



General Assembly

February Session, 2022

Raised Bill No. 385

LCO No. 2481



Referred to Committee on FINANCE, REVENUE AND
BONDING

Introduced by:
(FIN)

**AN ACT CONCERNING THE AMOUNT OF THE DIGITAL MEDIA TAX
CREDIT.**

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

1 Section 1. Section 12-217jj of the 2022 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective from passage*):

4 (a) As used in this section:

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

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

8 (3) (A) "Qualified production" means entertainment content created
9 in whole or in part within the state, including motion pictures, except as
10 otherwise provided in this subparagraph; documentaries; long-form,
11 specials, mini-series, series, sound recordings, videos and music videos
12 and interstitials television programming; interactive television;

13 relocated television production; 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 any
16 trailer, pilot, video teaser or demo created primarily to stimulate the
17 sale, marketing, promotion or exploitation of future investment in either
18 a product or a qualified production via any means and media in any
19 digital media format, film or videotape, provided such program meets
20 all the underlying criteria of a qualified production. For state fiscal years
21 ending on or after June 30, 2014, "qualified production" shall not include
22 a motion picture that has not been designated as a state-certified
23 qualified production prior to July 1, 2013, and no tax credit voucher for
24 such motion picture may be issued for such motion picture, except, for
25 state fiscal years ending on or after June 30, 2015, "qualified production"
26 shall include a motion picture for which twenty-five per cent or more of
27 the principal photography shooting days are in this state at a facility that
28 receives not less than twenty-five million dollars in private investment
29 and opens for business on or after July 1, 2013, and a tax credit voucher
30 may be issued for such motion picture.

31 (B) "Qualified production" shall not include any ongoing television
32 program created primarily as news, weather or financial market reports;
33 a production featuring current events, other than a relocated television
34 production, sporting events, an awards show or other gala event; a
35 production whose sole purpose is fundraising; a long-form production
36 that primarily markets a product or service; a production used for
37 corporate training or in-house corporate advertising or other similar
38 productions; or any production for which records are required to be
39 maintained under 18 USC 2257, as amended from time to time, with
40 respect to sexually explicit content.

41 (4) "Eligible production company" means a corporation, partnership,
42 limited liability company, or other business entity engaged in the
43 business of producing qualified productions on a one-time or ongoing
44 basis, and qualified by the Secretary of the State to engage in business
45 in the state.

46 (5) "Production expenses or costs" means all expenditures clearly and
47 demonstrably incurred in the state in the preproduction, production or
48 postproduction costs of a qualified production, including:

49 (A) Expenditures incurred in the state in the form of either
50 compensation or purchases including production work, production
51 equipment not eligible for the infrastructure tax credit provided in
52 section 12-217kk, production software, postproduction work,
53 postproduction equipment, postproduction software, set design, set
54 construction, props, lighting, wardrobe, makeup, makeup accessories,
55 special effects, visual effects, audio effects, film processing, music,
56 sound mixing, editing, location fees, soundstages and any and all other
57 costs or services directly incurred in connection with a state-certified
58 qualified production;

59 (B) Expenditures for distribution, including preproduction,
60 production or postproduction costs relating to the creation of trailers,
61 marketing videos, commercials, point-of-purchase videos and any and
62 all content created on film or digital media, including the duplication of
63 films, videos, CDs, DVDs and any and all digital files now in existence
64 and those yet to be created for mass consumer consumption; the
65 purchase, by a company in the state, of any and all equipment relating
66 to the duplication or mass market distribution of any content created or
67 produced in the state by any digital media format which is now in use
68 and those formats yet to be created for mass consumer consumption;
69 and

70 (C) "Production expenses or costs" does not include the following: (i)
71 On and after January 1, 2008, compensation in excess of fifteen million
72 dollars paid to any individual or entity representing an individual, for
73 services provided in the production of a qualified production and on or
74 after January 1, 2010, compensation subject to Connecticut personal
75 income tax in excess of twenty million dollars paid in the aggregate to
76 any individuals or entities representing individuals, for star talent
77 provided in the production of a qualified production; (ii) media buys,
78 promotional events or gifts or public relations associated with the

79 promotion or marketing of any qualified production; (iii) deferred,
80 leveraged or profit participation costs relating to any and all personnel
81 associated with any and all aspects of the production, including, but not
82 limited to, producer fees, director fees, talent fees and writer fees; (iv)
83 costs relating to the transfer of the production tax credits; (v) any
84 amounts paid to persons or businesses as a result of their participation
85 in profits from the exploitation of the qualified production; and (vi) any
86 expenses or costs relating to an independent certification, as required by
87 subsection (h) of this section, or as the department may otherwise
88 require, pertaining to the amount of production expenses or costs set
89 forth by an eligible production company in its application for a
90 production tax credit.

