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AN ACT

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

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

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

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

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

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

C. "commercial audiovisual product" means a film

1 or a video game intended for commercial exploitation;

2 D. "division" means the New Mexico film division  
3 of the economic development department;

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

7 F. "film" means a single medium or multimedia  
8 program, excluding advertising messages other than national  
9 or regional advertising messages intended for exhibition,  
10 that:

11 (1) is fixed on film, a digital medium,  
12 videotape, computer disc, laser disc or other similar  
13 delivery medium;

14 (2) can be viewed or reproduced;

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

17 (4) is intended for reasonable commercial  
18 exploitation for the delivery medium used;

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

21 H. "industry crew" means a person in a position  
22 that is off-camera and who provides technical services during  
23 the physical production of a film. "Industry crew" does not  
24 include a writer, director, producer, background artist or  
25 performing artist;

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

14           J. "performing artist" means an actor, on-camera  
15 stuntperson, puppeteer, pilot who is a stuntperson or actor,  
16 specialty foreground performer or narrator; and who speaks a  
17 line of dialogue, is identified with the product or reacts to  
18 narration as assigned. "Performing artist" does not include  
19 a background artist;

20           K. "personal services business" means a business  
21 organization, with or without physical presence, that  
22 receives payments pursuant to the Film Production Tax Credit  
23 Act for the services of a performing artist;

24           L. "physical presence" means a physical address in  
25 New Mexico from which a vendor conducts business, stores

1 inventory or otherwise creates, assembles or offers for sale  
2 the product purchased or leased by a film production company  
3 and the business owner or an employee of the business is a  
4 resident;

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

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

15 O. "qualified production facility" means a  
16 building, or complex of buildings, building improvements and  
17 associated back-lot facilities in which films are or are  
18 intended to be regularly produced and that contain at least  
19 one:

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

23 (2) standing set that includes at least one  
24 interior, and at least five exteriors, built or repurposed  
25 for film production use and is located on at least forty-five

1 acres of contiguous space designated for film production

2 use."

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Page 5

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