

## OTHER AGENCIES

### (a)

#### ECONOMIC DEVELOPMENT AUTHORITY

##### Authority Assistance Programs

##### Garden State Film and Digital Media Jobs Program

##### Specially Adopted and Concurrently Proposed

##### Amendments: N.J.A.C. 19:31T-1.1, 1.2, 1.3, 1.4, and 1.6 through 1.11

Filed: November 18, 2025, as R.2026 d.001.

Authority: P.L. 2025, c. 81.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Concurrent Proposal Number: PRN 2026-001.

Effective Date: November 18, 2025.

Expiration Date: May 17, 2027.

Submit written comments by March 6, 2026, to:

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**Take notice** that in accordance with P.L. 2025, c. 81, the New Jersey Economic Development Authority (“NJEDA” or “Authority”) has specially adopted the following amendments to implement the provisions of the Garden State Film and Digital Media Jobs Act, N.J.S.A. 54:10A-5.39b and 54A:4-12b, as amended at P.L. 2025, c. 81. The specially adopted amendments became effective on November 18, 2025, upon acceptance for filing by the Office of Administrative Law (OAL). The specially adopted amendments shall be effective for a period not to exceed 365 days from the date of filing, that is, until November 18, 2026.

Concurrently, the rule amendments are being proposed for readoption in accordance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. As the NJEDA has filed this notice of readoption before November 18, 2026, the expiration date is extended 180 days to May 17, 2027, pursuant to N.J.S.A. 52:14B-5.1.c. The concurrently proposed amendments will become effective and permanent upon acceptance for filing by the OAL (see N.J.A.C. 1:30-6.4(f)), if filed on or before May 17, 2027.

The specially adopted and concurrently proposed new rules follow:

#### Summary

##### Summary of the Rulemaking and Legislative History

The film tax credit program was first created in 2005 pursuant to P.L. 2005, c. 345, and codified at N.J.S.A. 54:10A-5.39 and 54A:4-12. Since that time, it has been repeatedly amended, sunset, and reinstated in 2018, at P.L. 2018, c. 56, as the Garden State Film and Digital Media Jobs Act and recodified at N.J.S.A. 54:10A-5.39b and 54A:4-12b, and significantly amended by P.L. 2019, c. 506, the New Jersey Economic Recovery Act of 2020 (ERA), P.L. 2020, c. 156, and seven additional bills.

On August 1, 2022, the NJEDA published proposed amendments and proposed new rules for the Garden State Film and Digital Media Jobs Program (Program), pursuant to P.L. 2019, c. 506; P.L. 2020, c. 156; P.L. 2021, c. 160; and P.L. 2021, c. 367, in the New Jersey Register. See 54 N.J.R. 1530(a).

Thereafter, legislative changes were enacted. On July 6, 2023, Governor Murphy signed P.L. 2023, c. 97 (Chapter 97) into law. Most notably Chapter 97 extended the Program through 2039; increased the annual cap on tax credits for a studio partner and a film-lease production company; increased the percentage of qualified film production expenses available to a studio partner and film-lease production company; created

annual tax credit caps for studio partners and film-lease production companies; created the concept of a “film-lease partner facility”; replaced “film-lease partner” with “film-lease production company”; and revised diversity plan credit requirements. Chapter 97 authorized the NJEDA to specially adopt rules. The August 1, 2022, notice of proposal was superseded by Chapter 97 and allowed to expire. Pursuant to Chapter 97, the NJEDA filed specially adopted and concurrently proposed amendments and new rules on February 26, 2024. The specially adopted amendments and new rules became effective upon filing and were published in the April 1, 2024 New Jersey Register. See 56 N.J.R. 491(a).

Legislative changes were again enacted when P.L. 2024, c. 33 (Chapter 33) was signed into law on July 10, 2024. Most notably, Chapter 33 expanded the Program to allow expenses for certain post-production services and payments made to loan out companies; created a definition for “independent post-production company”; and created a new category of applicants for “taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies” with a tax credit cap of \$300 million for 2025 and provisions for reallocating tax credits set aside for these entities, but not awarded. On May 22, 2025, the NJEDA filed a readoption of the specially adopted rule amendments and new rules with substantial changes reflecting Chapter 33, which was published in the June 16, 2025 New Jersey Register. See 57 N.J.R. 1226(a).

