

1 the infusion of capital resulting from the filming of a motion picture or television program serves
2 to stimulate economic activity beyond that immediately apparent on the film set.

3 (c) Since a significant portion of the cost of a motion picture or television production will
4 not be eligible for existing tax incentives due to the fact that portions of the production are carried
5 out in another state, it is the purpose of this chapter to provide a financial incentive to the film
6 industry in order that the state might compete with other states for filming locations.

7 (d) The primary objective of this chapter is to encourage development in Rhode Island of
8 a strong capital base for motion picture film, videotape, and television program productions, in
9 order to achieve a more independent, self-supporting industry. This objective is divided into
10 immediate and long-term objectives as follows:

11 (1) Immediate objectives are to:

12 (i) Attract private investment for the production of motion pictures, videotape
13 productions, and television programs which contain substantial Rhode Island content as defined
14 herein.

15 (ii) Develop a tax infrastructure which encourages private investment. This infrastructure
16 will provide for state participation in the form of [incentives consisting of](#) tax credits [or rebates](#) to
17 encourage investment in state- certified productions.

18 (iii) Develop a tax infrastructure utilizing [incentives consisting of](#) tax credits [or rebates](#)
19 which encourage investments in multiple state-certified production projects.

20 (2) Long-term objectives are to:

21 (i) Encourage increased employment opportunities within this sector and increased
22 competition with other states in fully developing economic development options within the film
23 and video industry.

24 (ii) Encourage new education curricula in order to provide a labor force trained in all
25 aspects of film production.

26 **44-31.2-2. Definitions.**

27 For the purposes of this chapter:

28 (1) "Accountant's certification" as provided in this chapter means a certified audit by a
29 Rhode Island certified public accountant licensed in accordance with chapter 3.1 of title 5.

30 (2) "Application year" means within the calendar year the motion picture production
31 company files an application for the [incentives consisting of a](#) tax credit [or rebate](#).

32 (3) "Base investment" means the actual investment made and expended by a state-
33 certified production in the state as production-related costs.

34 (4) "Documentary production" means a non-fiction production intended for educational

1 or commercial distribution that may require out-of-state principal photography.

2 (5) "Domiciled in Rhode Island" means a corporation incorporated in Rhode Island or a
3 partnership, limited liability company, or other business entity formed under the laws of the state
4 of Rhode Island for the purpose of producing motion pictures as defined in this section, or an
5 individual who is a domiciled resident of the state of Rhode Island as defined in chapter 30 of this
6 title.

7 (6) "Final production budget" means and includes the total pre-production, production,
8 and post-production out-of-pocket costs incurred and paid in connection with the making of the
9 motion picture. The final production budget excludes costs associated with the promotion or
10 marketing of the motion picture.

11 (7) "Motion picture" means a feature-length film, documentary production, video,
12 television series, or commercial made in Rhode Island, in whole or in part, for theatrical or
13 television viewing or as a television pilot or for educational distribution. The term "motion
14 picture" shall not include the production of television coverage of news or athletic events, [or](#)
15 [reality television show\(s\)](#), nor shall it apply to any film, video, television series, or commercial or
16 a production for which records are required under 18 U.S.C. § 2257, to be maintained with
17 respect to any performer in such production or reporting of books, films, etc. with respect to
18 sexually explicit conduct.

19 (8) "Motion picture production company" means a corporation, partnership, limited
20 liability company, or other business entity engaged in the business of producing one or more
21 motion pictures as defined in this section. Motion picture production company shall not mean or
22 include:

23 (a) Any company owned, affiliated, or controlled, in whole or in part, by any company or
24 person who or that is in default:

25 (i) On taxes owed to the state; or

26 (ii) On a loan made by the state in the application year; or

27 (iii) On a loan guaranteed by the state in the application year; or

28 (b) Any company or person who or that has discharged an obligation to pay or repay
29 public funds or monies by:

30 (i) Filing a petition under any federal or state bankruptcy or insolvency law;

31 (ii) Having a petition filed under any federal or state bankruptcy or insolvency law
32 against such company or person;

33 (iii) Consenting to, or acquiescing or joining in, a petition named in (i) or (ii);

34 (iv) Consenting to, or acquiescing or joining in, the appointment of a custodian, receiver,

1 trustee, or examiner for such company's or person's property; or

2 (v) Making an assignment for the benefit of creditors or admitting in writing or in any
3 legal proceeding its insolvency or inability to pay debts as they become due.

4 (9) "Primary locations" means the locations that (1) At least fifty-one percent (51%) of
5 the motion picture principal photography days are filmed; or (2) At least fifty-one percent (51%)
6 of the motion picture's final production budget is spent and employs at least five (5) individuals
7 during the production in this state; or (3) For documentary productions, the location of at least
8 fifty-one percent (51%) of the total productions days, which shall include pre-production and
9 post-production locations.

10 (10) "Rhode Island film and television office" means an office within the ~~department of~~
11 ~~administration~~ [Rhode Island council on the arts](#) that has been established in order to promote and
12 encourage the locating of film and television productions within the state of Rhode Island. The
13 office is also referred to within as the "film office".

