

Legislative Bill Drafting Commission
12016-02-3

S. -----
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

TAXLA
(Relates to the claiming of credits
under the empire state film
production credit)

Tax. empire state film production

AN ACT

to amend part D of chapter 59 of the
laws of 2023 amending the tax law
relating to the empire state film
production credit and the empire
state film post-production credit,
in relation to the application of
such provisions; and to amend the
tax law, in relation to the claiming
of credits under the empire state
film product credit

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal:

s15 Addabbo	s34 Fernandez	s28 Krueger	s01 Palumbo	s42 Skoufis
s43 Ashby	s60 Gallivan	s24 Lanza	s21 Parker	s11 Stavisky
s36 Bailey	s12 Gianaris	s16 Liu	s19 Persaud	s45 Stec
s57 Borrello	s59 Gonzalez	s50 Mannion	s13 Ramos	s35 Stewart-
s46 Breslin	s26 Gounardes	s04 Martinez	s05 Rhoads	Cousins
s25 Brisport	s53 Griffo	s07 Martins	s33 Rivera	s44 Tedisco
s55 Brouk	s40 Harckham	s02 Mattera	s39 Rolison	s06 Thomas
s09 Canzoneri-	s54 Helming	s48 May	s61 Ryan	s49 Walczyk
Fitzpatrick	s41 Hinchey	s37 Mayer	s18 Salazar	s52 Webb
s17 Chu	s47 Hoylman-	s03 Murray	s10 Sanders	s38 Weber
s30 Cleare	Sigal	s20 Myrie	s23 Scarcella-	s08 Weik
s14 Comrie	s31 Jackson	s51 Oberacker	Spanton	
s56 Cooney	s27 Kavanagh	s58 O'Mara	s32 Sepulveda	
s22 Felder	s63 Kennedy	s62 Ortt	s29 Serrano	

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a078 Alvarez	a140 Conrad	a150 Goodell	a017 Mikulin	a016 Sillitti
a031 Anderson	a032 Cook	a116 Gray	a122 Miller	a052 Simon
a121 Angelino	a039 Cruz	a100 Gunther	a051 Mitaynes	a075 Simone
a037 Ardila	a043 Cunningham	a139 Hawley	a145 Morinello	a114 Simpson
a035 Aubry	a021 Curran	a083 Heastie	a144 Norris	a094 Slater
a120 Barclay	a018 Darling	a028 Hevesi	a045 Novakhov	a005 Smith
a106 Barrett	a053 Davila	a128 Hunter	a069 O'Donnell	a118 Smullen
a105 Beephan	a072 De Los Santos	a029 Hyndman	a091 Otis	a022 Solages
a107 Bendett	a003 DeStefano	a079 Jackson	a132 Palmesano	a110 Steck
a082 Benedetto	a070 Dickens	a104 Jacobson	a088 Paulin	a010 Stern
a042 Bichotte	a054 Dilan	a011 Jean-Pierre	a141 Peoples-	a127 Stirpe
Hermelyn	a081 Dinowitz	a134 Jensen	Stokes	a102 Tague
a117 Blankenbush	a147 DiPietro	a115 Jones	a023 Pheffer	a064 Tannousis
a015 Blumencranz	a009 Durso	a077 Joyner	Amato	a086 Tapia
a073 Bores	a099 Eachus	a125 Kelles	a063 Pirozzolo	a071 Taylor
a098 Brabenec	a048 Eichenstein	a040 Kim	a089 Pretlow	a001 Thiele
a026 Braunstein	a074 Epstein	a013 Lavine	a019 Ra	a033 Vanel
a138 Bronson	a109 Fahy	a065 Lee	a030 Raga	a055 Walker
a046 Brook-Krasny	a061 Fall	a126 Lemondes	a038 Rajkumar	a143 Wallace
a020 Brown, E.	a008 Fitzpatrick	a095 Levenberg	a006 Ramos	a112 Walsh
a012 Brown, K.	a004 Flood	a060 Lucas	a062 Reilly	a041 Weinstein
a093 Burdick	a057 Forrest	a135 Lunsford	a087 Reyes	a024 Weprin
a085 Burgos	a124 Friend	a123 Lupardo	a149 Rivera	a059 Williams
a142 Burke	a050 Gallagher	a129 Magnarelli	a027 Rosenthal, D.	a113 Woerner
a119 Buttenschon	a131 Gallahan	a101 Maher	a067 Rosenthal, L.	a080 Zaccaro
a133 Byrnes	a007 Gandolfo	a036 Mamdani	a025 Rozic	a096 Zebrowski
a044 Carroll	a068 Gibbs	a130 Manktelow	a111 Santabarbara	a056 Zinerman
a058 Chandler-	a002 Giglio, J.A.	a108 McDonald	a090 Sayegh	
Waterman	a148 Giglio, J.M.	a014 McDonough	a076 Seawright	
a049 Chang	a066 Glick	a097 McGowan	a084 Septimo	
a136 Clark	a034 Gonzalez-	a146 McMahan	a092 Shimsky	
a047 Colton	Rojas	a137 Meeks	a103 Shrestha	

