

ASSEMBLY BILL NO. 137—ASSEMBLYWOMAN CARLTON

PREFILED FEBRUARY 10, 2017

Referred to Committee on Taxation

SUMMARY—Revises provisions relating to tax credits for film and certain other productions and certain credits against the insurance premium tax. (BDR 32-68)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to taxation; revising provisions governing the total amount of transferable tax credits that may be approved by the Office of Economic Development pursuant to applications submitted to the Office by a producer that produces a film, television or other visual media production in this State; eliminating provisions that cap and repeal the tax credits that an insurer may take against the general tax on insurance premiums; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a production company that produces a film, television or other visual media production in this State to apply to the Office of Economic Development for a certificate of transferable tax credits. (NRS 360.759) Senate Bill No. 94 of the 78th Session of the Legislature (2015) removed a provision that limited the total amount of transferable tax credits that may be approved by the Office to \$10,000,000 and, instead, limited the total amount of transferable tax credits that may be approved by the Office for any fiscal year to the amount appropriated or authorized for expenditure for that purpose for the fiscal year. (NRS 360.7594; section 14 of chapter 232, Statutes of Nevada 2015, p. 1106) **Sections 1 and 2** of this bill remove that limitation and, instead, provide that the total amount of transferable tax credits for a film, television or other visual media production approved by the Office must not exceed \$15,000,000.

Existing law requires each insurer to pay to the Department of Taxation a tax upon net direct premium and net direct considerations written at the rate of 3.5 percent. (NRS 680B.027) Existing law authorizes a domestic or foreign insurer that owns and substantially occupies and uses any building in this State as its home office or as a regional home office to take as credits against the general tax on insurance premiums otherwise imposed: (1) an amount equal to 50 percent of the



* A B 1 3 7 *

19 aggregate amount of the tax; and (2) an amount equal to the full amount of ad
20 valorem taxes paid by the insurer upon the home office or regional home office.
21 (NRS 680B.050, 680B.055) Assembly Bill No. 3 of the 28th Special Session of the
22 Legislature (2014) limited the amount of such tax credits to \$5,000,000 until
23 January 1, 2021, and will eliminate them entirely thereafter. **Sections 3, 4 and 6** of
24 this bill reverse the changes made to chapter 680B of NRS during the 2014 Special
25 Session. **Section 3** removes the cap on the total amount of credits that an insurer
26 may take against the general tax on insurance premiums, and **section 6** prevents the
27 elimination of such credits.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 360.759 is hereby amended to read as follows:

2 360.759 1. A production company that produces a qualified
3 production in this State in whole or in part may apply to the Office
4 of Economic Development for a certificate of eligibility for
5 transferable tax credits for any qualified direct production
6 expenditures. The transferable tax credits may be applied to:

7 (a) Any tax imposed by chapters 363A and 363B of NRS;

8 (b) The gaming license fees imposed by the provisions of
9 NRS 463.370;

10 (c) Any tax imposed pursuant to chapter 680B of NRS; or

11 (d) Any combination of the fees and taxes described in
12 paragraphs (a), (b) and (c).

13 2. The Office shall :

14 *(a) Except as otherwise provided in NRS 360.7594*, approve an
15 application for a certificate of eligibility for transferable tax credits
16 if the Office finds that the production company producing the
17 qualified production qualifies for the transferable tax credits
18 pursuant to subsection 3 ; and ~~it shall calculate~~

19 *(b) Calculate* the estimated amount of the transferable tax
20 credits pursuant to NRS 360.7592, 360.7593 and 360.7594.