14 (11) "State-certified production" means a motion picture production approved by the
15 Rhode Island film office and produced by a motion picture production company domiciled in
16 Rhode Island, whether or not such company owns or controls the copyright and distribution rights
17 in the motion picture; provided, that such company has either:

18 (a) Signed a viable distribution plan; or

19 (b) Is producing the motion picture for:

20 (i) A major motion picture distributor;

21 (ii) A major theatrical exhibitor;

22 (iii) Television network; or

23 (iv) Cable television programmer.

24 (12) "State-certified production cost" means any pre-production, production, and post-
25 production cost that a motion picture production company incurs and pays to the extent it occurs
26 within the state of Rhode Island. Without limiting the generality of the foregoing, "state-certified
27 production costs" include: set construction and operation; wardrobes, make-up, accessories, and
28 related services; costs associated with photography and sound synchronization, lighting, and
29 related services and materials; editing and related services, including, but not limited to: film
30 processing, transfers of film to tape or digital format, sound mixing, computer graphics services,
31 special effects services, and animation services, salary, wages, and other compensation, including
32 related benefits, of persons employed, either directly or indirectly, in the production of a film
33 including writer, motion picture director, producer (provided the work is performed in the state of
34 Rhode Island); rental of facilities and equipment used in Rhode Island; leasing of vehicles; costs

1 of food and lodging; music, if performed, composed, or recorded by a Rhode Island musician, or
2 released or published by a person domiciled in Rhode Island; travel expenses incurred to bring
3 persons employed, either directly or indirectly, in the production of the motion picture, to Rhode
4 Island (but not expenses of such persons departing from Rhode Island); and legal (but not the
5 expense of a completion bond or insurance and accounting fees and expenses related to the
6 production's activities in Rhode Island); provided such services are provided by Rhode Island
7 licensed attorneys or accountants.

8 **44-31.2-5. ~~Motion picture production company tax credit~~ Motion picture production**
9 **company incentives.**

10 (a) A motion picture production company shall be allowed a credit or rebate to be
11 computed as provided in this chapter against a tax imposed by chapters 11, 14, 17 and 30 of this
12 title. The amount of the credit or rebate shall be ~~twenty five percent (25%)~~ thirty percent (30%)
13 of the state certified production costs incurred directly attributable to activity within the state,
14 provided that the primary locations are within the state of Rhode Island and the total production
15 budget as defined herein is a minimum of one hundred thousand dollars (\$100,000). The credit or
16 rebate shall be earned in the taxable year in which production in Rhode Island is completed, as
17 determined by the film office in final certification pursuant to subsection 44-31.2-6(c).

18 (b) For the purposes of this section: "total production budget" means and includes the
19 motion picture production company's pre-production, production and post-production costs
20 incurred for the production activities of the motion picture production company in Rhode Island
21 in connection with the production of a state-certified production. The budget shall not include
22 costs associated with the promotion or marketing of the film, video or television product.

23 (c) ~~Notwithstanding subsection (a), the credit shall not exceed five million dollars~~
24 ~~(\$5,000,000) and shall be allowed against the tax for the taxable period in which the credit is~~
25 ~~earned and can be carried forward for not more than three (3) succeeding tax years. Pursuant to~~
26 ~~rules promulgated by the tax administrator, the administrator may issue a waiver of the five~~
27 ~~million dollar (\$5,000,000) tax credit cap for any feature length film or television series up to the~~
28 ~~remaining funds available pursuant to section (e).~~

29 (d) Credits or rebates allowed to a motion picture production company, which is a
30 subchapter S corporation, partnership, or a limited liability company that is taxed as a partnership,
31 shall be passed through respectively to persons designated as partners, members or owners on a
32 pro rata basis or pursuant to an executed agreement among such persons designated as subchapter
33 S corporation shareholders, partners, or members documenting an alternate distribution method
34 without regard to their sharing of other tax or economic attributes of such entity.

1 (e) No more than fifteen million dollars (\$15,000,000) in total may be issued for any tax
2 year beginning after ~~December 31, 2007~~ December 31, 2018, for motion picture ~~tax credits~~
3 incentives pursuant to this chapter and/or musical and theatrical production ~~tax credits~~ incentives
4 pursuant to chapter 31.3 of this title. Said credits shall be equally available to motion picture
5 productions and musical and theatrical productions. No specific amount shall be set aside for
6 either type of production.

7 **44-31.2-6. Certification and administration.**

8 (a) Initial certification of a production. The applicant shall properly prepare, sign and
9 submit to the film office an application for initial certification of the Rhode Island production.
10 The application shall include such information and data as the film office deems necessary for the
11 proper evaluation and administration of said application, including, but not limited to, any
12 information about the motion picture production company, and a specific Rhode Island motion
13 picture. The film office shall review the completed application and determine whether it meets
14 the requisite criteria and qualifications for the initial certification for the production. If the initial
15 certification is granted, the film office shall issue a notice of initial certification of the motion
16 picture production to the motion picture production company and to the tax administrator. The
17 notice shall state that, after appropriate review, the initial application meets the appropriate
18 criteria for conditional eligibility. The notice of initial certification will provide a unique
19 identification number for the production and is only a statement of conditional eligibility for the
20 production and, as such, does not grant or convey any Rhode Island ~~tax~~ incentives benefits.

