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DECD: Connecticut Digital Media & Motion Picture Tax Credit

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Connecticut Digital Media & Motion Picture Tax Credit - Details

In 2006, the Connecticut General Assembly established tax credits for the production of digital media and motion pictures in Connecticut. The statute was amended in 2007 by Public Act 07-236 and again in 2009 by House Bill 6802. For income years starting January 1, 2010, the 2009 bill increases the minimum expenditure to \$100,000 and makes the credit amount dependent on the production's total expenses or costs. Production companies incurring production expenses or costs between \$100,000 and \$500,000 are eligible for a 10% credit, between \$500,000 and \$1 million are eligible for a 15% credit, and over \$1 million continue to be eligible for a 30% credit.

Eligible Production Companies

Any "eligible production company" may apply. An eligible production company is a corporation, partnership, limited liability company or other business entity that produces a qualified production" in Connecticut and is registered with the Secretary of the State to do business in Connecticut.

Qualified Productions

A "qualified production" means the process of producing any type of entertainment content. Entertainment content is defined to include motion pictures, documentaries, television series, music videos, commercials, mini-series, video games and other productions listed in the statute, which are created primarily for distribution or exhibition to the general public. A qualified production does not include any ongoing program created primarily as news, weather or financial market reports, infomercials, or any production containing any material or performance considered obscene under state law.

Eligible Production Expenses Used in Calculating the Tax Credits

Production expenses or costs used in calculating the tax credits include expenditures clearly and demonstrably incurred in Connecticut in the preproduction, production or postproduction costs of a qualified production, including expenditures in the form of either compensation or purchases including production work, production equipment, production software, postproduction work, postproduction equipment, set design, set construction, props, lighting, wardrobe and other costs or services directly incurred in the state in connection with a qualified production.

In-State Expenditures. In addition to minimum expenditure requirements, starting January 1, 2010, a production company is required to conduct at least 25% of its principal photography days in the state to be eligible.

Out-of-State Expenditures. Starting January 1, 2010, no out-of-state expenses will be eligible.

Star Salaries. Starting January 1, 2010, compensation for all star talent featured in a film or digital media production is limited to \$ 20 million in the aggregate and requires that the compensation be subject to Connecticut personal income tax.

Audit Costs. Costs related to the required independent audit of project costs and expenses are excluded.

Process for Obtaining Tax Credits

To obtain tax credits, eligible production companies must engage in a two-step process. First, an eligible production company applies for an eligibility certificate. This application must be made no later than ninety (90) days after the first qualified production expense or cost is incurred in Connecticut on a qualified production. The eligibility certificate certifies that the production company is eligible to earn the tax credits.

The second step of the process begins when the eligible production company applies for a tax credit certificate no later than ninety (90) days after the last production expense is incurred in the state. At this time, the eligible production company must submit a cost certification of its eligible production expenses. After this is verified, a tax credit certificate is issued. An eligible production company is not entitled to claim tax credits before the production tax credit certificate is issued.

Cost Certification. An eligible production company must provide independent certification (audit) of the amount of its production expenses and costs when it applies for a tax credit voucher. The eligible production company is required to use an audit professional, chosen from a list DECD compiles, to provide the independent certification.

Administrative Fee. An administrative fee will be charged to cover the department's costs in analyzing submitted applications.

Interim Tax Credits. Starting January 1, 2010, no interim tax credits will be issued.

The Tax Benefit

The tax credits may be applied against the corporation business tax as provided in Chapters 207 and 208 of the Connecticut General Statutes.

Claiming the Tax Credits

The tax credits must be claimed against the corporation business tax or insurance premium tax for

the income year in which final certification for the qualified production is made. Any tax credit not used in the income year in which final certification is made may be carried forward for, or in, the three immediately succeeding income years. The tax credits are nonrefundable.

Assigning the Tax Credits

An eligible production company may sell, assign or otherwise transfer the tax credits to another taxpayer. Written notification of such transfer must be submitted jointly by the transferor and transferee no later than thirty (30) days after such transfer.

The preceding information is subject to legislative change. The State of Connecticut shall not be liable for any errors in this information or responsible for any acts taken in reliance thereon.

For more information e-mail FilmTaxCredits@ct.gov or call (860) 270-8211.

Applications and Instructions

Statutes

All Economic Incentives

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Qualified productions must now conduct no less than 50% of principal photography days within the state or expend no less than 50% of postproduction costs within the state or expend not less than \$1million dollars of postproduction costs within the state.

In addition, for income years beginning on or after January 1, 2011, and prior to January 1, 2012, a production company may not transfer more than 50% of the film production tax credit in any one income year. For income years beginning on or after January 1, 2012, a production company may not transfer more than 25% of the film production tax credit in any one income year.

