

REPORT OF THE ECONOMIC DEVELOPMENT SUBCOMMITTEE MEETING

(Caskey, Whitmire, Lowe, Weeks, Dillard - Staff: Abby Forster)

HOUSE BILL 3832 FILM INCENTIVES

Summary of Bill:

Currently motion picture production companies with total production costs in South Carolina that equal or exceed \$1 million are eligible for wage and expenditure rebates. Qualified production companies may receive a 25% wage rebate for South Carolina resident wages paid and a 20% wage rebate for non-resident wages paid. Total wage spending must be \$1 million or more, with no one person being paid \$1 million or greater. Additionally, qualified production companies may receive a 30% rebate for expenditures made in South Carolina by the motion picture production company when spending is greater than \$1 million. Payroll expenditures, while eligible for wage rebates, are not doubly included in this expenditure rebate threshold.

This bill increases the total annual rebate amount from \$10 million to \$30 million and allows the South Carolina Film Commission within the Department of Parks, Recreation and Tourism (PRT) to carry forward unused rebates for three years. Additionally, the bill repeals the 26% distribution of the admissions tax for film incentives. The bill transfers the rebate funding source, as well as that of the operations of the South Carolina Film Commission and collaborative educational and production efforts, from the admissions tax to the General Fund. Thus, the admissions tax dollars previously set aside for film incentives are remitted to the General Fund.

Further, this bill authorizes a new income tax credit for taxpayers with accredited theater production certificates. PRT and the Department of Revenue (DOR) are charged with reviewing the accreditation of an eligible theater production. The income tax credit is equal to 30% of the total qualified production, performance, and transportation expenditures for productions with budgets of at least \$100,000. The annual tax credit cap is established at \$2 million, and credits are to be awarded on a first-come, first-serve basis. Credits may be sold, exchanged, or transferred.

Estimated Fiscal Impact:

Passage of the bill will reduce General Fund revenue by up to \$11,804,100 beginning in FY2025-26. \$9,804,100 of this reduction is due to a combination of the repeal of the 26% admissions tax distribution and the \$20 million increase in allowable rebates from the General Fund. \$2 million of this reduction is due to new theater production incentives.

Subcommittee Action/Explanation:

The Economic Development Subcommittee gave the bill favorable report as amended. The amendment changes the theater production incentive structure to mirror that of film incentives. Theater productions must spend \$250,000 or more in South Carolina within a consecutive twelve-month period to be eligible for rebates and sales and use taxes exemptions.

Full Committee Action/Explanation:

N/A

Other Notes/Comments:

The bill as written matches H. 4020 from Session 125 (2023-2024) which passed 77-20.

SOUTH CAROLINA
HOUSE AMENDMENT

AMENDMENT NO. _____

David Good
March 26, 2025

| ADOPTED | REJECTED | TABLED | ADJOURN DEBATE | RECONSIDERED | ROO |
|---------|----------|--------|-------------------|--------------|-----|
| | | | | | |

Clerk of the House

ADOPTION NO. _____

BILL NO: H. 3832

(Reference is to the original version)

The Ways and Means Economic Development Subcommittee proposes the following amendment (LC-3832.DG0001H):

Amend the bill, as and if amended, by striking SECTIONS 4.A and 4.B and inserting:

SECTION X.A. [Title 12 of the S.C. Code is amended by adding:](#)

[CHAPTER 71](#)

[South Carolina Theater Production Incentive Act](#)

[Section 12-71-10. This chapter may be cited as the "South Carolina Theater Production Incentive Act".](#)

Section 12-71-20. For purposes of this chapter:

(1) "Accredited theater production" means a for profit live stage presentation in a qualified production facility, as defined in this section that is either a pre-Broadway production or a post-Broadway production.

(2) "Company" means a corporation, partnership, limited liability company, or other business entity.

(3) "Department" means the Department of Parks, Recreation and Tourism.

(4) "Director" means the director of the Department of Parks, Recreation and Tourism, or his designee.

(5) "Pre-Broadway production" means a live stage production that, in its original or adaptive version, is performed in a qualified production facility having a presentation scheduled for Broadway's theater district in New York City within twelve months after its South Carolina presentation.

(6) "Post-Broadway production" means a live stage production that, in its original or adaptive version, is performed in a qualified production facility and opens its United States tour in South Carolina after a presentation scheduled for Broadway's theater district in New York City.

(7) "Qualified production facility" means a facility located in this State in which live theatrical productions are, or are intended to be, exclusively presented that contains at least one stage, a seating capacity of one thousand or more seats, and dressing rooms, storage areas, and other ancillary amenities necessary for the accredited theater production.

