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Legislative Document

No. 1450

S.P. 501

In Senate, April 13, 2017

**An Act To Promote Workforce Development and Provide an
Economic Stimulus for Maine-based Filmmakers and Supporting
Businesses**

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in cursive script, reading 'Heather J.R. Priest'.

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator DESCHAMBAULT of York.
Cosponsored by Representative FECTEAU of Biddeford and
Senators: BELLOWS of Kennebec, CHENETTE of York, SAVIELLO of Franklin, VITELLI
of Sagadahoc, Representatives: BRYANT of Windham, LONGSTAFF of Waterville.

1 **Be it enacted by the People of the State of Maine as follows:**

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

4 **1. Generally.** A visual media production company that intends to undertake a visual
5 media production in this State may apply to the department to have the production, or a
6 portion of the production, certified under subsection 3 for purposes of the visual media
7 production reimbursement pursuant to Title 36, chapter 919-A ~~and the credit under Title~~
8 ~~36, section 5219-Y.~~

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

11 F. "Visual media production expense" means an expense directly incurred in this
12 State for preproduction, production or postproduction ~~of work performed in this State~~
13 on a visual media production certified under this section. "Visual media production
14 expense" includes wages and salaries of individuals employed in the production on
15 which taxes have been paid or accrued if those wages do not exceed ~~\$50,000~~ \$75,000
16 per individual and payments to a temporary employee-leasing company, as defined in
17 Title 36, section 6901, subsection 3-A, and other contractual payments for the
18 services of individuals working in the State if those payments do not exceed ~~\$50,000~~
19 \$75,000 per individual providing services in the production. "Visual media
20 production expense" includes the cost of construction; operations; editing and related
21 services; music, photography and film processing, including transferring film to tape
22 or a digital format; sound recording, mixing and synchronization; lighting, makeup,
23 wardrobe and accessories; transportation, including commercial airfare if purchased
24 through a travel agency or travel company based in this State for travel to and from
25 this State or within this State that is directly attributable to the production; food and
26 lodging for cast and crew; insurance and bonding; and the rental of facilities and
27 equipment, including location fees. "Visual media production expense" does not
28 include expenses incurred in marketing or advertising a visual media production or in
29 printing or disseminating a visual media production.

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

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

35 A. Provide the names of the principals involved in the visual media production and
36 contact information for them;

37 B. Provide a certificate of insurance for the visual media production;

38 C. Provide financial information that demonstrates that the visual media production
39 is fully financed and that at least \$75,000 of visual media production expense will be
40 incurred for the visual media production certified in accordance with this subsection;

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

4 E. Agree to include, in the certified visual media production, an on-screen credit for
5 the State of Maine. The exact wording and size of that credit must be determined in
6 rules adopted by the Maine State Film Office and the department. The Maine State
7 Film Office or the department may, at its discretion, exempt visual media productions
8 from this requirement. Rules adopted pursuant to this paragraph are routine technical
9 rules as defined in chapter 375, subchapter 2-A;

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

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

14 H. Provide a projected schedule for preproduction, production and postproduction of
15 the visual media production that shows that the production will begin within 60 days
16 after certification pursuant to this subsection; and

17 I. Be a resident of the State.

18 To qualify for a visual media production certificate, a visual media production company
19 must demonstrate to the satisfaction of the commissioner that the visual media production
20 company has met, or will meet, the requirements of this subsection. If the department
21 determines that the applicant does not qualify for a visual media production certificate, it
22 must inform the applicant of that determination in writing within 4 weeks of receiving the
23 application. As soon as practicable, the department shall issue a visual media production
24 certificate for a visual media production that qualifies. The department shall include with
25 the certificate information regarding the ~~tax-credit~~ report under subsection ~~4-7~~ and
26 procedures for claiming reimbursement under Title 36, chapter 919-A ~~and the credit~~
27 ~~under Title 36, section 5219-Y.~~

28 **Sec. 4. 5 MRSA §13090-L, sub-§4**, as amended by PL 2011, c. 285, §1, is
29 repealed.

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

32 **5. Department to provide information to State Tax Assessor.** The department
33 shall provide to the State Tax Assessor copies of the visual media production certificate
34 issued pursuant to subsection 3, together with any other information reasonably required
35 by the State Tax Assessor for the administration of visual media production
36 reimbursement under Title 36, chapter 919-A ~~and the credit under Title 36, section~~
37 ~~5219-Y.~~

38 **Sec. 6. 5 MRSA §13090-L, sub-§7**, as enacted by PL 2009, c. 470, §1, is
39 amended to read:

40 **7. Report.** The Maine State Film Office shall submit a report by January 15th
41 annually to the joint standing committee of the Legislature having jurisdiction over

1 taxation matters regarding the certification and reporting process pursuant to this section
2 and the visual media production ~~tax credit and~~ reimbursement activities pursuant to Title
3 36, ~~section 5219-Y and Title 36~~, chapter 919-A. The report must include a description of
4 any rule-making activity related to the implementation of the ~~credit and~~ reimbursement
5 activities, outreach efforts to visual media production companies, the number of
6 applications for the visual media production ~~credit and tax~~ reimbursement, the number of
7 ~~credits and~~ reimbursements granted, the revenue loss associated with the ~~credit and~~
8 reimbursement and the amount of visual media production expenses generated in the
9 State as a result of the ~~credit and~~ reimbursement.

