

Hall of the House of Representatives
93rd General Assembly - Regular Session, 2021
Amendment Form

Subtitle of House Bill No. 1743

TO AMEND THE DIGITAL PRODUCT AND MOTION PICTURE INDUSTRY DEVELOPMENT ACT OF
2009.

Amendment No. 2 to House Bill 1743

Amend House Bill No. 1743 as engrossed H3/30/21 (version: 3/30/2021 10:39:11 AM):

Page 1, delete lines 10 through 13, and substitute the following:
"PICTURE INDUSTRY DEVELOPMENT ACT OF 2009; TO AUTHORIZE TAX CREDITS OR
REBATES TO BE ISSUED UNDER THE DIGITAL PRODUCT AND MOTION PICTURE INDUSTRY
DEVELOPMENT ACT OF 2009; TO EXTEND THE SUNSET DATE FOR THE DIGITAL"

AND

Page 1, delete lines 28 through 30, and substitute the following:
"(1) "Application for a rebate or a tax credit" means the
document required by the Film Office to begin the process for obtaining a
~~rebate~~ tax incentive under this subchapter;"

AND

Page 2, delete lines 7 through 9

AND

Page 2, line 10, delete "~~(3)(A)~~(4)(A)" and substitute "(3)(A)"

AND

Page 2, line 29, delete "~~(4)~~(5)" and substitute "(4)"

AND

Page 2, line 33, delete "~~(5)~~(6)" and substitute "(5)"

AND

Page 2, line 36, delete "~~(6)(A)~~(7)(A)" and substitute "(6)(A)"



AND

Page 3, line 7, delete "~~(7)(A)~~(8)(A)" and substitute "(7)(A)"

AND

Page 3, line 12, delete "~~(8)~~(9)" and substitute "(8)"

AND

Page 3, line 15, delete "~~(9)(A)~~(10)(A)" and substitute "(9)(A)"

AND

Page 3, line 25, delete "~~(10)~~(11)" and substitute "(10)"

AND

Page 3, line 29, delete "~~(11)(A)~~(12)(A)" and substitute "(11)(A)"

AND

Page 4, line 19, delete "~~(9)(A)~~" and substitute "(9)(A)"

AND

Page 4, line 20, delete "(10)(A)"

AND

Page 4, line 31, delete "~~(12)~~(13)" and substitute "(12)"

AND

Page 4, line 36, delete "~~(13)~~(14)" and substitute "(13)"

AND

Page 5, delete lines 7 through 8, and substitute the following:
"Development Commission as qualifying for a discretionary production ~~rebate~~
tax incentive under this subchapter;"

(15) "Tax incentive" means a rebate under § 15-4-2008 or a tax
credit under § 15-4-2012;

AND

Page 5, line 9, delete "(15)" and substitute "(16)"

AND

Page 5, line 16, delete "(16)" and substitute "(17)"

AND

Page 5, line 25 delete "credit" and substitute "incentive"

AND

Page 5, line 28, delete "credit" and substitute "incentive"

AND

Page 5, line 31, delete "credit" and substitute "incentive"

AND

Page 5, line 32, delete "~~rebate~~ tax credit" and substitute "rebate or tax credit"

AND

Page 5, line 35, delete "credit" and substitute "incentive"

AND

Page 6, line 3, delete "credit" and substitute "incentive"

AND

Page 6, delete lines 7 through 12, and substitute the following:

"(2) Expenditures paid to a veteran-owned small business for qualified production costs with the state-certified production."

AND

Page 6, line 13, delete "credit" and substitute "incentive"

AND

Page 6, line 16, delete "credits" and substitute "incentives"

AND

Page 6, line 20, delete "credit" and substitute "incentive"

AND

Page 6, line 22, delete "may offer a tax credit" and substitute "shall offer a tax credit or a rebate"

AND

Page 6, line 24, delete "credit" and substitute "incentive"

AND

Page 6, delete lines 27 through 28

AND

Page 6, line 29, delete "(3)" and substitute "(2)"

AND

Page 6, line 31, delete "credit" and substitute "incentive"

AND

Page 6, delete lines 35 through 36, and substitute the following:

"(B) Expenditures paid to a veteran-owned business for qualified production costs with the state-certified production."

AND

Page 7, delete lines 1 through 2

AND

Page 7, delete lines 3 through 7, and substitute the following:

"(b) To qualify for ~~this rebate~~ a tax incentive, a production company ~~must~~ shall spend at least fifty thousand dollars (\$50,000) within a six-month period in connection with the production of one (1) project."