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

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

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

109 (9) "Post-certification remedy" means the recapture, disallowance,
110 recovery, reduction, repayment, forfeiture, decertification or any other

111 remedy that would have the effect of reducing or otherwise limiting the
112 use of a tax credit provided by this section.

113 (10) "Compensation" means base salary or wages and does not
114 include bonus pay, stock options, restricted stock units or similar
115 arrangements.

116 (11) "Relocated television production" means:

117 (A) An ongoing television program all of the prior seasons of which
118 were filmed outside this state, and may include current events shows,
119 except those referenced in subparagraph (B)(i) of this subdivision.

120 (B) An eligible production company's television programming in this
121 state that (i) is not a general news program, sporting event or game
122 broadcast, and (ii) is created at a qualified production facility that has
123 had a minimum investment of twenty-five million dollars made by such
124 eligible production company on or after January 1, 2012, at which
125 facility the eligible production company creates ongoing television
126 programming as defined in subparagraph (A) of this subdivision, and
127 creates at least two hundred new jobs in Connecticut on or after January
128 1, 2012. For purposes of this subdivision, "new job" means a full-time
129 job, as defined in section 12-217ii, that did not exist in this state prior to
130 January 1, 2012, and is filled by a new employee, and "new employee"
131 includes a person who was employed outside this state by the eligible
132 production company prior to January 1, 2012, but does not include a
133 person who was employed in this state by the eligible production
134 company or a related person, as defined in section 12-217ii, with respect
135 to the eligible production company during the prior twelve months.

136 (C) A relocated television production may be a state-certified
137 qualified production for not more than ten successive income years,
138 after which period the eligible production company shall be ineligible
139 to resubmit an application for certification.

140 (b) (1) The Department of Economic and Community Development
141 shall administer a system of tax credit vouchers within the resources,

142 requirements and purposes of this section for eligible production
143 companies producing a state-certified qualified production in the state.

144 (2) Any eligible production company incurring production expenses
145 or costs shall be eligible for a credit (A) for income years commencing
146 on or after January 1, 2010, but prior to January 1, 2018, against the tax
147 imposed under chapter 207 or this chapter, (B) for income years
148 commencing on or after January 1, 2018, but prior to January 1, 2022,
149 against the tax imposed under chapter 207 or 211 or this chapter, and
150 (C) for income years commencing on or after January 1, 2022, against the
151 tax imposed under chapter 207, 211, 219 or this chapter, as follows: (i)
152 For any such company incurring such expenses or costs of not less than
153 one hundred thousand dollars, but not more than five hundred
154 thousand dollars, a credit equal to ten per cent of such expenses or costs,
155 (ii) for any such company incurring such expenses or costs of more than
156 five hundred thousand dollars, but not more than one million dollars, a
157 credit equal to fifteen per cent of such expenses or costs, and (iii) for any
158 such company incurring such expenses or costs of more than one million
159 dollars, a credit equal to thirty per cent of such expenses or costs.

160 (c) No eligible production company incurring an amount of
161 production expenses or costs that qualifies for such credit shall be
162 eligible for such credit unless on or after January 1, 2010, such company
163 conducts (1) not less than fifty per cent of principal photography days
164 within the state, or (2) expends not less than fifty per cent of
165 postproduction costs within the state, or (3) expends not less than one
166 million dollars of postproduction costs within the state.

167 (d) For income years commencing on or after January 1, 2010, no
168 expenses or costs incurred outside the state and used within the state
169 shall be eligible for a credit, and one hundred per cent of such expenses
170 or costs shall be counted toward such credit when incurred within the
171 state and used within the state.

