

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1035 Session of 2013

INTRODUCED BY PILEGGI, FONTANA, ERICKSON, FERLO, STACK, WASHINGTON, WOZNIAK, BAKER, GREENLEAF, WARD, HUGHES, BREWSTER, SOLOBAY, YUDICHAK, WHITE, ARGALL, McILHINNEY, BROWNE, COSTA, SCARNATI, RAFFERTY, LEACH, WILLIAMS, SMITH, MENSCH, TOMLINSON, CORMAN, WILEY AND BLAKE, JUNE 20, 2013

SENATOR BRUBAKER, FINANCE, AS AMENDED, OCTOBER 2, 2013

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," in film production tax credit, further providing
11 for definitions, for credit for qualified film production
12 expenses and for limitations.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Sections 1702-D and 1703-D of the act of March 4,
16 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971,
17 amended or added July 25, 2007 (P.L.373, No.55) and July 2, 2012 <--
18 (P.L.751, No.85) JULY 9, 2013 (P.L. , NO.52), are amended to <--
19 read:

20 Section 1702-D. Definitions.

21 The following words and phrases when used in this article

1 shall have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 "Department." The Department of Community and Economic  
4 Development of the Commonwealth.

5 "Digital interactive media." As follows:

6 ~~(1) Interactive software that meets all of the~~ <--  
7 ~~following:~~

8 ~~(i) Is produced at a digital interactive media~~  
9 ~~facility.~~

10 ~~(ii) Is produced for distribution on or accessed via~~  
11 ~~electronic media, including software accessed via or~~  
12 ~~downloaded from the Internet or a mobile network and~~  
13 ~~software distributed on optical media or embedded in or~~  
14 ~~downloadable to an electronic device, including a mobile~~  
15 ~~phone, game system, computer, tablet and personal digital~~  
16 ~~assistant or other handheld electronic device.~~

17 ~~(iii) Allows a user to interact with the interactive~~  
18 ~~software via an electronic device, including a computer,~~  
19 ~~a game system, a mobile phone, a personal digital~~  
20 ~~assistant or other handheld electronic device.~~

21 ~~(iv) Includes an appreciable quantity of text,~~  
22 ~~sound, fixed images, animated images or 3 D geometry.~~

23 ~~(2) The term includes digital interactive media~~  
24 ~~equipment.~~

25 ~~(3) The term does not include media that is obscene.~~

26 (1) THE TERM INCLUDES AN EXPENSE INCURRED IN THE <--  
27 DEVELOPMENT OF INTERACTIVE SOFTWARE THAT MEETS ALL OF THE  
28 FOLLOWING:

29 (I) IS PRODUCED AT A DIGITAL INTERACTIVE MEDIA  
30 FACILITY.

1           (II) IS PRODUCED FOR DISTRIBUTION ON OR ACCESSED VIA  
2           ELECTRONIC MEDIA, INCLUDING SOFTWARE ACCESSED VIA OR  
3           DOWNLOADED FROM THE INTERNET OR A MOBILE NETWORK AND  
4           SOFTWARE DISTRIBUTED ON OPTICAL MEDIA OR EMBEDDED IN OR  
5           DOWNLOADABLE TO AN ELECTRONIC DEVICE, INCLUDING A MOBILE  
6           PHONE, GAME SYSTEM, COMPUTER, TABLET AND PERSONAL DIGITAL  
7           ASSISTANT OR ANY OTHER HANDHELD ELECTRONIC DEVICE.

8           (III) ALLOWS A USER TO INTERACT WITH THE INTERACTIVE  
9           SOFTWARE VIA AN ELECTRONIC DEVICE, INCLUDING A MOBILE  
10           PHONE, GAME SYSTEM, COMPUTER, TABLET AND PERSONAL DIGITAL  
11           ASSISTANT OR ANY OTHER HANDHELD ELECTRONIC DEVICE.

12           (IV) INCLUDES AN APPRECIABLE QUANTITY OF TEXT,  
13           SOUND, FIXED IMAGES, ANIMATED IMAGES OR 3-D GEOMETRY.

