

# SENATE BILL 905

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CF HB 753

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By: ~~Senator Kasemeyer~~ Senators Kasemeyer, Madaleno, Currie, DeGrange, Ferguson, Guzzone, King, Manno, McFadden, and Peters ~~Peters, and Klausmeier~~

Introduced and read first time: March 5, 2015

Assigned to: Rules

Re-referred to: Budget and Taxation, March 16, 2015

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Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: April 1, 2015

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Income Tax – Film Production Activity Tax Credit**

3 FOR the purpose of ~~extending~~ repealing certain termination provisions for a certain income  
4 tax credit allowed for certain entities that carry out certain film production activities  
5 in the State; altering the amount of certain tax credit certificates that the Secretary  
6 of Business and Economic Development may issue for certain fiscal years;  
7 establishing the Maryland Film Production Activity Tax Credit Reserve Fund;  
8 stating the intent of the General Assembly that the Governor include a certain  
9 appropriation to the Reserve Fund in the annual budget bill; requiring the  
10 Comptroller to transfer certain amounts from the Reserve Fund to the General Fund  
11 under certain circumstances; altering a reporting requirement under the credit to  
12 require the Department of Business and Economic Development to provide a list of  
13 companies in the State that qualified as certain minority business enterprises or  
14 certain small businesses and directly provided goods or services for film production  
15 activity during a certain period; requiring the Department to report to the Governor  
16 and the General Assembly on or before a certain date each year on certain tax credit  
17 amounts; requiring a qualified film production entity that receives the tax credit  
18 certificate to feature, under certain circumstances, a certain State promotional logo  
19 in a certain project in a certain manner; providing that, in lieu of featuring a certain  
20 State promotional logo, the qualified film production entity may offer certain  
21 alternative marketing opportunities; providing for the application of this Act; and  
22 generally relating to income tax credits for certain film production activities.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

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



1 BY repealing and reenacting, without amendments,  
2 Article – Tax – General  
3 Section 10–730(b)  
4 Annotated Code of Maryland  
5 (2010 Replacement Volume and 2014 Supplement)

6 BY repealing and reenacting, with amendments,  
7 Article – Tax – General  
8 Section 10–730~~(e)~~ (d) through (g)  
9 Annotated Code of Maryland  
10 (2010 Replacement Volume and 2014 Supplement)

11 BY adding to  
12 Article – Tax – General  
13 Section 10–730(g) and (h)  
14 Annotated Code of Maryland  
15 (2010 Replacement Volume and 2014 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Chapter 516 of the Acts of the General Assembly of 2011, as amended by Chapter 28  
18 of the Acts of the General Assembly of 2013  
19 Section 2

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
21 That the Laws of Maryland read as follows:

22 **Article – Tax – General**

23 10–730.

24 (b) (1) A qualified film production entity may claim a credit against the State  
25 income tax for film production activities in the State in an amount equal to the amount  
26 stated in the final tax credit certificate approved by the Secretary for film production  
27 activities.

28 (2) If the tax credit allowed under this section in any taxable year exceeds  
29 the total tax otherwise payable by the qualified film production entity for that taxable year,  
30 the qualified film production entity may claim a refund in the amount of the excess.

31 (d) (1) After completion of the film production activity, a qualified film  
32 production entity shall apply to the Department for a tax credit certificate.

33 (2) The application shall be on a form required by the Secretary and shall  
34 include:

35 (i) proof of the total direct costs that qualify for the tax credit; and

1 (ii) the number of employees hired and wages paid.

2 (3) Subject to [subsection (f)] SUBSECTIONS (F) AND (G) of this section,  
3 the Secretary shall determine the total direct costs that qualify for the tax credit and issue  
4 a tax credit certificate for:

5 (i) except as provided in item (ii) of this paragraph, 25% of the total  
6 direct costs that qualify for the tax credit; and

7 (ii) for a television series, 27% of the total direct costs that qualify  
8 for the tax credit.

9 [(4) The Secretary shall notify the Comptroller of the amount of a tax credit  
10 certificate issued under this subsection.]

