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SECTION 44-31.2-1

§ 44-31.2-1 Findings and purpose. – (a) The general assembly finds and declares that the state of Rhode Island with its natural beauty, historical and architectural heritage of the state, its majestic natural resources including Narragansett Bay and the independence and diversity of its citizens and neighborhoods would provide a variety of excellent settings from which the motion picture industry might choose a location for filming a motion picture or television program, and together with those natural settings, the availability of labor, materials, climate, and hospitality of its people have been instrumental in the filming of several successful motion pictures.

(b) It is recognized that the motion picture industry brings with it a much needed infusion of capital into areas of the state which may be economically depressed and the multiplier effect of the infusion of capital resulting from the filming of a motion picture or television program serves to stimulate economic activity beyond that immediately apparent on the film set.

(c) Since a significant portion of the cost of a motion picture or television production will not be eligible for existing tax incentives due to the fact that portions of the production are carried out in another state, it is the purpose of this chapter to provide a financial incentive to the film industry in order that the state might compete with other states for filming locations.

(d) The primary objective of this chapter is to encourage development in Rhode Island of a strong capital base for motion picture film, videotape, and television program productions, in order to achieve a more independent, self-supporting industry. This objective is divided into immediate and long-term objectives as follows:

(1) Immediate objectives are to:

(i) Attract private investment for the production of motion pictures, videotape productions, and television programs which contain substantial Rhode Island content as defined herein.

(ii) Develop a tax infrastructure which encourages private investment. This infrastructure will provide for state participation in the form of tax credits to encourage investment in state- certified productions.

(iii) Develop a tax infrastructure utilizing tax credits which encourage investments in multiple state-certified production projects.

(2) Long-term objectives are to:

(i) Encourage increased employment opportunities within this sector and increased competition with other states in fully developing economic development options within the film and video industry.

(ii) Encourage new education curricula in order to provide a labor force trained in all aspects of film production.

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SECTION 44-31.2-2

§ 44-31.2-2 Definitions. – For the purposes of this chapter:

(1) "Accountant's certification" as provided in this chapter means a certified audit by a Rhode Island certified public accountant licensed in accordance with section 5-3.1.

(2) "Base investment" means the actual investment made and expended by a state-certified production in the state as production-related costs.

(3) "Domiciled in Rhode Island" means a corporation incorporated in Rhode Island or a partnership, limited liability company, or other business entity formed under the laws of the state of Rhode Island for the purpose of producing motion pictures as defined in this section, or an individual who is a domiciled resident of the state of Rhode Island as defined in chapter 30 of this title.

(4) "Motion picture" means a feature-length film, video, video games, television series, or commercial made in Rhode Island, in whole or in part, for theatrical or television viewing or as a television pilot. The term "motion picture" shall not include the production of television coverage of news or athletic events, nor shall it apply to any film, video, television series or commercial or a production for which records are required under section 2257 of title 18, U.S.C., to be maintained with respect to any performer in such production or reporting of books, films, etc. with respect to sexually explicit conduct.

(5) "Motion picture production company" means a corporation, partnership, limited liability company or other business entity engaged in the business of producing one or more motion pictures as defined in this section. Motion picture production company shall not mean or include: (a) any company owned, affiliated, or controlled, in whole or in part by any company or person which is in default: (i) on taxes owed to the state; or (ii) on a loan made by the state; or (iii) a loan guaranteed by the state; nor (iv) any company or person who has even declared bankruptcy under which an obligation of the company or person to pay or repay public funds or monies was discharged as a part of such bankruptcy.

(6) "Primary locations" means the locations within which at least fifty-one percent (51%) of the motion picture principal photography days are filmed.

(7) "Rhode Island film and television office" means an office within the Rhode Island state council on the arts that has been established in order to promote and encourage the locating of film and television productions within the state of Rhode Island. The office is also referred to within as the "film office".

(8) "State-certified production" means a motion picture production approved by the Rhode Island film office and produced by a motion picture production company domiciled in Rhode Island, whether or not such company owns or controls the copyright and distribution rights in the motion picture; provided, that such company has either: (a) signed a viable distribution plan; or (b) is producing the motion picture for: (i) a major motion picture distributor; (ii) a major theatrical exhibitor; (iii) television network; or (iv) cable television programmer.