14           (2) THE TERM DOES NOT INCLUDE MEDIA THAT CONTAINS  
15           OBSCENE MATERIAL OR PERFORMANCE AS DEFINED IN 18 PA.C.S. §  
16           5903(B) (RELATING TO OBSCENE AND OTHER SEXUAL MATERIALS AND  
17           PERFORMANCES).

18           "Digital interactive media equipment." Equipment that is  
19           required for the development or functioning of a digital  
20           interactive media product or service. The term includes:

21           (1) Integrated video and audio equipment, networking  
22           routers, switches, network cabling and any other computer-  
23           related hardware necessary to create or operate a digital  
24           interactive media product or platform.

25           (2) Software, notwithstanding the method of delivery,  
26           transfer or access.

27           (3) Computer code.

28           (4) Image files, music files, audio files, video files,  
29           scripts and plays.

30           (5) Concept mock-ups.

1           (6) Software tools.

2           (7) Testing procedures.

3           (8) A component part of an item listed under paragraph  
4           (2), (3), (4), (5), (6) or (7) necessary and integral to  
5           create, develop or produce a digital interactive media  
6           product or service.

7           "Digital interactive media facility." A facility where  
8           digital interactive media or digital interactive media equipment  
9           is developed and which:

10           (1) is located in this Commonwealth;

11           (2) employs at least ten full-time employees who reside  
12           in this Commonwealth; and

13           (3) has a capital investment of at least \$500,000.

14           "Film." A feature film, a television film, a television talk  
15 or game show series, a television commercial or a television  
16 pilot or each episode of a television series which is intended  
17 as programming for a national audience. The term does not  
18 include a production featuring news, current events, weather and  
19 market reports, public programming, sports events, awards shows  
20 or other gala events, a production that solicits funds, a  
21 production containing obscene material or performances as  
22 defined in 18 Pa.C.S. § 5903(b) (relating to obscene and other  
23 sexual materials and performances) or a production primarily for  
24 private, political, industrial, corporate or institutional  
25 purposes.

26           "Minimum stage filming requirements." Include:

27           (1) Taxpayers with a Pennsylvania production expense of  
28 less than \$30,000,000 per production must:

29           (i) build at least one set at a qualified production  
30           facility;

1 (ii) shoot for a minimum of ten days at a qualified  
2 production facility; and  
3 (iii) spend or incur a minimum of \$1,500,000 in  
4 direct expenditures relating to the use or rental of  
5 tangible property or for performance of services provided  
6 by a qualified production facility.

7 (2) Taxpayers with a Pennsylvania production expense of  
8 at least \$30,000,000 per production must:

9 (i) build at least two sets at a qualified  
10 production facility;  
11 (ii) shoot for a minimum of 15 days at a qualified  
12 production facility; and  
13 (iii) spend or incur a minimum of \$5,000,000 in  
14 direct expenditures relating to the use or rental of  
15 tangible property at or for performance of services  
16 provided by a qualified production facility.

17 "Pass-through entity." A partnership as defined in section  
18 301(n.0) or a Pennsylvania S corporation as defined in section  
19 301(n.1).

20 ~~"Pennsylvania postproduction expense." A qualified~~ <--  
21 ~~postproduction expense incurred at a qualified postproduction~~  
22 ~~facility.~~

23 ~~"PENNSYLVANIA DIGITAL INTERACTIVE MEDIA EXPENSE." A DIGITAL~~ <--  
24 ~~INTERACTIVE MEDIA EXPENSE INCURRED AT A QUALIFIED DIGITAL~~  
25 ~~INTERACTIVE MEDIA FACILITY.~~

26 ~~"PENNSYLVANIA POSTPRODUCTION EXPENSE." A POSTPRODUCTION~~  
27 ~~EXPENSE INCURRED AT A QUALIFIED POSTPRODUCTION FACILITY.~~

28 "Pennsylvania production expense." Production expense  
29 incurred in this Commonwealth. The term includes:

30 (1) Compensation paid to an individual on which the tax

1 imposed by Article III will be paid or accrued.

