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Yes

"State-backed loans offered to filmmakers who shoot here<" 9-16-2003 Asbury Park Press, p.A3.

"N.J. hopes to attract filmmakers," 9-16-2003 Home News Tribune, pA3.

"Filmmakers get boost in funding," 9-16-2003 Courier-News, p.A3.

"Look out, Hollywood: NJ means business," 9-16-2003 The Record, p.A3

"Hollywood East: it's a wrap," 9-16-2003 The Times, pA1.

P.L. 2003, CHAPTER 182, *approved September 15, 2003*
Assembly, No. 3423 (*Second Reprint*)

1 **AN ACT** concerning the promotion of the film industry and amending
2 and supplementing P.L.1974, c.80 (C.34:1B-1 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. (New section) Sections 1 through 7 of this act shall be known
8 and may be cited as the "New Jersey Film Production Assistance Act."

9

10 2. (New section) The Legislature finds and declares that:

11 a. The film industry spent over \$69 million in this State in the year
12 2000 on a record 664 different projects including 88 feature films;

13 b. The creation of additional incentives to attract film companies
14 to this State will make substantial contributions to the State's
15 continued economic growth and development;

16 c. In order to attract greater investment by film companies in this
17 State, it is important to establish a film production assistance program
18 with sufficient incentives to encourage new film projects and
19 investment in this State.

20

21 3. (New section) As used in this act:

22 "Above-the-line expenses" means the major expenses committed to
23 a film project before production begins and may include storywriting,
24 salaries for the producer, director, and cast, travel and living, and
25 production fees if the film project is bought from another film
26 production company.

27 "Act" means the New Jersey Film Production Assistance Act.

28 "Authority" means the New Jersey Economic Development
29 Authority established pursuant to section 4 of P.L.1974, c.80
30 (C.34:1B-4).

31 "Below-the-line expenses" means all physical production costs not
32 included in the above-the-line expenses of a film project and may
33 include material costs, music rights, publicity, or advertisements.

34 "Film production company" or "company" means a person engaged

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ARP committee amendments adopted May 5, 2003.

² Assembly floor amendments adopted May 22, 2003.

1 in the business of making motion picture or television images for
2 theatrical, commercial or educational purposes.

3 "Film project" means a single media or multimedia program
4 produced by a film production company including, but not limited to,
5 motion pictures, feature films, shorts and documentaries, television
6 films or episodes or similar programs fixed on film, videotape,
7 computer disk, laser disk or other similar means that is intended for
8 exhibition in theaters, by television stations or by other means for the
9 home viewing market but does not include any film production that is
10 produced by or on behalf of a corporation or other person for its own
11 internal use for advertising, educational, training or similar purposes.
12 "Film project" shall not mean a single media or multimedia program
13 produced by a film production company if records, as required under
14 18 U.S.C. s.2257, are to be maintained by that film production
15 company with respect to any performer portrayed in that single media
16 or multimedia program.¹

17 "Financial assistance" means a loan guarantee.

18 "Program" means the "New Jersey Film Production Assistance
19 Program" established in the authority pursuant to section 4 of
20 P.L. , c. (C.) (now before the Legislature as this bill).

21

22 4. (New section) a. There is created in the authority the New
23 Jersey Film Production Assistance Program. The purpose of the
24 program shall be to attract film production companies with financial
25 assistance from the authority in order to promote and encourage the
26 development of film projects and investments by film production
27 companies in this State.

28 b. The authority shall adopt eligibility criteria for providing
29 financial assistance to film production companies. These criteria shall
30 limit financial assistance to film production companies that:

31 (1) want to engage in film projects where more than 70 percent of
32 the shooting days take place in this State and where at least 50 percent
33 of the amount of the below-the-line expenses of the operating budget
34 of the film project is spent in this State;

35 (2) have obtained a minimum of one-half of the estimated total
36 production costs from other sources;

37 (3) provide in their employment contracts that not less than the
38 prevailing wage rate, as determined by the Commissioner of Labor,
39 pursuant to the provisions of the "New Jersey Prevailing Wage Act,"
40 P.L.1963, c.150 (C.34:11-56.25 et seq.), shall be paid to workers
41 employed in the performance of contracts in connection with a
42 proposed project, including construction, reconstruction, rehabilitation
43 or demolition of property and improvements thereon; ¹and¹

44 (4) have posted such financial security as may be deemed to be
45 necessary by the authority ¹ [; and

46 (5) propose a film project that does not contain content or material

1 of such nature that such project could receive a rating or designation:

2 (a) of "NC-17: No One 17 And Under Admitted" by the
3 Classification and Rating Administration or an equivalent rating if this
4 rating is changed by the Classification and Rating Administration or
5 any successor entity, as appropriate;

6 (b) of "TVMA: Mature Audience Only" by the TV Parental
7 Guidelines Monitoring Board or an equivalent rating if this rating is
8 changed by the TV Parental Guidelines Monitoring Board or any
9 successor entity, as appropriate; or

10 (c) that is suitable for adult viewing only]¹.

11 c. The authority shall provide financial assistance to eligible film
12 production companies to facilitate their film projects in New Jersey.
13 In order to be eligible for the financial assistance, film production
14 companies shall, in addition to meeting the authority's customary
15 underwriting criteria, demonstrate to the authority's satisfaction that
16 they meet the eligibility criteria adopted pursuant to subsection b. of
17 this section. If at any time the authority determines that a film
18 production company does not meet such criteria, any financial
19 assistance provided shall be withdrawn or any financial assistance to
20 be provided shall be rendered null and void, as appropriate.

21 d. The authority shall utilize the program to stimulate greater
22 investment in this State by film production companies through
23 measures that include, but are not limited to:

24 (1) identifying low-interest loans or tax credits that may be
25 available from the State or from federal government agencies or
26 private organizations to promote the planning and development of film
27 projects in this State; and

28 (2) in consultation with the Department of the Treasury, identifying
29 existing surplus State property that could be utilized by film
30 production companies for film projects.

31

32 5. (New section) a. To implement this act, the authority shall
33 establish and maintain the program with moneys to be used by the
34 authority for the purposes specified in this act. Moneys to be utilized
35 by the program shall include, but not be limited to:

36 (1) any moneys that shall be received by the authority from the
37 repayment of the moneys in the account used to provide financial
38 assistance to film production companies pursuant to P.L. , c. (C.)
39 (now before the Legislature as this bill);

40 (2) any moneys that shall be received by the authority from other
41 business assistance programs administered by the authority which it
42 determines to deposit therein; and

43 (3) any other source that the authority may determine is available
44 to effectuate the purposes of the program.

45 b. The authority shall use the moneys available for the program to:

46 (1) provide, for a period of five years after the effective date of

1 this act, financial assistance to film production companies deemed
2 eligible pursuant to section 4 of P.L. , c. (C.) (now before the
3 Legislature as this bill); and

4 (2) defray the administrative expenses of carrying out the purposes
5 and provisions of P.L. , c. (C.) (now before the Legislature as
6 this bill). Such administrative expenses may be used by the authority
7 to employ an administrator and additional personnel or consultants to
8 oversee the operations of the program and to prepare any reports or
9 other documentation regarding the program with the assistance of the
10 authority. ²Such administrator, additional personnel or consultants
11 shall review each application for financial assistance for the purpose
12 of assisting the authority in an investigation and analysis of the
13 financial soundness of the film project or film production company.²

14 Within 30 days of the end of the five-year period as provided in
15 paragraph (1) of subsection b. of this section, the authority shall
16 determine whether sufficient interest in financial assistance from
17 qualified film production companies warrants the continuation of the
18 program and the authority may discontinue the program at the end of
19 such period if the authority determines that such interest is not
20 evident. The authority shall notify the Governor and Legislature of its
21 decision and issue a report of its findings and any suggestions for
22 improvement to the program if such suggestions are warranted.

23 c. The maximum amount of any loan that is guaranteed by the
24 authority and is to be provided to a film production company, pursuant
25 to P.L. , c. (C.) (now before the Legislature as this bill), shall not
26 exceed either \$1,500,000 per film project, or an amount that is no
27 greater than 30 percent of any loan for the film project that is derived
28 from private sources, whichever amount is less. The authority shall
29 not have a balance outstanding of all loans guaranteed pursuant to P.L.
30 , c. (C.) (now before the Legislature as this bill) of an amount
31 greater than \$10 million at any time, except that the authority may
32 increase this amount if the authority determines that the demand for
33 financial assistance warrants such increase.

34 d. The authority shall provide in any agreement between the
35 authority and a film production company for financial assistance from
36 the program that the authority shall retain a security interest in the
37 assets of the film production company including, but not limited to, all
38 revenues, payments, money and proceeds generated by the company's
39 film project, to the extent necessary to insure the authority's full
40 recovery of the amount of any financial assistance. Prior to the
41 granting of any financial assistance, the authority shall require the film
42 production company to enter into a faithful performance bond ²,
43 completion bond² or similar security with the authority in such form,
44 amount and terms as shall be determined by the authority.

45

46 6. (New section) Within two years of the effective date of P.L. ,

1 c. (C.) (now before the Legislature as this bill), the authority shall
2 submit a written report to the Governor and the Legislature describing
3 the status of the program, the demand for the program, the total
4 amount of financial assistance awarded by the authority from the
5 program and an assessment of the success of the program in meeting
6 the goals of this act and any recommendations for improving the
7 operation and effectiveness of the program.

8
9 7. (New section) The authority shall adopt, pursuant to the
10 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
11 seq.), any rules and regulations necessary to effectuate the purposes
12 of this act.

