

# SENATE BILL 452

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CF 3lr2989

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By: **Senators Griffith, Corderman, Elfreth, Guzzone, Jackson, King, Klausmeier, Muse, Salling, M. Washington, and Watson**

Introduced and read first time: February 2, 2023

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Film Production Activity Tax Credit – Alterations**

3 FOR the purpose of expanding eligibility for the credit against the State income tax for  
4 certain film production activities to include documentaries and talk, reality, and  
5 game shows; altering the definition of “total direct costs” to include certain  
6 compensation for certain individuals; increasing the percentages of total direct costs  
7 that qualify for the tax credit; altering the aggregate amount of tax credit certificates  
8 that the Secretary of Commerce may issue each fiscal year; and generally relating to  
9 the film production activity tax credit.

10 BY repealing and reenacting, with amendments,  
11 Article – Tax – General  
12 Section 10–730  
13 Annotated Code of Maryland  
14 (2022 Replacement Volume)

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

17 **Article – Tax – General**

18 10–730.

19 (a) (1) In this section the following words have the meanings indicated.

20 (2) “Department” means the Department of Commerce.

21 (3) “Digital animation project” means the creation, development, and  
22 production of computer-generated animation content for distribution or exhibition to the  
23 general public.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1                   (4)   (i)   “Film production activity” means:
- 2                                   1.    the production of a film or video project that is intended  
3 for nationwide commercial distribution; and
- 4                                   2.    for a television series, each season of the television series.
- 5                   (ii)   “Film production activity” includes the production of:
- 6                                   1.    a feature film;
- 7                                   2.    a television project;
- 8                                   3.    a commercial;
- 9                                   4.    a corporate film;
- 10                                  5.    a music video; **[or]**
- 11                                  6.    a digital animation project;
- 12                                  7.    **A DOCUMENTARY; OR**
- 13                                  8.    **A TALK, REALITY, OR GAME SHOW.**
- 14                   (iii)   “Film production activity” does not include production of:
- 15                                  1.    a student film;
- 16                                  2.    a noncommercial personal video;
- 17                                  3.    a sports broadcast;
- 18                                  4.    a broadcast of a live event;
- 19                                  5.    **[a talk show;**
- 20                                  6.]   a video, computer, or social networking game;
- 21                                  **[7.] 6.**       pornography;
- 22                                  **[8.] 7.**       an infomercial;
- 23                                  **[9.] 8.**       a digital project or an animation project other than  
24 a digital animation project; or

1 [10.] 9. a multimedia project.

2 (5) "Maryland small or independent film entity" means a qualified film  
3 production entity that:

4 (i) has been incorporated in Maryland for at least 3 months;

5 (ii) is independently owned and operated;

6 (iii) is not a subsidiary of another entity;

7 (iv) is not dominant in its field of operation;

8 (v) employs 25 or fewer full-time employees; and

9 (vi) employs Maryland residents as at least 40% of its workforce in  
10 the film production activity.

11 (6) "Pornography" means any production for which records are required to  
12 be maintained under § 2257 of Title 18, U.S.C., with respect to any performer in such  
13 production engaging in sexually explicit conduct.

14 (7) "Qualified film production entity" means an entity that:

15 (i) is carrying out a film production activity; and

16 (ii) the Secretary determines to be eligible for the tax credit under  
17 this section in accordance with subsection (c) of this section.

18 (8) "Secretary" means the Secretary of Commerce.

19 (9) "Television series" means a group of program episodes intended for  
20 television broadcast or transmission with a common series title, with or without a  
21 predetermined number of episodes, and shall include a miniseries and a pilot episode  
22 produced for an intended television series.

23 (10) (i) "Total direct costs", with respect to a film production activity,  
24 means the total costs incurred in the State that are necessary to carry out the film  
25 production activity.

26 (ii) "Total direct costs" includes costs incurred for:

27 1. employee wages and benefits;

28 2. fees for services;

1 3. acquiring or leasing property; [and]

2 4. SALARIES, WAGES, OR OTHER COMPENSATION FOR  
3 WRITERS, DIRECTORS, OR PRODUCERS DOMICILED IN THE STATE; AND

4 [4.] 5. any other expense necessary to carry out a film  
5 production activity, including costs associated with:

6 A. set construction and operation;

7 B. wardrobe, makeup, and related services;

8 C. photography and sound synchronization, lighting, and  
9 related services and materials;

10 D. editing and related services, including film processing,  
11 transfers of film to tape or digital format, sound mixing, computer graphic services, special  
12 effects services, and animation services;

