

SECOND REGULAR SESSION

HOUSE BILL NO. 1645

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SWAN.

4961H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 135.750, RSMo, and to enact in lieu thereof one new section relating to tax credits for qualified film projects.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 135.750, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 135.750, to read as follows:

135.750. 1. As used in this section, the following terms mean:

(1) "Highly compensated individual", any individual who receives compensation in excess of [one million] **two hundred fifty thousand** dollars in connection with a single qualified film production project;

(2) "Qualified film production project", any film, video, commercial, or television production, as approved by the department of economic development and the office of the Missouri film commission, that is under thirty minutes in length with an expected in-state expenditure budget in excess of fifty thousand dollars, or that is over thirty minutes in length with an expected in-state expenditure budget in excess of one hundred thousand dollars **and that features a statement or logo designated by the department of economic development in the credits of the film indicating that the project was filmed in Missouri.** Regardless of the production costs, "qualified film production project" shall not include any:

(a) News or current events programming;

(b) Talk show;

(c) Production produced primarily for industrial, corporate, or institutional purposes, and for internal use;

(d) Sports event or sports program;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 18 (e) Gala presentation or awards show;
- 19 (f) Infomercial or any production that directly solicits funds;
- 20 (g) Political ad;
- 21 (h) Production that is considered obscene, as defined in section 573.010;
- 22 (3) "Qualifying **in-state** expenses", the sum of the total amount spent in this state for the
- 23 following by a production company in connection with a qualified film production project:
- 24 (a) Goods and services leased or purchased by the production company. For goods with
- 25 a purchase price of twenty-five thousand dollars or more, the amount included in qualifying **in-**
- 26 **state** expenses shall be the purchase price less the fair market value of the goods at the time the
- 27 production is completed;
- 28 (b) Compensation and wages paid by the production company **to Missouri residents** on
- 29 which the production company remitted withholding payments to the department of revenue
- 30 under chapter 143. For purposes of this section, compensation and wages shall not include any
- 31 amounts paid to a highly compensated individual;
- 32 (4) "**Qualifying out-of-state expenses**", the sum of all compensation and wages paid
- 33 **by the production company to non-Missouri residents on which the production company**
- 34 **remitted withholding payments to the department of revenue under chapter 143. For**
- 35 **purposes of this section, compensation and wages shall not include any amounts paid to a**
- 36 **highly compensated individual;**
- 37 [(4)] (5) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding
- 38 withholding tax imposed by sections 143.191 to 143.265, or otherwise due under chapter 148;
- 39 [(5)] (6) "Taxpayer", any individual, partnership, or corporation as described in section
- 40 143.441, 143.471, or section 148.370 that is subject to the tax imposed in chapter 143, excluding
- 41 withholding tax imposed by sections 143.191 to 143.265, or the tax imposed in chapter 148 or
- 42 any charitable organization which is exempt from federal income tax and whose Missouri
- 43 unrelated business taxable income, if any, would be subject to the state income tax imposed
- 44 under chapter 143.
- 45 2. [For all taxable years beginning on or after January 1, 1999, but ending on or before
- 46 December 31, 2007, a taxpayer shall be granted a tax credit for up to fifty percent of the amount
- 47 of investment in production or production-related activities in any film production project with
- 48 an expected in-state expenditure budget in excess of three hundred thousand dollars.] For all
- 49 taxable years beginning on or after January 1, 2008, **but ending on or before December 31,**
- 50 **2015**, a taxpayer shall be allowed a tax credit for up to thirty-five percent of the amount of
- 51 qualifying **in-state** expenses **and qualifying out-of-state expenses** in a qualified film production
- 52 project. Each film production company shall be limited to one qualified film production project
- 53 per year. Activities qualifying a taxpayer for the tax credit pursuant to this subsection shall be

54 approved by the office of the Missouri film commission and the department of economic
55 development. **Beginning January 1, 2016, a taxpayer shall be allowed a tax credit equal to**
56 **twenty percent for qualifying in-state expenses and for qualifying out-of-state expenses.**
57 **An additional five percent may be earned for both qualifying in-state expenses and**
58 **qualifying out-of-state expenses if at least fifty percent of the qualified film production**
59 **project is filmed in Missouri.**

60 3. Taxpayers shall apply for the film production tax credit by submitting an application
61 to the department of economic development, on a form provided by the department. As part of
62 the application, the expected in-state expenditures of the qualified film production project shall
63 be documented. In addition, the application shall include an economic impact statement,
64 showing the economic impact from the activities of the film production project. Such economic
65 impact statement shall indicate the impact on the region of the state in which the film production
66 or production-related activities are located and on the state as a whole.

67 4. For all taxable years ending on or before December 31, 2007, tax credits certified
68 pursuant to subsection 2 of this section shall not exceed one million dollars per taxpayer per year,
69 and shall not exceed a total for all tax credits certified of one million five hundred thousand
70 dollars per year. For all taxable years beginning on or after January 1, 2008, tax credits certified
71 under subsection 1 of this section shall not exceed a total for all tax credits certified of four
72 million five hundred thousand dollars per year. Taxpayers may carry forward unused credits for
73 up to five tax periods, provided all such credits shall be claimed within ten tax periods following
74 the tax period in which the film production or production-related activities for which the credits
75 are certified by the department occurred.

76 5. Notwithstanding any provision of law to the contrary, any taxpayer may sell, assign,
77 exchange, convey or otherwise transfer tax credits allowed in subsection 2 of this section. The
78 taxpayer acquiring the tax credits may use the acquired credits to offset the tax liabilities
79 otherwise imposed by chapter 143, excluding withholding tax imposed by sections 143.191 to
80 143.265, or chapter 148. Unused acquired credits may be carried forward for up to five tax
81 periods, provided all such credits shall be claimed within ten tax periods following the tax period
82 in which the film production or production-related activities for which the credits are certified
83 by the department occurred.

84 6. Under section 23.253 of the Missouri sunset act:

85 (1) The provisions of the new program authorized under this section shall automatically
86 sunset six years after [November] **August 28, [2007] 2016**, unless reauthorized by an act of the
87 general assembly; and

88 (2) If such program is reauthorized, the program authorized under this section shall
89 automatically sunset twelve years after the effective date of the reauthorization of this section;
90 and

91 (3) This section shall terminate on September first of the calendar year immediately
92 following the calendar year in which the program authorized under this section is sunset.

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