

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 39.
LIBRARIES AND CULTURAL
INSTITUTIONS.

CHAPTER 5.
FILM DC ECONOMIC INCENTIVE.

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DISTRICT OF COLUMBIA OFFICIAL CODE
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CHAPTER 5. FILM DC ECONOMIC INCENTIVE.

§ 39-501. FILM DC ECONOMIC INCENTIVE FUND.

(a) There is hereby established a segregated, nonlapsing fund to be known as the Film DC Economic Incentive Fund ("Fund"). The Fund shall appear as a separate program line within the budget of the Office of Motion Picture and Television Development. The Fund shall be funded by annual appropriations. All funds deposited into the Fund shall not revert to the General Fund of the District of Columbia at the end of any fiscal year or at any other time, but shall be continually available for the uses and purposes set forth in this chapter, subject to authorization by Congress in an appropriations act.

(b) Subject to § 39-501.01 and subject to the availability of funds, the Mayor may provide to an eligible production company, as an incentive for the production of movies, television shows, or other video productions in the District, a payment equal to the following:

- (1) The sum of 42% of the company's qualified production expenditures that are subject to taxation in the District;
- (2) The sum of 21% of the company's qualified production expenditures that are not subject to taxation in the District;
- (3) The sum of 30% of the company's qualified personnel expenditures;
- (4) The sum of 50% of the company's qualified job training expenditures; and
- (5) The sum of 25% of the company's base infrastructure investment; provided, that if the base infrastructure investment is in a facility that may be used for purposes unrelated to production or postproduction activities, then the base infrastructure investment shall be eligible for the 25% incentive payment only if the Mayor determines that the facility will support and be necessary to secure production or postproduction activity.

(c) Subject to § 39-501.02 and subject to the availability of funds, the Mayor may provide to an applicant, as an incentive for the creation of production and postproduction facilities in the District, a payment of 25% of the taxpayer's base infrastructure investment; provided, that if all or a portion of the base infrastructure investment is in a facility that may be used for purposes unrelated to production or postproduction activities, then the base infrastructure investment shall be eligible for the 25% payment only if the Mayor determines that the facility will support and be necessary to secure production or postproduction activity.

(Mar. 14, 2007, D.C. Law 16-290, § 2, 54 DCR 984; July 18, 2008, D.C. Law 17-187, § 2, 55 DCR 6116; Mar. 3, 2010, D.C. Law 18-111, § 2071(a), 57 DCR 181.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-187, in subsec. (b)(1)(A), deleted "the lesser of 10% of qualified expenses or" following "not to exceed".

D.C. Law 18-111, in the section heading and subsec. (a), deleted "Grant" following "Incentive"; and rewrote subsecs. (b) and (c), which had read as follows:

"(b)(1) The funds in the Fund shall be used:

"(A) To provide incentives through discretionary grants for nationally distributed film and television projects, excluding production of television coverage of news or athletic events, that expend at least \$500,000 in qualified expenses in a period of 5 or more days for production activities located in the District of Columbia, in amount not to exceed 100% of the taxes paid to the District on the qualified expenses; and

"(B) For administrative costs and monitoring of the Fund.

"(2) For the purposes of this subsection, the term 'qualified expenses' means the costs incurred in the District for the production of the film or television project (including all expenses incurred in the District of Columbia from vehicle rentals, camera equipment, lighting, stage equipment, recording equipment, costumes,

wardrobe, construction materials, props, scenery materials, film and tape, design materials, special effects materials, fabrication, printing or production of scripts, storyboards, costumes, salaries paid to District residents, hotel expenses, food and alcohol purchases, restaurant expenses, and related supplies and equipment).

"(c) The Mayor shall submit an annual report to the Council, on or before December 31 of each year, for the fiscal year concluding September 30 that includes:

"(1) For each grant, the amount of the grant, the rationale for the grant, and the revenue generated for the District by each project for which a grant was awarded;

"(2) The criteria used in evaluating the grant proposals; and

"(3) The number of grant applications received and a description of each project for which a grant application was made."

Emergency Act Amendments

For temporary (90 day) addition, see § 2 of Film DC Economic Incentive Emergency Act of 2006 (D.C. Act 16-570, December 19, 2006, 54 DCR 8).