13
14 8. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read as
15 follows:

16 5. The authority shall have the following powers:

17 a. To adopt bylaws for the regulation of its affairs and the conduct
18 of its business;

19 b. To adopt and have a seal and to alter the same at pleasure;

20 c. To sue and be sued;

21 d. To acquire in the name of the authority by purchase or
22 otherwise, on such terms and conditions and such manner as it may
23 deem proper, or by the exercise of the power of eminent domain in the
24 manner provided by the "Eminent Domain Act of 1971," P.L.1971,
25 c.361 (C.20:3-1 et seq.), any lands or interests therein or other
26 property which it may determine is reasonably necessary for any
27 project or school facilities project; provided, however, that the
28 authority in connection with any project shall not take by exercise of
29 the power of eminent domain any real property except upon consent
30 thereto given by resolution of the governing body of the municipality
31 in which such real property is located; and provided further that the
32 authority shall be limited in its exercise of the power of eminent
33 domain in connection with any project to municipalities receiving State
34 aid under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or
35 to municipalities which had a population, according to the latest
36 federal decennial census, in excess of 10,000;

37 e. To enter into contracts with a person upon such terms and
38 conditions as the authority shall determine to be reasonable, including,
39 but not limited to, reimbursement for the planning, designing,
40 financing, construction, reconstruction, improvement, equipping,
41 furnishing, operation and maintenance of the project or the school
42 facilities project and to pay or compromise any claims arising
43 therefrom;

44 f. To establish and maintain reserve and insurance funds with
45 respect to the financing of the project or the school facilities project
46 and any project financed pursuant to the "Municipal Rehabilitation and

- 1 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);
- 2 g. To sell, convey or lease to any person all or any portion of a
3 project or school facilities project, for such consideration and upon
4 such terms as the authority may determine to be reasonable;
- 5 h. To mortgage, pledge or assign or otherwise encumber all or any
6 portion of a project, school facilities project or revenues, whenever it
7 shall find such action to be in furtherance of the purposes of this act,
8 P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation
9 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);
- 10 i. To grant options to purchase or renew a lease for any of its
11 projects or school facilities projects on such terms as the authority may
12 determine to be reasonable;
- 13 j. To contract for and to accept any gifts or grants or loans of
14 funds or property or financial or other aid in any form from the United
15 States of America or any agency or instrumentality thereof, or from
16 the State or any agency, instrumentality or political subdivision
17 thereof, or from any other source and to comply, subject to the
18 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
19 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
20 and the "Municipal Rehabilitation and Economic Recovery Act,"
21 P.L.2002, c.43 (C.52:27BBB-1 et al.) with the terms and conditions
22 thereof;
- 23 k. In connection with any application for assistance under
24 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
25 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.) or the "Municipal
26 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
27 (C.52:27BBB-1 et al.) or commitments therefor, to require and collect
28 such fees and charges as the authority shall determine to be
29 reasonable;
- 30 l. To adopt, amend and repeal regulations to carry out the
31 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
32 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
33 and the "Municipal Rehabilitation and Economic Recovery Act,"
34 P.L.2002, c.43 (C.52:27BBB-1 et al.);
- 35 m. To acquire, purchase, manage and operate, hold and dispose of
36 real and personal property or interests therein, take assignments of
37 rentals and leases and make and enter into all contracts, leases,
38 agreements and arrangements necessary or incidental to the
39 performance of its duties;
- 40 n. To purchase, acquire and take assignments of notes, mortgages
41 and other forms of security and evidences of indebtedness;
- 42 o. To purchase, acquire, attach, seize, accept or take title to any
43 project or school facilities project by conveyance or by foreclosure,
44 and sell, lease, manage or operate any project or school facilities
45 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1 et
46 al.), and the "Municipal Rehabilitation and Economic Recovery Act,"

- 1 P.L.2002, c.43 (C.52:27BBB-1 et al.);
- 2 p. To borrow money and to issue bonds of the authority and to
3 provide for the rights of the holders thereof, as provided in P.L.1974,
4 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1),
5 P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation
6 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);
- 7 q. To extend credit or make loans to any person for the planning,
8 designing, acquiring, constructing, reconstructing, improving,
9 equipping and furnishing of a project or school facilities project, which
10 credits or loans may be secured by loan and security agreements,
11 mortgages, leases and any other instruments, upon such terms and
12 conditions as the authority shall deem reasonable, including provision
13 for the establishment and maintenance of reserve and insurance funds,
14 and to require the inclusion in any mortgage, lease, contract, loan and
15 security agreement or other instrument, such provisions for the
16 construction, use, operation and maintenance and financing of a
17 project or school facilities project as the authority may deem necessary
18 or desirable;
- 19 r. To guarantee up to 90% of the amount of a loan to a person, if
20 the proceeds of the loan are to be applied to the purchase and
21 installation, in a building devoted to industrial or commercial
22 purposes, or in an office building, of an energy improvement system;
- 23 s. To employ consulting engineers, architects, attorneys, real estate
24 counselors, appraisers, and such other consultants and employees as
25 may be required in the judgment of the authority to carry out the
26 purposes of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001,
27 c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), and the
28 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,
29 c.43 (C.52:27BBB-1 et al.) and to fix and pay their compensation from
30 funds available to the authority therefor, all without regard to the
31 provisions of Title 11A of the New Jersey Statutes;
- 32 t. To do and perform any acts and things authorized by P.L.1974,
33 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1),
34 P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation
35 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.)
36 under, through or by means of its own officers, agents and employees,
37 or by contract with any person;
- 38 u. To procure insurance against any losses in connection with its
39 property, operations or assets in such amounts and from such insurers
40 as it deems desirable;
- 41 v. To do any and all things necessary or convenient to carry out its
42 purposes and exercise the powers given and granted in P.L.1974, c.80
43 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1),
44 P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation
45 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);
- 46 w. To construct, reconstruct, rehabilitate, improve, alter, equip,

1 maintain or repair or provide for the construction, reconstruction,
2 improvement, alteration, equipping or maintenance or repair of any
3 development property and lot, award and enter into construction
4 contracts, purchase orders and other contracts with respect thereto,
5 upon such terms and conditions as the authority shall determine to be
6 reasonable, including, but not limited to, reimbursement for the
7 planning, designing, financing, construction, reconstruction,
8 improvement, equipping, furnishing, operation and maintenance of any
9 such development property and the settlement of any claims arising
10 therefrom and the establishment and maintenance of reserve funds with
11 respect to the financing of such development property;

12 x. When authorized by the governing body of a municipality
13 exercising jurisdiction over an urban growth zone, to construct, cause
14 to be constructed or to provide financial assistance to projects in an
15 urban growth zone which shall be exempt from the terms and
16 requirements of the land use ordinances and regulations, including, but
17 not limited to, the master plan and zoning ordinances, of such
18 municipality;

19 y. To enter into business employment incentive agreements as
20 provided in the "Business Employment Incentive Program Act,"
21 P.L.1996, c.26 (C.34:1B-124 et al.);

22 z. To undertake school facilities projects and to enter into
23 agreements or contracts, execute instruments, and do and perform all
24 acts or things necessary, convenient or desirable for the purposes of
25 the authority to carry out any power expressly provided pursuant to
26 P.L.1974, c.80 (C.34:1B-1 et seq.) and P.L.2000, c.72 (C.18A:7G-1
27 et al.), including, but not limited to, entering into contracts with the
28 State Treasurer, the Commissioner of Education, districts and any
29 other entity which may be required in order to carry out the provisions
30 of P.L.2000, c.72 (C.18A:7G-1 et al.);

31 aa. To enter into leases, rentals or other disposition of a real
32 property interest in and of any school facilities project to or from any
33 local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.);

34 bb. To make and contract to make loans or leases and to make
35 grants to local units to finance the cost of school facilities projects and
36 to acquire and contract to acquire bonds, notes or other obligations
37 issued or to be issued by local units to evidence the loans or leases, all
38 in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et
39 al.);

40 cc. Subject to any agreement with holders of its bonds issued to
41 finance a project or school facilities project, obtain as security or to
42 provide liquidity for payment of all or any part of the principal of and
43 interest and premium on the bonds of the authority or for the purchase
44 upon tender or otherwise of the bonds, lines of credit, letters of credit,
45 reimbursement agreements, interest rate exchange agreements,
46 currency exchange agreements, interest rate floors or caps, options,

1 puts or calls to hedge payment, currency, rate, spread or similar
2 exposure or similar agreements, float agreements, forward agreements,
3 insurance contract, surety bond, commitment to purchase or sell
4 bonds, purchase or sale agreement, or commitments or other contracts
5 or agreements, and other security agreements or instruments in any
6 amounts and upon any terms as the authority may determine and pay
7 any fees and expenses required in connection therewith;

8 dd. To charge to and collect from local units, the State and any
9 other person, any fees and charges in connection with the authority's
10 actions undertaken with respect to school facilities projects, including,
11 but not limited to, fees and charges for the authority's administrative,
12 organization, insurance, operating and other expenses incident to the
13 financing, construction and placing into service and maintenance of
14 school facilities projects;

15 ee. To make loans to refinance solid waste facility bonds through
16 the issuance of bonds or other obligations and the execution of any
17 agreements with counties or public authorities to effect the refunding
18 or rescheduling of solid waste facility bonds, or otherwise provide for
19 the payment of all or a portion of any series of solid waste facility
20 bonds. Any county or public authority refunding or rescheduling its
21 solid waste facility bonds pursuant to this subsection shall provide for
22 the payment of not less than fifty percent of the aggregate debt service
23 for the refunded or rescheduled debt of the particular county or public
24 authority for the duration of the loan; except that, whenever the solid
25 waste facility bonds to be refinanced were issued by a public authority
26 and the county solid waste facility was utilized as a regional county
27 solid waste facility, as designated in the respective adopted district
28 solid waste management plans of the participating counties as
29 approved by the department prior to November 10, 1997, and the
30 utilization of the facility was established pursuant to tonnage
31 obligations set forth in their respective interdistrict agreements, the
32 public authority refunding or rescheduling its solid waste facility bonds
33 pursuant to this subsection shall provide for the payment of a
34 percentage of the aggregate debt service for the refunded or
35 rescheduled debt of the public authority not to exceed the percentage
36 of the specified tonnage obligation of the host county for the duration
37 of the loan. Whenever the solid waste facility bonds are the obligation
38 of a public authority, the relevant county shall execute a deficiency
39 agreement with the authority, which shall provide that the county
40 pledges to cover any shortfall and to pay deficiencies in scheduled
41 repayment obligations of the public authority. All costs associated
42 with the issuance of bonds pursuant to this subsection may be paid by
43 the authority from the proceeds of these bonds. Any county or public
44 authority is hereby authorized to enter into any agreement with the
45 authority necessary, desirable or convenient to effectuate the
46 provisions of this subsection.

47 The authority shall not issue bonds or other obligations to effect the

1 refunding or rescheduling of solid waste facility bonds after December
2 31, 2002. The authority may refund its own bonds issued for the
3 purposes herein at any time;

4 ff. To pool loans for any local government units that are refunding
5 bonds and do and perform any and all acts or things necessary,
6 convenient or desirable for the purpose of the authority to achieve
7 more favorable interest rates and terms for those local governmental
8 units; [and]

9 gg. To finance projects approved by the board, provide staff
10 support to the board, oversee and monitor progress on the part of the
11 board in carrying out the revitalization, economic development and
12 restoration projects authorized pursuant to the "Municipal
13 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
14 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities
15 pursuant thereto; and

16 hh. To offer financial assistance to qualified film production
17 companies as provided in the "New Jersey Film Production Assistance
18 Act," P.L. , c. (C.) (now before the Legislature as this bill).
19 (cf: P.L.2002, c.43, s.41)

20

21 9. This act shall take effect immediately.