However, any production that is created in whole or in significant part at a "qualified production facility" within the state **shall not be subject to the transfer limitations**. A "qualified production facility" means a facility 1) located in Connecticut, 2) intended for film, television, or digital media production, and 3) that has a minimum investment of \$3 million , or less if the commissioner determines such facility otherwise qualifies.

All loan out companies must register with the Dept. of Revenue Services **and** the Secretary of the State in order for payments to qualify.

Qualified compensation does not include bonus pay, stock options, restricted stock units or similar arrangements.

All goods and services must be rented or purchased from a CT vendor in order to qualify. For example, car service to/from CT will only qualify if using a CT-based car service.

The DECD list of approved auditors may be found [here](#).

For more detail see [House Bill No. 6652](#)

Sec. 97. Section 12-217jj of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage and applicable to income years commencing on or after January 1, 2010*):

(a) As used in this section:

(1) "Commissioner" means the Commissioner of Revenue Services.

(2) ["Commission" means the Connecticut Commission on Culture and Tourism] "Department" means the Department of Economic and Community Development.

(3) (A) "Qualified production" means entertainment content created in whole or in part within the state, including motion pictures; documentaries; long-form, specials, mini-series, series, sound recordings, videos and music videos and interstitials television programming; interactive television; interactive games; videogames; commercials; [infomercials;] any format of digital media, including an interactive web site, created for distribution or exhibition to the general public; and any trailer, pilot, video teaser or demo created primarily to stimulate the sale, marketing, promotion or exploitation of future investment in either a product or a qualified production via any means and media in any digital media format, film or videotape, provided such program meets all the underlying criteria of a qualified production.

(B) "Qualified production" shall not include any ongoing television program created primarily as news, weather or financial market reports, a production featuring current events, sporting events, an awards show or other gala event, a production whose sole purpose is fundraising, a long-form production that primarily markets a product or service, a production used for corporate training or in-house corporate advertising or other similar productions, or any production for which records are required to be maintained under 18 USC 2257 with respect to sexually explicit content.

(4) "Eligible production company" means a corporation, partnership, limited liability company, or other business entity engaged in the business of producing qualified productions on a one-time or ongoing basis, and qualified by the Secretary of the State to engage in business in the state.

(5) "Production expenses or costs" means all expenditures clearly and demonstrably incurred in the state in the development, preproduction, production or postproduction costs of a qualified production, including:

(A) Expenditures incurred in the state in the form of either compensation or purchases including production work, production equipment not eligible for the infrastructure tax credit provided in section 12-217kk, as amended by this act, production software, postproduction work, postproduction equipment, postproduction software, set design, set construction, props, lighting, wardrobe, makeup, makeup accessories, special effects, visual effects, audio effects, film

processing, music, sound mixing, editing, location fees, soundstages and any and all other costs or services directly incurred in connection with a state-certified qualified production;

(B) Expenditures for distribution, including preproduction, production or postproduction costs relating to the creation of trailers, marketing videos, commercials, point-of-purchase videos and any and all content created on film or digital media, including the duplication of films, videos, CDs, DVDs and any and all digital files now in existence and those yet to be created for mass consumer consumption; the purchase, by a company in the state, of any and all equipment relating to the duplication or mass market distribution of any content created or produced in the state by any digital media format which is now in use and those formats yet to be created for mass consumer consumption; and

(C) "Production expenses or costs" does not include the following: (i) On and after January 1, 2008, compensation in excess of fifteen million dollars paid to any individual or entity representing an individual, for services provided in the production of a qualified production and on or after January 1, 2010, compensation subject to Connecticut personal income tax in excess of twenty million dollars paid in the aggregate to any individuals or entities representing individuals, for star talent provided in the production of a qualified production; (ii) media buys, promotional events or gifts or public relations associated with the promotion or marketing of any qualified production; (iii) deferred, leveraged or profit participation costs relating to any and all personnel associated with any and all aspects of the production, including, but not limited to, producer fees, director fees, talent fees and writer fees; (iv) costs relating to the transfer of the production tax credits; [and] (v) any amounts paid to persons or businesses as a result of their participation in profits from the exploitation of the qualified production; and (vi) any expenses or costs relating to an independent certification, as required by subsection (c) of this section, or as the department may otherwise require, pertaining to the amount of production expenses or costs set forth by an eligible production company in its application for a production tax credit.

(6) "Sound recording" means a recording of music, poetry or spoken-word performance, but does not include the audio portions of dialogue or words spoken and recorded as part of a motion picture, video, theatrical production, television news coverage or athletic event.

(7) "State-certified qualified production" means a qualified production produced by an eligible production company that (A) is in compliance with regulations adopted pursuant to subsection (g) of this section, (B) is authorized to conduct business in this state, and (C) has been approved by the [commission] department as qualifying for a production tax credit under this section.

