

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 230

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY SENATORS ELLIS, Stevens, Davis

Introduced: 1/25/08

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the film office in the Department of Commerce, Community, and
2 Economic Development; and creating a transferable tax credit applicable to certain film
3 production expenditures incurred in the state."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 43.98 is amended by adding a new section to read:

6 **Sec. 43.98.030. Film production tax credit.** (a) In cooperation with the film
7 office in the Department of Commerce, Community, and Economic Development, the
8 department shall provide a transferable film production tax credit to a producer, as
9 defined in AS 44.33.239, for qualified production expenditures under AS 44.33.231 -
10 44.33.239.

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

13 (c) A taxpayer acquiring a transferable credit may use the credit or a portion of
14 the credit to offset taxes imposed under AS 43.20 (Alaska Net Income Tax Act). Any

1 portion of the credit not used may be used at a later period or transferred under (b) of
2 this section.

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

5 * **Sec. 2.** AS 44.33 is amended by adding new sections to read:

6 **Article 2A. Film Office.**

7 **Sec. 44.33.231. Duties.** (a) There is created a film office in the Department of
8 Commerce, Community, and Economic Development. The film office shall

9 (1) cooperate with organizations in the private sector for the expansion
10 and development of film production industries in the state;

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

12 (3) provide production assistance through connecting film directors,
13 makers, and producers with Alaska contractors;

14 (4) provide location scouting assistance;

15 (5) assist with permit applications and agreements pertaining to
16 filming on local, state, and federal land;

17 (6) certify an Alaska film production internship training program; and

18 (7) in cooperation with the Department of Revenue, administer the
19 Alaska film production incentive program.

20 (b) The film office shall make available to the legislature, within 30 days after
21 the start of each regular session, a report of the activities conducted by the film office
22 under AS 43.33.231 - 43.33.239. The report must include

23 (1) the number of applications received under AS 44.33.234;

24 (2) the number of applications approved by the film office; and

25 (3) the number of, and amount of, tax credits disbursed under
26 AS 44.33.232.

27 **Sec. 44.33.232. Alaska film production incentive program.** Subject to
28 appropriations for the purpose, the film office shall administer in cooperation with the
29 Department of Revenue the Alaska film production incentive program to provide a tax
30 credit under AS 43.98.030 for certain film production expenditures incurred in the
31 state.

1 **Sec. 44.33.233. Eligibility.** (a) A film production is eligible for a tax credit
2 under AS 43.98.030, if the

3 (1) producer has \$50,000 or more in qualified expenditures under
4 AS 44.33.236;

5 (2) producer employs interns from the Alaska film production
6 internship training program certified by the film office; and

7 (3) production is approved by the film office.

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

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

11 (2) a financial, talk, or game show;

12 (3) a production produced primarily for industrial, corporate, or
13 institutional purposes, and for internal use;

14 (4) a sports event or sports program;

15 (5) a gala presentation or awards show;

16 (6) an infomercial or any production that solicits funds;

17 (7) a political advertisement; or

18 (8) a production that is determined by the film office to be obscene,
19 pornographic, or detrimental to the people of the state.

20 **Sec. 44.33.234. Qualification for film production tax credit.** (a) A film
21 producer may apply for the film production tax credit under AS 43.98.030 by
22 submitting an application to the film office on a form provided by the film office. The
23 application must include

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

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

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

27 (4) a distribution plan for the finished production; and

28 (5) other information the film office may require to determine the
29 producer's eligibility for a credit and the estimated amount of the credit.

30 (b) If the film office approves an application submitted under (a) of this
31 section, the film office shall issue a preliminary certificate to the producer. The

1 certificate must include a determination by the film office of the estimated film
2 production tax credit for which the production qualifies.

3 **Sec. 44.33.235. Award of film production tax credit.** (a) The film office shall
4 determine the amount of the tax credit under AS 43.98.030 available to a producer
5 who has obtained a preliminary certificate under AS 43.33.234(b), based on the
6 qualified expenditures of the production under AS 44.33.236.

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

9 (c) In determining the amount of the tax credit, the percentage provided by (b)
10 of this section shall be increased by the film office based on the following criteria:

11 (1) an additional 10 percent of qualified expenditures that are wages
12 paid to Alaska residents;

13 (2) an additional one percent of qualified expenditures made in a rural
14 area; and

15 (3) an additional one percent of qualified expenditures made in the
16 state between October 1 and March 30.

17 (d) After completion of the production, the producer shall provide the film
18 office with a production cost report audited by an independent certified public
19 accountant.

20 (e) The film office, in cooperation with the Department of Revenue, shall
21 issue a tax credit under AS 43.98.030 based on the information provided under (d) of
22 this section.

23 (f) The film office may not seek recourse against a producer or a taxpayer who
24 has acquired a tax credit under AS 43.98.030(b) for any portion of the credit that may
25 be subsequently disqualified.

26 **Sec. 44.33.236. Determination of qualified expenditures.** (a) Expenditures
27 made by a production company in connection with a film production approved by the
28 film office that shall be considered qualified expenditures include preproduction,
29 production, and postproduction expenditures directly incurred in this state that are
30 directly used in the production, including

31 (1) costs of set construction and operation;

- 1 (2) costs of wardrobes, make-up, accessories, and related services;
- 2 (3) costs associated with photography and sound synchronization;
- 3 (4) costs of lighting and related services and materials;
- 4 (5) costs of editing and related services;
- 5 (6) rental of facilities and equipment;
- 6 (7) leasing of vehicles;
- 7 (8) costs of food and lodging;
- 8 (9) costs of digital or tape editing, film processing, transfer of film to
- 9 tape or digital format, sound mixing, and special and visual effects;
- 10 (10) the total aggregate payroll and the use of an Alaska payroll
- 11 company;
- 12 (11) costs of music, if performed, composed, or recorded by an Alaska
- 13 musician, or released or published by an Alaska-domiciled company;
- 14 (12) airfare, if purchased through an Alaska-based travel agency or
- 15 travel company;
- 16 (13) insurance costs or bonding, if purchased through an Alaska-based
- 17 insurance agency; or
- 18 (14) other similar production expenditures as determined by the film
- 19 office.

20 (b) Production costs that may not be considered include

- 21 (1) the cost of an audit, report, or examination prepared for eligibility
- 22 for the film production tax credit;
- 23 (2) postproduction expenditures for marketing and distribution;
- 24 (3) indirect costs;
- 25 (4) amounts that are later reimbursed;
- 26 (5) amounts that are paid to a person or entity as a result of
- 27 participation in profits from the exploitation of the production;
- 28 (6) costs related to the transfer or use of a film production tax credit
- 29 under AS 43.98.030.

30 **Sec. 44.33.237. Alaska film production internship training program.** The

31 film office may establish an Alaska film production internship training program on a

1 cooperative basis with the University of Alaska.

2 **Sec. 44.33.238. Regulations.** The film office may adopt procedures and
3 regulations to carry out its functions under AS 44.33.231 - 44.33.239.

4 **Sec. 44.33.239. Definitions.** In AS 43.33.231 - 43.33.239,

5 (1) "film" includes television, commercials, and videos;

6 (2) "film office" means the film office created under AS 44.33.231;

7 (2) "producer" means a person who arranges financing for or
8 supervises the production of a film, video, commercial, or television production;

9 (3) "rural area" means a community with a population of 5,500 or less
10 that is not connected by road or rail to Anchorage or Fairbanks.