HOUSE DOCKET, NO. FILED ON: 1/9/2009

**HOUSE . . . . . . . . . . . . . . . No.**

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The Commonwealth of Massachusetts

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PRESENTED BY:

**Ronald Mariano**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General  
 Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the motion picture industry.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

PETITION OF:

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| --- | --- |
| Name: | District/Address: |
| Ronald Mariano | 3rd Norfolk |

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 4784 OF 2007-2008.]

The Commonwealth of Massachusetts

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**In the Year Two Thousand and Nine**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

An Act relative to the motion picture industry.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Section 6 of chapter 62 of the General Laws, as most recently amended by section 4 of chapter 63 of the acts of 2007, is hereby further amended by adding the following subsection:―

(m)(1) As used in this subsection the following words shall, unless the context clearly requires otherwise, have the following meanings:―

“State-certified infrastructure project” shall mean an infrastructure project approved by the executive office of housing and economic development. The term “state-certified infrastructure project” shall not include movie theaters or other commercial exhibition facilities.

“Base investment” means the budget submitted to the executive office of housing and economic development for the infrastructure project.

“Infrastructure” means land, permanent buildings, whether new construction or refurbishing of old buildings, or capital equipment that is necessary for the operation of a film studio or support and augmentation facilities.

“Motion Picture infrastructure project,” “Infrastructure project” and “project” mean a film studio and its sound stages, office buildings, parking facilities, land, equipment and support buildings, and support and augmentation facilities that are constructed in this state and primarily used for motion picture production; provided, however that the term does not include motion picture theaters and other commercial exhibition facilities.

“Film Studio” means a permanent facility of one or more sound stages, office and support buildings, parking facilities and facility used primarily for staging and filming motion pictures, television, digital or new media production.

“Support and augmentation facilities” means permanent facilities that are used to complement motion picture production needs and complement the motion picture production process, including but not limited to post-productions facilities and film laboratories; provided, however, that the term shall not include hotels or housing units.

(2) There shall be a Massachusetts motion picture industry investment tax credit.

(i) The commissioner, in consultation with the executive office of housing and economic development, shall authorize annually, for the 5 year period beginning January 1, 2009, and ending December 31, 2013, under this section together with section 38W of chapter 63, an amount not to exceed $60,000,000 per year.

(ii) A taxpayer may be allowed a credit against the taxes imposed by this chapter up to an amount equal to 20 per cent of expenses incurred for the construction, conversion, or equipping, or any combination of these activities, of a motion picture facility, television facility, digital media facility or post production facility, or any business that supports such activity including but not limited to equipment rental, camera rental, film laboratory, and telecine facility. The minimum investment for any such facility and or equipment shall be $500,000. A taxpayer allowed a credit under this section for a taxable year may carry over and apply to the excise imposed by this chapter in any of the succeeding 5 taxable years, the portion, as reduced from year to year, of those credits which exceed the excise for the taxable year.

(3)(i) The executive office of housing and economic development shall certify motion picture infrastructure projects in this state for the purpose of tax credit eligibility. To qualify for certification a person or entity shall apply to the executive office of housing and economic development. The applicant shall be the person or entity who will own and operate the infrastructure project and may be a motion picture production company. The applicant must include:

a. The applicant’s name and contact information

b. Detailed description of the project

c. A preliminary budget

d. An outline of how the project meets the requirements of this section

e. The projected start and completion dates

f. The name and contact information for the prime contractor, if known

g. A copy of the construction contract, if available, and

h. An affirmation signed by an executive representing the applicant that the applicant agrees to furnish records of expenditures on infrastructure projects in this state to the department of economic development; and any items included in its base investment are intended for use by the applicant directly in the infrastructure project.

(ii) Within 30 days after submission of a completed application, the executive office of housing and economic development shall review each application to determine whether the applicant satisfies all of the criteria required by this section. The executive office of housing and economic development may conduct a site visit as part of the review process. Upon completion of the motion picture infrastructure project, an applicant that has been pre-approved for tax credits must apply to the executive office of housing and economic development in writing for approval of the total base investment in the project. If the applicant has met the eligibility requirements of this section, the executive office of housing and economic development shall certify the total base investment amount, subject to the restrictions under subparagraph (i) of paragraph (2), and notify the department of the same.

(iii) The executive office of housing and economic development shall maintain detailed annual data on the total amount of monies applied for and credited pursuant to this subsection, and shall provide that data to the general court and administration upon request.

(4)(i) All or a portion of tax credits issued in accordance with this subsection may be transferred, sold or assigned to other taxpayers with tax liabilities under this chapter or chapter 63. Any tax credit that is transferred, sold or assigned and taken against taxes imposed by this chapter or chapter 63 shall not be refundable. Any amount of the tax credit that exceeds the tax due for a taxable year may be carried forward by the transferee, buyer or assigned to any of the 5 subsequent taxable years from which a certificate is initially issued by the department of revenue.

(ii) An owner or transferee desiring to make a transfer, sale or assignment shall submit to the commissioner a statement which describes the amount of tax credit for which the transfer, sale or assignment of tax credits is eligible. The owner or transferee shall provide to the commissioner information as the commissioner may require for the proper allocation of this credit. The commissioner shall provide to the taxpayer a certificate of eligibility to transfer, sell or assign the tax credits. The commissioner shall not issue a certificate to a taxpayer that has an outstanding tax obligation with the commonwealth. A tax credit shall not be transferred, sold or assigned without a certificate.