(8) "Interactive web site" means a web site, the production costs of which (A) exceed five hundred thousand dollars per income year, and (B) is primarily (i) interactive games or end user applications, or (ii) animation, simulation, sound, graphics, story lines or video created or repurposed for distribution over the Internet. An interactive web site does not include a web site primarily used for institutional, private, industrial, retail or wholesale marketing or promotional purposes, or which contains obscene content.

(9) "Post-certification remedy" means the recapture, disallowance, recovery, reduction, repayment, forfeiture, decertification or any other remedy that would have the effect of reducing or otherwise limiting the use of a tax credit provided by this section.

(b) (1) The [Connecticut Commission on Culture and Tourism] Department of Economic and Community Development shall administer a system of tax credit vouchers within the resources, requirements and purposes of this section for eligible production companies producing a state-certified qualified production in the state.

(A) For income years commencing on or after January 1, 2006, but prior to January 1, 2010, any eligible production company incurring production expenses or costs in excess of fifty thousand dollars shall be eligible for a credit against the tax imposed under chapter 207 or this chapter equal to thirty per cent of such production expenses or costs. [provided (A) on and after January 1, 2009, fifty per cent of such expenses or costs shall be counted toward such credit when incurred outside the state and used within the state, and one hundred per cent of such expenses or costs shall be counted toward such credit when incurred within the state and used within the state, and (B) on and after January 1, 2012, no expenses or costs incurred outside the state and used within the state shall be eligible for a credit, and one hundred per cent of such expenses or costs shall be counted toward such credit when incurred within the state and used within the state.]

(B) For income years commencing on or after January 1, 2010, (i) any eligible production company incurring production expenses or costs of not less than one hundred thousand dollars, but not more than five hundred thousand dollars, shall be eligible for a credit against the tax imposed under chapter 207 or this chapter equal to ten per cent of such production expenses or costs, (ii) any such company incurring such expenses or costs of not less than five hundred thousand one dollars, but not more than one million dollars, shall be eligible for a credit against the tax imposed under chapter 207 or this chapter equal to fifteen per cent of such production expenses or costs, and (iii) any such company incurring such expenses or costs of more than one million dollars shall be eligible for a credit against the tax imposed under chapter 207 or this chapter equal to thirty per cent of such production expenses or costs.

(C) No eligible production company incurring an amount of production expenses or costs that qualifies for such credit shall be eligible for such credit unless on or after January 1, 2010, such company conducts not less than fifty per cent of principal photography days within the state.

(D) (i) For income years commencing on or after January 1, 2009, but prior to January 1, 2010, fifty per cent of production expenses or costs shall be counted toward such credit when incurred outside the state and used within the state, and one hundred per cent of such expenses or costs shall be counted toward such credit when incurred within the state and used within the state.

(ii) For income years commencing on or after January 1, 2010, no expenses or costs incurred outside the state and used within the state shall be eligible for a credit, and one hundred per cent of such expenses or costs shall be counted toward such credit when incurred within the state and used within the state.

(2) On and after July 1, 2006, and for income years commencing on or after January 1, 2006, any credit allowed pursuant to this subsection may be sold, assigned or otherwise transferred, in whole or in part, to one or more taxpayers, provided no credit, after issuance, may be sold, assigned or otherwise transferred, in whole or in part, more than three times.

(3) On and after July 1, 2006, and for income years commencing on or after January 1, 2006, any such credit allowed under this subsection shall be claimed against the tax imposed under chapter 207 or this chapter for the income year in which the production expenses or costs were incurred, [and may be carried forward for] or in the three immediately succeeding income years. Any production tax credit allowed under this subsection shall be nonrefundable.

(c) (1) An eligible production company shall apply to the [commission] department for a tax credit voucher on an annual basis, but not later than ninety days after the first production expenses or costs are incurred in the production of a qualified production, and shall provide with such application such information as the [commission] department may require to determine such company's eligibility to claim a credit under this section. No production expenses or costs may be listed more than once for purposes of the tax credit voucher pursuant to this section, or pursuant to section 12-217kk, as amended by this act, or 12-217ll, as amended by this act, and if a production expense or cost has been included in a claim for a credit, such production expense or cost may not be included in any subsequent claim for a credit.

[(2) Not earlier than three months after the application in subdivision (1) of this subsection, an eligible production company may apply to the commission for a production tax credit voucher, and shall provide with such application such information and independent certification as the commission may require pertaining to the amount of such company's production expenses or costs to date. If the commission determines that such company is eligible to be issued a

production tax credit voucher, the commission shall enter on the voucher the amount of production expenses or costs that has been established to the satisfaction of the commission, and the amount of such company's credit under this section. The commission shall provide a copy of such voucher to the commissioner, upon request.]