22

23

24

25

26 Establishes the New Jersey Film Production Assistance Program.

ASSEMBLY, No. 3423

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED MARCH 6, 2003

Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Camden)

Assemblyman ANTHONY IMPREVEDUTO

District 32 (Bergen and Hudson)

Co-Sponsored by:

**Assemblywoman Greenstein, Assemblymen Guear, Malone, Ahearn,
Biondi, Moran and Wisniewski**

SYNOPSIS

Establishes the New Jersey Film Industry Assistance Program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/6/2003)

A3423 GREENWALD, IMPREVEDUTO

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6 c. (C.) (now before the Legislature as this bill).

7

8 4. (New section) a. There is created in the authority the New
9 Jersey Film Production Assistance Program. The purpose of the
10 program shall be to attract film production companies with financial
11 assistance from the authority in order to promote and encourage the
12 development of film projects and investments by film production
13 companies in this State.

14 b. The authority shall adopt eligibility criteria for providing
15 financial assistance to film production companies. These criteria shall
16 limit financial assistance to film production companies that:

17 (1) want to engage in film projects where more than 70 percent of
18 the shooting days take place in this State and where at least 50 percent
19 of the amount of the below-the-line expenses of the operating budget
20 of the film project is spent in this State;

21 (2) have obtained a minimum of one-half of the estimated total
22 production costs from other sources;

23 (3) provide in their employment contracts that not less than the
24 prevailing wage rate, as determined by the Commissioner of Labor,
25 pursuant to the provisions of the "New Jersey Prevailing Wage Act,"
26 P.L.1963, c.150 (C.34:11-56.25 et seq.), shall be paid to workers
27 employed in the performance of contracts in connection with a
28 proposed project, including construction, reconstruction, rehabilitation
29 or demolition of property and improvements thereon;

30 (4) have posted such financial security as may be deemed to be
31 necessary by the authority; and

32 (5) propose a film project that does not contain content or material
33 of such nature that such project could receive a rating or designation:

34 (a) of "NC-17: No One 17 And Under Admitted" by the
35 Classification and Rating Administration or an equivalent rating if this
36 rating is changed by the Classification and Rating Administration or
37 any successor entity, as appropriate;

38 (b) of "TVMA: Mature Audience Only" by the TV Parental
39 Guidelines Monitoring Board or an equivalent rating if this rating is
40 changed by the TV Parental Guidelines Monitoring Board or any
41 successor entity, as appropriate; or

42 (c) that is suitable for adult viewing only.

43 c. The authority shall provide financial assistance to eligible film
44 production companies to facilitate their film projects in New Jersey.
45 In order to be eligible for the financial assistance, film production
46 companies shall, in addition to meeting the authority's customary

1 underwriting criteria, demonstrate to the authority's satisfaction that
2 they meet the eligibility criteria adopted pursuant to subsection b. of
3 this section. If at any time the authority determines that a film
4 production company does not meet such criteria, any financial
5 assistance provided shall be withdrawn or any financial assistance to
6 be provided shall be rendered null and void, as appropriate.

7 d. The authority shall utilize the program to stimulate greater
8 investment in this State by film production companies through
9 measures that include, but are not limited to:

10 (1) identifying low-interest loans or tax credits that may be
11 available from the State or from federal government agencies or
12 private organizations to promote the planning and development of film
13 projects in this State; and

14 (2) in consultation with the Department of the Treasury, identifying
15 existing surplus State property that could be utilized by film
16 production companies for film projects.

17

18 5. (New section) a. To implement this act, the authority shall
19 establish and maintain the program with moneys to be used by the
20 authority for the purposes specified in this act. Moneys to be utilized
21 by the program shall include, but not be limited to:

22 (1) any moneys that shall be received by the authority from the
23 repayment of the moneys in the account used to provide financial
24 assistance to film production companies pursuant to P.L. , c. (C.)
25 (now before the Legislature as this bill);

26 (2) any moneys that shall be received by the authority from other
27 business assistance programs administered by the authority which it
28 determines to deposit therein; and

29 (3) any other source that the authority may determine is available
30 to effectuate the purposes of the program.

31 b. The authority shall use the moneys available for the program to:

32 (1) provide, for a period of five years after the effective date of
33 this act, financial assistance to film production companies deemed
34 eligible pursuant to section 4 of P.L. , c. (C.) (now before the
35 Legislature as this bill); and

36 (2) defray the administrative expenses of carrying out the purposes
37 and provisions of P.L. , c. (C.) (now before the Legislature as
38 this bill). Such administrative expenses may be used by the authority
39 to employ an administrator and additional personnel or consultants to
40 oversee the operations of the program and to prepare any reports or
41 other documentation regarding the program with the assistance of the
42 authority.

43 Within 30 days of the end of the five-year period as provided in
44 paragraph (1) of subsection b. of this section, the authority shall
45 determine whether sufficient interest in financial assistance from
46 qualified film production companies warrants the continuation of the

1 program and the authority may discontinue the program at the end of
2 such period if the authority determines that such interest is not
3 evident. The authority shall notify the Governor and Legislature of its
4 decision and issue a report of its findings and any suggestions for
5 improvement to the program if such suggestions are warranted.

6 c. The maximum amount of any loan that is guaranteed by the
7 authority and is to be provided to a film production company, pursuant
8 to P.L. , c. (C.) (now before the Legislature as this bill), shall not
9 exceed either \$1,500,000 per film project, or an amount that is no
10 greater than 30 percent of any loan for the film project that is derived
11 from private sources, whichever amount is less. The authority shall
12 not have a balance outstanding of all loans guaranteed pursuant to P.L.
13 , c. (C.) (now before the Legislature as this bill) of an amount
14 greater than \$10 million at any time, except that the authority may
15 increase this amount if the authority determines that the demand for
16 financial assistance warrants such increase.

17 d. The authority shall provide in any agreement between the
18 authority and a film production company for financial assistance from
19 the program that the authority shall retain a security interest in the
20 assets of the film production company including, but not limited to, all
21 revenues, payments, money and proceeds generated by the company's
22 film project, to the extent necessary to insure the authority's full
23 recovery of the amount of any financial assistance. Prior to the
24 granting of any financial assistance, the authority shall require the film
25 production company to enter into a faithful performance bond or
26 similar security with the authority in such form, amount and terms as
27 shall be determined by the authority.

28

29 6. (New section) Within two years of the effective date of P.L. ,
30 c. (C.) (now before the Legislature as this bill), the authority shall
31 submit a written report to the Governor and the Legislature describing
32 the status of the program, the demand for the program, the total
33 amount of financial assistance awarded by the authority from the
34 program and an assessment of the success of the program in meeting
35 the goals of this act and any recommendations for improving the
36 operation and effectiveness of the program.

37

38 7. (New section) The authority shall adopt, pursuant to the
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
40 seq.), any rules and regulations necessary to effectuate the purposes
41 of this act.

42

43 8. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read as
44 follows:

45 5. The authority shall have the following powers:

46 a. To adopt bylaws for the regulation of its affairs and the conduct

- 1 of its business;
- 2 b. To adopt and have a seal and to alter the same at pleasure;
- 3 c. To sue and be sued;
- 4 d. To acquire in the name of the authority by purchase or
5 otherwise, on such terms and conditions and such manner as it may
6 deem proper, or by the exercise of the power of eminent domain in the
7 manner provided by the "Eminent Domain Act of 1971," P.L.1971,
8 c.361 (C.20:3-1 et seq.), any lands or interests therein or other
9 property which it may determine is reasonably necessary for any
10 project or school facilities project; provided, however, that the
11 authority in connection with any project shall not take by exercise of
12 the power of eminent domain any real property except upon consent
13 thereto given by resolution of the governing body of the municipality
14 in which such real property is located; and provided further that the
15 authority shall be limited in its exercise of the power of eminent
16 domain in connection with any project to municipalities receiving State
17 aid under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or
18 to municipalities which had a population, according to the latest
19 federal decennial census, in excess of 10,000;
- 20 e. To enter into contracts with a person upon such terms and
21 conditions as the authority shall determine to be reasonable, including,
22 but not limited to, reimbursement for the planning, designing,
23 financing, construction, reconstruction, improvement, equipping,
24 furnishing, operation and maintenance of the project or the school
25 facilities project and to pay or compromise any claims arising
26 therefrom;
- 27 f. To establish and maintain reserve and insurance funds with
28 respect to the financing of the project or the school facilities project
29 and any project financed pursuant to the "Municipal Rehabilitation and
30 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);
- 31 g. To sell, convey or lease to any person all or any portion of a
32 project or school facilities project, for such consideration and upon
33 such terms as the authority may determine to be reasonable;
- 34 h. To mortgage, pledge or assign or otherwise encumber all or any
35 portion of a project, school facilities project or revenues, whenever it
36 shall find such action to be in furtherance of the purposes of this act,
37 P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation
38 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);
- 39 i. To grant options to purchase or renew a lease for any of its
40 projects or school facilities projects on such terms as the authority may
41 determine to be reasonable;
- 42 j. To contract for and to accept any gifts or grants or loans of
43 funds or property or financial or other aid in any form from the United
44 States of America or any agency or instrumentality thereof, or from
45 the State or any agency, instrumentality or political subdivision
46 thereof, or from any other source and to comply, subject to the

1 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
2 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
3 and the "Municipal Rehabilitation and Economic Recovery Act,"
4 P.L.2002, c.43 (C.52:27BBB-1 et al.) with the terms and conditions
5 thereof;

6 k. In connection with any application for assistance under
7 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
8 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.) or the "Municipal
9 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
10 (C.52:27BBB-1 et al.) or commitments therefor, to require and collect
11 such fees and charges as the authority shall determine to be
12 reasonable;

13 l. To adopt, amend and repeal regulations to carry out the
14 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
15 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
16 and the "Municipal Rehabilitation and Economic Recovery Act,"
17 P.L.2002, c.43 (C.52:27BBB-1 et al.);

18 m. To acquire, purchase, manage and operate, hold and dispose of
19 real and personal property or interests therein, take assignments of
20 rentals and leases and make and enter into all contracts, leases,
21 agreements and arrangements necessary or incidental to the
22 performance of its duties;

23 n. To purchase, acquire and take assignments of notes, mortgages
24 and other forms of security and evidences of indebtedness;

