

FIRST REGULAR SESSION

SENATE BILL NO. 387

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NASHEED.

Read 1st time February 26, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1852S.011

AN ACT

To repeal section 135.750, RSMo, and to enact in lieu thereof one new section relating to film production tax credits.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 135.750, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 135.750, to read as follows:

135.750. 1. As used in this section, the following terms mean:

2 (1) "Highly compensated individual", any individual who receives
3 compensation in excess of one million dollars in connection with a single qualified
4 film production project;

5 (2) "Qualified film production project", any film, video, commercial, or
6 television production, as approved by the department of economic development
7 and the office of the Missouri film commission, that is under thirty minutes in
8 length with an expected in-state expenditure budget in excess of fifty thousand
9 dollars, or that is over thirty minutes in length with an expected in-state
10 expenditure budget in excess of one hundred thousand dollars. Regardless of the
11 production costs, "qualified film production project" shall not include any:

12 (a) News or current events programming;

13 (b) Talk show;

14 (c) Production produced primarily for industrial, corporate, or institutional
15 purposes, and for internal use;

16 (d) Sports event or sports program;

17 (e) Gala presentation or awards show;

18 (f) Infomercial or any production that directly solicits funds;

19 (g) Political ad;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 (h) Production that is considered obscene, as defined in section 573.010;
21 (3) "Qualifying expenses", the sum of the total amount spent in this state
22 for the following by a production company in connection with a qualified film
23 production project:

24 (a) Goods and services leased or purchased by the production company.
25 For goods with a purchase price of twenty-five thousand dollars or more, the
26 amount included in qualifying expenses shall be the purchase price less the fair
27 market value of the goods at the time the production is completed;

28 (b) Compensation and wages paid by the production company on which the
29 production company remitted withholding payments to the department of revenue
30 under chapter 143. For purposes of this section, compensation and wages shall
31 not include any amounts paid to a highly compensated individual;

32 (4) "Tax credit", a credit against the tax otherwise due under chapter 143,
33 excluding withholding tax imposed by sections 143.191 to 143.265, or otherwise
34 due under chapter 148;

35 (5) "Taxpayer", any individual, partnership, or corporation as described
36 in section 143.441, 143.471, or section 148.370 that is subject to the tax imposed
37 in chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265,
38 or the tax imposed in chapter 148 or any charitable organization which is exempt
39 from federal income tax and whose Missouri unrelated business taxable income,
40 if any, would be subject to the state income tax imposed under chapter 143.

41 2. For all taxable years beginning on or after January 1, 1999, but ending
42 on or before December 31, 2007, a taxpayer shall be granted a tax credit for up
43 to fifty percent of the amount of investment in production or production-related
44 activities in any film production project with an expected in-state expenditure
45 budget in excess of three hundred thousand dollars. For all taxable years
46 beginning on or after January 1, 2008, a taxpayer shall be allowed a tax credit
47 for up to thirty-five percent of the amount of qualifying expenses in a qualified
48 film production project. Each film production company shall be limited to one
49 qualified film production project per year. Activities qualifying a taxpayer for the
50 tax credit pursuant to this subsection shall be approved by the office of the
51 Missouri film commission and the department of economic development.

52 3. Taxpayers shall apply for the film production tax credit by submitting
53 an application to the department of economic development, on a form provided by
54 the department. As part of the application, the expected in-state expenditures
55 of the qualified film production project shall be documented. In addition, the

56 application shall include an economic impact statement, showing the economic
57 impact from the activities of the film production project. Such economic impact
58 statement shall indicate the impact on the region of the state in which the film
59 production or production-related activities are located and on the state as a
60 whole.

61 4. For all taxable years ending on or before December 31, 2007, tax credits
62 certified pursuant to subsection 2 of this section shall not exceed one million
63 dollars per taxpayer per year, and shall not exceed a total for all tax credits
64 certified of one million five hundred thousand dollars per year. For all taxable
65 years beginning on or after January 1, 2008, **but ending on or before**
66 **December 31, 2013**, tax credits certified under subsection 1 of this section shall
67 not exceed a total for all tax credits certified of four million five hundred
68 thousand dollars per year. **For all taxable years beginning on or after**
69 **January 1, 2014, tax credits certified under subsection 1 of this section**
70 **shall not exceed a total for all tax credits certified of three million five**
71 **hundred thousand dollars per calendar year.** Taxpayers may carry forward
72 unused credits for up to five tax periods, provided all such credits shall be
73 claimed within ten tax periods following the tax period in which the film
74 production or production-related activities for which the credits are certified by
75 the department occurred.

76 5. Notwithstanding any provision of law to the contrary, any taxpayer
77 may sell, assign, exchange, convey or otherwise transfer tax credits allowed in
78 subsection 2 of this section. The taxpayer acquiring the tax credits may use the
79 acquired credits to offset the tax liabilities otherwise imposed by chapter 143,
80 excluding withholding tax imposed by sections 143.191 to 143.265, or chapter 148.
81 Unused acquired credits may be carried forward for up to five tax periods,
82 provided all such credits shall be claimed within ten tax periods following the tax
83 period in which the film production or production-related activities for which the
84 credits are certified by the department occurred.

85 6. Under section 23.253 of the Missouri sunset act:

86 (1) [The provisions of the new program authorized under this section
87 shall automatically sunset six years after November 28, 2007, unless reauthorized
88 by an act of the general assembly; and

89 (2) If such program is reauthorized,] The program authorized under this
90 section shall [automatically sunset twelve years after the effective date of the
91 reauthorization of this section] **expire on December 31, 2018, unless**

92 **reauthorized by the general assembly; and**

93 ~~[(3)]~~ **(2)** This section shall terminate on September first of the calendar
94 year immediately following the calendar year in which the program authorized
95 under this section is sunset; **and**

96 **(3) The provisions of this subsection shall not be construed to**
97 **limit or in any way impair the department of economic development's**
98 **ability to issue tax credits authorized on or before the date the**
99 **program authorized under this section expires or a taxpayer's ability**
100 **to redeem such tax credits.**

Unofficial ✓

Bill

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