[(3)] (2) Not later than ninety days after the end of the annual period, or after the last production expenses or costs are incurred in the production of a qualified production, an eligible production company shall apply to the [commission] department for a production tax credit voucher, and shall provide with such application such information and independent certification as the [commission] department may require pertaining to the amount of such company's production expenses or costs. Such independent certification shall be provided by an audit professional chosen from a list compiled by the department. If the [commission] department determines that such company is eligible to be issued a production tax credit voucher, the [commission] department shall enter on the voucher the amount of production expenses or costs that has been established to the satisfaction of the [commission, minus the amount of any credit issued pursuant to subdivision (2) of this subsection,] department and the amount of such company's credit under this section. The [commission] department shall provide a copy of such voucher to the commissioner, upon request.

(3) The commissioner shall charge a reasonable administrative fee sufficient to cover the department's costs to analyze applications submitted under this section.

(d) If an eligible production company sells, assigns or otherwise transfers a credit under this section to another taxpayer, the transferor and transferee shall jointly submit written notification of such transfer to the [commission] department not later than thirty days after such transfer. If such transferee sells, assigns or otherwise transfers a credit under this section to a subsequent transferee, such transferee and such subsequent transferee shall jointly submit written notification of such transfer to the [commission] department not later than thirty days after such transfer. The notification after each transfer shall include the credit voucher number, the date of transfer, the amount of such credit transferred, the tax credit balance before and after the transfer, the tax identification numbers for both the transferor and the transferee, and any other information required by the [commission] department. Failure to comply with this subsection will result in a disallowance of the tax credit until there is full compliance on the part of the transferor and the transferee, and for a second or third transfer, on the part of all subsequent transferors and transferees. The [commission] department shall provide a copy of the notification of assignment to the commissioner upon request.

(e) Any eligible production company that [wilfully] submits information to the [commission] department that it knows to be fraudulent or false shall, in

addition to any other penalties provided by law, be liable for a penalty equal to the amount of such company's credit entered on the production tax credit certificate issued under this section.

(f) [The issuance by the commission of a tax credit voucher with respect to an amount of tax credits stated thereon shall mean that none of such tax credits are subject to a post-certification remedy, and that the commission and the commissioner shall have no right, except in the case of possible material misrepresentation or fraud, to conduct any further or additional review, examination or audit of the expenditures or costs for which such tax credits were issued. If at any time after the issuance of a tax credit voucher the commission or the commissioner determines that there was a material misrepresentation or fraud on the part of an eligible production company in connection with the submission of an expense report and the result of such material misrepresentation or fraud was that (1) a specific amount of tax credits was reflected on the tax credit voucher issued in response to such expense report that would not have otherwise been so reflected, and (2) such tax credits would otherwise be subject to a post-certification remedy, such tax credits shall not be subject to any post-certification remedy and the sole and exclusive remedy of the commission and the commissioner shall be to seek collection of the amount of such tax credits from the eligible production company that committed the fraud or misrepresentation, not from any transferee of such tax credits.] No tax credits transferred pursuant to this section shall be subject to a post-certification remedy, and the department and the commissioner shall have no right, except in the case of possible material misrepresentation or fraud, to conduct any further or additional review, examination or audit of the expenditures or costs for which such tax credits were issued. The sole and exclusive remedy of the department and the commissioner shall be to seek collection of the amount of such tax credits from the entity that committed the fraud or misrepresentation.

(g) The [commission] department, in consultation with the commissioner, shall adopt regulations, in accordance with the provisions of chapter 54, as may be necessary for the administration of this section.

Sec. 98. Section 12-217kk of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage and applicable to income years commencing on or after January 1, 2010*):

(a) As used in this section:

(1) "Commissioner" means the Commissioner of Revenue Services.

(2) ["Commission" means the Connecticut Commission on Culture and Tourism] "Department" means the Department of Economic and Community Development.

(3) "Infrastructure project" means a capital project to provide basic buildings, facilities or installations needed for the functioning of the digital media and motion picture industry in this state.

(4) "State-certified project" means an infrastructure project undertaken in this state by an entity that (A) is in compliance with regulations adopted pursuant to subsection (e) of this section, (B) is authorized to conduct business in this state, (C) is not in default on a loan made by the state or a loan guaranteed by the state, nor has ever declared bankruptcy under which an obligation of the entity to pay or repay public funds was discharged as a part of such bankruptcy, and (D) has been approved by the [commission] department as qualifying for an infrastructure tax credit under this section.

(5) "Post-certification remedy" means the recapture, disallowance, recovery, reduction, repayment, forfeiture, decertification or any other remedy that would have the effect of reducing or otherwise limiting the use of a tax credit provided by this section.

