STATE OF NEW YORK

5033

2019-2020 Regular Sessions

IN SENATE

April 3, 2019

Introduced by Sen. THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to providing an additional ten percent credit on qualified labor expenses under the empire state film production credit and empire state film post production credit in Nassau and Suffolk counties

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph 5 of subdivision (a) of section 24 of the tax law, as amended by section 1 of part M of chapter 59 of the laws of 2017, is amended to read as follows:

(5) For the period two thousand fifteen through two thousand twenty-two, in addition to the amount of credit established in paragraph two of this subdivision, a taxpayer shall be allowed a credit equal to the product (or pro rata share of the product, in the case of a member of a partnership) of ten percent and the amount of wages or salaries paid to individuals directly employed (excluding those employed as writers, directors, music directors, producers and performers, including background actors with no scripted lines) by a qualified film production company or a qualified independent film production company for services performed by those individuals in one of the counties specified in this paragraph in connection with a qualified film with a minimum budget of five hundred thousand dollars. For purposes of this additional credit, the services must be performed in one or more of the following counties: Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, **Nassau,** Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steu-

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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ben, **Suffolk,** Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming, or Yates. The aggregate amount of tax credits allowed pursuant to the authority of this paragraph shall be five million dollars each year during the period two thousand fifteen through two thousand twenty-two of the annual allocation made available to the program pursuant to paragraph four of subdivision (e) of this section. Such aggregate amount of credits shall be allocated by the governor's office for motion picture and television development among taxpayers in order of priority based upon the date of filing an application for allocation of film production credit with such office. If the total amount of allocated credits applied for under this paragraph in any year exceeds the aggregate amount of tax credits allowed for such year under this paragraph, such excess shall be treated as having been applied for on the first day of the next year. If the total amount of allocated tax credits applied for under this paragraph at the conclusion of any year is less than five million dollars, the remainder shall be treated as part of the annual allocation made available to the program pursuant to paragraph four of subdivision (e) of this section. However, in no event may the total of the credits allocated under this paragraph and the credits allocated under paragraph five of subdivision (a) of section thirty-one of this article exceed five million dollars in any year during the period two thousand fifteen through two thousand twenty-two.

§ 2. Paragraph 6 of subdivision (a) of section 31 of the tax law, as amended by section 3 of part M of chapter 59 of the laws of 2017, is amended to read as follows:

(6) For the period two thousand fifteen through two thousand twenty-two, in addition to the amount of credit established in paragraph two of **this** subdivision [~~**(a) of this section**~~], a taxpayer shall be allowed a credit equal to the product (or pro rata share of the product, in the case of a member of a partnership) of ten percent and the amount of wages or salaries paid to individuals directly employed (excluding those employed as writers, directors, music directors, producers and performers, including background actors with no scripted lines) for services performed by those individuals in one of the counties specified in this paragraph in connection with the post production work on a qualified film with a minimum budget of five hundred thousand dollars at a qualified post production facility in one of the counties listed in this paragraph. For purposes of this additional credit, the services must be performed in one or more of the following counties: Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Cortland, Delaware, Erie, Essex, Franklin, Fulton, Genesee, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, **Nassau,** Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Otsego, Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, **Suffolk,** Tioga, Tompkins, Wayne, Wyoming, or Yates. The aggregate amount of tax credits allowed pursuant to the authority of this paragraph shall be five million dollars each year during the period two thousand fifteen through two thousand twenty-two of the annual allocation made available to the empire state film post production credit pursuant to paragraph four of subdivision (e) of section twenty-four of this article. Such aggregate amount of credits shall be allocated by the governor's office for motion picture and television development among taxpayers in order of priority based upon the date of filing an application for allocation of post production credit with such office. If the total amount of allocated credits applied for under this paragraph in any year exceeds the aggregate amount of tax credits allowed for such year under this para-

graph, such excess shall be treated as having been applied for on the first day of the next year. If the total amount of allocated tax credits applied for under this paragraph at the conclusion of any year is less than five million dollars, the remainder shall be treated as part of the annual allocation for two thousand seventeen made available to the empire state film post production credit pursuant to paragraph four of subdivision (e) of section twenty-four of this article. However, in no event may the total of the credits allocated under this paragraph and the credits allocated under paragraph five of subdivision (a) of section twenty-four of this article exceed five million dollars in any year during the period two thousand fifteen through two thousand twenty-two.

§ 3. This act shall take effect immediately.