



General Assembly

February Session, 2010

***Raised Bill No. 176***

LCO No. 918

\*00918\_\_\_\_\_CE\_\*

Referred to Committee on Commerce

Introduced by:  
(CE)

***AN ACT CONCERNING THE FILM TAX CREDIT.***

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

1 Section 1. Section 12-217jj of the 2010 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective July 1, 2010, and applicable to income years commencing on or after*  
4 *January 1, 2010*):

5 (a) As used in this section:

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

7 (2) "Department" means the Department of Economic and  
8 Community Development.

9 (3) (A) "Qualified production" means entertainment content created  
10 in whole or in part within the state, including motion pictures;  
11 documentaries; long-form, specials, mini-series, series, sound  
12 recordings, videos and music videos and interstitials television  
13 programming; interactive television; interactive games; videogames;  
14 commercials; any format of digital media, including an interactive web

15 site, created for distribution or exhibition to the general public; and  
16 any trailer, pilot, video teaser or demo created primarily to stimulate  
17 the sale, marketing, promotion or exploitation of future investment in  
18 either a product or a qualified production via any means and media in  
19 any digital media format, film or videotape, provided such program  
20 meets all the underlying criteria of a qualified production.

21 (B) "Qualified production" shall not include any ongoing television  
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 any production  
28 for which records are required to be maintained under 18 USC 2257  
29 with respect to sexually explicit content.

30 (4) "Eligible production company" means a corporation, partnership,  
31 limited liability company, or other business entity engaged in the  
32 business of producing qualified productions on a one-time or ongoing  
33 basis, [and] qualified by the Secretary of the State to engage in business  
34 in the state, and that conducts at least fifty per cent of its total  
35 production in studios located in the state.

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

40 (A) Expenditures incurred in the state in the form of either  
41 compensation or purchases including production work, production  
42 equipment not eligible for the infrastructure tax credit provided in  
43 section 12-217kk, production software, postproduction work,  
44 postproduction equipment, postproduction software, set design, set  
45 construction, props, lighting, wardrobe, makeup, makeup accessories,  
46 special effects, visual effects, audio effects, film processing, music,

47 sound mixing, editing, location fees, soundstages and any and all other  
48 costs or services directly incurred in connection with a state-certified  
49 qualified production;

50 (B) Expenditures for distribution, including preproduction,  
51 production or postproduction costs relating to the creation of trailers,  
52 marketing videos, commercials, point-of-purchase videos and any and  
53 all content created on film or digital media, including the duplication  
54 of films, videos, CDs, DVDs and any and all digital files now in  
55 existence and those yet to be created for mass consumer consumption;  
56 the purchase, by a company in the state, of any and all equipment  
57 relating to the duplication or mass market distribution of any content  
58 created or produced in the state by any digital media format which is  
59 now in use and those formats yet to be created for mass consumer  
60 consumption; and

61 (C) "Production expenses or costs" does not include the following:  
62 (i) On and after January 1, 2008, compensation in excess of fifteen  
63 million dollars paid to any individual or entity representing an  
64 individual, for services provided in the production of a qualified  
65 production and on or after January 1, 2010, compensation subject to  
66 Connecticut personal income tax in excess of twenty million dollars  
67 paid in the aggregate to any individuals or entities representing  
68 individuals, for star talent provided in the production of a qualified  
69 production; (ii) media buys, promotional events or gifts or public  
70 relations associated with the promotion or marketing of any qualified  
71 production; (iii) deferred, leveraged or profit participation costs  
72 relating to any and all personnel associated with any and all aspects of  
73 the production, including, but not limited to, producer fees, director  
74 fees, talent fees and writer fees; and (iv) [costs relating to the transfer  
75 of the production tax credits; (v)] any amounts paid to persons or  
76 businesses as a result of their participation in profits from the  
77 exploitation of the qualified production. [; and (vi) any expenses or  
78 costs relating to an independent certification, as required by subsection  
79 (c) of this section, or as the department may otherwise require,

80 pertaining to the amount of production expenses or costs set forth by  
81 an eligible production company in its application for a production tax  
82 credit.]

83 (6) "Sound recording" means a recording of music, poetry or  
84 spoken-word performance, but does not include the audio portions of  
85 dialogue or words spoken and recorded as part of a motion picture,  
86 video, theatrical production, television news coverage or athletic event.

87 (7) "State-certified qualified production" means a qualified  
88 production produced by an eligible production company that (A) is in  
89 compliance with regulations adopted pursuant to subsection (g) of this  
90 section, (B) is authorized to conduct business in this state, and (C) has  
91 been approved by the department as qualifying for a production tax  
92 credit under this section.

