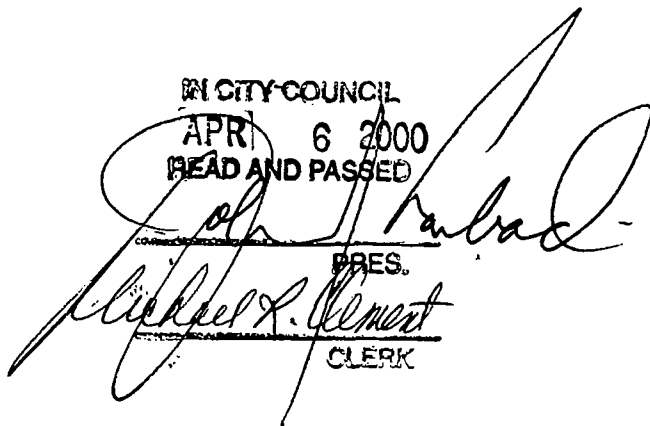


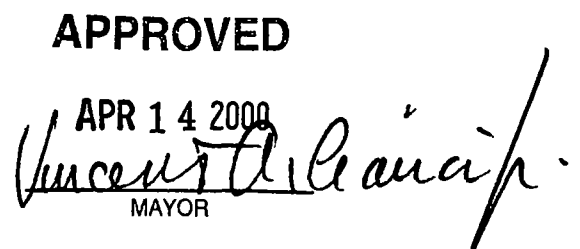
# RESOLUTION OF THE CITY COUNCIL

No. 195

*Approved* April 14, 2000

RESOLVED, that the City Council endorses and urges passage by the General Assembly of Senate Bill 2000-S 2683 and House Bill 2000-H 7637 Relating to Public Utilities and Carriers--Franchises, in substantially the form attached.

IN CITY COUNCIL  
APR 6 2000  
READ AND PASSED  
  
PRES.  
CLERK

APPROVED  
APR 14 2000  
  
MAYOR

2000 --

=====  
LC02016  
=====

# STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2000

\_\_\_\_\_  
**2000-S 2683**  
A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- FRANCHISES

00-S 2683

Introduced By: Senators Igliozzi, Perry, Graziano and  
Goodwin

Date Introduced: February 10, 2000

Referred To: Senate Committee on Corporations

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 39-17-2 and 39-17-3 of the General Laws in Chapter 39-17  
2   entitled "Franchises" are hereby amended to read as follows:  
3           39-17-2. Purposes for which permitted -- Duration -- Protection of existing  
4   businesses -- Landowner's rights -- Any grants, whether by ordinance or by contract, may  
5   confer upon any corporation created by the general assembly for the purpose of distributing  
6   water, or for the purpose of producing, selling, and distributing currents of electricity ~~to be used~~  
7   ~~for light, heat, or motive power~~, or for the purpose of manufacturing, selling, and distributing  
8   illuminating or heating gas, or for the purpose of operating street railways by any motive power.  
9   or for the purpose of ~~operating telephones~~, telecommunications and related service, and  
10 providing cable services the ~~exclusive~~ right, for a time not exceeding twenty-five (25) years, to  
11 erect, lay, construct, and maintain ~~for the purposes for which the corporation is created, poles,~~  
12 wires, pipes, conduits, rails, or cables, with necessary and convenient appurtenances as may be  
13 required for the conduct of the business of the corporation, in, over or under the streets of the  
14 town or city; ~~provided, however, that no grant of exclusive rights or franchises for any of the~~  
15 purposes described in this section shall be made by any city or town wherein, at the time a  
16 corporation created for the same purpose, or a person duly authorized by law to use the streets for  
17 such purpose, shall be in actual use and enjoyment of the rights, except to the corporation or  
18 person already carrying on business in the city or town: and provided, further, that whenever in

# 2000-S 2683

1 any city or town more than one corporation shall at the time be in actual use and enjoyment of  
2 portions of the streets and highways for any of the purposes described in this section, no  
3 exclusive right or franchise shall be granted to either without the consent of the other; and  
4 provided, further, that no grant shall prevent any town or city from permitting any person or  
5 corporation to use streets or highways for any of the purposes described in this section in order to  
6 connect and serve any two (2) or more estates owned by the person or corporation.

