

AMENDMENT

OFFERED IN THE HOUSE
TO: HB 113

BY REPRESENTATIVE FIELDS

1 Page 1, line 1, following "**businesses**";:

2 Insert "**relating to the film production promotion program; creating a**
3 **transferable tax credit applicable to certain film production expenditures incurred in**
4 **the state;**"

5

6 Page 2, following line 18:

7 Insert new bill sections to read:

8 **** Sec. 3.** AS 43.98 is amended by adding new sections to read:

9 **Sec. 43.98.031. Film production tax credit.** (a) In cooperation with the film
10 production promotion program, the department shall provide a transferable film
11 production tax credit to a producer for qualified production expenditures.

12 (b) A tax credit provided under (a) of this section may be sold, assigned,
13 exchanged, conveyed, or otherwise transferred in whole or in part.

14 (c) A taxpayer acquiring a transferable credit may use the credit or a portion of
15 the credit to offset taxes imposed under AS 43.20 (Alaska Net Income Tax Act). Any
16 portion of the credit not used may be used at a later period or transferred under (b) of
17 this section.

18 (d) The department shall adopt regulations necessary for the administration of
19 this section.

20 (e) A credit provided under (a) of this section, whether sold, assigned,
21 exchanged, conveyed, or otherwise transferred, in whole or in part, must be used
22 within three years after being provided by the department.

23 (f) The number of tax credits provided in the aggregate under this section may

1 not exceed \$20,000,000.

2 **Sec. 43.98.032. Eligibility.** (a) A film production is eligible for a tax credit
3 under AS 43.98.031 if the producer has \$100,000 or more in qualified expenditures, as
4 determined under AS 43.98.036, in a consecutive 24-month period.

5 (b) The following productions are not eligible, regardless of the production
6 costs:

7 (1) news, weather, or current events programming;

8 (2) a production produced primarily for industrial, corporate, or
9 institutional purposes, and for internal use;

10 (3) an advertisement, infomercial, or any other production that solicits
11 funds, except for a commercial television advertisement produced for national
12 distribution; or

13 (4) a political advertisement.

14 **Sec. 43.98.033. Qualification for film production tax credit.** (a) A film
15 producer may apply for the film production tax credit under AS 43.98.031 by
16 submitting an application to the film production promotion program. The application
17 must include

18 (1) a script or synopsis of the production;

19 (2) the names of the producer, director, and proposed cast;

20 (3) estimated start, completion, and filming dates; and

21 (4) other information the film production promotion program may
22 require to determine the producer's eligibility for a credit and the estimated amount of
23 the credit.

24 (b) If the film production promotion program approves an application
25 submitted under (a) of this section, the film production promotion program shall issue
26 a notice of qualification to the producer. The notice of qualification must include a
27 determination by the film production promotion program of the estimated film
28 production tax credit for which the production qualifies.

29 **Sec. 43.98.034. Award of film production tax credit.** (a) Subject to
30 AS 43.98.031(f), the film production promotion program, in cooperation with the
31 department, shall determine the amount of the tax credit under AS 43.98.031 available

1 to a producer who has obtained a notice of qualification under AS 43.98.033(b), based
2 on the qualified expenditures of the production under AS 43.98.036.

3 (b) The base amount of a tax credit awarded under this section is equal to 25
4 percent of the qualified expenditures of the production.

5 (c) In determining the amount of the tax credit, the percentage provided by (b)
6 of this section shall be increased by the film production promotion program based on
7 the following criteria:

8 (1) an additional 5 percent of qualified expenditures that are wages
9 paid to Alaska residents;

10 (2) an additional two percent of qualified expenditures made in a rural
11 area; and

12 (3) an additional two percent of qualified expenditures made in the
13 state between October 1 and March 30.

14 (d) After completion of the production, the producer shall provide the film
15 production promotion program with a production cost report detailing the qualified
16 expenditures of the production, with verification by an independent certified public
17 accountant approved by the film production promotion program that the costs claimed
18 in the report are qualified expenditures under AS 43.98.036.

