

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1535

Short Title: Film Industry Incentives.

(Public)

Sponsors: Representatives Owens, McComas; Warner, Barefoot, and Goodwin.

Referred to: Finance, if favorable, Appropriations.

May 16, 2000

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE INCENTIVES FOR DEVELOPMENT OF THE FILM
2 INDUSTRY IN NORTH CAROLINA, TO MAKE THE NORTH CAROLINA FILM
3 COUNCIL A STATUTORY ADVISORY COUNCIL, AND TO MODIFY THE
4 FILM COUNCIL'S MEMBERSHIP.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. Part 2 of Article 10 of Chapter 143B of the General Statutes is
8 amended by adding a new section to read:

9 **"§ 143B-434.3. Film Industry Development Account.**

10 (a) Creation and Purpose of Account. – There is created in the Department of
11 Commerce, Division of Travel and Tourism, the Film Industry Development Account to
12 provide annual grants as incentives to production companies that engage in production
13 activities in this State. The Division of Travel and Tourism shall administer this program
14 in accordance with the following provisions:

15 (1) To be eligible for a grant, a production company must engage in
16 production activities in this State.

17 (2) A grant may not exceed fifteen percent (15%) of the amount the
18 production company spends for goods and services in this State during
19 the calendar year.

1 (3) A grant may not exceed two hundred thousand dollars (\$200,000) per
2 production.

3 (b) Production Company Defined. – As used in this section, the term ‘production
4 company’ has the meaning provided in G.S. 105-164.3.

5 (c) Reports. – The Department of Commerce shall report annually to the General
6 Assembly concerning the applications made to the account, the payments made from the
7 account, and the effect of the payments on job creation in the State. The Department of
8 Commerce shall also report quarterly to the Joint Legislative Commission on
9 Governmental Operations and the Fiscal Research Division on the use of the moneys in
10 the account, including information regarding to whom payments were made and in what
11 amounts.”

12 Section 2. There is appropriated from the General Fund to the Department of
13 Commerce, Division of Travel and Tourism, the sum of five million dollars (\$5,000,000)
14 for the 2000-2001 fiscal year for the Film Industry Development Account created in this
15 act. It is the intent of the General Assembly to appropriate to the Film Industry
16 Development Account the sum of five million dollars (\$5,000,000) in each fiscal year of
17 the 2001-2003 fiscal biennium.

18 Section 3. G.S. 143-341(4) is amended by adding a new subdivision to read:

19 **"§ 143-341. Powers and duties of Department.**

20 The Department of Administration has the following powers and duties:

21 ...
22 (4) Real Property Control:

23 ...
24 o. To provide that no fee, other than reimbursement of actual costs
25 incurred and actual revenues lost by the State, shall be charged
26 when State buildings are made available to a production
27 company for a production. As used in this subdivision, the term
28 ‘production company’ has the meaning provided in G.S. 105-
29 164.3.”

30 Section 4. Article 10 of Chapter 143 of the General Statutes is amended by
31 adding a new section to read:

32 **"§ 143-162.2. Use of public property by production companies.**

33 If a State agency makes real property available to a production company for a
34 production, it shall not charge any fee other than reimbursement of actual costs incurred
35 and actual revenues lost by the agency. As used in this section, the term ‘production
36 company’ has the meaning provided in G.S. 105-164.3. This section does not require a
37 State agency to make real property available to a production company for a production.”

38 Section 5. G.S. 105-164.3 is amended by adding a new subdivision to read:

39 “(11c) ‘Production company’ means a person engaged in the business of
40 making original motion picture, television, or radio images for
41 theatrical, commercial, advertising, or educational purposes.”

42 Section 6. G.S. 105-164.13(22a) reads as rewritten:

1 "(22a) Sales of audiovisual masters made or used by a production
2 company in making visual and audio images for first generation
3 reproduction. For the purpose of this subdivision, an "audiovisual
4 master" is an audio or video film, tape, or disk or another audio or
5 video storage device from which all other copies are made. ~~For the~~
6 ~~purpose of this subdivision, a production company is a person engaged in~~
7 ~~the business of making motion picture, television, or radio images for~~
8 ~~theatrical, commercial, advertising, or educational purposes."~~

9 Section 7. G.S. 105-164.14 is amended by adding a new subsection to read:

10 "(j) Production Companies. – A production company is allowed an annual refund
11 of part of the State sales tax it pays under G.S. 105-164.4(a)(3) on the rental of transient
12 accommodations for occupancy by its employees. If an employee of the production
13 company occupies a transient accommodation for a continuous period of more than 30
14 days but less than 90 days, the production company is allowed a refund of the State sales
15 tax it paid on the rental for the entire rental period. Notwithstanding any other provision
16 of law, the refund allowed in this subsection does not apply to general local sales and use
17 taxes levied under Subchapter VIII of this Chapter, Chapter 1069 of the 1967 Session
18 Laws, or any other local act.