172 (e) (1) On and after July 1, 2006, and for income years commencing
173 on or after January 1, 2006, any credit allowed pursuant to this section

174 may be sold, assigned or otherwise transferred, in whole or in part, to
175 one or more taxpayers, provided (A) no credit, after issuance, may be
176 sold, assigned or otherwise transferred, in whole or in part, more than
177 three times, (B) in the case of a credit allowed for the income year
178 commencing on or after January 1, 2011, and prior to January 1, 2012,
179 any entity that is not subject to tax under chapter 207 or this chapter may
180 transfer not more than fifty per cent of such credit in any one income
181 year, and (C) in the case of a credit allowed for an income year
182 commencing on or after January 1, 2012, any entity that is not subject to
183 tax under chapter 207 or this chapter may transfer not more than
184 twenty-five per cent of such credit in any one income year.

185 (2) Notwithstanding the provisions of subdivision (1) of this
186 subsection, any entity that is not subject to tax under this chapter or
187 chapter 207 shall not be subject to the limitations on the transfer of
188 credits provided in subparagraphs (B) and (C) of said subdivision (1),
189 provided such entity owns not less than fifty per cent, directly or
190 indirectly, of a business entity, as defined in section 12-284b.

191 (3) Notwithstanding the provisions of subdivision (1) of this
192 subsection, any qualified production that is created in whole or in
193 significant part, as determined by the Commissioner of Economic and
194 Community Development, at a qualified production facility shall not be
195 subject to the limitations of subparagraph (B) or (C) of said subdivision
196 (1). For purposes of this subdivision, "qualified production facility"
197 means a facility (A) located in this state, (B) intended for film, television
198 or digital media production, and (C) that has had a minimum
199 investment of three million dollars, or less if the Commissioner of
200 Economic and Community Development determines such facility
201 otherwise qualifies.

202 (4) (A) For the income year commencing January 1, 2018, any credit
203 that is sold, assigned or otherwise transferred, in whole or in part, to one
204 or more taxpayers pursuant to subdivision (1) of this subsection may be
205 claimed against the tax imposed under chapter 211 only if there is
206 common ownership of at least fifty per cent between such taxpayer and

207 the eligible production company that sold, assigned or otherwise
208 transferred such credit. Such taxpayer may only claim ninety-two per
209 cent of the amount of such credit entered by the department on the
210 production tax credit voucher.

211 (B) For income years commencing on or after January 1, 2019, any
212 credit that is sold, assigned or otherwise transferred, in whole or in part,
213 to one or more taxpayers pursuant to subdivision (1) of this subsection,
214 which credit is claimed against the tax imposed under chapter 211, shall
215 be subject to the following limits:

216 (i) The taxpayer may only claim ninety-five per cent of the amount of
217 such credit entered by the department on the production tax credit
218 voucher; and

219 (ii) If there is common ownership of at least fifty per cent between
220 such taxpayer and the eligible production company that sold, assigned
221 or otherwise transferred such credit, such taxpayer may only claim
222 ninety-two per cent of the amount of such credit entered by the
223 department on the production tax credit voucher.

224 (5) For income years commencing on or after January 1, 2022, any
225 credit that is claimed against the tax imposed under chapter 219 shall be
226 subject to the following limits:

227 (A) Any credit that is sold, assigned or otherwise transferred, in
228 whole or in part, to one or more taxpayers pursuant to subdivision (1)
229 of this subsection may be claimed against the tax imposed under chapter
230 219 only if there is common ownership of at least fifty per cent between
231 such taxpayer and the eligible production company that sold, assigned
232 or otherwise transferred such credit; and

233 (B) The eligible production company or taxpayer claiming the credit
234 against the tax imposed under chapter 219 may only claim [seventy-
235 eight] ninety-two per cent of the amount of such credit entered by the
236 department on the production tax credit voucher.

237 (f) (1) On and after July 1, 2006, and for income years commencing on
238 or after January 1, 2006, but prior to January 1, 2015, all or part of any
239 such credit allowed under this section may be claimed against the tax
240 imposed under chapter 207 or this chapter for the income year in which
241 the production expenses or costs were incurred, or in the three
242 immediately succeeding income years.

