

1 SENATE BILL 390

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Jeff Steinborn

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10 AN ACT

11 RELATING TO TAXATION; CHANGING THE DEFINITION OF "QUALIFIED
12 PRODUCTION FACILITY" AS IT APPLIES TO THE FILM PRODUCTION TAX
13 CREDIT.

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 7-2F-2 NMSA 1978 (being Laws 2003,
17 Chapter 127, Section 2, as amended) is amended to read:

18 "7-2F-2. DEFINITIONS.--As used in the Film Production Tax
19 Credit Act:

20 A. "affiliated person" means a person who directly
21 or indirectly owns or controls, is owned or controlled by or is
22 under common ownership or control with another person through
23 ownership of voting securities or other ownership interests
24 representing a majority of the total voting power of the
25 entity;

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underscored material = new
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1 B. "background artist" means a person who is not a
2 performing artist but is a person of atmospheric business whose
3 work includes atmospheric noise, normal actions, gestures and
4 facial expressions of that person's assignment; or a person of
5 atmospheric business whose work includes special abilities that
6 are not stunts; or a substitute for another actor, whether
7 photographed as a double or acting as a stand-in;

8 C. "commercial audiovisual product" means a film or
9 a [~~videogame~~] video game intended for commercial exploitation;

10 D. "division" means the New Mexico film division of
11 the economic development department;

12 E. "federal new markets tax credit program" means
13 the tax credit program codified as Section 45D of the United
14 States Internal Revenue Code of 1986, as amended;

15 F. "film" means a single medium or multimedia
16 program, excluding advertising messages other than national or
17 regional advertising messages intended for exhibition, that:

18 (1) is fixed on film, a digital medium,
19 videotape, computer disc, laser disc or other similar delivery
20 medium;

21 (2) can be viewed or reproduced;

22 (3) is not intended to and does not violate a
23 provision of Chapter 30, Article 37 NMSA 1978; and

24 (4) is intended for reasonable commercial
25 exploitation for the delivery medium used;

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1 G. "fiscal year" means the state fiscal year
2 beginning on July 1;

3 H. "industry crew" means a person in a position
4 that is off-camera and who provides technical services during
5 the physical production of a film. "Industry crew" does not
6 include a writer, director, producer, background artist or
7 performing artist;

8 I. "New Mexico resident" means an individual who is
9 domiciled in this state during any part of the taxable year or
10 an individual who is physically present in this state for one
11 hundred eighty-five days or more during the taxable year; but
12 any individual, other than someone who was physically present
13 in the state for one hundred eighty-five days or more during
14 the taxable year and who, on or before the last day of the
15 taxable year, changed the individual's place of abode to a
16 place without this state with the bona fide intention of
17 continuing actually to abide permanently without this state is
18 not a resident for the purposes of the Film Production Tax
19 Credit Act for periods after that change of abode;

20 J. "performing artist" means an actor, on-camera
21 stuntperson, puppeteer, pilot who is a stuntperson or actor,
22 specialty foreground performer or narrator; and who speaks a
23 line of dialogue, is identified with the product or reacts to
24 narration as assigned. "Performing artist" does not include a
25 background artist;

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1 K. "personal services business" means a business
2 organization, with or without physical presence, that receives
3 payments pursuant to the Film Production Tax Credit Act for the
4 services of a performing artist;

5 L. "physical presence" means a physical address in
6 New Mexico from which a vendor conducts business, stores
7 inventory or otherwise creates, assembles or offers for sale
8 the product purchased or leased by a film production company
9 and the business owner or an employee of the business is a
10 resident;

11 M. "postproduction expenditure" means an
12 expenditure for editing, Foley recording, automatic dialogue
13 replacement, sound editing, special effects, including
14 computer-generated imagery or other effects, scoring and music
15 editing, beginning and end credits, negative cutting,
16 soundtrack production, dubbing, subtitling or addition of sound
17 or visual effects; but not including an expenditure for
18 advertising, marketing, distribution or expense payments;

19 N. "principal photography" means the production of
20 a film during which the main visual elements are created; and

21 O. "qualified production facility" means a
22 building, or complex of buildings, building improvements and
23 associated back-lot facilities in which films are or are
24 intended to be regularly produced and that contain at least
25 one:

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(1) sound stage with contiguous, clear-span floor space of at least seven thousand square feet and a ceiling height of no less than twenty-one feet; or

(2) standing set that includes at least one interior, and at least five exteriors, built or ~~[re-purposed]~~ repurposed for film production use on a continual basis and is located on at least ~~[fifty]~~ forty-five acres of contiguous space designated for film production use."