(9) "State certified production cost" means any pre-production, production and post-production cost that a motion picture production company incurs and pays to the extent it occurs within the state of Rhode Island. Without limiting the generality of the foregoing, "state certified production costs" include: set construction and operation; wardrobes, make-up, accessories, and related services; costs associated with photography and sound synchronization, lighting, and related

services and materials; editing and related services, including, but not limited to, film processing, transfers of film to tape or digital format, sound mixing, computer graphics services, special effects services, and animation services, salary, wages, and other compensation, including related benefits, of persons employed, either director or indirectly, in the production of a film including writer, motion picture director, producer (provided the work is performed in the state of Rhode Island); rental of facilities and equipment used in Rhode Island; leasing of vehicles; costs of food and lodging; music, if performed, composed, or recorded by a Rhode Island musician, or released or published by a person domiciled in Rhode Island; travel expenses incurred to bring persons employed, either directly or indirectly, in the production of the motion picture, to Rhode Island (but not expenses of such persons departing from Rhode Island); and legal (but not the expense of a completion bond or insurance and accounting fees and expenses related to the production's activities in Rhode Island); provided such services are provided by Rhode Island licensed attorneys or accountants.

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SECTION 44-31.2-3

§ 44-31.2-3 , 44-31.2-4. [Repealed.]. –

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SECTION 44-31.2-5

§ 44-31.2-5 Motion picture production company tax credit. – (a) A motion picture production company shall be allowed a credit to be computed as provided in this chapter against a tax imposed by chapters 11, 14, 17 and 30 of this title. The amount of the credit shall be twenty-five percent (25%) of the state certified production costs incurred directly attributable to activity within the state, provided that the primary locations are within the state of Rhode Island and the total production budget as defined herein is a minimum of three hundred thousand dollars ($300,000). The credit shall be earned in the taxable year in which production in Rhode Island is completed, as determined by the film office in final certification pursuant to subsection 44-31.2-6(c).

(b) For the purposes of this section: "total production budget" means and includes the motion picture production company's pre-production, production and post-production costs incurred for the production activities of the motion picture production company in Rhode Island in connection with the production of a state-certified production. The budget shall not include costs associated with the promotion or marketing of the film, video or television product.

(c) The credit shall not exceed the total production budget and shall be allowed against the tax for the taxable period in which the credit is earned and can be carried forward for not more than three (3) succeeding tax years.

(d) Credits allowed to a motion picture production company, which is a subchapter S corporation, partnership, or a limited liability company that is taxed as a partnership, shall be passed through respectively to persons designated as partners, members or owners on a pro rata basis or pursuant to an executed agreement among such persons designated as subchapter S corporation shareholders, partners, or members documenting an alternate distribution method without regard to their sharing of other tax or economic attributes of such entity.

(e) No more than fifteen million dollars ($15,000,000) may be issued for any tax year beginning after December 31, 2007.

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SECTION 44-31.2-6

§ 44-31.2-6 Certification and administration. – *(a) Initial certification of a production.* The applicant shall properly prepare, sign and submit to the film office an application for initial certification of the Rhode Island production. The application shall include such information and data as the film office deems necessary for the proper evaluation and administration of said application, including, but not limited to, any information about the motion picture production company, and a specific Rhode Island motion picture. The film office shall review the completed application and determine whether it meets the requisite criteria and qualifications for the initial certification for the production. If the initial certification is granted, the film office shall issue a notice of initial certification of the motion picture production to the motion picture production company and to the tax administrator. The notice shall state that, after appropriate review, the initial application meets the appropriate criteria for conditional eligibility. The notice of initial certification will provide a unique identification number for the production and is only a statement of conditional eligibility for the production and, as such, does not grant or convey any Rhode Island tax benefits.

(b) Final certification of a production. Upon completion of the Rhode Island production activities, the applicant shall request a certificate of good standing from the Rhode Island division of taxation. The division shall expedite the process for reviewing the issuance of such certificates. Such certificates shall verify to the film office the motion picture production company's compliance with the requirements of subsection 44-31.2-2(5). The applicant shall properly prepare, sign and submit to the film office an application for final certification of the production and which must include the certificate of good standing from the division of taxation. In addition, the application shall contain such information and data as the film office determines is necessary for the proper evaluation and administration, including, but not limited to, any information about the motion picture production company, its investors and information about the production previously granted initial certification. The final application shall also contain a cost report and an "accountant's certification". The film office and tax administrator may rely without independent investigation, upon the accountant's certification, in the form of an opinion, confirming the accuracy of the information included in the cost report. Upon review of a duly completed and filed application, the film office will make a determination pertaining to the final certification of the production and the resultant credits for § 44-31.2-5.