21 (b) Final certification of a production. Upon completion of the Rhode Island production
22 activities, the applicant shall request a certificate of good standing from the Rhode Island division
23 of taxation. Such certificates shall verify to the film office the motion picture production
24 company's compliance with the requirements of subsection 44-31.2-2(5). The applicant shall
25 properly prepare, sign and submit to the film office an application for final certification of the
26 production and which must include the certificate of good standing from the division of taxation.
27 In addition, the application shall contain such information and data as the film office determines
28 is necessary for the proper evaluation and administration, including, but not limited to, any
29 information about the motion picture production company, its investors and information about the
30 production previously granted initial certification. The final application shall also contain a cost
31 report and an "accountant's certification". The film office and tax administrator may rely without
32 independent investigation, upon the accountant's certification, in the form of an opinion,
33 confirming the accuracy of the information included in the cost report. Upon review of a duly
34 completed and filed application, the film office will make a determination pertaining to the final

1 certification of the production. Within ninety (90) days after the division of taxation's receipt of
2 the motion picture production company final certification and cost report, the division of taxation
3 shall issue a certification of the amount of ~~credit~~ [the incentives](#) for which the motion picture
4 production company qualifies under § 44-31.2-5. To claim the ~~tax-credit~~ [incentive](#), the division of
5 taxation's certification as to the amount of the ~~tax-credit~~ [incentives](#) shall be attached to all state
6 tax returns on which the ~~credit~~ [incentives are](#) is claimed.

7 (c) Final certification and ~~credits~~ [incentives](#). Upon determination that the motion picture
8 production company qualifies for final certification, the film office shall issue a letter to the
9 production company indicating "certificate of completion of a state certified production". A
10 motion picture production company is prohibited from using state funds, state loans or state
11 guaranteed loans to qualify for the motion picture ~~tax-credit~~ [incentives](#). All documents that are
12 issued by the film office pursuant to this section shall reference the identification number that was
13 issued to the production as part of its initial certification.

14 (d) The director of the ~~department of administration~~ [Rhode Island film and television](#)
15 [office](#), in consultation as needed with the tax administrator, shall promulgate such rules and
16 regulations as are necessary to carry out the intent and purposes of this chapter in accordance with
17 the general guidelines provided herein for the certification of the production and the resultant
18 production ~~credit~~ [incentives](#).

19 (e) The tax administrator of the division of taxation, in consultation with the director of
20 the Rhode Island film and television office, shall promulgate such rules and regulations as are
21 necessary to carry out the intent and purposes of this chapter in accordance with the general
22 guidelines for the ~~tax-credit~~ [incentives](#) provided herein.

23 (f) Any motion picture production company applying for the ~~credit~~ [incentive](#) shall be
24 required to reimburse the division of taxation for any audits required in relation to granting the
25 ~~credit~~ [incentive](#).

26 **44-31.2-6.1. Impact analysis and periodic reporting.**

27 (a) The film office shall not certify or approve any application under § 44-31.2-6 of this
28 chapter until it has first prepared and publicly released an analysis of the impact the proposed
29 investment will or may have on the state. The analysis shall be supported by appropriate data and
30 documentation and shall consider, but not be limited to, the following factors:

- 31 (i) The impact on the industry or industries in which the applicant will be involved;
32 (ii) State fiscal matters, including the state budget (revenues and expenses);
33 (iii) The financial exposure of the taxpayers of the state under the plans for the proposed
34 investment and negative foreseeable contingencies that may arise therefrom;

1 (iv) The approximate number of full-time, part-time, temporary, seasonal and/or
2 permanent jobs projected to be created, construction and non-construction;

3 (v) Identification of geographic sources of the staffing for identified jobs;

4 (vi) The projected duration of the identified construction jobs;

5 (vii) The approximate wage rates for each category of the identified jobs;

6 (viii) The types of fringe benefits to be provided with the identified jobs, including
7 healthcare insurance and any retirement benefits;

8 (ix) The projected fiscal impact on increased personal income taxes to the state of Rhode
9 Island; and

10 (x) The description of any plan or process intended to stimulate hiring from the host
11 community, training of employees or potential employees, and outreach to minority job
12 applicants and minority businesses.

13 (b) The film office shall monitor every impact analysis it completes through the duration
14 of any approved ~~tax credit~~ [incentive](#). Such monitoring shall include annual reports made available
15 to the public on the:

16 (1) Actual versus projected impact for all considered factors; and

17 (2) Verification of all commitments made in consideration of state incentives ~~or aid~~.