Section 12-71-30. An accredited theater production that intends to expend in the aggregate two hundred fifty thousand dollars or more in connection with the a production in the State of South Carolina within a consecutive twelve month period, upon making application for, meeting the requirements of, and receiving written certification of that designation from the department as provided in this chapter, is relieved from the payment of state and local sales and use taxes

administered and collected by the Department of Revenue on funds expended in South Carolina in connection with the production.

Section 12-71-40. (A) An accredited theater production company that intends to put on a production in South Carolina and desires to be relieved from the payment of the state and local sales and use taxes, administered and collected by the Department of Revenue, as provided in this chapter, shall provide an estimate of total expenditures expected to be made in South Carolina in connection with the production. The estimate of expenditures must be filed with the department before the commencement of the production in South Carolina.

(B) At the time the accredited theater production company provides the estimate of expenditures to the department, it also shall designate a member or representative of the accredited theater production company to work with the department and the Department of Revenue on reporting of expenditures and other information necessary to take advantage of the tax relief afforded by this chapter.

(C)(1) An application for the tax relief provided by this chapter must be accepted only from those in accredited theater production companies that report anticipated expenditures in the State in the aggregate equal to or exceeding two hundred fifty thousand dollars in connection with the production of one or more productions in the State within a consecutive twelve-month period.

(2) The application must be approved by the director.

(3) Once the application is approved by the director, the Department of Revenue shall issue a sales and use tax exemption certificate to the accredited theater production company as evidence of the exemption. The exemption is effective on the date the application is approved by the director.

(D) An accredited theater production company that is approved and receives a sales and use tax exemption certificate but fails to expend two hundred fifty thousand dollars within a consecutive twelve-month period is liable for the sales and use taxes that would have been paid had the approval not been granted; except, that the accredited theater production company must be given

a sixty day period in which to pay the sales and use taxes without incurring penalties. The sales and use taxes are considered due as of the date the tangible personal property was purchased in or brought into South Carolina for use, storage, or consumption.

(E) Upon completion of the production, the accredited theater production company must return the sales and use tax exemption certificate to the Department of Revenue and submit a report to the department of the actual expenditures made in South Carolina in connection with the production.

Section 12-71-50. (A)(1) The department may rebate to an accredited theater production company a portion of the South Carolina payroll of the employment of persons subject to South Carolina income tax withholdings in connection with the production. The rebate may not exceed twenty percent of the total aggregate South Carolina payroll for persons subject to South Carolina income tax withholdings, and may not exceed twenty-five percent for South Carolina residents, for persons employed in connection with the production when total production costs in South Carolina equal or exceed two hundred fifty thousand dollars during the taxable year. The rebates in total may not annually exceed two million dollars and shall come from the state's general fund. Any unused rebates may be carried forward for the next three tax years thereby increasing the annual limit in those subsequent years. For purposes of this section, "total aggregate payroll" does not include the salary of an employee whose salary is equal to or greater than one million dollars for each production.

(2)(a) For purposes of this section, an employee is an individual directly involved in the production in South Carolina and who is an employee of:

(i) an accredited theater production company that is directly involved in the post production in South Carolina; or

(ii) a personal service corporation retained by an accredited theater production company to provide persons used directly in the production in South Carolina; or

(iii) a payroll services or loan out company that is retained by an accredited theater

production company to provide employees who work directly in the production in South Carolina.

(b) For his wages to qualify for the rebate, the employee must be certified by the department as a qualifying employee and the employee must have had South Carolina income tax withholding withheld and remitted to the Department of Revenue by a company described in item (2)(a).

(3) The rebate applies with respect to an employee described in subsection (A)(2)(a)(ii) or (iii) only if, before commencement of the production in South Carolina, the personal services corporation, payroll services company, or loan out company is approved and certified by the department, and makes an irrevocable assignment of its rebate to the accredited theater production company that put on the production. The assignment must be made on a form provided by the Department of Revenue, which must include a waiver of confidentiality pursuant to Section 12-54-240. Upon assignment, the rebate may be paid only to the accredited theater production company.

(B)(1) The rebate provided in subsection (A) is available to the accredited theater production company at the end of the production in South Carolina. The accredited theater production company must apply to the department for a certificate of completion once the production in South Carolina is complete. The accredited theater production company must provide the information the department considers necessary to determine if the two hundred fifty thousand dollar expenditure requirement has been met.