11 (e) **(1)** On or before January 1 of each year, the Department shall report to the  
12 Governor and, subject to § 2–1246 of the State Government Article, the General Assembly,  
13 on:

14 ~~(1)~~ **(I)** the number of film production entities submitting applications  
15 under subsection (c) of this section;

16 ~~(2)~~ **(II)** the number and amount of tax credit certificates issued under  
17 subsection (d) of this section;

18 ~~(3)~~ **(III)** the number of local technicians, actors, and extras hired for film  
19 production activity during the reporting period;

20 ~~(4)~~ **(IV)** a list of companies doing business in the State, including hotels,  
21 that directly provided goods or services for film production activity during the reporting  
22 period; [and]

23 ~~(5)~~ **(V)** **A LIST OF COMPANIES DOING BUSINESS IN THE STATE THAT**  
24 **DIRECTLY PROVIDED GOODS OR SERVICES FOR FILM PRODUCTION ACTIVITY**  
25 **DURING THE REPORTING PERIOD THAT QUALIFIED DURING THE REPORTING**  
26 **PERIOD AS MINORITY BUSINESS ENTERPRISES UNDER § 14–301(F) OF THE STATE**  
27 **FINANCE AND PROCUREMENT ARTICLE;**

28 ~~(6)~~ **(VI)** **A LIST OF COMPANIES DOING BUSINESS IN THE STATE THAT**  
29 **DIRECTLY PROVIDED GOODS OR SERVICES FOR FILM PRODUCTION ACTIVITY**  
30 **DURING THE REPORTING PERIOD THAT, AS DETERMINED BY THE DEPARTMENT, ARE**  
31 **CONSIDERED SMALL BUSINESSES; AND**

1            ~~[(5)]~~ ~~(7)~~        **(VII)** any other information that indicates the economic benefits  
2 to the State resulting from film production activity during the reporting period.

3            **(2)    ON OR BEFORE JULY 1 OF EACH YEAR, THE DEPARTMENT SHALL**  
4 **REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE**  
5 **GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:**

6            **(I)    THE AMOUNT OF TAX CREDITS NECESSARY TO MAINTAIN**  
7 **THE CURRENT LEVEL OF FILM PRODUCTION ACTIVITY IN THE STATE; AND**

8            **(II)   THE AMOUNT OF TAX CREDITS NECESSARY TO ATTRACT**  
9 **NEW FILM PRODUCTION ACTIVITY TO THE STATE.**

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

12                    (i)    for fiscal year 2014, \$25,000,000;

13                    (ii)   for fiscal year 2015, \$7,500,000; ~~and~~

14                    (iii)  for fiscal year 2016, \$7,500,000; ~~AND.~~

15                    ~~(IV)   FOR FISCAL YEAR 2017, \$25,000,000; \$20,000,000.~~

16                    ~~(V)    FOR FISCAL YEAR 2018, \$25,000,000; AND~~

17                    ~~(VI)   FOR FISCAL YEAR 2019, \$25,000,000.~~

18          (2)    If the aggregate credit amounts under the tax credit certificates issued  
19 by the Secretary total less than the maximum provided under paragraph (1) of this  
20 subsection in any fiscal year, any excess amount may be carried forward and issued under  
21 tax credit certificates in a subsequent fiscal year.

22          **(G)   (1)   IN THIS SUBSECTION, “RESERVE FUND” MEANS THE MARYLAND**  
23 **FILM PRODUCTION ACTIVITY TAX CREDIT RESERVE FUND ESTABLISHED UNDER**  
24 **PARAGRAPH (2) OF THIS SUBSECTION.**

25          **(2)   (I)   THERE IS A MARYLAND FILM PRODUCTION ACTIVITY TAX**  
26 **CREDIT RESERVE FUND THAT IS A SPECIAL CONTINUING, NONLAPSING FUND THAT**  
27 **IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

28          **(II)   THE MONEY IN THE RESERVE FUND SHALL BE INVESTED**  
29 **AND REINVESTED BY THE TREASURER, AND INTEREST AND EARNINGS SHALL BE**  
30 **CREDITED TO THE GENERAL FUND.**

1           **(3) (i) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE**  
2 **SECRETARY SHALL ISSUE AN INITIAL TAX CREDIT CERTIFICATE FOR THE TOTAL**  
3 **DIRECT COSTS INCURRED BY A FILM PRODUCTION ENTITY THAT QUALIFIES FOR A**  
4 **TAX CREDIT.**