18 (c) Upon its preparation and release of the analysis required by subsection (b) of this
19 section, the film office shall provide copies of that analysis to the chairpersons of the house and
20 senate finance committees, the house and senate fiscal advisors, the department of labor and
21 training and the division of taxation. Any such analysis shall be available to the public for
22 inspection by any person and shall be published by the tax administrator on the tax division
23 website. Annually thereafter, through and including the second tax year after any taxpayer has
24 applied for and received ~~a tax credit~~ [incentives](#) pursuant to this chapter, the department of labor
25 and training shall certify to the chairpersons of the house and senate finance committees, the
26 house and senate fiscal advisors, the corporation and the division of taxation that: (i) the actual
27 number of new full-time jobs with benefits created by the state-certified production, not including
28 construction jobs, is on target to meet or exceed the estimated number of new jobs identified in
29 the analysis above, and (ii) the actual number of existing full-time jobs with benefits has not
30 declined. For purposes of this section, "full-time jobs with benefits" means jobs that require
31 working a minimum of thirty (30) hours per week within the state, with a median wage that
32 exceeds by five percent (5%) the median annual wage for full-time jobs in Rhode Island and
33 within the taxpayer's industry, with a benefit package that includes healthcare insurance plus
34 other benefits typical of companies within the motion picture industry. The department of labor

1 and training shall also certify annually to the house and senate fiscal committee chairs, the house
2 and senate fiscal advisors, and the division of taxation that jobs created by the state-certified
3 production are "new jobs" in the state of Rhode Island, meaning that the employees of the motion
4 picture production company are in addition to, and without a reduction of, those employees of the
5 motion picture production company currently employed in Rhode Island, are not relocated from
6 another facility of the motion picture production company in Rhode Island or are employees
7 assumed by the motion picture production company as the result of a merger or acquisition of a
8 company already located in Rhode Island. The certifications made by the department of labor and
9 training shall be available to the public for inspection by any person and shall be published by the
10 tax administrator on the tax division website.

11 (d) The film office, with the assistance of the motion picture production company, the
12 department of labor and training, the department of human services and the division of taxation
13 shall provide annually an analysis of whether any of the employees of the motion picture
14 production company has received RIte Care or RIte Share benefits and the impact such benefits
15 or assistance may have on the state budget. This analysis shall be available to the public for
16 inspection by any person and shall be published by the tax administrator on the tax division
17 website. Notwithstanding any other provision of law or rule or regulation, the division of
18 taxation, the department of labor and training and the department of human services are
19 authorized to present, review and discuss project-specific tax or employment information or data
20 with the film office, the chairpersons of the house and senate finance committees, and/or the
21 house and senate fiscal advisors for the purpose of verification and compliance with this ~~tax~~
22 ~~credit~~ [incentive](#) reporting requirement.

23 (e) Any agreements or contracts entered into by the film office and the motion picture
24 production company shall be sent to the division of taxation and be available to the public for
25 inspection by any person and shall be published by the tax administrator on the tax division
26 website.

27 (f) By August 15th of each year the motion picture production company shall report the
28 source and amount of any bonds, grants, loans, loan guarantees, matching funds or ~~tax credits~~
29 [incentives](#) received from any state governmental entity, state agency or public agency as defined
30 in § 37-2-7 received during the previous state fiscal year. This annual report shall be sent to the
31 division of taxation and be available to the public for inspection by any person and shall be
32 published by the tax administrator on the tax division website.

33 (g) By August 15th of each year the division of taxation shall report the name, address,
34 and amount of ~~tax credit~~ [incentives](#) received for each motion picture production company during

1 the previous state fiscal year to the film office, the chairpersons of the house and senate finance
2 committees, the house and senate fiscal advisors, the department of labor and training and the
3 division of taxation. This report shall be available to the public for inspection by any person and
4 shall be published by the tax administrator on the tax division website.

5 (h) On or before September 1, 2011, and every September 1 thereafter, the project lessee
6 shall file an annual report with the tax administrator. Said report shall contain each full-time
7 equivalent, part-time or seasonal employee's name, social security number, date of hire, and
8 hourly wage as of the immediately preceding July 1 and such other information deemed necessary
9 by the tax administrator. The report shall be filed on a form and in a manner prescribed by the tax
10 administrator.

11 **44-31.2-7. Information requests.**

12 (a) The director of the film office and his or her agents, for the purpose of ascertaining
13 the propriety or correctness of any materials pertaining to the certification of any motion picture
14 production or to ~~credits~~ [incentives](#) claimed under the provisions of this chapter, may examine any
15 books, papers, records, or memoranda bearing upon the matters required to be included in the
16 return, report, or other statement, and may require the attendance of the person executing the
17 return, report, or other statement, and may require the attendance of any taxpayer, or the
18 attendance of any other person, and may examine the person under oath respecting any matter
19 which the director or his or her agent deems pertinent or material in administration and
20 application of this chapter and, where not inconsistent with other legal provisions, the director
21 may request information from the tax administrator.

22 (b) The tax administrator and his or her agents, for the purpose of ascertaining the
23 correctness of any ~~credit~~ [incentive](#) claimed under the provisions of this chapter, may examine any
24 books, papers, records, or memoranda bearing upon matters required to be included in the return,
25 report, or other statement, and may require the attendance of the person executing the return,
26 report, or other statement, or of any officer or employee of any taxpayer, or the attendance of any
27 other person, and may examine the person under oath respecting any matter which the tax
28 administrator or his or her agent deems pertinent or material in determining the eligibility for
29 ~~credits~~ [incentives](#) claimed and may request information from the film office, and the film office
30 shall provide the information in all cases to the tax administrator.

