

House Bill 548

By: Representatives Schofield of the 63rd, Beverly of the 143rd, Gilliard of the 162nd, Scott of the 76th, and Cannon of the 58th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-7-40.26 of the Official Code of Georgia Annotated, the "Georgia
2 Entertainment Industry Investment Act," so as to impose a fee on certain sales and transfers
3 of tax credits; to require the submission of diversity plans in connection with new state
4 certified productions; to provide that certain minimum conditions shall be met to obtain the
5 tax credit; to provide for an additional 2 percent tax credit for state certified productions that
6 meet or exceed certain expenditure and payroll requirements for members of a minority and
7 minority business enterprises; to provide for accountability; to provide for an additional 2
8 percent tax credit for filming on location in certain blighted or distressed areas; to establish
9 the Georgia Production Workforce Development Trust Fund and dedicate proceeds from the
10 sale or transfer fee to such fund; to provide for compliance with constitutional requirements;
11 to provide for an effective date and automatic repeal; to provide for definitions; to provide
12 for related matters; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 548

SECTION 1.

14
15 Code Section 48-7-40.26 of the Official Code of Georgia Annotated, the "Georgia
16 Entertainment Industry Investment Act," is amended in subsection (b) by adding two new
17 paragraphs to read as follows:

18 "(4.1) 'Member of a minority' means an individual who is:

19 (A) Black;

20 (B) Hispanic;

21 (C) Asian Pacific American;

22 (D) Native American; or

23 (E) Asian Indian American.

24 (4.2) 'Minority business enterprise' means any business owned by:

25 (A) An individual who is a member of a minority who reports as his or her personal
26 income for Georgia income tax purposes the income of such business;

27 (B) A partnership in which a majority of the ownership interest is owned by one or
28 more members of a minority who report as their personal income for Georgia income
29 tax purposes more than 50 percent of the income of the partnership; or

30 (C) A corporation organized under the laws of this state in which a majority of the
31 common stock is owned by one or more members of a minority who report as their
32 personal income for Georgia income tax purposes more than 50 percent of the
33 distributed earnings of the corporation."

SECTION 2.

34
35 Said Code section is further amended in subsection (g) by revising paragraph (2) as follows:

36 "(2)(A) Such production company or qualified interactive entertainment production
37 company shall submit to the Department of Economic Development and to the
38 Department of Revenue a written notification of any transfer or sale of tax credits
39 within 30 days after the transfer or sale of such tax credits. The notification shall

40 include such production company's or qualified interactive entertainment production
41 company's tax credit balance prior to transfer, the credit certificate number, the
42 remaining balance after transfer, all tax identification numbers for each transferee, the
43 date of transfer, the amount transferred, and any other information required by the
44 Department of Economic Development or the Department of Revenue; and
45 (B) On and after July 1, 2023, the notification required by subparagraph (A) of this
46 paragraph shall also include a fee, which shall be imposed upon each such transfer or
47 sale of tax credits, in the amount of 1 percent of the total credits sold or transferred,
48 and collected by the state revenue commissioner and remitted to the general fund of the
49 state treasury;

50 **SECTION 3.**

51 Said Code section is further amended in paragraph (4) of subsection (l) by adding a new
52 subparagraph to read as follows:

53 "(E.1) Determine whether the diversity plan required by subsection (m) of this Code
54 section was properly filed and followed for the state certified production, and, if
55 applicable, whether the conditions for the additional tax credit allowed by
56 subsection (n) of this Code section were duly satisfied."

57 **SECTION 4.**

58 Said Code section is further amended by adding four new subsections to read as follows:

59 "(m) For productions first approved as state certified productions by the Department of
60 Economic Development on or after July 1, 2023, a production company shall not be
61 eligible to claim a tax credit allowed pursuant to this Code section for a state certified
62 production unless:

63 (1) The production company has filed with the Department of Revenue and the
64 Department of Economic Development, within three months of incurring its first

65 expenses for qualified production activities, a diversity plan that outlines specific goals
66 and strategies for both the company and its affiliates for ensuring that its workforce for
67 the state certified production reflects the diversity of this state such that minorities and
68 minority business enterprises are employed or contracted with at levels sufficient to
69 represent equitable participation among the qualified production activities claimed for
70 such state certified production; and

71 (2) The Department of Revenue has approved such diversity plan provided for in
72 paragraph (1) of this subsection as meeting the requirements for diversity plans
73 established by the department and verified that the production company met its goals, or
74 that the production company made good faith efforts to meet such goals.

