

House Bill 1126

By: Representatives Neal of the 79th and Carpenter of the 4th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,
2 relating to imposition, rate, computation, exemptions, and credits regarding income tax, so
3 as to create an income tax credit for certain expenditures by a production company related
4 to certain state certified productions; to provide for rules and regulations and an application
5 process related to such income tax credit; to provide for certain conditions, procedures, and
6 limitations; to provide for definitions; to provide a short title; to provide for related matters;
7 to provide for an effective date and automatic repeal; to repeal conflicting laws; and for other
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
12 imposition, rate, computation, exemptions, and credits regarding income tax, is amended by
13 revising Code Section 48-7-40.33, which is reserved, as follows:

14 "48-7-40.33.

15 (a) This Code section shall be known and may be cited as the 'Georgia Musical Investment
16 Act.'

17 (b) As used in this Code section, the term:

18 (1) 'Musical or theatrical performance' means a live performance of a concert, musical
19 tour, ballet, dance, opera, live variety entertainment, or a series of any such performances
20 occurring over the course of a 12 month period or longer that originates, is developed,
21 and has its initial public performance before a live audience within this state or that
22 prepares and rehearses a minimum of seven days within this state and has its United
23 States debut within this state. Such term excludes a single musical performance that is
24 not intended for touring, a music or cultural festival that is not intended for touring, an
25 industry seminar, a trade show, or a market.

26 (2) 'Production company' means a company primarily engaged in qualified production
27 activities. Such term shall not mean or include any form of business owned, affiliated,
28 or controlled, in whole or in part, by any company or person which is in default on any
29 tax obligation of the state, or a loan made by the state or a loan guaranteed by the state.

30 (3) 'Qualified production activities' means activities related to the preparation, planning,
31 recording, or staging of a state certified production.

32 (4) 'Qualified production expenditures' means expenditures incurred in this state on
33 direct account of qualified production activities for which a tax credit has not been
34 claimed pursuant to Code Section 48-7-40.26 and shall include, but are not limited to:

35 (A) Set construction and operation; wardrobe, make-up, accessories, and related
36 services; costs associated with photography and sound synchronization, expenditures
37 excluding license fees incurred with Georgia companies for sound recordings and
38 musical compositions, lighting, and related services and materials; editing and related
39 services; rental of facilities and equipment; leasing of vehicles; costs of food and
40 lodging; total aggregate payroll; talent and producer fees; technical fees; crew fees; per
41 diem costs paid to employees; airfare, if purchased through a Georgia travel agency or
42 travel company; insurance costs and bonding, if purchased through a Georgia insurance

43 agency; and other direct costs of producing the project in accordance with generally
44 accepted entertainment industry practices; and

45 (B) Payments to a loan-out company by a production company.

46 (5) 'Recorded musical performance' means a recording of a music composition affixed
47 in a tangible medium, which includes but is not limited to the score and musical
48 accompaniment of a motion picture, film, television, game, or interactive entertainment
49 production.

50 (6) 'Resident' shall have the same meaning as set forth in Code Section 48-7-1.

51 (7) 'State certified production' means a musical or theatrical performance or recorded
52 musical performance that is approved by the Department of Economic Development in
53 accordance with rules and regulations promulgated pursuant to this Code section.

54 (8) 'Total aggregate payroll' means the total sum expended by a production company on
55 salaries paid to employees working within this state in a state certified production or
56 productions. For purposes of this paragraph:

57 (A) With respect to a single employee, the portion of any salary which exceeds
58 \$500,000.00 for a single production shall not be included when calculating total
59 aggregate payroll; and

60 (B) All payments to a single employee and any legal entity in which the employee has
61 any direct or indirect ownership interest shall be considered as having been paid to the
62 employee and shall be aggregated regardless of the means of payment or distribution.

63 (c) A production company that invests in a state certified production shall be allowed an
64 income tax credit against the tax imposed under this article equal to 15 percent of such
65 production company's qualified production expenditures and an additional tax credit equal
66 to 5 percent for such production company's qualified production expenditures incurred in
67 a county designated as tier 1 or tier 2 by the commissioner of community affairs pursuant
68 to Code Section 48-7-40.

69 (d) The tax credits allowed under this Code section for all production companies shall be
70 subject to the following aggregate annual caps:

71 (1) For taxable years beginning on or after January 1, 2027, and before January 1, 2028,
72 the aggregate amount of tax credits allowed under this Code section shall not exceed \$2.5
73 million;

74 (2) For taxable years beginning on or after January 1, 2028, and before January 1, 2029,
75 the aggregate amount of tax credits allowed under this Code section shall not exceed \$5
76 million;

77 (3) For taxable years beginning on or after January 1, 2029, and before January 1, 2032,
78 the aggregate amount of tax credits allowed under this Code section shall not exceed \$7.5
79 million per year; and

80 (4) The tax credits allowed under this Code section shall not be available for taxable
81 years beginning on or after January 1, 2032.

