

## CHAPTER 232

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**GOVERNMENT - STATE**


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**HOUSE BILL 10-1180**

BY REPRESENTATIVE(S) Massey, Gerou, Rice, Casso, Frangas, Kefalas, Merrifield, Roberts, Ryden, Soper, Kerr J., McFadyen; also SENATOR(S) Gibbs and Spence, Boyd, Foster, Heath, Kester, Newell, Romer, Schwartz, Shaffer B., Steadman, Tochtrop, White, Whitehead, Williams.

**AN ACT**

**CONCERNING THE CRITERIA TO QUALIFY FOR A PERFORMANCE-BASED INCENTIVE FOR FILM PRODUCTION ACTIVITIES IN COLORADO.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** The introductory portion to 24-48.5-201 (1) and 24-48.5-201 (1) (a), (5) (g), (5) (h), and (6), Colorado Revised Statutes, are amended, and the said 24-48.5-201 (5) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**24-48.5-201. Definitions.** As used in this part 2, unless the context otherwise requires:

(1) "Film" means any visual or audiovisual work, including, without limitation, a video game OR A TELEVISION COMMERCIAL, that contains a series of related images, regardless of the medium by which the work is fixed and from which it can be viewed or reproduced, and that is primarily intended to be either:

(a) Commercially exploited by being shown in theaters ~~licensed for~~ OR ON television ~~exhibition~~; licensed for the home market, or otherwise; or

(5) "Qualified local expenditure" means a payment made by a production company operating in Colorado to a business in Colorado in connection with the production of a film that the production company is producing in Colorado. "Qualified local expenditure" shall include, but need not be limited to:

(g) Payments for insurance and bonding purchased through a Colorado-based insurance agent; ~~and~~

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(h) Payments for other direct costs incurred by the film production company that are deemed appropriate by the office; AND

(i) PAYMENTS OF UP TO THREE MILLION DOLLARS PER EMPLOYEE OR CONTRACTOR, MADE BY A PRODUCTION COMPANY TO PAY THE SALARIES OF ACTORS, MANAGEMENT, AND CREW, WHO PARTICIPATE IN THE FILM PRODUCTION ACTIVITIES. IN ORDER FOR ANY SALARY TO BE CONSIDERED A QUALIFIED LOCAL EXPENDITURE, ALL COLORADO INCOME TAXES SHALL BE WITHHELD AND PAID EITHER BY THE PRODUCTION COMPANY OR THE INDIVIDUAL. ANY PAYMENTS IN EXCESS OF THREE MILLION DOLLARS PER EMPLOYEE OR CONTRACTOR SHALL BE EXCLUDED.

~~(6) "Qualified payroll expenditure" means an expenditure of up to three million dollars per employee or contractor, made by a production company to pay the salaries of actors, management, and crew, who participate in the film production activities. In order for any salary to be considered a qualified payroll expenditure, all Colorado income taxes shall be withheld and paid either by the production company or the individual. Any expenditures in excess of three million dollars per employee or contractor shall be excluded.~~

**SECTION 2.** 24-48.5-203 (1), (2) (a), and (2) (c), Colorado Revised Statutes, are amended to read:

**24-48.5-203. Performance-based incentive for film production in Colorado - Colorado office of film, television, and media operational account cash fund - creation - repeal.** (1) Subject to the provisions of this section, on or after July 1, 2009, any production company that spends at least seventy-five percent of its production expenditures for a film on qualified local expenditures and at least seventy-five percent of its payroll expenditures for a film on qualified local payroll expenditures EMPLOYING A WORKFORCE FOR ANY IN-STATE PRODUCTION ACTIVITIES MADE UP OF AT LEAST TWENTY-FIVE PERCENT COLORADO RESIDENTS shall be allowed to claim a performance-based incentive in an amount as follows:

(a) For a production company that originates the film production in Colorado, an amount equal to ten percent of the total amount of the production company's qualified local expenditures ~~and qualified payroll expenditures~~ if the total of such expenditures equals or exceeds one hundred thousand dollars; and

(b) For a production company that does not originate the film production activities in Colorado, an amount equal to ten percent of the total amount of the production company's qualified local expenditures ~~and qualified payroll expenditures~~ if the total of such expenditures equals or exceeds ~~one million~~ TWO HUNDRED FIFTY THOUSAND dollars.

(2)(a) In order for a production company to claim a performance-based incentive for film production activities in Colorado pursuant to this section, the production company shall apply to the office, in a manner to be determined by the office, prior to beginning SIGNIFICANT production activities in the state. The application shall include a statement of intent by the production company to produce a film in Colorado for which the production company will be eligible to receive the incentive. The production company shall submit, in conjunction with the application, any

documentation necessary to demonstrate that the production company's projected qualified local expenditures ~~and qualified payroll expenditures~~ will satisfy the expenditures specified in paragraph (a) or (b) of subsection (1) of this section, as applicable.

(c) Upon completion of production activities in Colorado, a production company that received conditional approval for a performance-based incentive from the office shall submit financial documents to the office that detail the expenses incurred in the course of the film production activities in Colorado, along with a signed affidavit stating that the financial documents are an accurate accounting of the production company's qualified local expenditures. ~~and qualified payroll expenditures.~~ If the amount of the production company's actual qualified local expenditures ~~and qualified payroll expenditures equal or exceed the production company's projected qualified local expenditures and qualified payroll expenditures submitted to the office pursuant to paragraph (a) of this subsection (2)~~ EQUALS OR EXCEEDS THE MINIMUM TOTAL AMOUNT OF THE PRODUCTION COMPANY'S QUALIFIED LOCAL EXPENDITURES AS SPECIFIED IN SUBSECTION (1) OF THIS SECTION, the office shall issue an incentive to the production company.

**SECTION 3. Applicability.** This act shall apply to any applications for a performance-based incentive for film production activities in Colorado received by the Colorado office of film, television, and media on or after the effective date of this act.

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 18, 2010