31 **44-31.2-8. Hearings and appeals.**

32 (a) From an action of the film office. For matters pertaining exclusively to application,
33 production, and certification of motion picture productions, any person aggrieved by a denial
34 action of the film office under this chapter shall notify the director of the film office in writing,

1 within thirty (30) days from the date of mailing of the notice of denial action by the film office
2 and request a hearing relative to the denial or action. The director of the film office shall, as soon
3 as is practicable, fix a time and place of hearing, and shall render a final decision. Appeals from a
4 final decision of the director of the film office under this chapter are to the sixth (6th) division
5 district court pursuant to chapter 35 of title 42 of the general laws.

6 (b) From denial of ~~tax-credit~~ incentives. Any person aggrieved by the tax administrator's
7 denial of ~~a tax-credit or tax-benefit~~ any incentive in this section shall notify the tax administrator
8 in writing within thirty (30) days from the date of mailing of the notice of denial of the ~~tax-credit~~
9 incentive and request a hearing relative to the denial of the ~~tax-credit~~ incentive. The tax
10 administrator shall, as soon as is practicable, fix a time and place for a hearing, and shall render a
11 final decision. Appeals from a final decision of the tax administrator under this chapter are to the
12 sixth (6th) division district court pursuant to chapter 8 of title 8 of the general laws. The
13 taxpayer's right to appeal is expressly made conditional upon prepayment of all taxes, interest,
14 and penalties, unless the taxpayer files a timely motion for exemption from prepayment with the
15 district court in accordance with the requirements imposed pursuant to § 8-8-26 of the general
16 laws.

17 **44-31.2-9. Transferability of the credit Transferability of the incentive.**

18 (a) Any motion picture production company ~~tax-credit~~ incentive certificate issued in
19 accordance with § 44-31.2-5, which has been issued to a motion picture production company or
20 passed through in accordance with subsection 44-31.2-5(d), and to the extent not previously
21 claimed against the ~~tax~~ incentive of the motion picture production company or of the owner of the
22 certificate if the certificate was issued in accordance with subsection 44-31.2-5(d), may be
23 transferred or sold by such company to another Rhode Island taxpayer, subject to the following
24 conditions:

25 (1) A single transfer or sale may involve one or more transferees, assignees or purchasers.
26 A transfer or sale of the ~~credits~~ incentives may involve multiple transfers to one or more
27 transferees, assignees or purchasers.

28 (2) Transferors and sellers shall submit to the Rhode Island Film Office, and to the tax
29 administrator in writing, a notification of any transfer or sale of ~~tax-credits~~ incentives within thirty
30 (30) days after the transfer or sale of such ~~tax-credits~~ incentives. The notification shall include the
31 transferor's ~~tax-credit~~ incentive balance prior to transfer, the ~~credit~~ incentive certificate number,
32 the name of the state-certified production, the transferor's remaining ~~tax-credit~~ incentive balance
33 after transfer, all tax identification numbers for both transferor and transferee, the date of transfer,
34 the amount transferred, a copy of the ~~credit~~ incentive certificate, and any other information

1 required by the Rhode Island office of film and television or the division of taxation. The
2 notification submitted to the division of taxation shall include a processing fee of up to two
3 hundred dollars (\$200) per transferee which shall be deposited as general revenues.

4 (3) Failure to comply with this section will result in the disallowance of the ~~tax-credit~~
5 incentive until the taxpayers are in full compliance.

6 (4) The transfer or sale of ~~this-credit~~ any incentive does not extend the time in which the
7 ~~credit~~ incentive can be used. The carry forward period for ~~credit~~ the incentive that is transferred
8 or sold begins on the date on which the ~~credit~~ incentive was originally granted by the film office.

9 (5) To the extent that the transferor did not have rights to claim or use the ~~credit~~ incentive
10 at the time of the transfer, the division of taxation shall either disallow the ~~credit~~ incentive
11 claimed by the transferee or recapture the ~~credit~~ incentive from the transferee through any
12 collection method authorized by Rhode Island general law. The transferee's recourse is against
13 the transferor.

14 (6) The film office shall assess and collect an administrative fee of two hundred dollars
15 (\$200) per transfer, assignment or sale for issuing multiple motion picture production company
16 ~~tax-credit~~ incentive certificates or for reissuing certificates.

17 (b) The transferee, assignee or purchaser shall apply such ~~credits~~ incentives in the same
18 manner as the motion picture production company originally awarded the ~~credit~~ incentive.

19 (c) For purposes of this chapter, any assignment or sales proceeds received by the motion
20 picture production company for its assignment or sale of the ~~tax-credits~~ incentives allowed
21 pursuant to this section shall be exempt from this title.

22 SECTION 3. Section 44-31.2-11 of the General Laws in Chapter 44-31.2 entitled
23 "Motion Picture Production Tax Credits" is hereby repealed.

24 ~~**44-31.2-11. Sunset.**~~

25 ~~No credits shall be issued on or after July 1, 2024, unless the production has received~~
26 ~~initial certification under § 44-31.2-6(a) prior to July 1, 2024.~~

27 SECTION 4. Section 44-31.3-4 of the General Laws in Chapter 44-31.3 entitled "Musical
28 and Theatrical Production Tax Credits" is hereby repealed.