For temporary (90 day) amendment of section, see § 2071(a) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) additions, see § 2071(b) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2071(a) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) addition, see § 2 of Film DC Economic Incentive Fund Payment Authorization Emergency Amendment Act of 2009 (D.C. Act 18-276, January 11, 2010, 57 DCR 933).

Legislative History of Laws

Law 16-290, the "Film DC Economic Incentive Act of 2006", was introduced in Council and assigned Bill No. 16-935, which was referred to Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 14, 2006, and December 5, 2006, respectively. Signed by the Mayor on December 28, 2006, it was assigned Act No. 16-649 and transmitted to both Houses of Congress for its review. D.C. Law 16-290 became effective on March 14, 2007.

Law 17-187, the "Film DC Economic Incentive Amendment Act of 2008", was introduced in Council and assigned Bill No. 17-477 which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on April 1, 2008, and May 6, 2008, respectively. Signed by the Mayor on May 20, 2008, it was assigned Act No. 17-381 and transmitted to both Houses of Congress for its review. D.C. Law 17-187 became effective on July 18, 2008.

For Law 18-111, see notes following § 39-105.

Miscellaneous Notes

Section 7085 of D.C. Law 17-219 repealed section 4 of D.C. Law 16-290.

Short title: Section 2070 of D.C. Law 18-111 provided that subtitle H of title II of the act may be cited as the "Financial Incentives for Motion Picture and Television Productions Amendment Act of 2009".

§ 39-501.01. PRODUCTION INCENTIVES.

(a) To qualify for a payment under § 39-501(b), an eligible production company shall:

- (1) Spend at least \$250,000 in the District for the development, preproduction, production, or postproduction costs of a qualified production;
- (2) File an application with the Mayor pursuant to subsection (b) of this section;
- (3) Enter into an incentive agreement with the Mayor pursuant to subsection (d) of this section;
- (4) Comply with the terms of the agreement; and
- (5) Not be delinquent in a tax or other obligation owed to the District or be owned or under common control of an entity that is delinquent in a tax or other obligation owed to the District.

(b) An eligible production company seeking a payment under § 39-501(b) shall submit an application to the Mayor. The application shall be submitted in a form, and with such documentation and information, may be prescribed by the Mayor, including:

- (1) An estimate of qualified production expenditures;
- (2) An estimate of qualified personnel expenditures;

(3) An estimate of qualified job training expenditures; and

(4) An estimate of and total investment in qualified film and digital media infrastructure projects in the District associated with an identified qualified production.

(c) After receiving an application under subsection (b) of this section, the Mayor shall review the application and determine whether to enter into an incentive agreement pursuant to subsection (d) of this section with the eligible production company. In determining whether to enter into an incentive agreement with the eligible production company, the Mayor may consider:

(1) The potential that, in the absence of a payment under § 39-501.02(a), the qualified production will be produced in a location other than the District;

(2)(A) The qualified production is likely to promote the District as a tourist destination;

(B) The qualified production is likely to create contracting and procurement opportunities for certified business enterprises;

(C) The qualified production is likely to:

(i) Create jobs;

(ii) Job training opportunities; and

(iii) Apprenticeships for District residents;

(D) The qualified production will produce employment opportunities for District youth;

(E) The qualified production is likely to promote economic development and neighborhood revitalization in the District;

(F) A payment under § 39-501.02(a) is likely to attract private investment for the production of other qualified productions or base infrastructure investments in the District; and

(3) The record of the eligible production company in completing commitments to engage in a qualified production.

(d) An incentive agreement entered into by the Mayor and the eligible production company shall include the following provisions:

(1) The name of the eligible production company;

(2) The name and description of the qualified production;

(3) The eligible production company's:

(A) Estimated qualified production expenditures;

(B) Qualified personnel expenditures;

(C) Qualified job training expenditures; and

(D) The base infrastructure investment;

(4) A preliminary estimate of the payment to be made by the District pursuant to the agreement;

(5) Any obligations of the eligible production company, including obligations such a commitment to hire District residents, provide apprenticeship opportunities for District residents and youth, provide employment opportunities for District residents and youth, and to contract with certified business entities; and

(6) Any other provisions considered appropriate by the Mayor.

