

Bill Number: S.B.

1409

Nelson Floor

Amendment

Reference to:

printed bill

Amendment drafted by: Dave Thomas – Leg

Council

FLOOR AMENDMENT EXPLANATION

- **Lowers the cap on the amount of credit allowed per company/per production from \$20 million to \$15 million.**
- **Caps the amount of credit available each year at \$70 million.**
 - **\$4 million of the cap is reserved for commercials and \$10 million is reserved for infrastructure.**
- **Specifies that the amount of credit available is the following:**
 - **20 percent if the amount of qualified production expenditures (QPE) is \$1 million or greater.**
 - **17.5 percent if the amount of QPE is between \$250,000 - \$1 million.**
 - **An extra 5 percent if the production company uses a privately funded production facility (PFPF) with a \$50 million investment for at least 50 percent of its production.**
- **Continues the existing corporate and individual income tax credits for infrastructure investment which are currently set to expire at the end of TY 2010.**
 - **The amount of credit will be 15 percent of the total base investment (unchanged from current law).**
 - **\$10 million of the \$70 million aggregate cap is reserved for the infrastructure investment tax credits.**
- **Contains requirements for commercial advertisements and music video productions.**

The following provisions were included in the CED amendment and are now included in this amendment.

- **Increases the amount of qualified production expenditures a company must have in order to qualify for the credit from \$100,000 to \$250,000.**
- **Requires a company to employ at least 25 percent of its FTE positions in Arizona.**
- **Removes the application requirements with the Department of Revenue (DOR).**
- **Removes the requirement that a company produce 50% of all principal photography and postproduction outside of Arizona.**
- **Requires, rather than allows, the production company to enter into a limited managed audit agreement that includes an audit of its production costs in order to confirm the amount of credit.**
- **Requires, rather than allows, the PFPP to certify the value of its infrastructure through a limited managed audit agreement.**
- **Requires a PFPP to maintain data on the number of productions using its facility each year and report that information to the Speaker and the President.**
- **Contains definitions for *soundstage, support and augmentation facilities, and infrastructure investment.***

NELSON FLOOR AMENDMENT
SENATE AMENDMENTS TO S.B. 1409
(Reference to printed bill)

Page 1, strike lines 14 through 28

Reletter to conform

Line 31, strike "ONE" insert "TWO"; after "HUNDRED" insert "FIFTY"

Strike lines 33 through 37

Reletter to conform

Strike lines 40 through 46, insert:

"3. EMPLOY, EITHER DIRECTLY OR THROUGH ITS AUTHORIZED PAYROLL SERVICE COMPANY, RESIDENTS OF THIS STATE FOR AT LEAST TWENTY-FIVE PER CENT OF ITS FULL-TIME EMPLOYMENT POSITIONS IN THIS STATE.

4. AT ITS EXPENSE, ENTER INTO A LIMITED MANAGED AUDIT AGREEMENT PURSUANT TO TITLE 42, CHAPTER 2, ARTICLE 7 THAT INCLUDES AN AUDIT OF ITS PRODUCTION COSTS AND OTHER REQUIREMENTS PRESCRIBED BY THIS SECTION TO CONFIRM THE AMOUNT OF ANY CREDIT UNDER THIS SECTION. THE AUDIT MUST BE CONDUCTED BY THE TAXPAYER'S AUTHORIZED REPRESENTATIVE, AS DEFINED IN SECTION 42-2301, WHO IS AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE PRODUCTION COMPANY OR ITS AFFILIATES. IF THE DIRECTOR ACCEPTS THE FINDINGS OF THE AUDIT AND ISSUES A NOTICE OF DETERMINATION PURSUANT TO SECTION 42-2303 AND THE TAXPAYER TIMELY FILES ITS INCOME TAX RETURN WITH THE APPROPRIATE CREDIT CLAIM FORMS, THE CREDIT AMOUNT ACCEPTED IS NOT SUBJECT TO RECAPTURE, DISALLOWANCE, REDUCTION OR DENIAL WITH RESPECT TO THE PRODUCTION COMPANY. THE DIRECTOR'S NOTICE OF DETERMINATION SHALL INCLUDE A WRITTEN CERTIFICATE TO THE TAXPAYER STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT IS NOT SUBJECT TO RECAPTURE. THIS PARAGRAPH DOES NOT PROHIBIT THE RECAPTURE OF A CREDIT FROM A PRODUCTION COMPANY IF THE COMPANY FAILED TO DISCLOSE MATERIAL INFORMATION DURING THE AUDIT OR FALSIFIED ITS BOOKS OR RECORDS OR OTHERWISE ENGAGED IN AN ACTION THAT PREVENTED AN ACCURATE AUDIT.