7 39-17-3. Franchise tax payable to city or town -- Every corporation which shall ~~accept~~  
8 ~~exclusive~~ receive rights or franchises granted by ordinance or contract under the provisions of  
9 this chapter, shall make and render to the treasurer of the town or city granting the same, on or  
10 before the thirtieth day of January, April, July, and October in every year, returns, verified by the  
11 oath of its president or treasurer, of the gross earnings of the corporation within the town or city  
12 for the period of three (3) months next preceding the first day of January, April, July, and  
13 October in the same year, and shall at the time pay to the town or city treasurer, in full payment  
14 for the rights and franchises granted under this chapter, a special tax upon the gross earnings at a  
15 rate not exceeding three percent (3%) upon the gross earnings of the corporation within the town  
16 or city in that year.

17 SECTION 2. This act shall take effect upon passage.

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LC02016  
=====

## EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- FRANCHISES

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1 This act would provide protection of existing businesses in telecommunications and  
2 related cable services.

3 This act would take effect upon passage.

)

LC02015

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2000

AN ACT

**2000-H 7637**

RELATING TO PUBLIC UTILITIES AND CARRIERS -- FRANCHISES

2000-H 7637

Introduced By: Reps. Cicilline, Lima, Almeida,  
Slater and Fox

Date Introduced: February 3, 2000

Referred To: Committee on Corporations

It is enacted by the General Assembly as follows:

- 1           SECTION 1. Sections 39-17-2 and 39-17-3 of the General Laws in Chapter 39-17  
2   entitled "Franchises" are hereby amended to read as follows:
- 3           39-17-2. Purposes for which permitted -- Duration -- Protection of existing  
4   businesses -- Landowner's rights -- Any grants, whether by ordinance or by contract, may  
5   confer upon any corporation created by the general assembly for the purpose of distributing  
6   water, or for the purpose of producing, selling, and distributing currents of electricity ~~to be used~~  
7   ~~for light, heat, or motive power,~~ or for the purpose of manufacturing, selling, and distributing  
8   illuminating or heating gas, or for the purpose of operating street railways by any motive power,  
9   or for the purpose of operating telephones, telecommunications and related service, and providing  
10   cable services the ~~exclusive~~ right, for a time not exceeding twenty-five (25) years, to erect, lay,  
11   construct, and maintain for the purposes for which the corporation is created, poles, wires, pipes,  
12   conduits, rails, or cables, with necessary and convenient appurtenances as may be required for the  
13   conduct of the business of the corporation, in, over or under the streets of the town or city;  
14   provided, however, that no grant of ~~exclusive~~ rights or franchises for any of the purposes  
15   described in this section shall be made by any city or town wherein, at the time a corporation  
16   created for the same purpose, or a person duly authorized by law to use the streets for such  
17   purpose, shall be in actual use and enjoyment of the rights, except to the corporation or person  
18   already carrying on business in the city or town; and provided, further, that whenever in any city

# 2000-H 7637

1 or town more than one corporation shall at the time be in actual use and enjoyment of portions of  
2 the streets and highways for any of the purposes described in this section, no ~~exclusive~~ right or  
3 franchise shall be granted to either without the consent of the other; and provided, further, that no  
4 grant shall prevent any town or city from permitting any person or corporation to use streets or  
5 highways for any of the purposes described in this section in order to connect and serve any two  
6 (2) or more estates owned by the person or corporation.

7 39-17-3. Franchise tax payable to city or town -- Every corporation which shall ~~accept~~  
8 ~~exclusive~~ receive rights or franchises granted by ordinance or contract under the provisions of  
9 this chapter, shall make and render to the treasurer of the town or city granting the same, on or  
10 before the thirtieth day of January, April, July, and October in every year, returns, verified by the  
11 oath of its president or treasurer, of the gross earnings of the corporation within the town or city  
12 for the period of three (3) months next preceding the first day of January, April, July, and  
13 October in the same year, and shall at the time pay to the town or city treasurer, in full payment  
14 for the rights and franchises granted under this chapter, a special tax upon the gross earnings at a  
15 rate not exceeding three percent (3%) upon the gross earnings of the corporation within the town  
16 or city in that year.

17 SECTION 2. This act shall take effect upon passage.

=====  
LC02015  
=====

## EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- FRANCHISES

\*\*\*

1 This act would provide protection of existing businesses in telecommunications and  
2 related cable services.

3 This act would take effect upon passage.

# RESOLUTION OF THE CITY COUNCIL

*No.* 196

*Approved* April 14, 2000

RESOLVED, that the City Council endorses and urges passage by the  
General Assembly of Senate Bill 2000-S 2675 and House Bill 2000-H 7627  
Relating to Taxation--Investment Tax Credit, in substantially the form attached.

