

House Bill 339 (AS PASSED HOUSE AND SENATE)

By: Representatives Burns of the 159th, Stephens of the 164th, Strickland of the 111th, Rice of the 95th, Peake of the 141st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,
2 relating to the imposition, rate, and computation of state income taxes, so as to extend the tax
3 credit for film, video, or digital production in this state; to provide for an application process
4 for claiming tax credit; to provide for related matters; to provide for an effective date and
5 applicability; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the
9 imposition, rate, and computation of state income taxes, is amended by revising subsection
10 (e) of Code Section 48-7-40.26, relating to the tax credit for film, video, or digital production
11 in this state, as follows:

12 "(e)(1) In no event shall the aggregate amount of tax credits allowed under this Code
13 section for qualified interactive entertainment production companies and affiliates exceed
14 \$25 million for taxable years beginning on or after January 1, 2013, and before January
15 1, 2014. The maximum credit for any qualified interactive entertainment production
16 company and its affiliates shall be \$5 million for such taxable year. When the \$25
17 million cap is reached, the tax credit for qualified interactive entertainment production
18 companies shall expire for such taxable years.

19 (2) For taxable years beginning on or after January 1, 2014, and before January 1, 2015,
20 the amount of tax credits allowed under this Code section for qualified interactive
21 entertainment production companies and affiliates shall not exceed \$12.5 million.

22 (3) For taxable years beginning on or after January 1, 2015, and before January 1, 2016,
23 the amount of tax credits allowed under this Code section for qualified interactive
24 entertainment production companies and affiliates shall not exceed \$12.5 million.

25 (4) ~~The tax credits allowed under this Code section for qualified interactive~~
26 ~~entertainment production companies and affiliates shall not be available for taxable years~~

27 ~~beginning on or after January 1, 2016~~ For taxable years beginning on or after January 1,
28 2016, and before January 1, 2019, the amount of tax credits allowed under this Code
29 section for qualified interactive entertainment production companies and affiliates shall
30 not exceed \$12.5 million for each taxable year. The tax credits allowed under this Code
31 section for qualified interactive entertainment production companies and affiliates shall
32 not be available for taxable years beginning on or after January 1, 2019.

33 (5) The maximum allowable credit claimed for any qualified interactive entertainment
34 production company and its affiliates shall not exceed \$1.5 million in any single year.

35 (6) ~~The commissioner shall allow the tax credits for qualified interactive entertainment~~
36 ~~production companies on a first come, first served basis based on the date the credits are~~
37 ~~claimed.~~ Qualified interactive entertainment production companies seeking to claim a
38 tax credit under the provisions of this Code section shall submit an application to the
39 commissioner for preapproval of such tax credit. The commissioner shall be authorized
40 to promulgate any rules and regulations and forms necessary to implement and administer
41 the provisions of this Code section. The commissioner shall preapprove the tax credits
42 based on the order in which properly completed applications were submitted. In the
43 event that two or more applications were submitted on the same day and the amount of
44 funds available will not be sufficient to fully fund the tax credits requested, the
45 commissioner shall prorate the available funds between or among the applicants.

46 (7) No qualified interactive entertainment production company shall be allowed to claim
47 an amount of tax credits under this Code section for any single year in excess of its total
48 aggregate payroll expended to employees working within this state for the calendar year
49 directly preceding the start of the year the qualified interactive entertainment production
50 company claims the tax credits. Any amount in excess of such limit shall not be eligible
51 for carry forward to the succeeding years' tax liability, nor shall such excess amount be
52 eligible for use against the qualified interactive entertainment production company's
53 quarterly or monthly payment under Code Section 48-7-103, nor shall such excess
54 amount be assigned, sold, or transferred to any other taxpayer.

55 (8) Before the Department of Economic Development issues its approval to the qualified
56 interactive entertainment production company for the qualified production activities
57 related to interactive entertainment, the qualified interactive entertainment production
58 company must certify to the department that:

59 (A) The qualified interactive entertainment production company maintains a business
60 location physically located in this state; and

61 (B) The qualified interactive entertainment production company had expended a total
62 aggregate payroll of \$500,000.00 or more for employees working within this state

63 during the calendar year directly preceding the start of the taxable year of the qualified
64 interactive entertainment production company.

65 The department shall issue a certification that the qualified interactive entertainment
66 production company meets the requirements of this paragraph; provided, however, that
67 the department shall not issue any certifications before July 1, 2014. The qualified
68 interactive entertainment production company shall provide such certification to the
69 Department of Economic Development. The Department of Economic Development
70 shall not issue its approval until it receives such certification.

71 (9)(A) For taxable years beginning on or after January 1, 2016, and before January 1,
72 2019, the qualified interactive entertainment production company shall report to the
73 Department of Revenue on its Georgia income tax return the monthly average number
74 of full-time employees subject to Georgia income tax withholding for the taxable year
75 as provided in subparagraphs (B) and (C) of this paragraph. For purposes of this
76 paragraph, a full-time employee shall mean a person who performs a job that requires
77 a minimum of 35 hours a week, and pays at or above the average wage earned in the
78 county with the lowest average wage earned in this state, as reported in the most
79 recently available annual issue of the Georgia Employment and Wages Averages
80 Report of the Department of Labor.

81 (B) For taxable years beginning on or after January 1, 2016, and before January 1,
82 2017, the qualified interactive entertainment production company shall report such
83 number for such taxable year and separately for each of the prior two taxable years.

84 (C) For taxable years beginning on or after January 1, 2017, and before January 1,
85 2019, the qualified interactive entertainment production company shall report such
86 number for each respective taxable year.

87 (D) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, for such taxable
88 years, the commissioner shall report yearly to the House Committee on Ways and
89 Means and the Senate Finance Committee. The report shall include the name, tax year
90 beginning, and monthly average number of full-time employees for each qualified
91 interactive entertainment production company. The first report shall be submitted by
92 June 30, 2016, and each year thereafter by June 30."

93 **SECTION 2.**

94 This Act shall become effective upon its approval by the Governor or upon its becoming law
95 without such approval and shall be applicable to tax years beginning on or after January 1,
96 2016.

97

SECTION 3.

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