C. THE AMOUNT OF THE CREDIT WITH RESPECT TO ANY INDIVIDUAL PRODUCTION IS:

1. SEVENTEEN AND ONE-HALF PER CENT OF QUALIFIED PRODUCTION EXPENDITURES OF AT LEAST TWO HUNDRED FIFTY THOUSAND DOLLARS, BUT NOT MORE THAN ONE MILLION DOLLARS.

2. TWENTY PER CENT OF QUALIFIED PRODUCTION EXPENDITURES EXCEEDING ONE MILLION DOLLARS.

3. AN ADDITIONAL FIVE PER CENT OF QUALIFIED PRODUCTION EXPENDITURES IF THE PRODUCTION COMPANY USES A PRIVATELY FUNDED PRODUCTION FACILITY HAVING A CERTIFIED INFRASTRUCTURE INVESTMENT OF AT LEAST FIFTY MILLION DOLLARS AT THE TIME OF APPLICATION TO THE DEPARTMENT FOR AT LEAST FIFTY PER CENT OF THE PRODUCTION."

Reletter to conform

Page 2, strike lines 1 through 15

Line 19, strike "MAY VOLUNTARILY" insert "SHALL"

Strike lines 33 through 37

Reletter to conform

Line 41, strike the blank insert "FIFTEEN MILLION DOLLARS"

Strike lines 43 through 46

Page 3, strike lines 1 through 19, insert:

"G. THE DEPARTMENT SHALL NOT PREAPPROVE INCOME TAX CREDITS FOR THE PURPOSES OF THIS SECTION AND SECTION 43-1163 THAT EXCEED A TOTAL OF SEVENTY MILLION DOLLARS FOR A SINGLE YEAR, EXCEPT THAT OF THE AMOUNT:

1. TEN MILLION DOLLARS EACH YEAR IS RESERVED FOR THE PURPOSES OF INFRASTRUCTURE CREDITS PURSUANT TO SECTION 43-1075.01 AND 43-1163.01.

2. FOUR MILLION DOLLARS IS RESERVED FOR THE PURPOSES OF COMMERCIAL ADVERTISEMENTS AND MUSIC VIDEO PRODUCTION PURSUANT TO SUBSECTION H OF THIS SECTION AND SECTION 43-1163, SUBSECTION H.

H. THE FOLLOWING PROVISIONS APPLY WITH RESPECT TO COMMERCIAL ADVERTISEMENT AND MUSIC VIDEO PRODUCTION:

1. A COMMERCIAL ADVERTISEMENT OR MUSIC VIDEO PRODUCTION COMPANY MAY APPLY FOR QUALIFICATION UNDER THIS SECTION BEFORE THE COMPANY REACHES THE MINIMUM EXPENDITURE THRESHOLD REQUIREMENTS OF SUBSECTION B OF THIS SECTION.

2. IN LIEU OF A SCRIPT, THE APPLICANT MUST SUBMIT A SYNOPSIS OR STORYBOARD THAT:

(a) IDENTIFIES THE PRODUCT, SERVICE, PERSON OR EVENT FOR A COMMERCIAL ADVERTISEMENT OR THE ARTIST AND SONG FOR A MUSIC VIDEO.

(b) DESCRIBES THE GENERAL CONTENT OR MESSAGE TO BE CONVEYED.

(c) DESCRIBES THE LOCATION OR LOCATIONS.

(d) DESCRIBES THE SETS.

(e) DESCRIBES THE INTENDED DISTRIBUTION OR MEDIUM AND SPECIFIC CHANNELS, IF KNOWN.

3. THE DEPARTMENT MUST REVIEW THE COMPLETED APPLICATION WITHIN FIFTEEN BUSINESS DAYS.

4. EXPENSES INCURRED BEFORE THE DATE OF SUBMISSION OF A COMPLETED APPLICATION DO NOT QUALIFY AS PRODUCTION COSTS.

5. THE DEPARTMENT SHALL ALLOCATE THE INCOME TAX CREDIT INCENTIVES BASED ON PRIORITY PLACEMENT ESTABLISHED BY THE DATE THAT THE COMPANY FILES ITS APPLICATION AND BASED ON THE PERCENTAGE OF ESTIMATED TOTAL EXPENDITURES IN THIS STATE ALLOWED AS A CREDIT UNDER THIS SECTION OR SECTION 43-1163.