IN CITY COUNCIL  
APR 6 2000  
READ AND PASSED

  
PRES.

CLERK

APPROVED

APR 14 2000

  
MAYOR

Councilman Allen

2000 --

LC02039

# STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2000

**2000-S 2675**

A N A C T

RELATING TO TAXATION -- INVESTMENT TAX CREDIT

00-S 2675

Introduced By: Senators Roney, Graziano and Goodwin

Date Introduced: February 10, 2000

Referred To: Senate Committee on Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 44-31-1 of the General Laws in Chapter 44-31 entitled "Investment  
2   Tax Credit" is hereby amended to read as follows:

3           **44-31-1. Investment tax credit --** (a) A taxpayer is allowed a credit, to be computed as  
4   provided in this chapter, against the tax imposed by chapters 11, 14, 17, and 30 of this title. The  
5   amount of the credit is two percent (2%) of the cost or other basis for federal income tax  
6   purposes of tangible personal property and other tangible property, including buildings and  
7   structural components of buildings, described in subsection (b), acquired, constructed,  
8   reconstructed, or erected after December 31, 1973. Provided, that the amount of the credit is four  
9   percent (4%) of the: (1) cost or other basis for federal income tax purposes of tangible personal  
10   property and other tangible property, including buildings and structural components of buildings,  
11   described in subsection (b)(1), acquired, constructed, reconstructed or erected after December 31,  
12   1993; and (2) qualified amounts for leased assets of tangible personal property and other tangible  
13   property described in subsection (b)(1), acquired, constructed, reconstructed or erected after  
14   January 1, 1998, and the amount of the credit is ten (10%) percent of the cost or other basis for  
15   federal income tax purposes, and the qualified amounts for leased assets, of tangible personal  
16   property and other tangible property described in subsection (b)(3), acquired, constructed,  
17   reconstructed or erected after January 1, 1998; and provided, further, however, that there shall  
18   be allowed a credit in the amount of twenty-five percent (25%) for investments otherwise



1 qualifying under this chapter for a film production business meeting the following criteria: (1)  
2 located within the state of Rhode Island; (2) whose primary locations for the film production are  
3 within the state of Rhode Island; and (3) whose total production budget does not exceed five  
4 million dollars (\$5,000,000). "Film production" shall be defined as the creation of a film,  
5 documentary, direct-to-video or independent television production sold for commercial  
6 distribution. For the purposes of this section, "total production budget" shall be defined as a pre-  
7 production cost including, but not limited to, the purchase of the screen play, salaries, equipment,  
8 film processing, sound, editing, and other services related to production. The budget shall not  
9 include costs associated with the promotion or marketing of the film, video or television product.  
10 Any cost overruns on the project shall also not be included in the total production budget.

11 (b) (1) A credit is allowed under this section with respect to tangible personal property  
12 and other tangible property, including buildings and structural components of buildings, which  
13 are depreciable pursuant to 26 U.S.C. section 167, have a useful life of four (4) years or more, are  
14 acquired by purchase as defined in 26 U.S.C. section 179(d) or are acquired by lease as  
15 prescribed in subsection (b)(3)(iii), have a situs in this state and are principally used by the  
16 taxpayer in the production of goods by manufacturing, process, or assembling. The credit is  
17 allowable in the year the property is first placed in service by the taxpayer, which is the year in  
18 which, under the taxpayer's depreciation practice, the period for depreciation with respect to the  
19 property begins, or the year in which the property is placed in a condition or state of readiness  
20 and availability for a specifically assigned function, whichever is earlier. For purposes of this  
21 paragraph, "manufacturing" means the process of working raw materials into wares suitable for  
22 use or which gives new shapes, new quality or new combinations to matter which already has  
23 gone through some artificial process by the use of machinery, tools, appliances, and other similar  
24 equipment. Property used in the production of goods includes machinery, equipment, or other  
25 tangible property which is principally used in the repair and service of other machinery,  
26 equipment, or other tangible property used principally in the production of goods and includes all  
27 facilities used in the production operation, including storage of material to be used in production  
28 and of the products that are produced.

29 (2) Within the meaning of subsection (b)(1), the term "manufacturing" means the  
30 activities of a "manufacturer" as defined in section 44-3-3(20)(iii) and (iv).

