



## ARIZONA STATE SENATE

### Fifty-Fifth Legislature, Second Regular Session

#### AMENDED FACT SHEET FOR S.B. 1708

##### motion picture production; tax credits

###### Purpose

Requires the Arizona Commerce Authority (ACA) to implement an Arizona Motion Picture Production Program (Program). Establishes the individual and corporate Credit for Motion Picture Production Costs (Tax Credits) and outlines requirements for the Tax Credits to be claimed.

###### Background

The ACA promotes economic, community and workforce development and provides private sector leadership in growing and diversifying Arizona's economy through the support of statewide business expansion, retention, attraction, workforce development and job training ([A.R.S. § 41-1502](#)).

The Arizona Department of Revenue (ADOR) is responsible for providing an integrated, coordinated and uniform system of tax administration and revenue collection for the state, including a coordinated electronic method of collecting state and municipal transaction privilege and affiliated excise taxes ([A.R.S. § 42-1004](#)).

The fiscal impact to the state General Fund is unknown at this time.

###### Provisions

1. Requires the ACA to implement the Program to promote workforce development and expansion of the commercial motion picture industry in Arizona.
2. Requires the ACA to certify motion picture production companies that produce at least one motion picture in Arizona for the purposes of Tax Credit eligibility.
3. Requires a motion picture production company, to qualify for the Program, to:
  - a) use a qualified production facility in Arizona to produce the motion picture production; or
  - b) produce and film the motion picture production primarily in Arizona, if the motion picture production is filmed primarily at a practical location, and perform all preproduction, postproduction and editing at an industry standard facility in Arizona, if a facility for those functions is available.
4. Requires a motion picture production company, to qualify for the Program, to:
  - a) maintain the motion picture production company's production labor positions in Arizona;
  - b) include in the credits for each motion picture production an acknowledgment that the filming took place in Arizona;
  - c) submit a completed certification application to the ACA with all requested information; and
  - d) provide supporting statements and records requested by the ACA to demonstrate that the motion picture production company meets the outlined criteria.

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5. Requires the certification application to be on an ACA prescribed form and include:
  - a) the name, address, telephone number and website of the motion picture production company;
  - b) the name and address of an individual who maintains records of expenditures in Arizona;
  - c) the projected first preproduction date and last production date in Arizona;
  - d) an Arizona address and telephone number for the production office;
  - e) the estimated total budget of the production and production cost expenditures in Arizona;
  - f) the estimated total percentage of the production that will take place in Arizona;
  - g) the estimated number of full-time production labor employment positions in Arizona;
  - h) the estimated number of employees who are Arizona residents in the cast and crew;
  - i) a script or synopsis, the proposed director and a preliminary list of the cast and producer; and
  - j) an affidavit that attests that the motion picture production company will meet the requirements to qualify for the Tax Credits, including that the motion picture production company will use a qualified production facility in Arizona to produce the production or otherwise satisfy the location requirement.
6. Requires the ACA to establish a process to:
  - a) review a completed initial application submitted within a time period prescribed by ACA rule, to determine whether the motion picture production company meets all qualification criteria; and
  - b) certify and preapprove a motion picture production company for the Tax Credits.
7. Requires the preapproval priority to be based on the date the motion picture production company files a complete initial certification application to the ACA.
8. Specifies that the preapproved Tax Credit amount applies against the applicable Tax Credit cap for the calendar year in which the application was submitted even if the preapproval period extends into the following year or years.
9. Requires the ACA to deny a certification application if it is determined that:
  - a) the motion picture production company does not meet all of the established criteria;
  - b) the production would constitute an obscene motion picture film or obscene pictorial publication;
  - c) the production violates obscenity laws; and
  - d) the production would constitute sexual exploitation of a minor or commercial sexual exploitation of a minor.
10. Requires the ACA, on determination that a motion picture production company qualifies for the Tax Credits, to issue the motion picture production company a preapproval letter and transmit a copy of the letter to the ADOR.
11. Stipulates that the preapproval letter is effective for a period prescribed by ACA rule and requires the effective period to be stated in the preapproval letter.
12. Allows a motion picture production company to apply to the ACA to extend the preapproval period if the company can demonstrate that an act of force majeure occurred and the preapproval letter will expire before the production is complete.