25 o. To purchase, acquire, attach, seize, accept or take title to any
26 project or school facilities project by conveyance or by foreclosure,
27 and sell, lease, manage or operate any project or school facilities
28 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1 et
29 al.), and the "Municipal Rehabilitation and Economic Recovery Act,"
30 P.L.2002, c.43 (C.52:27BBB-1 et al.);

31 p. To borrow money and to issue bonds of the authority and to
32 provide for the rights of the holders thereof, as provided in P.L.1974,
33 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1),
34 P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation
35 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

36 q. To extend credit or make loans to any person for the planning,
37 designing, acquiring, constructing, reconstructing, improving,
38 equipping and furnishing of a project or school facilities project, which
39 credits or loans may be secured by loan and security agreements,
40 mortgages, leases and any other instruments, upon such terms and
41 conditions as the authority shall deem reasonable, including provision
42 for the establishment and maintenance of reserve and insurance funds,
43 and to require the inclusion in any mortgage, lease, contract, loan and
44 security agreement or other instrument, such provisions for the
45 construction, use, operation and maintenance and financing of a
46 project or school facilities project as the authority may deem necessary

- 1 or desirable;
- 2 r. To guarantee up to 90% of the amount of a loan to a person, if
3 the proceeds of the loan are to be applied to the purchase and
4 installation, in a building devoted to industrial or commercial
5 purposes, or in an office building, of an energy improvement system;
- 6 s. To employ consulting engineers, architects, attorneys, real estate
7 counselors, appraisers, and such other consultants and employees as
8 may be required in the judgment of the authority to carry out the
9 purposes of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001,
10 c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), and the
11 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,
12 c.43 (C.52:27BBB-1 et al.) and to fix and pay their compensation from
13 funds available to the authority therefor, all without regard to the
14 provisions of Title 11A of the New Jersey Statutes;
- 15 t. To do and perform any acts and things authorized by P.L.1974,
16 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1),
17 P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation
18 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.)
19 under, through or by means of its own officers, agents and employees,
20 or by contract with any person;
- 21 u. To procure insurance against any losses in connection with its
22 property, operations or assets in such amounts and from such insurers
23 as it deems desirable;
- 24 v. To do any and all things necessary or convenient to carry out its
25 purposes and exercise the powers given and granted in P.L.1974, c.80
26 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1),
27 P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation
28 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);
- 29 w. To construct, reconstruct, rehabilitate, improve, alter, equip,
30 maintain or repair or provide for the construction, reconstruction,
31 improvement, alteration, equipping or maintenance or repair of any
32 development property and lot, award and enter into construction
33 contracts, purchase orders and other contracts with respect thereto,
34 upon such terms and conditions as the authority shall determine to be
35 reasonable, including, but not limited to, reimbursement for the
36 planning, designing, financing, construction, reconstruction,
37 improvement, equipping, furnishing, operation and maintenance of any
38 such development property and the settlement of any claims arising
39 therefrom and the establishment and maintenance of reserve funds with
40 respect to the financing of such development property;
- 41 x. When authorized by the governing body of a municipality
42 exercising jurisdiction over an urban growth zone, to construct, cause
43 to be constructed or to provide financial assistance to projects in an
44 urban growth zone which shall be exempt from the terms and
45 requirements of the land use ordinances and regulations, including, but
46 not limited to, the master plan and zoning ordinances, of such

- 1 municipality;
- 2 y. To enter into business employment incentive agreements as
3 provided in the "Business Employment Incentive Program Act,"
4 P.L.1996, c.26 (C.34:1B-124 et al.);
- 5 z. To undertake school facilities projects and to enter into
6 agreements or contracts, execute instruments, and do and perform all
7 acts or things necessary, convenient or desirable for the purposes of
8 the authority to carry out any power expressly provided pursuant to
9 P.L.1974, c.80 (C.34:1B-1 et seq.) and P.L.2000, c.72 (C.18A:7G-1
10 et al.), including, but not limited to, entering into contracts with the
11 State Treasurer, the Commissioner of Education, districts and any
12 other entity which may be required in order to carry out the provisions
13 of P.L.2000, c.72 (C.18A:7G-1 et al.);
- 14 aa. To enter into leases, rentals or other disposition of a real
15 property interest in and of any school facilities project to or from any
16 local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.);
- 17 bb. To make and contract to make loans or leases and to make
18 grants to local units to finance the cost of school facilities projects and
19 to acquire and contract to acquire bonds, notes or other obligations
20 issued or to be issued by local units to evidence the loans or leases, all
21 in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et
22 al.);
- 23 cc. Subject to any agreement with holders of its bonds issued to
24 finance a project or school facilities project, obtain as security or to
25 provide liquidity for payment of all or any part of the principal of and
26 interest and premium on the bonds of the authority or for the purchase
27 upon tender or otherwise of the bonds, lines of credit, letters of credit,
28 reimbursement agreements, interest rate exchange agreements,
29 currency exchange agreements, interest rate floors or caps, options,
30 puts or calls to hedge payment, currency, rate, spread or similar
31 exposure or similar agreements, float agreements, forward agreements,
32 insurance contract, surety bond, commitment to purchase or sell
33 bonds, purchase or sale agreement, or commitments or other contracts
34 or agreements, and other security agreements or instruments in any
35 amounts and upon any terms as the authority may determine and pay
36 any fees and expenses required in connection therewith;
- 37 dd. To charge to and collect from local units, the State and any
38 other person, any fees and charges in connection with the authority's
39 actions undertaken with respect to school facilities projects, including,
40 but not limited to, fees and charges for the authority's administrative,
41 organization, insurance, operating and other expenses incident to the
42 financing, construction and placing into service and maintenance of
43 school facilities projects;
- 44 ee. To make loans to refinance solid waste facility bonds through
45 the issuance of bonds or other obligations and the execution of any
46 agreements with counties or public authorities to effect the refunding

1 or rescheduling of solid waste facility bonds, or otherwise provide for
2 the payment of all or a portion of any series of solid waste facility
3 bonds. Any county or public authority refunding or rescheduling its
4 solid waste facility bonds pursuant to this subsection shall provide for
5 the payment of not less than fifty percent of the aggregate debt service
6 for the refunded or rescheduled debt of the particular county or public
7 authority for the duration of the loan; except that, whenever the solid
8 waste facility bonds to be refinanced were issued by a public authority
9 and the county solid waste facility was utilized as a regional county
10 solid waste facility, as designated in the respective adopted district
11 solid waste management plans of the participating counties as
12 approved by the department prior to November 10, 1997, and the
13 utilization of the facility was established pursuant to tonnage
14 obligations set forth in their respective interdistrict agreements, the
15 public authority refunding or rescheduling its solid waste facility bonds
16 pursuant to this subsection shall provide for the payment of a
17 percentage of the aggregate debt service for the refunded or
18 rescheduled debt of the public authority not to exceed the percentage
19 of the specified tonnage obligation of the host county for the duration
20 of the loan. Whenever the solid waste facility bonds are the obligation
21 of a public authority, the relevant county shall execute a deficiency
22 agreement with the authority, which shall provide that the county
23 pledges to cover any shortfall and to pay deficiencies in scheduled
24 repayment obligations of the public authority. All costs associated
25 with the issuance of bonds pursuant to this subsection may be paid by
26 the authority from the proceeds of these bonds. Any county or public
27 authority is hereby authorized to enter into any agreement with the
28 authority necessary, desirable or convenient to effectuate the
29 provisions of this subsection.

30 The authority shall not issue bonds or other obligations to effect the
31 refunding or rescheduling of solid waste facility bonds after December
32 31, 2002. The authority may refund its own bonds issued for the
33 purposes herein at any time;

34 ff. To pool loans for any local government units that are refunding
35 bonds and do and perform any and all acts or things necessary,
36 convenient or desirable for the purpose of the authority to achieve
37 more favorable interest rates and terms for those local governmental
38 units; [and]

39 gg. To finance projects approved by the board, provide staff
40 support to the board, oversee and monitor progress on the part of the
41 board in carrying out the revitalization, economic development and
42 restoration projects authorized pursuant to the "Municipal
43 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
44 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities
45 pursuant thereto; and

46 hh. To offer financial assistance to qualified film production
47 companies as provided in the "New Jersey Film Production Assistance

1 Act," P.L. , c. (C.)(now before the Legislature as this bill).
2 (cf: P.L.2002, c.43, s.41)

3

4 9. This act shall take effect immediately.

5

6

7

STATEMENT

8

9 This bill establishes the New Jersey Film Production Assistance
10 Program (hereinafter "the program") in the New Jersey Economic
11 Development Authority (hereinafter "the authority"). The purpose of
12 the program is to provide incentives to the film industry by providing
13 loan guarantees to film production companies to attract more film
14 projects to this State.

15 The bill requires the authority to develop eligibility criteria for the
16 financial assistance based upon the following factors: 1) more than 70
17 percent of the shooting days of a film project must be located in New
18 Jersey and at least 50 percent of the amount of the below-the-line
19 expenses of the operating budget of the film project is spent in New
20 Jersey; 2) film production companies must have obtained a minimum
21 of one-half of the total productions costs from other sources; 3) such
22 companies must provide in their employment contracts that not less
23 than the prevailing wage rate be paid to workers employed in the
24 performance of contracts in connection with a proposed project,
25 including construction, reconstruction, rehabilitation or demolition of
26 property and improvements thereon; 4) such companies have posted
27 such financial security as the authority deems necessary; and 5) such
28 companies propose a film project that does not contain content or
29 material of such nature that the project could receive a rating or
30 designation (a) of "NC-17: No One 17 And Under Admitted" by the
31 Classification and Rating Administration or an equivalent rating if this
32 rating is changed by the Classification and Rating Administration or
33 any successor entity, as appropriate, (b) of "TVMA: Mature Audience
34 Only" by the TV Parental Guidelines Monitoring Board or an
35 equivalent rating if this rating is changed by the TV Parental
36 Guidelines Monitoring Board or any successor entity, as appropriate,
37 or (c) that is suitable for adult viewing only. With regard to
38 employment contracts where the prevailing wage rate is paid, it is
39 hoped that such contracts are entered with New Jersey-based labor
40 organizations involved in the film industry. If at any time the authority
41 determines that a film production company does not meet such criteria,
42 any financial assistance provided shall be withdrawn or any financial
43 assistance to be provided shall be rendered null and void, as
44 appropriate.

45 The bill further requires the authority to utilize the program to
46 stimulate greater investment in this State by film production companies

1 through measures that include, but are not limited to: identifying low-
2 interest loans or tax credits that may be available from the State or
3 from federal government agencies or private organizations to promote
4 the planning and development of film projects in this State; and, in
5 consultation with the Department of the Treasury, identifying existing
6 surplus State property that could be utilized by film production or
7 distribution companies for film projects.