(2) An accredited theater production company may claim the rebate by filing a request for rebate with the department once the certificate of completion is obtained. The request for rebate must be filed by the last day of February of the year following the year in which the certificate of completion is obtained. To claim the rebate, the accredited theater production company and all companies described in subsection (A)(2)(a)(ii) or (iii) must be current with respect to all taxes due and owing the State at the time of filing the request for rebate. If the accredited theater production company or a company described in subsection (A)(2)(a)(ii) or (iii) is not current with respect to all taxes due and owing the State, the accredited theater production company is permanently barred from claiming the rebate.

(3) The accredited theater production company must attach to its request for rebate a copy of the certificate of completion and a copy of all assignments of the rebate, if applicable.

(C) An accredited theater production company claiming a rebate pursuant to this section, and all companies described in subsection (A)(2)(a)(ii) or (iii), must make payroll books and records available for inspection to the department at the times requested by the department. Each accredited theater production company claiming the rebate, at the time of filing, must provide a report to the department that includes the project's name, the name of each employee that worked on the production, the social security number for each employee, the dates employed, the dates the employee worked on the production, a job description for each employee, the total gross wages for each employee, the South Carolina taxable wages subject to withholding for each employee, the amount of rebate attributable to that employee, and other information considered necessary by the department. The report also must contain the total amount of withholding attributable to all employees that worked on the production in South Carolina.

(D) For purposes of this section, and as an exception to Section 12-54-240, an accredited theater production company and a company described in subsection (A)(2)(a)(ii) or (iii) agree that the department may share or provide information concerning the request for rebate and the certificate of completion among the respective taxpayers and the respective agencies.

(E) A taxpayer may not claim a rebate pursuant to this chapter and Chapter 62 for the same project. Further, a taxpayer may not use state funds, state loans, or state guaranteed loans to qualify for such rebates.

Section 12-71-55. At the time the accredited theater production company is certified by the department, it may make an irrevocable assignment of future payments attributable to the rebates made pursuant to Section 12-71-40 or 12-71-50 to a designated trustee. For purposes of this chapter, "designated trustee" means the single financier or financial institution designated by the council to receive all assignments of payments made pursuant to this chapter and to the terms of an agreement entered into by the accredited theater production company. If an accredited

theater production company elects to assign payments to the designated trustee, the election must be made on a form provided by the department, including a waiver of confidentiality pursuant to Section 12-54-240, and the payments may be paid only to the designated trustee. The accredited theater production company must file an application for the assignment with the director no later than thirty days after the production begins in South Carolina.

Section 12-71-60. (A)(1) In addition to the rebates allowed pursuant to Section 12-71-50, the department may rebate to an accredited theater production company up to thirty percent of the expenditures made by the accredited theater production company in the State if the accredited theater production company has a minimum in state expenditure of two hundred fifty thousand dollars. Rebates awarded pursuant to this section shall count against the maximum rebate amount set forth in Section 12-71-50.

(2) This subsection does not apply to payroll paid for accredited theater production employees subject to Section 12-71-50 or money paid to the companies described in Section 12-71-50(A)(2)(a)(ii) or (iii). Unexpended funds from this source may be carried over to the next and succeeding fiscal years.

(B) The allocations to theater production companies contemplated by this section must be made by the department. The department may adopt rules and promulgate regulations for the application for and award of the rebate.

Section 12-71-80. The department may form a South Carolina Theater Foundation to solicit donations for the recruitment of theater productions in furtherance of the purposes of this chapter.

Section 12-71-90. A production that utilizes a South Carolina tax credit or rebate must recognize the State of South Carolina by placing a logo, selected by the department, in a conspicuous location on any advertisement for the production and on the front of the playbill.

However, the State of South Carolina reserves the right to refuse the use of its name in any production put on in the State.

Section 12-71-95. The provisions of this chapter do not apply if the production that is made in South Carolina is found to contain scenes the average person, applying contemporary state community standards would find that the production, taken as a whole, appeals to the prurient interest, whether the production depicts or describes, in a patently offensive way, sexual conduct, and whether the production, taken as a whole, lacks serious literary, artistic, political, or scientific value. The department may not award any benefit offered by this chapter to an accredited theater production company putting on such a production.

Section 12-71-100. To the extent not already provided, the department may adopt rules and promulgate regulations to carry out the intent and purposes of this chapter.

B. This SECTION takes effect upon approval by the Governor and applies to tax years beginning after 2024.

Renumber sections to conform.
Amend title to conform.



