance of matters
196 relating to commerce and finance, revenue and bonding a report of all
197 such tax credits reserved in excess of fifteen million dollars, identifying
198 the taxpayers for which such tax credits were reserved and providing
199 such additional information regarding such reservation of tax credits
200 as the committee shall request.

201 (h) The commission, in consultation with the commissioner, shall
202 adopt regulations, in accordance with the provisions of chapter 54, as
203 may be necessary for the administration of this section."

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2008	12-217ll