8 The bill provides that the authority shall use the moneys available
9 for the program to provide, for a period of five years after the
10 effective date of the bill, financial assistance to film production
11 companies deemed eligible and to defray the administrative expenses
12 of carrying out the purposes and provisions of the bill. Such
13 administrative expenses may be used by the authority to employ an
14 administrator and additional personnel or consultants to oversee the
15 operations of the program and to prepare any reports or other
16 documentation regarding the program with the assistance of the
17 authority.

18 The bill provides that within 30 days of the end of the five-year
19 period, the authority is to determine whether sufficient interest in
20 financial assistance from qualified film production companies warrants
21 the continuation of the program and the authority may discontinue the
22 program at the end of such period if the authority determines that such
23 interest is not evident. The authority shall notify the Governor and
24 Legislature of its decision and issue a report of its findings and any
25 suggestions for improvement to the program if such suggestions are
26 warranted.

27 The bill provides that the maximum amount of any loan that is
28 guaranteed by the authority and is to be provided to a film production
29 company shall not exceed either \$1,500,000 per film project, or an
30 amount that is no greater than 30 percent of any loan for the film
31 project that is derived from private sources, whichever amount is less.
32 The authority shall not have a balance outstanding of all loans
33 guaranteed of an amount greater than \$10 million at any time, except
34 that the authority may increase this amount if the authority determines
35 that the demand for financial assistance warrants such increase.

36 The bill provides that the authority shall provide in any agreement
37 between the authority and a film production company for financial
38 assistance from the program that the authority shall retain a security
39 interest in the assets of the film production company including, but not
40 limited to, all revenues, payments, money and proceeds generated by
41 the company's film project, to the extent necessary to insure the
42 authority's full recovery of the amount of any financial assistance.
43 Prior to the granting of any financial assistance, the authority shall
44 require the film production company to enter into a faithful
45 performance bond or similar security with the authority in such form,
46 amount and terms as shall be determined by the authority.

A3423 GREENWALD, IMPREVEDUTO

13

1 The bill requires the authority to report to the Governor and the
2 Legislature within two years of the bill's effective date on the status of
3 the program.

ASSEMBLY REGULATED PROFESSIONS AND
INDEPENDENT AUTHORITIES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3423

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 5, 2003

The Assembly Regulated Professions and Independent Authorities Committee reports favorably and with committee amendments Assembly Bill No. 3423.

This bill establishes the New Jersey Film Production Assistance Program (hereinafter "the program") in the New Jersey Economic Development Authority (hereinafter "the authority"). The purpose of the program is to provide financial incentives to the film industry by providing loan guarantees to film production companies to attract more film projects to this State.

As amended by the committee, the bill requires the authority to develop eligibility criteria for the financial assistance based upon the following factors: 1) more than 70 percent of the shooting days of a film project shall be located in New Jersey and at least 50 percent of the amount of the below-the-line expenses of the operating budget of the film project shall be spent in New Jersey; 2) film production companies must obtain a minimum of one-half of the total productions costs from other sources; 3) such companies must provide in their employment contracts that not less than the prevailing wage rate be paid to workers employed in the performance of contracts in connection with a proposed project, including construction, reconstruction, rehabilitation or demolition of property and improvements thereon; and 4) such companies shall have posted such financial security as the authority deems necessary.

If at any time the authority determines that a film production company does not meet such criteria, any financial assistance provided shall be withdrawn or any financial assistance to be provided shall be rendered null and void, as appropriate. With regard to employment contracts where the prevailing wage rate is paid, it is hoped that every effort will be made to execute such contracts with New Jersey-based labor organizations involved in the film industry.

The bill further requires the authority to utilize the program to stimulate greater investment in this State by film production companies through measures that include, but are not limited to: identifying low-

interest loans or tax credits that may be available from the State or from federal government agencies or private organizations to promote the planning and development of film projects in this State; and, in consultation with the Department of the Treasury, identifying existing surplus State property that could be utilized by film production or distribution companies for film projects.

The bill provides that the authority shall use the moneys available for the program to provide, for a period of five years after the effective date of the bill, financial assistance to film production companies deemed eligible and to defray the administrative expenses of carrying out the purposes and provisions of the bill. Such administrative expenses may be used by the authority to employ an administrator and additional personnel or consultants to oversee the operations of the program and to prepare any reports or other documentation regarding the program with the assistance of the authority.

The bill provides that, within 30 days of the end of the five-year period, the authority is to determine whether sufficient interest in financial assistance from qualified film production companies warrants the continuation of the program. The authority may discontinue the program at the end of that period if the authority determines that such interest is not evident. The authority shall notify the Governor and Legislature of its decision and issue a report of its findings and any suggestions for improvement to the program.

The bill provides that the maximum amount of any loan that is guaranteed by the authority and is to be provided to a film production company shall not exceed either \$1,500,000 per film project, or an amount that is no greater than 30 percent of any loan for the film project that is derived from private sources, whichever amount is less. The authority shall not have a balance outstanding of all loans guaranteed of an amount greater than \$10 million at any time, except that the authority may increase this amount if the authority determines that the demand for financial assistance warrants such increase.

The bill requires that, in any agreement between the authority and a film production company for financial assistance from the program, the authority shall retain a security interest in the assets of the film production company including, but not limited to, all revenues, payments, money and proceeds generated by the company's film project, to the extent necessary to insure the authority's full recovery of the amount of any financial assistance. Prior to the granting of any financial assistance, the authority shall require the film production company to enter into a faithful performance bond or similar security with the authority in such form, amount and terms as shall be determined by the authority.

The bill requires the authority to report to the Governor and the Legislature within two years of the bill's effective date on the status of the program.

The committee amended the bill to delete the eligibility provision

that a film project shall not contain content or material of such nature that such project could receive a rating or designation (a) of "NC-17: No One 17 And Under Admitted" by the Classification and Rating Administration, (b) of "TVMA: Mature Audience Only" by the TV Parental Guidelines Monitoring Board, or (c) that is suitable for adult viewing only. Instead, the amendments revise the definition of "film project" in the bill so as to exclude certain programs based on federal record keeping requirements, thereby prohibiting funding for projects depicting sexually explicit conduct under the bill.

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3423

with Assembly Floor Amendments
(Proposed By Assemblyman GREENWALD)

ADOPTED: MAY 22, 2003

These Assembly amendments set forth certain responsibilities for the administrator, additional personnel or consultants employed by the authority to review each application for financial assistance made to the program. The amendments also permit the authority to require a film production company to enter into a completion bond as a condition of granting financial assistance.

SENATE, No. 2491

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED MAY 8, 2003

Sponsored by:
Senator JOSEPH F. VITALE
District 19 (Middlesex)

SYNOPSIS

Establishes the New Jersey Film Production Assistance Program.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the promotion of the film industry and amending
2 and supplementing P.L.1974, c.80 (C.34:1B-1 et seq.).

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. (New section) Sections 1 through 7 of this act shall be known
8 and may be cited as the "New Jersey Film Production Assistance Act."

9
10 2. (New section) The Legislature finds and declares that:

11 a. The film industry spent over \$69 million in this State in the year
12 2000 on a record 664 different projects including 88 feature films;

13 b. The creation of additional incentives to attract film companies
14 to this State will make substantial contributions to the State's
15 continued economic growth and development;

16 c. In order to attract greater investment by film companies in this
17 State, it is important to establish a film production assistance program
18 with sufficient incentives to encourage new film projects and
19 investment in this State.

20
21 3. (New section) As used in this act:

22 "Above-the-line expenses" means the major expenses committed to
23 a film project before production begins and may include storywriting,
24 salaries for the producer, director, and cast, travel and living, and
25 production fees if the film project is bought from another film
26 production company.

27 "Act" means the New Jersey Film Production Assistance Act.

28 "Authority" means the New Jersey Economic Development
29 Authority established pursuant to section 4 of P.L.1974, c.80
30 (C.34:1B-4).

31 "Below-the-line expenses" means all physical production costs not
32 included in the above-the-line expenses of a film project and may
33 include material costs, music rights, publicity, or advertisements.

34 "Film production company" or "company" means a person engaged
35 in the business of making motion picture or television images for
36 theatrical, commercial or educational purposes.

37 "Film project" means a single media or multimedia program
38 produced by a film production company including, but not limited to,
39 motion pictures, feature films, shorts and documentaries, television
40 films or episodes or similar programs fixed on film, videotape,
41 computer disk, laser disk or other similar means that is intended for
42 exhibition in theaters, by television stations or by other means for the
43 home viewing market but does not include any film production that is

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 produced by or on behalf of a corporation or other person for its own
2 internal use for advertising, educational, training or similar purposes.

3 "Financial assistance" means a loan guarantee.

4 "Program" means the "New Jersey Film Production Assistance
5 Program" established in the authority pursuant to section 4 of P.L. ,
6 c. (C.) (now before the Legislature as this bill).

7

8 4. (New section) a. There is created in the authority the New
9 Jersey Film Production Assistance Program. The purpose of the
10 program shall be to attract film production companies with financial
11 assistance from the authority in order to promote and encourage the
12 development of film projects and investments by film production
13 companies in this State.

14 b. The authority shall adopt eligibility criteria for providing
15 financial assistance to film production companies. These criteria shall
16 limit financial assistance to film production companies that:

17 (1) want to engage in film projects where more than 70 percent of
18 the shooting days take place in this State and where at least 50 percent
19 of the amount of the below-the-line expenses of the operating budget
20 of the film project is spent in this State;

21 (2) have obtained a minimum of one-half of the estimated total
22 production costs from other sources;

23 (3) provide in their employment contracts that not less than the
24 prevailing wage rate, as determined by the Commissioner of Labor,
25 pursuant to the provisions of the "New Jersey Prevailing Wage Act,"
26 P.L.1963, c.150 (C.34:11-56.25 et seq.), shall be paid to workers
27 employed in the performance of contracts in connection with a
28 proposed project, including construction, reconstruction, rehabilitation
29 or demolition of property and improvements thereon;

30 (4) have posted such financial security as may be deemed to be
31 necessary by the authority; and

32 (5) propose a film project that does not contain content or material
33 of such nature that such project could receive a rating or designation:

34 (a) of "NC-17: No One 17 And Under Admitted" by the
35 Classification and Rating Administration or an equivalent rating if this
36 rating is changed by the Classification and Rating Administration or
37 any successor entity, as appropriate;

38 (b) of "TVMA: Mature Audience Only" by the TV Parental
39 Guidelines Monitoring Board or an equivalent rating if this rating is
40 changed by the TV Parental Guidelines Monitoring Board or any
41 successor entity, as appropriate; or

42 (c) that is suitable for adult viewing only.