2 (2) Payment to a personal service corporation  
3 representing individual talent if the tax imposed by Article  
4 IV will be paid or accrued on the net income of the  
5 corporation for the taxable year.

6 (3) Payment to a pass-through entity representing  
7 individual talent if the tax imposed by Article III will be  
8 paid or accrued by all of the partners, members or  
9 shareholders of the pass-through entity for the taxable year  
10 ~~for which the tax imposed under Article III has been withheld <--~~  
11 ~~and remitted under the requirements of Article III by the~~  
12 ~~production company~~ FOR WHICH THE TAX IMPOSED UNDER ARTICLE <--  
13 III HAS BEEN WITHHELD AND REMITTED UNDER THE REQUIREMENTS OF  
14 ARTICLE III BY THE PRODUCTION COMPANY.

15 (4) The cost of transportation incurred while  
16 transporting to or from a train station, bus depot or  
17 airport, located in this Commonwealth.

18 (5) The cost of insurance coverage purchased through an  
19 insurance agent based in this Commonwealth.

20 (6) The purchase of music or story rights if any of the  
21 following subparagraphs apply:

22 (i) The purchase is from a resident of this  
23 Commonwealth.

24 (ii) The purchase is from an entity subject to  
25 taxation in this Commonwealth, and the transaction is  
26 subject to taxation under Article III, IV or VI.

27 (7) The cost of rental of facilities and equipment  
28 rented from or through a resident of this Commonwealth or an  
29 entity subject to taxation in this Commonwealth.

30 (8) A qualified postproduction expense.

1           (9) The development and manufacture of digital  
2           interactive media equipment.

3           "POSTPRODUCTION EXPENSE." A POSTPRODUCTION EXPENSE OF <--

4           ORIGINAL CONTENT FOR A FILM AS FOLLOWS:

5           (1) THE TERM INCLUDES TRADITIONAL, EMERGING AND NEW WORK  
6           FLOW TECHNIQUES USED IN POSTPRODUCTION FOR ANY OF THE  
7           FOLLOWING:

8                   (I) PICTURE, SOUND AND MUSIC EDITORIAL, RERECORDING  
9                   AND MIXING.

10                   (II) VISUAL EFFECTS.

11                   (III) GRAPHIC DESIGN.

12                   (IV) ORIGINAL SCORING.

13                   (V) ANIMATION.

14                   (VI) MUSICAL COMPOSITION.

15                   (VII) MASTERING.

16                   (VIII) DUBBING.

17           (2) THE TERM DOES NOT INCLUDE ANY OF THE FOLLOWING:

18                   (I) EDITING PREVIOUSLY PRODUCED CONTENT FOR A FILM.

19                   (II) NEWS OR CURRENT AFFAIRS.

20                   (III) TALK SHOWS.

21                   (IV) INSTRUCTIONAL VIDEOS.

22                   (V) CONTENT WHICH CONTAINS OBSCENE MATERIAL OR  
23                   PERFORMANCE AS DEFINED IN 18 PA.C.S. § 5903(B).

24           "Production expense." As follows:

25                   (1) The term includes all of the following:

26                           (i) Compensation paid to an individual employed in  
27                           the production of the film.

28                           (ii) Payment to a personal service corporation  
29                           representing individual talent.

30                           (iii) Payment to a pass-through entity representing

1 individual talent.

2 (iv) The costs of construction, operations, editing,  
3 photography, sound synchronization, lighting, wardrobe  
4 and accessories.

5 (v) The cost of leasing vehicles.

6 (vi) The cost of transportation to or from a train  
7 station, bus depot or airport.

8 (vii) The cost of insurance coverage.

9 (viii) The costs of food and lodging.

10 (ix) The purchase of music or story rights.

11 (x) The cost of rental of facilities and equipment.

12 (xi) Development and production costs relating to  
13 digital interactive media.