6. WITHIN SIXTY DAYS AFTER APPLYING WITH THE DEPARTMENT UNDER SUBSECTION __ OF THIS SECTION, A COMPANY THAT IS PREAPPROVED FOR A SPECIFIC PRODUCTION MUST NOTIFY AND PROVIDE DOCUMENTATION OF EXPENDITURES TO THE DEPARTMENT OF THE TOTAL AMOUNT OF ELIGIBLE PRODUCTION COSTS ASSOCIATED WITH THE PRODUCTION.

7. THE COMPANY IS NOT ELIGIBLE FOR A CREDIT UNTIL THE COMPANY'S ELIGIBLE PRODUCTION EXPENDITURES REACH TWO HUNDRED FIFTY THOUSAND DOLLARS IN A PERIOD OF TWELVE CONSECUTIVE MONTHS. WHEN THE COMPANY REACHES THAT THRESHOLD, THE COMPANY MAY APPLY TO THE DEPARTMENT FOR APPROVAL OF THE CREDIT PURSUANT TO SUBSECTION __ OF THIS SECTION. APPLICATIONS FOR APPROVAL OF CREDITS MAY NOT BE SUBMITTED BY THE SAME COMPANY MORE FREQUENTLY THAN ONCE A CALENDAR MONTH.

8. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE DEPARTMENT SHALL ADOPT SEPARATE RULES AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY FOR THE PURPOSES OF THIS SUBSECTION.

I. THE DEPARTMENT SHALL DENY AN APPLICATION SUBMITTED ON COMPLETION OF A PRODUCTION IF IT DETERMINES THAT:

1. THE PRODUCTION WOULD CONSTITUTE AN OBSCENE MOTION PICTURE FILM OR OBSCENE PICTORIAL PUBLICATION UNDER TITLE 12, CHAPTER 7, ARTICLE 1.1.

2. THE PRODUCTION DEPICTS SEXUAL ACTIVITY AS DEFINED IN TITLE 13, CHAPTER 35.

3. THE PRODUCTION WOULD CONSTITUTE SEXUAL EXPLOITATION OF A MINOR OR COMMERCIAL SEXUAL EXPLOITATION OF A MINOR UNDER TITLE 13, CHAPTER 35.1."

Reletter to conform

Page 3, line 34, after "DATA" insert "AND OTHER INFORMATION"

Line 35, after "SECTION" insert a period strike remainder of line

Strike lines 36 through 41, insert:

"M. A CERTIFIED PRIVATELY FUNDED PRODUCTION FACILITY SHALL MAINTAIN DATA ON THE NUMBER OF PRODUCTIONS USING ITS FACILITY EACH YEAR AND REPORT THAT INFORMATION TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE ON OR BEFORE DECEMBER 31 EACH YEAR."

Reletter to conform

Page 4, between lines 3 and 4, insert:

"P. IF THE DEPARTMENT DETERMINES THAT A CREDIT REFUNDED PURSUANT TO THIS SECTION IS INCORRECT OR INVALID, THE EXCESS CREDIT ISSUED MAY BE TREATED AS A TAX DEFICIENCY PURSUANT TO SECTION 42-1108."

Reletter to conform

Between lines 4 and 5, insert:

"1. 'INFRASTRUCTURE INVESTMENT' MEANS EXPENDITURES FOR SOUNDSTAGES AND SUPPORT AND AUGMENTATION FACILITIES THAT ARE CONSTRUCTED IN THIS STATE AND PRIMARILY USED BY A PRODUCTION COMPANY BUT DOES NOT INCLUDE MOTION PICTURE THEATERS AND OTHER COMMERCIAL EXHIBITION FACILITIES."

Renumber to conform

Line 11, strike "MOTION PICTURES" insert "BY A PRODUCTION COMPANY"

Page 4, line 37, strike "TEN PER CENT OF" insert "THE"

Line 39, after "PURCHASED" insert "FROM A VENDOR LOCATED"

Line 41, after "LEASED" insert "FROM A VENDOR LOCATED"

Line 42, after "PURCHASED" insert "FROM A VENDOR LOCATED"

Line 43, after "LEASED" insert "FROM A LESSEE LOCATED IN THIS STATE"

Page 5, between lines 4 and 5, insert:

"5. 'SOUNDSTAGE' MEANS A PERMANENT FACILITY IN THIS STATE OF ONE OR MORE SETS OR STAGES USED PRIMARILY FOR STAGING AND FILMING BY A PRODUCTION COMPANY AND ANY LAND, PERMANENT BUILDINGS OR CAPITAL EQUIPMENT THAT IS IN OR ADJACENT TO, AND IS NECESSARY FOR THE OPERATION OF, A SOUNDSTAGE.