(e) If the Mayor determines that an eligible production company, after it completes the qualified production, has complied with the terms of the agreement entered into under this section, the Mayor shall provide to the company the payment authorized by § 39-501(b).

(f) The Mayor shall reserve funds sufficient to pay the amount identified in subsection (d)(4) of this section.

(Mar. 14, 2007, D.C. Law 16-290, § 2a, as added Mar. 3, 2010, D.C. Law 18-111, § 2071(b), 57 DCR 181.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 2071(b) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 2071(b) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative History of Laws

For Law 18-111, see notes following § 39-105.

§ 39-501.02. INFRASTRUCTURE INCENTIVES.

- (a) To be eligible for a payment under § 39-501(c), an approved applicant shall:
- (1) Invest and expend at least \$250,000 for a qualified film and digital media infrastructure project in the District;
 - (2) File an application with the Mayor pursuant to subsection (b) of this section;
 - (3) Enter into an agreement with the Mayor pursuant to subsection (d) of this section;
 - (4) Comply with the terms of the agreement; and
 - (5) Not be delinquent in a tax or other obligation owed to the District, or be owned or under common control of an entity that is delinquent in a tax or other obligation owed to the District.
- (b) An approved applicant seeking a payment under § 39-501(c) shall submit an application to the Mayor, in a form and with the documentation and information, including an estimate of total base infrastructure investment, as may be prescribed by the Mayor.
- (c) After receiving an application under subsection (b) of this section, the Mayor shall review the application and determine whether to enter into an incentive agreement with the applicant pursuant to subsection (d) of this section. In determining whether to enter into the incentive agreement, the Mayor may consider:
- (1) The potential that, in the absence of a payment under § 39-501(c), the qualified film and digital media infrastructure project in which the base infrastructure investment will be made will be constructed in a location other than the District, or not constructed at all;
 - (2) The extent to which the qualified film and digital media infrastructure project is likely to:
 - (A) Create contracting and procurement opportunities for certified business enterprises;
 - (B) Create jobs, job training opportunities, and apprenticeships for District residents and District youth;
 - (C) Promote economic development and neighborhood revitalization in the District;
 - (3) The extent to which the qualified film and digital media infrastructure project is likely to attract motion picture, television, and video production to the District; and
 - (4) The record of the applicant in completing commitments to engage in qualified film and digital media infrastructure projects.
- (d) An incentive agreement entered into by the Mayor and the eligible production company shall include the following provisions:
- (1) The name of the applicant;
 - (2) A description of the qualified film and digital media infrastructure project;
 - (3) The applicant's estimated base investment;
 - (4) A preliminary estimate of the payment to be made by the District pursuant to this agreement;
 - (5) Any obligations of the eligible production company, including obligations such as a commitment to hire District residents, provide apprenticeship opportunities for District residents and youth, provide employment opportunities for District residents and youth, and to contract with certified business entities; and
 - (6) Any other provisions considered appropriate by the Mayor.
- (e) If the Mayor determines, after the qualified film and digital media infrastructure project is complete, that an applicant has complied with the terms of the agreement under this section, the Mayor may provide to the company the payment authorized by § 39-501(c).

(Mar. 14, 2007, D.C. Law 16-290, § 2b, as added Mar. 3, 2010, D.C. Law 18-111, § 2071(b), 57 DCR 181; Sept. 26, 2012, D.C. Law 19-171, § 99(a), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 19-171, in subsec. (c)(4), validated a previously made technical correction.

Emergency Act Amendments

For temporary (90 day) addition, see § 2071(b) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 2071(b) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For Law 18-111, see notes following § 39-105.

For history of Law 19-171, see notes under § 39-105.

§ 39-501.03. DEFINITIONS.

For the purposes of this chapter, the term:

(1) "Base infrastructure investment" means the cost, including fabrication and installation, expended by a person in the development of a qualified film and digital media infrastructure project for tangible assets of a type that are, or under the United States Internal Revenue Code will become, eligible for depreciation, amortization, or accelerated capital cost recovery for federal income tax purposes that are physically located in the District for use in a business activity in the District and that are not mobile tangible assets. The term "base infrastructure investment" does not include qualified production expenditure or qualified personnel expenditure.