43 c. The authority shall provide financial assistance to eligible film
44 production companies to facilitate their film projects in New Jersey.
45 In order to be eligible for the financial assistance, film production
46 companies shall, in addition to meeting the authority's customary

1 underwriting criteria, demonstrate to the authority's satisfaction that
2 they meet the eligibility criteria adopted pursuant to subsection b. of
3 this section. If at any time the authority determines that a film
4 production company does not meet such criteria, any financial
5 assistance provided shall be withdrawn or any financial assistance to
6 be provided shall be rendered null and void, as appropriate.

7 d. The authority shall utilize the program to stimulate greater
8 investment in this State by film production companies through
9 measures that include, but are not limited to:

10 (1) identifying low-interest loans or tax credits that may be
11 available from the State or from federal government agencies or
12 private organizations to promote the planning and development of film
13 projects in this State; and

14 (2) in consultation with the Department of the Treasury, identifying
15 existing surplus State property that could be utilized by film
16 production companies for film projects.

17

18 5. (New section) a. To implement this act, the authority shall
19 establish and maintain the program with moneys to be used by the
20 authority for the purposes specified in this act. Moneys to be utilized
21 by the program shall include, but not be limited to:

22 (1) any moneys that shall be received by the authority from the
23 repayment of the moneys in the account used to provide financial
24 assistance to film production companies pursuant to P.L. , c. (C.)
25 (now before the Legislature as this bill);

26 (2) any moneys that shall be received by the authority from other
27 business assistance programs administered by the authority which it
28 determines to deposit therein; and

29 (3) any other source that the authority may determine is available
30 to effectuate the purposes of the program.

31 b. The authority shall use the moneys available for the program to:

32 (1) provide, for a period of five years after the effective date of this
33 act, financial assistance to film production companies deemed eligible
34 pursuant to section 4 of P.L. , c. (C.) (now before the Legislature
35 as this bill); and

36 (2) defray the administrative expenses of carrying out the purposes
37 and provisions of P.L. , c. (C.) (now before the Legislature as
38 this bill). Such administrative expenses may be used by the authority
39 to employ an administrator and additional personnel or consultants to
40 oversee the operations of the program and to prepare any reports or
41 other documentation regarding the program with the assistance of the
42 authority.

43 Within 30 days of the end of the five-year period as provided in
44 paragraph (1) of subsection b. of this section, the authority shall
45 determine whether sufficient interest in financial assistance from
46 qualified film production companies warrants the continuation of the

1 program and the authority may discontinue the program at the end of
2 such period if the authority determines that such interest is not
3 evident. The authority shall notify the Governor and Legislature of its
4 decision and issue a report of its findings and any suggestions for
5 improvement to the program if such suggestions are warranted.

6 c. The maximum amount of any loan that is guaranteed by the
7 authority and is to be provided to a film production company, pursuant
8 to P.L. , c. (C.) (now before the Legislature as this bill), shall not
9 exceed either \$1,500,000 per film project, or an amount that is no
10 greater than 30 percent of any loan for the film project that is derived
11 from private sources, whichever amount is less. The authority shall
12 not have a balance outstanding of all loans guaranteed pursuant to
13 P.L., c. (C.) (now before the Legislature as this bill) of an amount
14 greater than \$10 million at any time, except that the authority may
15 increase this amount if the authority determines that the demand for
16 financial assistance warrants such increase.

17 d. The authority shall provide in any agreement between the
18 authority and a film production company for financial assistance from
19 the program that the authority shall retain a security interest in the
20 assets of the film production company including, but not limited to, all
21 revenues, payments, money and proceeds generated by the company's
22 film project, to the extent necessary to insure the authority's full
23 recovery of the amount of any financial assistance. Prior to the
24 granting of any financial assistance, the authority shall require the film
25 production company to enter into a faithful performance bond or
26 similar security with the authority in such form, amount and terms as
27 shall be determined by the authority.

28

29 6. (New section) Within two years of the effective date of P.L. ,
30 c. (C.) (now before the Legislature as this bill), the authority shall
31 submit a written report to the Governor and the Legislature describing
32 the status of the program, the demand for the program, the total
33 amount of financial assistance awarded by the authority from the
34 program and an assessment of the success of the program in meeting
35 the goals of this act and any recommendations for improving the
36 operation and effectiveness of the program.

37

38 7. (New section) The authority shall adopt, pursuant to the
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
40 seq.), any rules and regulations necessary to effectuate the purposes
41 of this act.

42

43 8. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read as
44 follows:

45 5. The authority shall have the following powers:

46 a. To adopt bylaws for the regulation of its affairs and the conduct

- 1 of its business;
- 2 b. To adopt and have a seal and to alter the same at pleasure;
- 3 c. To sue and be sued;
- 4 d. To acquire in the name of the authority by purchase or
5 otherwise, on such terms and conditions and such manner as it may
6 deem proper, or by the exercise of the power of eminent domain in the
7 manner provided by the "Eminent Domain Act of 1971," P.L.1971,
8 c.361 (C.20:3-1 et seq.), any lands or interests therein or other
9 property which it may determine is reasonably necessary for any
10 project or school facilities project; provided, however, that the
11 authority in connection with any project shall not take by exercise of
12 the power of eminent domain any real property except upon consent
13 thereto given by resolution of the governing body of the municipality
14 in which such real property is located; and provided further that the
15 authority shall be limited in its exercise of the power of eminent
16 domain in connection with any project to municipalities receiving State
17 aid under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or
18 to municipalities which had a population, according to the latest
19 federal decennial census, in excess of 10,000;
- 20 e. To enter into contracts with a person upon such terms and
21 conditions as the authority shall determine to be reasonable, including,
22 but not limited to, reimbursement for the planning, designing,
23 financing, construction, reconstruction, improvement, equipping,
24 furnishing, operation and maintenance of the project or the school
25 facilities project and to pay or compromise any claims arising
26 therefrom;
- 27 f. To establish and maintain reserve and insurance funds with
28 respect to the financing of the project or the school facilities project
29 and any project financed pursuant to the "Municipal Rehabilitation and
30 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);
- 31 g. To sell, convey or lease to any person all or any portion of a
32 project or school facilities project, for such consideration and upon
33 such terms as the authority may determine to be reasonable;
- 34 h. To mortgage, pledge or assign or otherwise encumber all or any
35 portion of a project, school facilities project or revenues, whenever it
36 shall find such action to be in furtherance of the purposes of this act,
37 P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation
38 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);
- 39 i. To grant options to purchase or renew a lease for any of its
40 projects or school facilities projects on such terms as the authority may
41 determine to be reasonable;
- 42 j. To contract for and to accept any gifts or grants or loans of
43 funds or property or financial or other aid in any form from the United
44 States of America or any agency or instrumentality thereof, or from
45 the State or any agency, instrumentality or political subdivision
46 thereof, or from any other source and to comply, subject to the

1 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
2 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
3 and the "Municipal Rehabilitation and Economic Recovery Act,"
4 P.L.2002, c.43 (C.52:27BBB-1 et al.) with the terms and conditions
5 thereof;

6 k. In connection with any application for assistance under
7 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
8 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.) or the "Municipal
9 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
10 (C.52:27BBB-1 et al.) or commitments therefor, to require and collect
11 such fees and charges as the authority shall determine to be
12 reasonable;

13 l. To adopt, amend and repeal regulations to carry out the
14 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
15 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
16 and the "Municipal Rehabilitation and Economic Recovery Act,"
17 P.L.2002, c.43 (C.52:27BBB-1 et al.);

18 m. To acquire, purchase, manage and operate, hold and dispose of
19 real and personal property or interests therein, take assignments of
20 rentals and leases and make and enter into all contracts, leases,
21 agreements and arrangements necessary or incidental to the
22 performance of its duties;

23 n. To purchase, acquire and take assignments of notes, mortgages
24 and other forms of security and evidences of indebtedness;

25 o. To purchase, acquire, attach, seize, accept or take title to any
26 project or school facilities project by conveyance or by foreclosure,
27 and sell, lease, manage or operate any project or school facilities
28 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1 et
29 al.), and the "Municipal Rehabilitation and Economic Recovery Act,"
30 P.L.2002, c.43 (C.52:27BBB-1 et al.);

31 p. To borrow money and to issue bonds of the authority and to
32 provide for the rights of the holders thereof, as provided in P.L.1974,
33 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1),
34 P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation
35 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

36 q. To extend credit or make loans to any person for the planning,
37 designing, acquiring, constructing, reconstructing, improving,
38 equipping and furnishing of a project or school facilities project, which
39 credits or loans may be secured by loan and security agreements,
40 mortgages, leases and any other instruments, upon such terms and
41 conditions as the authority shall deem reasonable, including provision
42 for the establishment and maintenance of reserve and insurance funds,
43 and to require the inclusion in any mortgage, lease, contract, loan and
44 security agreement or other instrument, such provisions for the
45 construction, use, operation and maintenance and financing of a
46 project or school facilities project as the authority may deem necessary

1 or desirable;

2 r. To guarantee up to 90% of the amount of a loan to a person, if
3 the proceeds of the loan are to be applied to the purchase and
4 installation, in a building devoted to industrial or commercial
5 purposes, or in an office building, of an energy improvement system;

6 s. To employ consulting engineers, architects, attorneys, real estate
7 counselors, appraisers, and such other consultants and employees as
8 may be required in the judgment of the authority to carry out the
9 purposes of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001,
10 c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), and the
11 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,
12 c.43 (C.52:27BBB-1 et al.) and to fix and pay their compensation from
13 funds available to the authority therefor, all without regard to the
14 provisions of Title 11A of the New Jersey Statutes;

15 t. To do and perform any acts and things authorized by P.L.1974,
16 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1),
17 P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation
18 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.)
19 under, through or by means of its own officers, agents and employees,
20 or by contract with any person;

21 u. To procure insurance against any losses in connection with its
22 property, operations or assets in such amounts and from such insurers
23 as it deems desirable;

24 v. To do any and all things necessary or convenient to carry out its
25 purposes and exercise the powers given and granted in P.L.1974, c.80
26 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1),
27 P.L.2000, c.72 (C.18A:7G-1 et al.), and the "Municipal Rehabilitation
28 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

