

SECOND REGULAR SESSION

HOUSE BILL NO. 2142

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WELLENKAMP.

5448H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 135.750, RSMo, and to enact in lieu thereof one new section relating to a tax credit for motion media production projects.

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Section A. Section 135.750, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 135.750, to read as follows:

135.750. 1. This section shall be known and may be referred to as the "Show MO Act".

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

(1) "Above-the-line individual", any individual hired or credited on screen for a qualified motion media production project as any type of producer, principal cast that is at a Screen Actors Guild Schedule F and above payment rate, screenwriter, and the director;

(2) "Qualified motion media production project", any film or series production, including videos, commercials, video games, webisodes, music videos, content-based mobile applications, virtual reality, augmented reality, multi-media, and new media, as well as standalone visual effects and postproduction for such motion media production project, as approved by the department of economic development and the office of the Missouri film commission, that features a statement and logo designated by the department of economic development in the credits of the completed production indicating that the project was filmed in Missouri and that is under thirty minutes in length with expected qualifying expenses in excess of fifty thousand dollars or is over thirty minutes in length with expected qualifying expenses in excess of one hundred thousand dollars. Regardless of the production costs, qualified motion media project shall not include any:

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 18 (a) News or current events programming;
- 19 (b) Talk show;
- 20 (c) Production produced primarily for industrial, corporate, or institutional purposes,
21 and for internal use;
- 22 (d) Sports event or sports program;
- 23 (e) Gala presentation or awards show;
- 24 (f) Infomercial or any production that directly solicits funds;
- 25 (g) Political ad;
- 26 (h) Production that is considered obscene, as defined in section 573.010;
- 27 (3) "Qualifying expenses", the sum of the total amount spent in this state for the
28 following by a production company in connection with a qualified motion media production
29 project:
- 30 (a) Goods and services leased or purchased by the production company. For goods
31 with a purchase price of twenty-five thousand dollars or more, the amount included in
32 qualifying expenses shall be the purchase price less the fair market value of the goods at the
33 time the production is completed;
- 34 (b) Compensation and wages paid by the production company on which the
35 production company remitted withholding payments to the department of revenue under
36 chapter 143. For purposes of this section, compensation and wages paid to all above-the-line
37 individuals shall be limited to twenty-five percent of the overall qualifying expenses;
- 38 (4) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding
39 withholding tax imposed by sections 143.191 to 143.265, or otherwise due under chapter 148;
- 40 (5) "Taxpayer", any individual, partnership, or corporation as described in section
41 143.441, 143.471, or section 148.370 that is subject to the tax imposed in chapter 143,
42 excluding withholding tax imposed by sections 143.191 to 143.265, or the tax imposed in
43 chapter 148 or any charitable organization which is exempt from federal income tax and
44 whose Missouri unrelated business taxable income, if any, would be subject to the state
45 income tax imposed under chapter 143.
- 46 3. (1) For all tax years beginning on or after January 1, 2023, a taxpayer shall be
47 allowed a tax credit equal to twenty percent of qualifying expenses.
- 48 (2) An additional five percent may be earned for qualifying expenses if at least fifty
49 percent of the qualified motion media production project is filmed in Missouri.
- 50 (3) An additional five percent may be earned for qualifying expenses if at least fifteen
51 percent of the qualified motion media production project that is filmed in Missouri takes place
52 in a rural or blighted area in Missouri.

53 (4) An additional five percent may be earned for qualifying expenses if at least three
54 departments of the qualified motion media production hire a Missouri resident ready to
55 advance to the next level in a specialized craft position or learn a new skillset.

56 (5) An additional five percent may be earned for qualifying expenses if the
57 department of economic development determines that the script of the qualified motion media
58 production project positively markets a city or region of the state, the entire state, or a tourist
59 attraction located in the state, and the qualified motion media production provides no less
60 than five high resolution photographs containing cast with the rights cleared for promotional
61 use by the Missouri film commission, accompanied by a list with the title of production,
62 location, names, and titles of the individuals shown in the photography and photographer
63 credit.

64 (6) The total dollar amount of tax credits authorized pursuant to subdivision (1) of
65 this subsection shall be increased by ten percent for qualified film production projects located
66 in a county of the second, third, or fourth class.

67 (7) Activities qualifying a taxpayer for the tax credit pursuant to this subsection shall
68 be approved by the office of the Missouri film commission and the department of economic
69 development.

70 4. A qualified motion media production project shall not be eligible for tax credits
71 pursuant to this section unless such project employs at least the following number of Missouri
72 registered apprentices or veterans residing in Missouri with transferable skills:

73 (1) If the qualifying expenses are less than five million dollars, two;

74 (2) If the qualifying expenses are at least five million dollars but less than ten million
75 dollars, three;

76 (3) If the qualifying expenses are at least ten million dollars but less than fifteen
77 million dollars, six; or

78 (4) If the qualifying expenses are at least fifteen million dollars, eight.