14 (2) The term does not include any of the following:

15 (i) Deferred, leveraged or profit participation paid  
16 or to be paid to individuals employed in the production  
17 of the film or paid to entities representing an  
18 individual for services provided in the production of the  
19 film.

20 (ii) Development cost.

21 (iii) Expense incurred in marketing or advertising a  
22 film.

23 (iv) Cost related to the sale or assignment of a  
24 film production tax credit under section 1705-D(e).

25 "QUALIFIED DIGITAL INTERACTIVE MEDIA EXPENSE." ALL <--  
26 PENNSYLVANIA DIGITAL INTERACTIVE MEDIA EXPENSES IF THE  
27 PENNSYLVANIA DIGITAL INTERACTIVE MEDIA EXPENSES COMPRISE AT  
28 LEAST 60% OF THE DIGITAL INTERACTIVE MEDIA EXPENSES OF THE  
29 DIGITAL INTERACTIVE MEDIA PRODUCED.

30 "QUALIFIED DIGITAL INTERACTIVE MEDIA FACILITY." A FACILITY

1 WHERE DIGITAL INTERACTIVE MEDIA OR DIGITAL INTERACTIVE MEDIA  
2 EQUIPMENT IS DEVELOPED AND WHICH:

3 (1) IS LOCATED IN THIS COMMONWEALTH;

4 (2) EMPLOYS AT LEAST TEN FULL-TIME EMPLOYEES WHO RESIDE  
5 IN THIS COMMONWEALTH; AND

6 (3) HAS A CAPITAL INVESTMENT OF AT LEAST \$500,000.

7 "Qualified film production expense." All Pennsylvania  
8 production expenses if Pennsylvania production expenses comprise  
9 at least 60% of the film's total production expenses. The term  
10 shall not include more than \$15,000,000 in the aggregate of  
11 compensation paid to individuals or payment made to entities  
12 representing an individual for services provided in the  
13 production of the film.

14 "Qualified postproduction expense." A Pennsylvania  
15 postproduction expense. of original content for a qualified film <--  
16 produced at a qualified postproduction facility if at least 60%  
17 of all postproduction work related to the film is conducted at a  
18 qualified postproduction facility.

19 (1) The term includes traditional, emerging and new work  
20 flow techniques used in postproduction for any of the  
21 following:

22 (i) Picture, sound and music editorial, rerecording  
23 and mixing.

24 (ii) Visual effects.

25 (iii) Graphic design.

26 (iv) Original scoring.

27 (v) Animation.

28 (vi) Musical composition.

29 (vii) Mastering.

30 (viii) Dubbing.

1 ~~(2) The term does not include:~~

2 ~~(i) Editing previously produced content for a~~  
3 ~~qualified film.~~

4 ~~(ii) News or current affairs.~~

5 ~~(iii) Talk shows.~~

6 ~~(iv) Instructional videos.~~

7 ~~(v) Media which is obscene.~~

8 "Qualified postproduction facility." A permanent facility  
9 where Pennsylvania postproduction activities are conducted and  
10 EXPENSES ARE INCURRED to which all of the following apply: <--

11 (1) The facility is located in this Commonwealth.

12 (2) The facility is approved by the department.

13 (3) The facility employs at least ten full-time  
14 employees who reside in this Commonwealth.

15 (4) There is at least \$500,000 of capital investment in  
16 the facility.

17 "Qualified production facility." A film production facility  
18 located within this Commonwealth that contains at least one  
19 sound stage with a column-free, unobstructed floor space and  
20 meets either of the following criteria:

21 (1) Has had a minimum of \$10,000,000 invested in the  
22 film production facility in land or a structure purchased or  
23 ground-up, purpose-built new construction or renovation of  
24 existing improvement.

25 (2) Meets at least three of the following criteria:

26 (i) A sound stage having an industry standard noise  
27 criteria rating of 25 or better.

28 (ii) A permanent grid with a minimum point load  
29 capacity of no less than 1,000 pounds at a minimum of 25  
30 points.

