

HOUSE No.

The Commonwealth of Massachusetts

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:

NAME:	DISTRICT/ADDRESS:
Ronald Mariano	3rd Norfolk

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

The Commonwealth of Massachusetts

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:

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

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

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

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

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

13 “Motion Picture infrastructure project,” “Infrastructure project” and “project” mean a film studio
14 and its sound stages, office buildings, parking facilities, land, equipment and support buildings, and

15 support and augmentation facilities that are constructed in this state and primarily used for motion
16 picture production; provided, however that the term does not include motion picture theaters and
17 other commercial exhibition facilities.

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

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

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

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

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

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

- 44 a. The applicant's name and contact information
- 45 b. Detailed description of the project
- 46 c. A preliminary budget
- 47 d. An outline of how the project meets the requirements of this section
- 48 e. The projected start and completion dates
- 49 f. The name and contact information for the prime contractor, if known
- 50 g. A copy of the construction contract, if available, and
- 51 h. An affirmation signed by an executive representing the applicant that the applicant agrees to
- 52 furnish records of expenditures on infrastructure projects in this state to the department of economic
- 53 development; and any items included in its base investment are intended for use by the applicant
- 54 directly in the infrastructure project.

55 (ii) Within 30 days after submission of a completed application, the executive office of housing and

56 economic development shall review each application to determine whether the applicant satisfies all of

57 the criteria required by this section. The executive office of housing and economic development may

58 conduct a site visit as part of the review process. Upon completion of the motion picture infrastructure

59 project, an applicant that has been pre-approved for tax credits must apply to the executive office of

60 housing and economic development in writing for approval of the total base investment in the project. If

61 the applicant has met the eligibility requirements of this section, the executive office of housing and

62 economic development shall certify the total base investment amount, subject to the restrictions under

63 subparagraph (i) of paragraph (2), and notify the department of the same.

64 (iii) The executive office of housing and economic development shall maintain detailed annual data

65 on the total amount of monies applied for and credited pursuant to this subsection, and shall provide

66 that data to the general court and administration upon request.

67 (4)(i) All or a portion of tax credits issued in accordance with this subsection may be transferred,

68 sold or assigned to other taxpayers with tax liabilities under this chapter or chapter 63. Any tax credit

69 that is transferred, sold or assigned and taken against taxes imposed by this chapter or chapter 63 shall

70 not be refundable. Any amount of the tax credit that exceeds the tax due for a taxable year may be

71 carried forward by the transferee, buyer or assigned to any of the 5 subsequent taxable years from
72 which a certificate is initially issued by the department of revenue.

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

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

82

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

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

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

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

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

96 “Motion Picture infrastructure project,” “Infrastructure project” and “project” mean a film studio
97 and its sound stages, office buildings, parking facilities, land, equipment and support buildings, and
98 support and augmentation facilities that are constructed in this state and primarily used for motion

99 picture production; provided, however that the term does not include motion picture theaters and
100 other commercial exhibition facilities.

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

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

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

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

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

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

125 (3)(i) The executive office of housing and economic development shall certify motion picture
126 infrastructure projects in this state for the purpose of tax credit eligibility. To qualify for certification a
127 person or entity shall apply to the executive office of housing and economic development. The applicant

128 shall be the person or entity who will own and operate the infrastructure project and may be a motion
129 picture production company. The applicant must include:

130 a. The applicant's name and contact information

131 b. Detailed description of the project

132 c. A preliminary budget

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

134 j. The projected start and completion dates

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

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

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

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

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

153 (4)(i) All or a portion of tax credits issued in accordance with this subsection may be transferred,
154 sold or assigned to other taxpayers with tax liabilities under this chapter or chapter 62. Any tax credit

155 that is transferred, sold or assigned and taken against taxes imposed by this chapter or chapter 62 shall
156 not be refundable. Any amount of the tax credit that exceeds the tax due for a taxable year may be
157 carried forward by the transferee, buyer or assigned to any of the 5 subsequent taxable years from
158 which a certificate is initially issued by the department of revenue.

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

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

168

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

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