

Chapter 486

(Senate Bill 905)

AN ACT concerning

Income Tax – Film Production Activity Tax Credit

FOR the purpose of ~~extending~~ ~~repealing~~ certain termination provisions for a certain income tax credit allowed for certain entities that carry out certain film production activities in the State; altering the amount of certain tax credit certificates that the Secretary of Business and Economic Development may issue for certain fiscal years; establishing the Maryland Film Production Activity Tax Credit Reserve Fund; stating the intent of the General Assembly that the Governor include a certain appropriation to the Reserve Fund in the annual budget bill; requiring the Comptroller to transfer certain amounts from the Reserve Fund to the General Fund under certain circumstances; altering a reporting requirement under the credit to require the Department of Business and Economic Development to provide a list of companies in the State that qualified as certain minority business enterprises or certain small businesses and directly provided goods or services for film production activity during a certain period; requiring the Department to report to the Governor and the General Assembly on or before a certain date each year on certain tax credit amounts; requiring a qualified film production entity that receives the tax credit certificate to feature, under certain circumstances, a certain State promotional logo in a certain project in a certain manner; providing that, in lieu of featuring a certain State promotional logo, the qualified film production entity may offer certain alternative marketing opportunities; providing for the application of this Act; and generally relating to income tax credits for certain film production activities.

BY repealing and reenacting, without amendments,

Article – Tax – General

Section 10–730(b)

Annotated Code of Maryland

(2010 Replacement Volume and 2014 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 10–730~~(e)~~ (d) through (g)

Annotated Code of Maryland

(2010 Replacement Volume and 2014 Supplement)

BY adding to

Article – Tax – General

Section 10–730(g) and (h)

Annotated Code of Maryland

(2010 Replacement Volume and 2014 Supplement)

BY repealing and reenacting, with amendments,
Chapter 516 of the Acts of the General Assembly of 2011, as amended by Chapter 28
of the Acts of the General Assembly of 2013
Section 2

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Tax – General

10–730.

(b) (1) A qualified film production entity may claim a credit against the State income tax for film production activities in the State in an amount equal to the amount stated in the final tax credit certificate approved by the Secretary for film production activities.

(2) If the tax credit allowed under this section in any taxable year exceeds the total tax otherwise payable by the qualified film production entity for that taxable year, the qualified film production entity may claim a refund in the amount of the excess.

(d) (1) After completion of the film production activity, a qualified film production entity shall apply to the Department for a tax credit certificate.

(2) The application shall be on a form required by the Secretary and shall include:

(i) proof of the total direct costs that qualify for the tax credit; and

(ii) the number of employees hired and wages paid.

(3) Subject to [subsection (f)] SUBSECTIONS (F) AND (G) of this section, the Secretary shall determine the total direct costs that qualify for the tax credit and issue a tax credit certificate for:

(i) except as provided in item (ii) of this paragraph, 25% of the total direct costs that qualify for the tax credit; and

(ii) for a television series, 27% of the total direct costs that qualify for the tax credit.

[(4) The Secretary shall notify the Comptroller of the amount of a tax credit certificate issued under this subsection.]

(e) **(1)** On or before January 1 of each year, the Department shall report to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly, on:

~~(1)~~ **(I)** the number of film production entities submitting applications under subsection (c) of this section;

~~(2)~~ **(II)** the number and amount of tax credit certificates issued under subsection (d) of this section;

~~(3)~~ **(III)** the number of local technicians, actors, and extras hired for film production activity during the reporting period;

~~(4)~~ **(IV)** a list of companies doing business in the State, including hotels, that directly provided goods or services for film production activity during the reporting period; [and]

~~(5)~~ **(V)** **A LIST OF COMPANIES DOING BUSINESS IN THE STATE THAT DIRECTLY PROVIDED GOODS OR SERVICES FOR FILM PRODUCTION ACTIVITY DURING THE REPORTING PERIOD THAT QUALIFIED DURING THE REPORTING PERIOD AS MINORITY BUSINESS ENTERPRISES UNDER § 14-301(F) OF THE STATE FINANCE AND PROCUREMENT ARTICLE;**

~~(6)~~ **(VI)** **A LIST OF COMPANIES DOING BUSINESS IN THE STATE THAT DIRECTLY PROVIDED GOODS OR SERVICES FOR FILM PRODUCTION ACTIVITY DURING THE REPORTING PERIOD THAT, AS DETERMINED BY THE DEPARTMENT, ARE CONSIDERED SMALL BUSINESSES; AND**

~~(5)~~ ~~(7)~~ **(VII)** any other information that indicates the economic benefits to the State resulting from film production activity during the reporting period.