6. 'SUPPORT AND AUGMENTATION FACILITIES' MEANS PERMANENT FACILITIES IN THIS STATE THAT ARE USED TO COMPLEMENT PRODUCTION COMPANY NEEDS AND COMPLEMENT THE PRODUCTION PROCESS.

Sec. 3. Section 43-1075.01, Arizona Revised Statutes, is amended to read:

43-1075.01. Credit for motion picture infrastructure projects; definition

A. A credit is allowed against the taxes imposed by this title for investments in motion picture infrastructure projects in this state ~~as provided by section 41-1517.01~~. The amount of the credit is fifteen per cent of the total base investment in the project during the taxable year as approved and reported by the department ~~of commerce pursuant to section 41-1517.01, subsection F~~ **PURSUANT TO THIS SECTION**. The taxpayer may apply the credit against income taxes for the taxable year in which the motion picture infrastructure project is completed ~~as provided by section 41-1517.01, subsection F~~.

B. The department shall not allow:

1. Tax credits **IN A TOTAL AMOUNT EXCEEDING TEN MILLION DOLLARS** for any taxable year under this section and section 43-1163.01 ~~that would violate the aggregate limits prescribed by section 41-1517.01, subsection C~~.

2. A tax credit under this section to a taxpayer who has a delinquent tax balance owing to the department under this title or title 42.

C. An applicant, at its expense, may voluntarily enter into a limited managed audit agreement pursuant to title 42, chapter 2, article 7 that includes an audit of its base investment and other requirements prescribed ~~by section 41-1517.01 and~~ by this section to confirm the amount of any credit

under this section. The request to enter into the audit must be made after the applicant receives approval for the credit ~~pursuant to section 41-1517.01, subsection F~~. The audit must be conducted by the applicant's authorized representative, as defined in section 42-2301, who is an independent certified public accountant licensed in this state. The certified public accountant and the firm the certified public accountant is affiliated with shall not regularly perform services for the taxpayer or its affiliates. If the director accepts the findings of the audit and issues a notice of determination pursuant to section 42-2303 and the taxpayer timely files its income tax return with the appropriate credit claim forms, the credit amount accepted is not subject to recapture, disallowance, reduction or denial with respect to either the taxpayer or any subsequent transferee of the credit, ~~and subsection F, paragraph 4 of this section does not apply~~. The director's notice of determination shall include a written certificate to the taxpayer stating the amount of the credit and that the credit is not subject to recapture from a transferee. This subsection does not prevent the recapture of a credit if the taxpayer failed to disclose material information during the audit or falsified its books or records or otherwise engaged in an action that prevented an accurate audit.

D. Co-owners of a business, including partners in a partnership, members of a limited liability company and shareholders of an S corporation as defined in section 1361 of the internal revenue code, may allocate the credit allowed under this section among the co-owners on any basis without regard to their proportional ownership interest. The total of the credits allowed all such owners may not exceed the amount that would have been allowed for a sole owner of the company.

E. If the allowable tax credit for a taxpayer exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under this title forward for not more than five consecutive taxable years' income tax liability.

~~F. All or part of any unclaimed amount of credit under this section may be sold or otherwise transferred under the following conditions:~~

~~1. A single sale or transfer may involve one or more transferees, and a transferee may in turn resell or transfer the credit subject to the same conditions of this subsection.~~

~~2. Both the transferor and transferee must submit a written notice of the transfer to the department within thirty days after the sale or transfer. The transferee's notice shall include a processing fee equal to one per cent of the transferee's tax credit balance or two hundred dollars, whichever is less. The notice shall include:~~

~~(a) The name of the taxpayer.~~

~~(b) The date of the transfer.~~

~~(c) The amount of the transfer.~~

~~(d) The transferor's tax credit balance before the transfer and the remaining balance after the transfer.~~

~~(e) All tax identification numbers for both transferor and transferee.~~

~~(f) Any other information required by rule.~~

~~3. A sale or transfer of the credit does not extend the time in which the credit can be used. The carryforward period of time under subsection E of this section for a credit that is sold or transferred begins on the date the credit was originally earned.~~

~~4. Except as provided by subsection C of this section, if a transferor was not qualified or was disqualified from using the credit at the time of the transfer, the department shall either disallow the credit claimed by a transferee or recapture the credit from the transferee through any authorized collection method. The transferee's recourse is against the transferor.~~

~~5. In the case of any failure to comply with this subsection, the department shall disallow the tax credit until the taxpayer is in full compliance.~~

~~G. F. The department of revenue shall maintain annual data on the total amount of monies credited pursuant to this section, and shall provide that data to the department of commerce on request.~~

