



General Assembly

January Session, 2023

Raised Bill No. 6919

LCO No. 4585



Referred to Committee on FINANCE, REVENUE AND BONDING

Introduced by:
(FIN)

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 and*
2 *taxable years commencing on or after January 1, 2024*) (a) As used in this
3 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 production;

12 (3) "Payroll" means all salaries, wages, fees and other compensation,
13 including related benefits for services performed within the state, not

14 exceeding two hundred fifty thousand dollars per week;

15 (4) "Pre-Broadway production" means a live stage presentation that,
16 in its original or adaptive version, is performed at a qualified production
17 facility and is scheduled to be presented in New York City's Broadway
18 theater district not later than twelve months after the end date of such
19 performance or performances in the state;

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

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

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

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

45 (B) "Transportation expenditures" does not include any costs for the
46 transporting of tangible property and equipment that are or will be used
47 only for filming and not in an accredited theater production or any
48 indirect costs, expenditures that are or will be reimbursed by a third
49 party or any amounts that are paid to an individual or entity as a result
50 of such individual's or entity's participation in profits from the
51 exploitation of an accredited theater production.

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

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

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

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

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

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

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

98 (4) If the commissioner approves a final accredited theater
99 production certificate, the commissioner shall (A) issue such certificate
100 to the applicant and specify the amount of the credit allowed, and (B)
101 provide notice of such final certification and the amount of the credit
102 allowed to the Commissioner of Revenue Services.

103 (d) Any applicant that submits information to the Commissioner of
104 Economic and Community Development that such applicant knows to
105 be fraudulent or false shall, in addition to any other penalties provided
106 by law, be liable for a penalty equal to the amount of such applicant's
107 credit allowed under this section.

108 (e) No credits sold, assigned or otherwise transferred pursuant to this

109 section shall be subject to a post-certification remedy and the
110 Commissioners of Economic and Community Development and
111 Revenue Services shall have no right, except in the case of possible
112 material misrepresentation or fraud, to conduct any further or
113 additional review, examination or audit of the production and
114 performance expenditures for which such credits were allowed. The
115 sole and exclusive remedy of the commissioners shall be to seek
116 collection of the amount of such credits from the applicant that
117 committed the fraud or misrepresentation.

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

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

Statement of Purpose:

To establish a credit for certain expenditures of accredited theater productions at qualifying production facilities in the state.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]