

## LEGEND

Language to be put back in, from existing legislation

Proposed Language to be added to LD 1334

~~Language removed from LD 1334~~

**Sec. 2. 5 MRSA §13090-L, sub-§2-A, ¶F**, as enacted by PL 2009, c. 470, §1, is amended to read:

F. "Visual media production expense" means an expense directly incurred in this State for preproduction, production or postproduction of a visual media production certified under this section. "Visual media production expense" includes **wages and salaries of individuals employed in the production on which taxes have been paid or accrued if those wages do not exceed \$50,000- \$75,000 per individual and payments to a temporary employee-leasing company, as defined in Title 36, section 6901, subsection 3-A, and other contractual payments for the services of individuals working in the State if those payments do not exceed \$50,000 \$75,000 per individual providing services in the production.** "Visual media production expense" includes the cost of construction; operations; editing and related services; music, photography and film processing, including transferring film to tape or a digital format; sound recording, mixing and synchronization; lighting, makeup, wardrobe and accessories; **interstate** transportation; ~~not including airfare, per diem or lodging; catering and, food, per diem and lodging~~ for cast members, staff and crew; ~~local~~ insurance and bonding **purchased through an in-state agency**; ~~and the rental of facilities and equipment, including location fees; and fees collected by paid to a temporary employee-leasing company as defined in Title 36, section 6901, subsection 3-A.~~ "Visual media production expense" does not include ~~certified production wages, as defined in Title 36, section 6901, subsection 2, or~~ expenses incurred in marketing or advertising a visual media production or in printing or disseminating a visual media production.

**Sec. 3. 5 MRSA §13090-L, sub-§3**, as amended by PL 2009, c. 470, §1, is further amended to read:

**3. Requirements for visual media production certificate.** Applications for a visual media production certificate must be made on a form prescribed and furnished by the department. The applicant must:

- A. Provide the names of the principals involved in the visual media production and contact information for them;
- B. Provide a certificate of insurance for the visual media production;
- C. Provide financial information that demonstrates that the visual media production is fully financed and that at least \$75,000 \$25,000 of visual media

production expense will be incurred for the visual media production certified in accordance with this subsection;

D. Provide data reasonably demonstrating that the visual media production will benefit the people of the State by increasing opportunities for employment and will strengthen the economy of the State;

E. Agree to include, in the certified visual media production, an on-screen credit for the State of Maine. The exact wording and size of that credit must be determined in rules adopted by the Maine State Film Office and the department.

**The Maine State Film Office or the department may, at its discretion, exempt visual media productions from this requirement.** Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter 2-A;

F. Provide evidence that the visual media production company is not owned by, affiliated with or controlled by, in whole or in part, a person that is in default on a loan made by the State or a loan guaranteed by the State;

G. Provide any other information required by the department; ~~and~~

H. Provide a projected schedule for preproduction, production and postproduction of the visual media production that shows that the production-the first day of principal photography will begin within ~~60 days~~ six (6) months a reasonable time after certification pursuant to this subsection-; ~~and~~

I. Agree to withhold, in accordance with Title 36, chapter 827, 6% of all payments made to an out-of-state entity known as a loan-out corporation or personal service corporation, created to hire out the services of one individual, including an actor or artist, to a 3rd party.

To qualify for a visual media production certificate, a visual media production company must demonstrate to the satisfaction of the commissioner that the visual media production company has met, or will meet, the requirements of this subsection. If the department determines that the applicant does not qualify for a visual media production certificate, it must inform the applicant of that determination in writing within 4 weeks of receiving the application. As soon as practicable, the department shall issue a visual media production certificate for a visual media production that qualifies. The department shall include with the certificate information regarding the tax credit report under subsection 4 and procedures for claiming reimbursement under Title 36, chapter 919-A and the credit under Title 36, section 5219-Y.

**Sec. 4. 5 MRSA §13090-L, sub-§4**, as amended by PL 2011, c. 285, §1, is further amended to read:

**4. Certified visual media production ~~report~~ reports.** No later than 4 8 weeks after completion of principal photography for a certified visual media production, the visual media production company shall report, in a format specified by the Maine State Film Office or the department, its compliance with the requirements of subsection 3 with respect to the certified visual media production to the Maine State Film Office. No later than 8 weeks after completion of the postproduction period for a certified visual media production, a visual media production company seeking

credit for visual media production expenses incurred in the postproduction period shall can report to the Maine State Film Office, in a format specified by the Maine State Film Office or the department, its compliance with the requirements of subsection 3 with respect to the certified visual media production.

**Sec. 5. 36 MRSA §5219-Y**, as amended by PL 2011, c. 240, §37, is further amended to read:

### **§5219-Y. Certified visual media production credit**

**1. Credit allowed.** A visual media production company, as defined in Title 5, section 13090-L, subsection 2-A, paragraph E, is allowed a credit against the taxes imposed by this Part in an amount equal to ~~5%~~ 25% of its **nonwage** visual media production expenses, ~~as defined in Title 5, section 13090-L, subsection 2-A, paragraph F,~~ incurred with respect to a certified visual media production as defined in section 6901, subsection 1, if the visual media production company has visual media production expenses of ~~\$75,000~~ \$25,000 or more with respect to that certified visual media production. **For purposes of this section, "nonwage visual media production expenses" means visual media production expenses as defined in Title 5, section 13090-L, subsection 2-A, paragraph F, except that "nonwage visual media production expenses" does not include certified production wages as defined in section 6901, subsection 2 or any amount that would be included in certified production wages but for the ~~\$50,000~~ \$75,000 limit provided by section 6901, subsection 2.**

A visual media production company is allowed the following additional credits against the taxes imposed by this Part if it demonstrates in the certified visual media production report required under Title 5, section 13090-L, subsection 4 that it has satisfied the requirements for the additional credit:

- A. A 3% credit if a portion of the filming occurred in Aroostook County, Franklin County, Kennebec County, Oxford County, Penobscot County, Piscataquis County, Somerset County or Washington County;
- B. A 2% credit if the screenplay or story is set in the State; or
- C. A 2% credit if the lead cast member, writer or director is a resident of the State.