79 5. Taxpayers shall apply for the motion media production tax credit by submitting an
80 application to the department of economic development, on a form provided by the
81 department. As part of the application, the expected qualifying expenses of the qualified
82 motion media production project shall be documented. In addition, the application shall
83 include an economic impact statement, showing the economic impact from the activities of
84 the qualified motion media production project. Such economic impact statement shall
85 indicate the impact on the region of the state in which the qualified motion media production
86 or production-related activities are located and on the state as a whole. Final applications
87 shall be accompanied by a report by a certified public accountant licensed by the state of
88 Missouri, prepared at the expense of the applicant, attesting that the amounts in the final
89 application are qualifying expenses.

90 6. **(1)** For all tax years beginning on or after January 1, 2023, **but ending December**
91 **31, 2026**, the total amount of tax credits authorized by this section for film production shall
92 not exceed a total of eight million dollars per year, and the total amount of all tax credits
93 authorized by this section for series production shall not exceed a total of eight million dollars
94 per year. Taxpayers may carry forward unused credits for up to five tax periods, provided all
95 such credits shall be claimed within ten tax periods following the tax period in which the
96 qualified motion media production or production-related activities for which the credits are
97 certified by the department occurred.

98 **(2)** For all tax years beginning on or after January 1, 2027, the total amount of
99 tax credits authorized by this section for film or series production shall not exceed a
100 total of sixteen million dollars per year. Taxpayers may carry forward unused credits
101 for up to five tax periods, provided all such credits shall be claimed within ten tax
102 periods following the tax period in which the qualified motion media production or
103 production-related activities for which the credits are certified by the department
104 occurred.

105 7. Notwithstanding any provision of law to the contrary, any taxpayer may sell,
106 assign, exchange, convey or otherwise transfer tax credits allowed in subsection 3 of this
107 section. The taxpayer acquiring the tax credits may use the acquired credits to offset the tax
108 liabilities otherwise imposed by chapter 143, excluding withholding tax imposed by sections
109 143.191 to 143.265, or chapter 148. Unused acquired credits may be carried forward for up to
110 five tax periods, provided all such credits shall be claimed within ten tax periods following
111 the tax period in which the qualified motion media production or production-related activities
112 for which the credits are certified by the department occurred.

113 8. The tax credit authorized by this section shall be considered a business recruitment
114 tax credit, as defined in section 135.800, and shall be subject to the provisions of sections
115 135.800 to 135.830.

116 9. The department of economic development may adopt such rules, statements of
117 policy, procedures, forms, and guidelines as may be necessary to implement the provisions of
118 this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is
119 created under the authority delegated in this section shall become effective only if it complies
120 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
121 This section and chapter 536 are nonseverable and if any of the powers vested with the
122 general assembly pursuant to chapter 536 to review, to delay the effective date, or to
123 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
124 rulemaking authority and any rule proposed or adopted after August 28, 2023, shall be invalid
125 and void.

126 10. Under section 23.253 of the Missouri sunset act:

127 (1) The provisions of the program authorized under this section shall automatically
128 sunset on December 31, [~~2029~~] **2035**, unless reauthorized by an act of the general assembly;
129 and

130 (2) If such program is reauthorized, the program authorized under this section shall
131 automatically sunset on December thirty-first, twelve years after the effective date of the
132 reauthorization of this section; and

133 (3) This section shall terminate on September first of the calendar year immediately
134 following the calendar year in which the program authorized under this section is sunset; and

135 (4) The provisions of this subsection shall not be construed to limit or in any way
136 impair the department's ability to redeem tax credits authorized on or before the date the
137 program authorized pursuant to this section expires, or a taxpayer's ability to redeem such tax
138 credits.

139 11. (1) Notwithstanding the provisions of subsection 10 of this section to the
140 contrary, the provisions of this section shall automatically terminate and expire one year after
141 the department of economic development determines that all other state and local
142 governments in the United States of America have terminated or let lapse their tax credit
143 or other governmental incentive program for the film production industry, regardless of
144 whether such credits or programs are now in effect or first commence after August 28, 2023.
145 The department of economic development shall notify the revisor of statutes upon the
146 department's determination that the tax credit authorized by this section shall terminate
147 pursuant to this subsection.

148 (2) The provisions of this subsection shall not be construed to limit or in any way
149 impair the ability of any taxpayer that has met the requirements in this section prior to the
150 termination of this section to participate in the program authorized under this section. The
151 provisions of this section shall not be construed to limit or in any way impair the department
152 of revenue's ability to redeem tax credits qualified for on or before the date the program
153 authorized pursuant to this section expires.

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