

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 850

Short Title: Film Grants for NC Productions and Festivals. (Public)

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Referred to: Rules, Calendar, and Operations of the House

April 13, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE FILM AND ENTERTAINMENT GRANT FUND.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** G.S. 143B-437.02A reads as rewritten:

5 **"§ 143B-437.02A. The Film and Entertainment Grant Fund.**

6 (a) Creation and Purpose of Fund. – There is created in the Department of Commerce a
7 special, nonreverting account to be known as the Film and Entertainment Grant Fund to
8 provide funds to encourage the production of motion pictures, television shows, movies for
9 television, productions intended for on-line distribution, and commercials and to develop the
10 filmmaking industry within the State. The Department of Commerce shall adopt guidelines
11 providing for the administration of the program. Those guidelines may provide for the
12 Secretary to award the grant proceeds over a period of time, not to exceed three years. Those
13 guidelines shall include the following provisions, which shall apply to each grant from the
14 account:

- 15 (1) The funds are reserved for a production on which the production company
16 has qualifying expenses of at least the following:
17 a. For a feature-length film, five million dollars (\$5,000,000).
18 b. For a television series, one million dollars (\$1,000,000) per episode.
19 c. For a commercial for theatrical or television viewing or on-line
20 distribution, two hundred fifty thousand dollars (\$250,000).
21 (2) The funds are not used to provide a grant in excess of any of the following:
22 a. An amount more than twenty-five percent (25%) of the qualifying
23 expenses for the production.
24 b. An amount more than five million dollars (\$5,000,000) for a
25 feature-length film, more than nine million dollars (\$9,000,000) for a
26 single season of a television series, or two hundred fifty thousand
27 dollars (\$250,000) for a commercial for theatrical or television
28 viewing or on-line distribution.
29 (3) The funds are not used to provide a grant to more than one production
30 company for a single production.
31 (4) The funds are not used to provide a grant for a production that meets one or
32 more of the following:
33 a. It contains material that is "obscene," as defined in G.S. 14-190.1, or
34 that is "harmful to minors," as defined in G.S. 14-190.13.



- 1 b. It has the primary purpose of political advertising, fundraising, or
2 marketing, other than by commercial, a product, or service.
- 3 c. News programming, including weather, financial market, and current
4 events reporting.
- 5 d. Live sporting event programming, including pre-event and post-event
6 coverage and scripted sports entertainment. For purposes of this
7 exception, a live sporting event is a scheduled sporting competition,
8 game, or race that is originated solely by an amateur, collegiate, or
9 professional organization, institution, or association for live or
10 tape-delayed television or satellite broadcast. The term does not
11 include commercial advertising, an episodic television series, a
12 television pilot, a music video, a motion picture, or a documentary
13 production in which sporting events are presented through archived
14 historical footage or similar footage taken at least 30 days before it is
15 used.
- 16 e. Radio productions.
- 17 f. It is a talk, game, or awards show or other gala event. For purposes
18 of this exception, an awards show is television programming
19 involving the filming of a ceremony in which individuals, groups, or
20 organizations are given an award.
- 21 g. It fails to contain, in the end credits of the production, a statement
22 that the production was "Filmed in North Carolina," a logo provided
23 by the North Carolina Film Office, and an acknowledgement of the
24 regional film office responsible for the geographic area in which the
25 filming of the production occurred. Additionally, the production
26 company will offer marketing opportunities to be evaluated by the
27 North Carolina Film Office to ensure that they offer promotional
28 value to the State.
- 29 (5) Priority for the use of funds shall be given to productions that are reasonably
30 anticipated to maximize the benefit to the State, in consideration of at least
31 the following factors:
- 32 a. Percentage of employees that are permanent residents in the State.
- 33 b. The extent to which the production features identifiable attractions or
34 State locales in a manner that would be reasonably expected to
35 induce visitation by nonresidents of the State to the attraction or
36 locale.
- 37 c. The extent to which the production invests in permanent
38 improvements to open public spaces, commercial districts, traditional
39 downtown areas, public landmarks, residential areas, or similar
40 properties or areas.
- 41 d. The extent to which the production will be filmed in an economically
42 distressed county or area of the State.
- 43 e. The duration of production activities in the State.
- 44 (b) Definitions. – The following definitions apply in this section:
- 45 (1) Department. – The Department of Commerce.
- 46 (2) Employee. – A person who is employed for consideration and whose wages
47 are subject to withholding under Article 4A of Chapter 105 of the General
48 Statutes.
- 49 (3) Highly compensated individual. – An individual who directly or indirectly
50 receives compensation in excess of one million dollars (\$1,000,000) for
51 personal services with respect to a single production. An individual receives