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13. Requires a motion picture production company that is preapproved for the Tax Credits, on competition of the motion picture production, to apply to the ACA for approval of the Tax Credits and provide an audited statement completed by a certified public account in Arizona that certifies the total amount of eligible production costs associated with the production.
14. Requires the ACA to provide postapproval to a motion picture production company that the company has met the eligibility requirements and notify the Director of ADOR that the company may claim the Tax Credits.
15. Prohibits the ACA from preapproving Tax Credits exceeding a total of \$150,000,000 in any calendar year, of which up to \$25,000,000 may be used for motion picture productions that qualify for the Program by filming primarily on location in Arizona.
16. Deems any information gathered from motion picture production companies to be confidential taxpayer information and requires the information to be disclosed to the ACA only for certification of the Tax Credits.
17. Requires the ACA and ADOR to adopt fees and deposit requirements and rules, and to publish and prescribe forms and procedures necessary to administer the Program and to provide administrative support services.
18. Requires the ACA to submit an annual report, by December 31 of each year, to the Governor, the President of the Senate (President), the Speaker of the House of Representatives (Speaker) and provide a copy to the Secretary of State (SOS).
19. Requires the ACA to make the annual report available to the public on request.
20. Requires the annual report to include:
  - a) information relating to the Program's activities, receipts and expenditures;
  - b) information comparing the annual amount of monies credited to certified motion picture production companies to the estimated monies spent on in-state production costs by the companies; and
  - c) quarterly data on the growth and development of motion picture industry employment and wages in Arizona.
21. Requires the ACA, beginning on the fifth year after the first preapproval letter is issued and at least every five years, to audit the Tax Credit, by June 30th of the applicable year and issue a public report of the audit.
22. Requires the ACA to submit the report to the President and the Speaker and provide a copy to the SOS.
23. Requires the audit performed on the 20th year following the first ACA audit to include a recommendation for whether the Legislature should repeal the Program.
24. Defines *long-term tenant, motion picture production, motion picture production company, practical location, production costs, production labor, program and qualified production facility.*

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25. Adds the Tax Credits to the Joint Legislative Income Tax Credit Review Schedule for years ending in two and seven.
26. Requires, in computing an individual Arizona adjusted gross income, the amount of any motion picture production costs deducted pursuant to the U.S. Internal Revenue Code (U.S. IRC) for which a Tax Credit is claimed to be added to the Arizona gross income.
27. Establishes the Tax Credits for tax years beginning January 1, 2023, allowed against the production costs paid by a motion picture production company in Arizona that are subject to Arizona taxation and that are directly attributable to a motion picture production.
28. Requires the amount of the Tax Credits to be determined as follows:
  - a) an amount equal to a percentage of the total amount of the qualified production costs approved by the ACA;
    - i. 15 percent for a motion picture production company that spends up to \$10,000,000;
    - ii. 17.5 percent for a motion picture production company that spends between \$10,000,000 and \$35,000,000; or
    - iii. 20 percent for a motion picture company that spends more than \$35,000,000;
  - b) an additional 2.5 percent of the motion picture production company's production labor costs for positions held by Arizona residents as approved by the ACA;
  - c) an additional 2.5 percent of the total amount of qualified production costs, if the motion picture production company uses a qualified production facility in Arizona or films primarily on location; and
  - d) an additional 2.5 percent of the total amount of qualified production costs, if the motion picture production is produced and filmed in association with a long-term tenant of a qualified production facility.
29. Prohibits ADOR from allowing the Tax Credits to exceed the aggregated amount of \$150,000,000 or issuing the Tax Credits to a taxpayer that owes delinquent tax.
30. Specifies that, to qualify for the Tax Credits, the motion picture production company must:
  - a) use a qualified production facility in Arizona to produce the motion picture production or produce and film, if filmed primarily at a practical location, the motion picture production in Arizona and perform all preproduction, postproduction and editing at an industry standard facility if available;
  - b) maintain the motion picture production company's full-time production labor positions in Arizona;
  - c) include in the credits for each motion picture production an acknowledgment that production is filmed in Arizona; and
  - d) receive preapproval and post approval from the ACA.
31. Allows co-owners of a motion picture production company, including partners in a partnership, members of a limited liability company and shareholders of an S Corporation, to each claim the pro rata share of the Tax Credits based on ownership interests.
32. Prohibits the total of allowed Tax Credits to co-owners from exceeding the amount that would have been allowed to a sole owner.

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33. Requires any excess credit amount to be paid within 180 days after ADOR receives notice from the ACA that the motion picture production company is authorized to receive the Tax Credit and requires ADOR to prescribe the manner of payment by rule.
34. Requires ADOR to maintain annual data on the total amount of Tax Credit monies and provide the data to the ACA, upon request.
35. Asserts that the Tax Credits are in lieu of any allowance for state tax purposes of a deduction of those expenses allowed by the U.S. IRC.
36. Exempts the ACA and ADOR from rulemaking requirements for one year.
37. Contains a purpose statement.
38. Makes technical and conforming changes.
39. Becomes effective on the general effective date.

Amendments Adopted by Committee

- Requires the application for the Program to include the number of employees who are from Arizona, rather than the level of employment.

Amendments Adopted by Committee of the Whole

1. Replaces the definition of *on location* with a definition of *practical location*.
2. Adds sound stage to the definition of *practical location*.
3. Replaces a qualified production facility with an industry standard facility location relating to motion picture production.
4. Makes technical and conforming changes.

Senate Action

APPROP      2/15/22      DPA      9-1-0

Prepared by Senate Research

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LMM/sr