75 (n)(1) For productions first approved as state certified productions by the Department
76 of Economic Development on or after July 1, 2023:

77 (A) At least 15 percent of the total employees hired or businesses contracted with for
78 each production shall be members of a minority or shall be minority business
79 enterprises and at least 15 percent of the total payroll for all employees for each
80 production, including pay to loan-out companies and pay for all above-the-line and
81 below-the-line employees, shall be paid to such members of a minority or minority
82 business enterprises; and

83 (B) Each production company shall be allowed an additional tax credit equal to 2
84 percent of its base investment; provided, however, that at least 30 percent of the total
85 employees hired or businesses contracted with for such production are members of a
86 minority or are minority business enterprises and at least 30 percent of the total payroll
87 for all employees, including pay to loan-out companies and pay for all above-the-line
88 and below-the-line employees, is paid to such members of a minority or minority
89 business enterprises.

90 (2) To be eligible for the additional credit allowed by subparagraph (B) of paragraph (1)
91 of this subsection, a production company shall state in its diversity plan submitted

92 pursuant to subsection (m) of this Code section that it intends to obtain the additional
93 credit allowed by subparagraph (B) of paragraph (1) of this subsection and that it will
94 provide such records as the department determines are necessary to establish that the
95 conditions for such additional credit have been met or exceeded.

96 (o)(1) For productions first approved as state certified productions by the Department
97 of Economic Development on or after July 1, 2023, a production company shall be
98 allowed an additional tax credit equal to 2 percent of its base investment; provided,
99 however, that at least 15 percent of the total number of days of filming in Georgia occur
100 on-location in census tracts which the commissioner of the Department of Community
101 Affairs has identified as blighted or distressed areas as such term is defined in Code
102 Section 36-44-3.

103 (2) To be eligible for the additional credit allowed by paragraph (1) of this subsection,
104 a production company shall create a film location plan that states how it intends to obtain
105 the additional credit allowed by paragraph (1) of this subsection and that it will provide
106 such records as the department determines are necessary to establish that the conditions
107 for such additional credit have been met or exceeded.

108 (p)(1)(A) There shall be established a Georgia Production Workforce Development
109 Trust Fund as a separate fund in the state treasury. The Commissioner of Labor shall
110 be the trustee of such fund.

111 (B) The state treasurer shall invest the money held in the fund in the same manner in
112 which state funds are invested as authorized by the State Depository Board pursuant to
113 Article 3 of Chapter 17 of Title 50. Interest earned by the money held in the trust fund
114 shall be accounted for separately and shall be credited to the trust fund to be disbursed
115 as other moneys in the trust fund.

116 (2) Under the authority granted and subject to the conditions imposed by Article III,
117 Section IX, Paragraph VI(r) of the Constitution of Georgia, for the period beginning on
118 July 1, 2023, and ending on June 30, 2033, all moneys collected pursuant to

119 paragraph (1) of subsection (g) of this Code section shall be annually appropriated to the
120 Georgia Production Workforce Development Trust Fund established by this subsection
121 and such funds shall not lapse as otherwise required by Article III, Section IX, Paragraph
122 IV(c) of the Constitution of Georgia. Each annual appropriation shall be made through
123 the General Appropriations Act and shall include all of moneys collected from such
124 sources during the most recently completed fiscal year.

125 (3) All moneys appropriated to the Georgia Production Workforce Development Trust
126 Fund pursuant to paragraph (2) of this subsection shall be dedicated for use and expended
127 by the Commissioner of Labor to train Georgia residents for jobs in the film industry,
128 provided that at least 50 percent of such funds shall be allocated to train members of a
129 minority and at least 50 percent of all private training programs or organizations utilized
130 shall be minority business enterprises.

131 (4) The Commissioner of Labor shall prepare an accounting of the funds expended
132 pursuant to this subsection during the most recently completed fiscal year to be provided
133 to the Office of Planning and Budget, the House Budget and Research Office, and the
134 Senate Budget and Evaluation Office by January 1 of each year."

135 **SECTION 5.**

136 In accordance with the requirements of Article III, Section IX, Paragraph VI(r) of the
137 Constitution of Georgia, this Act shall not become law and shall stand automatically repealed
138 if it does not receive the requisite two-thirds' majority vote in both the Senate and the House
139 of Representatives or the amount of the funds dedicated by this Act would cause the total
140 amount appropriated pursuant to such constitutional provision to equal or exceed 1 percent
141 of the previous fiscal year's state revenues subject to appropriations.

142 **SECTION 6.**

143 Except as provided for in Section 5 of this Act, this Act shall become effective on July 1,
144 2023.

145 **SECTION 7.**

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