29 ~~**44-31.3-4. Sunset.**~~

30 ~~No credits shall be issued on or after July 1, 2019 unless the production has received~~
31 ~~initial certification under subsection 44-31.3-2(e) prior to July 1, 2019.~~

32 SECTION 5. The title of Chapter 44-31.3 of the General Laws entitled "Musical and
33 Theatrical Production Tax Credits" is hereby amended to read as follows:

34 ~~**CHAPTER 44-31.3**~~

2 CHAPTER 44-31.3

3 MUSICAL AND THEATRICAL PRODUCTION INCENTIVES

4 SECTION 6. Sections 44-31.3-1, 44-31.3-2 and 44-31.3-3 of the General Laws in
5 Chapter 44-31.3 entitled "Musical and Theatrical Production Tax Credits" are hereby amended to
6 read as follows:

7 **44-31.3-1. Declaration of purpose.**

8 The general assembly finds and declares that it is Rhode Island's priority to reduce the
9 state's unemployment rate by stimulating new industries that have large employment growth
10 potential by providing ~~tax~~ incentives consisting of tax credits or rebates and other means
11 necessary and therefore recognizes that such incentives should be created for the arts and
12 entertainment industry. The purpose of this chapter is to create economic incentives for the
13 purpose of stimulating the local economy and reducing unemployment in Rhode Island.

14 **44-31.3-2. ~~Musical and theatrical production tax credits~~ Musical and theatrical**
15 **production incentives.**

16 (a) Definitions. As used in this chapter:

17 (1) "Accredited theater production" means a for-profit live stage presentation in a
18 qualified production facility, as defined in this chapter that is either: (i) A Pre-Broadway
19 production, or (ii) A Post-Broadway production.

20 (2) "Accredited theater production certificate" means a certificate issued by the film
21 office certifying that the production is an accredited theater production that meets the guidelines
22 of this chapter.

23 (3) "Advertising and public relations expenditure" means costs incurred within the state
24 by the accredited theater productions for goods or services related to the national marketing,
25 public relations, creation and placement of print, electronic, television, billboards and other forms
26 of advertising to promote the accredited theater production.

27 (4) "Payroll" means all salaries, wages, fees, and other compensation including related
28 benefits for services performed and costs incurred within Rhode Island.

29 (5) "Pre-broadway production" means a live stage production that, in its original or
30 adaptive version, is performed in a qualified production facility having a presentation scheduled
31 for Broadway's theater district in New York City within (12) months after its Rhode Island
32 presentation.

33 (6) "Post-broadway production" means a live stage production that, in its original or
34 adaptive version, is performed in a qualified production facility and opens its US tour in Rhode

1 Island after a presentation scheduled for Broadway's theater district in New York City.

2 (7) "Production and performance expenditures" means a contemporaneous exchange of
3 cash or cash equivalent for goods or services related to development, production, performance, or
4 operating expenditures incurred in this state for a qualified theater production including, but not
5 limited to, expenditures for design; construction and operation, including sets, special and visual
6 effects, costumes, wardrobes, make-up, accessories; costs associated with sound, lighting,
7 staging, payroll, transportation expenditures, advertising and public relations expenditures,
8 facility expenses, rentals, per diems, accommodations and other related costs.

9 (8) "Qualified production facility" means a facility located in the state of Rhode Island in
10 which live theatrical productions are, or are intended to be, exclusively presented that contains at
11 least one stage, a seating capacity of one thousand (1,000) or more seats, and dressing rooms,
12 storage areas, and other ancillary amenities necessary for the accredited theater production.

13 (9) "Resident" or "Rhode Island resident" means for the purpose of determination of
14 eligibility for the ~~tax~~ incentives provided by this chapter, an individual who is domiciled in the
15 state of Rhode Island or who is not domiciled in this state but maintains a permanent place of
16 abode in this state and is in this state for an aggregate of more than one hundred eighty-three
17 (183) days of the taxable year, unless the individual is in the armed forces of the United States.

18 (10) "Rhode Island film and television office" means the office within the department of
19 administration that has been established in order to promote and encourage the locating of film
20 and television productions within the state of Rhode Island. The office is also referred to as the
21 "film office".

22 (11) (i) "Transportation expenditures" means expenditures for the packaging, crating, and
23 transportation both to the state for use in a qualified theater production of sets, costumes, or other
24 tangible property constructed or manufactured out of state, and/or from the state after use in a
25 qualified theater production of sets, costumes, or other tangible property constructed or
26 manufactured in this state and the transportation of the cast and crew to and from the state. Such
27 term shall include the packaging, crating, and transporting of property and equipment used for
28 special and visual effects, sound, lighting and staging, costumes, wardrobes, make-up, and related
29 accessories and materials, as well as any other performance or production-related property and
30 equipment.

31 (ii) Transportation expenditures shall not include any costs to transport property and
32 equipment to be used only for filming and not in a qualified theater production, any indirect costs,
33 and expenditures that are later reimbursed by a third party, or any amounts that are paid to
34 persons or entities as a result of their participation in profits from the exploitation of the

1 production.