- 1 compensation indirectly when a production company pays a personal service
2 company or an employee leasing company that pays the individual.
- 3 (3a) Individual. – A human being.
- 4 (4) Loan-out company. – A personal service corporation that employs an
5 individual who is hired by a film or digital media production company.
- 6 (5) Production. – Any of the following:
- 7 a. A motion picture intended for commercial distribution to a motion
8 picture theater or directly to the consumer viewing market that has a
9 running time of at least 75 minutes.
- 10 b. A television series or a commercial for theatrical or television
11 viewing, made-for-television movie, or production intended for
12 on-line distribution. For video and television series, a production is
13 all of the episodes of the series produced for a single season.
- 14 (6) Production company. – Defined in G.S. 105-164.3.
- 15 (7) Qualifying expenses. – The sum of the amounts listed in this subdivision,
16 substantiated pursuant to subsection (d) of this section, and spent in this
17 State by a production company in connection with a production, less the
18 amount paid in excess of one million dollars (\$1,000,000) to a highly
19 compensated individual:
- 20 a. Goods and services leased or purchased. For goods with a purchase
21 price of twenty-five thousand dollars (\$25,000) or more, the amount
22 included in qualifying expenses is the purchase price less the fair
23 market value of the good at the time the production is completed.
24 Goods and services includes the costs of tangible and intangible
25 property used for, and services performed primarily and customarily
26 in, production, including preproduction and postproduction and other
27 direct costs of producing the project in accordance with generally
28 accepted entertainment industry practices. Goods and services
29 exclude costs for development, marketing, and distribution; costs of
30 financing for the production, of bonding related to the production, of
31 production-related insurance coverage obtained on the production;
32 and expenses for insurance coverage purchased from a related
33 member.
- 34 b. Compensation and wages and payments on which withholding
35 payments are remitted to the Department of Revenue under Article
36 4A of Chapter 105 of the General Statutes. Payments made to a
37 loan-out company for services provided in North Carolina shall be
38 subject to gross income tax withholding at the applicable rate under
39 the Article 4 of Chapter 105 of the General Statutes.
- 40 c. Employee fringe contributions, including health, pension, and
41 welfare contributions.
- 42 d. Per diems, stipends, and living allowances paid for work being
43 performed in this State.
- 44 (8) Related member. – Defined in G.S. 105-130.7A.
- 45 (9) Secretary. – The Secretary of Commerce.
- 46 (c) Application. – A production company shall apply to the Secretary for a grant on a
47 form prescribed by the Secretary. The Secretary shall evaluate the applications to ensure the
48 production's content is created for entertainment purposes. The application shall include all
49 documentation and information the Secretary deems necessary to evaluate the grant application.
- 50 (d) Substantiation. – The Secretary shall work with the North Carolina Film Office to
51 adopt guidelines to provide a process to verify the actual qualifying expenses of a certified

1 production. The Secretary may not release grant funds until the substantiation process required
2 by this subsection is complete and the final verified amount of qualified expenses is
3 determined. The process shall require each of the following:

- 4 (1) The production company shall submit all the qualifying expenses for the
5 production and data substantiating the qualifying expenses, including
6 documentation on the net expenditure on equipment and other tangible
7 personal property to an independent certified public accountant licensed in
8 this State.
- 9 (2) The accountant shall conduct a compliance audit, at the certified
10 production's expense, pursuant to guidelines established by the Secretary and
11 submit the results as a report, along with the required substantiating data, to
12 the production company and the North Carolina Film Office.
- 13 (3) The North Carolina Film Office shall review the report and advise the
14 Department on the final verified amount of qualifying expenses made by the
15 certified production.

