

STATE OF NEW YORK

7422--A

2023-2024 Regular Sessions

IN SENATE

May 24, 2023

Introduced by Sens. WEBB, COMRIE, RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to excluding a production which uses artificial intelligence in a manner which results in the displacement of employees whose salaries are qualified expenses from the definition of qualified film for the purposes of the empire state film production credit

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

1 Section 1. Paragraph 3 of subdivision (b) of section 24 of the tax
2 law, as amended by section 9-a of part D of chapter 59 of the laws of
3 2023, is amended to read as follows:

4 (3) "Qualified film" means a feature-length film, television film,
5 relocated television production, television pilot or television series,
6 regardless of the medium by means of which the film, pilot or series is
7 created or conveyed. For the purposes of the credit provided by this
8 section only, a "qualified film" whose majority of principal photography
9 shooting days in the production of the qualified film are shot in West-
10 chester, Rockland, Nassau, or Suffolk county or any of the five New York
11 City boroughs shall have a minimum budget of one million dollars. A
12 "qualified film", whose majority of principal photography shooting days
13 in the production of the qualified film are shot in any other county of
14 the state than those listed in the preceding sentence shall have a mini-
15 mum budget of two hundred fifty thousand dollars. "Qualified film" shall
16 not include: (i) a documentary film, news or current affairs program,
17 interview or talk program, "how-to" (i.e., instructional) film or
18 program, film or program consisting primarily of stock footage, sporting
19 event or sporting program, game show, award ceremony, film or program

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

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1 intended primarily for industrial, corporate or institutional end-users,
2 fundraising film or program, daytime drama (i.e., daytime "soap opera"),
3 commercials, music videos or "reality" program; (ii) a production for
4 which records are required under section 2257 of title 18, United States
5 code, to be maintained with respect to any performer in such production
6 (reporting of books, films, etc. with respect to sexually explicit
7 conduct); ~~[(iii)]~~ (iii) a production which uses artificial intelligence in
8 a manner which results in the displacement of employees whose salaries
9 are qualified expenses, unless such replacement is permitted by a
10 current collective bargaining agreement in force covering such employ-
11 ees; or (iv) other than a relocated television production, a television
12 series commonly known as variety entertainment, variety sketch and vari-
13 ety talk, i.e., a program with components of improvisational or scripted
14 content (monologues, sketches, interviews), either exclusively or in
15 combination with other entertainment elements such as musical perform-
16 ances, dancing, cooking, crafts, pranks, stunts, and games and which may
17 be further defined in regulations of the commissioner of economic devel-
18 opment. However, a qualified film shall include a television series as
19 described in subparagraph ~~[(iii)]~~ (iv) of this paragraph only if an
20 application for such series has been deemed conditionally eligible for
21 the tax credit under this section prior to April first, two thousand
22 twenty, such series remains in continuous production for each season,
23 and an annual application for each season of such series is continually
24 submitted for such series after April first, two thousand twenty. A
25 series that changes either or both the title of the series or the prin-
26 cipal cast prior to March thirty-first, two thousand twenty-three, shall
27 be considered to remain in continuous production for each season,
28 provided the series films at the same location as prior seasons, is
29 produced by the same entity, and retains at least eighty percent of the
30 staff from the prior season.

31 § 2. This act shall take effect immediately.