(2) "Below-the-line crew" means a person employed by an eligible production company for a qualified production after production begins and before production is completed, excluding above-the-line crew such as a producer, director, writer, actor, or other person in a similar position.

(3) "Eligible production company" means an entity in the business of producing qualified productions.

(4) "Postproduction expenditure" means a direct expenditure for editing, Foley recording, automatic dialogue replacement, sound editing, special or visual effects, including computer-generated imagery or other effects, scoring and music editing, beginning and end credits, negative cutting, soundtrack production, dubbing, subtitling, addition of sound or visual effects, advertising, marketing, distribution, and related expenses.

(5) "Qualified film and digital media infrastructure project" means a film, video, television, or digital media production and postproduction facility located in the District, movable and immovable property and equipment related to the facility, and any other facility that is a necessary component of the primary facility. The term "qualified film and digital media infrastructure project" does not include a movie theater or other commercial exhibition facility.

(6) "Qualified job training expenditure" means salary and other expenditures paid by an eligible production company to provide qualified personnel with on-the-job training to upgrade or enhance the skills of the qualified personnel as a member of the below-the-line crew for a qualified production.

(7) "Qualified personnel" means a District resident that is legally eligible for employment.

(8) "Qualified personnel expenditure" means an expenditure made in the District directly attributable to the production or distribution of a qualified production that is a transaction subject to taxation in the District and is a payment of wages, benefits, or fees to below-the-line crew members who are not residents of the District, and includes a payment to a personal services corporation or professional employer organization for the services of qualified personnel as below-the-line crew members who are not residents of the District.

(9) "Qualified production" means motion picture, television, or video content created in whole or in part in the District, intended for nationwide distribution or exhibition by any means, including by motion picture, documentary, television programming, commercials, or internet video production and includes a trailer, pilot, or any video teaser associated with a qualified production. The term "qualified production" does not include:

(A) A production that:

- (i) Consists primarily of televised news or current events;
- (ii) Consists primarily of a live sporting event;
- (iii) Consists primarily of political advertising;
- (iv) Primarily markets a product or service other than a qualified production; or

(B) A radio program.

(10)(A) "Qualified production expenditure" means a development, preproduction, production, or postproduction expenditure made in the District that is:

- (i) Directly attributable to the production or distribution of a qualified production;
- (ii) Is for the production or distribution of a qualified production;
- (iii) In accordance with generally accepted entertainment industry practices; and
- (iv) Not a qualified personnel expenditure.

(B) Qualified production expenditure includes the purchase of tangible or intangible personal property or services related to producing or distributing a qualified production, production work,

production equipment, production software, development work, postproduction work, postproduction equipment, postproduction software, set design, set construction, set operations, props, lighting, wardrobe, catering, lodging, use of facilities or equipment, use of soundstages or studios, location fees, and related services, excluding services provided by the District government, and materials, use of vehicles directly attributable to the production or distribution of a qualified production, and any purchase of equipment relating to the duplication or market distribution of any content created or produced in the District, and payment of wages, benefits, or fees to any contractual or salaried employee, including above-the line crew such as producers, directors, writers, and actors, and below-the-line crew who are residents of the District, and excluding below-the-line crew who performs services in the District, including a payment to a personal services corporation or professional employer organization for the services of qualified personnel.

(Mar. 14, 2007, D.C. Law 16-290, § 2c, as added Mar. 3, 2010, D.C. Law 18-111, § 2071(b), 57 DCR 181; Sept. 20, 2012, D.C. Law 19-168, § 2122, 59 DCR 8025; Sept. 26, 2012, D.C. Law 19-171, § 99(b), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 19-168, in par. (2), substituted "production is completed, excluding above-the-line crew such as" for "production is completed, including"; in par. (8), substituted "below-the-line crew members who are not residents of the District" for "below-the-line crew members"; and rewrote par. (10)(B), which formerly read:

"(B) Qualified production expenditure includes the purchase of tangible personal property or services related to producing or distributing a qualified production, production work, production equipment, production software, development work, postproduction work, postproduction equipment, postproduction software, set design, set construction, set operations, props, lighting, wardrobe, catering, lodging, use of vehicles directly attributable to the production or distribution of a qualified production, and any purchase of equipment relating to the duplication or market distribution of any content created or produced in the District, and payment of wages, benefits, or fees to any contractual or salaried employee excluding below-the-line crew who performs services in the District, including a payment to a personal services corporation or professional employer organization for the services of qualified personnel."