31 (3) (i) A credit is allowed under this section with respect to tangible personal property  
32 and other tangible property, excluding buildings and structural components of buildings, motor  
33 vehicles and furniture, which are depreciable pursuant to 26 U.S.C. section 167, have a useful life

1 of four (4) years or more, are acquired by purchase as defined in 26 U.S.C. section 179(d) or  
2 acquired by lease as prescribed in subsection (b)(3)(iii), have a situs in this state and to the extent  
3 the property is used by a qualified taxpayer, as that term is defined in subsection (b)(3)(iv), in any  
4 of the businesses described in major groups 20 through 39, 50 and 51, 60 through 67, 73, 76, 80  
5 through 82, 87 and 89 in the standard industrial classification manual prepared by the technical  
6 committee on industrial classification, office of the statistical standards, executive office of the  
7 president, United States bureau of the budget, as revised from time to time ("SIC Code") and/or  
8 any of the businesses described in the three (3) digit SIC Code 781.

9 (ii) To the extent allowable, the credit allowed under this section is allowed for  
10 computers, software and telecommunications hardware used by a taxpayer even if the property  
11 has a useful life of less than four (4) years,

12 (iii) The credit for property acquired by lease is based on the fair market value of the  
13 property at the inception of the lease times the portion of the depreciable life of the property  
14 represented by the term of the lease, excluding renewal options, and

15 (iv) For purposes of this subsection, a "qualified taxpayer" is defined to mean a taxpayer  
16 in any of the businesses described in major groups 20 through 39, 50 and 51, 60 through 67, 73,  
17 76, 80 through 82, 87 and 89 of the SIC Code, and/or any of the businesses described in the three  
18 (3) digit SIC Code 781, and which meet the following criteria:

19 (A) The median annual wage paid to a qualified taxpayer's full-time equivalent  
20 employees must be above the average annual wage paid by all taxpayers in the state which share  
21 the same two-digit SIC Code, unless that qualified taxpayer is the only qualified taxpayer in the  
22 state conducting business in that two-digit SIC Code, in which case this requirement does not  
23 apply; and

24 (B) With respect to major groups 50 and 51, 60 through 67, 73, 76, 80 through 82, 87  
25 and 89 and/or the three (3) digit SIC Code 781 (except for those qualified taxpayers whose  
26 businesses are described in any of the four (4) digit SIC Codes 7371, 7372 and 7373) only:

27 (I) More than one-half ( 1/2) of its gross revenues are a result of sales to customers  
28 outside the state; or

29 (II) More than one-half ( 1/2) of its gross revenues are a result of sales to the federal  
30 government; or

31 (III) More than one-half ( 1/2) of its gross revenues are a result of a combination of sales  
32 described in subsection (b)(3)(iv)(B) (I) and (II).

1 (4) For purposes of this section, sales to customers outside the state is defined to mean  
2 sales to individuals, businesses and other entities, as well as divisions and/or branches of  
3 businesses and other entities, residing or located outside of the state. Notwithstanding the  
4 preceding, the requirement of subsection (b)(3)(iv)(A) does not apply to any qualified taxpayer:  
5 (i) whose expenses for training or retraining its employees exceeds two percent (2%) of these  
6 qualified taxpayer's total payroll costs; or (ii) whose median annual wage paid to its full-time  
7 equivalent employees is equal to or greater than one hundred twenty-five percent (125%) of the  
8 average annual wage paid in this state by employers to employees; or (iii), with respect to major  
9 groups 20 through 39 only, the average annual wage paid to these qualified taxpayer's full-time  
10 equivalent employees, classified as production workers by the Rhode Island department of labor  
11 and training, is above the average annual wage paid to the production workers of all these  
12 taxpayers in the state which share the same two-digit SIC Code. At the election of a taxpayer,  
13 which is made at any time and in any manner that may be determined by the tax administrator,  
14 the taxpayer's ability in a particular fiscal year to qualify as a qualified taxpayer may be based on  
15 the expenses and gross receipts of the taxpayer for either the prior fiscal year or the immediately  
16 proceeding fiscal year rather than on the expenses and gross receipts for that fiscal year. For  
17 purposes of this chapter, the director of Rhode Island human resource investment council shall  
18 certify as to legitimate training and retraining expenses in accordance with the guidelines  
19 established in chapter 64.6 of title 42, and any rules and regulations promulgated under this  
20 chapter. For purposes of this subsection, a full-time equivalent employee is defined to mean an  
21 employee who works a minimum of 30 hours per week within the state or two (2) part-time  
22 employees who together work a minimum of 30 hours per week within the state. For purposes of  
23 this subsection, the director of the Rhode Island department of labor and training, upon receipt of  
24 an application from a qualified taxpayer, shall certify whether this qualified taxpayer meets the  
25 requirement in subsection (b)(3)(iv)(A) or is exempt from this requirement because the median  
26 annual wage it pays its full-time equivalent employees is equal to or greater than one hundred  
27 twenty-five (125%) percent of the average annual wage paid in this state by employers to  
28 employees or, with respect to major groups 20 through 39 only, the average annual wage paid to  
29 this qualified taxpayer's full-time equivalent employees, classified as production workers by the  
30 Rhode Island department of labor and training, is above the average annual wage paid to the  
31 production workers of all these taxpayers in the state which share the same two-digit SIC Code.  
32 The director of the Rhode Island department of labor and training shall promulgate rules and  
33 regulations as required for the implementation of this requirement.

