

House Bill 1180

By: Representatives Carpenter of the 4th, Williamson of the 112th, Blackmon of the 146th,
Martin of the 49th, Buckner of the 137th, and others

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 income tax credits for film, gaming, video, or digital production, so as to revise a definition;
3 to increase the base investment required for a qualified production company to qualify for
4 a credit; to provide for a maximum amount of credits that may be transferred each year; to
5 provide for proration for transferability of credits under certain circumstances; to extend the
6 carry-forward period for the amount by which a credit is prorated; to provide for the
7 circumstances under which a company qualifies for an additional credit; to authorize certain
8 fees; to require companies to pay court costs if the denial of certification is upheld by a court
9 on appeal; to provide for an application requirement; to provide for related matters; to
10 provide for an effective date and applicability; to repeal conflicting laws; and for other
11 purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Code Section 48-7-40.26 of the Official Code of Georgia Annotated, relating to income tax
15 credits for film, gaming, video, or digital production, is amended by revising paragraph (2)
16 of subsection (b) as follows:

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43 ~~section, if the qualified production activity includes a qualified Georgia promotion.~~
44 ~~Such additional tax credit shall be allowed for any qualified production that includes~~
45 ~~a qualified Georgia promotion upon its release to the general public. In lieu of the~~
46 ~~inclusion of the Georgia promotional logo, the production company or qualified~~
47 ~~interactive entertainment production company may offer alternative marketing~~
48 ~~opportunities to be evaluated by the Department of Economic Development to ensure~~
49 ~~that they offer equal or greater promotional value to the State of Georgia. The~~
50 ~~Department of Economic Development shall electronically certify to the Department~~
51 ~~of Revenue when the requirements of this subparagraph and paragraph (2) of subsection~~
52 ~~(d) of this Code section have been met. state certified production meets at least four of~~
53 ~~the following criteria:~~

- 54 ~~(i) At least 50 percent of its crew performing services in this state are Georgia~~
55 ~~residents;~~
- 56 ~~(ii) At least 50 percent of its vendors providing goods or services in this state are~~
57 ~~Georgia vendors;~~
- 58 ~~(iii) It incurs at least \$30 million of production expenditures in this state;~~
- 59 ~~(iv) At least 50 percent of its photography days occur in one or more rural counties~~
60 ~~as such term is defined in Code Section 48-7-40.17;~~
- 61 ~~(v) At least 50 percent of its total photography days in studio facilities are in studio~~
62 ~~facilities in this state, including, but not limited to, soundstages and backlots, or, with~~
63 ~~respect to such production, the company makes capital improvements to a studio~~
64 ~~facility in this state that are in a form and manner approved by the Department of~~
65 ~~Economic Development based on the value of the capital improvements relative to the~~
66 ~~amount of tax credit sought;~~
- 67 ~~(vi) At least 50 percent of its total photography days in studio facilities are in studio~~
68 ~~facilities in this state, or, with respect to such production, the company enters into a~~
69 ~~long-term lease with a studio facility in this state in a scope and duration approved by~~

70 the Department of Economic Development based on the value of the lease relative to
71 the amount of tax credit sought;

72 (vii) The company agrees to contract with Georgia vendors for 20 percent of such
73 production's postproduction expenditures or contracts with Georgia vendors for 20
74 percent of such production's visual effects expenditures;

75 (viii) The company participates in at least one Georgia workforce development
76 program, including, but not limited to, a Georgia Film Academy program; or

77 (ix) It includes a qualified Georgia promotion, or the company engages in alternative
78 marketing opportunities approved by the Department of Economic Development
79 based on a determination that such activities offer promotional value to the state
80 equal to or greater than the promotional value of a qualified Georgia promotion.

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

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

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

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

90 (iv) The names of all production companies ~~who~~ that chose to include the Georgia
91 promotional logo in their final production instead of offering the state an alternative
92 marketing proposal.