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE

STATEMENT OF ESTIMATED FISCAL IMPACT

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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

| | | |
|------------------------|----------------------|--------------------------------|
| Bill Number: | H. 3832 | Introduced on January 29, 2025 |
| Subject: | Film Incentives | |
| Requestor: | House Ways and Means | |
| RFA Analyst(s): | Manic | |
| Impact Date: | February 18, 2025 | |

Fiscal Impact Summary

This bill makes changes to the amounts and funding available to the South Carolina Film Commission, within the Department of Parks, Recreation and Tourism (PRT), for motion picture film incentives. The bill changes the funding by increasing the annual rebates the Film Commission may issue from \$10,000,000 to \$30,000,000 annually and repealing the current code section that allocates 26 percent of the prior year's General Fund admissions tax revenue to the Film Commission to provide non-payroll expenditure rebates. Further, if the full \$30,000,000 is not issued, then any unused rebates may be carried forward for the next three tax years, increasing the limit in those subsequent years. Additionally, PRT may use a portion of the rebate allotment to fund the operations of the Film Commission and for promotion of collaborative production and educational efforts between institutions of higher learning and motion-picture related entities. Any funds used by the department reduce the annual rebate limit.

Further, the bill creates a new income tax credit for taxpayers with an accredited theater production certificate beginning in tax year 2025. The tax credit is set at 30 percent of the total production, performance, and transportation expenditures for the accredited theater production. The bill also specifies that the credits must be awarded on a first come, first serve basis, and the total amount of credits in a tax year is capped at a maximum of \$2,000,000. Additionally, the bill allows the credit to be carried forward for the next three years, and it also specifies that a taxpayer may sell, exchange, or transfer the earned tax credit. The bill requires both PRT and the Department of Revenue (DOR) to review and certify the accreditation of an eligible theater production.

PRT intends to implement the changes related to motion picture film incentives with existing staff and resources. Expenditures for operating and personnel of the Film Commission have averaged \$406,000 in recent years. However, depending on how the production fund or workforce development efforts are implemented in the future, PRT may require an additional FTE to handle these responsibilities. The expenses for this position would depend on availability of funds from rebates. Also, PRT indicates that it will request an increase in General Fund appropriations to hire an additional FTE (Economic Development Officer I) who will be responsible of handling the theater production income tax credit incentive program requirements. The expenditure impact of hiring this additional FTE is undetermined as the agency will need to research the market and evaluate the proper level of experience needed for this type of work.

DOR indicates that the bill's requirement to review and certify accredited theater productions eligible for the new income tax credit will have no expenditure impact on the agency as it expects to manage the additional requirements with existing staff and resources.

The bill will repeal the transfer of 26 percent of the prior year's General Fund admissions tax and increase allowable General Fund rebates by \$20,000,000. The net impact will be to reduce available General Fund revenue by \$9,804,100 beginning in FY 2025-26. General Fund income tax revenue is expected to be further decreased by up to \$2,000,000 because of the new tax credit for eligible taxpayers with accredited theater productions. In summary, this bill may reduce General Fund revenue by up to \$11,804,100 beginning in FY 2025-26.

Explanation of Fiscal Impact

Introduced on January 29, 2025

State Expenditure

This bill makes changes to the funding to the Film Commission for motion picture film incentives. Additionally, PRT may use a portion of the rebate allotment to fund the operations of the Film Commission and for promotion of collaborative production and educational efforts between institutions of higher learning and motion-picture related entities. Any funds used by the department reduce the annual rebate limit. The bill also creates a new income tax credit for taxpayers with an accredited theater production certificate, and it requires both PRT and DOR to review and certify the accreditation of eligible theater productions.

Department of Parks, Recreation and Tourism. PRT intends to implement the changes related to motion picture film incentives with existing staff and resources. Expenditures for operating and personnel of the Film Commission have averaged \$406,000 in recent years. However, depending on how the production fund or workforce development efforts are implemented, PRT may require an additional FTE to handle these responsibilities. The expenses for this position would depend on availability of funds from rebates. Also, PRT indicates that it will request an increase in General Fund appropriations to hire an additional FTE who will be responsible of handling the review and certification of theater production applications for the tax credit incentive. The expenditure impact of hiring this additional FTE is undetermined as PRT indicates it will have to research the market and evaluate the proper level of experience needed for this type of work. However, the agency also indicates it expects the FTE to be classified as an Economic Development Officer I.

Department of Revenue. DOR indicates that the bill's requirement to review and certify accredited theater productions eligible for the new tax credit will have no expenditure impact on the agency as it expects to manage the additional requirements with existing staff and resources.

