HOUSE BILL 616

Q3 8lr2700 CF SB 20

By: Delegates M. Washington, Ali, Luedtke, Mosby, Patterson, Rose, Shoemaker, Tarlau, and Turner Turner, and Afzali

Introduced and read first time: January 29, 2018

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 2018

CHAPTER _____

- 1 AN ACT concerning
- 2 Income Tax Film Production Activity Tax Credit Small or Independent Film Entities
- 4 FOR the purpose of authorizing a Maryland small or independent film entity to qualify as 5 a film production entity under certain circumstances; requiring that certain funding 6 in a certain reserve account be reserved for certain purposes; altering a certain audit 7 requirement to apply only to a film production entity with total direct costs that 8 exceed a certain amount; altering the amount of certain tax credit certificates that 9 the Secretary of Commerce may issue under certain circumstances; defining a 10 certain term; providing for the application of this Act; and generally relating to 11 income tax credits for certain film production activities.
- 12 BY repealing and reenacting, with amendments,
- 13 Article Tax General
- 14 Section 10–730
- 15 Annotated Code of Maryland
- 16 (2016 Replacement Volume and 2017 Supplement)
- 17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
- 18 That the Laws of Maryland read as follows:
- 19 Article Tax General
- 20 10-730.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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QUALIFIED FILM PRODUCTION ENTITY THAT:

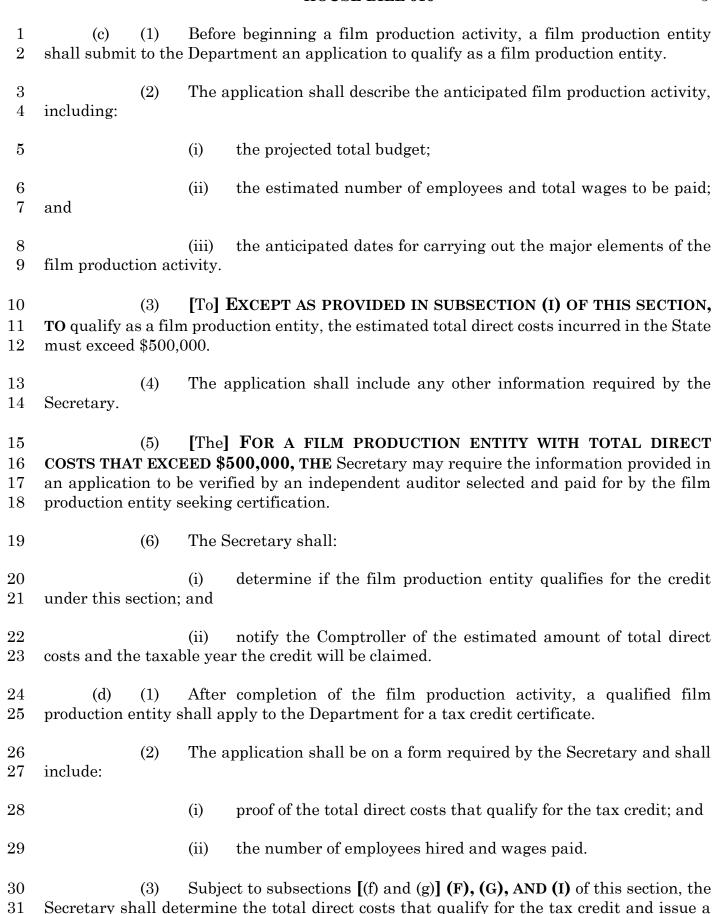
1	(a)	(1)	In th	is sectio	on the following words have the meanings indicated.
	(4)	, ,			
2		(2)	"Depa	artmen	t" means the Department of Commerce.
3 4	project that	(3) is inte	(i) ended f		production activity" means the production of a film or video onwide commercial distribution.
5			(ii)	"Film	production activity" includes the production of:
6				1.	a feature film;
7				2.	a television project;
8				3.	a commercial;
9				4.	a corporate film;
10				5.	an infomercial;
11				6.	a music video;
12				7.	a digital project;
13				8.	an animation project; or
14				9.	a multimedia project.
15			(iii)	"Film	production activity" does not include production of:
16				1.	a student film;
17				2.	a noncommercial personal video;
18				3.	a sports broadcast;
19				4.	a broadcast of a live event;
20				5.	a talk show;
21				6.	a video, computer, or social networking game; or
22				7.	pornography.
23		(4)	"MA	RYLAN	D SMALL OR INDEPENDENT FILM ENTITY" MEANS A