29 w. To construct, reconstruct, rehabilitate, improve, alter, equip,
30 maintain or repair or provide for the construction, reconstruction,
31 improvement, alteration, equipping or maintenance or repair of any
32 development property and lot, award and enter into construction
33 contracts, purchase orders and other contracts with respect thereto,
34 upon such terms and conditions as the authority shall determine to be
35 reasonable, including, but not limited to, reimbursement for the
36 planning, designing, financing, construction, reconstruction,
37 improvement, equipping, furnishing, operation and maintenance of any
38 such development property and the settlement of any claims arising
39 therefrom and the establishment and maintenance of reserve funds with
40 respect to the financing of such development property;

41 x. When authorized by the governing body of a municipality
42 exercising jurisdiction over an urban growth zone, to construct, cause
43 to be constructed or to provide financial assistance to projects in an
44 urban growth zone which shall be exempt from the terms and
45 requirements of the land use ordinances and regulations, including, but
46 not limited to, the master plan and zoning ordinances, of such

- 1 municipality;
- 2 y. To enter into business employment incentive agreements as
3 provided in the "Business Employment Incentive Program Act,"
4 P.L.1996, c.26 (C.34:1B-124 et al.);
- 5 z. To undertake school facilities projects and to enter into
6 agreements or contracts, execute instruments, and do and perform all
7 acts or things necessary, convenient or desirable for the purposes of
8 the authority to carry out any power expressly provided pursuant to
9 P.L.1974, c.80 (C.34:1B-1 et seq.) and P.L.2000, c.72 (C.18A:7G-1
10 et al.), including, but not limited to, entering into contracts with the
11 State Treasurer, the Commissioner of Education, districts and any
12 other entity which may be required in order to carry out the provisions
13 of P.L.2000, c.72 (C.18A:7G-1 et al.);
- 14 aa. To enter into leases, rentals or other disposition of a real
15 property interest in and of any school facilities project to or from any
16 local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.);
- 17 bb. To make and contract to make loans or leases and to make
18 grants to local units to finance the cost of school facilities projects and
19 to acquire and contract to acquire bonds, notes or other obligations
20 issued or to be issued by local units to evidence the loans or leases, all
21 in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et
22 al.);
- 23 cc. Subject to any agreement with holders of its bonds issued to
24 finance a project or school facilities project, obtain as security or to
25 provide liquidity for payment of all or any part of the principal of and
26 interest and premium on the bonds of the authority or for the purchase
27 upon tender or otherwise of the bonds, lines of credit, letters of credit,
28 reimbursement agreements, interest rate exchange agreements,
29 currency exchange agreements, interest rate floors or caps, options,
30 puts or calls to hedge payment, currency, rate, spread or similar
31 exposure or similar agreements, float agreements, forward agreements,
32 insurance contract, surety bond, commitment to purchase or sell
33 bonds, purchase or sale agreement, or commitments or other contracts
34 or agreements, and other security agreements or instruments in any
35 amounts and upon any terms as the authority may determine and pay
36 any fees and expenses required in connection therewith;
- 37 dd. To charge to and collect from local units, the State and any
38 other person, any fees and charges in connection with the authority's
39 actions undertaken with respect to school facilities projects, including,
40 but not limited to, fees and charges for the authority's administrative,
41 organization, insurance, operating and other expenses incident to the
42 financing, construction and placing into service and maintenance of
43 school facilities projects;
- 44 ee. To make loans to refinance solid waste facility bonds through
45 the issuance of bonds or other obligations and the execution of any
46 agreements with counties or public authorities to effect the refunding

1 or rescheduling of solid waste facility bonds, or otherwise provide for
2 the payment of all or a portion of any series of solid waste facility
3 bonds. Any county or public authority refunding or rescheduling its
4 solid waste facility bonds pursuant to this subsection shall provide for
5 the payment of not less than fifty percent of the aggregate debt service
6 for the refunded or rescheduled debt of the particular county or public
7 authority for the duration of the loan; except that, whenever the solid
8 waste facility bonds to be refinanced were issued by a public authority
9 and the county solid waste facility was utilized as a regional county
10 solid waste facility, as designated in the respective adopted district
11 solid waste management plans of the participating counties as
12 approved by the department prior to November 10, 1997, and the
13 utilization of the facility was established pursuant to tonnage
14 obligations set forth in their respective interdistrict agreements, the
15 public authority refunding or rescheduling its solid waste facility bonds
16 pursuant to this subsection shall provide for the payment of a
17 percentage of the aggregate debt service for the refunded or
18 rescheduled debt of the public authority not to exceed the percentage
19 of the specified tonnage obligation of the host county for the duration
20 of the loan. Whenever the solid waste facility bonds are the obligation
21 of a public authority, the relevant county shall execute a deficiency
22 agreement with the authority, which shall provide that the county
23 pledges to cover any shortfall and to pay deficiencies in scheduled
24 repayment obligations of the public authority. All costs associated
25 with the issuance of bonds pursuant to this subsection may be paid by
26 the authority from the proceeds of these bonds. Any county or public
27 authority is hereby authorized to enter into any agreement with the
28 authority necessary, desirable or convenient to effectuate the
29 provisions of this subsection.

30 The authority shall not issue bonds or other obligations to effect the
31 refunding or rescheduling of solid waste facility bonds after December
32 31, 2002. The authority may refund its own bonds issued for the
33 purposes herein at any time;

34 ff. To pool loans for any local government units that are refunding
35 bonds and do and perform any and all acts or things necessary,
36 convenient or desirable for the purpose of the authority to achieve
37 more favorable interest rates and terms for those local governmental
38 units; [and]

39 gg. To finance projects approved by the board, provide staff
40 support to the board, oversee and monitor progress on the part of the
41 board in carrying out the revitalization, economic development and
42 restoration projects authorized pursuant to the "Municipal
43 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
44 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities
45 pursuant thereto; and

46 hh. To offer financial assistance to qualified film production

1 companies as provided in the "New Jersey Film Production Assistance
2 Act," P.L. , c. (C.)(now before the Legislature as this bill).
3 (cf: P.L.2002, c.43, s.41)

4
5 9. This act shall take effect immediately.

6
7
8 STATEMENT

9
10 This bill establishes the New Jersey Film Production Assistance
11 Program (hereinafter "the program") in the New Jersey Economic
12 Development Authority (hereinafter "the authority"). The purpose of
13 the program is to provide incentives to the film industry by providing
14 loan guarantees to film production companies to attract more film
15 projects to this State.

16 The bill requires the authority to develop eligibility criteria for the
17 financial assistance based upon the following factors: 1) more than 70
18 percent of the shooting days of a film project must be located in New
19 Jersey and at least 50 percent of the amount of the below-the-line
20 expenses of the operating budget of the film project is spent in New
21 Jersey; 2) film production companies must have obtained a minimum
22 of one-half of the total productions costs from other sources; 3) such
23 companies must provide in their employment contracts that not less
24 than the prevailing wage rate be paid to workers employed in the
25 performance of contracts in connection with a proposed project,
26 including construction, reconstruction, rehabilitation or demolition of
27 property and improvements thereon; 4) such companies have posted
28 such financial security as the authority deems necessary; and 5) such
29 companies propose a film project that does not contain content or
30 material of such nature that the project could receive a rating or
31 designation (a) of "NC-17: No One 17 And Under Admitted" by the
32 Classification and Rating Administration or an equivalent rating if this
33 rating is changed by the Classification and Rating Administration or
34 any successor entity, as appropriate, (b) of "TVMA: Mature Audience
35 Only" by the TV Parental Guidelines Monitoring Board or an
36 equivalent rating if this rating is changed by the TV Parental
37 Guidelines Monitoring Board or any successor entity, as appropriate,
38 or (c) that is suitable for adult viewing only. With regard to
39 employment contracts where the prevailing wage rate is paid, it is
40 hoped that such contracts are entered with New Jersey-based labor
41 organizations involved in the film industry. If at any time the authority
42 determines that a film production company does not meet such criteria,
43 any financial assistance provided shall be withdrawn or any financial
44 assistance to be provided shall be rendered null and void, as
45 appropriate.

46 The bill further requires the authority to utilize the program to

1 stimulate greater investment in this State by film production companies
2 through measures that include, but are not limited to: identifying low-
3 interest loans or tax credits that may be available from the State or
4 from federal government agencies or private organizations to promote
5 the planning and development of film projects in this State; and, in
6 consultation with the Department of the Treasury, identifying existing
7 surplus State property that could be utilized by film production or
8 distribution companies for film projects.

9 The bill provides that the authority shall use the moneys available
10 for the program to provide, for a period of five years after the
11 effective date of the bill, financial assistance to film production
12 companies deemed eligible and to defray the administrative expenses
13 of carrying out the purposes and provisions of the bill. Such
14 administrative expenses may be used by the authority to employ an
15 administrator and additional personnel or consultants to oversee the
16 operations of the program and to prepare any reports or other
17 documentation regarding the program with the assistance of the
18 authority.

19 The bill provides that within 30 days of the end of the five-year
20 period, the authority is to determine whether sufficient interest in
21 financial assistance from qualified film production companies warrants
22 the continuation of the program and the authority may discontinue the
23 program at the end of such period if the authority determines that such
24 interest is not evident. The authority shall notify the Governor and
25 Legislature of its decision and issue a report of its findings and any
26 suggestions for improvement to the program if such suggestions are
27 warranted.

28 The bill provides that the maximum amount of any loan that is
29 guaranteed by the authority and is to be provided to a film production
30 company shall not exceed either \$1,500,000 per film project, or an
31 amount that is no greater than 30 percent of any loan for the film
32 project that is derived from private sources, whichever amount is less.
33 The authority shall not have a balance outstanding of all loans
34 guaranteed of an amount greater than \$10 million at any time, except
35 that the authority may increase this amount if the authority determines
36 that the demand for financial assistance warrants such increase.

37 The bill provides that the authority shall provide in any agreement
38 between the authority and a film production company for financial
39 assistance from the program that the authority shall retain a security
40 interest in the assets of the film production company including, but not
41 limited to, all revenues, payments, money and proceeds generated by
42 the company's film project, to the extent necessary to insure the
43 authority's full recovery of the amount of any financial assistance.
44 Prior to the granting of any financial assistance, the authority shall
45 require the film production company to enter into a faithful
46 performance bond or similar security with the authority in such form,

S2491 VITALE

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1 amount and terms as shall be determined by the authority.

2 The bill requires the authority to report to the Governor and the
3 Legislature within two years of the bill's effective date on the status of
4 the program.

SENATE ECONOMIC GROWTH, AGRICULTURE AND
TOURISM COMMITTEE

STATEMENT TO

SENATE, No. 2491

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 15, 2003

The Senate Economic Growth, Agriculture and Tourism Committee reports favorably and with committee amendments Senate Bill No. 2491.

