

House Bill 1130

By: Representatives Moore of the 95th, Frye of the 118th, Anulewicz of the 42nd, and Bonner of the 72nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-7-40.26 of the Official Code of Georgia Annotated, relating to
2 an income tax credit for film, gaming, video, or digital production in Georgia, so as to
3 provide that expenditures for certain purchases of licenses or rights to own or use certain
4 musical compositions and sound recordings shall be production expenditures that are eligible
5 for the tax credit; to provide for definitions; to provide for related matters; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 style="text-align:center">**SECTION 1.**

9 Code Section 48-7-40.26 of the Official Code of Georgia Annotated, relating to an income
10 tax credit for film, gaming, video, or digital production in Georgia, is amended by revising
11 paragraph (8) of subsection (b) and by adding a new paragraph to subsection (b) to read as
12 follows:

13 "(8) 'Production expenditures' means preproduction, production, and postproduction
14 expenditures incurred in this state that are directly used in a qualified production activity,
15 including without limitation the following: set construction and operation; wardrobes,
16 ~~make-up~~ makeup, accessories, and related services; costs associated with photography
17 and sound synchronization, ~~expenditures excluding license fees incurred with Georgia~~
18 ~~companies for~~ sound recordings and musical compositions excluding license or
19 ownership fees unless such costs are qualified Georgia music expenditures, lighting, and
20 related services and materials; editing and related services; rental of facilities and
21 equipment; leasing of vehicles; costs of food and lodging; digital or tape editing, film
22 processing, transfers of film to tape or digital format, sound mixing, computer graphics
23 services, special effects services, and animation services; total aggregate payroll; airfare,
24 if purchased through a Georgia travel agency or travel company; insurance costs and
25 bonding, if purchased through a Georgia insurance agency; and other direct costs of
26 producing the project in accordance with generally accepted entertainment industry

27 practices. This term shall not include postproduction expenditures for footage shot
 28 outside ~~the State of Georgia~~ this state, marketing, story rights, or distribution, but shall
 29 not affect other qualified story rights. This term includes payments to a loan-out
 30 company by a production company or qualified interactive entertainment production
 31 company that has met its withholding tax obligations as set out below. The production
 32 company or qualified interactive entertainment production company shall withhold
 33 Georgia income tax at the rate of 6 percent on all payments to loan-out companies for
 34 services performed in ~~Georgia~~ this state. Any amounts so withheld shall be deemed to
 35 have been withheld by the loan-out company on wages paid to its employees for services
 36 performed in ~~Georgia~~ this state pursuant to Article 5 of this chapter notwithstanding the
 37 exclusion provided in subparagraph (K) of paragraph (10) of Code Section 48-7-100.
 38 The amounts so withheld shall be allocated to the loan-out company's employees based
 39 on the payments made to the loan-out company's employees for services performed in
 40 ~~Georgia~~ this state. For purposes of this chapter, loan-out company nonresident
 41 employees performing services in ~~Georgia~~ this state shall be considered taxable
 42 nonresidents and the loan-out company shall be subject to income taxation in the taxable
 43 year in which the loan-out company's employees perform services in ~~Georgia~~ this state,
 44 notwithstanding any other provisions in this chapter. Such withholding liability shall be
 45 subject to penalties and interest in the same manner as the employee withholding taxes
 46 imposed by Article 5 of this chapter and the commissioner shall provide by regulation the
 47 manner in which such liability shall be assessed and collected.

48 (8.1) 'Qualified Georgia music expenditures' means expenditures for the right or license
 49 to own or use a musical composition or sound recording if such musical composition or
 50 sound recording is audible in a qualified movie production, qualified TV production,
 51 qualified music video, or qualified interactive game, and if such right or license is
 52 purchased from:

53 (A) A composer of such musical composition or recording artist of such sound
 54 recording who is a permanent legal resident of Georgia; or

55 (B) A precleared music library incorporated and housed in Georgia that in the prior
 56 year paid the tax imposed by Code Section 48-7-20 or 48-7-21."

57 SECTION 2.

58 All laws and parts of laws in conflict with this Act are repealed.