State Revenue

This bill makes changes to the funds available to the South Carolina Film Commission for motion picture film incentives. The bill changes the funding by increasing the annual rebates the South Carolina Film Commission may issue for motion picture payroll and non-payroll expenses from \$10,000,000 to \$30,000,000 annually and repealing the current code section that allocates

26 percent of the prior year's General Fund admissions tax revenue to the Film Commission to provide non-payroll expenditure rebates. Further, if the full \$30,000,000 is not issued, then any unused rebates may be carried forward for the next three tax years, increasing the limit in those subsequent years. Additionally, PRT may use a portion of the rebate allotment to fund the operations of the Film Commission and for promotion of collaborative production and educational efforts between institutions of higher learning and motion-picture related entities. Any funds used by the department reduce the annual limit of rebates.

Currently, the Film Commission is authorized to rebate to a motion picture company a portion of the South Carolina payroll of the employment of persons subject to income tax withholdings for the motion picture production. The rebate may not exceed 20 percent of the aggregate payroll expenses for persons subject to South Carolina income tax and 25 percent for South Carolina residents. The production must have total costs in South Carolina of \$1,000,000 during the taxable year.

Additionally, the Commission receives 26 percent of the prior fiscal year's General Fund admissions tax revenue pursuant to 12-62-60. These funds may be used to rebate up to 30 percent of the expenditures made by the company for non-payroll expenditures. Up to 7 percent may be used for marketing and special events, and 1 percent may be used for the promotion of collaborative production and education efforts. This section is repealed by the bill.

While the code sections currently separate the funding sources for payroll and non-payroll expenditures, the agency has been allowed to pool these funds by proviso, most recently Proviso 49.14 in the FY 2024-25 Appropriations Act. Further, the Commission has also been authorized to carry forward funds committed to projects from a prior fiscal year, most recently by Proviso 49.8.

The Commission reports that they anticipate there will be sufficient motion picture production projects to rebate the full \$30,000,000 allowed under the bill. Based on the forecast by the Board of Economic Advisors on February 13, 2025, General Fund admission tax is projected to total \$39,215,000 in FY 2024-25. Under current law, the Film Commission would receive 26 percent of this amount, or \$10,195,900, in FY 2025-26. This bill would repeal this transfer, increasing available General Fund admission tax revenue by \$10,195,900. The bill will increase General Fund rebates from \$10,000,000 to \$30,000,000, for a \$20,000,000 reduction in available General Fund revenue due to rebates beginning in FY 2025-26. The net General Fund revenue impact of these changes will be a reduction of \$9,804,100 in FY 2025-26.

Section 4 of the bill also creates a new tax credit for taxpayers with an accredited theater production certificate beginning in tax year 2025. The tax credit is set at 30 percent of the total production, performance, and transportation expenditures for the accredited theater production. In addition, the bill specifies that the credits must be awarded on a first come, first serve basis, and the total amount of credits in a tax year is capped at \$2,000,000. The bill also allows the credit to be carried forward for the next three years, and it also specifies that a taxpayer may sell, exchange, or transfer the tax credit. An accredited theater production is defined as either a for-profit live stage pre-Broadway or post-Broadway presentation in a facility located in South

Carolina in which live theatrical productions are presented and which contains at least one stage, has a seating capacity of one thousand or more seats, and dressing rooms, storage areas, and other ancillary amenities required for the production. The bill requires both PRT and DOR to review and certify the accreditation of an eligible theater production.

Data related to theater production costs are limited. According to an article by the Limestone Post Magazine, production costs ranged from an average of more than \$109,000 for smaller shows to approximately \$330,000 for larger ones in 2019.¹ Accounting for inflation since 2019, we expect the average total production cost to start at approximately \$137,000 in 2025. In addition, based on data from the online platform Broadway World, there are 52 theater shows scheduled in South Carolina during 2025.² Assuming a minimum cost of \$137,000 per show and 52 shows per year, the total production costs in South Carolina in 2025 are expected to equal at least \$7,124,000. Applying the 30 percent rate for the income tax credit, the estimated potential tax credits may total at least approximately \$2,137,000. Given that many larger shows may have budgets that are well above \$137,000, we believe there will be sufficient theater production volume for the income tax credit to reach the \$2,000,000 maximum cap in a tax year. Further, as the tax credit may be sold or transferred, we anticipate that the full amount of the credit is likely to be used. Therefore, we estimate the tax credit will reduce General Fund revenue by \$2,000,000 beginning in FY 2025-26.