13 E. salary, wages, and other compensation including related  
14 benefits, for work performed in the State, paid to persons employed in the production;

15 F. rental of facilities in the State and equipment used in the  
16 State;

17 G. leasing of vehicles;

18 H. food and lodging;

19 I. music, if performed, composed, or recorded by a Maryland  
20 musician or published by a person or company domiciled in Maryland;

21 J. travel expenses incurred to bring persons employed, either  
22 directly or indirectly, in the production of the project to Maryland, but not including  
23 expenses of these persons departing from Maryland; and

24 K. legal and accounting services performed by attorneys or  
25 accountants licensed in Maryland.

26 (iii) "Total direct costs" does not include any salary, wages, or other  
27 compensation for:

28 1. personal services of an individual who receives more than  
29 \$500,000 in salary, wages, or other compensation for personal services in connection with  
30 any film production activity; or



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

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

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

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

7 (3) Subject to subsections (f) and (h) of this section, the Secretary shall  
8 determine the total direct costs that qualify for the tax credit and issue a tax credit  
9 certificate for:

10 (i) except as provided in item (ii) of this paragraph, ~~[25%]~~ **28%** of  
11 the total direct costs that qualify for the tax credit; and

12 (ii) for a television series, ~~[27%]~~ **30%** of the total direct costs that  
13 qualify for the tax credit.

14 (e) In accordance with § 2.5–109 of the Economic Development Article, the  
15 Department shall submit a report on film production activity in the State and the economic  
16 benefits to the State resulting from film production activity during the reporting period.

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

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

20 (ii) for fiscal year 2015, \$7,500,000;

21 (iii) for fiscal year 2016, \$7,500,000;

22 (iv) for fiscal year 2019, \$8,000,000;

23 (v) for fiscal year 2020, \$11,000,000; [and]

24 (vi) for fiscal [year] **YEARS 2021 [and each fiscal year thereafter]**  
25 **THROUGH 2023**, \$12,000,000;

26 **(VII) FOR FISCAL YEAR 2024, \$25,000,000; AND**

27 **(VIII) FOR FISCAL YEAR 2025 AND EACH FISCAL YEAR**  
28 **THEREAFTER, \$50,000,000.**

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

5           (3) The Secretary may not issue tax credit certificates for credit amounts  
6 totaling more than \$10,000,000 in the aggregate for a single film production activity.

7           (4) (i) For fiscal year 2019 and each fiscal year thereafter, the Secretary  
8 shall make 10% of the credit amount authorized under paragraph (1) of this subsection  
9 available for Maryland small or independent film entities.

10           (ii) If the total amount of credits applied for by Maryland small or  
11 independent film entities is less than the amount made available under subparagraph (i)  
12 of this paragraph, the Secretary shall make available the unused amount of credits for use  
13 by qualified film production entities.

14           (g) (1) Except as provided in paragraph (2) of this subsection, a qualified film  
15 production entity that receives a tax credit certificate under this section for a film  
16 production activity shall include:

17           (i) for a feature film project, a 5-second long static or animated logo  
18 that promotes the State in the end credits before the below-the-line crew crawl for the life  
19 of the project and a link to the State's website on the project's website;

20           (ii) for a television series project, an embedded 5-second long static  
21 or animated logo that promotes the State during each broadcast worldwide for the life of  
22 the project and a link to the State's website on the project's website; or

23           (iii) for any other project, the State logo at the end of each project and  
24 in online promotions.

25           (2) In lieu of including a State logo as required under paragraph (1) of this  
26 subsection, the qualified film production entity may offer alternative marketing  
27 opportunities to be evaluated by the Department to ensure that those opportunities offer  
28 equal or greater promotional value to the State.

29           (h) (1) For a Maryland small or independent film entity to qualify as a film  
30 production entity:

31           (i) the estimated total direct costs incurred in the State shall exceed  
32 \$25,000; and

33           (ii) at least 50% of the filming of the film production activity must  
34 occur within the State.

1                   (2)     The Secretary shall determine the total direct costs that qualify for the  
2 tax credit and issue a tax credit certificate to a Maryland small or independent film entity  
3 for ~~[25%]~~ **28%** of the total direct costs that qualify for the tax credit, not to exceed \$125,000.

4                   (i)     The Department and the Comptroller jointly shall adopt regulations to carry  
5 out the provisions of this section and to specify criteria and procedures for the application  
6 for, approval of, and monitoring of continuing eligibility for the tax credit under this section.

7                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
8 1, 2023, and shall be applicable to all taxable years beginning after December 31, 2022.