19 A request for a refund must be in writing and must include any information and
20 documentation required by the Secretary. A request for a refund is due within six months
21 after the end of the State's fiscal year. Refunds applied for after the due date are barred."

22 Section 8.(a) Executive Order Number 51, issued June 10, 1994, as extended
23 by Executive Order Number 166, issued December 30, 1999, is enacted and codified as
24 G.S. 143B-434.5 in Part 2 of Article 10 of Chapter 143B of the General Statutes.

25 Section 8.(b) G.S. 143B-434.5, as enacted by this section, is rewritten to read:

26 "**§ 143B-434.5. North Carolina Film Council.**

27 (a) Creation. – The North Carolina Film Council is created as an advisory council
28 within the Department of Commerce. The Council is a continuation of the North
29 Carolina Film Council created in Executive Order Number 51, issued June 10, 1994.

30 (b) Duties. – The Council shall:

31 (1) Advise the Governor on matters that would enhance the likelihood of
32 the film industry choosing North Carolina for filmmaking.

33 (2) Advise the Secretary of Commerce and the Division of Travel and
34 Tourism in the Department of Commerce on filmmaking activities
35 within North Carolina.

36 (3) Serve as a forum for filmmaking concerns and recommendations
37 relating to the film industry in North Carolina that would include the
38 following:

39 a. Compile a database registry of locations within North Carolina
40 that would be potential sites for filmmaking.

41 b. Develop the financial capability of North Carolina to support
42 projects with local financing of the film industry.

- 1 c. Develop a support network for production activities relating to
2 the film industry.
- 3 d. Develop a manual for the use of local governments and
4 municipalities detailing supportive activities that would facilitate
5 filmmaking in their communities.
- 6 e. Assist in the support and coordination of the activities of local
7 film commissions in North Carolina.
- 8 d. Provide advice on projects directly assigned by the Governor to
9 the Council.
- 10 e. Assist with recruitment of the film industry to select North
11 Carolina sites for filmmaking.
- 12 f. Develop an annual report on the economic impact of the
13 filmmaking industry in North Carolina, along with
14 recommendations to increase the filmmaking activities within
15 North Carolina.
- 16 (c) Membership. – The Council shall consist of 25 voting members appointed as
17 follows:
- 18 (1) Two at-large members appointed by the Speaker of the House of
19 Representatives.
- 20 (2) Two at-large members appointed by the President Pro Tempore of the
21 Senate.
- 22 (3) Twenty-one members appointed by the Governor as follows:
- 23 a. Five representatives of the film industry within the State
24 representing acting, production, directing, producing, and film
25 studio management.
- 26 b. Five representatives of business and industry.
- 27 c. Three representatives of State or local government.
- 28 d. Eight at-large members.
- 29 (d) Terms of Membership. – Members shall serve staggered three-year terms. The
30 terms of members appointed under this section shall begin at the expiration of the
31 respective terms of members appointed, as of December 31, 2000, to the Council's
32 predecessor created by executive order.
- 33 (e) Vacancies. – Vacancies are filled in the same manner as the original
34 appointment, for the balance of the unexpired term.
- 35 (f) Travel Expenses. – Members of the Council shall receive necessary travel and
36 subsistence expenses, when available, from Department of Commerce funds, pursuant to
37 G.S. 138-5.
- 38 (g) Officers. – The Governor shall appoint a chair and vice-chair of the Council for
39 a term of two years. The Council may elect other officers it considers necessary.
- 40 (h) Meetings. – The Council shall meet at least three times a year and at other
41 times at the call of the chair or upon written request of at least 10 of its members.
- 42 (i) Staff Assistance. – The Department of Commerce shall provide clerical
43 support and other services required by the Council.

1 (j) Dual Officeholding. – The North Carolina Film Council is not a public office.
2 Membership on the Council may, therefore, be held in addition to the number of offices
3 authorized by G.S. 128-1.1."

4 Section 9.(a) Sections 1 and 2 of this act become effective July 1, 2000.
5 Section 7 of this act becomes effective October 1, 2000, and applies to taxes paid on or
6 after that date.

7 Section 9.(b) Section 8 of this act becomes effective January 1, 2001. Section
8 8 does not affect the existing membership of the North Carolina Film Council as of
9 December 31, 2000. The change in appointing officer for four of the at-large members
10 becomes effective as follows: the appointments by the Speaker of the House of
11 Representatives become effective upon the expiration of the first two at-large members'
12 terms of office expiring after January 1, 2001, and the appointments by the President Pro
13 Tempore of the Senate become effective upon the expiration of the next two at-large
14 members' terms of office expiring after January 1, 2001.

15 Section 9.(c) The remainder of this act is effective when it becomes law.