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132nd General Assembly  
Regular Session  
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. B. No.

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**A BILL**

To amend section 122.85 of the Revised Code to  
extend eligibility for the motion picture tax  
credit to certain live stage theater productions  
and to include post-production and advertising  
expenses, to increase the maximum amount of  
credits that may be awarded from \$40 million to  
\$100 million per fiscal year, and to make other  
revisions to the law governing administration of  
the credit.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 122.85 of the Revised Code be  
amended to read as follows:

**Sec. 122.85.** (A) As used in this section and in sections  
5726.55, 5733.59, 5747.66, and 5751.54 of the Revised Code:

(1) "Tax credit-eligible production" means a motion  
picture or Broadway theatrical production certified by the  
director of development services under division (B) of this  
section as qualifying the ~~motion picture~~ production company for



a tax credit under section 5726.55, 5733.59, 5747.66, or 5751.54 18  
of the Revised Code. 19

(2) "Certificate owner" means a ~~motion picture production~~ 20  
company to which a tax credit certificate is issued or a person 21  
to which the company has transferred under division (H) of this 22  
section the authority to claim all or a part of the tax credit 23  
authorized by that certificate. 24

(3) "~~Motion picture Production~~ company" means an 25  
individual, corporation, partnership, limited liability company, 26  
or other form of business association producing a motion picture 27  
or Broadway theatrical production. 28

(4) "Eligible ~~production expenditures~~" means expenditures 29  
made after June 30, 2009, for goods or services purchased and 30  
consumed in this state by a ~~motion picture production~~ company 31  
directly for the production of a tax credit-eligible production 32  
or for post-production activities, or for advertising and 33  
promotion of the production. 34

"Eligible ~~production expenditures~~" includes, but is not 35  
limited to, expenditures for cast and crew wages, 36  
accommodations, costs of set construction and operations, 37  
editing and related services, photography, sound 38  
synchronization, lighting, wardrobe, makeup and accessories, 39  
film processing, transfer, sound mixing, special and visual 40  
effects, music, location fees, and the purchase or rental of 41  
facilities and equipment. 42

(5) "Motion picture" means entertainment content created 43  
in whole or in part within this state for distribution or 44  
exhibition to the general public, including, but not limited to, 45  
feature-length films; documentaries; long-form, specials, 46

miniseries, series, and interstitial television programming; 47  
interactive web sites; sound recordings; videos; music videos; 48  
interactive television; interactive games; video games; 49  
commercials; any format of digital media; and any trailer, 50  
pilot, video teaser, or demo created primarily to stimulate the 51  
sale, marketing, promotion, or exploitation of future investment 52  
in either a product or a motion picture by any means and media 53  
in any digital media format, film, or videotape, provided the 54  
motion picture qualifies as a motion picture. "Motion picture" 55  
does not include any television program created primarily as 56  
news, weather, or financial market reports, a production 57  
featuring current events or sporting events, an awards show or 58  
other gala event, a production whose sole purpose is 59  
fundraising, a long-form production that primarily markets a 60  
product or service or in-house corporate advertising or other 61  
similar productions, a production for purposes of political 62  
advocacy, or any production for which records are required to be 63  
maintained under 18 U.S.C. 2257 with respect to sexually 64  
explicit content. 65

(6) "Broadway theatrical production" means a live stage 66  
production that meets one or more of the following criteria: 67

(a) The production is scheduled for presentation in New 68  
York city's broadway theater district after the original or 69  
adaptive version is performed in a qualified production 70  
facility. 71

(b) The production is scheduled to be performed at a 72  
qualified production facility for more than five weeks, with an 73  
average of at least six performances per week. 74

(c) The activities comprising the technical period for the 75  
production are conducted at a qualified production facility 76

before a tour of the original or adaptive version of the 77  
production begins. 78

(7) "Qualified production facility" means a facility 79  
located in this state that is used in the development or 80  
presentation to the public of theater productions. 81

(B) For the purpose of encouraging and developing ~~a~~-strong 82  
film ~~industry~~ and theater industries in this state, the director 83  
of development services may certify a motion picture or Broadway 84  
theatrical production produced by a ~~motion picture~~ production 85  
company as a tax credit-eligible production. In the case of a 86  
television series, the director may certify the production of 87  
each episode of the series as a separate tax credit-eligible 88  
production. A ~~motion picture~~ production company shall apply for 89  
certification of a motion picture or Broadway theatrical 90  
production as a tax credit-eligible production on a form and in 91  
the manner prescribed by the director. Each application shall 92  
include the following information: 93