(b) (1) [There] (A) For income years commencing prior to January 1, 2010, there shall be allowed a state-certified project credit against the tax imposed under chapter 207 or this chapter to any taxpayer that invests in a state-certified project. Such credit may be in the following amounts: [(A)] (i) For state-certified projects costing greater than fifteen thousand dollars and less than one hundred fifty thousand dollars, each taxpayer may be allowed a tax credit of ten per cent of the investment made by such taxpayer; [(B)] (ii) for state-certified projects costing one hundred fifty thousand dollars or more, but less than one million dollars, each taxpayer may be allowed a tax credit of fifteen per cent of the investment made by such taxpayer; and [(C)] (iii) for state-certified projects costing one million dollars or more, each taxpayer may be allowed a tax credit of twenty per cent of the investment made by such taxpayer.

(B) For income years commencing on or after January 1, 2010, there shall be allowed a state-certified project credit against the tax imposed under chapter 207 or this chapter to any taxpayer that invests three million dollars or more in a state-certified project in an amount equal to twenty per cent of the investment made by such taxpayer.

(2) Eligible expenditures pursuant to this section shall include the following: All expenditures for a capital project to provide buildings, facilities or installations, whether leased or purchased, together with necessary equipment for a film, video, television, digital production facility or digital animation production facility; project development, including design, professional consulting fees and transaction costs; development, preproduction, production, post-production and distribution equipment and system access; and fixtures and other equipment.

(3) Any credit allowed pursuant to this section may be sold, assigned or otherwise transferred, in whole or in part, to one or more taxpayers, and such

taxpayers may sell, assign or otherwise transfer, in whole or in part, such credit. Any taxpayer holding such credit may claim such credit only for the income year in which expenditures were made by the taxpayer for the infrastructure project.

(4) Any credit allowed pursuant to this section shall be claimed against the tax imposed under chapter 207 or this chapter. If the amount of the credit allowable under this section exceeds the sum of any taxes due from a taxpayer, any such excess amount of the credit allowable under this section may be taken in any of the three immediately succeeding income years.

(5) Any tax credit earned under this section shall be nonrefundable.

(c) (1) An entity undertaking an infrastructure project shall apply to the [commission] department for an eligibility certificate not later than ninety days after the first expenses or costs are incurred, and shall provide with such application such information as the [commission] department may require to determine such infrastructure project's eligibility as a state-certified project.

(2) Each application for an eligibility certificate shall include: (A) A detailed description of the infrastructure project; (B) a preliminary budget; (C) estimated completion date; and (D) such other information as the [commission] department may require. The [commission] department may require an independent audit of all project costs and expenditures prior to certification. If the [commission] department determines that such project is eligible to be a state-certified project, the [commission] department shall indicate the amount of costs or expenditures that has been established to the satisfaction of the [commission] department, and issue to such entity a tax credit certification letter for investors indicating the amount of tax credits available under this section. The [commission] department shall provide a copy of such letter to the commissioner, upon request.

(3) Prior to the issuance of a state-certified project tax credit voucher to a taxpayer based upon the tax credit certification letter issued pursuant to subdivision (2) of this subdivision, the entity undertaking such infrastructure project shall provide the [commission] department with a description of the progress on such project and an estimated completion date. The [commission] department may require an independent audit of all project costs and expenditures prior to issuance of such tax credit voucher to a taxpayer. No such tax credit voucher may be issued prior to such time as such state-certified project is shown to be [not less than sixty] one hundred per cent complete.

(4) The commissioner shall charge a reasonable administrative fee sufficient to cover the department's costs to analyze applications submitted under this section.

(d) If a taxpayer sells, assigns or otherwise transfers a credit under this section to another taxpayer, the transferor and transferee shall jointly submit written notification of such transfer to the [commission] department not later than thirty days after such transfer. The notification shall include the credit certificate

number, the date of transfer, the amount of such credit transferred, the tax credit balance before and after the transfer, the tax identification numbers for both the transferor and the transferee and any other information required by the commissioner. After the initial issuance of a tax credit, such credit may be sold, assigned or otherwise transferred not more than three times. Failure to comply with this subsection will result in a disallowance of the tax credit until there is full compliance on both the part of the transferor and the transferee, and all subsequent transferors and transferees. The [commission] department shall provide a copy of the notification of assignment to the commissioner upon request.