(5) The commissioner, in consultation with the secretary of housing and urban development, shall promulgate regulations necessary for the administration of this subsection.

SECTION 2. Chapter 63 of the general laws, as most recently amended by sections 6 to 10, inclusive, of chapter 63 of the acts of 2007, is hereby further amended by adding the following section:―

Section 38W. (1) As used in this subsection the following words shall, unless the context clearly requires otherwise, have the following meanings:―

“State-certified infrastructure project” shall mean an infrastructure project approved by the executive office of housing and economic development. The term “state-certified infrastructure project” shall not include movie theaters or other commercial exhibition facilities.

“Base investment” means the budget submitted to the executive office of housing and economic development for the infrastructure project.

“Infrastructure” means land, permanent buildings, whether new construction or refurbishing of old buildings, or capital equipment that is necessary for the operation of a film studio or support and augmentation facilities.

“Motion Picture infrastructure project,” “Infrastructure project” and “project” mean a film studio and its sound stages, office buildings, parking facilities, land, equipment and support buildings, and support and augmentation facilities that are constructed in this state and primarily used for motion picture production; provided, however that the term does not include motion picture theaters and other commercial exhibition facilities.

“Film Studio” means a permanent facility of one or more sound stages, office and support buildings, parking facilities and facility used primarily for staging and filming motion pictures, television, digital or new media production.

“Support and augmentation facilities” means permanent facilities that are used to complement motion picture production needs and complement the motion picture production process, including but not limited to post-productions facilities and film laboratories; provided, however, that the term shall not include hotels or housing units.

(2) There shall be a Massachusetts motion picture industry investment tax credit.

(i) The commissioner, in consultation with the executive office of housing and economic development, shall authorize annually, for the 5 year period beginning January 1, 2009, and ending December 31, 2013, under this section together with subsection (m) of section 6 of chapter 62, an amount not to exceed $60,000,000 per year.

(ii) A taxpayer may be allowed a credit against the taxes imposed by this chapter up to an amount equal to 20 per cent of expenses incurred for the construction, conversion, or equipping, or any combination of these activities, of a motion picture facility, television facility, digital media facility or post production facility, or any business that supports such activity including but not limited to equipment rental, camera rental, film laboratory, and telecine facility. The minimum investment for any such facility and or equipment shall be $500,000. A taxpayer allowed a credit under this section for a taxable year may carry over and apply to the excise imposed by this chapter in any of the succeeding 5 taxable years, the portion, as reduced from year to year, of those credits which exceed the excise for the taxable year.

(iii) The credit allowed under this section shall not be subject to the limitations of section 32C; but, the credit allowed under this section shall not reduce the excise due under this chapter below the minimum excise provided by subsection (b) of section 39.

(3)(i) The executive office of housing and economic development shall certify motion picture infrastructure projects in this state for the purpose of tax credit eligibility. To qualify for certification a person or entity shall apply to the executive office of housing and economic development. The applicant shall be the person or entity who will own and operate the infrastructure project and may be a motion picture production company. The applicant must include:

a. The applicant’s name and contact information

b. Detailed description of the project

c. A preliminary budget

i. An outline of how the project meets the requirements of this section

j. The projected start and completion dates

k. The name and contact information for the prime contractor, if known

l. A copy of the construction contract, if available, and

m. An affirmation signed by an executive representing the applicant that the applicant agrees to furnish records of expenditures on infrastructure projects in this state to the department of economic development; and any items included in its base investment are intended for use by the applicant directly in the infrastructure project.

(ii) Within 30 days after submission of a completed application, the executive office of housing and economic development shall review each application to determine whether the applicant satisfies all of the criteria required by this section. The executive office of housing and economic development may conduct a site visit as part of the review process. Upon completion of the motion picture infrastructure project, an applicant that has been pre-approved for tax credits must apply to the executive office of housing and economic development in writing for approval of the total base investment in the project. If the applicant has met the eligibility requirements of this section, the executive office of housing and economic development shall certify the total base investment amount, subject to the restrictions under subparagraph (i) of paragraph (2), and notify the department of the same.

(iii) The executive office of housing and economic development shall maintain detailed annual data on the total amount of monies applied for and credited pursuant to this subsection, and shall provide that data to the general court and administration upon request.

(4)(i) All or a portion of tax credits issued in accordance with this subsection may be transferred, sold or assigned to other taxpayers with tax liabilities under this chapter or chapter 62. Any tax credit that is transferred, sold or assigned and taken against taxes imposed by this chapter or chapter 62 shall not be refundable. Any amount of the tax credit that exceeds the tax due for a taxable year may be carried forward by the transferee, buyer or assigned to any of the 5 subsequent taxable years from which a certificate is initially issued by the department of revenue.

(ii) An owner or transferee desiring to make a transfer, sale or assignment shall submit to the commissioner a statement which describes the amount of tax credit for which the transfer, sale or assignment of tax credits is eligible. The owner or transferee shall provide to the commissioner information as the commissioner may require for the proper allocation of this credit. The commissioner shall provide to the taxpayer a certificate of eligibility to transfer, sell or assign the tax credits. The commissioner shall not issue a certificate to a taxpayer that has an outstanding tax obligation with the commonwealth. A tax credit shall not be transferred, sold or assigned without a certificate.

(5) The commissioner, in consultation with the secretary of housing and urban development, shall promulgate regulations necessary for the administration of this subsection.

SECTION 3. This act shall be effective for tax years beginning on or after January 1, 2009.