~~H. G. The department of revenue, with the cooperation of the department of commerce, shall adopt rules and publish and prescribe forms and procedures as necessary to effectuate the purposes of this section.~~

~~I. H. A taxpayer who claims a credit for motion picture infrastructure projects under this section shall not claim a credit under section 43-1075 for the same costs.~~

~~J. I. The credit allowed by this section is in lieu of any allowance for state tax purposes of a deduction of those expenses allowed by the internal revenue code.~~

~~K. J. For the purposes of this section, "motion picture infrastructure project" has the same meaning prescribed in section 41-1517.01.:~~

~~(a) MEANS SOUNDSTAGES AND SUPPORT AND AUGMENTATION FACILITIES THAT ARE CONSTRUCTED IN THIS STATE AND PRIMARILY USED FOR MOTION PICTURE PRODUCTION.~~

~~(b) DOES NOT INCLUDE MOTION PICTURE THEATERS AND OTHER COMMERCIAL EXHIBITION FACILITIES."~~

Renumber to conform

Page 5, strike lines 15 through 29

Reletter to conform

Line 32, strike "ONE" insert "TWO"; after "HUNDRED" insert "FIFTY"

Strike lines 34 through 38

Renumber to conform

Strike lines 41 through 44, insert:

~~"3. EMPLOY, EITHER DIRECTLY OR THROUGH ITS AUTHORIZED PAYROLL SERVICE COMPANY, RESIDENTS OF THIS STATE FOR AT LEAST TWENTY-FIVE PER CENT OF ITS FULL-TIME EMPLOYMENT POSITIONS IN THIS STATE.~~

~~4. AT ITS EXPENSE, ENTER INTO A LIMITED MANAGED AUDIT AGREEMENT PURSUANT TO TITLE 42, CHAPTER 2, ARTICLE 7 THAT INCLUDES AN AUDIT OF ITS PRODUCTION COSTS AND OTHER REQUIREMENTS PRESCRIBED BY THIS SECTION TO CONFIRM THE AMOUNT OF ANY CREDIT UNDER THIS SECTION. THE AUDIT MUST BE CONDUCTED BY THE TAXPAYER'S AUTHORIZED REPRESENTATIVE, AS DEFINED IN SECTION 42-2301, WHO IS AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS AFFILIATED WITH SHALL NOT REGULARLY PERFORM SERVICES FOR THE PRODUCTION COMPANY OR ITS AFFILIATES. IF THE DIRECTOR ACCEPTS THE FINDINGS OF THE AUDIT AND ISSUES A NOTICE OF DETERMINATION~~

PURSUANT TO SECTION 42-2303 AND THE TAXPAYER TIMELY FILES ITS INCOME TAX RETURN WITH THE APPROPRIATE CREDIT CLAIM FORMS, THE CREDIT AMOUNT ACCEPTED IS NOT SUBJECT TO RECAPTURE, DISALLOWANCE, REDUCTION OR DENIAL WITH RESPECT TO THE PRODUCTION COMPANY. THE DIRECTOR'S NOTICE OF DETERMINATION SHALL INCLUDE A WRITTEN CERTIFICATE TO THE TAXPAYER STATING THE AMOUNT OF THE CREDIT AND THAT THE CREDIT IS NOT SUBJECT TO RECAPTURE. THIS PARAGRAPH DOES NOT PROHIBIT THE RECAPTURE OF A CREDIT FROM A PRODUCTION COMPANY IF THE COMPANY FAILED TO DISCLOSE MATERIAL INFORMATION DURING THE AUDIT OR FALSIFIED ITS BOOKS OR RECORDS OR OTHERWISE ENGAGED IN AN ACTION THAT PREVENTED AN ACCURATE AUDIT.

C. THE AMOUNT OF THE CREDIT WITH RESPECT TO ANY INDIVIDUAL PRODUCTION IS:

1. SEVENTEEN AND ONE-HALF PER CENT OF QUALIFIED PRODUCTION EXPENDITURES OF AT LEAST TWO HUNDRED FIFTY THOUSAND DOLLARS, BUT NOT MORE THAN ONE MILLION DOLLARS.

2. TWENTY PER CENT OF QUALIFIED PRODUCTION EXPENDITURES EXCEEDING ONE MILLION DOLLARS.

3. AN ADDITIONAL FIVE PER CENT OF QUALIFIED PRODUCTION EXPENDITURES IF THE PRODUCTION COMPANY USES A PRIVATELY FUNDED PRODUCTION FACILITY HAVING A CERTIFIED INFRASTRUCTURE INVESTMENT OF AT LEAST FIFTY MILLION DOLLARS AT THE TIME OF APPLICATION TO THE DEPARTMENT FOR AT LEAST FIFTY PER CENT OF THE PRODUCTION."