In summary, the bill will reduce General Fund revenue by \$9,804,100 due to the repeal of the transfer of 26 percent of the prior year's General Fund admissions tax and the increase in allowable General Fund rebates for motion picture payroll and non-payroll expenses beginning in FY 2025-26. Also, the bill will further reduce General Fund revenue from individual and corporate income taxes by up to \$2,000,000 as a result of the theater production income tax credits. In total, the bill will reduce General Fund revenue by up to \$11,804,100 beginning in FY 2025-26.

Local Expenditure

N/A

Local Revenue

N/A

¹ Julie Warren, Limestone Post Magazine, *Keeping Theatre Ticket Prices Low Despite High Production Costs*, February 11, 2019, <https://limestonepostmagazine.com/keeping-theatre-prices-low-despite-high-costs/>

² Broadway World, South Carolina Theater Shows, Retrieved February 10, 2025 <https://www.broadwayworld.com/south-carolina/regionalshows.cfm>



Frank A. Rainwater, Executive Director

South Carolina General Assembly
126th Session, 2025-2026

H. 3832

STATUS INFORMATION

General Bill

Sponsors: Reps. W. Newton and Herbkersman

Document Path: LC-0126DG25.docx

Introduced in the House on January 29, 2025

Currently residing in the House Committee on **Ways and Means**

Summary: Film incentives

HISTORY OF LEGISLATIVE ACTIONS

| <u>Date</u> | <u>Body</u> | <u>Action Description with journal page number</u> |
|-------------|-------------|--|
| 1/29/2025 | House | Introduced and read first time (House Journal-page 15) |
| 1/29/2025 | House | Referred to Committee on Ways and Means (House Journal-page 15) |

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VERSIONS OF THIS BILL

01/29/2025

1
2
3
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8
9 **A BILL**
10

11 TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-62-50,
12 RELATING TO THE TAX REBATE FOR CERTAIN MOTION PICTURE PRODUCTION
13 COMPANIES, SO AS TO INCREASE THE ANNUAL LIMIT, AND BY ALLOWING THE USE OF
14 REBATES FOR CERTAIN EXPENDITURES AND EXPENSES; BY REPEALING SECTION
15 12-62-60 RELATING TO DISTRIBUTION OF ADMISSIONS TAXES FOR REBATES TO
16 MOTION PICTURE PRODUCTION COMPANIES AND CERTAIN DEPARTMENTAL
17 EXPENSES; AND BY ADDING SECTION 12-6-3830 SO AS TO PROVIDE A TAX CREDIT FOR
18 AN ACCREDITED THEATER PRODUCTION.
19

20 Be it enacted by the General Assembly of the State of South Carolina:
21

22 SECTION 1. Section 12-62-50(A)(1) of the S.C. Code is amended to read:
23

24 (1) The South Carolina Film Commission may rebate to a motion picture production company a
25 portion of the South Carolina payroll of the employment of persons subject to South Carolina income
26 tax withholdings in connection with production of a motion picture. The rebate may not exceed twenty
27 percent of the total aggregate South Carolina payroll for persons subject to South Carolina income tax
28 withholdings, and may not exceed twenty-five percent for South Carolina residents, for persons
29 employed in connection with the production when total production costs in South Carolina equal or
30 exceed one million dollars during the taxable year. The rebates in total may not annually exceed ~~ten~~
31 thirty million dollars and shall come from the state's general fund. Any unused rebates may be carried
32 forward for the next three tax years thereby increasing the annual limit in those subsequent years. For
33 purposes of this section, "total aggregate payroll" does not include the salary of an employee whose
34 salary is equal to or greater than one million dollars for each motion picture.
35

36 SECTION 2. Section 12-62-50 of the S.C. Code is amended by adding:
37

38 (E)(1) In addition to the rebates allowed pursuant to subsection (A), the department may rebate to a
39 motion picture production company up to thirty percent of the expenditures made by the motion picture
40 production company in the State if the motion picture production company has a minimum in-state
41 expenditure of one million dollars. This item does not apply to payroll paid for motion picture
42 production employees subject to this section or money paid to the companies described in subsection

1 (A)(2)(a)(ii) or (iii). The allocations to motion picture production companies contemplated by this
2 chapter must be made by the department. The department shall report annually to the Chairman of the
3 Senate Finance Committee and the Chairman of the House Ways and Means Committee on the use of
4 all funds pursuant to this item. The report is a public record pursuant to the Freedom of Information
5 Act, Chapter 4, Title 30, and must be posted annually on the commission's website by July first.