(1) The name and telephone number of the ~~motion picture~~ 94  
production company; 95

(2) The name and telephone number of the company's contact 96  
person; 97

(3) A list of the first preproduction date through the 98  
last production ~~date~~ and post-production dates in Ohio and, in 99  
the case of a Broadway theatrical production, a list of each 100  
scheduled performance in a qualified production facility; 101

(4) The Ohio production office or qualified production 102  
facility address and telephone number; 103

(5) The total production budget ~~of the motion picture;~~ 104

- (6) The total budgeted eligible ~~production~~ expenditures 105  
and the percentage that amount is of the total production budget 106  
of the motion picture or Broadway theatrical production; 107
- (7) ~~The~~ In the case of a motion picture, the total 108  
percentage of the ~~motion picture~~ production being shot in Ohio; 109
- (8) The level of employment of cast and crew who reside in 110  
Ohio; 111
- (9) A synopsis of the script; 112
- (10) ~~The~~ In the case of a motion picture, the shooting 113  
script; 114
- (11) A creative elements list that includes the names of 115  
the principal cast and crew and the producer and director; 116
- (12) Documentation of financial ability to undertake and 117  
complete the motion picture or Broadway theatrical production, 118  
including documentation that shows that the company has secured 119  
funding equal to at least fifty per cent of the total production 120  
budget ~~of the motion picture~~; 121
- (13) Estimated value of the tax credit based upon total 122  
budgeted eligible ~~production~~ expenditures; 123
- (14) Estimated amount of state and local taxes to be 124  
generated in this state from the production; 125
- (15) Any other information considered necessary by the 126  
director. 127
- Within ninety days after certification of a motion picture 128  
or Broadway theatrical production as a tax credit-eligible 129  
production, and any time thereafter upon the request of the 130  
director of development services, the ~~motion picture~~ production 131

company shall present to the director sufficient evidence of 132  
reviewable progress. If the ~~motion picture production~~ company 133  
fails to present sufficient evidence, the director may rescind 134  
the certification. If the production of a motion picture or 135  
broadway theatrical production does not begin within six months 136  
after the date it is certified as a tax credit-eligible 137  
production, the director shall rescind the certification. Upon 138  
rescission, the director shall notify the applicant that the 139  
certification has been rescinded. Nothing in this section 140  
prohibits an applicant whose tax credit-eligible production 141  
certification has been rescinded from submitting a subsequent 142  
application for certification. 143

(C) (1) A ~~motion picture production~~ company whose motion 144  
picture or Broadway theatrical production has been certified as 145  
a tax credit-eligible production may apply to the director of 146  
development services on or after July 1, 2009, for a refundable 147  
credit against the tax imposed by section 5726.02, 5733.06, 148  
5747.02, or 5751.02 of the Revised Code. The director in 149  
consultation with the tax commissioner shall prescribe the form 150  
and manner of the application and the information or 151  
documentation required to be submitted with the application. 152

The credit is determined as follows: 153

(a) If the total budgeted eligible ~~production~~ expenditures 154  
stated in the application submitted under division (B) of this 155  
section or the actual eligible ~~production~~ expenditures as 156  
finally determined under division (D) of this section, whichever 157  
is least, is less than or equal to three hundred thousand 158  
dollars, no credit is allowed; 159

(b) If the total budgeted eligible ~~production~~ expenditures 160  
stated in the application submitted under division (B) of this 161

section or the actual eligible ~~production~~-expenditures as 162  
finally determined under division (D) of this section, whichever 163  
is least, is greater than three hundred thousand dollars, the 164  
credit equals thirty per cent of the least of such budgeted or 165  
actual eligible expenditure amounts. 166

(2) Except as provided in division (C)(4) of this section, 167  
if the director of development services approves a ~~motion-~~ 168  
~~picture-production~~ company's application for a credit, the 169  
director shall issue a tax credit certificate to the company. 170  
The director in consultation with the tax commissioner shall 171  
prescribe the form and manner of issuing certificates. The 172  
director shall assign a unique identifying number to each tax 173  
credit certificate and shall record the certificate in a 174  
register devised and maintained by the director for that 175  
purpose. The certificate shall state the amount of the eligible 176  
~~production~~-expenditures on which the credit is based and the 177  
amount of the credit. Upon the issuance of a certificate, the 178  
director shall certify to the tax commissioner the name of the 179  
applicant, the amount of eligible ~~production~~-expenditures shown 180  
on the certificate, and any other information required by the 181  
rules adopted to administer this section. 182