1 (iii) Built-in power supply available at a minimum  
2 of 4,000 amps per sound stage without the need for  
3 supplemental generators.

4 (iv) A height from sound stage floor to permanent  
5 grid of a minimum of 20 feet.

6 (v) A sound stage with a sliding or roll-up access  
7 door with a minimum height of 14 feet.

8 (vi) A built-in HVAC capacity during shoot days with  
9 a minimum of 50 tons of cooling capacity available per  
10 sound stage.

11 (vii) Perimeter security that includes a 24-hour,  
12 seven-days-a-week security presence and use of access  
13 control identification badges.

14 (viii) On-site lighting and grip department with an  
15 available inventory stored at the film production  
16 facility with a minimum cost of investment of \$500,000.

17 (ix) A sound stage with contiguous production  
18 offices with a minimum of 5,000 square feet per sound  
19 stage.

20 "Qualified tax liability." The liability for taxes imposed  
21 under Article III, IV, VI, VII or IX. The term shall not include  
22 any tax withheld by an employer from an employee under Article  
23 III.

24 ~~"Start date." [The] Either:~~ <--

25 ~~(1) the first day of principal photography in this~~  
26 ~~Commonwealth; or~~

27 ~~(2) an earlier date approved in writing by the Director~~  
28 ~~of the Pennsylvania Film Office.~~

29 "START DATE." AS FOLLOWS: <--

30 (1) FOR A FILM:

1           (I) THE FIRST DAY OF PRINCIPAL PHOTOGRAPHY IN THIS  
2           COMMONWEALTH; OR

3           (II) AN EARLIER DATE APPROVED BY THE PENNSYLVANIA  
4           FILM OFFICE.

5           (2) [AN EARLIER] FOR A POSTPRODUCTION PROJECT, A DATE  
6           [THAN THE DATE UNDER SUBPARAGRAPH (I),] APPROVED BY THE  
7           PENNSYLVANIA FILM OFFICE.

8           (3) FOR DIGITAL INTERACTIVE MEDIA, A DATE APPROVED BY  
9           THE PENNSYLVANIA FILM OFFICE.

10          "Tax credit." The film production tax credit provided under  
11          this article.

12          "Taxpayer." A film production OR DIGITAL INTERACTIVE MEDIA <--  
13          company subject to tax under Article III, IV or VI. The term  
14          does not include contractors or subcontractors of a film  
15          production company.

16          Section 1703-D. Credit for qualified film production expenses.

17          (a) Application.--A taxpayer may apply to the department for  
18          a tax credit under this section. If a film qualifies for a  
19          qualified film production expense, any postproduction work done  
20          in this Commonwealth shall qualify for a 30% credit. The  
21          application shall be on the form required by the department.

22          (b) Review and approval.--The department shall establish  
23          application periods not to exceed 90 days each. All applications  
24          received during the application period shall be reviewed and  
25          evaluated by the department based on the following criteria:

26                  (1) The anticipated number of production days in a  
27                  qualified production facility.

28                  (2) The anticipated number of Pennsylvania employees.

29                  (3) The number of preproduction days through  
30                  postproduction days in Pennsylvania.

1 (4) The anticipated number of days spent in Pennsylvania  
2 hotels.

3 (5) The Pennsylvania production expenses in comparison  
4 to the production budget.

5 (6) The use of studio resources.

6 ~~(7) (6.1) If the application is for a qualified~~ <--  
7 ~~postproduction expense OR A QUALIFIED DIGITAL INTERACTIVE~~ <--  
8 ~~MEDIA EXPENSE, the following criteria shall be reviewed and~~  
9 ~~evaluated:~~

10 (i) ~~The facility where the postproduction~~ ACTIVITY <--  
11 ~~occurred.~~

12 (ii) ~~The type of postproduction OR DIGITAL~~ <--  
13 ~~INTERACTIVE MEDIA activity conducted.~~

14 (iii) ~~The percentage of the total postproduction~~  
15 ~~activity conducted for a film in this Commonwealth.~~

16 ~~(8) Other criteria that the Director of the Pennsylvania~~ <--  
17 ~~Film Office deems appropriate to ensure maximum employment~~  
18 ~~and benefit within this Commonwealth.~~

19 (7) OTHER CRITERIA THAT THE DIRECTOR OF THE PENNSYLVANIA <--  
20 FILM OFFICE DEEMS APPROPRIATE TO ENSURE MAXIMUM EMPLOYMENT  
21 AND BENEFIT WITHIN THIS COMMONWEALTH.