D.C. Law 19-171, in par. (10A), validated a previously made technical correction.

Emergency Act Amendments

For temporary (90 day) addition, see § 2071(b) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 2071(b) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative History of Laws

For Law 18-111, see notes following § 39-105.

For history of Law 19-168, see notes under § 39-107.

For history of Law 19-171, see notes under § 39-105.

Miscellaneous Notes

Short title: Section 2121 of D.C. Law 19-168 provided that subtitle M of title II of the act may be cited as "Film DC Economic Incentive Amendment Act of 2012".

§ 39-501.04. MOTION PICTURE AND TELEVISION PRODUCTION PERMITS.

- (a) The Mayor may issue a permit for the occupation of the public space for motion picture, television, and other media productions ("film permit") pursuant to § 10-1141.03.
- (b) The Mayor may impose a one-time fee for processing of the film permit application in the amount of \$30 per production.
- (c) The film permit fee shall be \$150 per day per location to occupy public space or a public right-of-way.
- (d) The Mayor may periodically revise the schedule of fees by rulemaking.
- (e) The fees received by the Mayor from applications for and issuance of the film permits shall be deposited into the special account established by § 39-501.05.
- (f) No permit may be transferred from one location to another.

(Mar. 14, 2007, D.C. Law 16-290, § 2d, as added Mar. 3, 2010, D.C. Law 18-111, § 2071(b), 57 DCR 181.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 2071(b) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 2071(b) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative History of Laws

For Law 18-111, see notes following § 39-105.

§ 39-501.05. FILM DC SPECIAL ACCOUNT.

(a) There is established as a lapsing fund the Film DC Special Account Fund ("Fund"), which shall be used exclusively for the purposes set forth in subsection (b)(3) of this section. Any unexpended funds in the Film DC Special Account Fund at the end of a fiscal year shall revert to the unrestricted fund balance of the General Fund of the District of Columbia.

(b)(1) There shall be deposited into the Fund the fees derived from film permits applied for or issued pursuant to § 39-501.04, other funds as may be designated by law, regulation, or reprogramming, and all interest earned on all deposits.

(2) There shall be allocated annually to the Office of Motion Picture and Television Development an amount that is equal to the total deposits and earnings that are estimated to remain unspent in the Fund at the end of the preceding fiscal year plus all deposits and earnings that are estimated to be received during the fiscal year for which the allocation is made.

(3) The funds in the Fund shall be used solely to pay for operating expenses of the Office of Motion Picture and Television Development; provided, that no funds in the Fund shall be used for personnel or personnel-related expenses.

(Mar. 14, 2007, D.C. Law 16-290, § 2e, as added Mar. 3, 2010, D.C. Law 18-111, § 2071(b), 57 DCR 181; Sept. 14, 2011, D.C. Law 19-21, § 9029, 58 DCR 6226.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 19-21 rewrote subsec. (a), which had read as follows:

"(a) There is established as a nonlapsing fund the Film DC Special Account Fund ('Fund'), which shall be used solely for the purposes set forth in subsection(b)(3) of this section. All funds deposited into the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (b)(3) of this section without regard to fiscal year limitation, subject to authorization by Congress."

Emergency Act Amendments

For temporary (90 day) addition, see § 2071(b) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 2071(b) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

Legislative History of Laws

For Law 18-111, see notes following § 39-105.

For history of Law 19-21, see notes under § 39-105.

§ 39-502. RULEMAKING.

The Mayor may promulgate rules necessary to implement this chapter.

(Mar. 14, 2007, D.C. Law 16-290, § 3, 54 DCR 984.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 3 of Film DC Economic Incentive Emergency Act of 2006 (D.C. Act 16-570, December 19, 2006, 54 DCR 8).

Legislative History of Laws

For Law 16-290, see notes following § 39-501.

Delegation of Authority

Delegation of Authority under the Financial Incentives for Motion Picture and Television Productions
Emergency Amendment Act of 2009, effective October 15, 2009 (D.C. Act 18-207; 56 DCR 8277), see
Mayor's Order 2009-213, December 8, 2009 (56 DCR 9350).