1) Single House Bill (introduced and printed separately in either or
both houses). Uni-Bill (introduced simultaneously in both houses and printed
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2
signed copies of bill and: in Assembly 2 copies of memorandum in support, in
Senate 4 copies of memorandum in support (single house); or 4 signed copies
of bill and 6 copies of memorandum in support (uni-bill).

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

1 Section 1. Section 10 of part D of chapter 59 of the laws of 2023
2 amending the tax law relating to the empire state film production credit
3 and the empire state film post-production credit, is amended to read as
4 follows:

5 § 10. This act shall take effect immediately [and]; provided, however,
6 that sections one, two, two-a, three, four, five, five-a, eight, nine
7 and nine-a of this act shall apply to initial applications received on
8 or after April 1, 2023; further provided, however, that the amendments
9 to paragraph 4 of subdivision (e) of section 24 of the tax law made by
10 section six of this act shall take effect on the same date and in the
11 same manner as section 6 of chapter 683 of the laws of 2019, as amended,
12 takes effect.

13 § 2. Paragraph 4 of subdivision (e) of section 24 of the tax law, as
14 amended by section 6 of part D of chapter 59 of the laws of 2023, is
15 amended to read as follows:

16 (4) Additional pool 2 - The aggregate amount of tax credits allowed in
17 subdivision (a) of this section shall be increased by an additional four
18 hundred twenty million dollars in each year starting in two thousand ten
19 through two thousand twenty-three and seven hundred million dollars each
20 year starting in two thousand twenty-four through two thousand thirty-
21 four, provided however, seven million dollars of the annual allocation
22 shall be available for the empire state film post production credit
23 pursuant to section thirty-one of this article in two thousand thirteen
24 and two thousand fourteen, twenty-five million dollars of the annual
25 allocation shall be available for the empire state film post production
26 credit pursuant to section thirty-one of this article in each year
27 starting in two thousand fifteen through two thousand twenty-three, and
28 forty-five million dollars of the annual allocation shall be available

1 for the empire state film post production credit pursuant to section
2 thirty-one of this article in each year starting in two thousand twen-
3 ty-four through two thousand thirty-four. Provided further, five million
4 dollars of the annual allocation shall be made available for the tele-
5 vision writers' and directors' fees and salaries credit pursuant to
6 section twenty-four-b of this article in each year starting in two thou-
7 sand twenty through two thousand thirty-four. This amount shall be allo-
8 cated by the department of economic development among taxpayers in
9 accordance with subdivision (a) of this section. If the commissioner of
10 economic development determines that the aggregate amount of tax credits
11 available from additional pool 2 for the empire state film production
12 tax credit have been previously allocated, and determines that the pend-
13 ing applications from eligible applicants for the empire state film post
14 production tax credit pursuant to section thirty-one of this article is
15 insufficient to utilize the balance of unallocated empire state film
16 post production tax credits from such pool, the remainder, after such
17 pending applications are considered, shall be made available for allo-
18 cation in the empire state film tax credit pursuant to this section,
19 subdivision twenty of section two hundred ten-B and subsection (gg) of
20 section six hundred six of this chapter. Also, if the commissioner of
21 economic development determines that the aggregate amount of tax credits
22 available from additional pool 2 for the empire state film post
23 production tax credit have been previously allocated, and determines
24 that the pending applications from eligible applicants for the empire
25 state film production tax credit pursuant to this section is insuffi-
26 cient to utilize the balance of unallocated film production tax credits
27 from such pool, then all or part of the remainder, after such pending
28 applications are considered, shall be made available for allocation for

1 the empire state film post production credit pursuant to this section,
2 subdivision thirty-two of section two hundred ten-B and subsection (qq)
3 of section six hundred six of this chapter. The department of economic
4 development must notify taxpayers of their allocation year and include
5 the allocation year on the certificate of tax credit. Taxpayers eligible
6 to claim a credit must report the allocation year directly on their
7 empire state film production credit tax form for each year a credit is
8 claimed and include a copy of the certificate with their tax return. In
9 the case of a qualified film that receives funds from additional pool 2
10 where the taxpayer filed an initial application before April first, two
11 thousand twenty-three, no empire state film production credit shall be
12 claimed before the later of (1) the taxable year the production of the
13 qualified film is complete, or (2) the taxable year immediately follow-
14 ing the allocation year for which the film has been allocated credit by
15 the department of economic development. In the case of a qualified film
16 that receives funds from additional pool 2 where the taxpayer filed an
17 initial application on or after April first, two thousand twenty-three,
18 no empire state film production credit shall be claimed before the later
19 of (1) the taxable year the production of the qualified film is
20 complete, or (2) the taxable year that includes the last day of the
21 allocation year for which the film has been allocated credit by the
22 department of economic development.