(3) The amount of eligible ~~production~~-expenditures for 183  
which a tax credit may be claimed is subject to inspection and 184  
examination by the tax commissioner or employees of the 185  
commissioner under section 5703.19 of the Revised Code and any 186  
other applicable law. Once the eligible ~~production~~-expenditures 187  
are finally determined under section 5703.19 of the Revised Code 188  
and division (D) of this section, the credit amount is not 189  
subject to adjustment unless the director determines an error 190  
was committed in the computation of the credit amount. 191

(4) No tax credit certificate may be issued before the 192  
completion of the tax credit-eligible production. Not more than 193  
~~forty one hundred~~ million dollars of tax credit may be allowed 194  
per fiscal year ~~beginning July 1, 2016,~~ provided that, for any 195  
fiscal year in which the amount of tax credits allowed under 196  
this section is less than that maximum annual amount, the amount 197  
not allowed for that fiscal year shall be added to the maximum 198  
annual amount that may be allowed for the following fiscal year. 199

(5) ~~In approving~~ Except as otherwise provided in this 200  
division, the director shall review and approve applications for 201  
tax credits under this section credit certificates in two rounds 202  
each fiscal year. The first round of certificates shall be 203  
approved not later than the last day of July of the fiscal year, 204  
and the second round of certificates shall be approved not later 205  
than the last day of the ensuing January. For each round, the 206  
director shall rank applications on the basis of the extent of 207  
positive economic impact each tax credit-eligible production is 208  
likely to have in this state and the effect on developing a 209  
permanent workforce in motion picture or theatrical production 210  
industries in the state. For the purpose of such ranking, the 211  
director shall give priority to tax-credit eligible productions 212  
that are television series or miniseries due to the long-term 213  
commitment typically associated with such productions. The 214  
director shall approve productions in the order of their 215  
ranking, from those with the greatest positive economic impact 216  
and workforce development effect to those with the least 217  
positive economic impact and workforce development effect. If 218  
the amount of credits represented by productions approved in the 219  
first round equals the maximum annual credit amount allowed 220  
under division (C) (4) of this section, the director shall not 221  
conduct the second round for the fiscal year. 222



(D) A ~~motion picture production~~ company whose motion 223  
picture or Broadway theatrical production has been certified as 224  
a tax credit-eligible production shall engage, at the company's 225  
expense, an independent certified public accountant to examine 226  
the company's production, post-production, and advertising and 227  
promotion expenditures to identify the expenditures that qualify 228  
as eligible ~~production~~ expenditures. The certified public 229  
accountant shall issue a report to the company and to the 230  
director of development services certifying the company's 231  
eligible ~~production~~ expenditures and any other information 232  
required by the director. Upon receiving and examining the 233  
report, the director may disallow any expenditure the director 234  
determines is not an eligible ~~production~~ expenditure. If the 235  
director disallows an expenditure, the director shall issue a 236  
written notice to the ~~motion picture~~ production company stating 237  
that the expenditure is disallowed and the reason for the 238  
disallowance. Upon examination of the report and disallowance of 239  
any expenditures, the director shall determine finally the 240  
lesser of the total budgeted eligible ~~production~~ expenditures 241  
stated in the application submitted under division (B) of this 242  
section or the actual eligible ~~production~~ expenditures for the 243  
purpose of computing the amount of the credit. 244

(E) No credit shall be allowed under section 5726.55, 245  
5733.59, 5747.66, or 5751.54 of the Revised Code unless the 246  
director has reviewed the report and made the determination 247  
prescribed by division (D) of this section. 248

(F) This state reserves the right to refuse the use of 249  
this state's name in the credits of any tax credit-eligible 250  
motion picture production or program of any Broadway theatrical 251  
production. 252

(G) (1) The director of development services in 253  
consultation with the tax commissioner shall adopt rules for the 254  
administration of this section, including rules setting forth 255  
and governing the criteria for determining whether a motion 256  
picture or Broadway theatrical production is a tax credit- 257  
eligible production; activities that constitute the production 258  
or post-production of a motion picture or Broadway theatrical 259  
production; reporting sufficient evidence of reviewable 260  
progress; expenditures that qualify as eligible ~~production-~~ 261  
expenditures; a schedule and deadlines for applications to be 262  
submitted and reviewed; a competitive process for approving 263  
credits based on likely economic impact in this state and 264  
development of a permanent workforce in motion picture or 265  
theatrical production industries in this state; consideration of 266  
geographic distribution of credits; and implementation of the 267  
program described in division (I) of this section. The rules 268  
shall be adopted under Chapter 119. of the Revised Code. 269