Reletter to conform

Page 6, strike lines 1 through 18

Line 22, strike "MAY VOLUNTARILY" insert "SHALL"

Strike lines 36 through 40

Reletter to conform

Page 6, line 44, strike the blank insert "FIFTEEN MILLION DOLLARS"

Page 7, strike lines 1 through 23, insert:

"G. THE DEPARTMENT SHALL NOT PREAPPROVE INCOME TAX CREDITS FOR THE PURPOSES OF THIS SECTION AND SECTION 43-1075 THAT EXCEED A TOTAL OF SEVENTY MILLION DOLLARS FOR A SINGLE YEAR, EXCEPT THAT OF THE AMOUNT:

1. TEN MILLION DOLLARS EACH YEAR IS RESERVED FOR THE PURPOSES OF INFRASTRUCTURE CREDITS PURSUANT TO SECTION 43-1075.01 AND 43-1163.01.

2. FOUR MILLION DOLLARS IS RESERVED FOR THE PURPOSES OF COMMERCIAL ADVERTISEMENTS AND MUSIC VIDEO PRODUCTION PURSUANT TO SUBSECTION H OF THIS SECTION AND SECTION 43-1075, SUBSECTION H.

H. THE FOLLOWING PROVISIONS APPLY WITH RESPECT TO COMMERCIAL ADVERTISEMENT AND MUSIC VIDEO PRODUCTION:

1. A COMMERCIAL ADVERTISEMENT OR MUSIC VIDEO PRODUCTION COMPANY MAY APPLY FOR QUALIFICATION UNDER THIS SECTION BEFORE THE COMPANY

REACHES THE MINIMUM EXPENDITURE THRESHOLD REQUIREMENTS OF SUBSECTION B OF THIS SECTION.

2. IN LIEU OF A SCRIPT, THE APPLICANT MUST SUBMIT A SYNOPSIS OR STORYBOARD THAT:

(a) IDENTIFIES THE PRODUCT, SERVICE, PERSON OR EVENT FOR A COMMERCIAL ADVERTISEMENT OR THE ARTIST AND SONG FOR A MUSIC VIDEO.

(b) DESCRIBES THE GENERAL CONTENT OR MESSAGE TO BE CONVEYED.

(c) DESCRIBES THE LOCATION OR LOCATIONS.

(d) DESCRIBES THE SETS.

(e) DESCRIBES THE INTENDED DISTRIBUTION OR MEDIUM AND SPECIFIC CHANNELS, IF KNOWN.

3. THE DEPARTMENT MUST REVIEW THE COMPLETED APPLICATION WITHIN FIFTEEN BUSINESS DAYS.

4. EXPENSES INCURRED BEFORE THE DATE OF SUBMISSION OF A COMPLETED APPLICATION DO NOT QUALIFY AS PRODUCTION COSTS.

5. THE DEPARTMENT SHALL ALLOCATE THE INCOME TAX CREDIT INCENTIVES BASED ON PRIORITY PLACEMENT ESTABLISHED BY THE DATE THAT THE COMPANY FILES ITS APPLICATION AND BASED ON THE PERCENTAGE OF ESTIMATED TOTAL EXPENDITURES IN THIS STATE ALLOWED AS A CREDIT UNDER THIS SECTION OR SECTION 43-1075.

6. WITHIN SIXTY DAYS AFTER APPLYING WITH THE DEPARTMENT UNDER SUBSECTION __ OF THIS SECTION, A COMPANY THAT IS PREAPPROVED FOR A SPECIFIC PRODUCTION MUST NOTIFY AND PROVIDE DOCUMENTATION OF EXPENDITURES TO THE DEPARTMENT OF THE TOTAL AMOUNT OF ELIGIBLE PRODUCTION COSTS ASSOCIATED WITH THE PRODUCTION.

7. THE COMPANY IS NOT ELIGIBLE FOR A CREDIT UNTIL THE COMPANY'S ELIGIBLE PRODUCTION EXPENDITURES REACH TWO HUNDRED FIFTY THOUSAND DOLLARS IN A PERIOD OF TWELVE CONSECUTIVE MONTHS. WHEN THE COMPANY REACHES THAT THRESHOLD, THE COMPANY MAY APPLY TO THE DEPARTMENT FOR APPROVAL OF THE CREDIT PURSUANT TO SUBSECTION __ OF THIS SECTION. APPLICATIONS FOR APPROVAL OF CREDITS MAY NOT BE SUBMITTED BY THE SAME COMPANY MORE FREQUENTLY THAN ONCE A CALENDAR MONTH.

8. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE DEPARTMENT SHALL ADOPT SEPARATE RULES AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY FOR THE PURPOSES OF THIS SUBSECTION.

I. THE DEPARTMENT SHALL DENY AN APPLICATION SUBMITTED ON COMPLETION OF A PRODUCTION IF IT DETERMINES THAT:

1. THE PRODUCTION WOULD CONSTITUTE AN OBSCENE MOTION PICTURE FILM OR OBSCENE PICTORIAL PUBLICATION UNDER TITLE 12, CHAPTER 7, ARTICLE 1.1.

2. THE PRODUCTION DEPICTS SEXUAL ACTIVITY AS DEFINED IN TITLE 13, CHAPTER 35.

3. THE PRODUCTION WOULD CONSTITUTE SEXUAL EXPLOITATION OF A MINOR OR COMMERCIAL SEXUAL EXPLOITATION OF A MINOR UNDER TITLE 13, CHAPTER 35.1."

Reletter to conform

Page 7, line 36, after "DATA" insert "AND OTHER INFORMATION"

Line 37, after "SECTION" insert a period strike remainder of line

Strike lines 38 through 43, insert:

"M. A CERTIFIED PRIVATELY FUNDED PRODUCTION FACILITY SHALL MAINTAIN DATA ON THE NUMBER OF PRODUCTIONS USING ITS FACILITY EACH YEAR AND REPORT THAT INFORMATION TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE ON OR BEFORE DECEMBER 31 EACH YEAR."

Reletter to conform

Page 8, between lines 3 and 4, insert:

"P. IF THE DEPARTMENT DETERMINES THAT A CREDIT REFUNDED PURSUANT TO THIS SECTION IS INCORRECT OR INVALID, THE EXCESS CREDIT ISSUED MAY BE TREATED AS A TAX DEFICIENCY PURSUANT TO SECTION 42-1108."

Reletter to conform

Between lines 4 and 5, insert:

"1. 'INFRASTRUCTURE INVESTMENT' MEANS EXPENDITURES FOR SOUNDSTAGES AND SUPPORT AND AUGMENTATION FACILITIES THAT ARE CONSTRUCTED IN THIS STATE AND PRIMARILY USED BY A PRODUCTION COMPANY BUT DOES NOT INCLUDE MOTION PICTURE THEATERS AND OTHER COMMERCIAL EXHIBITION FACILITIES."

Renumber to conform

Line 11, strike "MOTION PICTURES" insert "BY A PRODUCTION COMPANY"

Line 37, strike "TEN PER CENT OF" insert "THE"

Line 39, after "PURCHASED" insert "FROM A VENDOR LOCATED"

Line 41, after "LEASED" insert "FROM A VENDOR LOCATED"

Line 42, after "PURCHASED" insert "FROM A VENDOR LOCATED"

Line 43, after "LEASED" insert "FROM A LESSEE LOCATED IN THIS STATE"

Page 9, between lines 4 and 5, insert:

"5. 'SOUNDSTAGE' MEANS A PERMANENT FACILITY IN THIS STATE OF ONE OR MORE SETS OR STAGES USED PRIMARILY FOR STAGING AND FILMING BY A PRODUCTION COMPANY AND ANY LAND, PERMANENT BUILDINGS OR CAPITAL EQUIPMENT THAT IS IN OR ADJACENT TO, AND IS NECESSARY FOR THE OPERATION OF, A SOUNDSTAGE.

6. 'SUPPORT AND AUGMENTATION FACILITIES' MEANS PERMANENT FACILITIES IN THIS STATE THAT ARE USED TO COMPLEMENT PRODUCTION COMPANY NEEDS AND COMPLEMENT THE PRODUCTION PROCESS.

Sec. 5. Section 43-1163.01, Arizona Revised Statutes, is amended to read:

43-1163.01. Credit for motion picture infrastructure projects; definition

A. A credit is allowed against the taxes imposed by this title for investments in motion picture infrastructure projects in this state ~~as provided by section 41-1517.01~~. The amount of the credit is fifteen per cent of the total base investment in the project during the taxable year as approved and reported by the department ~~of commerce pursuant to section 41-1517.01, subsection F~~ PURSUANT TO THIS

SECTION. The taxpayer may apply the credit against income taxes for the taxable year in which the motion picture infrastructure project is completed ~~as provided by section 41-1517.01, subsection F.~~

B. The department shall not allow:

1. Tax credits **IN A TOTAL AMOUNT EXCEEDING TEN MILLION DOLLARS** for any taxable year under this section and section 43-1075.01 ~~that would violate the aggregate limits prescribed by section 41-1517.01, subsection C.~~

2. A tax credit under this section to a taxpayer that has a delinquent tax balance owing to the department under this title or title 42.