(e) [The issuance by the commission of a tax credit voucher with respect to an amount of tax credits stated thereon shall mean that none of such tax credits are subject to a post-certification remedy, and that the commission and the commissioner shall have no right except in the case of a possible material misrepresentation or fraud, to conduct any further or additional review, examination or audit of the expenditures or costs for which such tax credits were issued. If at any time after the issuance of a tax credit voucher the commission or the commissioner determines that there was a material misrepresentation or fraud on the part of a taxpayer in connection with the submission of an expense report and the result of such material misrepresentation or fraud was that (1) a specific amount of tax credits was reflected on the tax credit voucher issued in response to such expense report that would not have otherwise been so reflected, and (2) such tax credits would otherwise be subject to a post-certification remedy, such tax credits shall not be subject to any post-certification remedy and the sole and exclusive remedy of the commission and the commissioner shall be to seek collection of the amount of such tax credits from the taxpayer that committed the fraud or misrepresentation, not from any transferee of the tax credits.] No tax credits transferred pursuant to this section shall be subject to a post-certification remedy, and the department and the commissioner shall have no right, except in the case of possible material misrepresentation or fraud, to conduct any further or additional review, examination or audit of the expenditures or costs for which such tax credits were issued. The sole and exclusive remedy of the department and the commissioner shall be to seek collection of the amount of such tax credits from the entity that committed the fraud or misrepresentation.

(f) The [commission] department, in consultation with the commissioner, shall adopt regulations, in accordance with the provisions of chapter 54, as may be necessary for the administration of this section.

Sec. 99. Section 12-217ll of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage and applicable to income years commencing on or after January 1, 2010*):

(a) As used in this section:

- (1) "Commissioner" means the Commissioner of Revenue Services.
- (2) ["Commission" means the Connecticut Commission on Culture and Tourism]
"Department" means the Department of Economic and Community Development.
- (3) "Digital animation production company" means a corporation, partnership, limited liability company or other business entity engaged exclusively in digital animation production activity on an ongoing basis, and that is qualified by the Secretary of the State to engage in business in the state.
- (4) "State-certified digital animation production company" means a digital animation production company that (A) maintains studio facilities located within the state at which digital animation production activities are conducted, (B) employs at least two hundred full-time employees within the state, (C) is in compliance with regulations adopted pursuant to subsection (h) of this section, and (D) has been certified by the [commission] department.
- (5) "Digital animation production activity" means the creation, development and production of computer-generated animation content for distribution or exhibition to the general public, but not for the production of any material for which records are required to be maintained under 18 USC 2257 with respect to sexually explicit content.
- (6) "Full-time employee" means an employee required to work at least thirty-five hours or more per week, and who is not a temporary or seasonal employee.
- (7) "Post-certification remedy" means the recapture, disallowance, recovery, reduction, repayment, forfeiture, decertification or any other remedy that would have the effect of reducing or otherwise limiting the use of a tax credit provided by this section.
- (8) "Production expenses or costs" means all expenditures clearly and demonstrably incurred in the state in the development, preproduction, production or postproduction costs of a digital animation production activity, including:
 - (A) Expenditures for optioning or purchase of any intellectual property including, but not limited to, books, scripts, music or trademarks relating to the development or purchase of a script, screenplay or format, to the extent that such expenditures are less than thirty-five per cent of the production expenses or costs incurred by a digital animation production company in any income year. Such expenses or costs shall include all expenditures generally associated with the optioning or purchase of intellectual property, including option money, agent fees and attorney fees relating to the transaction, but shall not include any and all deferrals, deferments, profit participation or recourse or nonrecourse loans which the digital animation production company may negotiate in order to obtain the rights to the intellectual property;

(B) Expenditures incurred in the form of either compensation or purchases including production work, production equipment not eligible for the infrastructure tax credit provided in section 12-217kk, as amended by this act, production software, postproduction work, postproduction equipment, postproduction software, set design, set construction, props, lighting, wardrobe, makeup, makeup accessories, special effects, visual effects, audio effects, actors, voice talent, film processing, music, sound mixing, editing, location fees, soundstages, rent, utilities, insurance, administrative support, systems support, all reasonably-related expenses in connection with digital animation production activity, and any and all other costs or services directly incurred in the state in connection with a state-certified digital animation production company;

(C) Expenditures for distribution, including preproduction, production or postproduction costs relating to the creation of trailers, marketing videos, short films, commercials, point-of-purchase videos and any and all content created on film or digital media, including the duplication of films, videos, CDs, DVDs and any and all digital files now in existence and those yet to be created for mass consumer consumption; the purchase, by a company in the state, of any and all equipment relating to the duplication or mass market distribution of any content created or produced in the state by any digital media format which is now in use and those formats yet to be created for mass consumer consumption; and

(D) "Production expenses or costs" does not include the following: (i) Compensation in excess of fifteen million dollars paid to any individual or entity representing an individual, for services provided in a digital animation production activity and, on or after January 1, 2010, compensation subject to Connecticut personal income tax in excess of twenty million dollars paid in the aggregate to any individuals or entities representing individuals, for star talent provided in a digital animation production activity; (ii) media buys, promotional events or gifts or public relations associated with the promotion or marketing of any digital animation production activity; (iii) deferred, leveraged or profit participation costs relating to any and all personnel associated with any and all aspects of the production, including, but not limited to, producer fees, director fees, talent fees and writer fees; (iv) costs relating to the transfer of the digital animation tax credits; [and] (v) any amounts paid to persons or businesses as a result of their participation in profits from the exploitation of the digital animation production activity; and (vi) any expenses or costs relating to an independent certification, as required by subsection (c) of this section, or as the department may otherwise require, pertaining to the amount of production expenses or costs set forth by a state-certified digital animation company in its application for a digital animation tax credit.