(c) Final certification and credits. Upon determination that the motion picture production company qualifies for final certification and the resultant credits, the film office shall issue a letter to the production company indicating "certificate of completion of a state certified production" and shall provide specifically designed certificates for the motion picture production company credit under § 44-31.2-5. All documents that are issued by the film office pursuant to this section shall reference the identification number that was issued to the production as part of its initial certification.

(d) The director of the Rhode Island film and television office, in consultation as needed with the tax administrator, shall promulgate such rules and regulations as are necessary to carry out the intent and purposes of this chapter in accordance with the general guidelines provided herein for the certification of the production and the resultant production credit.

(e) The tax administrator of the division of taxation, in consultation with the director of the Rhode Island film and television office, shall promulgate such rules and regulations as are necessary to carry out the intent and purposes of this chapter in accordance with the general guidelines for the tax credit provided herein.

(f) Any motion picture production company applying for the credit shall be required to reimburse the division of taxation for any audits required in relation to granting the credit.

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SECTION 44-31.2-6.1

§ 44-31.2-6.1 Impact analysis and periodic reporting. – (a) The film office shall not certify or approve any application under § 44-31.2-6 of this chapter until it has first prepared and publicly released an analysis of the impact the proposed investment will or may have on the state. The analysis shall be supported by appropriate data and documentation and shall consider, but not be limited to, the following factors:

(i) The impact on the industry or industries in which the applicant will be involved;

(ii) State fiscal matters, including the state budget (revenues and expenses);

(iii) The financial exposure of the taxpayers of the state under the plans for the proposed investment and negative foreseeable contingencies that may arise therefrom;

(iv) The approximate number of full-time, part-time, temporary, seasonal and/or permanent jobs projected to be created, construction and non-construction;

(v) Identification of geographic sources of the staffing for identified jobs;

(vi) The projected duration of the identified construction jobs;

(vii) The approximate wage rates for each category of the identified jobs;

(viii) The types of fringe benefits to be provided with the identified jobs, including healthcare insurance and any retirement benefits;

(ix) The projected fiscal impact on increased personal income taxes to the state of Rhode Island; and

(x) The description of any plan or process intended to stimulate hiring from the host community, training of employees or potential employees, and outreach to minority job applicants and minority businesses.

(b) The film office shall monitor every impact analysis it completes through the duration of any approved tax credit. Such monitoring shall include annual reports made available to the public on the:

(1) Actual versus projected impact for all considered factors; and

(2) Verification of all commitments made in consideration of state incentives or aid.

(c) Upon its preparation and release of the analysis required by subsection (b) of this section, the film office shall provide copies of that analysis to the chairpersons of the house and senate finance committees, the house and senate fiscal advisors, the department of labor and training and the division of taxation. Any such analysis shall be available to the public for inspection by any person and shall by published by the tax administrator on the tax division website. Annually thereafter, through and including the second tax year after any taxpayer has applied for and received a tax credit pursuant to this chapter, the department of labor and training shall certify to the chairpersons of the house and senate finance committees, the house and senate fiscal advisors, the corporation and the division of taxation that: (i) the actual number of new full-time jobs with benefits created by the state-certified production, not including construction jobs, is on target to

meet or exceed the estimated number of new jobs identified in the analysis above, and (ii) the actual number of existing full-time jobs with benefits has not declined. For purposes of this section, "full-time jobs with benefits" means jobs that require working a minimum of thirty (30) hours per week within the state, with a median wage that exceeds by five percent (5%) the median annual wage for full-time jobs in Rhode Island and within the taxpayer's industry, with a benefit package that includes healthcare insurance plus other benefits typical of companies within the motion picture industry. The department of labor and training shall also certify annually to the house and senate fiscal committee chairs, the house and senate fiscal advisors, and the division of taxation that jobs created by the state-certified production are "new jobs" in the state of Rhode Island, meaning that the employees of the motion picture production company are in addition to, and without a reduction of, those employees of the motion picture production company currently employed in Rhode Island, are not relocated from another facility of the motion picture production company in Rhode Island or are employees assumed by the motion picture production company as the result of a merger or acquisition of a company already located in Rhode Island. The certifications made by the department of labor and training shall be available to the public for inspection by any person and shall be published by the tax administrator on the tax division website.