1           (5) To the extent otherwise allowable, the credit provided by subsections (3)(i) and (ii)  
2 of this section are also allowed for the property having a situs in Rhode Island and used by a  
3 property and casualty insurance company, however acquired.

4           (c) A taxpayer is not allowed a credit under subsection (a) with respect to tangible  
5 personal property and other tangible property, including buildings and structural components of  
6 buildings, which it leases to any other person or corporation and is not allowed a credit under  
7 subsection (a) with respect to buildings and structural components of buildings it leases from any  
8 other person or corporation. For the purposes of the preceding sentence, any contract or  
9 agreement to lease or rent or for a license to use the property is considered a lease, unless a  
10 contract or agreement is treated for federal income tax purposes as an installment purchase rather  
11 than a lease.

12           (d) The credit allowed under this section for any taxable year does not reduce the tax due  
13 for the year by more than fifty percent (50%) of the tax liability that would be payable, and  
14 further in the case of corporations, to less than the minimum tax as prescribed in section 44-11-  
15 2(e). However, if the amount of credit allowable under this section for any taxable year is less  
16 than the amount of credit available to the taxpayer any amount of credit not deductible in the  
17 taxable year may be carried over to the following year or years (not to exceed seven (7) years)  
18 and may be deducted from the taxpayer's tax for the year or years.

19           (e) At the option of the taxpayer, air or water pollution control facilities which qualify  
20 for elective amortization deduction may be treated as property principally used by the taxpayer in  
21 the production of goods by manufacturing, processing, or assembling; provided, that the property  
22 qualifies under subsection (b), in which event, an amortization deduction is not allowed.

23           (f) With respect to property which is disposed of or ceases to be in qualified use prior to  
24 the end of the taxable year in which the credit is to be taken, the amount of the credit is that  
25 portion of the credit provided for in subsection (a) which represents the ratio which the months of  
26 qualified use bear to the months of useful life. If property on which credit has been taken is  
27 disposed of or ceases to be in qualified use prior to the end of its useful life, the difference  
28 between the credit taken and the credit allowed for actual use must be added back in the year of  
29 disposition. Provided, if this property is disposed of or ceases to be in qualified use after it has  
30 been in qualified use for more than twelve (12) consecutive years, it is not necessary to add back  
31 the credit as provided in this subsection. Provided, further, that a credit allowed to a qualified  
32 taxpayer is not recaptured merely because the taxpayer subsequently fails to retain the  
33 classification as a qualified taxpayer. The amount of credit allowed for actual use determined by

1 multiplying the original credit by the ratio which the months of qualified use bear to the months  
2 of useful life. For purposes of this subsection, useful life of property is the same as the taxpayer  
3 (or in the case of property acquired by lease, the owner of the property) uses for depreciation  
4 purposes when computing his or her federal income tax liability. Comparable rules are used in  
5 the case of property acquired by lease to determine the amount of credit, if any, that will be  
6 recaptured if the lease terminates prematurely or if the property covered by the lease otherwise  
7 fails to be in qualified use.

8 (g) The credit allowed under this section is only allowed against the tax of that  
9 corporation included in a consolidated return that qualifies for the credit and not against the tax of  
10 other corporations that may join in the filing of a consolidated tax return.

11 SECTION 2. This act shall take effect upon passage.

=====  
LC02039  
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# 2000-S 2675

EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO TAXATION -- INVESTMENT TAX CREDIT

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- 1 This act would provide for investment tax credits for film production companies.
- 2 This act would take effect upon passage.