19 (e) Subject to (g) of this section, the film production promotion program, in
20 cooperation with the department, shall determine the amount of the tax credit based on
21 the information provided by the producer under (d) of this section and shall award a
22 tax credit in cooperation with the department if the producer has satisfied all
23 requirements under AS 43.98.031 - 43.98.038.

24 (f) The award of a tax credit under this section is conditioned on the
25 producer's and the production's full compliance with all applicable state laws and
26 regulations. At the request of the film production promotion program, a producer shall
27 provide any information necessary for the film production promotion program to
28 determine the producer's and production's compliance with this subsection.

29 (g) In determining the amount of a tax credit awarded under this section, the
30 film production promotion program may reduce the amount of the tax credit by any
31 amount the film production promotion program considers necessary to allow the state,

1 or a political subdivision of the state, to recover the cost of any damages caused by
2 any act or omission of the producer or production.

3 (h) The film production promotion program, in cooperation with the
4 department, may withhold the award of a tax credit under this section if the program
5 determines that there are filed, but unresolved, legal actions in the state involving the
6 producer or production.

7 (i) To qualify for the tax credit under AS 43.98.031, a producer shall include,
8 in the end credits of each qualified film, the logo designed under former
9 AS 44.25.105(b) and the words, "Filmed in Alaska with the Support of the State of
10 Alaska."

11 **Sec. 43.98.036. Determination of qualified expenditures.** (a) Expenditures
12 made by a production company in connection with a film production approved by the
13 film production promotion program that shall be considered qualified expenditures
14 must be directly related to the production and be incurred in the state. Only
15 expenditures that are ordinary, reasonable, and not in excess of fair market value and
16 that are for real or tangible property, fees, services, or state or municipal taxes shall be
17 considered. Expenditures may include

- 18 (1) costs of set construction and operation;
- 19 (2) costs of wardrobes, make-up, accessories, and related services;
- 20 (3) costs associated with photography and sound synchronization;
- 21 (4) costs of lighting and related services and materials;
- 22 (5) costs of editing and related services;
- 23 (6) rental of facilities and equipment;
- 24 (7) leasing of vehicles;
- 25 (8) costs of food and lodging;
- 26 (9) costs of digital or tape editing, film processing, transfer of film to
27 tape or digital format, sound mixing, and special and visual effects;
- 28 (10) the total aggregate payroll for services performed in Alaska,
29 including all salaries, wages, compensation, and related benefits provided to
30 producers, directors, writers, actors, and other personnel that are directly attributable
31 to services performed in Alaska;

1 (11) the costs of the use of an Alaska business for processing qualified
2 payroll and related expenditures;

3 (12) costs of music, if performed, composed, or recorded by an Alaska
4 musician, or released or published by an Alaska business;

5 (13) costs of intrastate travel, if provided by an Alaska business;

6 (14) costs relating to the design, construction, improvement, or repair
7 of a film, video, television, or digital production or postproduction facility or related
8 property, infrastructure, or equipment, except commercial exhibition facilities, as
9 determined by the film production promotion program; or

10 (15) other similar production expenditures as determined by the film
11 production promotion program in cooperation with the Department of Revenue.

12 (b) Production costs that may not be considered qualified expenditures include

13 (1) costs related to the acquisition, determination, transfer, or use of a
14 film production tax credit under AS 43.98.031;

15 (2) postproduction expenditures for marketing and distribution;

16 (3) production financing, depreciation, and amortization costs, and
17 other costs that are not cash or cash equivalent expenditures directly attributable to
18 production costs incurred in the state;

19 (4) amounts that are later reimbursed or reasonably anticipated to be
20 reimbursed, resulting in a reduction in production costs;

21 (5) amounts that are reasonably anticipated to be recovered through
22 subsequent sale or other realization of value by disposal of an asset that has been
23 claimed as a qualified expenditure;

24 (6) amounts that are paid to a person or entity as a result of
25 participation in profits from the exploitation of the production;

26 (7) costs incurred in the purchase of real or tangible property for which
27 a qualified expenditure has, at any time, been claimed.

