

(H. B. 1597)
(Reconsidered)

(No. 41)

(Approved May 4, 2007)

AN ACT

To amend subsection (b) of Section 4, add a new subsection (j) to Section 5, and renumber subsections (j), (k), (l) and (m) of said Section as subsections (k), (l), (m) and (n), respectively; to add subsection (f) to Section 10 and amend subsections (a), (b) and (c) of Section 14 of Act No. 362 of December 24, 1999, as amended, known as the “Filmmaking Industry Development Act,” to include as an eligible Film Project the production of television programs, establish a tax credit for the production of television programs, establish the parameters of said tax credit and the requirements to be met by the programs in order to be eligible for the tax credits; and for other matters.

STATEMENT OF MOTIVES

The purpose of Act No. 362 of December 24, 1999, as amended, known as the “Filmmaking Industry Development Act,” was to provide incentives for the production and promotion of the island’s filmmaking industry through the granting of diverse tax incentives. Although it is recognized in the Statement of Motives of said Act that the television industry generates an important economic activity, the provisions therein do not directly benefit said industry.

For said purposes, the intention of this legislation is to have the provisions of the “Filmmaking Industry Development Act” apply to the production of television programs so as to stimulate the production of local programs and to protect the jobs generated by said industry.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.— Subsection (b) of Section 4 of Act No. 362 of December 24, 1999, as amended, is hereby amended to read as follows:

“Section 4.— Relation to Other Acts

(a) ...

(b) A Film Project or Infrastructure Project may combine the provisions of this Act with those of any other statute, including, but without it being understood as a limitation, the benefits of Subchapter K of the Code or the benefits of Act No. 135 of December 2, 1997, as amended, known as the “Puerto Rico Tax Incentives Act of 1998,” or other laws subsequent to these. Nevertheless, if the Film Project or the Infrastructure Project avails itself of the benefits provided by the provisions of this Act, its provisions shall prevail over those of any other statute, in case of discrepancy or duplication between them. However, the tax provisions of this Act shall not be used together with those of other acts that foster the investment of capital through the granting of tax credits similar to those granted herein. If the Film Project or the Infrastructure Project chooses to avail itself of the provisions of this Act, it shall only have the available tax credits granted in this Act.”

Section 2.— A new subsection (j) is hereby added to subsections (j) and (k) are redesignated as (k) and (l), and subsections (l) and (m) are redesignated as (m) and (n) in Section 5 of Act No. 362 of December 24, 1999, as amended, to read as follows:

“Section 5.— Definitions

When used as proper names, the following words, as used in this Act, shall have the meaning indicated hereinbelow:

- (a) ...
- (b) ...
- (c) ...
- (d) ...
- (e) ...
- (f) ...
- (g) ...
- (h) ...
- (i) ...
- (j) “Television Programs” means all types of television programs, including, but not limited to, soap operas, mini-series, talk shows, news programs, game shows and entertainment programs, sitcoms, children’s programs and variety shows.
- (k) “Film Project” means one or more of the activities contemplated in Section 10 of this Act.
- (l) “Infrastructure Project” means ...
- (m) “Resident of Puerto Rico” means:
 - (1) in the case of a natural person, one who meets the requirements set forth in Section 1411 (a)(25) of the Code;
 - (2) in the case of a juridical person, that which derives not less than eighty percent (80%) of its gross income from sources in Puerto Rico following the rules to determine sources of income contained in Section 1123 of the Code.
- (n) “Secretary” or “Secretary of the Treasury” means the Secretary of the Treasury of Puerto Rico.”

Section 3.– Subsection (f) is hereby added to Section 10 of Act No. 362 of December 24, 1999, as amended, to read as follows:

“Section 10.– Eligible Film Projects

A Film Entity can carry out a Film Project with the purpose of availing itself of the provisions of this Act, if it meets the requirements thereof and if said project is devoted to one of the following activities:

- (a) ...
- (b) ...
- (c) ...
- (d) ...
- (e) ...
- (f) production of television programs not described in subsection (c) of this Section and that are broadcasted or distributed in Puerto Rico and abroad with a minimum annual budget of one hundred thousand (100,000) dollars.”

Section 4.– Subsections (a), (b) and (c) of Section 14 of Act No. 362 of December 24, 1999, as amended, are hereby amended to read as follows:

“Section 14.– Tax Credit – Film Projects

- (a) A tax credit shall be granted to investors in a Film Entity engaged in a Film Project equivalent to forty percent (40%) of those items of the Budget paid to Residents of Puerto Rico, as certified in writing by the Accountant. However, in the case of a Film Project consisting of the production of a television program broadcasted or distributed in Puerto Rico and abroad that is not described in subsection (c) of Section 10 of this Act, the tax credit granted to investors shall be limited to twenty-five (25) percent of those items of the Budget paid to Residents of Puerto Rico, as certified in writing by the Accountant contracted by the Commissioner.

The total credit to be granted shall not exceed fifty percent (50%) of the capital paid in case contributed to the Film Entity in exchange for primary-issue stocks or shares.

- (b) Those items in the Budget that contemplate the acquisition of assets of which the costs can be capitalized shall not generate credits, except those assets that shall remain in Puerto Rico during their useful life or not less than five (5) years, whichever is less. Said assets shall only be removed from Puerto Rico in a provisional manner incidental to the film project. The Secretary, the Film Corporation or the Commissioner may require a bond or bank letter of credit from the Film Entity that acquires these assets, which guarantees the total tax credits generated by the purchase thereof, it being the Secretary who shall be responsible for the custody and withholding of said bond.
- (c) Television series and other television programs that due to market demands decide to film phases of additional chapters shall be evaluated as another Film Project and shall comply with the requirements imposed by this Act. The experience of the phase or previous phases shall be taken into consideration by the Commissioner in the new evaluation to grant the License with the endorsement of the Film Corporation.”

Section 5.– Severability Clause

If any section, provision, paragraph, subsection or part of this Act were to be declared null or void by a competent court, it shall be understood that such ruling or resolution shall only affect the portion thus declared and the remaining provisions shall remain valid and in effect.

Section 6.— This Act shall take effect immediately after its approval; however, its provisions shall apply to the tax periods beginning after December 31, 2007.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 41 (H.B. 1597)
(Reconsidered) of the 5th Session of the 15th Legislature of Puerto Rico:

AN ACT to amend subsection (b) of Section 4, add a new subsection (j) to Section 5, and renumber subsections (j), (k), (l) and (m) of said Section as subsections (k), (l), (m) and (n), respectively; to add subsection (f) to Section 10 and amend subsections (a), (b) and (c) of Section 14 of Act No. 362 of December 24, 1999, as amended, known as the “Filmmaking Industry Development Act,” to include as an eligible Film Project the production of television programs, establish a tax credit for the production of television programs, establish the parameters of said tax credit and the requirements to be met by the programs in order to be eligible for the tax credits; and for other matters,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 30th of August of 2007.

Francisco J. Domenech
Director