16 (e) Report. – The Department shall provide to the Department of Revenue, and the
17 Department of Revenue must include in the economic incentives report required by
18 G.S. 105-256, the following information, itemized by production company:

- 19 (1) The location of sites used in a production for which a grant was awarded.
- 20 (2) The qualifying expenses, classified by whether the expenses were for goods,
21 services, or compensation paid by the production company.
- 22 (3) The number of people employed in the State with respect to grants awarded,
23 including the number of residents of the State employed.
- 24 (4) The total cost of the grants awarded.

25 (f) NC Film Office. – To claim a grant under this section, a production company must
26 notify the Department of Commerce of its intent to apply for a grant. The notification must
27 include the title of the production, the name of the production company, a financial contact for
28 the production company, the proposed dates on which the production company plans to begin
29 filming the production, and any other information required by the Department.

30 (g) Guidelines. – The Department of Commerce shall develop guidelines related to the
31 administration of the Film and Entertainment Grant Fund and to the selection of productions
32 that will receive grants from the Fund. At least 20 days before the effective date of any
33 guidelines or nontechnical amendments to the guidelines, the Department of Commerce shall
34 publish the proposed guidelines on the Department's Web site and provide notice to persons
35 who have requested notice of proposed guidelines. In addition, the Department must accept oral
36 and written comments on the proposed guidelines during the 15 business days beginning on the
37 first day that the Department has completed these notifications.

38 (h) Small Productions. – There is created in the Film and Entertainment Grant Fund a
39 special account, the Small Production Account. The provisions of this section apply to grants
40 from the Small Production Account, with the following modifications:

- 41 (1) Grants from the Small Production Account are available only to individuals
42 who are permanent residents of the State. Provisions of this section directed
43 toward production companies shall, for purposes of application in the Small
44 Production Account, be interpreted as being directed toward individuals.
- 45 (2) The funds are reserved for feature-length films on which the individual has
46 qualifying expenses of at least one hundred thousand dollars (\$100,000) but
47 not more than five hundred thousand dollars (\$500,000).

48 (i) There is created in the Film and Entertainment Grant Fund a special account, the
49 Film Festival Account. Of the unencumbered, unexpended funds in the Film and Entertainment
50 Grant Fund, the sum of five hundred thousand dollars (\$500,000) shall be transferred to the
51 Film Festival Account. Funds in the Film Festival Account do not revert and shall be used for

1 grants for advertising and marketing film festivals held in this State. Grants provided in this
2 subsection shall not exceed the lesser of one hundred thousand dollars (\$100,000) or
3 twenty-five percent (25%) of the advertising and marketing costs incurred for the film festival.
4 For purposes of this section, a "film festival" is an organized, extended presentation of films in
5 one or more cinemas or screening venues in a single city or region held over a period of not
6 more than three days."

7 **SECTION 2.** Of the unencumbered, unexpended funds in the Film and
8 Entertainment Grant Fund, the sum of five million dollars (\$5,000,000) shall be transferred to
9 the Small Production Account to be used for the purposes provided in G.S. 143B-437.02A(h).

10 **SECTION 3.** Of the unencumbered, unexpended funds in the Film and
11 Entertainment Grant Fund, the sum of five hundred thousand dollars (\$500,000) shall be
12 transferred to the Film Festival Account to be used for the purposes provided in
13 G.S. 143B-437.02A(i).

14 **SECTION 4.** This act is effective when it becomes law.