2 (b) ~~Tax Credit~~ Incentives.

3 (1) Any person, firm, partnership, trust, estate, or other entity that receives an accredited
4 theater production certificate shall be allowed an incentive consisting of a tax credit or rebate
5 equal to ~~twenty-five percent (25%)~~ thirty percent (30%) of the total production and performance
6 expenditures and transportation expenditures for the accredited theater production and to be
7 computed as provided in this chapter against a tax imposed by chapters 11, 12, 13, 14, 17, and 30
8 of this title. Said credit shall not exceed five million dollars (\$5,000,000) and shall be limited to
9 certified production cost directly attributable to activities in the state and transportation
10 expenditures defined above. The total production budget shall be a minimum of one hundred
11 thousand dollars (\$100,000).

12 (2) No more than fifteen million dollars (\$15,000,000) in total may be issued for any tax
13 year for motion picture ~~tax-credits~~ incentives pursuant to chapter 31.2 of this title and/or musical
14 and theatrical production ~~tax-credits~~ incentives pursuant to this chapter. Said ~~credits~~ incentives
15 shall be equally available to motion picture productions and musical and theatrical productions.
16 No specific amount shall be set aside for either type of production.

17 (3) The ~~tax-credits~~ incentives shall be allowed against the tax for the taxable period in
18 which the ~~credit~~ incentive is earned and can be carried forward for not more than three (3)
19 succeeding tax years.

20 (4) ~~Credits~~ Incentives allowed to a company that is a subchapter S corporation,
21 partnership, or a limited liability company that is taxed as a partnership, shall be passed through
22 respectively to persons designated as partners, members, or owners on a pro rata basis or pursuant
23 to an executed agreement among such persons designated as subchapter S corporation
24 shareholders, partners, or members documenting an alternate distribution method without regard
25 to their sharing of other tax or economic attributes of such entity.

26 (5) If the company has not claimed the ~~tax-credits~~ incentives in whole or part, taxpayers
27 eligible for the ~~tax-credits~~ incentives may assign, transfer, or convey the ~~tax-credits~~ incentives, in
28 whole or in part, by sale or otherwise, to any individual or entity and such assignee of the ~~tax~~
29 ~~credits~~ incentives that have not claimed the ~~tax-credits~~ incentives in whole or part may assign,
30 transfer, or convey the ~~tax-credits~~ incentives, in whole or in part, by sale or otherwise, to any
31 individual or entity. The assignee of the ~~tax-credits~~ incentives may use acquired ~~credits~~ incentives
32 to offset up to one hundred percent (100%) of the tax liabilities otherwise imposed pursuant to
33 chapter 11, 12, 13 (other than the tax imposed under § 44-13-13), 14, 17, or 30 of this title. The
34 assignee may apply the ~~tax-credit~~ incentives against taxes imposed on the assignee for not more

1 than three (3) succeeding tax years. The assignor shall perfect the transfer by notifying the state
2 of Rhode Island division of taxation, in writing, within thirty (30) calendar days following the
3 effective date of the transfer and shall provide any information as may be required by the division
4 of taxation to administer and carry out the provisions of this section.

5 (6) For purposes of this chapter, any assignment or sales proceeds received by the
6 assignor for its assignment or sale of the ~~tax credits~~ [incentives](#) allowed pursuant to this section
7 shall be exempt from this title.

8 (7) In the case of a corporation, ~~this credit is~~ [the incentives are](#) only allowed against the
9 tax of a corporation included in a consolidated return that qualifies for the ~~credit~~ [incentives](#) and
10 not against the tax of other corporations that may join in the filing of a consolidated tax return.

11 (c) Certification and administration.

12 (1) The applicant shall properly prepare, sign, and submit to the film office an application
13 for initial certification of the theater production. The application shall include such information
14 and data as the film office deems reasonably necessary for the proper evaluation and
15 administration of said application, including, but not limited to, any information about the theater
16 production company and a specific Rhode Island live theater or musical production. The film
17 office shall review the completed application and determine whether it meets the requisite criteria
18 and qualifications for the initial certification for the production. If the initial certification is
19 granted, the film office shall issue a notice of initial certification of the accredited theater
20 production to the theater production company and to the tax administrator. The notice shall state
21 that, after appropriate review, the initial application meets the appropriate criteria for conditional
22 eligibility. The notice of initial certification will provide a unique identification number for the
23 production and is only a statement of conditional eligibility for the production and, as such, does
24 not grant or convey any Rhode Island tax benefits.

25 (2) Upon completion of an accredited theater production, the applicant shall properly
26 prepare, sign, and submit to the film office an application for final certification of the accredited
27 theater production. The final application shall also contain a cost report and an "accountant's
28 certification." The film office and tax administrator may rely without independent investigation,
29 upon the accountant's certification, in the form of an opinion, confirming the accuracy of the
30 information included in the cost report. Upon review of a duly completed and filed application
31 and upon no later than thirty (30) days of submission thereof, the division of taxation will make a
32 determination pertaining to the final certification of the accredited theater production and the
33 resultant ~~tax credits~~ [incentives](#).