This bill, as amended, establishes the New Jersey Film Production Assistance Program (hereinafter "the program") in the New Jersey Economic Development Authority (hereinafter "the authority"). The purpose of the program is to provide financial incentives to the film industry by providing loan guarantees to film production companies to attract more film projects to this State.

As amended, the bill requires the authority to develop eligibility criteria for the financial assistance based upon the following factors: 1) more than 70 percent of the shooting days of a film project shall be located in New Jersey and at least 50 percent of the amount of the below-the-line expenses of the operating budget of the film project shall be spent in New Jersey; 2) film production companies must obtain a minimum of one-half of the total production costs from other sources; 3) such companies must provide in their employment contracts that not less than the prevailing wage rate be paid to workers employed in the performance of contracts in connection with a proposed project, including construction, reconstruction, rehabilitation or demolition of property and improvements thereon; and 4) such companies shall have posted such financial security as the authority deems necessary.

If at any time the authority determines that a film production company does not meet such criteria, any financial assistance provided shall be withdrawn or any financial assistance to be provided shall be rendered null and void, as appropriate. With regard to employment contracts where the prevailing wage rate is paid, it is hoped that every effort will be made to execute such contracts with New Jersey-based labor organizations involved in the film industry.

The bill further requires the authority to utilize the program to stimulate greater investment in this State by film production companies through measures that include, but are not limited to: identifying low-

interest loans or tax credits that may be available from the State or from federal government agencies or private organizations to promote the planning and development of film projects in this State; and, in consultation with the Department of the Treasury, identifying existing surplus State property that could be utilized by film production or distribution companies for film projects.

The bill provides that the authority shall use the moneys available for the program to provide, for a period of five years after the effective date of the bill, financial assistance to film production companies deemed eligible and to defray the administrative expenses of carrying out the purposes and provisions of the bill. Such administrative expenses may be used by the authority to employ an administrator and additional personnel or consultants to oversee the operations of the program and to prepare any reports or other documentation regarding the program with the assistance of the authority. Such administrator, additional personnel or consultants shall review each application for financial assistance for the purpose of assisting the authority in an investigation and analysis of the financial soundness of the film project or film production company.

The bill provides that, within 30 days of the end of the five-year period, the authority is to determine whether sufficient interest in financial assistance from qualified film production companies warrants the continuation of the program. The authority may discontinue the program at the end of that period if the authority determines that such interest is not evident. The authority shall notify the Governor and Legislature of its decision and issue a report of its findings and any suggestions for improvement to the program.

The bill provides that the maximum amount of any loan that is guaranteed by the authority and is to be provided to a film production company shall not exceed either \$1,500,000 per film project, or an amount that is no greater than 30 percent of any loan for the film project that is derived from private sources, whichever amount is less. The authority shall not have a balance outstanding of all loans guaranteed of an amount greater than \$10 million at any time, except that the authority may increase this amount if the authority determines that the demand for financial assistance warrants such increase.

The bill requires that, in any agreement between the authority and a film production company for financial assistance from the program, the authority shall: (1) retain a security interest in the assets of the film production company including, but not limited to, all revenues, payments, money and proceeds generated by the company's film project, to the extent necessary to insure the authority's full recovery of the amount of any financial assistance; and (2) receive a percentage of the film project's revenues if significant financial success is achieved by such film project, as determined by the authority. Prior to the granting of any financial assistance, the authority shall require the film production company to enter into a faithful performance bond, completion bond or similar security with the authority in such form,

amount and terms as shall be determined by the authority. The authority may assess a commitment fee with respect to the requirement of the performance bond, completion bond or similar security.

The bill requires the authority to report to the Governor and the Legislature within two years of the bill's effective date on the status of the program.

The committee amended the bill to delete the eligibility provision that a film project shall not contain content or material of such nature that such project could receive a rating or designation (a) of "NC-17: No One 17 And Under Admitted" by the Classification and Rating Administration, (b) of "TVMA: Mature Audience Only" by the TV Parental Guidelines Monitoring Board, or (c) that is suitable for adult viewing only. Instead, the amendments revise the definition of "film project" in the bill so as to exclude certain programs based on federal record keeping requirements, thereby prohibiting funding under the bill for projects depicting sexually explicit conduct.

The committee amendments also provide that the authority : (1) shall hire an administrator, additional personnel or consultants to review each application for financial assistance for the purpose of assisting the authority in an investigation and analysis of the financial soundness of the film project or film production company; (2) receive a percentage of the film project's revenues if significant financial success is achieved by such film project, as determined by the authority; and (3) in addition to requiring the film production company to enter into a faithful performance bond, or similar security with the authority, the company would be required to enter into a completion bond in such form, amount and terms as determined by the authority and the authority may assess a commitment fee with respect to the requirement of the performance bond, completion bond or similar security.

STATEMENT TO

[First Reprint]

SENATE, No. 2491

with Senate Floor Amendments
(Proposed By Senator VITALE)

ADOPTED: MAY 29, 2003

These amendments remove the provisions that the authority: (1) shall receive a percentage of the film project's revenues if significant financial success is achieved by such film project, as determined by the authority; and (2) may assess a commitment fee with respect to the requirement of the performance bond, completion bond or similar security. The amendments make the bill identical to Assembly Bill No. 3423(2R).

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Press Releases

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RELEASE: September 15, 2003

[Previous Screen](#)

McGreevey Brings More Film Production Jobs to the State

Governor Signs Bill Giving Economic Incentives to Film Companies

(HADDONFIELD) – Recognizing that creating jobs for New Jersey must be our top priority, Governor James E. McGreevey signed into law today the New Jersey Film Production Assistance Program, which is designed to attract more film industry projects to the State.

“While over 325,000 jobs have been lost across the country this year, we have created nearly 35,000 new jobs, and are the only state among the eight most populous in the nation whose unemployment is below the national average. But I am by no means satisfied,” said McGreevey. “The Film Production Assistance Program is yet another way we are bringing new business and new jobs to the State.” National research shows that for every dollar spent in film production, two dollars on average is created in additional spending.

To kick off the initiative, the Governor was joined by a host of celebrities including William Baldwin, Alec Baldwin, Paul Sorvino and Michelle Lee, as well as *Sopranos*’ actors Federico Castelluccio and Vincent Curatola. Also at the event was legislative sponsor Assemblyman Louis Greenwald, as well as New Jersey Film Commission Chairman Michael Proscia and New Jersey AFL-CIO President Charles Wowkanech.

The New Jersey Film Production Assistance Program is designed to attract greater industry investments and create more jobs. The program offers guaranteed loans and tax credits, in addition to State surplus property that could be used for projects. Until now, film projects did not meet Economic Development Authority (EDA) eligibility requirements because of their temporary nature. Previously, EDA’s enabling legislation, required that for each \$35,000 in EDA financing, at least one permanent, full-time job be created. The new law amends EDA’s enabling legislation requiring applicants for assistance to create permanent jobs.

"With this bill, we designed an incentive program around the needs of the film industry with elements such as changing EDA requirements to allow for temporary projects like filming a movie or offering State surplus property for a television series," said McGreevey. "This film program is representative of ways we can be smarter and more innovative to prosper in these tough economic times."

To be eligible for the program, at least one-half of material and production costs must be spent in

New Jersey, more than two-thirds (70 percent) of the shooting days must take place in the State, and the prevailing wage must be paid to workers employed in a project under the program. Loan guarantees cannot not exceed 30 percent of the bank financing cost of the project, or \$1.5 million, whichever is lower, and the project must possess performance bonds.

If at any time the EDA determines that a film production company does not meet the established criteria, financial assistance can be withdrawn.

“This new law is opening up this incentive program to the film industry,” said EDA Executive Director Caren Franzini. “The good news for New Jersey is that this new financing tool to attract this industry to our state has no impact on the state budget.”

Franzini noted that the EDA does not utilize monies from the state general fund for its EDA’s loan guarantee program, which goes unchanged by the new law. Under the new law, the EDA will guarantee repayment of a portion of the principal of a loan made by a bank or other financial institution.

The EDA will also propose regulations which will require that the distribution of the film be verified prior to receiving EDA assistance, and that funding must already be in place through a financial institution with film industry experience.

"New Jersey cannot afford to sit back and watch film production companies be lured away to Canada and Europe," said Assemblyman Louis D. Greenwald (D-Camden). "New Jersey already offers a full spectrum of shooting locations, an ample source of supporting businesses and a readily available workforce. The assistance program will complement these characteristics by providing the economic incentive needed to attract the film and TV industry in today's fiscal climate."

"New Jersey is the birthplace of many well-known, respectable actors," said Assemblyman Anthony Impreveduto (D-Hudson). "Fostering a healthy production industry within the state will put New Jersey on the map for making movies and TV shows, as well. The Film Industry Assistance Program will bring in more revenue and give New Jerseyans another reason to be proud of their state."

"With this measure, New Jersey is finally going to have the opportunity to make a name for itself as a national leader in film production," said Senator Joseph F. Vitale, D-Middlesex. "Today marks the beginning of an exciting time for our state, as we welcome an industry which will create thousands of jobs for New Jersey residents."

"This law will ensure that New Jersey no longer loses valuable, job-creating film projects to other countries and other states in the U.S.," said Senator Shirley K. Turner, D-Mercer. "New Jersey is a richly diverse state and cities like Trenton are in a unique position to experience economic revitalization through this new state industry."

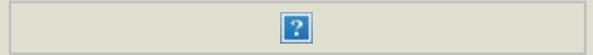
In addition, under regulations, EDA could also place a program incentive fee on the project, enabling the Authority to be compensated on a percentage of the loan guarantee amount. This would allow the Authority to benefit from film products that are successful, which would help the Authority defray the costs of those projects that do not see profits and are unable to honor their bank loan, thus exposing the Authority. Sponsors have indicated their desire to work with EDA on this issue.

Under the McGreevey Administration, the EDA has invested \$1.4 billion in 493 projects, supporting 2,632 new jobs and 7,192 construction jobs.

At the present, more than 30 states offer film industry incentives to create more jobs in their state, with more competition coming from abroad in places like Canada, Australia and New Zealand. This past year the New Jersey film and television industry enjoyed its most successful year ever. A record 801 productions were filmed, generating \$70.2 million. *Variety* magazine, in its most

recent survey, ranked New Jersey as the fifth most active state for film and television production in the nation.

The New Jersey Film Production Assistance Program will serve as yet another economic engine for the state. Earlier this month, the Governor highlighted ways that the business sector can use the new BEIP program to their advantage. Both programs focus on job creation and long-term economic development.



State of New Jersey Governor's Office

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