(2) To cover the administrative costs of the program, the 270  
director shall require each applicant to pay an application fee 271  
equal to the lesser of ten thousand dollars or one per cent of 272  
the estimated value of the tax credit as stated in the 273  
application. The fees collected shall be credited to the tax 274  
incentives operating fund created in section 122.174 of the 275  
Revised Code. All grants, gifts, fees, and contributions made to 276  
the director for marketing and promotion of the motion picture 277  
industry within this state shall also be credited to the fund. 278

(H) (1) After the director of development services makes 279  
the determination required under division (D) of this section, a 280  
~~motion picture production~~ company to which a tax credit 281  
certificate is issued may transfer the authority to claim all or 282  
a portion of the amount of the tax credit ~~the motion picture-~~ 283

~~company is authorized to claim pursuant to that certificate~~ 284  
~~under section 5726.55, 5733.59, 5747.66, or 5751.54 of the~~ 285  
~~Revised Code~~ to one or more other persons. Within thirty days 286  
after a transfer under this division, the ~~motion picture~~ 287  
production company shall submit the following information to the 288  
director, on a form prescribed by the director: 289

(a) Information necessary for the director to identify the 290  
certificate that is the basis for the transfer; 291

(b) The portion or amount of the tax credit transferred to 292  
each transferee; 293

(c) The portion or amount of the tax credit that the 294  
~~motion picture~~ production company retains the authority to 295  
claim; 296

(d) The tax identification number of each transferee; 297

(e) The date of the transfer; 298

(f) Any other information required by the director; 299

(g) Any information required by the tax commissioner. 300

The director shall deliver a copy of any submission 301  
received under division (H)(1) of this section to the tax 302  
commissioner. 303

(2) A transferee may not claim a credit under section 304  
5726.55, 5733.59, 5747.66, or 5751.54 of the Revised Code unless 305  
and until the transferring ~~motion picture~~ production company 306  
complies with division (H)(1) of this section. A transferee may 307  
claim the transferred amount of any credit or portion of a 308  
credit for the same taxable year or tax period for which the 309  
transferring ~~motion picture~~ production company was authorized to 310  
claim the credit or portion of a credit pursuant to the 311

certificate. A ~~motion picture~~ production company shall make no 312  
transfer under division (H) (1) of this section after the last 313  
day of the tax period or taxable year for which the ~~motion~~ 314  
~~picture~~ production company is required to claim the credit 315  
pursuant to the certificate. 316

A ~~motion picture~~ production company may make not more than 317  
one transfer under division (H) (1) of this section for each tax 318  
credit certificate, but pursuant to that transaction, may 319  
allocate the authority to claim a portion of the credit to more 320  
than one transferee. A ~~motion picture~~ production company may not 321  
authorize more than one transferee to claim the same portion of 322  
a credit. 323

(I) The director of development services shall establish a 324  
program for the training of Ohio residents who are or wish to be 325  
employed in the film or multimedia industry. Under the program, 326  
the director shall: 327

(1) Certify individuals as film and multimedia trainees. 328  
In order to receive such a certification, an individual must be 329  
an Ohio resident, have participated in relevant on-the-job 330  
training or have completed a relevant training course approved 331  
by the director, and have met any other requirements established 332  
by the director. 333

(2) Accept applications from ~~motion picture~~ production 334  
companies that intend to hire and provide on-the-job training to 335  
one or more certified film and multimedia trainees who will be 336  
employed in the company's tax credit-eligible production. 337

(3) Upon completion of a tax-credit eligible production, 338  
and upon the receipt of any salary information and other 339  
documentation required by the director, authorize a 340

reimbursement payment to each ~~motion picture production~~ company 341  
whose application was approved under division (I) (2) of this 342  
section. The payment shall equal fifty per cent of the salaries 343  
paid to film and multimedia trainees employed in the production. 344

**Section 2.** That existing section 122.85 of the Revised 345  
Code is hereby repealed. 346

**Section 3.** The amendment by this act of division (B) of 347  
section 122.85 of the Revised Code requiring the Director of 348  
Development Services to rescind certification of any tax credit- 349  
eligible production that does not begin production within six 350  
months applies to motion pictures and Broadway theatrical 351  
productions that are certified on or after July 1, 2018. 352

All other amendments by this act of section 122.85 of the 353  
Revised Code apply to fiscal years beginning on or after July 1, 354  
2018. 355