5           **(ii) AN INITIAL TAX CREDIT CERTIFICATE ISSUED UNDER THIS**  
6 **SUBSECTION SHALL STATE THE MAXIMUM AMOUNT OF TAX CREDIT FOR WHICH THE**  
7 **FILM PRODUCTION ENTITY IS ELIGIBLE.**

8           **(iii) 1. EXCEPT AS OTHERWISE PROVIDED IN THIS**  
9 **SUBPARAGRAPH, FOR ANY FISCAL YEAR, THE SECRETARY MAY NOT ISSUE INITIAL**  
10 **TAX CREDIT CERTIFICATES FOR CREDIT AMOUNTS IN THE AGGREGATE TOTALING**  
11 **MORE THAN THE AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL**  
12 **YEAR IN THE STATE BUDGET AS APPROVED BY THE GENERAL ASSEMBLY.**

13           **2. IF THE AGGREGATE CREDIT AMOUNTS UNDER INITIAL**  
14 **TAX CREDIT CERTIFICATES ISSUED IN A FISCAL YEAR TOTAL LESS THAN THE**  
15 **AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR, ANY**  
16 **EXCESS AMOUNT SHALL REMAIN IN THE RESERVE FUND AND MAY BE ISSUED UNDER**  
17 **INITIAL TAX CREDIT CERTIFICATES FOR THE NEXT FISCAL YEAR.**

18           **3. FOR ANY FISCAL YEAR, IF FUNDS ARE TRANSFERRED**  
19 **FROM THE RESERVE FUND UNDER THE AUTHORITY OF ANY PROVISION OF LAW**  
20 **OTHER THAN UNDER PARAGRAPH (4) OF THIS SUBSECTION, THE MAXIMUM CREDIT**  
21 **AMOUNTS IN THE AGGREGATE FOR WHICH THE SECRETARY MAY ISSUE INITIAL TAX**  
22 **CREDIT CERTIFICATES SHALL BE REDUCED BY THE AMOUNT TRANSFERRED.**

23           **(iv) FOR FISCAL YEAR ~~2018~~ 2017 AND EACH FISCAL YEAR**  
24 **THEREAFTER, IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE GOVERNOR**  
25 **INCLUDE IN THE BUDGET BILL AN APPROPRIATION TO THE RESERVE FUND IN AN**  
26 **AMOUNT EQUAL TO THE AMOUNT THE DEPARTMENT REPORTS AS NECESSARY**  
27 **UNDER SUBSECTION (E)(2) OF THIS SECTION TO:**

28           **1. MAINTAIN THE CURRENT LEVEL OF FILM**  
29 **PRODUCTION ACTIVITY IN THE STATE; AND**

30           **2. ATTRACT NEW FILM PRODUCTION ACTIVITY TO THE**  
31 **STATE.**

32           **(v) NOTWITHSTANDING THE PROVISIONS OF § 7-213 OF THE**  
33 **STATE FINANCE AND PROCUREMENT ARTICLE, THE GOVERNOR MAY NOT REDUCE**  
34 **AN APPROPRIATION TO THE RESERVE FUND IN THE STATE BUDGET AS APPROVED**  
35 **BY THE GENERAL ASSEMBLY.**

1                   **(VI) BASED ON THE ACTUAL AMOUNT OF TOTAL DIRECT COSTS**  
2 **INCURRED BY A FILM PRODUCTION ENTITY, THE SECRETARY SHALL ISSUE A FINAL**  
3 **TAX CREDIT CERTIFICATE TO THE FILM PRODUCTION ENTITY.**

4                   **(4) (I) EXCEPT AS PROVIDED IN THIS PARAGRAPH, MONEY**  
5 **APPROPRIATED TO THE RESERVE FUND SHALL REMAIN IN THE FUND.**

6                   **(II) 1. WITHIN 15 DAYS AFTER THE END OF EACH CALENDAR**  
7 **QUARTER, THE DEPARTMENT SHALL NOTIFY THE COMPTROLLER AS TO EACH FINAL**  
8 **CREDIT CERTIFICATE ISSUED DURING THE QUARTER:**

