



General Assembly

Substitute Bill No. 6919

January Session, 2023



AN ACT ESTABLISHING A TAX CREDIT FOR CERTAIN PRE-BROADWAY AND POST-BROADWAY THEATER PRODUCTIONS.

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

1 Section 1. (NEW) (Effective January 1, 2024, and applicable to income
2 and taxable years commencing on or after January 1, 2024) (a) As used in
3 this section:

4 (1) "Accredited theater production" means a for-profit live stage
5 presentation that is a pre-Broadway production or a post-Broadway
6 production and is performed at a qualified production facility;

7 (2) "Advertising and public relations expenditures" means costs
8 incurred within the state by an accredited theater production for goods
9 or services related to the national marketing of, public relations for and
10 creation and placement of print, electronic, television, billboard and
11 other forms of advertising to promote the accredited theater
12 production;

13 (3) "Payroll" means all salaries, wages, fees and other compensation,
14 including related benefits for services performed within the state, not
15 exceeding two hundred fifty thousand dollars per week;

16 (4) "Pre-Broadway production" means a live stage presentation that,
17 in its original or adaptive version, is performed at a qualified

18 production facility and is scheduled to be presented in New York
19 City's Broadway theater district not later than twelve months after the
20 end date of such performance or performances in the state;

21 (5) "Post-Broadway production" means a live stage presentation
22 that, in its original or adaptive version, is performed at a qualified
23 production facility and opens its national tour in the state following a
24 performance or performances of such presentation in New York City's
25 Broadway theater district;

26 (6) "Production and performance expenditures" means a
27 contemporaneous exchange of cash or cash equivalent for goods or
28 services related to the development, production or performance of or
29 operating expenditures incurred in the state for an accredited theater
30 production, including, but not limited to, (A) expenditures for design,
31 construction and operation, including sets, special and visual effects,
32 costumes, wardrobe, make-up and accessories, (B) costs associated
33 with sound, lighting, staging, facility expenses, rentals, per diems and
34 accommodations, and (C) payroll, advertising and public relations
35 expenditures and transportation expenditures;

36 (7) "Qualified production facility" means a facility located in the
37 state at which live stage presentations are, or are intended to be,
38 exclusively performed and that contains at least one stage, a seating
39 capacity of one thousand or more seats and dressing rooms, storage
40 areas and other ancillary amenities necessary for an accredited theater
41 production; and

42 (8) (A) "Transportation expenditures" means expenditures for (i) the
43 packaging, crating and transporting, to and from the state, of sets,
44 costumes and other tangible property and equipment used or to be
45 used in an accredited theater production, and (ii) the transporting of
46 cast and crew members of an accredited theater production to and
47 from the state.

48 (B) "Transportation expenditures" does not include any costs for the

49 transporting of tangible property and equipment that are or will be
50 used only for filming and not in an accredited theater production or
51 any indirect costs, expenditures that are or will be reimbursed by a
52 third party or any amounts that are paid to an individual or entity as a
53 result of such individual's or entity's participation in profits from the
54 exploitation of an accredited theater production.

55 (b) (1) Any production company that receives a final accredited
56 theater production certificate pursuant to the provisions of subsection
57 (c) of this section shall be allowed a credit against the tax imposed by
58 chapter 207, 208, 212 or 229 of the general statutes, other than the
59 liability imposed by section 12-707 of the general statutes, of thirty per
60 cent of the production and performance expenditures of the accredited
61 theater production.

62 (2) If the production company is an S corporation or an entity
63 treated as a partnership for federal income tax purposes, the credit
64 may be claimed by the production company's shareholders or
65 partners. If the production company is a single member limited
66 liability company that is disregarded as an entity separate from its
67 owner, the credit may be claimed by such limited liability company's
68 owner, provided such owner is subject to the tax imposed under
69 chapter 208 or 229 of the general statutes.

70 (3) The credit allowed under this section (A) shall be claimed for the
71 income or taxable year in which the credit was earned and may be
72 carried forward for not more than three immediately succeeding
73 income or taxable years, and (B) may be sold, assigned or otherwise
74 transferred, in whole or in part.

75 (c) (1) Any individual, firm, partnership, trust, estate or other entity
76 that is a production company of an accredited theater production or a
77 sole proprietor, owner or member of a partnership that is a production
78 company of an accredited theater production may apply to the
79 Commissioner of Economic and Community Development, in such
80 form and manner as prescribed by the commissioner, for initial

81 certification of an accredited theater production. The application shall
82 include information about the accredited theater production and the
83 production company presenting such production, the applicant's
84 relationship to such production or production company, the qualified
85 production facility at which such production will be performed and
86 any other information and data the commissioner deems necessary to
87 evaluate the application. If the commissioner approves the application,
88 the commissioner shall issue a notice of initial certification to the
89 production company and the Commissioner of Revenue Services.

90 (2) Upon completion of the accredited theater production
91 performance or performances, the production company shall submit
92 an application to the Commissioner of Economic and Community
93 Development for a final certification of the accredited theater
94 production. Such application shall include a cost report and a
95 certification by a certified public accountant that such report, in such
96 accountant's opinion, is accurate. The commissioner shall make a
97 determination, not later than thirty days after a complete application
98 has been submitted under this subdivision, whether to approve a final
99 accredited theater production certificate and the amount of the credit
100 to be allowed.

101 (3) The total amount of credits allowed pursuant to this section shall
102 not exceed ten million dollars in any one fiscal year.

103 (4) If the commissioner approves a final accredited theater
104 production certificate, the commissioner shall (A) issue such certificate
105 to the production company and specify the amount of the credit
106 allowed, and (B) provide notice of such final certification and the
107 amount of the credit allowed to the Commissioner of Revenue
108 Services.

109 (d) Any production company that submits information to the
110 Commissioner of Economic and Community Development that such
111 production company knows to be fraudulent or false shall, in addition
112 to any other penalties provided by law, be liable for a penalty equal to

113 the amount of such production company's credit allowed under this
114 section.

115 (e) No credits sold, assigned or otherwise transferred pursuant to
116 this section shall be subject to a post-certification remedy and the
117 Commissioners of Economic and Community Development and
118 Revenue Services shall have no right, except in the case of possible
119 material misrepresentation or fraud, to conduct any further or
120 additional review, examination or audit of the production and
121 performance expenditures for which such credits were allowed. The
122 sole and exclusive remedy of the commissioners shall be to seek
123 collection of the amount of such credits from the production company
124 that committed the fraud or misrepresentation.

125 (f) The Commissioners of Economic and Community Development
126 and Revenue Services may, for purposes of determining the
127 correctness of any credit claimed pursuant to this section, examine any
128 books, papers and records relating to the information or data provided
129 with an application for a final certification of the accredited theater
130 production.

131 (g) Not later than March 1, 2025, and annually thereafter, the
132 Commissioner of Economic and Community Development shall
133 submit a report, in accordance with the provisions of section 11-4a of
134 the general statutes, to the joint standing committees of the General
135 Assembly having cognizance of matters relating to commerce and
136 finance, revenue and bonding. Such report shall include, but not be
137 limited to, information about any production companies that have
138 applied in the preceding calendar year for initial or final certification of
139 an accredited theater production, the status of such applications,
140 descriptions of the production company, the accredited theater
141 production and the qualified production facility at which the
142 accredited theater production is or was presented and the amount of
143 any credits allowed pursuant to this section in the preceding calendar
144 year.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2024, and applicable to income and taxable years commencing on or after January 1, 2024</i>	New section

FIN *Joint Favorable Subst.*