21 3. To be eligible for transferable tax credits pursuant to this
22 section, a production company must:

23 (a) Submit an application that meets the requirements of
24 subsection 4;

25 (b) Provide proof satisfactory to the Office that the qualified
26 production is in the economic interest of the State;

27 (c) Provide proof satisfactory to the Office that 70 percent or
28 more of the funding for the qualified production has been obtained;

29 (d) Provide proof satisfactory to the Office that at least 60
30 percent of the direct production expenditures for:

31 (1) Preproduction;

32 (2) Production; and



(3) If any direct production expenditures for postproduction will be incurred in this State, postproduction, of the qualified production will be incurred in this State as qualified direct production expenditures;

(e) Not later than 90 days after the completion of principal photography of the qualified production or, if any direct production expenditures for postproduction will be incurred in this State, not later than 90 days after the completion of postproduction, provide the Office with an audit of the qualified production that includes an itemized report of qualified direct production expenditures which:

(1) Shows that the qualified production incurred qualified direct production expenditures of \$500,000 or more; and

(2) Is certified by an independent certified public accountant in this State who is approved by the Office;

(f) Pay the cost of the audit required by paragraph (e); and

(g) Meet any other requirements prescribed by regulation pursuant to this section.

4. An application submitted pursuant to subsection 3 must contain:

(a) A script, storyboard or synopsis of the qualified production;

(b) The names of the production company, producer, director and proposed cast;

(c) An estimated timeline to complete the qualified production;

(d) A summary of the budgeted expenditures for the entire production, including projected expenditures to be incurred outside of Nevada;

(e) Details regarding the financing of the project, including, without limitation, any information relating to a binding financing commitment, loan application, commitment letter or investment letter;

(f) An insurance certificate, binder or quote for general liability insurance of \$1,000,000 or more;

(g) The business address of the production company, which must be an address in this State;

(h) Proof that the qualified production meets any applicable requirements relating to workers' compensation insurance;

(i) Proof that the production company has secured all licenses and registrations required to do business in each location in this State at which the qualified production will be produced; and

(j) Any other information required by regulations adopted by the Office pursuant to subsection 8.

5. If the Office approves an application for a certificate of eligibility for transferable tax credits pursuant to this section, the Office shall immediately forward a copy of the certificate of



1 eligibility which identifies the estimated amount of the tax credits
2 available pursuant to NRS 360.7592 to:

- 3 (a) The applicant;
- 4 (b) The Department; and
- 5 (c) The Nevada Gaming Control Board.

6 6. Within 60 business days after receipt of an audit provided by
7 a production company pursuant to paragraph (e) of subsection 3 and
8 any other accountings or other information required by the Office,
9 the Office shall determine whether to certify the audit and make a
10 final determination of whether a certificate of transferable tax
11 credits will be issued. If the Office certifies the audit and determines
12 that all other requirements for the transferable tax credits have been
13 met, the Office shall notify the production company that the
14 transferable tax credits will be issued. Within 30 days after the
15 receipt of the notice, the production company shall make an
16 irrevocable declaration of the amount of transferable tax credits that
17 will be applied to each fee or tax set forth in subsection 1, thereby
18 accounting for all of the credits which will be issued. Upon receipt
19 of the declaration, the Office shall issue to the production company
20 a certificate of transferable tax credits in the amount approved by
21 the Office for the fees or taxes included in the declaration of the
22 production company. The production company shall notify the
23 Office upon transferring any of the transferable tax credits. The
24 Office shall notify the Department and the Nevada Gaming Control
25 Board of all transferable tax credits issued, segregated by each fee
26 or tax set forth in subsection 1, and the amount of any transferable
27 tax credits transferred.

28 7. An applicant for transferable tax credits pursuant to this
29 section shall, upon the request of the Executive Director of the
30 Office, furnish the Executive Director with copies of all records
31 necessary to verify that the applicant meets the requirements of
32 subsection 3.