$\frac{1}{2}$	YEAR;	(I)	HAS BEEN INCORPORATED IN MARYLAND FOR AT LEAST 1			
3		<u>(II)</u>	IS INDEPENDENTLY OWNED AND OPERATED;			
4		<u>(III)</u>	IS NOT A SUBSIDIARY OF ANOTHER ENTITY;			
5		<u>(IV)</u>	IS NOT DOMINANT IN ITS FIELD OF OPERATION;			
6		<u>(v)</u>	EMPLOYS 25 OR FEWER FULL-TIME EMPLOYEES; AND			
7 8	OF ITS WORKFOR	(II) (<u>'</u> CE IN	(I) EMPLOYS MARYLAND RESIDENTS AS AT LEAST 40% THE FILM PRODUCTION ACTIVITY.			
9 10 11	required to be maintained under § 2257 of Title 18, U.S.C., with respect to any performer					
12	[(5)]	(6)	"Qualified film production entity" means an entity that:			
13		(i)	is carrying out a film production activity; and			
14 15	(ii) the Secretary determines to be eligible for the tax credit unde this section in accordance with subsection (c) of this section.					
16	[(6)]	(7)	"Secretary" means the Secretary of Commerce.			
17 18 19 20	[(7)] (8) "Television series" means a group of program episodes intende for television broadcast or transmission with a common series title, with or without predetermined number of episodes, and shall include a miniseries and a pilot episode produced for an intended television series.					
21 22 23	[(8)] activity, means the production activity	e total	(i) "Total direct costs", with respect to a film production costs incurred in the State that are necessary to carry out the film			
24		(ii)	"Total direct costs" includes costs incurred for:			
25			1. employee wages and benefits;			
26			2. fees for services;			
27			3. acquiring or leasing property; and			
28 29	activity, including	costs a	4. any other expense necessary to carry out a film production associated with:			

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1	A. set construction and operation;
2	B. wardrobe, makeup, and related services;
3 4	C. photography and sound synchronization, lighting, and related services and materials;
5 6 7	D. editing and related services, including film processing, transfers of film to tape or digital format, sound mixing, computer graphic services, special effects services, and animation services;
8 9 10	E. salary, wages, and other compensation including related benefits, for work performed in the State, paid to persons employed in the production, writers, directors, and producers;
11 12	F. rental of facilities in the State and equipment used in the State;
13	G. leasing of vehicles;
14	H. food and lodging;
15 16	I. music, if performed, composed, or recorded by a Maryland musician or published by a person or company domiciled in Maryland;
17 18 19	J. travel expenses incurred to bring persons employed, either directly or indirectly, in the production of the project to Maryland, but not including expenses of these persons departing from Maryland; and
20 21	K. legal and accounting services performed by attorneys or accountants licensed in Maryland.
22 23 24 25	(iii) "Total direct costs" does not include any salary, wages, or other compensation for personal services of an individual who receives more than \$500,000 in salary, wages, or other compensation for personal services in connection with any film production activity.
26 27 28 29	(b) (1) A qualified film production entity may claim a credit against the State income tax for film production activities in the State in an amount equal to the amount stated in the final tax credit certificate approved by the Secretary for film production activities.
30 31	(2) If the tax credit allowed under this section in any taxable year exceeds the total tax otherwise payable by the qualified film production entity for that taxable year,

the qualified film production entity may claim a refund in the amount of the excess.