28 **Sec. 43.98.037. Recovery of film production tax credit.** (a) The film
29 production promotion program, in cooperation with the department, may review,
30 audit, and bring legal proceedings to recover any amount of a tax credit awarded under
31 AS 43.98.034 from a producer or production to which a credit was awarded if the film

1 production promotion program determines that the film producer or production is
2 liable for damages to the state, or any political subdivision of the state.

3 (b) Legal proceedings may not be brought under (a) of this section more than
4 one year after the date the tax credit was awarded under AS 43.98.034.

5 **Sec. 43.98.038. Definitions.** In AS 43.98.031 - 43.98.038,

6 (1) "Alaska business" means

7 (A) a person who holds a current Alaska business license;

8 (B) a person who provides goods or services under the name as
9 appearing on the person's current Alaska business license;

10 (C) a person who has maintained a place of business within the
11 state staffed by the person or an employee of the person for a period of six
12 months immediately preceding the date the goods or services were provided;

13 (D) a person who is

14 (i) incorporated or qualified to do business under the
15 laws of the state;

16 (ii) a sole proprietorship, and the proprietor is a resident
17 of the state;

18 (iii) a limited liability company organized under
19 AS 10.50, and all members are residents of the state; or

20 (iv) a partnership under former AS 32.05, AS 32.06, or
21 AS 32.11, and all partners are residents of the state; and

22 (E) if the business is a joint venture, a joint venture composed
23 entirely of ventures that qualify under (A) - (D) of this subsection;

24 (2) "department" means the Department of Revenue;

25 (3) "film" includes television, commercials, and videos;

26 (4) "film production promotion program" means the film production
27 promotion program created under AS 44.33.231;

28 (5) "producer" means a person who arranges financing for or
29 supervises the production of a film, video, commercial, or television production or
30 pilot;

31 (6) "rural area" means a community with a population of 1,500 or less

1 or a community with a population of 4,500 or less that is not connected by road or rail
2 to Anchorage or Fairbanks.

3 * **Sec. 4.** AS 44.33.231(b) is amended to read:

4 (b) The purpose of the film production promotion program is to

5 (1) work with organizations in the private sector for the expansion and
6 development of film production industries in the state;

7 (2) promote Alaska as an appropriate location for film production;

8 (3) provide production assistance through connecting film directors,
9 makers, and producers with Alaska location scouts and contractors, including
10 contractors providing assistance with permit applications; [AND]

11 (4) certify Alaska film production internship training programs and
12 promote the employment of program interns by eligible productions; **and**

13 **(5) in cooperation with the Department of Revenue, administer the**
14 **Alaska film production promotion program.**

15 * **Sec. 5.** AS 44.33.231 is amended by adding new subsections to read:

16 (d) Subject to appropriations for the purpose, the film production promotion
17 program shall administer, in cooperation with the Department of Revenue, the Alaska
18 film production promotion program to provide a tax credit under AS 43.98.031 for
19 certain film production expenditures incurred in the state.

20 (e) The film production promotion program, in cooperation with the
21 Department of Revenue, may adopt procedures and regulations to carry out its
22 functions under this section."

23 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
24 read:

25 NOTIFICATION. When the number of tax credits provided under AS 43.98.031(f),
26 enacted by sec. 3 of this Act, in the aggregate and the estimated amount of tax credits that
27 could be claimed based on notices of qualification issued by the film production promotion
28 program under AS 44.33.234(b), together equal \$20,000,000, the commissioner of revenue
29 shall notify the presiding officers of each house of the legislature in writing."
30

31 Renumber the following bill sections accordingly.