243 (2) For production tax credit vouchers issued on or after July 1, 2015,
244 but prior to January 1, 2018, all or part of any such credit may be claimed
245 against the tax imposed under chapter 207 or this chapter, for the
246 income year in which the production expenses or costs were incurred,
247 or in the five immediately succeeding income years.

248 (3) For production tax credit vouchers issued on or after July 1, 2018,
249 but prior to January 1, 2022, all or part of any such credit may be claimed
250 against the tax imposed under chapter 207 or 211 or this chapter, for the
251 income year in which the production expenses or costs were incurred,
252 or in the five immediately succeeding income years.

253 (4) For production tax credit vouchers issued on or after January 1,
254 2022, all or part of any such credit may be claimed against the tax
255 imposed under chapter 207, 211, 219 or this chapter, for the income year
256 in which the production expenses or costs were incurred, or in the five
257 immediately succeeding income years.

258 (g) Any production tax credit allowed under this section shall be
259 nonrefundable.

260 (h) (1) An eligible production company shall apply to the department
261 for a tax credit voucher on an annual basis, but not later than ninety days
262 after the first production expenses or costs are incurred in the
263 production of a qualified production, and shall provide with such
264 application such information as the department may require to
265 determine such company's eligibility to claim a credit under this section.
266 No production expenses or costs may be listed more than once for
267 purposes of the tax credit voucher pursuant to this section, or pursuant

268 to section 12-217kk or 12-217ll, and if a production expense or cost has
269 been included in a claim for a credit, such production expense or cost
270 may not be included in any subsequent claim for a credit.

271 (2) Not later than ninety days after the end of the annual period, or
272 after the last production expenses or costs are incurred in the production
273 of a qualified production, an eligible production company shall apply
274 to the department for a production tax credit voucher, and shall provide
275 with such application such information and independent certification as
276 the department may require pertaining to the amount of such
277 company's production expenses or costs. Such independent certification
278 shall be provided by an audit professional chosen from a list compiled
279 by the department. If the department determines that such company is
280 eligible to be issued a production tax credit voucher, the department
281 shall enter on the voucher the amount of production expenses or costs
282 that has been established to the satisfaction of the department and the
283 amount of such company's credit under this section. The department
284 shall provide a copy of such voucher to the commissioner, upon request.

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

288 (i) If an eligible production company sells, assigns or otherwise
289 transfers a credit under this section to another taxpayer, the transferor
290 and transferee shall jointly submit written notification of such transfer
291 to the department not later than thirty days after such transfer. If such
292 transferee sells, assigns or otherwise transfers a credit under this section
293 to a subsequent transferee, such transferee and such subsequent
294 transferee shall jointly submit written notification of such transfer to the
295 department not later than thirty days after such transfer. The
296 notification after each transfer shall include the credit voucher number,
297 the date of transfer, the amount of such credit transferred, the tax credit
298 balance before and after the transfer, the tax identification numbers for
299 both the transferor and the transferee, and any other information
300 required by the department. Failure to comply with this subsection will

301 result in a disallowance of the tax credit until there is full compliance on
302 the part of the transferor and the transferee, and for a second or third
303 transfer, on the part of all subsequent transferors and transferees. The
304 department shall provide a copy of the notification of assignment to the
305 commissioner upon request.

306 (j) Any eligible production company that submits information to the
307 department that it knows to be fraudulent or false shall, in addition to
308 any other penalties provided by law, be liable for a penalty equal to the
309 amount of such company's credit entered on the production tax credit
310 voucher issued under this section.

311 (k) No tax credits transferred pursuant to this section shall be subject
312 to a post-certification remedy, and the department and the
313 commissioner shall have no right, except in the case of possible material
314 misrepresentation or fraud, to conduct any further or additional review,
315 examination or audit of the expenditures or costs for which such tax
316 credits were issued. The sole and exclusive remedy of the department
317 and the commissioner shall be to seek collection of the amount of such
318 tax credits from the entity that committed the fraud or
319 misrepresentation.

320 (l) The department, in consultation with the commissioner, shall
321 adopt regulations, in accordance with the provisions of chapter 54, as
322 may be necessary for the administration of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	12-217jj

FIN *Joint Favorable*