33 8. The Office:

34 (a) Shall adopt regulations prescribing:

35 (1) Any additional requirements to receive transferable tax
36 credits;

37 (2) Any additional qualified expenditures or production costs
38 that may serve as the basis for transferable tax credits pursuant to
39 NRS 360.7591;

40 (3) Any additional information that must be included with an
41 application pursuant to subsection 4;

42 (4) The application review process;

43 (5) Any type of qualified production which, due to obscene
44 or sexually explicit material, is not eligible for transferable tax
45 credits; and



(6) The requirements for notice pursuant to NRS 360.7595;
and

(b) May adopt any other regulations that are necessary to carry out the provisions of NRS 360.758 to 360.7598, inclusive.

9. The Nevada Tax Commission and the Nevada Gaming Commission:

(a) Shall adopt regulations prescribing the manner in which transferable tax credits will be administered.

(b) May adopt any other regulations that are necessary to carry out the provisions of NRS 360.758 to 360.7598, inclusive.

Sec. 2. NRS 360.7594 is hereby amended to read as follows:

360.7594 1. ~~{Except as otherwise provided in this subsection, the}~~ **The** Office of Economic Development shall not approve any application for transferable tax credits submitted pursuant to NRS 360.759 if approval of the application would cause the total amount of transferable tax credits approved pursuant to NRS 360.759 ~~{for the current fiscal year}~~ to exceed ~~{the amount appropriated or authorized for expenditure for that purpose for that fiscal year. If the Office does not approve transferable tax credits of the full amount so appropriated or authorized during any fiscal year, the remaining amount of transferable tax credits must be carried forward and made available for approval during the immediately following 2 fiscal years.}~~ **\$15,000,000.**

2. The transferable tax credits issued to any production company for any qualified production pursuant to NRS 360.759:

(a) Must not exceed a total amount of \$6,000,000; and

(b) Expire 4 years after the date on which the transferable tax credits are issued to the production company.

3. For the purposes of calculating qualified direct production expenditures:

(a) The compensation payable to all producers who are Nevada residents must not exceed 10 percent of the portion of the total budget of the qualified production that was expended in or attributable to any expenses incurred in this State.

(b) The compensation payable to all producers who are not Nevada residents must not exceed 5 percent of the portion of the total budget of the qualified production that was expended in or attributable to any expenses incurred in this State.

(c) The compensation payable to any employee, independent contractor or any other person paid a wage or salary as compensation for providing labor services on the production of the qualified production must not exceed \$750,000.

Sec. 3. NRS 680B.050 is hereby amended to read as follows:

680B.050 1. Except as otherwise provided in this section, a domestic or foreign insurer, including, without limitation, an insurer



* A B 1 3 7 *

1 that is exempt from federal taxation pursuant to 26 U.S.C. §
2 501(c)(29), which owns and substantially occupies and uses any
3 building in this state as its home office or as a regional home office
4 is entitled to ~~{a-credit}~~ *the following credits* against the tax
5 otherwise imposed by NRS 680B.027 : ~~{in an amount determined~~
6 ~~pursuant to subsections 2 and 3.~~

7 ~~—2.— To determine the amount of the credit to which an insurer is~~
8 ~~entitled, the insurer must first calculate:}~~

9 (a) An amount equal to 50 percent of the aggregate amount of
10 the tax as determined under NRS 680B.025 to 680B.039, inclusive;
11 and

12 (b) An amount equal to the full amount of ad valorem taxes paid
13 by the insurer during the calendar year next preceding the filing of
14 the report required by NRS 680B.030, upon the home office or
15 regional home office together with the land, as reasonably required
16 for the convenient use of the office, upon which the home office or
17 regional home office is situated.

18 ~~{3.— The total aggregate amount of credits that may be applied~~
19 ~~by all insurers pursuant to subsection 1 must not exceed \$5,000,000~~
20 ~~and must be allocated to each insurer on a pro rata basis by~~
21 ~~determining the percentage of the total amount calculated for all~~
22 ~~insurers pursuant to subsection 2 that is allocable to each insurer.~~

23 ~~—4.}~~

24 *↳ These credits must not reduce the amount of tax payable to less*
25 *than 20 percent of the tax otherwise payable by the insurer under*
26 *NRS 680B.027.*

27 2. As used in this section, a “regional home office” means an
28 office of the insurer performing for an area covering two or more
29 states, with a minimum of 25 employees on its office staff, the
30 supervision, underwriting, issuing and servicing of the insurance
31 business of the insurer.