(2) ON OR BEFORE JULY 1 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(I) THE AMOUNT OF TAX CREDITS NECESSARY TO MAINTAIN THE CURRENT LEVEL OF FILM PRODUCTION ACTIVITY IN THE STATE; AND

(II) THE AMOUNT OF TAX CREDITS NECESSARY TO ATTRACT NEW FILM PRODUCTION ACTIVITY TO THE STATE.

(f) (1) Except as provided in paragraph (2) of this subsection, the Secretary may not issue tax credit certificates for credit amounts in the aggregate totaling more than:

(i) for fiscal year 2014, \$25,000,000;

- (ii) for fiscal year 2015, \$7,500,000; ~~and~~
- (iii) for fiscal year 2016, \$7,500,000; ~~AND.~~
- ~~(IV) FOR FISCAL YEAR 2017, \$25,000,000; \$20,000,000.~~
- ~~(V) FOR FISCAL YEAR 2018, \$25,000,000; AND~~
- ~~(VI) FOR FISCAL YEAR 2019, \$25,000,000.~~

(2) If the aggregate credit amounts under the tax credit certificates issued by the Secretary total less than the maximum provided under paragraph (1) of this subsection in any fiscal year, any excess amount may be carried forward and issued under tax credit certificates in a subsequent fiscal year.

(G) (1) IN THIS SUBSECTION, “RESERVE FUND” MEANS THE MARYLAND FILM PRODUCTION ACTIVITY TAX CREDIT RESERVE FUND ESTABLISHED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(2) (I) THERE IS A MARYLAND FILM PRODUCTION ACTIVITY TAX CREDIT RESERVE FUND THAT IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(II) THE MONEY IN THE RESERVE FUND SHALL BE INVESTED AND REINVESTED BY THE TREASURER, AND INTEREST AND EARNINGS SHALL BE CREDITED TO THE GENERAL FUND.

(3) (I) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE SECRETARY SHALL ISSUE AN INITIAL TAX CREDIT CERTIFICATE FOR THE TOTAL DIRECT COSTS INCURRED BY A FILM PRODUCTION ENTITY THAT QUALIFIES FOR A TAX CREDIT.

(II) AN INITIAL TAX CREDIT CERTIFICATE ISSUED UNDER THIS SUBSECTION SHALL STATE THE MAXIMUM AMOUNT OF TAX CREDIT FOR WHICH THE FILM PRODUCTION ENTITY IS ELIGIBLE.

(III) 1. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBPARAGRAPH, FOR ANY FISCAL YEAR, THE SECRETARY MAY NOT ISSUE INITIAL TAX CREDIT CERTIFICATES FOR CREDIT AMOUNTS IN THE AGGREGATE TOTALING MORE THAN THE AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR IN THE STATE BUDGET AS APPROVED BY THE GENERAL ASSEMBLY.

2. IF THE AGGREGATE CREDIT AMOUNTS UNDER INITIAL TAX CREDIT CERTIFICATES ISSUED IN A FISCAL YEAR TOTAL LESS THAN THE AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR, ANY EXCESS AMOUNT SHALL REMAIN IN THE RESERVE FUND AND MAY BE ISSUED UNDER INITIAL TAX CREDIT CERTIFICATES FOR THE NEXT FISCAL YEAR.

3. FOR ANY FISCAL YEAR, IF FUNDS ARE TRANSFERRED FROM THE RESERVE FUND UNDER THE AUTHORITY OF ANY PROVISION OF LAW OTHER THAN UNDER PARAGRAPH (4) OF THIS SUBSECTION, THE MAXIMUM CREDIT AMOUNTS IN THE AGGREGATE FOR WHICH THE SECRETARY MAY ISSUE INITIAL TAX CREDIT CERTIFICATES SHALL BE REDUCED BY THE AMOUNT TRANSFERRED.

(IV) FOR FISCAL YEAR ~~2018~~ 2017 AND EACH FISCAL YEAR THEREAFTER, IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE GOVERNOR INCLUDE IN THE BUDGET BILL AN APPROPRIATION TO THE RESERVE FUND IN AN AMOUNT EQUAL TO THE AMOUNT THE DEPARTMENT REPORTS AS NECESSARY UNDER SUBSECTION (E)(2) OF THIS SECTION TO:

1. MAINTAIN THE CURRENT LEVEL OF FILM PRODUCTION ACTIVITY IN THE STATE; AND

2. ATTRACT NEW FILM PRODUCTION ACTIVITY TO THE STATE.

(V) NOTWITHSTANDING THE PROVISIONS OF § 7-213 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, THE GOVERNOR MAY NOT REDUCE AN APPROPRIATION TO THE RESERVE FUND IN THE STATE BUDGET AS APPROVED BY THE GENERAL ASSEMBLY.