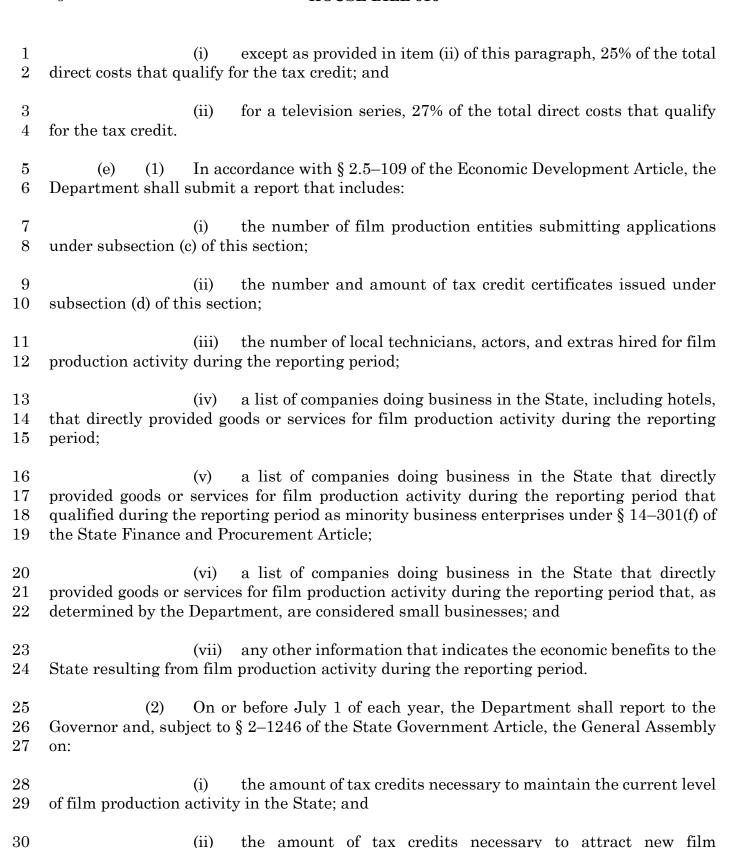


tax credit certificate for:

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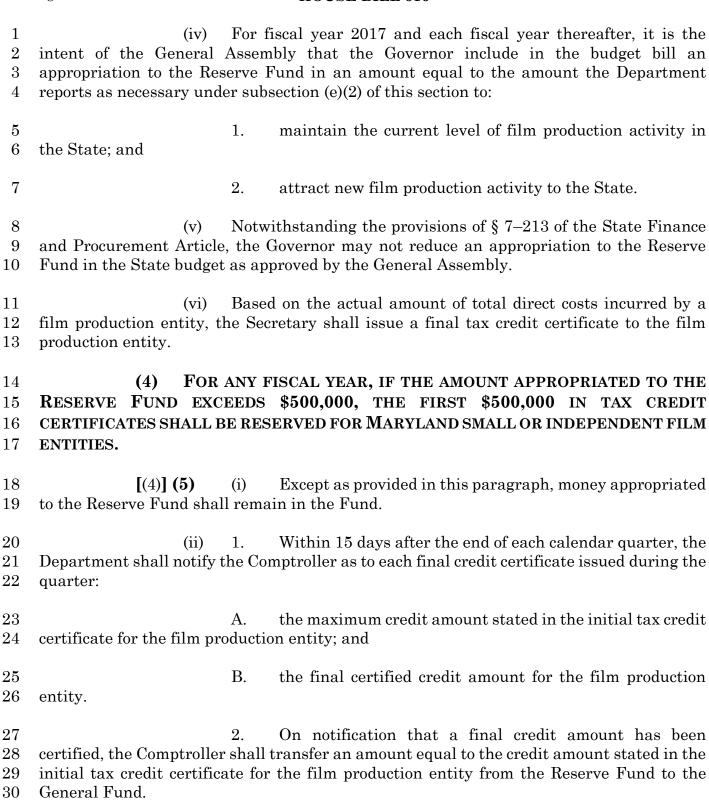
production activity to the State.