Thereafter, on June 30, 2025, P.L. 2025, c. 81 (Chapter 81) was signed into law, implementing additional changes, including extending the Program to 2049; increasing the allowable tax credits for studio partners to 40 percent of qualified film production expenses; and creating a new class of applicant, “New Jersey film-lease post-production company.” Chapter 81 also expanded the definition of “film”; created definitions for “qualified post-production company” and “New Jersey film-lease post-production company,” and removed the term “independent post-production company.” It allowed for a safe harbor period of up to two years, pausing recapture, when an entity fails to occupy required space at a film-lease production facility and provides that no recapture of tax credits shall occur when a studio partner, film-lease production company, or a film-lease post-production company fails to occupy a production facility for any reason outside of its control. Chapter 81 also limited recapture to the initial tax credit award recipient and allowed certain insurance premiums, total producer fees, total rights fees, and script costs incurred by a studio partner or film-lease production company to be considered qualified film production expenses in specified conditions. Chapter 81 eliminated the diversity plan bonus going forward, while allowing applicants bonuses for submitting a plan outlining specific goals for hiring residents of an economically disadvantaged area in the State, a distressed municipality, or land owned by the Federal government on or before December 31, 2005, as well as for satisfying certain criteria associated with promoting New Jersey in films.

The Authority filed notice of adoption of the amendments and new rules updating the Garden State Film and Digital Media Jobs Program pursuant to P.L. 2019, c. 506; P.L. 2020, c. 156; P.L. 2021, c. 160, P.L. 2021, c. 367; P.L. 2023, c. 97; and P.L. 2024, c. 33, with the OAL on October 24, 2025, effective December 1, 2025. See 57 N.J.R. 2693(a).

##### Summary of the Specially Adopted and Concurrently Proposed Amendments

##### N.J.A.C. 19:31T-1.1 Applicability and Scope

This section is revised to include a cross-reference to Chapter 81, the most recent law amending the Garden State Film and Digital Media Jobs Act.

##### N.J.A.C. 19:31T-1.2 Definitions

This section is revised to incorporate new terms, amend existing terms, and delete terms pursuant to Chapter 81. Specifically, the following new terms are added to the rules: “digital media project,” “economically disadvantaged area,” “New Jersey film-lease post-production company,” “New Jersey film-lease post-production company tenant,” “New Jersey film-lease production company tenant,” “Out-of-State producer fees,” “qualified post-production company,” “reason outside the control,” and

“script costs.” The following terms are amended to support the Program: “applicant,” “commitment period,” “deferred compensation,” “eligibility period,” “film,” “full-time or full-time equivalent employee,” “highly compensated individual,” “New Jersey film-lease production company,” “New Jersey studio partner,” “qualified digital media content production expenses,” “qualified film production expenses,” “qualified wage and salary payments,” “tax credit vintage year,” “television series,” “total digital media content production expenses” and “total film production expenses.”

“Applicant” is amended to specify that a person or entity applying for a tax credit for qualified digital media content production expenses includes, but is not limited to, a film-lease post-production company.

“Commitment period” is amended to clarify that the commitment period continues for a minimum of 10 years after the commencement of the eligibility period and expires upon the studio partner’s notice to the Authority or non-compliance after the 10-year minimum period.

“Deferred compensation” is amended to clarify that the additional payments mentioned in the definition are those that are incurred after film completion.

“Eligibility period” is amended to replace “10 years after the issuance of the temporary certificate of occupancy or the commencement of the lease term described at paragraph (a)2 above” at paragraph (b) with “when the commitment period ends.”

“Film” is amended to include “film project” as an alternate term for “film” and to provide different reality show episode requirements for applications submitted on or before June 30, 2025, and after June 30, 2025. This definition is further amended for applicants applying on the basis of a studio partner designation to include certain ongoing television productions that relocated to a New Jersey production facility that is leased or owned by the studio partner, which is the basis for its studio partner designation.

“Full-time or full-time equivalent employee” is amended by replacing the term “wages” with “wages, salaries, and other compensation.”

“Highly compensated individual” is amended to provide different compensation limits for applications submitted on or before June 30, 2025, and after June 30, 2025, and to make a grammatical change for clarity.