6 (2) Also, the department may use a portion of the rebate allotment to fund the operations for the
7 South Carolina Film Commission and for the promotion of collaborative production and educational
8 efforts between institutions of higher learning in South Carolina and motion picture-related entities.

9 (3) Any rebates allowed or funds used by the department pursuant to this subsection shall reduce
10 the annual limit set forth in subsection (A) by an equal amount.

11 (4) The department, in conjunction with the South Carolina Film Commission, shall adopt rules
12 and promulgate regulations necessary to administer this subsection.

13
14 SECTION 3. Section 12-62-60 of the S.C. Code is repealed.

15
16 SECTION 4.A. Article 25, Chapter 6, Title 12 of the S.C. Code is amended by adding:

17
18 Section 12-6-3830. (A) As used in this section:

19 (1) "Accredited theater production" means a for profit live stage presentation in a qualified
20 production facility, as defined in this section that is either a pre-Broadway production or a post
21 Broadway production.

22 (2) "Accredited theater production certificate" means a certificate issued by the Department of
23 Parks, Recreation and Tourism certifying that the production is an accredited theater production that
24 meets the guidelines of this chapter.

25 (3) "Advertising and public relations expenditure" means costs incurred within the state by the
26 accredited theater productions for goods or services related to the national marketing, public relations,
27 creation and placement of print, electronic, television, billboards and other forms of advertising to
28 promote the accredited theater production.

29 (4) "Department" means the Department of Parks, Recreation, and Tourism.

30 (5) "Payroll" means all salaries, wages, fees, and other compensation including related benefits
31 for services performed and costs incurred within the State.

32 (6) "Pre-Broadway production" means a live stage production that, in its original or adaptive
33 version, is performed in a qualified production facility having a presentation scheduled for Broadway's
34 theater district in New York City within twelve months after its South Carolina presentation.

35 (7) "Post-Broadway production" means a live stage production that, in its original or adaptive
36 version, is performed in a qualified production facility and opens its United States tour in South

1 Carolina after a presentation scheduled for Broadway's theater district in New York City.

2 (8) "Production and performance expenditures" means a contemporaneous exchange of cash or
3 cash equivalent for goods or services related to development, production, performance, or operating
4 expenditures incurred in this State for a qualified theater production including, but not limited to,
5 expenditures for design, construction and operation, including sets, special and visual effects, costumes,
6 wardrobes, make up, accessories; costs associated with sound, lighting, staging, payroll, transportation
7 expenditures, advertising and public relations expenditures, facility expenses, rentals, per diems,
8 accommodations, and other related costs.

9 (9) "Qualified production facility" means a facility located in this State in which live theatrical
10 productions are, or are intended to be, exclusively presented that contains at least one stage, a seating
11 capacity of one thousand or more seats, and dressing rooms, storage areas, and other ancillary amenities
12 necessary for the accredited theater production.

13 (10) "Transportation expenditures" means expenditures for the packaging, crating, and
14 transportation both to the State for use in a qualified theater production of sets, costumes, or other
15 tangible property constructed or manufactured out of state, or from the State after use in a qualified
16 theater production of sets, costumes, or other tangible property constructed or manufactured in this
17 State and the transportation of the cast and crew to and from the State. The term includes the packaging,
18 crating, and transporting of property and equipment used for special and visual effects, sound, lighting
19 and staging, costumes, wardrobes, make up, and related accessories and materials, as well as any other
20 performance or production related property and equipment. Transportation expenditures do not include
21 any costs to transport property and equipment to be used only for filming and not in a qualified theater
22 production, any indirect costs, and expenditures that are later reimbursed by a third party; or any
23 amounts that are paid to persons or entities as a result of their participation in profits from the
24 exploitation of the production.

25 (B)(1) Any taxpayer that receives an accredited theater production certificate pursuant to subsection
26 (C) is allowed an income tax credit equal to thirty percent of the total production and performance
27 expenditures and transportation expenditures for the accredited theater production and to be computed
28 as provided in this section. The credit is limited to certified production costs directly attributable to
29 activities in the State and transportation expenditures. The credits must be awarded on a first come first
30 serve basis, and the total amount of credits allowed for all taxpayers in a tax year may not exceed two
31 million dollars. To be eligible to claim the credit, the total production budget must be at least one
32 hundred thousand dollars. The tax credit may be claimed in the year in which the credit is earned and
33 may be carried forward for the next three tax years.