LC02039

2000 --

LC02038

# STATE OF RHODE ISLAND

## IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2000

**2000-H 7627**  
A N A C T

### RELATING TO TAXATION -- INVESTMENT TAX CREDIT

2000-H 7627

Introduced By: Reps. Costantino, Moura, Cicilline,  
Slater and Lima

Date Introduced: February 3, 2000

Referred To: Committee on Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 44-31-1 of the General Laws in Chapter 44-31 entitled "Investment  
2   Tax Credit" is hereby amended to read as follows:  
3           44-31-1. Investment tax credit -- (a) A taxpayer is allowed a credit, to be computed as  
4   provided in this chapter, against the tax imposed by chapters 11, 14, 17, and 30 of this title. The  
5   amount of the credit is two percent (2%) of the cost or other basis for federal income tax  
6   purposes of tangible personal property and other tangible property, including buildings and  
7   structural components of buildings, described in subsection (b), acquired, constructed,  
8   reconstructed, or erected after December 31, 1973. Provided, that the amount of the credit is four  
9   percent (4%) of the: (1) cost or other basis for federal income tax purposes of tangible personal  
10   property and other tangible property, including buildings and structural components of buildings,  
11   described in subsection (b)(1), acquired, constructed, reconstructed or erected after December 31,  
12   1993; and (2) qualified amounts for leased assets of tangible personal property and other tangible  
13   property described in subsection (b)(1), acquired, constructed, reconstructed or erected after  
14   January 1, 1998, and the amount of the credit is ten (10%) percent of the cost or other basis for  
15   federal income tax purposes, and the qualified amounts for leased assets, of tangible personal  
16   property and other tangible property described in subsection (b)(3), acquired, constructed,  
17   reconstructed or erected after January 1, 1998, ; and provided, further, however, that there shall  
18   be allowed a credit in the amount of twenty-five percent (25%) for investments otherwise

1 qualifying under this chapter for a film production business meeting the following criteria: (1)  
2 located within the state of Rhode Island; (2) whose primary locations for the film production are  
3 within the state of Rhode Island; and (3) whose total production budget does not exceed five  
4 million dollars (\$5,000,000). "Film production" shall be defined as the creation of a film,  
5 documentary, direct-to-video or independent television production sold for commercial  
6 distribution. For the purposes of this section, "total production budget" shall be defined as a pre-  
7 production cost including, but not limited to, the purchase of the screen play, salaries, equipment,  
8 film processing, sound, editing, and other services related to production. The budget shall not  
9 include costs associated with the promotion or marketing of the film, video or television product.  
10 Any cost overruns on the project shall also not be included in the total production budget.

11 (b) (1) A credit is allowed under this section with respect to tangible personal property  
12 and other tangible property, including buildings and structural components of buildings, which  
13 are depreciable pursuant to 26 U.S.C. section 167, have a useful life of four (4) years or more, are  
14 acquired by purchase as defined in 26 U.S.C. section 179(d) or are acquired by lease as  
15 prescribed in subsection (b)(3)(iii), have a situs in this state and are principally used by the  
16 taxpayer in the production of goods by manufacturing, process, or assembling. The credit is  
17 allowable in the year the property is first placed in service by the taxpayer, which is the year in  
18 which, under the taxpayer's depreciation practice, the period for depreciation with respect to the  
19 property begins, or the year in which the property is placed in a condition or state of readiness  
20 and availability for a specifically assigned function, whichever is earlier. For purposes of this  
21 paragraph, "manufacturing" means the process of working raw materials into wares suitable for  
22 use or which gives new shapes, new quality or new combinations to matter which already has  
23 gone through some artificial process by the use of machinery, tools, appliances, and other similar  
24 equipment. Property used in the production of goods includes machinery, equipment, or other  
25 tangible property which is principally used in the repair and service of other machinery,  
26 equipment, or other tangible property used principally in the production of goods and includes all  
27 facilities used in the production operation, including storage of material to be used in production  
28 and of the products that are produced.

29 (2) Within the meaning of subsection (b)(1), the term "manufacturing" means the  
30 activities of a "manufacturer" as defined in section 44-3-3(20)(iii) and (iv).