22 Upon determining the taxpayer has incurred or will incur  
23 qualified film production expenses ~~or, qualified postproduction~~ <--  
24 ~~expenses AND QUALIFIED DIGITAL INTERACTIVE MEDIA EXPENSES,~~ the <--  
25 department may approve the taxpayer for a tax credit.

26 Applications not approved may be reviewed and considered in  
27 subsequent application periods. The department may approve a  
28 taxpayer for a tax credit based on its evaluation of the  
29 criteria under this subsection.

30 (c) Contract.--If the department approves the taxpayer's

1 application under subsection (b), the department and the  
2 taxpayer shall enter into a contract containing the following:

3 (1) An itemized list of ~~qualified~~ production or <--  
4 ~~postproduction~~ DEVELOPMENT expenses incurred or to be <--  
5 incurred for the film AND SOFTWARE. <--

6 (2) An itemized list of Pennsylvania production ~~or~~ <--  
7 ~~postproduction~~, PENNSYLVANIA POSTPRODUCTION AND PENNSYLVANIA <--  
8 DIGITAL INTERACTIVE MEDIA expenses incurred or to be incurred  
9 for the film ~~or digital interactive media~~ AND SOFTWARE. <--

10 (3) With respect to a contract entered into prior to  
11 completion of production, a commitment by the taxpayer to  
12 incur the qualified film or digital interactive media  
13 production or qualified postproduction expenses as itemized.

14 (4) The start date.

15 (5) Any other information the department deems  
16 appropriate.

17 (d) Certificate.--Upon execution of the contract required by  
18 subsection (c), the department shall award the taxpayer a film  
19 production tax credit and issue the taxpayer a film production  
20 tax credit certificate.

21 Section 2. Section 1707-D of the act, amended July 2, 2012  
22 (P.L.751, No.85), is amended to read:

23 Section 1707-D. Limitations.

24 (a) †Cap.--In no case shall the aggregate amount of tax <--  
25 credits awarded in any fiscal year under this article exceed  
26 \$60,000,000. The department may, in its discretion, ~~† Amount.~~ <--  
27 ~~The department may~~ award in one fiscal year up to:

28 (1) Thirty percent of the dollar amount of film  
29 production tax credits available to be awarded in the next  
30 succeeding fiscal year.

1           (2) Twenty percent of the dollar amount of film  
2 production tax credits available to be awarded in the second  
3 successive fiscal year.

4           (3) Ten percent of the dollar amount of film production  
5 tax credits available to be awarded in the third successive  
6 fiscal year.

7           (a.1) Advance award of credits.--The advance award of film  
8 tax credits under subsection (a) shall:

9           (1) count against the total dollar amount of credits  
10 that the department may award in that next succeeding fiscal  
11 year; and

12           (2) reduce the dollar amount of credits that the  
13 department may award in that next succeeding fiscal year.  
14 The individual limitations on the awarding of film production  
15 tax credits apply to an advance award of film production tax  
16 credits under subsection (a) and to a combination of film  
17 production tax credits awarded against the current fiscal year  
18 cap and against the next succeeding fiscal year's cap.

19           (b) Individual limitations.--The following shall apply:

20           (1) Except as set forth in paragraph (1.1), the  
21 aggregate amount of film production, POSTPRODUCTION OR <--  
22 DIGITAL INTERACTIVE MEDIA tax credits awarded by the  
23 department under section 1703-D(d) to a taxpayer for a film  
24 may not exceed 25% of the qualified [film production] <--  
25 expenses to be incurred.