82 (e)(1) The maximum allowable tax credit under this Code section claimed by a single
83 production company and its affiliates shall not exceed, in any single taxable year, 20
84 percent of the aggregate amount of tax credits available for such taxable year under
85 subsection (d) of this Code section, including the amount of any aggregate annual caps
86 rolled over from prior years.

87 (2) Production companies seeking to claim a tax credit under this Code section shall
88 submit an application to the department for preapproval of such tax credit. The
89 department shall preapprove the tax credits based on the order in which properly
90 completed applications were submitted. In the event that two or more applications were
91 submitted on the same day and the amount of funds available will not be sufficient to
92 fully fund the tax credits requested, the department shall prorate the available funds
93 between or among the applicants.

94 (f) The credit granted under this Code section shall be subject to the following conditions
95 and limitations:

96 (1) For each year in which the production company claims or transfers the credit, the
97 production company shall attach a schedule to the production company's Georgia income
98 tax return which will set forth the following information, as a minimum:

99 (A) A description of the qualified production expenditures showing categorized
100 spending, along with the certification from the Department of Economic Development;

101 (B) A detailed listing of employees' names, social security numbers, and Georgia
102 wages;

103 (C) The amount of tax credit claimed for the taxable year;

104 (D) Any tax credit previously taken by the production company against Georgia
105 income tax liabilities or the production company's quarterly or monthly payments under
106 Code Section 48-7-103;

107 (E) The amount of tax credit carried over from prior years;

108 (F) The amount of tax credit utilized by the production company in the current taxable
109 year; and

110 (G) The amount of tax credit to be carried over to subsequent tax years;

111 (2) Where the amount of tax credits under this Code section exceeds the production
112 company's income tax liability in a taxable year, any unused credit amount:

113 (A) May be carried forward for three years from the close of the taxable year in which
114 the investment occurred; or

115 (B) May be taken as a credit against such production company's quarterly or monthly
116 payment under Code Section 48-7-103. Each employee whose employer receives credit
117 against such production company's quarterly or monthly payment under Code Section
118 48-7-103 shall receive credit against his or her income tax liability under Code Section
119 48-7-20 for the corresponding taxable year for the full amount which would be credited
120 against such liability prior to the application of the credit provided for in this
121 subparagraph. Credits against quarterly or monthly payments under Code Section

122 48-7-103 and credits against liability under Code Section 48-7-20 established by this
123 subparagraph shall not constitute income to the production company.

124 No such credit shall be allowed the production company against prior years' tax liability;
125 and

126 (3) Any tax credits earned by a production company under this Code section and
127 previously claimed but not used by such production company against its income tax or
128 its monthly payment under Code Section 48-7-103 may be transferred or sold in whole
129 or in part by such production company to another Georgia taxpayer, subject to the
130 following conditions:

131 (A) Such production company may make only a single transfer or sale of tax credits
132 earned in a taxable year; however, the transfer or sale may involve one or more
133 transferees;

134 (B) Such production company shall submit to the Department of Economic
135 Development and to the Department of Revenue a written notification of any transfer
136 or sale of tax credits within 30 days after the transfer or sale of such tax credits. The
137 notification shall include such production company's tax credit balance prior to transfer,
138 the credit certificate number, the remaining balance after transfer, all tax identification
139 numbers for each transferee, the date of transfer, the amount transferred, and any other
140 information required by the Department of Economic Development or the Department
141 of Revenue;

142 (C) Failure to comply with this paragraph shall result in the disallowance of the tax
143 credit until the production company is in full compliance;

144 (D) The transfer or sale of this tax credit does not extend the time in which such tax
145 credit can be used. The carry-forward period for a tax credit that is transferred or sold
146 shall begin on the date on which the tax credit was originally earned;

147 (E) A transferee shall have only such rights to claim and use the tax credit that were
148 available to such production company at the time of the transfer, except for the use of

149 the credit in subparagraph (B) of paragraph (2) of this subsection. To the extent that
150 such production company did not have rights to claim or use the tax credit at the time
151 of the transfer, the Department of Revenue shall either disallow the tax credit claimed
152 by the transferee or recapture the tax credit from the transferee. The transferee's
153 recourse is against such production company; and
154 (F) Any production company claiming, transferring, or selling the tax credit shall be
155 required to reimburse the Department of Revenue for any department initiated audits
156 relating to the tax credit. This subparagraph shall not apply to routine tax audits of a
157 taxpayer that may include the review of the credit provided in this Code section.
158 (g) The Department of Economic Development shall determine through the promulgation
159 of rules and regulations which projects qualify for the tax credits authorized under this
160 Code section. Certification shall be submitted to the state revenue commissioner.
161 (h) The state revenue commissioner shall promulgate such rules and regulations as are
162 necessary to implement and administer this Code section. Reserved."

163 **SECTION 2.**

164 This Act shall become effective on January 1, 2027, and shall stand repealed on January 1,
165 2032.

166 **SECTION 3.**

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