93 The report required under this ~~paragraph~~ subparagraph shall be completed no later than
94 January 1 of each year and presented to each member of the House Committee on Ways
95 and Means, the Senate Finance Committee, the Senate Economic Development and

96 Tourism Committee, the House Committee on Economic Development and Tourism,
97 and the Governor.

98 (C) The additional percentage of tax credit allowed by this paragraph and by paragraph
99 (2) of subsection (d) of this Code section shall not be allowed to a production company
100 for any qualified production activity or state certified production that has not been
101 commercially distributed in multiple markets.

102 (D) The additional percentage of tax credit that is allowed by this paragraph and by
103 paragraph (2) of subsection (d) of this Code section shall not be issued final
104 certification pursuant to subsection (l) of this Code section unless and until the state
105 certified production has been commercially distributed in multiple markets within five
106 years of the date that the project was first certified by the Department of Economic
107 Development.

108 (3) The base investment and the amount of the credit allowed by this subsection and by
109 subsection (d) of this Code section with respect to a production company shall be subject
110 to the limitations of and any reductions required by subsection (l) of this Code section.

111 (d) For any production company or qualified interactive entertainment production
112 company and its affiliates that invest in a state certified production approved by the
113 Department of Economic Development and whose average annual total production
114 expenditures in this state exceeded \$30 million for 2002, 2003, and 2004, there shall be
115 allowed an income tax credit against the tax imposed under this article. For purposes of
116 this subsection, the excess base investment in this state is computed by taking the current
117 year production expenditures in a state certified production and subtracting the average of
118 the annual total production expenditures for 2002, 2003, and 2004. The tax credit shall be
119 calculated as follows:

120 (1) If the excess base investment in this state equals or exceeds ~~\$500,000.00~~ \$1 million,
121 or \$250,000.00 for qualified interactive entertainment production activities on or after
122 January 1, 2018, the production company or qualified interactive entertainment

123 production company and its affiliates shall be allowed a tax credit of 20 percent of such
124 excess base investment; and

125 ~~(2)(A) The production company or qualified interactive entertainment production~~
126 ~~company and its affiliates shall be allowed an additional tax credit equal to 10 percent of~~
127 ~~the excess base investment if the qualified production activities include a qualified~~
128 ~~Georgia promotion. Such additional tax credit shall be allowed for any qualified~~
129 ~~production that includes a qualified Georgia promotion upon its release to the general~~
130 ~~public. In lieu of the inclusion of the Georgia promotional logo, the production company~~
131 ~~or qualified interactive entertainment production company may offer marketing~~
132 ~~opportunities to be evaluated by the Department of Economic Development to ensure that~~
133 ~~they offer equal or greater promotional value to the State of Georgia state certified~~
134 ~~production meets at least four of the criteria provided in divisions (c)(2)(A)(i) through~~
135 ~~(c)(2)(A)(ix).~~

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

- 139 ~~(i) The goals and strategy behind each marketing opportunity approved pursuant to~~
140 ~~the provisions of subparagraph (A) of this paragraph;~~
141 ~~(ii) The names of all production companies approved by the Department of Economic~~
142 ~~Development to provide alternative marketing opportunities;~~
143 ~~(iii) The estimated value to the state of each approved alternative marketing~~
144 ~~opportunity compared to the estimated value of the Georgia promotional logo; and~~
145 ~~(iv) The names of all production companies who chose to include the Georgia~~
146 ~~promotional logo in their final production instead of offering the state an alternative~~
147 ~~marketing proposal.~~

148 ~~The report required under this paragraph shall be completed no later than January 1 of~~
149 ~~each year and presented to each member of the House Committee on Ways and Means;~~

150 ~~the Senate Finance Committee, the Senate Economic Development and Tourism~~
151 ~~Committee, the House Committee on Economic Development and Tourism, and the~~
152 ~~Governor."~~

153 **SECTION 3.**

154 Said Code section is further amended in subsection (g) by adding a new paragraph to read
155 as follows:

156 "(g) Any tax credits with respect to a state certified production earned by a production
157 company or qualified interactive entertainment production company and previously
158 claimed but not used by such production company or qualified interactive entertainment
159 production company against its income tax may be transferred or sold in whole or in part
160 by such production company or qualified interactive entertainment production company
161 to another Georgia taxpayer; provided, however, that such transfers and sales shall be
162 subject to the following conditions:

163 (0.1)(A) The total amount of such transfers or sales in a calendar year shall not exceed
164 an amount equal to 2.5 percent of the Governor's revenue estimate for the
165 corresponding fiscal year.

