

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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SENATE BILL 1968

Short Title: Expand Film Industry Credits. (Public)

Sponsors: Senator Boseman.

Referred to: Finance.

May 28, 2008

1 A BILL TO BE ENTITLED  
2 AN ACT TO EXPAND THE CREDIT FOR QUALIFYING EXPENSES OF A  
3 PRODUCTION COMPANY.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 105-130.47 reads as rewritten:

6 **"§ 105-130.47. Credit for qualifying expenses of a production company.**

7 (a) Definitions. – The following definitions apply in this section:

8 (1) Highly compensated individual. – An individual who directly or  
9 indirectly receives compensation in excess of one million dollars  
10 (\$1,000,000) for personal services with respect to a single production.  
11 An individual receives compensation indirectly when a production  
12 company pays a personal service company or an employee leasing  
13 company that pays the individual.

14 (2) Live sporting event. – A scheduled sporting competition, game, or race  
15 that is not originated by a production company, but originated solely  
16 by an amateur, collegiate, or professional organization, institution, or  
17 association for live or tape-delayed television or satellite broadcast. A  
18 live sporting event does not include commercial advertising, an  
19 episodic television series, a television pilot, a music video, a motion  
20 picture, or a documentary production in which sporting events are  
21 presented through archived historical footage or similar footage taken  
22 at least 30 days before it is used.

23 (2a) Principal photography. – The time frame that is outlined in the  
24 intent-to-film form when the main shooting of the film is taking place.

25 (3) Production company. – Defined in G.S. 105-164.3.

26 (4) Qualifying expenses. – The sum of the following amounts spent in this  
27 State by a production company in connection with a production, less  
28 the amount in excess of one million dollars (\$1,000,000) paid to a  
29 highly compensated individual:

- 1 a. Goods and services leased or purchased. For goods with a  
2 purchase price of twenty-five thousand dollars (\$25,000) or  
3 more, the amount included in qualifying expenses is the  
4 purchase price less the fair market value of the good at the time  
5 the production is completed.  
6 b. Compensation and wages on which withholding payments are  
7 remitted to the Department of Revenue under Article 4A of this  
8 Chapter.  
9 c. The cost of insurance coverage for production-related insurance  
10 that is obtained on the production and that is purchased from an  
11 unrelated entity.

12 (b) Credit. – A taxpayer that is ~~a production company and has qualifying~~  
13 ~~expenses of at least two hundred fifty thousand dollars (\$250,000) with respect to a~~  
14 ~~production~~ meets the requirements listed in this subsection is allowed a credit against the  
15 taxes imposed by this Part equal to fifteen percent (15%) of the production company's  
16 qualifying expenses. For the purposes of this section, in the case of an episodic  
17 television series, an entire season of episodes is one production. The credit is computed  
18 based on all of the taxpayer's qualifying expenses incurred with respect to the  
19 production, not just the qualifying expenses incurred during the taxable year.

- 20 (1) The taxpayer is a production company.  
21 (2) The taxpayer has qualifying expenses of at least two hundred fifty  
22 thousand dollars (\$250,000) with respect to a production.  
23 (3) For productions that have production credits, the taxpayer  
24 acknowledges in the production credits both the North Carolina Film  
25 Office and the regional film office responsible for the geographic area  
26 in which the filming for the production occurred.  
27 (4) The taxpayer files an intent-to-film form with the North Carolina Film  
28 Office prior to the time principal photography for the production  
29 begins.

30 (c) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and  
31 G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this  
32 section does not distribute the credit among any of its owners. The pass-through entity  
33 is considered the taxpayer for purposes of claiming the credit allowed by this section. If  
34 a return filed by a pass-through entity indicates that the entity is paying tax on behalf of  
35 the owners of the entity, the credit allowed under this section does not affect the entity's  
36 payment of tax on behalf of its owners.

37 (d) Return. – A taxpayer may claim the credit allowed by this section on a return  
38 filed for the taxable year in which the production activities are completed. The return  
39 must state the name of the production, a description of the production, and a detailed  
40 accounting of the qualifying expenses with respect to which a credit is claimed.

