

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 230(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 2/15/08

Referred: Finance

Sponsor(s): SENATORS ELLIS, Stevens, Davis

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 location scouts and contractors, including
14 contractors providing assistance with permit applications;

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

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

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

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

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

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

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

31 **Sec. 44.33.233. Eligibility.** (a) A film production is eligible for a tax credit

1 under AS 43.98.030, if the

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

4 (2) production is approved by the film office.

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 financial, talk, or game show;

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

11 (4) a sports event or sports program;

12 (5) a gala presentation or awards show;

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

14 (7) a political advertisement; or

15 (8) a production that is determined by the film office to contain
16 sexually explicit conduct as defined in 18 U.S.C. 2256.

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

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

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

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

24 (4) other information the film office may require to determine the
25 producer's eligibility for a credit and the estimated amount of the credit.

26 (b) If the film office approves an application submitted under (a) of this
27 section, the film office shall issue a preliminary certificate to the producer. The
28 certificate must include a determination by the film office of the estimated film
29 production tax credit for which the production qualifies.

30 **Sec. 44.33.235. Award of film production tax credit.** (a) The film office shall
31 determine the amount of the tax credit under AS 43.98.030 available to a producer

1 who has obtained a preliminary certificate under AS 43.33.234(b), based on the
2 qualified expenditures of the production under AS 44.33.236.

3 (b) The base amount of a tax credit awarded under this section is equal to 30
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 office based on the following criteria:

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

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

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

13 (d) After completion of the production, the producer shall provide the film
14 office with a production cost report detailing the qualified expenditures of the
15 production, with verification by an independent certified public accountant that the
16 costs claimed in the report are qualified expenditures under AS 44.33.236.

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

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

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

28 (1) costs of set construction and operation;

29 (2) costs of wardrobes, make-up, accessories, and related services;

30 (3) costs associated with photography and sound synchronization;

31 (4) costs of lighting and related services and materials;

- 1 (5) costs of editing and related services;
- 2 (6) rental of facilities and equipment;
- 3 (7) leasing of vehicles;
- 4 (8) costs of food and lodging;
- 5 (9) costs of digital or tape editing, film processing, transfer of film to
- 6 tape or digital format, sound mixing, and special and visual effects;
- 7 (10) the total aggregate payroll for services performed in Alaska,
- 8 including all salaries, wages, compensation, and related benefits provided to
- 9 producers, directors, writers, actors, and other personnel;
- 10 (11) the costs of the use of an Alaska payroll company;
- 11 (12) costs of music, if performed, composed, or recorded by an Alaska
- 12 musician, or released or published by an Alaska-domiciled company;
- 13 (13) airfare, if purchased through an Alaska-based travel agency or
- 14 travel company;
- 15 (14) insurance costs or bonding, if purchased through an Alaska-based
- 16 insurance agency;
- 17 (15) costs relating to the design, construction, improvement, or repair
- 18 of a film, video, television, or digital production or postproduction facility or related
- 19 property, infrastructure, or equipment, except commercial exhibition facilities, as
- 20 determined by the film office; or
- 21 (16) other similar production expenditures as determined by the film
- 22 office.

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

- 24 (1) the cost of a report or examination prepared for eligibility for the
- 25 film production tax credit;
- 26 (2) postproduction expenditures for marketing and distribution;
- 27 (3) expenditures not directly attributable to the production;
- 28 (4) amounts that are later reimbursed, resulting in a reduction in
- 29 production costs;
- 30 (5) amounts that are paid to a person or entity as a result of
- 31 participation in profits from the exploitation of the production;

1 (6) costs related to the transfer or use of a film production tax credit
2 under AS 43.98.030.

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

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

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

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

8 (3) "producer" means a person who arranges financing for or
9 supervises the production of a film, video, commercial, or television production or
10 pilot;

11 (4) "rural area" means a community with a population of 1,500 or less
12 or a community with a population of 5,500 or less that is not connected by road or rail
13 to Anchorage or Fairbanks.