~~A visual media production company may not receive additional credits in excess of The increase under this subsection may not exceed 5% in the aggregate of the visual media production expenses for a certified visual media production and the cumulative credit allowed under this section may not exceed 30% of the visual media production expenses incurred with respect to a certified visual media production.~~

**2. Limitation.** ~~The credit allowed by this section may not reduce the tax otherwise due under this Part below zero and may be used only~~ is nontransferable

and may not be carried forward to subsequent taxable years. The credit is refundable in an amount equal to 95% of the amount of the credit otherwise available for the taxable year in which the certified visual media production, as defined in section 6901, subsection 1, is completed. Taxpayers claiming a credit under section 5219-W are not eligible for this credit.

A visual media production company may not receive cumulative credits under this section and section 6902 for visual media production expenses incurred and certified production wages paid with respect to a certified visual media production in excess of \$500,000 for taxable years beginning prior to January 1, 2023, \$750,000 for taxable years beginning prior to January 1, 2026 and \$1,000,000 for taxable years beginning after January 1, 2026. For purposes of this section, episodic television is considered one project, or one overall certified visual media production, per standard televised season. A visual media production company may not receive cumulative credits under this section and section 6902 for episodic television visual media production incurred and certified production wages paid with respect to an episodic television certified visual media production in excess of \$1,500,000 for taxable years beginning prior to January 1, 2023, \$2,000,000 for taxable years beginning prior to January 1, 2026 and \$2,500,000 for taxable years beginning after January 1, 2026.

**Sec. 6. 36 MRSA §6901, sub-§2**, as amended by PL 2013, c. 546, §16, is further amended to read:

**2. Certified production wages.** "Certified production wages" means wages subject to withholding under section 5250, subsection 1 that are paid by a visual media production company through a payroll company for work on a certified visual media production, an amount paid to a temporary employee-leasing company for personal services rendered in this State by a leased employee in connection with a certified visual media production, an amount paid for the services of a performing artist working in the State in connection with a certified visual media production and other contractual payments for the services of individuals working in the State in connection with a certified visual media production. "Certified production wages" includes only the first ~~\$50,000~~ \$75,000 paid to or with respect to a particular individual for personal services rendered in connection with a particular certified visual media production. "Certified production wages" includes wages paid through an entity known as a loan-out corporation or personal service corporation, created to hire out the services of one individual, including an actor or artist, to a 3rd party.

**Sec. 7. 36 MRSA §6902, sub-§1**, as amended by PL 2011, c. 240, §46, is further amended to read:

**1. Generally.** A visual media production company is allowed a reimbursement in the form of a tax credit credit against the taxes imposed by this Part in an amount equal to 12% of certified production wages paid to or with respect to an individual who is a resident of Maine and 10% of certified production wages paid to or with respect to an individual who is not a resident of Maine.

- A. Twenty-five percent of certified production wages paid to or with respect to above-the-line personnel who are residents of Maine;
- B. Twenty-five percent of certified production wages paid to or with respect to below-the-line personnel who are residents of Maine; and
- C. Twenty percent of certified production wages paid to or with respect to below-the-line personnel who are not residents of Maine, except that this credit is reduced to: 15% of wages paid within the taxable year beginning January 1, 2023, 10% of wages paid within the taxable year beginning January 1, 2024 and 5% of wages paid within the taxable year beginning January 1, 2025. This credit is not available for wages paid after the taxable year beginning January 1, 2026.

For the purposes of this subsection, "above-the-line personnel" means producers, directors, writers and cast members and "below-the-line personnel" means individuals who are not above-the-line personnel, including production and postproduction staff and background performers.

The credit allowed by this section is nontransferable and may not be carried forward. The credit is refundable in an amount equal to 95% of the amount of the credit otherwise available for the taxable year in which the certified visual media production is completed. Taxpayers claiming a credit under section 5219-W are not eligible for this credit.

A visual media production company may not receive cumulative credits under this section and section 5219-Y for certified production wages paid and visual media production expenses incurred with respect to a certified visual media production in excess of \$500,000 for taxable years beginning prior to January 1, 2023, \$750,000 for taxable years beginning prior to January 1, 2026 and \$1,000,000 for taxable years beginning after January 1, 2026. For purposes of this section, episodic television is considered one project, or one overall certified visual media production, per standard televised season. A visual media production company may not receive cumulative credits under this section and section 6902 for episodic television visual media production incurred and certified production wages paid with respect to an episodic television certified visual media production in excess of \$1,500,000 for taxable years beginning prior to January 1, 2023, \$2,000,000 for taxable years beginning prior to January 1, 2026 and \$2,500,000 for taxable years beginning after January 1, 2026.