

The Senate Committee on Finance offers the following substitute to HB 339:

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the imposition, rate, and computation of state income taxes, so as to extend the tax credit for film, video, or digital production in this state; to provide for an application process for claiming tax credit; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the imposition, rate, and computation of state income taxes, is amended by revising subsection (e) of Code Section 48-7-40.26, relating to the tax credit for film, video, or digital production in this state, as follows:

"(e)(1) In no event shall the aggregate amount of tax credits allowed under this Code section for qualified interactive entertainment production companies and affiliates exceed \$25 million for taxable years beginning on or after January 1, 2013, and before January 1, 2014. The maximum credit for any qualified interactive entertainment production company and its affiliates shall be \$5 million for such taxable year. When the \$25 million cap is reached, the tax credit for qualified interactive entertainment production companies shall expire for such taxable years.

(2) For taxable years beginning on or after January 1, 2014, and before January 1, 2015, the amount of tax credits allowed under this Code section for qualified interactive entertainment production companies and affiliates shall not exceed \$12.5 million.

(3) For taxable years beginning on or after January 1, 2015, and before January 1, 2016, the amount of tax credits allowed under this Code section for qualified interactive entertainment production companies and affiliates shall not exceed \$12.5 million.

~~(4) The tax credits allowed under this Code section for qualified interactive entertainment production companies and affiliates shall not be available for taxable years~~

~~beginning on or after January 1, 2016~~ For taxable years beginning on or after January 1, 2016, and before January 1, 2019, the amount of tax credits allowed under this Code section for qualified interactive entertainment production companies and affiliates shall not exceed \$12.5 million for each taxable year. The tax credits allowed under this Code section for qualified interactive entertainment production companies and affiliates shall not be available for taxable years beginning on or after January 1, 2019.

(5) The maximum allowable credit claimed for any qualified interactive entertainment production company and its affiliates shall not exceed \$1.5 million in any single year.

~~(6) The commissioner shall allow the tax credits for qualified interactive entertainment production companies on a first come, first served basis based on the date the credits are claimed.~~ Qualified interactive entertainment production companies seeking to claim a tax credit under the provisions of this Code section shall submit an application to the commissioner for preapproval of such tax credit. The commissioner shall be authorized to promulgate any rules and regulations and forms necessary to implement and administer the provisions of this Code section. The commissioner shall preapprove the tax credits based on the order in which properly completed applications were submitted. In the event that two or more applications were submitted on the same day and the amount of funds available will not be sufficient to fully fund the tax credits requested, the commissioner shall prorate the available funds between or among the applicants.

(7) No qualified interactive entertainment production company shall be allowed to claim an amount of tax credits under this Code section for any single year in excess of its total aggregate payroll expended to employees working within this state for the calendar year directly preceding the start of the year the qualified interactive entertainment production company claims the tax credits. Any amount in excess of such limit shall not be eligible for carry forward to the succeeding years' tax liability, nor shall such excess amount be eligible for use against the qualified interactive entertainment production company's quarterly or monthly payment under Code Section 48-7-103, nor shall such excess amount be assigned, sold, or transferred to any other taxpayer.

(8) Before the Department of Economic Development issues its approval to the qualified interactive entertainment production company for the qualified production activities related to interactive entertainment, the qualified interactive entertainment production company must certify to the department that:

(A) The qualified interactive entertainment production company maintains a business location physically located in this state; and

(B) The qualified interactive entertainment production company had expended a total aggregate payroll of \$500,000.00 or more for employees working within this state

during the calendar year directly preceding the start of the taxable year of the qualified interactive entertainment production company.

The department shall issue a certification that the qualified interactive entertainment production company meets the requirements of this paragraph; provided, however, that the department shall not issue any certifications before July 1, 2014. The qualified interactive entertainment production company shall provide such certification to the Department of Economic Development. The Department of Economic Development shall not issue its approval until it receives such certification.

(9)(A) For taxable years beginning on or after January 1, 2016, and before January 1, 2019, the qualified interactive entertainment production company shall report to the Department of Revenue on its Georgia income tax return the monthly average number of full-time employees subject to Georgia income tax withholding for the taxable year as provided in subparagraphs (B) and (C) of this paragraph. For purposes of this paragraph, a full-time employee shall mean a person who performs a job that requires a minimum of 35 hours a week, and pays at or above the average wage earned in the county with the lowest average wage earned in this state, as reported in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor.

(B) For taxable years beginning on or after January 1, 2016, and before January 1, 2017, the qualified interactive entertainment production company shall report such number for such taxable year and separately for each of the prior two taxable years.

(C) For taxable years beginning on or after January 1, 2017, and before January 1, 2019, the qualified interactive entertainment production company shall report such number for each respective taxable year.

(D) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, for such taxable years, the commissioner shall report yearly to the House Committee on Ways and Means and the Senate Finance Committee. The report shall include the name, tax year beginning, and monthly average number of full-time employees for each qualified interactive entertainment production company. The first report shall be submitted by June 30, 2016, and each year thereafter by June 30."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall be applicable to tax years beginning on or after January 1, 2016.

97

SECTION 3.

98

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