AND

Page 7, line 8, delete "credit" and substitute "incentive"

AND

Page 7, line 11, delete "credits" and substitute "incentives"

AND

Page 7, line 18 delete "credits" and substitute "incentives"

AND

Page 7, line 25, delete "credit" and substitute "incentive"

AND

Page 7, line 27, delete "credit" and substitute "incentive"

AND

Page 8, delete lines 7 through 9, and substitute the following:
“certifying eligibility requirements; ~~and~~

(vi) Production company’s responsibilities for
failure to meet or maintain eligibility requirements; ~~and~~

(vii) Whether the tax incentive in the agreement is
for a rebate under § 15-4-2008 or a tax credit under § 15-4-2012.”

AND

Page 8, line 14, delete “credits” and substitute “incentives”

AND

Page 8, line 18, delete “credit” and substitute “incentive”

AND

Page 8, line 27, delete “credit” and substitute “incentive”

AND

Page 8, line 29, delete “credit” and substitute “incentive”

AND

Page 8, line 31, delete “credit” and substitute “incentive”

AND

Page 8, line 33, delete “credit” and substitute “incentive”

AND

Page 9, line 4, delete “credits” and substitute “incentives”

AND

Page 9, line 14, delete “credits” and substitute “incentives”

AND

Page 9, line 21, delete “credit” and substitute “incentive”

AND

Page 9, line 23, delete “credit” and substitute “incentive”

AND

Page 9, line 35, delete "~~rebate incentive tax credit~~" and substitute "rebate"

AND

Page 10, line 1, delete "~~rebate tax credit~~" and substitute "rebate"

AND

Page 10, line 14, delete "~~rebate tax credit~~" and substitute "rebate"

AND

Page 10, line 21, delete "~~rebate tax credit~~" and substitute "rebate"

AND

Page 10, line 23, delete "~~rebate tax credit~~" and substitute "rebate"

AND

Page 10, delete lines 24 through 27, and substitute the following:
"first-served basis.

(3) Rebates to be awarded from the Digital Product and Motion Picture Office Fund may be payable from any source of funds allocated for the rebates."

AND

Page 10, line 31, delete "~~rebate tax~~" and substitute "rebate"

AND

Page 10, line 32, delete "credit"

AND

Page 10, line 35, delete "~~rebate tax~~" and substitute "rebate"

AND

Page 10, line 36, delete "credit"

AND

Page 11, delete lines 6 through 7, and substitute the following:

"The opportunity ~~for a rebate to apply for a tax incentive~~ provided by this subchapter ~~shall expire~~ expires on June 30, ~~2029~~ 2032."

AND

Page 11, delete lines 12 through 36, and substitute the following:

"15-4-2012. Tax credit.

(a)(1) After receiving both an application for a tax credit under this subchapter and a proof of performance expenditure report from the Film Office, the Revenue Division of the Department of Finance and Administration shall:

(A) Calculate the total expenditures of the relevant production company for which there are documented receipts for funds expended in the state;

(B) Calculate the amount of the tax credits to which the applicant is entitled, subject to any conditions of the approved financial incentive agreement; and

(C) Within one hundred twenty (120) days after receiving the expenditure report from the Film Office, certify to the Secretary of the Department of Finance and Administration the amount of the tax credit that may be claimed by the production company.

(2) The secretary, within ten (10) business days after the receipt of the certification from the division, shall instruct the division to issue the tax credit in the amount certified.

(3) Tax credits under this subchapter:

(A) Shall be issued promptly after the division completes its review under subdivision (a)(1) of this section;

(B) Are allowed as a credit against the income tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq.;

(C) Are not refundable; and

(D) May be carried forward in part or in whole for five (5) consecutive taxable years to apply against the taxpayer's income taxes due.

(b)(1) The Arkansas Economic Development Commission shall not approve applications for tax credits under this subchapter for more than four million dollars (\$4,000,000) in any one (1) fiscal year.

(2) The division shall not issue tax credits in excess of the amount approved by the commission in the financial incentive agreement.

15-4-2013. Transfer of tax credit.

(a)(1) An owner of a tax credit under this subchapter may transfer, sell, or assign some or all of the amount of the tax credit certified under § 15-4-2012.