(b) (1) The [Connecticut Commission on Culture and Tourism] Department of Economic and Community Development shall administer a system of tax credit vouchers within the resources, requirements and purposes of this section for

digital animation production companies undertaking digital animation production activity in the state.

(A) For income years commencing on or after January 1, 2007, but prior to January 1, 2010, any state-certified digital animation production company incurring production expenses or costs in excess of fifty thousand dollars shall be eligible for a credit against the tax imposed under chapter 207 or this chapter, equal to thirty per cent of such production expenses or costs.

(B) For income years commencing on or after January 1, 2010, (i) any state-certified digital animation production company incurring production expenses or costs of not less than one hundred thousand dollars, but not more than five hundred thousand dollars, shall be eligible for a credit against the tax imposed under chapter 207 or this chapter equal to ten per cent of such production expenses or costs, (ii) any such company incurring such expenses or costs of not less than five hundred thousand one dollars, but not more than one million dollars, shall be eligible for a credit against the tax imposed under chapter 207 or this chapter equal to fifteen per cent of such production expenses or costs, and (iii) any such company incurring such expenses or costs of more than one million dollars shall be eligible for a credit against the tax imposed under chapter 207 or this chapter equal to thirty per cent of such production expenses or costs.

(2) Any credit allowed pursuant to this section may be sold, assigned or otherwise transferred, in whole or in part, to one or more taxpayers, provided no credit, after issuance, may be sold, assigned or otherwise transferred, in whole or in part, more than three times.

(3) Any credit allowed pursuant to this section shall be claimed against the tax imposed under chapter 207 or this chapter, for the income year in which the production expenses or costs were incurred, and may be carried forward for the three immediately succeeding income years. Any digital animation tax credit allowed under this section shall be nonrefundable.

(4) Any digital animation production company receiving a digital animation tax credit pursuant to this section shall not be eligible to apply for or receive a tax credit pursuant to section 12-217j, as amended by this act.

(c) (1) Not more frequently than twice during the income year of a state-certified digital animation production company, such company may apply to the [commission] department for a digital animation tax credit voucher, and shall provide with such application such information and independent certification as the [commission] department may require pertaining to the amount of such company's production expenses or costs incurred during the period for which such application is made. Such independent certification shall be provided by an audit professional chosen from a list compiled by the department. If the [commission] department determines that the company is eligible to be issued a tax credit voucher, the [commission] department shall enter on the voucher the

amount of production expenses and costs incurred during the period for which the voucher is issued and the amount of tax credits issued pursuant to such voucher. The [commission] department shall provide a copy of such voucher to the commissioner upon request.

(2) The commissioner shall charge a reasonable administrative fee sufficient to cover the department's costs to analyze applications submitted under this section.

(d) If a state-certified digital animation production company sells, assigns or otherwise transfers a credit under this section to another taxpayer, the transferor and transferee shall jointly submit written notification of such transfer to the [commission] department not later than thirty days after such transfer. If such transferee sells, assigns or otherwise transfers a credit under this section to a subsequent transferee, such transferee and such subsequent transferee shall jointly submit written notification of such transfer to the [commission] department not later than thirty days after such transfer. The notification after each transfer shall include the credit voucher number, the date of transfer, the amount of such credit transferred, the tax credit balance before and after the transfer, the tax identification numbers for both the transferor and the transferee, and any other information required by the [commission] department. Failure to comply with this subsection will result in a disallowance of the tax credit until there is full compliance on the part of the transferor and the transferee, and for a second or third transfer, on the part of all subsequent transferors and transferees. The [commission] department shall provide a copy of the notification of assignment to the commissioner upon request.

(e) Any state-certified digital animation production company that [wilfully] submits information to the [commission] department that it knows to be fraudulent or false shall, in addition to any other penalties provided by law, be liable for a penalty equal to the amount of such company's credit entered on the digital animation tax credit certificate issued under this section.