“New Jersey film-lease production company” or “film-lease production company” is amended at paragraph (a) to state that an applicant that constitutes “any other entity in which the film-lease production company has a material ownership interest of at least 30 percent” must also have oversight of the operations of the entity applying, as demonstrated by the control of at least one board of director position or other management responsibilities, which may include the right to appoint managers, or having employees of the film-lease production company serve as the managers of the entity or have a material operational role in the film production, and to include a requirement that the applicant shoot at least 50 percent of the total principal photography shoot days of the film project in New Jersey. Subparagraph (a)1ii is amended to include qualified wage and salary payments and to replace the term “project” with “film project.” Subparagraph (a)2i is amended to add a new sub-subparagraph (3), which states that the lease or sublease with the owner or developer cannot be subleased to an entity that does not meet the definition of “film-lease production company,” such that the occupancy of the film-lease production company is less than the requirements at sub-subparagraphs (a)2i(1) and (2). Paragraph (b) is amended to replace “designated film-lease production company” with “film-lease production company tenant” throughout the paragraph. Paragraph (b) is further amended to state that the film-lease production company tenant must contract with the unrelated entity performing film production services on its behalf prior to qualified film production expenses being incurred and after the film-lease production company tenant satisfies the criteria at paragraph (a). The remainder of paragraph (b) was further divided into two new subparagraphs, with the first being the requirement that the film-lease production company tenant controls the film or product during preproduction, production, and postproduction, with the remainder of the original sentence being deleted, which refers to “works made for hire” and the second being an alternative requirement that the film-lease production company tenant controls global distribution rights for the resulting film or

other commercial audiovisual product. Grammatical changes were made for clarity.

“New Jersey studio partner” is amended at subparagraph (b)3 to specify that the contract that a film production company designated as a studio partner enters into with an unrelated entity principally engaged in the production of a film or other commercial audiovisual product must be entered into prior to the film production company incurring any qualified film production expenses and after the designation of the studio partner.

“Qualified digital media content production expenses” is amended to replace the phrase “wages and salaries” throughout the definition with “wages, salaries, and other compensation.”

“Qualified film production expenses” is amended to replace the phrase “wages and salaries” throughout the definition with “wages, salaries, and other compensation” and to separate the definition into subparagraphs (a) through (g). Paragraph (a) has been amended to improve grammar and clarity. New paragraph (b) is added to provide that for completed applications and expenses incurred after June 30, 2025 by a studio partner or film-lease production company that leases a film-lease partner facility for three years or more, certain expenses, including insurance premiums, total out-of-State producer fees, and total intellectual property rights fees may be considered qualified film production expenses, which shall be included in a percentage proportional to the percentage of principal photograph shoot days in the State. Paragraph (b) also defines “intellectual property rights,” which excludes script costs, and imposes a cap on cumulative expenses for total production insurance premiums, total out-of-State producer fees, and total intellectual property rights fees. New paragraph (c) is added to provide that for completed applications and expenses incurred after June 30, 2025 by a studio partner or film-lease production company that leases a film-lease partner facility for three years or more, certain script costs are considered qualified film production expenses, but after January 1, 2028, the approved applicant will also be required to satisfy the requirements at N.J.A.C. 19:31T-1.9(c)9 in order for certain script costs to be considered qualified film production expenses. The text regarding payments to loan out companies, independent contractors, and homeowners has been codified as paragraph (d). The text regarding deferred compensation has been codified as paragraph (e), and includes an updated citation. New language has been added to paragraph (e) which permits deferred compensation payments made directly to a bona fide labor union under certain circumstances to constitute qualified film production expenses. Exceptions to qualified film production expenses for intangible personal property, marketing and advertising films and expenses for a story, script or scenario, reality show, game show, competition show prizes or awards, and any costs included in another program application submitted to the Authority have been codified as paragraph (f). Paragraph (f) is amended to state that script costs, including the cost of script purchase by a studio partner or a film-lease production company, are not excluded pursuant to this section, and to delete the reference to taxpayers, other than studio partners and film-lease production companies, at the end of the section. The text regarding payment to a highly compensated individual has been codified as paragraph (g). The reference at paragraph (g) to studio partners and film-lease production companies who make a payment in excess of \$500,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines has been removed. The statement that exceptions listed are based on the qualified film production expenses in the State without including the excess amounts paid to highly compensated individuals has also been removed. Paragraphs (g)1 and 2 have been amended to include language clarifying how the limits on qualified film production expenses in the State are calculated for a studio partner and a film-lease production company, both paragraphs have been separated into subparagraphs, cross-references have been updated, and changes have been made for grammar and clarity. New subparagraph (g)1iii has been added which applies after June 30, 2025 to a studio partner spending over \$125,000,000 in certain qualified film production expenses for the production of a feature film, which allows certain amounts in excess of the payments made to highly compensated individuals, amounts paid for script costs, and certain amounts paid or incurred for deferred compensation to constitute qualified film production expenses.