41 (e) Credit Refundable. – If the credit allowed by this section exceeds the amount  
42 of tax imposed by this Part for the taxable year reduced by the sum of all credits  
43 allowable, the Secretary must refund the excess to the taxpayer. The refundable excess  
44 is governed by the provisions governing a refund of an overpayment by the taxpayer of

1 the tax imposed in this Part. In computing the amount of tax against which multiple  
2 credits are allowed, nonrefundable credits are subtracted before refundable credits.

3 (f) Limitations. – The amount of credit allowed under this section with respect to  
4 a production that is a feature film may not exceed seven million five hundred thousand  
5 dollars (\$7,500,000). No credit is allowed under this section for any production that  
6 satisfies one of the following conditions:

7 (1) It is political advertising.

8 (2) It is a television production of a news program or live sporting event.

9 (3) It contains material that is obscene, as defined in G.S. 14-190.1.

10 (4) It is a radio production.

11 (g) Substantiation. – A taxpayer allowed a credit under this section must maintain  
12 and make available for inspection any information or records required by the Secretary  
13 of Revenue. The taxpayer has the burden of proving eligibility for a credit and the  
14 amount of the credit. The Secretary may consult with the North Carolina Film Office of  
15 the Department of Commerce and the regional film commissions in order to determine  
16 the amount of qualifying expenses.

17 (h) Report. – The Department of Revenue must publish by May 1 of each year  
18 the following information, itemized by taxpayer for the 12-month period ending the  
19 preceding December 31:

20 (1) The location of sites used in a production for which a credit was  
21 claimed.

22 (2) The qualifying expenses for which a credit was claimed, classified by  
23 whether the expenses were for goods, services, or compensation paid  
24 by the production company.

25 (3) The number of people employed in the State with respect to credits  
26 claimed.

27 (4) The total cost to the General Fund of the credits claimed.

28 (i) Repealed by Session Laws 2006-220, s. 2, effective for taxable years  
29 beginning on or after January 1, 2007.

30 (j) Sunset. – This section is repealed for qualifying expenses occurring on or  
31 after January 1, ~~2010~~2015."

32 **SECTION 2.** G.S. 105-151.29 reads as rewritten:

33 **"§ 105-151.29. Credit for qualifying expenses of a production company.**

34 (a) Definitions. – The following definitions apply in this section:

35 (1) Highly compensated individual. – An individual who directly or  
36 indirectly receives compensation in excess of one million dollars  
37 (\$1,000,000) for personal services with respect to a single production.  
38 An individual receives compensation indirectly when a production  
39 company pays a personal service company or an employee leasing  
40 company that pays the individual.

41 (2) Live sporting event. – A scheduled sporting competition, game, or race  
42 that is not originated by a production company, but originated solely  
43 by an amateur, collegiate, or professional organization, institution, or  
44 association for live or tape-delayed television or satellite broadcast. A

1 live sporting event does not include commercial advertising, an  
2 episodic television series, a television pilot, a music video, a motion  
3 picture, or a documentary production in which sporting events are  
4 presented through archived historical footage or similar footage taken  
5 at least 30 days before it is used.

6 (2a) Principal photography. – The time frame that is outlined in the  
7 intent-to-film form when the main shooting of the film is taking place.

8 (3) Production company. – Defined in G.S. 105-164.3.

9 (4) Qualifying expenses. – The sum of the following amounts spent in this  
10 State by a production company in connection with a production, less  
11 the amount paid in excess of one million dollars (\$1,000,000) to a  
12 highly compensated individual:

13 a. Goods and services leased or purchased. For goods with a  
14 purchase price of twenty-five thousand dollars (\$25,000) or  
15 more, the amount included in qualifying expenses is the  
16 purchase price less the fair market value of the good at the time  
17 the production is completed.

18 b. Compensation and wages on which withholding payments are  
19 remitted to the Department of Revenue under Article 4A of this  
20 Chapter.

21 c. The cost of insurance coverage for production-related insurance  
22 that is obtained on the production and that is purchased from an  
23 unrelated entity.

