

House Bill 285

By: Representatives Stephens of the 164th and England of the 116th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-7-40.26 of the Official Code of Georgia Annotated, relating to
2 an income tax credit for film, video, or digital production in Georgia, so as to change certain
3 qualifications for such credit; to provide for related matters; to provide for an effective date;
4 to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Code Section 48-7-40.26 of the Official Code of Georgia Annotated, relating to an income
8 tax credit for film, video, or digital production in Georgia, is amended by revising paragraphs
9 (5) and (8) of subsection (b), and subsection (c), as follows:

10 "(5) 'Production expenditures' means preproduction, production, and postproduction
11 expenditures incurred in this state that are directly used in a qualified production activity,
12 including without limitation the following: set construction and operation; wardrobes,
13 make-up, accessories, and related services; costs associated with photography and sound
14 synchronization, expenditures excluding license fees incurred with Georgia companies
15 for sound recordings and musical compositions, lighting, and related services and
16 materials; editing and related services; rental of facilities and equipment; leasing of
17 vehicles; costs of food and lodging; digital or tape editing, film processing, transfers of
18 film to tape or digital format, sound mixing, computer graphics services, special effects
19 services, and animation services; total aggregate payroll; airfare, if purchased through a
20 Georgia travel agency or travel company; insurance costs and bonding, if purchased
21 through a Georgia insurance agency; and other direct costs of producing the project in
22 accordance with generally accepted entertainment industry practices. This term shall not
23 include ~~postproduction expenditures for footage shot outside the State of Georgia,~~
24 marketing, story rights, or distribution, but shall not affect other qualified story rights.
25 This term includes payments to a loan-out company by a production company or
26 qualified interactive entertainment production company that has met its withholding tax

27 obligations as set out below. The production company or qualified interactive
28 entertainment production company shall withhold Georgia income tax at the rate of 6
29 percent on all payments to loan-out companies for services performed in Georgia. Any
30 amounts so withheld shall be deemed to have been withheld by the loan-out company on
31 wages paid to its employees for services performed in Georgia pursuant to Article 5 of
32 Chapter 7 of this title notwithstanding the exclusion provided in subparagraph (K) of
33 paragraph (10) of Code Section 48-7-100. The amounts so withheld shall be allocated
34 to the loan-out company's employees based on the payments made to the loan-out
35 company's employees for services performed in Georgia. For purposes of this chapter,
36 loan-out company nonresident employees performing services in Georgia shall be
37 considered taxable nonresidents and the loan-out company shall be subject to income
38 taxation in the taxable year in which the loan-out company's employees perform services
39 in Georgia, notwithstanding any other provisions in this chapter. Such withholding
40 liability shall be subject to penalties and interest in the same manner as the employee
41 withholding taxes imposed by Article 5 of Chapter 7 of this title and the commissioner
42 shall provide by regulation the manner in which such liability shall be assessed and
43 collected."

44 "(8) 'Qualified production activities' means the production of new film, video, or digital
45 projects produced in this state and approved by the Department of Economic
46 Development, including only the following: feature films, series, pilots, movies for
47 television, televised commercial advertisements, music videos, interactive entertainment
48 or sound recording projects used in feature films, series, pilots, or movies for television.
49 Such activities shall include projects recorded in this state, in whole or in part, in either
50 short or long form, animation and music, fixed on a delivery system which includes
51 without limitation film, videotape, computer disc, laser disc, and any element of the
52 digital domain, from which the program is viewed or reproduced, and which is intended
53 for multimarket commercial distribution via theaters, video on demand, direct to DVD,
54 digital platforms designed for the distribution of interactive games, licensing for
55 exhibition by individual television stations, groups of stations, networks, advertiser
56 supported sites, cable television stations, or public broadcasting stations. Such term shall
57 not include the coverage of news and athletic events, local interest programming,
58 instructional videos, corporate videos, or projects not ~~shot, recorded, or~~ originally created
59 in Georgia."

60 "(c) For any production company or qualified interactive entertainment production
61 company and its affiliates that invest in a state certified production approved by the
62 Department of Economic Development and whose average annual total production
63 expenditures in this state did not exceed \$30 million for 2002, 2003, and 2004, there shall

64 be allowed an income tax credit against the tax imposed under this article. The tax credit
 65 under this subsection shall be allowed if the base investment in this state equals or exceeds
 66 ~~\$500,000.00~~ \$250,000.00 for qualified production activities and shall be calculated as
 67 follows:

68 (1) The production company or qualified interactive entertainment production company
 69 shall be allowed a tax credit equal to 20 percent of the base investment in this state; and

70 (2)(A) The production company or qualified interactive entertainment production
 71 company shall be allowed an additional tax credit equal to 10 percent of such base
 72 investment if the qualified production activity includes a qualified Georgia promotion.

73 In lieu of the inclusion of the Georgia promotional logo, the production company or
 74 qualified interactive entertainment production company may offer alternative marketing
 75 opportunities to be evaluated by the Department of Economic Development to ensure
 76 that they offer equal or greater promotional value to the State of Georgia.

77 (B) The Department of Economic Development shall prepare an annual report detailing
 78 the marketing opportunities it has approved under the provisions of subparagraph (A)
 79 of this paragraph. The report shall include, but not be limited to:

80 (i) The goals and strategy behind each marketing opportunity approved pursuant to
 81 the provisions of subparagraph (A) of this paragraph;

82 (ii) The names of all production companies approved by the Department of Economic
 83 Development to provide alternative marketing opportunities;

84 (iii) The estimated value to the state of each approved alternative marketing
 85 opportunity compared to the estimated value of the Georgia promotional logo; and

86 (iv) The names of all production companies who chose to include the Georgia
 87 promotional logo in their final production instead of offering the state an alternative
 88 marketing proposal.

89 The report required under this ~~paragraph~~ subparagraph shall be completed no later than
 90 January 1 of each year and presented to each member of the House Committee on Ways
 91 and Means, the Senate Finance Committee, the Senate Economic Development
 92 Committee, the House Committee on Economic Development and Tourism, and the
 93 Governor."

94 **SECTION 2.**

95 This Act shall become effective upon its approval by the Governor or upon its becoming law
 96 without such approval.

97 **SECTION 3.**

98 All laws and parts of laws in conflict with this Act are repealed.