C. An applicant, at its expense, may voluntarily enter into a limited managed audit agreement pursuant to title 42, chapter 2, article 7 that includes an audit of its base investment and other requirements prescribed ~~by section 41-1517.01 and~~ by this section to confirm the amount of any credit under this section. The request to enter into the audit must be made after the applicant receives approval for the credit ~~pursuant to section 41-1517.01, subsection F.~~ The audit must be conducted by the applicant's authorized representative, as defined in section 42-2301, who is an independent certified public accountant licensed in this state. The certified public accountant and the firm the certified public accountant is affiliated with shall not regularly perform services for the taxpayer or its affiliates. If the director accepts the findings of the audit and issues a notice of determination pursuant to section 42-2303 and the taxpayer timely files its income tax return with the appropriate credit claim forms, the credit amount accepted is not subject to recapture, disallowance, reduction or denial with respect to either the taxpayer or any subsequent transferee of the credit, ~~and subsection F, paragraph 4 of this section does not apply.~~ The director's notice of determination shall include a written certificate to the taxpayer stating the amount of the credit and that the credit is not subject to recapture from a transferee. This subsection does not prevent the recapture of a credit if the taxpayer failed to disclose material information during the audit or falsified its books or records or otherwise engaged in an action that prevented an accurate audit.

D. Co-owners of a business, including corporate partners in a partnership and members of a limited liability company, may allocate the credit allowed under this section among the co-owners on any basis without regard to their proportional ownership interest. The total of the credits allowed all such owners may not exceed the amount that would have been allowed for a sole owner of the company.

E. If the allowable tax credit for a taxpayer exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry the amount of the claim not used to offset the taxes under this title forward for not more than five consecutive taxable years' income tax liability.

~~F. All or part of any unclaimed amount of credit under this section may be sold or otherwise transferred under the following conditions:~~

~~1. A single sale or transfer may involve one or more transferees, and a transferee may in turn resell or transfer the credit subject to the same conditions of this subsection.~~

~~2. Both the transferor and transferee must submit a written notice of the transfer to the department within thirty days after the sale or transfer. The transferee's notice shall include a processing fee equal to one per cent of the transferee's tax credit balance or two hundred dollars, whichever is less. The notice shall include:~~

~~(a) The name of the taxpayer.~~

~~(b) The date of the transfer.~~
~~(c) The amount of the transfer.~~
~~(d) The transferor's tax credit balance before the transfer and the remaining balance after the transfer.~~

~~(e) All tax identification numbers for both transferor and transferee.~~

~~(f) Any other information required by rule.~~

~~3. A sale or transfer of the credit does not extend the time in which the credit can be used. The carryforward period of time under subsection E of this section for a credit that is sold or transferred begins on the date the credit was originally earned.~~

~~4. Except as provided by subsection C of this section, if a transferor was not qualified or was disqualified from using the credit at the time of the transfer, the department shall either disallow the credit claimed by a transferee or recapture the credit from the transferee through any authorized collection method. The transferee's recourse is against the transferor.~~

~~5. In the case of any failure to comply with this subsection, the department shall disallow the tax credit until the taxpayer is in full compliance.~~

~~G. F. The department of revenue shall maintain annual data on the total amount of monies credited pursuant to this section, and shall provide that data to the department of commerce on request.~~

~~H. G. The department of revenue, with the cooperation of the department of commerce, shall adopt rules and publish and prescribe forms and procedures as necessary to effectuate the purposes of this section.~~

~~I. H. A taxpayer that claims a credit for motion picture infrastructure projects under this section shall not claim a credit under section 43-1163 for the same costs.~~

~~J. I. The credit allowed by this section is in lieu of any allowance for state tax purposes of a deduction of those expenses allowed by the internal revenue code.~~

~~K. J. For the purposes of this section, "motion picture infrastructure project" has the same meaning prescribed in section 41-1517.01.:~~

~~(a) MEANS SOUNDSTAGES AND SUPPORT AND AUGMENTATION FACILITIES THAT ARE CONSTRUCTED IN THIS STATE AND PRIMARILY USED FOR MOTION PICTURE PRODUCTION.~~

~~(b) DOES NOT INCLUDE MOTION PICTURE THEATERS AND OTHER COMMERCIAL EXHIBITION FACILITIES."~~

Renumber to conform

Page 9, line 23, after "development" insert "but not requiring any company to use the infrastructure for purposes of the tax incentives"

Amend title to conform

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