(f) [The issuance by the commission of a digital animation tax credit voucher with respect to an amount of tax credits stated thereon shall mean that none of such tax credits are subject to a post-certification remedy, and that the commission and the commissioner shall have no right, except in the case of possible material misrepresentation or fraud, to conduct any further or additional review, examination or audit of the expenditures or costs for which such tax credits were issued. If at any time after the issuance of a tax credit voucher the commission or the commissioner determines that there was a material misrepresentation or fraud on the part of a state-certified digital animation production company in connection with the submission of an expense report and the result of such material misrepresentation or fraud was that (1) a specific amount of tax credits was reflected on the tax credit voucher issued in response to such expense report that would not have otherwise been so reflected,

and (2) such tax credits would otherwise be subject to a post-certification remedy, such tax credits shall not be subject to any post-certification remedy and the sole and exclusive remedy of the commission and the commissioner shall be to seek collection of the amount of such tax credits from the digital animation production company that committed the fraud or misrepresentation, not from any transferee of the tax credits.] No tax credits transferred pursuant to this section shall be subject to a post-certification remedy, and the department and the commissioner shall have no right, except in the case of possible material misrepresentation or fraud, to conduct any further or additional review, examination or audit of the expenditures or costs for which such tax credits were issued. The sole and exclusive remedy of the department and the commissioner shall be to seek collection of the amount of such tax credits from the entity that committed the fraud or misrepresentation.

(g) The aggregate amount of all tax credits which may be reserved by the [commission] department pursuant to this section shall not exceed fifteen million dollars in any one fiscal year.

(h) The [commission] department, in consultation with the commissioner, shall adopt regulations, in accordance with the provisions of chapter 54, as may be necessary for the administration of this section.

Sec. 100. (NEW) (*Effective from passage*) (a) With respect to digital media and motion picture activities, the Department of Economic and Community Development shall have the following powers and duties:

(1) To promote the use of Connecticut locations, structures, facilities and services for the production and postproduction of all digital media and motion pictures and other media-related products;

(2) To provide support services to visiting and in-state production companies, including assistance to digital media and motion picture producers in securing permits from state agencies, authorities or institutions or municipalities or other political subdivisions of the state;

(3) To develop and update a resource library concerning the many possible state sites which are suitable for production;

(4) To develop and update a production manual of available digital media and motion picture production facilities and services in the state;

(5) To conduct and attend trade shows and production workshops to promote Connecticut locations and facilities;

(6) To prepare an explanatory guide showing the impact of relevant state and municipal tax statutes, regulations and administrative opinions on typical production activities and to implement the tax credits provided for in sections 12-217jj, 12-217kk and 12-217ll of the general statutes, as amended by this act;

- (7) To formulate and propose guidelines for state agencies for a "one stop permitting" process for matters, including, but not limited to, the use of state roads and highways, the use of state-owned real or personal property for production activities and the conduct of regulated activities, and to hold workshops to assist state agencies in implementing such process;
- (8) To formulate and recommend to municipalities model local ordinances and forms to assist production activities, including, but not limited to, "one stop permitting" of digital media and motion picture and other production activity to be conducted in a municipality, and to hold workshops to assist municipalities in implementing such ordinances;
- (9) To accept any funds, gifts, donations, bequests or grants of funds from private and public sources for the purposes of this section;
- (10) To request and obtain from any state agency, authority or institution or any municipality or other political subdivision of the state such assistance and data as will enable the department to carry out the purposes of this section;
- (11) To assist and promote cooperation among all segments of management and labor that are engaged in digital media and motion pictures; and
- (12) To take any other administrative action which may improve the position of the state's digital media and motion picture production industries in national and international markets.

(b) On or before January 1, 2010, and annually thereafter, the Department of Economic and Community Development shall submit to the joint standing committees of the General Assembly having cognizance of matters relating to commerce and finance, revenue and bonding, in accordance with section 11-4a of the general statutes, a report on the activities of the department under this section and the estimated direct and indirect economic impact of all digital media, motion pictures and related production activity in the state, during the preceding calendar year. Each such report shall include, but not be limited to, an analysis of the use of the film production tax credit established under section 12-217jj of the general statutes, as amended by this act, the entertainment industry infrastructure tax credit established under section 12-217kk of the general statutes, as amended by this act, and the digital animation production tax credit established under section 12-217ll of the general statutes, as amended by this act, and shall include a description of each production or project for which a tax credit has been issued, the amount of any such tax credit and the total amount of production expenses or costs incurred in the state by the taxpayer who was issued such a tax credit and any other information that may be requested by a chairperson of the joint standing committees of the General Assembly having cognizance of matters relating to commerce and finance, revenue and bonding.

Sec. 101. (NEW) (*Effective from passage*) Notwithstanding any provision of the general statutes, each state agency, department or institution issuing a request

for proposals for any digital media, motion picture or related production activity shall, at the time of such issuance, transmit a copy of such request for proposals to the Department of Economic and Community Development. Said department shall notify the executive head of each state agency of the requirements of this section.