34 (2) Credits allowed to a company that is a subchapter S corporation, partnership, or a limited
35 liability company that is taxed as a partnership, must be passed through respectively to persons
36 designated as partners, members, or owners on a pro rata basis or pursuant to an executed agreement

1 among such persons designated as subchapter S corporation shareholders, partners, or members
2 documenting an alternate distribution method without regard to their sharing of other tax or economic
3 attributes of such entity.

4 (3) A taxpayer may sell, exchange, or otherwise transfer tax credits earned pursuant to this section.
5 A tax credit or increment of a tax credit may be transferred only once. The credit may be transferred to
6 any taxpayer. A taxpayer to whom a credit has been transferred may use the credit for the taxable year
7 in which the transfer occurred and unused amounts may be carried forward to succeeding taxable years,
8 but the transferred credit may not be used more than three years after it was originally earned. With
9 regard to the sale or exchange of a credit allowed under this section, general income tax principles
10 apply for purposes of the state income tax.

11 (C)(1) To obtain eligibility, a taxpayer must properly prepare, sign, and submit to the department an
12 application for initial certification of the theater production. The application shall include the
13 information and data as the department deems reasonably necessary for the proper evaluation and
14 administration of the application including, but not limited to, any information about the theater
15 production company and a specific South Carolina live theater or musical production. The department
16 shall review the completed application and determine whether it meets the requisite criteria and
17 qualifications for the initial certification for the production. If the initial certification is granted, the
18 department shall issue a notice of initial certification of the accredited theater production to the theater
19 production company and to the Department of Revenue. The notice shall state that, after appropriate
20 review, the initial application meets the appropriate criteria for conditional eligibility. The notice of
21 initial certification will provide a unique identification number for the production and is only a
22 statement of conditional eligibility for the production and, as such, does not grant or convey any tax
23 benefits.

24 (2) Upon completion of an accredited theater production, the taxpayer shall properly prepare, sign,
25 and submit to the department an application for final certification of the accredited theater production.
26 The final application shall also contain a cost report and an accountant's certification. The Department
27 of Parks, Recreation and Tourism and the Department of Revenue may rely without independent
28 investigation, upon the accountant's certification, in the form of an opinion, confirming the accuracy
29 of the information included in the cost report. Upon review of a duly completed and filed application
30 and upon no later than thirty days of submission thereof, the Department of Revenue shall make a
31 determination pertaining to the final certification of the accredited theater production and the resultant
32 tax credits.

33 (3) Upon determination that the taxpayer qualifies for final certification and the resultant tax
34 credits, the Department of Revenue shall issue to the taxpayer: (i) an accredited theater production
35 certificate; and (ii) a tax credit certificate in an amount in accordance with subsection (B). A musical
36 and theatrical production company is prohibited from using state funds, state loans, or state guaranteed

1 loans to qualify for the motion picture tax credit. All documents that are issued by the department
2 pursuant to this section shall reference the identification number that was issued to the production as
3 part of its initial certification.

4 (4) The department shall promulgate rules and regulations as are necessary to carry out the intent
5 and purposes of this section for the certification of the production and the resultant production credit.

6 (5) If information comes to the attention of the department that is materially inconsistent with
7 representations made in an application, the department may deny the requested certification. In the
8 event that tax credits or a portion of tax credits are subject to recapture for ineligible costs and the tax
9 credits have been transferred, assigned, or allocated, the State will pursue its recapture remedies and
10 rights against the applicant of the theater production tax credits. No redress shall be sought against
11 assignees, sellers, transferees, or allocates of the credits.

12 (6) Pursuant to subsection (B), the department shall not approve any application if approval would
13 cause tax credits to be earned in the tax year that exceeds the maximum amount of two million dollars.

14 (D) For the purpose of ascertaining the correctness of any credit claimed under the provisions of this
15 chapter, the Department of Parks, Recreation and Tourism and the Department of Revenue may
16 examine any books, paper, records, or memoranda bearing upon the matters required to be included in
17 the return, report, or other statement, and may require the attendance of the person executing the return,
18 report, or other statement, or of any officer or employee of any taxpayer, or the attendance of any other
19 person, and may examine the person under oath respecting any matter that the department deems
20 pertinent or material in administration and application of this section and where not inconsistent with
21 other legal provisions, the director may request information from the tax administrator.

22
23 B. This SECTION takes effect upon approval by the Governor and first applies to tax years beginning
24 after 2024.

25
26 SECTION 5. This act takes effect upon approval by the Governor.

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