10 **Sec. 7. 36 MRSA §191, sub-§2, ¶MM**, as amended by PL 2009, c. 652, Pt. A,
11 §51, is further amended to read:

12 MM. The disclosure to an authorized representative of the Department of Economic
13 and Community Development of information required for the administration of the
14 ~~visual media production credit under section 5219-Y~~, the employment tax increment
15 financing program under chapter 917, the visual media production reimbursement
16 program under chapter 919-A or the Pine Tree Development Zone program under
17 Title 30-A, chapter 206, subchapter 4;

18 **Sec. 8. 36 MRSA §5219-Y**, as amended by PL 2011, c. 240, §37, is repealed.

19 **Sec. 9. 36 MRSA §6901, sub-§§1-A and 1-B** are enacted to read:

20 **1-A. Above-the-line personnel.** "Above-the-line personnel" means individuals who
21 guide, influence and add to the creative direction, process and voice of a given narrative
22 in a film including but not limited to filmmakers, producers, directors, screenwriters,
23 editors and principal actors.

24 **1-B. Below-the-line personnel.** "Below-the-line personnel" means nonstarring cast
25 members and the technical production and postproduction staff of a visual media
26 production company.

27 **Sec. 10. 36 MRSA §6901, sub-§2**, as amended by PL 2013, c. 546, §16, is
28 repealed.

29 **Sec. 11. 36 MRSA §6901, sub-§3-B** is enacted to read:

30 **3-B. Extra.** "Extra" means a nonstarring cast member who appears in a nonspeaking
31 or nonsinging capacity, usually in the background, of a visual media production.

32 **Sec. 12. 36 MRSA §6901, sub-§5-A** is enacted to read:

33 **5-A. Visual media production expense.** "Visual media production expense" has the
34 same meaning as in Title 5, section 13090-L, subsection 2-A, paragraph F.

35 **Sec. 13. 36 MRSA §6902, sub-§1**, as amended by PL 2011, c. 240, §46, is
36 repealed and the following enacted in its place:

1 1. Reimbursement of visual media production expenses. A visual media
2 production company is allowed a reimbursement equal to 25% of all visual media
3 production expenses, including wages, incurred with respect to a certified visual media
4 production if the visual media production company has visual media production expenses
5 of \$75,000 or more with respect to that certified visual media production. To qualify for
6 reimbursement pursuant to this subsection:

7 A. At least 25% of the above-the-line personnel used in the certified visual media
8 production, not including principal actors, employed by the visual media production
9 company must be residents of Maine;

10 B. At least 50% of the below-the-line personnel used in the certified visual media
11 production, not including extras, employed by the visual media production company
12 must be residents of Maine unless the visual media production company certifies that
13 a sufficient number of qualified residents of Maine are not available to meet this
14 requirement;

15 C. The visual media production expenses must exceed 50% of the total production
16 expenses or at least 75% of the total principal photography days must occur in the
17 State;

18 D. The visual media production company must have paid all financial obligations
19 that the visual media production company incurred in the State;

20 E. The visual media production company must provide evidence that 50% of direct
21 production expenditures occurred in the State. As used in this paragraph, "direct
22 production expenditure" means a transaction that is subject to taxation in the State,
23 including payment of wages to a person who is a resident of Maine and payment for
24 services provided by a vendor that has a physical presence in the State. As used in
25 this paragraph, "physical presence" means a physical address in the State; a post
26 office box or other mail drop enterprise is not considered a physical presence unless
27 the vendor is providing mail services to the visual media production company; and

28 F. With respect to the certified visual media production on which the application for
29 a reimbursement is based, the visual media production company must report to the
30 Department of Economic and Community Development the following information:

31 (1) The total wages earned by residents of Maine;

32 (2) The number of residents of Maine employed;

33 (3) The total amount of taxes paid;

34 (4) The total expenditures made in the State; and

35 (5) Any other information considered necessary by the Department of Economic
36 and Community Development to determine the effectiveness of the
37 reimbursement program.

38 The reimbursement of visual media production expenses authorized by this section may
39 not exceed \$750,000.

40 **Sec. 14. 36 MRSA §6902, sub-§2,** as amended by PL 2009, c. 470, §7, is further
41 amended to read:

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6. It specifies that a person claiming the Pine Tree Development Zone tax credit is not eligible to get the visual media production reimbursement.