(VI) BASED ON THE ACTUAL AMOUNT OF TOTAL DIRECT COSTS INCURRED BY A FILM PRODUCTION ENTITY, THE SECRETARY SHALL ISSUE A FINAL TAX CREDIT CERTIFICATE TO THE FILM PRODUCTION ENTITY.

(4) (I) EXCEPT AS PROVIDED IN THIS PARAGRAPH, MONEY APPROPRIATED TO THE RESERVE FUND SHALL REMAIN IN THE FUND.

(II) 1. WITHIN 15 DAYS AFTER THE END OF EACH CALENDAR QUARTER, THE DEPARTMENT SHALL NOTIFY THE COMPTROLLER AS TO EACH FINAL CREDIT CERTIFICATE ISSUED DURING THE QUARTER:

A. THE MAXIMUM CREDIT AMOUNT STATED IN THE INITIAL TAX CREDIT CERTIFICATE FOR THE FILM PRODUCTION ENTITY; AND

B. THE FINAL CERTIFIED CREDIT AMOUNT FOR THE FILM PRODUCTION ENTITY.

2. ON NOTIFICATION THAT A FINAL CREDIT AMOUNT HAS BEEN CERTIFIED, THE COMPTROLLER SHALL TRANSFER AN AMOUNT EQUAL TO THE CREDIT AMOUNT STATED IN THE INITIAL TAX CREDIT CERTIFICATE FOR THE FILM PRODUCTION ENTITY FROM THE RESERVE FUND TO THE GENERAL FUND.

~~(c)~~ **(h)** (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A QUALIFIED FILM PRODUCTION ENTITY THAT RECEIVES A TAX CREDIT CERTIFICATE UNDER THIS SECTION FOR A FILM PRODUCTION ACTIVITY SHALL INCLUDE:

(I) FOR A FEATURE FILM PROJECT, A 5-SECOND LONG STATIC OR ANIMATED LOGO THAT PROMOTES THE STATE IN THE END CREDITS BEFORE THE BELOW-THE-LINE CREW CRAWL FOR THE LIFE OF THE PROJECT AND A LINK TO THE STATE'S WEB SITE ON THE PROJECT'S WEB SITE;

(II) FOR A TELEVISION SERIES PROJECT, AN EMBEDDED 5-SECOND LONG STATIC OR ANIMATED LOGO THAT PROMOTES THE STATE DURING EACH BROADCAST WORLDWIDE FOR THE LIFE OF THE PROJECT AND A LINK TO THE STATE'S WEB SITE ON THE PROJECT'S WEB SITE; OR

(III) FOR ANY OTHER PROJECT, THE STATE LOGO AT THE END OF EACH PROJECT AND IN ONLINE PROMOTIONS.

(2) IN LIEU OF INCLUDING A STATE LOGO AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE QUALIFIED FILM PRODUCTION ENTITY MAY OFFER ALTERNATIVE MARKETING OPPORTUNITIES TO BE EVALUATED BY THE DEPARTMENT TO ENSURE THAT THOSE OPPORTUNITIES OFFER EQUAL OR GREATER PROMOTIONAL VALUE TO THE STATE.

~~[(g)]~~ ~~(H)~~ **(I)** The Department and the Comptroller jointly shall adopt regulations to carry out the provisions of this section and to specify criteria and procedures for the application for, approval of, and monitoring of continuing eligibility for the tax credit under this section.

Chapter 516 of the Acts of 2011, as amended by Chapter 28 of the Acts of 2013

SECTION 2. AND BE IT FURTHER ENACTED, That the film production activity tax credit under § 10-730 of the Tax – General Article as enacted by this Act shall take effect July 1, 2011, and shall be applicable to all taxable years beginning after December 31, 2010. ~~The film production activity tax credit under § 10-730 of the Tax – General Article as enacted by this Act shall remain effective for a period of [5] 8 years and, at the end of June 30, [2016] 2019, with no further action required by the General Assembly, shall be~~

~~abrogated and of no further force and effect. The Secretary of Business and Economic Development may not issue film production activity tax credit certificates under § 10-730 of the Tax General Article for any fiscal year beginning on or after July 1, [2016] 2019.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2015, and shall be applicable to all film production activity tax credit certificates issued after December 31, 2014.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2015.