(2) A subsequent holder of some or all the amount of the tax credit may transfer, sell, or assign some or all of the remaining tax credit.

(b) A transferee from an original, approved applicant under this subchapter may use the tax credit under this subchapter only to the extent the tax credit is still available to and has not previously been used by the transferor.

(c) If a transferee of a tax credit under this subchapter seeks to use the tax credit, the transferee shall obtain and attach to the transferee's income tax return for the years the tax credit is claimed a certified statement from the transferor stating the:

(1) Name and address of the original purchaser and all transferees;

(2) Tax identification number of all persons entitled to any portion of the original tax credit;

(3) Original date the tax credit was approved;

- (4) Original amount of the tax credit;
- (5) Amount of the tax credit that was transferred; and
- (6) Remaining amount of the tax credit that is available for use

by the transferee.

(d) The amount of the tax credit received by the transferee may be carried forward in part or in whole for five (5) consecutive taxable years, beginning from the taxable year in which the tax credit originated, to apply against the taxpayer's income taxes due.

(e) If any subsequent audits or adjustments are made to a tax credit issued under this subchapter that reduce the amount of the tax credit, then the transferor that originally received the tax credit under this subchapter shall refund the difference between the original amount and the reduced amount to the Department of Finance and Administration.

(f) An owner or holder that assigns some or all of a tax credit under this section shall perfect the transfer by notifying the department in writing within thirty (30) calendar days following the effective date of the transfer and shall provide any information the department requires to administer and carry out this subchapter and to ensure proper tracking of the ownership of the unused tax credit."

AND

Page 12, delete line 1

AND

Page 12, delete lines 3 through 24, and substitute the following:

"15-4-2014. Supplemental tax credit.

(a) If the Director of the Arkansas Economic Development Commission receives an application for tax credits under this subchapter that would exceed the amount of tax credits remaining to be issued in a fiscal year under § 15-4-2012, the director may request that the Secretary of Commerce and Secretary of the Department of Finance and Administration approve supplemental credits to be issued in excess of the amount in § 15-4-2012.

(b) Supplemental credits under this section shall not exceed the amount in the Arkansas Supplemental Digital Product and Motion Picture Industry Development Trust Fund as certified by the Secretary of the Department of Finance and Administration.

(c)(1) The Secretary of the Department of Commerce and the Secretary of the Department of Finance and Administration may jointly approve supplemental credits under this section if a cost-benefit analysis demonstrates that the issuance of the supplemental credits is in the prudent interests of the State.

(2) The cost-benefit analysis conducted under subdivision (c)(1) of this section shall be:

(A) Performed by the Director of the Arkansas Economic Development Commission or his or her designee; and

(B) Confirmed by the Secretary of the Department of Finance and Administration or his or her designee.

(d) Supplemental credits issued under this section shall be considered

tax credits for the purposes of §§ 15-4-1212 and 15-4-1213."

AND

Page 12, delete line 24, and substitute the following:
"Office.

SECTION 12. Arkansas Code Title 19, Chapter 5, Subchapter 11, is amended to add an additional section to read as follows:

19-5-1154. Arkansas Supplemental Digital Product and Motion Picture Industry Development Trust Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a trust fund to be known as the "Arkansas Supplemental Digital Product and Motion Picture Industry Development Trust Fund".

(b) The Arkansas Supplemental Digital Product and Motion Picture Industry Development Trust Fund shall consist of:

(1) Grants, donations, or transfers made by any person or government agency or office;

(2) Any remaining balances in the fund carried forward from year to year; and

(3) Any other moneys authorized or provided by law.

(c) The fund shall be used to offset the costs of supplemental digital product and motion picture incentive act tax credits allowed under § 15-4-2014, as follows:

(1)(A) At the request of the Secretary of the Department of Commerce, the Secretary of the Department of Finance and Administration shall certify to the Arkansas Economic Development Commission the amount in the fund.

(B) The amount certified under subdivision (c)(1)(A) of this section is the maximum amount of supplemental digital product and motion picture industry development tax credits that may be approved; and

(2) On the first day of the month following the certification in subdivision (c)(1), the Treasurer of State shall transfer the amount certified under subdivision (c)(1) of this section to the General Revenue Fund Account of the State Apportionment Fund to be distributed as authorized under § 19-5-202(b)(2)(B)(iii)."

The Amendment was read _____
By: Representative C. Fite
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RWO146

Chief Clerk