93 (8) "Interactive web site" means a web site, the production costs of  
94 which (A) exceed five hundred thousand dollars per income year, and  
95 (B) is primarily (i) interactive games or end user applications, or (ii)  
96 animation, simulation, sound, graphics, story lines or video created or  
97 repurposed for distribution over the Internet. An interactive web site  
98 does not include a web site primarily used for institutional, private,  
99 industrial, retail or wholesale marketing or promotional purposes, or  
100 which contains obscene content.

101 (9) "Post-certification remedy" means the recapture, disallowance,  
102 recovery, reduction, repayment, forfeiture, decertification or any other  
103 remedy that would have the effect of reducing or otherwise limiting  
104 the use of a tax credit provided by this section.

105 (b) [(1)] The Department of Economic and Community  
106 Development shall administer a system of tax [credit vouchers] rebates  
107 within the resources, requirements and purposes of this section for  
108 eligible production companies producing a state-certified qualified  
109 production in the state.

110 [(A)] (1) For income years commencing on or after January 1, 2006,  
111 but prior to January 1, 2010, any eligible production company  
112 incurring production expenses or costs in excess of fifty thousand  
113 dollars shall be eligible for a [credit against] rebate of the tax imposed  
114 under chapter 207 or this chapter equal to thirty per cent of such  
115 production expenses or costs.

116 [(B)] (2) For income years commencing on or after January 1, 2010,  
117 [(i)] (A) any eligible production company incurring production  
118 expenses or costs of not less than one hundred thousand dollars, but  
119 not more than five hundred thousand dollars, shall be eligible for a  
120 [credit against] rebate of the tax imposed under chapter 207 or this  
121 chapter equal to ten per cent of such production expenses or costs, [(ii)]  
122 (B) any such company incurring such expenses or costs of more than  
123 five hundred thousand dollars, but not more than one million dollars,  
124 shall be eligible for a [credit against] rebate of the tax imposed under  
125 chapter 207 or this chapter equal to fifteen per cent of such production  
126 expenses or costs, and [(iii)] (C) any such company incurring such  
127 expenses or costs of more than one million dollars shall be eligible for a  
128 [credit against] rebate of the tax imposed under chapter 207 or this  
129 chapter equal to thirty per cent of such production expenses or costs.

130 [(C) No eligible production company incurring an amount of  
131 production expenses or costs that qualifies for such credit shall be  
132 eligible for such credit unless on or after January 1, 2010, such  
133 company conducts not less than fifty per cent of principal photography  
134 days within the state or expends not less than fifty per cent of  
135 postproduction costs within the state.

136 (D) (i) For income years commencing on or after January 1, 2009, but  
137 prior to January 1, 2010, fifty per cent of production expenses or costs  
138 shall be counted toward such credit when incurred outside the state  
139 and used within the state, and one hundred per cent of such expenses  
140 or costs shall be counted toward such credit when incurred within the  
141 state and used within the state.

142 (ii) For income years commencing on or after January 1, 2010, no  
143 expenses or costs incurred outside the state and used within the state  
144 shall be eligible for a credit, and one hundred per cent of such  
145 expenses or costs shall be counted toward such credit when incurred  
146 within the state and used within the state.

147 (2) On and after July 1, 2006, and for income years commencing on  
148 or after January 1, 2006, any credit allowed pursuant to this subsection  
149 may be sold, assigned or otherwise transferred, in whole or in part, to  
150 one or more taxpayers, provided no credit, after issuance, may be sold,  
151 assigned or otherwise transferred, in whole or in part, more than three  
152 times.

153 (3) On and after July 1, 2006, and for income years commencing on  
154 or after January 1, 2006, all or part of any such credit allowed under  
155 this subsection shall be claimed against the tax imposed under chapter  
156 207 or this chapter for the income year in which the production  
157 expenses or costs were incurred, or in the three immediately  
158 succeeding income years. Any production tax credit allowed under  
159 this subsection shall be nonrefundable.

160 (c) (1) An eligible production company shall apply to the  
161 department for a tax credit voucher on an annual basis, but not later  
162 than ninety days after the first production expenses or costs are  
163 incurred in the production of a qualified production, and shall provide  
164 with such application such information as the department may require  
165 to determine such company's eligibility to claim a credit under this  
166 section. No production expenses or costs may be listed more than once  
167 for purposes of the tax credit voucher pursuant to this section, or  
168 pursuant to section 12-217kk or 12-217ll, and if a production expense  
169 or cost has been included in a claim for a credit, such production  
170 expense or cost may not be included in any subsequent claim for a  
171 credit.

