
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 147 Session of
2003

INTRODUCED BY T. STEVENSON, BAKER, BISHOP, CAPPELLI, COSTA,
CREIGHTON, FEESE, FRANKEL, GEIST, GODSHALL, GOODMAN,
HENNESSEY, HERMAN, HERSHEY, HORSEY, HUTCHINSON, KELLER,
LAUGHLIN, LEACH, MANN, MARKOSEK, McCALL, NAILOR, PRESTON,
READSHAW, REICHLEY, ROEBUCK, SAINATO, SATHER, SEMMEL,
SOLOBAY, R. STEVENSON, THOMAS, TURZAI, WALKO, WATSON, WILT
AND YOUNGBLOOD, FEBRUARY 6, 2003

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 6, 2003

AN ACT

1 Authorizing the film enhancement tax credit; and providing for
2 the powers and duties of the Department of Community and
3 Economic Development and the Department of Revenue.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Film
8 Enhancement Tax Credit Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Credit." The film enhancement tax credit authorized by this
14 act.

15 "Department." The Department of Community and Economic
16 Development of the Commonwealth.

1 "Film." A single media or multimedia program which does not
2 violate any Federal or State law, including, but not limited to,
3 national advertising messages, fixed on film or digital video,
4 which can be viewed or reproduced and which is exhibited in
5 theaters, licensed for exhibition by individual television
6 stations, groups of stations, networks, cable television
7 stations or other means or licensed for home-viewing markets.

8 "Pennsylvania production expense." An expense incurred in
9 this Commonwealth directly related to the production of a long-
10 form narrative film in this Commonwealth, including, but not
11 limited to:

12 (1) Wages or salaries of persons who are residents of
13 this Commonwealth and who have earned income from working on
14 a film in this Commonwealth, including payments to personal
15 services corporations with respect to the services of
16 qualified performing artists, as determined under section
17 62(a)(A) of the Internal Revenue Code of 1986 (Public Law 99-
18 514, 26 U.S.C. § 1 et seq.).

19 (2) The cost of construction and operations, wardrobe,
20 accessories and related services.

21 (3) The cost of photography, sound synchronization,
22 lighting and related services.

23 (4) The cost of editing and related services.

24 (5) Rental of facilities and equipment.

25 (6) Other direct costs of producing a film.

26 "Qualified tax liability." The liability for taxes imposed
27 under Article II, III, IV or VI of the act of March 4, 1971
28 (P.L.6, No.2), known as the Tax Reform Code of 1971.

29 "Taxpayer." An entity subject to tax under Article II, III,
30 IV or VI of the act of March 4, 1971 (P.L.6, No.2), known as the

1 Tax Reform Code of 1971, that incurs Pennsylvania production
2 expenses.

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

5 Section 3. Film enhancement tax credit.

6 (a) Tax credit authorized.--A tax credit in the amount of
7 15% of documented Pennsylvania production expenses may be
8 awarded to a taxpayer.

9 (b) Administration.--The credit shall be administered by the
10 Department of Community and Economic Development and the
11 Department of Revenue, as provided in this act.

12 (c) Eligibility.--To be eligible for a credit, the taxpayer
13 incurring Pennsylvania production expenses must submit such
14 documentation, make such reports and meet such deadlines as the
15 secretary may require in the administration of this act.

16 (d) Approval.--The secretary shall approve or disapprove all
17 claims for the credit and shall notify the Department of Revenue
18 of the name of the recipient and the amount of all credits
19 approved.

20 (e) Limitations.--The total amount of credits approved by
21 the department shall not exceed \$3,000,000 in any fiscal year.
22 If the amount of eligible claims exceeds the amount specified in
23 this subsection in a fiscal year, the credit shall be prorated
24 among all eligible claims.

25 Section 4. Application of credits.

26 (a) Use of credit.--The credit may be applied against a
27 qualified tax liability of the taxpayer.

28 (b) Carryover of credit.--If the taxpayer cannot use the
29 entire amount of the credit for the taxable year in which the
30 credit is first approved, than the excess may be carried over to

1 succeeding taxable years and used as a credit against the
2 qualified tax liability of the taxpayer for those taxable years.
3 Each time that the credit is carried over to a succeeding
4 taxable year, it shall be reduced by the amount that was used as
5 a credit during the immediately preceding taxable year. The
6 credit provided by this act may be carried over and applied to
7 succeeding taxable years for no more than three taxable years
8 following the first taxable year for which the taxpayer was
9 entitled to claim the credit. A credit approved by the
10 department in a taxable year first shall be applied against the
11 taxpayer's qualified tax liability for the current taxable year
12 as of the date on which the credit was approved before the
13 credit is applied against any other tax liability.

14 (c) Limitation on unused credits.--A taxpayer may not carry
15 back, obtain a refund of or assign an unused credit.

16 Section 5. Pennsylvania S corporation shareholder pass-through.

17 (a) Pass-through of credit.--If a Pennsylvania S corporation
18 does not have an eligible tax liability against which the credit
19 may be applied, a shareholder of the Pennsylvania S corporation
20 may receive a credit equal to the credit determined for the
21 Pennsylvania S corporation for the taxable year multiplied by
22 the percentage of the Pennsylvania S corporation's distributive
23 income to which the shareholder is entitled.

24 (b) Limitation.--The credit provided under subsection (a) is
25 in addition to any other credit to which a shareholder of
26 Pennsylvania S corporation is otherwise entitled under the act
27 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
28 1971. However, a Pennsylvania S corporation and a shareholder of
29 a Pennsylvania S corporation may not claim a credit under this
30 act for the same Pennsylvania production expense.

1 Section 6. Time limitations.

2 A taxpayer may not receive a credit for Pennsylvania
3 production expenses incurred after December 31, 2012.

4 Section 7. Applicability.

5 This act shall apply to taxable years commencing on or after
6 January 1, 2003.

7 Section 8. Effective date.

8 This act shall take effect immediately.