32 (f) (1) Except as provided in paragraph (2) of this subsection, the Secretary 33 may not issue tax credit certificates for credit amounts in the aggregate totaling more than:

1	(i) for fiscal year 2014, \$25,000,000;
2	(ii) for fiscal year 2015, \$7,500,000; and
3	(iii) for fiscal year 2016, \$7,500,000.
4 5 6 7	(2) If the aggregate credit amounts under the tax credit certificates issu by the Secretary total less than the maximum provided under paragraph (1) of the subsection in any fiscal year, any excess amount may be carried forward and issued under tax credit certificates in a subsequent fiscal year.
8 9 10	(g) (1) In this subsection, "Reserve Fund" means the Maryland Fill Production Activity Tax Credit Reserve Fund established under paragraph (2) of the subsection.
11 12 13	(2) (i) There is a Maryland Film Production Activity Tax Cree Reserve Fund that is a special continuing, nonlapsing fund that is not subject to § 7–302 the State Finance and Procurement Article.
14 15	(ii) The money in the Reserve Fund shall be invested and reinvest by the Treasurer, and interest and earnings shall be credited to the General Fund.
16 17 18	(3) (i) Subject to the provisions of this subsection, the Secretary shaissue an initial tax credit certificate for the total direct costs incurred by a film production entity that qualifies for a tax credit.
19 20	(ii) An initial tax credit certificate issued under this subsection shattened the maximum amount of tax credit for which the film production entity is eligible.
21 22 23 24	(iii) 1. Except as otherwise provided in this subparagraph, any fiscal year, the Secretary may not issue initial tax credit certificates for credit amount in the aggregate totaling more than the amount appropriated to the Reserve Fund for the fiscal year in the State budget as approved by the General Assembly.
25 26 27 28	2. If the aggregate credit amounts under initial tax credit certificates issued in a fiscal year total less than the amount appropriated to the Reser Fund for that fiscal year, any excess amount shall remain in the Reserve Fund and may issued under initial tax credit certificates for the next fiscal year.
29 30	3. For any fiscal year, if funds are transferred from t Reserve Fund under the authority of any provision of law other than under paragraph [(4)]

(5) of this subsection, the maximum credit amounts in the aggregate for which the 32 Secretary may issue initial tax credit certificates shall be reduced by the amount 33 transferred.



31 (h) (1) Except as provided in paragraph (2) of this subsection, a qualified film 32 production entity that receives a tax credit certificate under this section for a film 33 production activity shall include:

- 1 for a feature film project, a 5-second long static or animated logo 2 that promotes the State in the end credits before the below-the-line crew crawl for the life 3 of the project and a link to the State's Web site on the project's Web site; 4 (ii) for a television series project, an embedded 5-second long static or animated logo that promotes the State during each broadcast worldwide for the life of 5 6 the project and a link to the State's Web site on the project's Web site; or 7 (iii) for any other project, the State logo at the end of each project and 8 in online promotions. 9 (2) In lieu of including a State logo as required under paragraph (1) of this 10 subsection, the qualified film production entity may offer alternative marketing opportunities to be evaluated by the Department to ensure that those opportunities offer 11 12 equal or greater promotional value to the State. 13 **(I)** FOR A MARYLAND SMALL OR INDEPENDENT FILM ENTITY TO **(1) QUALIFY AS A FILM PRODUCTION ENTITY:** 14 THE ESTIMATED TOTAL DIRECT COSTS INCURRED IN THE 15 **(I)** 16 STATE SHALL EXCEED \$25,000; AND 17 (II) AT LEAST 50% OF THE FILMING OF THE FILM PRODUCTION ACTIVITY MUST BE IN THE STATE. 18 19 **(2)** SUBJECT TO SUBSECTION (G) OF THIS SECTION, THE SECRETARY 20 SHALL DETERMINE THE TOTAL DIRECT COSTS THAT QUALIFY FOR THE TAX CREDIT 21 AND ISSUE A TAX CREDIT CERTIFICATE TO A MARYLAND SMALL OR INDEPENDENT 22 FILM ENTITY FOR 25% OF THE TOTAL DIRECT COSTS THAT QUALIFY FOR THE TAX CREDIT, NOT TO EXCEED \$125,000. 23 24[(i)] **(J)** The Department and the Comptroller jointly shall adopt regulations to
- this section.
 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June

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carry out the provisions of this section and to specify criteria and procedures for the

application for, approval of, and monitoring of continuing eligibility for the tax credit under

29 1, 2018, and shall be applicable to all film production activity tax credit certificates issued after June 30, 2018 <u>2019</u>.