23 § 3. Paragraph 4 of subdivision (e) of section 24 of the tax law, as
24 amended by section 7 of part D of chapter 59 of the laws of 2023, is
25 amended to read as follows:

26 (4) Additional pool 2 - The aggregate amount of tax credits allowed in
27 subdivision (a) of this section shall be increased by an additional four
28 hundred twenty million dollars in each year starting in two thousand ten

1 through two thousand twenty-three and seven hundred million dollars in
2 each year starting in two thousand twenty-four through two thousand
3 thirty-four, provided however, seven million dollars of the annual allo-
4 cation shall be available for the empire state film post production
5 credit pursuant to section thirty-one of this article in two thousand
6 thirteen and two thousand fourteen, twenty-five million dollars of the
7 annual allocation shall be available for the empire state film post
8 production credit pursuant to section thirty-one of this article in each
9 year starting in two thousand fifteen through two thousand twenty-three,
10 and forty-five million dollars of the annual allocation shall be avail-
11 able for the empire state film post production credit pursuant to
12 section thirty-one of this article in each year starting in two thousand
13 twenty-four through two thousand thirty-four. This amount shall be allo-
14 cated by the department of economic development among taxpayers in
15 accordance with subdivision (a) of this section. If the commissioner of
16 economic development determines that the aggregate amount of tax credits
17 available from additional pool 2 for the empire state film production
18 tax credit have been previously allocated, and determines that the pend-
19 ing applications from eligible applicants for the empire state film post
20 production tax credit pursuant to section thirty-one of this article is
21 insufficient to utilize the balance of unallocated empire state film
22 post production tax credits from such pool, the remainder, after such
23 pending applications are considered, shall be made available for allo-
24 cation in the empire state film tax credit pursuant to this section,
25 subdivision twenty of section two hundred ten-B and subsection (gg) of
26 section six hundred six of this chapter. Also, if the commissioner of
27 economic development determines that the aggregate amount of tax credits
28 available from additional pool 2 for the empire state film post

1 production tax credit have been previously allocated, and determines
2 that the pending applications from eligible applicants for the empire
3 state film production tax credit pursuant to this section is insuffi-
4 cient to utilize the balance of unallocated film production tax credits
5 from such pool, then all or part of the remainder, after such pending
6 applications are considered, shall be made available for allocation for
7 the empire state film post production credit pursuant to this section,
8 subdivision thirty-two of section two hundred ten-B and subsection (qq)
9 of section six hundred six of this chapter. The department of economic
10 development must notify taxpayers of their allocation year and include
11 the allocation year on the certificate of tax credit. Taxpayers eligible
12 to claim a credit must report the allocation year directly on their
13 empire state film production credit tax form for each year a credit is
14 claimed and include a copy of the certificate with their tax return. In
15 the case of a qualified film that receives funds from additional pool 2
16 where the taxpayer filed an initial application before April first, two
17 thousand twenty-three, no empire state film production credit shall be
18 claimed before the later of (1) the taxable year the production of the
19 qualified film is complete, or (2) the taxable year immediately follow-
20 ing the allocation year for which the film has been allocated credit by
21 the department of economic development. In the case of a qualified film
22 that receives funds from additional pool 2 where the taxpayer filed an
23 initial application on or after April first, two thousand twenty-three,
24 no empire state film production credit shall be claimed before the later
25 of (1) the taxable year the production of the qualified film is
26 complete, or (2) the taxable year that includes the last day of the
27 allocation year for which the film has been allocated credit by the
28 department of economic development.

1 § 4. This act shall take effect immediately and shall be deemed to
2 have been in full force and effect on and after the effective date of
3 part D of chapter 59 of the laws of 2023; provided, however, that the
4 amendments made to paragraph 4 of subdivision (e) of section 24 of the
5 tax law made by section two of this act shall take effect on the same
6 date and in the same manner as section 6 of chapter 683 of the laws of
7 2019, as amended, takes effect.