166 (B) If the total amount of credits earned and claimed but not used in a calendar year
167 exceeds the maximum amount of credits allowed for transfer or sale pursuant to
168 subparagraph (A) of this paragraph, the commissioner shall prorate the amount of each
169 earned and claimed but unused credit that may be transferred for such year.

170 (C) Any amount of a credit that has been earned and claimed but has not been used by
171 a production company or qualified interactive entertainment production company and
172 is prorated pursuant to subparagraph (B) of this paragraph may be used by such
173 company against its own tax liability as provided for in this Code section or transferred
174 or sold pursuant to this subsection in the following calendar year. Any amount of such
175 a credit that such company elects to transfer or sale in the following calendar year shall

176 count toward the maximum amount allowed for transfer or sale pursuant to
177 subparagraph (A) of this paragraph in such year and shall not be subject to proration as
178 provided for in subparagraph (B) of this paragraph.
179 (D) The carry-forward period as provided for in paragraph (5) of subsection (h.1) for
180 any amount of a credit that is prorated pursuant to subparagraph (B) of this paragraph
181 shall be extended by one year for such amount."

182 **SECTION 4.**

183 Said Code section is further amended by revising paragraph (2) of subsection (h) as follows:

184 "(2) In the initial year in which the production company or qualified interactive
185 entertainment production company claims the credit granted in this Code section, the
186 production company or qualified interactive entertainment production company shall
187 include in the description of the qualified production activities required by
188 subparagraph (A) of paragraph (1) of this subsection information which demonstrates that
189 the activities included in the base investment or excess base investment equal or
190 exceed ~~\$500,000.00~~ \$1 million during such year, or \$250,000.00 on or after
191 January 1, 2018, for qualified interactive entertainment production companies; and"

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193 **SECTION 5.**

194 Said Code section is further amended in paragraph (2) of subsection (h.1) by redesignating
195 subparagraphs (I) and (J) as (J) and (K), respectively, and by adding a new subparagraph (I)
196 to read as follows:

197 "(I) For any projects certified by the Department of Economic Development on or after
198 January 1, 2026, a description of the status of satisfying the requirements of
199 subparagraph (c)(2)(A) or paragraph (2) of subsection (d) if the total amount of the tax
200 credit sought for the state certified production includes the additional credit allowed in
201 subparagraph (c)(2)(A) or paragraph (2) of subsection (d);"

202 **SECTION 6.**

203 Said Code section is further amended by revising subsection (i) as follows:

204 "(i)(1) The Department of Economic Development shall:205 (A) Certify each production that qualifies ~~determine through the promulgation of rules~~
206 and regulations what projects qualify for the tax credits authorized under paragraph (1)
207 of subsection (c) of this Code section and paragraph (1) of subsection (d) of this Code
208 section.;209 (B) Establish an approval process for any criteria that requires approval from the
210 Department of Economic Development as provided in divisions (c)(2)(A)(v), (vi), and
211 (ix) of this Code section;212 (C) Submit such certifications and approvals ~~Certification shall be submitted to the state~~
213 revenue commissioner; and214 (D) Promulgate rules and regulations as are necessary to implement this subsection.215 (2) The Department of Economic Development may charge reasonable fees associated
216 with the certification process established pursuant to this paragraph.217 (3) If the Department of Economic Development prevails in court in an appeal of the
218 denial of certification, the production company or interactive entertainment production
219 company shall pay all court costs."220 **SECTION 7.**221 This Act shall become effective on January 1, 2026, and shall be applicable to taxable years
222 beginning on or after such date.223 **SECTION 8.**

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