

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2005

Legislative Document

No. 1607

H.P. 1134

House of Representatives, April 28, 2005

An Act To Provide Incentives for Maine Film Production

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative PINGREE of North Haven.
Cosponsored by Senator SAVAGE of Knox and
Representatives: CROSBY of Topsham, JODREY of Bethel, MARRACHÉ of Waterville,
PERCY of Phippsburg, RECTOR of Thomaston, Senators: BRENNAN of Cumberland,
President EDMONDS of Cumberland, RAYE of Washington.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 5 MRSA §13090-L is enacted to read:**

6 **§13090-L. Media production certification**

8 **1. Generally.** A media production company that intends to
10 undertake a media production in this State may apply to the
12 department to have the production, or a portion of the
14 production, certified under subsection 3 for purposes of media
16 production reimbursement pursuant to Title 36, chapter 919-A.

18 **2. Definitions.** As used in this section, unless the
20 context otherwise indicates, the following terms have the
22 following meanings.

24 **A. "Media production" means a feature film, television**
26 series, television show, video, filmed or videotaped
28 commercial or photographic or new-media project made in
30 whole or in part in Maine and intended for national or
32 international theatrical or television viewing or for
34 publication in national or international publications,
36 including catalogs, or for national or international sales.
38 "Media production" does not include:

40 (1) A news, current events or public programming show
42 or a program that includes weather or market reports;

44 (2) A talk show;

46 (3) A production related to a game, quiz,
48 questionnaire or contest;

50 (4) A sports event or activity;

(5) A gala presentation or awards show;

(6) A finished production that solicits funds; or

(7) A production produced by a media production
company if records, as required by 18 United States
Code, Section 2257, are to be maintained by that media
production company with respect to any performer
portrayed in that single media or multimedia program.

B. "Media production company" means a person engaged in the
business of producing a media production.

C. "Person" has the same meaning as in Title 36, section
111, subsection 3.

2 3. Requirements for media production certificate.
3 Applications for a media production certificate must be made on a
4 form prescribed and furnished by the department. The applicant
5 must provide:

6 A. The names of and contact information for the principals
7 involved in the media production;

8 B. A certificate of insurance for the production;

9 C. Financial information that demonstrates that the media
10 production is economically sound and that at least \$250,000
11 will be expended in Maine on the media production during a
12 period of 12 consecutive months;

13 D. Data demonstrating that the media production will
14 benefit the people of the State by increasing opportunities
15 for employment and will strengthen the economy of the State;

16 E. Evidence that the media production company is not owned
17 by, affiliated with or controlled by, in whole or in part, a
18 person that is in default on a loan made by the State or a
19 loan guaranteed by the State; and

20 F. Any other information required by the department.

21 To qualify for a media production certificate, the media
22 production company must demonstrate to the satisfaction of the
23 commissioner that the media production company has met, or will
24 meet, the expectations and requirements under paragraphs B, C, D
25 and E. If the department determines that the applicant does not
26 qualify for a media production certificate, it shall inform the
27 applicant of that determination in writing within 4 weeks of
28 receiving the application. As soon as practicable, the
29 department shall issue a media production certificate for a media
30 production that qualifies. The department shall include with the
31 certificate information regarding qualification for a tax
32 reimbursement certificate pursuant to subsection 4 and procedures
33 for claiming reimbursement under Title 36, chapter 919-A.

34 4. Tax reimbursement certificate. Within 4 weeks of
35 completion of a certified media production, the media production
36 company shall confirm its compliance with the requirements of
37 subsection 3 with respect to the certified media production.
38 Upon determining compliance by the media production company, the
39 department shall issue to the company a tax reimbursement
40 certificate. The tax reimbursement certificate entitles the
41 media production company to claim the reimbursement provided by
42 Title 36, chapter 919-A.

2 **§6902. Reimbursement allowed; procedure; audits**

4 **1. Generally.** A media production company is allowed a
6 reimbursement of 100% of Maine withholding taxes that have been
8 paid pursuant to chapter 827 that are related to certified
 production wages, except that for Maine withholding related to
 employees who are Maine residents, the reimbursement rate is 200%.

10 **2. Procedure for reimbursement.** On or before the 15th day
12 of the month immediately following receipt of a tax reimbursement
14 certificate pursuant to Title 5, section 13090-L, subsection 4, a
16 media production company shall report to the State Tax Assessor
18 and to the department that portion of certified production wages
20 deducted and withheld by it during the project period, together
22 with any additional information the assessor may reasonably
24 require. The assessor shall report to the commissioner the
 reimbursement amount to which each media production company is
 entitled. The commissioner shall deposit the reported amounts on
 or before June 30th of each year in a media production
 reimbursement account established, maintained and administered by
 the commissioner, and shall pay the reported amounts to each
 certified media production company on or before July 31st of each
 year.

26 **3. Audit process.** This chapter may not be construed to
28 limit the authority of the State Tax Assessor to conduct an audit
30 of any qualified business. When the assessor determines that a
32 distribution larger than that authorized by this chapter has been
34 received by any person, the assessor may enforce repayment of the
36 overpayment by assessment pursuant to the provisions of chapter 7
 or may apply the overpayment against subsequent reimbursements
 made pursuant to this chapter. If the assessor determines that
 an overpayment is the result of fraud on the part of a media
 production company, the assessor may disqualify that company from
 receiving any future distributions pursuant to this chapter.

38 **Sec. 3. Application.** That section of this Act that enacts the
40 Maine Revised Statutes, Title 36, chapter 919-A applies to income
 taxes withheld on or after January 1, 2006.

42

SUMMARY

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46 This bill establishes a tax benefit for media production
48 companies making productions in whole or in part in Maine. Under
 the bill, a media production company that meets certain criteria
 is allowed a reimbursement of taxes withheld from wages related
 to the Maine production.