(d) The film office, with the assistance of the motion picture production company, the department of labor and training, the department of human services and the division of taxation shall provide annually an analysis of whether any of the employees of the motion picture production company has received RIte Care or RIte Share benefits and the impact such benefits or assistance may have on the state budget. This analysis shall be available to the public for inspection by any person and shall be published by the tax administrator on the tax division website. Notwithstanding any other provision of law or rule or regulation, the division of taxation, the department of labor and training and the department of human services are authorized to present, review and discuss project-specific tax or employment information or data with the film office, the chairpersons of the house and senate finance committees, and/or the house and senate fiscal advisors for the purpose of verification and compliance with this tax credit reporting requirement.

(e) Any agreements or contracts entered into by the film office and the motion picture production company shall be sent to the division of taxation and be available to the public for inspection by any person and shall be published by the tax administrator on the tax division website.

(f) By August 15th of each year the motion picture production company shall report the source and amount of any bonds, grants, loans, loan guarantees, matching funds or tax credits received from any state governmental entity, state agency or public agency as defined in § 37-2-7 received during the previous state fiscal year. This annual report shall be sent to the division of taxation and be available to the public for inspection by any person and shall be published by the tax administrator on the tax division website.

(g) By August 15th of each year the division of taxation shall report the name, address, and amount of tax credit received for each motion picture production company during the previous state fiscal year to the film office, the chairpersons of the house and senate finance committees, the house and senate fiscal advisors, the department of labor and training and the division of taxation. This report shall be available to the public for inspection by any person and shall be published by the tax administrator on the tax division website.

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SECTION 44-31.2-7

§ 44-31.2-7 Information requests. – (a) The director of the film office and his or her agents, for the purpose of ascertaining the propriety or correctness of any materials pertaining to the certification of any motion picture production or to credits claimed under the provisions of this chapter, may examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, report, or other statement, and may require the attendance of the person executing the return, report, or other statement, and may require the attendance of any taxpayer, or the attendance of any other person, and may examine the person under oath respecting any matter which the director or his or her agent deems pertinent or material in administration and application of this chapter and, where not inconsistent with other legal provisions, the director may request information from the tax administrator.

(b) The tax administrator and his or her agents, for the purpose of ascertaining the correctness of any credit claimed under the provisions of this chapter, may examine any books, papers, records, or memoranda bearing upon matters required to be included in the return, report, or other statement, and may require the attendance of the person executing the return, report, or other statement, or of any officer or employee of any taxpayer, or the attendance of any other person, and may examine the person under oath respecting any matter which the tax administrator or his or her agent deems pertinent or material in determining the eligibility for credits claimed and may request information from the film office, and the film office shall provide the information in all cases to the tax administrator.

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SECTION 44-31.2-8

§ 44-31.2-8 Hearings and appeals. – *(a) From an action of the film office.* For matters pertaining exclusively to application, production, and certification of motion picture productions, any person aggrieved by a denial action of the film office under this chapter shall notify the director of the film office in writing, within thirty (30) days from the date of mailing of the notice of denial action by the film office and request a hearing relative to the denial or action. The director of the film office shall, as soon as is practicable, fix a time and place of hearing, and shall render a final decision. Appeals from a final decision of the director of the film office under this chapter are to the sixth (6th) division district court pursuant to chapter 35 of title 42 of the general laws.

(b) From denial of tax credit. Any person aggrieved by the tax administrator's denial of a tax credit or tax benefit in this section shall notify the tax administrator in writing within thirty (30) days from the date of mailing of the notice of denial of the tax credit and request a hearing relative to the denial of the tax credit. The tax administrator shall, as soon as is practicable, fix a time and place for a hearing, and shall render a final decision. Appeals from a final decision of the tax administrator under this chapter are to the sixth (6th) division district court pursuant to chapter 8 of title 8 of the general laws. The taxpayer's right to appeal is expressly made conditional upon prepayment of all taxes, interest, and penalties, unless the taxpayer files a timely motion for exemption from prepayment with the district court in accordance with the requirements imposed pursuant to § 8-8-26 of the general laws.

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SECTION 44-31.2-10

§ 44-31.2-10 Disclaimer and severability. – (a) The state of Rhode Island reserves the right to refuse the use of Rhode Island's name in credits of any motion picture filmed or produced in the state.

(b) If any clause, sentence, paragraph, or part of this chapter is for any reason judged invalid by any court of competent jurisdiction, the judgment does not affect, impair, or invalidate the remainder of this chapter but is confined in its operation to the clause, sentence, paragraph, or part of this chapter directly involved in the controversy in which the judgment has been rendered.