32 ~~{5-}~~ 3. The insurer shall, on or before March 15 of each year,
33 furnish proof to the satisfaction of the Executive Director of the
34 Department of Taxation, on forms furnished by or acceptable to the
35 Executive Director, as to its entitlement to the tax reduction
36 provided for in this section. A determination of the Executive
37 Director of the Department of Taxation pursuant to this section is
38 not binding upon the Commissioner for the purposes of NRS
39 682A.430 to 682A.436, inclusive.

40 ~~{6-}~~ 4. An insurer is not entitled to the credits provided in this
41 section unless:

42 (a) The insurer owned the property upon which the reduction is
43 based for the entire year for which the reduction is claimed; and

44 (b) The insurer occupied at least 70 percent of the usable space
45 in the building to transact insurance or the insurer is a general or



1 limited partner and occupies 100 percent of its ownership interest in
2 the building.

3 ~~17.1~~ 5. If two or more insurers under common ownership or
4 management and control jointly own in equal interest, and jointly
5 occupy and use such a home office or regional home office in this
6 state for the conduct and administration of their respective insurance
7 businesses as provided in this section, each of the insurers is entitled
8 to the credits provided for by this section if otherwise qualified
9 therefor under this section.

10 ~~18.1~~ 6. For the purposes of subsection 1, any insurer that is
11 exempt from federal taxation pursuant to 26 U.S.C. § 501(c)(29) and
12 is restricted or prohibited from purchasing or owning real property
13 pursuant to a contract with the Federal Government, including any
14 entity thereof, shall be deemed to own any portion of any real
15 property that the insurer occupies. The provisions of this subsection
16 expire upon the expiration, cancellation, repayment or any other
17 termination of the contract restricting or prohibiting such purchase
18 or ownership.

19 **Sec. 4.** Section 4 of chapter 1, Statutes of Nevada 2014, 28th
20 Special Session, at page 3, is hereby amended to read as follows:

21 Sec. 4. ~~1.1~~ This ~~section and section 2 of this~~ act
22 ~~become~~ becomes effective on January 1, 2016.

23 ~~2. Sections 1 and 3 of this act become effective on~~
24 ~~January 1, 2021.~~

25 **Sec. 5.** The amendatory provisions of sections 1 and 2 of this
26 act apply to an application for a certificate of eligibility for
27 transferable tax credits submitted to the Office of Economic
28 Development pursuant to NRS 360.759 before, on or after July 1,
29 2017.

30 **Sec. 6.** Sections 1 and 3 of chapter 1, Statutes of Nevada 2014,
31 at pages 1, 2 and 3, respectively, are hereby repealed.

32 **Sec. 7.** This act becomes effective on July 1, 2017.

TEXT OF REPEALED SECTIONS

Section 1 of chapter 1, Statutes of Nevada 2014:

Section 1. NRS 680B.027 is hereby amended to read as follows:

680B.027 1. Except as otherwise provided in NRS 680B.033, 680B.0353 ~~1, 680B.050~~ and 690C.110, for the privilege of transacting business in this State, each insurer shall pay to the Department of Taxation a tax upon his or her



* A B 1 3 7 *

net direct premiums and net direct considerations written at the rate of 3.5 percent.

2. The tax must be paid in the manner required by NRS 680B.030 and 680B.032.

3. The Commissioner or the Executive Director of the Department of Taxation may require at any time verified supplemental statements with reference to any matter pertinent to the proper assessment of the tax.

Section 3 of chapter 1, Statutes of Nevada 2014:

Sec. 3. NRS 680B.050 and 680B.055 are hereby repealed.