9                   **A. THE MAXIMUM CREDIT AMOUNT STATED IN THE**  
10 **INITIAL TAX CREDIT CERTIFICATE FOR THE FILM PRODUCTION ENTITY; AND**

11                   **B. THE FINAL CERTIFIED CREDIT AMOUNT FOR THE**  
12 **FILM PRODUCTION ENTITY.**

13                   **2. ON NOTIFICATION THAT A FINAL CREDIT AMOUNT**  
14 **HAS BEEN CERTIFIED, THE COMPTROLLER SHALL TRANSFER AN AMOUNT EQUAL TO**  
15 **THE CREDIT AMOUNT STATED IN THE INITIAL TAX CREDIT CERTIFICATE FOR THE**  
16 **FILM PRODUCTION ENTITY FROM THE RESERVE FUND TO THE GENERAL FUND.**

17                   **(G) (H) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A**  
18 **QUALIFIED FILM PRODUCTION ENTITY THAT RECEIVES A TAX CREDIT CERTIFICATE**  
19 **UNDER THIS SECTION FOR A FILM PRODUCTION ACTIVITY SHALL INCLUDE:**

20                   **(I) FOR A FEATURE FILM PROJECT, A 5-SECOND LONG STATIC**  
21 **OR ANIMATED LOGO THAT PROMOTES THE STATE IN THE END CREDITS BEFORE THE**  
22 **BELOW-THE-LINE CREW CRAWL FOR THE LIFE OF THE PROJECT AND A LINK TO THE**  
23 **STATE'S WEB SITE ON THE PROJECT'S WEB SITE;**

24                   **(II) FOR A TELEVISION SERIES PROJECT, AN EMBEDDED**  
25 **5-SECOND LONG STATIC OR ANIMATED LOGO THAT PROMOTES THE STATE DURING**  
26 **EACH BROADCAST WORLDWIDE FOR THE LIFE OF THE PROJECT AND A LINK TO THE**  
27 **STATE'S WEB SITE ON THE PROJECT'S WEB SITE; OR**

28                   **(III) FOR ANY OTHER PROJECT, THE STATE LOGO AT THE END OF**  
29 **EACH PROJECT AND IN ONLINE PROMOTIONS.**

30                   **(2) IN LIEU OF INCLUDING A STATE LOGO AS REQUIRED UNDER**  
31 **PARAGRAPH (1) OF THIS SUBSECTION, THE QUALIFIED FILM PRODUCTION ENTITY**  
32 **MAY OFFER ALTERNATIVE MARKETING OPPORTUNITIES TO BE EVALUATED BY THE**  
33 **DEPARTMENT TO ENSURE THAT THOSE OPPORTUNITIES OFFER EQUAL OR GREATER**  
34 **PROMOTIONAL VALUE TO THE STATE.**

1 [(g)] ~~(H)~~ (I) The Department and the Comptroller jointly shall adopt regulations to  
 2 carry out the provisions of this section and to specify criteria and procedures for the  
 3 application for, approval of, and monitoring of continuing eligibility for the tax credit under  
 4 this section.

5 **Chapter 516 of the Acts of 2011, as amended by Chapter 28 of the Acts of 2013**

6 SECTION 2. AND BE IT FURTHER ENACTED, That the film production activity  
 7 tax credit under § 10-730 of the Tax – General Article as enacted by this Act shall take  
 8 effect July 1, 2011, and shall be applicable to all taxable years beginning after December  
 9 31, 2010. ~~The film production activity tax credit under § 10-730 of the Tax – General Article~~  
 10 ~~as enacted by this Act shall remain effective for a period of [5] 8 years and, at the end of~~  
 11 ~~June 30, [2016] 2019, with no further action required by the General Assembly, shall be~~  
 12 ~~abrogated and of no further force and effect. The Secretary of Business and Economic~~  
 13 ~~Development may not issue film production activity tax credit certificates under § 10-730~~  
 14 ~~of the Tax – General Article for any fiscal year beginning on or after July 1, [2016] 2019.~~

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
 16 1, 2015, and shall be applicable to all film production activity tax credit certificates issued  
 17 after December 31, 2014.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.