31 (3) (i) A credit is allowed under this section with respect to tangible personal property  
32 and other tangible property, excluding buildings and structural components of buildings, motor  
33 vehicles and furniture, which are depreciable pursuant to 26 U.S.C. section 167, have a useful life



1 of four (4) years or more, are acquired by purchase as defined in 26 U.S.C. section 179(d) or  
2 acquired by lease as prescribed in subsection (b)(3)(iii), have a situs in this state and to the extent  
3 the property is used by a qualified taxpayer, as that term is defined in subsection (b)(3)(iv), in any  
4 of the businesses described in major groups 20 through 39, 50 and 51, 60 through 67, 73, 76, 80  
5 through 82, 87 and 89 in the standard industrial classification manual prepared by the technical  
6 committee on industrial classification, office of the statistical standards, executive office of the  
7 president, United States bureau of the budget, as revised from time to time ("SIC Code") and/or  
8 any of the businesses described in the three (3) digit SIC Code 781.

9 (ii) To the extent allowable, the credit allowed under this section is allowed for  
10 computers, software and telecommunications hardware used by a taxpayer even if the property  
11 has a useful life of less than four (4) years,

12 (iii) The credit for property acquired by lease is based on the fair market value of the  
13 property at the inception of the lease times the portion of the depreciable life of the property  
14 represented by the term of the lease, excluding renewal options, and

15 (iv) For purposes of this subsection, a "qualified taxpayer" is defined to mean a taxpayer  
16 in any of the businesses described in major groups 20 through 39, 50 and 51, 60 through 67, 73,  
17 76, 80 through 82, 87 and 89 of the SIC Code, and/or any of the businesses described in the three  
18 (3) digit SIC Code 781, and which meet the following criteria:

19 (A) The median annual wage paid to a qualified taxpayer's full-time equivalent  
20 employees must be above the average annual wage paid by all taxpayers in the state which share  
21 the same two-digit SIC Code, unless that qualified taxpayer is the only qualified taxpayer in the  
22 state conducting business in that two-digit SIC Code, in which case this requirement does not  
23 apply; and

24 (B) With respect to major groups 50 and 51, 60 through 67, 73, 76, 80 through 82, 87  
25 and 89 and/or the three (3) digit SIC Code 781 (except for those qualified taxpayers whose  
26 businesses are described in any of the four (4) digit SIC Codes 7371, 7372 and 7373) only:

27 (I) More than one-half (  $1/2$  ) of its gross revenues are a result of sales to customers  
28 outside the state; or

29 (II) More than one-half (  $1/2$  ) of its gross revenues are a result of sales to the federal  
30 government; or

31 (III) More than one-half (  $1/2$  ) of its gross revenues are a result of a combination of sales  
32 described in subsection (b)(3)(iv)(B) (I) and (II).

1           (4) For purposes of this section, sales to customers outside the state is defined to mean  
2 sales to individuals, businesses and other entities, as well as divisions and/or branches of  
3 businesses and other entities, residing or located outside of the state. Notwithstanding the  
4 preceding, the requirement of subsection (b)(3)(iv)(A) does not apply to any qualified taxpayer:  
5 (i) whose expenses for training or retraining its employees exceeds two percent (2%) of these  
6 qualified taxpayer's total payroll costs; or (ii) whose median annual wage paid to its full-time  
7 equivalent employees is equal to or greater than one hundred twenty-five percent (125%) of the  
8 average annual wage paid in this state by employers to employees; or (iii), with respect to major  
9 groups 20 through 39 only, the average annual wage paid to these qualified taxpayer's full-time  
10 equivalent employees, classified as production workers by the Rhode Island department of labor  
11 and training, is above the average annual wage paid to the production workers of all these  
12 taxpayers in the state which share the same two-digit SIC Code. At the election of a taxpayer,  
13 which is made at any time and in any manner that may be determined by the tax administrator,  
14 the taxpayer's ability in a particular fiscal year to qualify as a qualified taxpayer may be based on  
15 the expenses and gross receipts of the taxpayer for either the prior fiscal year or the immediately  
16 proceeding fiscal year rather than on the expenses and gross receipts for that fiscal year. For  
17 purposes of this chapter, the director of Rhode Island human resource investment council shall  
18 certify as to legitimate training and retraining expenses in accordance with the guidelines  
19 established in chapter 64.6 of title 42, and any rules and regulations promulgated under this  
20 chapter. For purposes of this subsection, a full-time equivalent employee is defined to mean an  
21 employee who works a minimum of 30 hours per week within the state or two (2) part-time  
22 employees who together work a minimum of 30 hours per week within the state. For purposes of  
23 this subsection, the director of the Rhode Island department of labor and training, upon receipt of  
24 an application from a qualified taxpayer, shall certify whether this qualified taxpayer meets the  
25 requirement in subsection (b)(3)(iv)(A) or is exempt from this requirement because the median  
26 annual wage it pays its full-time equivalent employees is equal to or greater than one hundred  
27 twenty-five (125%) percent of the average annual wage paid in this state by employers to  
28 employees or, with respect to major groups 20 through 39 only, the average annual wage paid to  
29 this qualified taxpayer's full-time equivalent employees, classified as production workers by the  
30 Rhode Island department of labor and training, is above the average annual wage paid to the  
31 production workers of all these taxpayers in the state which share the same two-digit SIC Code.  
32 The director of the Rhode Island department of labor and training shall promulgate rules and  
33 regulations as required for the implementation of this requirement.