24 (b) Credit. – A taxpayer that ~~is a production company and has qualifying~~  
25 ~~expenses of at least two hundred fifty thousand dollars (\$250,000) with respect to a~~  
26 ~~production~~ meets the requirements listed in this subsection is allowed a credit against the  
27 taxes imposed by this Part equal to fifteen percent (15%) of the production company's  
28 qualifying expenses. For the purposes of this section, in the case of an episodic  
29 television series, an entire season of episodes is one production. The credit is computed  
30 based on all of the taxpayer's qualifying expenses incurred with respect to the  
31 production, not just the qualifying expenses incurred during the taxable year.

32 (1) The taxpayer is a production company.

33 (2) The taxpayer has qualifying expenses of at least two hundred fifty  
34 thousand dollars (\$250,000) with respect to a production.

35 (3) For productions that have production credits, the taxpayer  
36 acknowledges in the production credits both the North Carolina Film  
37 Office and the regional film office responsible for the geographic area  
38 in which the filming for the production occurred.

39 (4) The taxpayer files an intent-to-film form with the North Carolina Film  
40 Office prior to the time principal photography for the production  
41 begins.

42 (c) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and  
43 G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this  
44 section does not distribute the credit among any of its owners. The pass-through entity

1 is considered the taxpayer for purposes of claiming the credit allowed by this section. If  
2 a return filed by a pass-through entity indicates that the entity is paying tax on behalf of  
3 the owners of the entity, the credit allowed under this section does not affect the entity's  
4 payment of tax on behalf of its owners.

5 (d) Return. – A taxpayer may claim the credit allowed by this section on a return  
6 filed for the taxable year in which the production activities are completed. The return  
7 must state the name of the production, a description of the production, and a detailed  
8 accounting of the qualifying expenses with respect to which a credit is claimed.

9 (e) Credit Refundable. – If the credit allowed by this section exceeds the amount  
10 of tax imposed by this Part for the taxable year reduced by the sum of all credits  
11 allowable, the Secretary must refund the excess to the taxpayer. The refundable excess  
12 is governed by the provisions governing a refund of an overpayment by the taxpayer of  
13 the tax imposed in this Part. In computing the amount of tax against which multiple  
14 credits are allowed, nonrefundable credits are subtracted before refundable credits.

15 (f) Limitations. – The amount of credit allowed under this section with respect to  
16 a production that is a feature film may not exceed seven million five hundred thousand  
17 dollars (\$7,500,000). No credit is allowed under this section for any production that  
18 satisfies one of the following conditions:

- 19 (1) It is political advertising.
- 20 (2) It is a television production of a news program or live sporting event.
- 21 (3) It contains material that is obscene, as defined in G.S. 14-190.1.
- 22 (4) It is a radio production.

23 (g) Substantiation. – A taxpayer allowed a credit under this section must maintain  
24 and make available for inspection any information or records required by the Secretary  
25 of Revenue. The taxpayer has the burden of proving eligibility for a credit and the  
26 amount of the credit. The Secretary may consult with the North Carolina Film Office of  
27 the Department of Commerce and the regional film commissions in order to determine  
28 the amount of qualifying expenses.

29 (h) Report. – The Department of Revenue must publish by May 1 of each year  
30 the following information, itemized by taxpayer for the 12-month period ending the  
31 preceding December 31:

- 32 (1) The location of sites used in a production for which a credit was  
33 claimed.
- 34 (2) The qualifying expenses for which a credit was claimed, classified by  
35 whether the expenses were for goods, services, or compensation paid  
36 by the production company.
- 37 (3) The number of people employed in the State with respect to credits  
38 claimed.
- 39 (4) The total cost to the General Fund of the credits claimed.

40 (i) **(Repealed effective for taxable years beginning on and after January 1,**  
41 **2007)** No Double Benefit. – A taxpayer may not claim a credit under this section for  
42 qualifying expenses for which it claimed a deduction under the Code. A taxpayer that  
43 claims a credit provided under this section must adjust taxable income as provided in  
44 G.S. 105-134.6(c)(9).

- 1       (j)     Sunset. – This section is repealed for qualifying expenses occurring on or  
2 after January 1, ~~2010~~2015."
- 3             **SECTION 3.** This act is effective for taxable years beginning on or after  
4 January 1, 2008.