34 (3) Upon determination that the company qualifies for final certification and the resultant

1 ~~tax credits~~ incentives, the tax administrator of the division of taxation shall issue to the company:
2 (i) An Accredited Theater Production Certificate; and (ii) A ~~tax credit~~ incentive certificate in an
3 amount in accordance with this section (b) hereof. A musical and theatrical production company
4 is prohibited from using state funds, state loans, or state guaranteed loans to qualify for the
5 motion picture ~~tax credit~~ incentives. All documents that are issued by the film office pursuant to
6 this section shall reference the identification number that was issued to the production as part of
7 its initial certification.

8 (4) The director of the department of administration, in consultation as needed with the
9 tax administrator, shall promulgate such rules and regulations as are necessary to carry out the
10 intent and purposes of this chapter in accordance with the general guidelines provided herein for
11 the certification of the production and the resultant production ~~credit~~ incentive.

12 (5) If information comes to the attention of the film office that is materially inconsistent
13 with representations made in an application, the film office may deny the requested certification.
14 In the event that ~~tax credits~~ incentives or a portion of ~~tax credits~~ incentives are subject to
15 recapture for ineligible costs and such ~~tax credits~~ incentives have been transferred, assigned,
16 and/or allocated, the state will pursue its recapture remedies and rights against the applicant of the
17 theater production ~~tax credits~~ incentives. No redress shall be sought against assignees, sellers,
18 transferees, or allocates of such ~~credits~~ incentives.

19 (d) Information requests.

20 (i) The director of the film office, and his or her agents, for the purpose of ascertaining
21 the correctness of any ~~credit~~ incentive claimed under the provisions of this chapter, may examine
22 any books, paper, records, or memoranda bearing upon the matters required to be included in the
23 return, report, or other statement, and may require the attendance of the person executing the
24 return, report, or other statement, or of any officer or employee of any taxpayer, or the attendance
25 of any other person, and may examine the person under oath respecting any matter that the
26 director, or his or her agent, deems pertinent or material in administration and application of this
27 chapter and where not inconsistent with other legal provisions, the director may request
28 information from the tax administrator.

29 (ii) The tax administrator, and his or her agents, for the purpose of ascertaining the
30 correctness of any ~~credit~~ incentive claimed under the provisions of this chapter, may examine any
31 books, paper, records, or memoranda bearing upon the matters required to be included in the
32 return, report, or other statement, and may require the attendance of the person executing the
33 return, report, or other statement, or of any officer or employee of any taxpayer, or the attendance
34 of any other person, and may examine the person under oath respecting any matter which the tax

1 administrator or his or her agent deems pertinent or material in determining the eligibility for
2 ~~credits~~ incentives claimed and may request information from the film office, and the film office
3 shall provide the information in all cases to the tax administrator.

4 (e) The film office shall comply with the impact analysis and periodic reporting
5 provisions of § 44-31.2-6.1.

6 **44-31.3-3. Hearings and appeals.**

7 (a) From an action of the film office. For matters pertaining exclusively to application,
8 production, and certification of musical and theatrical productions, any person aggrieved by a
9 denial action of the film office under this chapter shall notify the director of the film office in
10 writing, within thirty (30) days from the date of mailing of the notice of denial action by the film
11 office and request a hearing relative to the denial or action. The director of the film office shall, as
12 soon as is practicable, fix a time and place of hearing, and shall render a final decision. Appeals
13 from a final decision of the director of the film office under this chapter are to the sixth (6th)
14 division district court pursuant to chapter 35 of title 42 of the general laws.

15 (b) From denial of ~~tax-credit~~ incentives. Any person aggrieved by the tax administrator's
16 denial of a ~~tax-credit or tax-benefit~~ incentive in this section shall notify the tax administrator in
17 writing within thirty (30) days from the date of mailing of the notice of denial of the tax credit or
18 rebate and request a hearing relative to the denial of the ~~tax-credit~~ incentive. The tax administrator
19 shall, as soon as is practicable, fix a time and place for a hearing, and shall render a final decision.
20 Appeals from a final decision of the tax administrator under this chapter are to the sixth (6th)
21 division district court pursuant to chapter 8 of title 8 of the general laws. The taxpayer's right to
22 appeal is expressly made conditional upon prepayment of all taxes, interest, and penalties, unless
23 the taxpayer files a timely motion for exemption from prepayment with the district court in
24 accordance with the requirements imposed pursuant to § 8-8-26 of the general laws.

25 SECTION 7. Section 44-31.3-4 of the General Laws in Chapter 44-31.3 entitled "Musical
26 and Theatrical Production Tax Credits" is hereby repealed.

27 **~~44-31.3-4. Sunset.~~**

28 ~~No credits shall be issued on or after July 1, 2019 unless the production has received~~
29 ~~initial certification under subsection 44-31.3-2(c) prior to July 1, 2019.~~

30 SECTION 8. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO TAXATION -- MOTION PICTURE PRODUCTION TAX CREDITS

1 This act would increase motion picture and musical and theatrical production tax or
2 rebate incentives from twenty-five percent (25%) to thirty percent (30%) of the state-certified
3 production costs, and would eliminate the sunset clauses for the incentives granted for those
4 productions.

5 This act would take effect upon passage.

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LC004533
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