

House Bill 486

By: Representatives Moore of the 95th, Frye of the 118th, and Dollar of the 45th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-7-40.26 of the Official Code of Georgia Annotated, relating to
2 an income tax credit for film, gaming, video, or digital production in Georgia, so as to
3 provide that expenditures for certain purchases of licenses or rights to own or use certain
4 musical compositions and sound recordings shall be production expenditures that are eligible
5 for the tax credit; to provide for definitions; to provide for related matters; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 48-7-40.26 of the Official Code of Georgia Annotated, relating to an income
10 tax credit for film, gaming, video, or digital production in Georgia, is amended by revising
11 paragraph (8) of subsection (b) and by adding a new paragraph to read as follows:

12 "(8) 'Production expenditures' means:

13 (A) Preproduction, production, and postproduction expenditures incurred in this state
14 that are directly used in a qualified production activity, including, but not limited to, the
15 following: set construction and operation; wardrobes, make-up, accessories, and related
16 services; costs associated with photography and sound synchronization; expenditures

17 ~~excluding license fees incurred with Georgia companies for~~ sound recordings and
18 ~~musical compositions, excluding license or ownership fees unless such costs are~~
19 ~~qualified Georgia music expenditures;~~ sound recording projects used in feature films,
20 series, pilots, or movies; lighting and related services and materials; editing and related
21 services; rental of facilities and equipment; leasing of vehicles; costs of food and
22 lodging; digital or tape editing; film processing; transfers of film to tape or digital
23 format; sound mixing; computer graphics services; special effects services; animation
24 services; total aggregate payroll; airfare, if purchased through a Georgia travel agency
25 or travel company; insurance costs and bonding, if purchased through a Georgia
26 insurance agency; and other direct costs of producing the project in accordance with
27 generally accepted entertainment industry practices.

28 (B) This term shall not include:

29 (i) Postproduction expenditures for footage shot outside the State of Georgia,
30 marketing, story rights, or distribution;

31 (ii) Any expenditure for work or services not conducted or rendered in Georgia.
32 Expenditures for services not performed at the filming site shall only qualify if the
33 vendor is a Georgia vendor. Expenditures for services conducted or rendered both in
34 Georgia and outside Georgia shall only qualify to the extent the service is conducted
35 or rendered in Georgia;

36 (iii) Expenditures for goods that were not purchased or rented or leased in this state
37 from a Georgia vendor. Expenditures for goods shall only qualify to the extent such
38 goods are used in this state. A vendor that acts as a conduit to enable purchases or
39 rentals to qualify that would not otherwise qualify shall not be considered a Georgia
40 vendor with respect to such purchases, rentals, or leases; or

41 (iv) Any transaction subject to taxation imposed by Chapter 8 or 13 of this title for
42 which taxes have not been demonstrably paid.

43 (C) This term includes payments to a loan-out company by a production company or
44 qualified interactive entertainment production company that has met its withholding tax
45 obligations as set out below. The production company or qualified interactive
46 entertainment production company shall withhold Georgia income tax at the rate
47 imposed by subsection (a) of Code Section 48-7-21 on all payments to loan-out
48 companies for services performed in Georgia. Any amounts so withheld shall be
49 deemed to have been withheld by the loan-out company on wages paid to its employees
50 for services performed in Georgia pursuant to Article 5 of this chapter notwithstanding
51 the exclusion provided in subparagraph (K) of paragraph (10) of Code Section
52 48-7-100. The amounts so withheld shall be allocated to the loan-out company's
53 employees based on the payments made to the loan-out company's employees for
54 services performed in Georgia. For purposes of this chapter, loan-out company
55 nonresident employees performing services in Georgia shall be considered taxable
56 nonresidents and the loan-out company shall be subject to income taxation in the
57 taxable year in which the loan-out company's employees perform services in Georgia,
58 notwithstanding any other provisions in this chapter. Such withholding liability shall
59 be subject to penalties and interest in the same manner as the employee withholding
60 taxes imposed by Article 5 of this chapter and the commissioner shall provide by
61 regulation the manner in which such liability shall be assessed and collected.

62 (D) Production expenditures by a production company shall be subject to any
63 limitations or reductions imposed by subsection (l) of this Code section.

64 (8.1) 'Qualified Georgia music expenditures' means expenditures for the right or license
65 to own or use a musical composition or sound recording if such musical composition or
66 sound recording is audible in a qualified movie production, qualified TV production,
67 qualified music video, or qualified interactive game, and if such right or license is
68 purchased from:

- 69 (A) A composer of such musical composition or recording artist of such sound
70 recording who is a permanent legal resident of Georgia; or
71 (B) A precleared music library incorporated and housed in Georgia that in the prior
72 year paid the tax imposed by Code Section 48-7-20 or 48-7-21."

73

SECTION 2.

74 All laws and parts of laws in conflict with this Act are repealed.