26           (1.1) In addition to the tax credit under paragraph (1),  
27 a taxpayer is eligible for a credit in the amount of 5% of  
28 the qualified film production expenses or qualified  
29 postproduction expenses incurred by the taxpayer if the  
30 taxpayer:

1 (i) films a feature film, television film or  
2 television series, which is intended as programming for a  
3 national audience; and

4 (ii) ~~Either~~ EITHER: <--

5 (A) films in a qualified production facility  
6 which meets the minimum stage filming requirements;\_  
7 or

8 ~~(B) conducts at least \$500,000 of postproduction~~ <--  
9 ~~activities~~ 50% OF ALL QUALIFIED POSTPRODUCTION <--  
10 EXPENSES at a qualified postproduction facility.

11 (2) A taxpayer that has received a grant under 12  
12 Pa.C.S. § 4106 (relating to approval) shall not be eligible  
13 for a film production tax credit under this act for the same  
14 film.

15 (c) Qualified production facility.--To be considered a  
16 qualified production facility ~~or qualified postproduction~~ <--  
17 ~~facility~~ [under subsection (b) (1.1)], QUALIFIED POSTPRODUCTION <--  
18 FACILITY OR QUALIFIED DIGITAL INTERACTIVE MEDIA FACILITY, the  
19 owner of a facility shall provide evidence to the department to  
20 verify the development or facility specifications and capital  
21 [improvement] investment costs incurred for the facility so that  
22 the threshold amounts set in the definition of "qualified  
23 production ~~facility~~" FACILITY," ~~or "qualified postproduction~~ <--  
24 ~~facility~~" [under section 1702-D] "QUALIFIED PRODUCTION FACILITY" <--  
25 OR "QUALIFIED DIGITAL INTERACTIVE MEDIA FACILITY" are satisfied,  
26 and upon verification, the facility shall be registered by the  
27 department officially as a qualified production facility ~~or,~~  
28 qualified postproduction facility OR QUALIFIED DIGITAL <--  
29 INTERACTIVE MEDIA FACILITY.

30 (d) Waiver.--The department may make a determination that

1 the financial benefit to this Commonwealth resulting from the  
2 direct investment in or payments made to Pennsylvania facilities  
3 outweighs the benefit of maintaining the 60% requirement  
4 contained in the definition of "qualified film production  
5 EXPENSE" OR "QUALIFIED POSTPRODUCTION expense." If such <--  
6 determination is made, the department may waive the requirement  
7 that 60% of a film's total production ~~expenses be comprised of~~ <--  
8 ~~Pennsylvania production expenses for a feature film, television~~  
9 ~~film or television series that is intended as programming for a~~  
10 ~~national audience and is filmed in a qualified production~~  
11 ~~facility if the taxpayer who has Pennsylvania production~~  
12 ~~expenses of at least \$30,000,000 per production meets the~~  
13 ~~minimum stage filming requirements.~~ OR POSTPRODUCTION EXPENSES <--  
14 BE COMPRISED OF PENNSYLVANIA PRODUCTION OR PENNSYLVANIA  
15 POSTPRODUCTION EXPENSES FOR A [FEATURE] FILM, TELEVISION FILM OR  
16 TELEVISION SERIES THAT IS INTENDED AS PROGRAMMING FOR A NATIONAL  
17 AUDIENCE AND IS FILMED OR PRODUCED IN A QUALIFIED PRODUCTION  
18 FACILITY OR QUALIFIED POSTPRODUCTION FACILITY IF THE TAXPAYER  
19 WHO HAS PENNSYLVANIA PRODUCTION EXPENSES OF AT LEAST \$30,000,000  
20 PER PRODUCTION MEETS THE MINIMUM STAGE FILMING REQUIREMENTS.

21 Section 3. The amendment of sections 1702-D, 1703-D and  
22 1707-D(a) of the act shall apply to taxable years beginning  
23 after December 31, 2012.

24 Section 4. This act shall take effect immediately.