1           (5) To the extent otherwise allowable, the credit provided by subsections (3)(i) and (ii)  
2 of this section are also allowed for the property having a situs in Rhode Island and used by a  
3 property and casualty insurance company, however acquired.

4           (c) A taxpayer is not allowed a credit under subsection (a) with respect to tangible  
5 personal property and other tangible property, including buildings and structural components of  
6 buildings, which it leases to any other person or corporation and is not allowed a credit under  
7 subsection (a) with respect to buildings and structural components of buildings it leases from any  
8 other person or corporation. For the purposes of the preceding sentence, any contract or  
9 agreement to lease or rent or for a license to use the property is considered a lease, unless a  
10 contract or agreement is treated for federal income tax purposes as an installment purchase rather  
11 than a lease.

12           (d) The credit allowed under this section for any taxable year does not reduce the tax due  
13 for the year by more than fifty percent (50%) of the tax liability that would be payable, and  
14 further in the case of corporations, to less than the minimum tax as prescribed in section 44-11-  
15 2(e). However, if the amount of credit allowable under this section for any taxable year is less  
16 than the amount of credit available to the taxpayer any amount of credit not deductible in the  
17 taxable year may be carried over to the following year or years (not to exceed seven (7) years)  
18 and may be deducted from the taxpayer's tax for the year or years.

19           (e) At the option of the taxpayer, air or water pollution control facilities which qualify  
20 for elective amortization deduction may be treated as property principally used by the taxpayer in  
21 the production of goods by manufacturing, processing, or assembling; provided, that the property  
22 qualifies under subsection (b), in which event, an amortization deduction is not allowed.

23           (f) With respect to property which is disposed of or ceases to be in qualified use prior to  
24 the end of the taxable year in which the credit is to be taken, the amount of the credit is that  
25 portion of the credit provided for in subsection (a) which represents the ratio which the months of  
26 qualified use bear to the months of useful life. If property on which credit has been taken is  
27 disposed of or ceases to be in qualified use prior to the end of its useful life, the difference  
28 between the credit taken and the credit allowed for actual use must be added back in the year of  
29 disposition. Provided, if this property is disposed of or ceases to be in qualified use after it has  
30 been in qualified use for more than twelve (12) consecutive years, it is not necessary to add back  
31 the credit as provided in this subsection. Provided, further, that a credit allowed to a qualified  
32 taxpayer is not recaptured merely because the taxpayer subsequently fails to retain the  
33 classification as a qualified taxpayer. The amount of credit allowed for actual use determined by

1 multiplying the original credit by the ratio which the months of qualified use bear to the months  
2 of useful life. For purposes of this subsection, useful life of property is the same as the taxpayer  
3 (or in the case of property acquired by lease, the owner of the property) uses for depreciation  
4 purposes when computing his or her federal income tax liability. Comparable rules are used in  
5 the case of property acquired by lease to determine the amount of credit, if any, that will be  
6 recaptured if the lease terminates prematurely or if the property covered by the lease otherwise  
7 fails to be in qualified use.

8 (g) The credit allowed under this section is only allowed against the tax of that  
9 corporation included in a consolidated return that qualifies for the credit and not against the tax of  
10 other corporations that may join in the filing of a consolidated tax return.

11 SECTION 2. This act shall take effect upon passage.

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# 2000-H 7627

EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO TAXATION -- INVESTMENT TAX CREDIT

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- 1 This act would provide for investment tax credits for film production companies.
- 2 This act would take effect upon passage.

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