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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO TAXATION -- MOTION PICTURE PRODUCTION TAX CREDITS

Introduced By: Senator Joshua Miller

Date Introduced: February 01, 2017

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 44-31.2-2 and 44-31.2-11 of the General Laws in Chapter 44-31.2
2 entitled "Motion Picture Production Tax Credits" are hereby amended to read as follows:

3 **44-31.2-2. Definitions.**

4 For the purposes of this chapter:

5 (1) "Accountant's certification" as provided in this chapter means a certified audit by a
6 Rhode Island certified public accountant licensed in accordance with section 5-3.1.

7 (2) "Base investment" means the actual investment made and expended by a state-
8 certified production in the state as production-related costs.

9 (3) "Documentary production" means a non-fiction production intended for educational
10 or commercial distribution that may require out of state principal photography.

11 (4) "Domiciled in Rhode Island" means a corporation incorporated in Rhode Island or a
12 partnership, limited liability company, or other business entity formed under the laws of the state
13 of Rhode Island for the purpose of producing motion pictures as defined in this section, or an
14 individual who is a domiciled resident of the state of Rhode Island as defined in chapter 30 of this
15 title.

16 (5) "Final production budget" means and includes the total pre-production, production
17 and post-production out-of-pocket costs incurred and paid in connection with the making of the
18 motion picture. The final production budget excludes costs associated with the promotion or
19 marketing of the motion picture

1 (6) "Motion picture" means a feature-length film, documentary production, video, ~~video~~
2 ~~games~~; television series, or commercial made in Rhode Island, in whole or in part, for theatrical
3 or television viewing or as a television pilot or for educational distribution. The term "motion
4 picture" shall not include the production of television coverage of news or athletic events, nor
5 shall it apply to any film, video, television series or commercial or a production for which records
6 are required under section 2257 of title 18, U.S.C., to be maintained with respect to any performer
7 in such production or reporting of books, films, etc. with respect to sexually explicit conduct.

8 (7) "Motion picture production company" means a corporation, partnership, limited
9 liability company or other business entity engaged in the business of producing one or more
10 motion pictures as defined in this section. Motion picture production company shall not mean or
11 include:

12 (a) any company owned, affiliated, or controlled, in whole or in part by any company or
13 person which is in default:

14 (i) on taxes owed to the state; or

15 (ii) on a loan made by the state in the application year; or

16 (iii) on a loan guaranteed by the state in the application year; or

17 (b) any company or person who has discharged an obligation to pay or repay public funds
18 or monies by:

19 (i) filing a petition under any Federal or state bankruptcy or insolvency law;

20 (ii) having a petition filed under any Federal or state bankruptcy or insolvency law
21 against such company or person;

22 (iii) consenting to, or acquiescing or joining in, a petition named in (i) or (ii);

23 (iv) consenting to, or acquiescing or joining in, the appointment of a custodian, receiver,
24 trustee, or examiner for such company's or person's property; or

25 (v) making an assignment for the benefit of creditors or admitting in writing or in any
26 legal proceeding its insolvency or inability to pay debts as they become due.

27 (8) "Primary locations" means the locations which (1) at least fifty-one percent (51%) of
28 the motion picture principal photography days are filmed; or (2) at least fifty-one percent (51%)
29 of the motion picture's final production budget is spent and employs at least five (5) individuals
30 during the production in this state; or (3) for documentary productions, the location of at least
31 fifty-one percent (51%) of the total productions days, which shall include pre- production and
32 post-production locations.

33 (9) "Rhode Island film and television office" means an office within the department of
34 administration that has been established in order to promote and encourage the locating of film

1 and television productions within the state of Rhode Island. The office is also referred to within
2 as the "film office".

3 (10) "State-certified production" means a motion picture production approved by the
4 Rhode Island film office and produced by a motion picture production company domiciled in
5 Rhode Island, whether or not such company owns or controls the copyright and distribution rights
6 in the motion picture; provided, that such company has either:

7 (a) signed a viable distribution plan; or

8 (b) is producing the motion picture for:

9 (i) a major motion picture distributor;

10 (ii) a major theatrical exhibitor;

11 (iii) television network; or

12 (iv) cable television programmer.

13 (11) "State certified production cost" means any pre-production, production and post-
14 production cost that a motion picture production company incurs and pays to the extent it occurs
15 within the state of Rhode Island. Without limiting the generality of the foregoing, "state certified
16 production costs" include: set construction and operation; wardrobes, make-up, accessories, and
17 related services; costs associated with photography and sound synchronization, lighting, and
18 related services and materials; editing and related services, including, but not limited to, film
19 processing, transfers of film to tape or digital format, sound mixing, computer graphics services,
20 special effects services, and animation services, salary, wages, and other compensation, including
21 related benefits, of persons employed, either director or indirectly, in the production of a film
22 including writer, motion picture director, producer (provided the work is performed in the state of
23 Rhode Island); rental of facilities and equipment used in Rhode Island; leasing of vehicles; costs
24 of food and lodging; music, if performed, composed, or recorded by a Rhode Island musician, or
25 released or published by a person domiciled in Rhode Island; travel expenses incurred to bring
26 persons employed, either directly or indirectly, in the production of the motion picture, to Rhode
27 Island (but not expenses of such persons departing from Rhode Island); and legal (but not the
28 expense of a completion bond or insurance and accounting fees and expenses related to the
29 production's activities in Rhode Island); provided such services are provided by Rhode Island
30 licensed attorneys or accountants.

31 (12) "Application year" means within the calendar year the motion picture production
32 company files an application for the tax credit.

33 **44-31.2-11. Sunset.**

34 No credits shall be issued on or after ~~July 1, 2021~~ [July 1, 2024](#), unless the production has

1 received initial certification under subsection 44-31.2-6(a) prior to ~~July 1, 2021~~ [July 1, 2024](#).

2 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO TAXATION -- MOTION PICTURE PRODUCTION TAX CREDITS

1 This act would remove video games from the definition of "motion picture" for the
2 purposes of the Motion Picture Credit Tax Act, and would extend from July 1, 2021, to July 1,
3 2024, the date upon which credits would be issued pursuant to the Act, unless the production has
4 received initial certification prior to July 1, 2024.

5 This act would take effect upon passage.

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