172 (2) Not later than ninety days after the end of the annual period, or  
173 after the last production expenses or costs are incurred in the

174 production of a qualified production, an eligible production company  
175 shall apply to the department for a production tax credit voucher, and  
176 shall provide with such application such information and independent  
177 certification as the department may require pertaining to the amount  
178 of such company's production expenses or costs. Such independent  
179 certification shall be provided by an audit professional chosen from a  
180 list compiled by the department. If the department determines that  
181 such company is eligible to be issued a production tax credit voucher,  
182 the department shall enter on the voucher the amount of production  
183 expenses or costs that has been established to the satisfaction of the  
184 department and the amount of such company's credit under this  
185 section. The department shall provide a copy of such voucher to the  
186 commissioner, upon request.

187 (3) The department shall charge a reasonable administrative fee  
188 sufficient to cover the department's costs to analyze applications  
189 submitted under this section.

190 (d) If an eligible production company sells, assigns or otherwise  
191 transfers a credit under this section to another taxpayer, the transferor  
192 and transferee shall jointly submit written notification of such transfer  
193 to the department not later than thirty days after such transfer. If such  
194 transferee sells, assigns or otherwise transfers a credit under this  
195 section to a subsequent transferee, such transferee and such  
196 subsequent transferee shall jointly submit written notification of such  
197 transfer to the department not later than thirty days after such transfer.  
198 The notification after each transfer shall include the credit voucher  
199 number, the date of transfer, the amount of such credit transferred, the  
200 tax credit balance before and after the transfer, the tax identification  
201 numbers for both the transferor and the transferee, and any other  
202 information required by the department. Failure to comply with this  
203 subsection will result in a disallowance of the tax credit until there is  
204 full compliance on the part of the transferor and the transferee, and for  
205 a second or third transfer, on the part of all subsequent transferors and  
206 transferees. The department shall provide a copy of the notification of

207 assignment to the commissioner upon request.]

208 [(e)] (c) Any eligible production company that submits information  
209 to the department that it knows to be fraudulent or false shall, in  
210 addition to any other penalties provided by law, be liable for a penalty  
211 equal to the amount of such company's credit entered on the  
212 production tax credit certificate issued under this section.

213 [(f) No tax credits transferred pursuant to this section shall be  
214 subject to a post-certification remedy, and the department and the  
215 commissioner shall have no right, except in the case of possible  
216 material misrepresentation or fraud, to conduct any further or  
217 additional review, examination or audit of the expenditures or costs  
218 for which such tax credits were issued. The sole and exclusive remedy  
219 of the department and the commissioner shall be to seek collection of  
220 the amount of such tax credits from the entity that committed the  
221 fraud or misrepresentation.]

222 [(g)] (d) The department, in consultation with the commissioner,  
223 shall adopt regulations, in accordance with the provisions of chapter  
224 54, as may be necessary for the administration of this section.

225 Sec. 2. Subdivision (6) of subsection (a) of section 32-1p of the 2010  
226 supplement to the general statutes is repealed and the following is  
227 substituted in lieu thereof (*Effective July 1, 2010*):

228 (6) To prepare an explanatory guide showing the impact of relevant  
229 state and municipal tax statutes, regulations and administrative  
230 opinions on typical production activities and to implement the tax  
231 credits or rebates provided for in sections 12-217jj, as amended by this  
232 act, 12-217kk and 12-217ll, as amended by this act;

233 Sec. 3. Subdivision (4) of subsection (b) of section 12-217ll of the 2010  
234 supplement to the general statutes is repealed and the following is  
235 substituted in lieu thereof (*Effective July 1, 2010, and applicable to income*  
236 *years commencing on or after January 1, 2010*):

237 (4) Any digital animation production company receiving a digital  
238 animation tax credit pursuant to this section shall not be eligible to  
239 apply for or receive a [tax credit] rebate pursuant to section 12-217jj, as  
240 amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2010, and applicable to income years commencing on or after January 1, 2010</i>	12-217jj
Sec. 2	<i>July 1, 2010</i>	32-1p(a)(6)
Sec. 3	<i>July 1, 2010, and applicable to income years commencing on or after January 1, 2010</i>	12-217ll(b)(4)

**Statement of Purpose:**

To obtain greater benefits for the state from the film production tax credit by creating a tax rebate program.

*[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.]*