“Qualified wage and salary payments” is amended to include “or other compensation” in addition to wage and salary payments incurred by the approved applicant, to delete “in New Jersey” from the definition, and to specify that such wages and salary payments or other compensation must be qualified film production expenses or qualified digital media content production expenses.

“Tax credit vintage year” is amended to replace the term “applicant” with “approved applicant” throughout the definition, to specify at paragraph (a) that the term “approval” means “initial approval,” and to provide, at paragraph (c), that for applications receiving initial approval, but not final approval before January 1, 2026, the approved applicant can elect on or after January 1, 2026, to use the tax credit vintage year described at paragraph (b).

“Television series” is amended to include “television production” as an alternate term for “television series” and to specify that a television series may be a single season in a multi-season production.

“Total digital media content production expenses” is amended to replace “wages and salaries” with “wages, salaries, and other compensation.”

“Total film production expenses” is amended to replace “wages and salaries” with “wages, salaries, and other compensation.”

The term “independent post-production company” is deleted from the rules.

#### N.J.A.C. 19:31T-1.3 Eligibility Criteria

N.J.A.C. 19:31T-1.3(a)1 is amended to change “wages and salaries” to “wages, salaries, and other compensation” at subparagraph (a)1i, and to replace “wages and salaries” at subparagraph (a)1ii with “qualified wage and salary payments.” This section is further amended to provide that subparagraph (a)1iii applies only to completed applications submitted on or before June 30, 2025. New subparagraph (a)1iv is added and establishes eligibility criteria for applications submitted after June 30, 2025.

New N.J.A.C. 19:31T-1.3(a)9 is added, establishing eligibility requirements for a film-lease production company that was designated as a studio partner when principal photography of the film commenced before the designation of the corresponding film-lease partner facility. Pursuant to this provision, a film-lease production company remains eligible provided that: principal photography began after the company was designated as a studio partner and, if applicable, after the date of the required agreement referenced at subparagraph (a)2ii of the definition of a film-lease production company; and the studio partner otherwise satisfies all the criteria necessary to qualify as a film-lease production company.

N.J.A.C. 19:31T-1.3(b)1i is amended to replace “wages and salaries” with “qualified wage and salary payments.”

N.J.A.C. 19:31T-1.3(b)1ii is amended to limit application of the provision to completed applications submitted after June 30, 2025, to change “post-production services” to “post-production costs,” and to make grammatical clarifications. New subparagraph (b)1ii(1)(A) is added to apply to a “film-lease partner facility” and describes a film-lease post-production company’s eligibility for qualified media content production expenses after the issuance of a temporary certificate of occupancy for the production facility, and which provides that a film-lease post-production company’s application may only include certain qualified digital media content production expenses incurred for post-production.

N.J.A.C. 19:31T-1.3(b)1(iii) is recodified as N.J.A.C. 19:31T-1.3(b)1ii(2) and amended to remove repetitive language. This subparagraph is further amended to reflect that this provision applies to a taxpayer that is a “qualified post-production company” instead of a “qualified independent post-production company,” and to include certain qualified digital media content production expenses incurred for post-production as eligible expenses.

N.J.A.C. 19:31T-1.3(c) is amended to include past tax withholdings and to add “other compensation” to a loan out company employees’ wages and salaries as qualified film production expenses and qualified digital media content production expenses.

N.J.A.C. 19:31T-1.3(e)1 is amended to replace “applicant” with the defined term “approved applicant.”

#### N.J.A.C. 19:31T-1.4 Application Submission Requirements

N.J.A.C. 19:31T-1.4(a)9 is amended to remove references to the diversity plan bonus and the increased diversity plan bonus amount and their respective eligibility criteria and replacing them with references to plans associated with new hiring and promote New Jersey bonuses described at N.J.A.C. 19:31T-1.6(o)3 and 4, and references to the bonus eligibility criteria set forth in those sections.

N.J.A.C. 19:31T-1.4(a)10 is amended by deleting subparagraph (a)10i, requiring that a reality show provide evidence of a capital investment and a production facility at least 20,000 square feet, through the beginning of subparagraph (a)10ii, which refers to applications submitted on or after the effective date of P.L. 2024, c. 33. Also, this subparagraph is amended to change the number of episodes that an applicant must provide evidence for being commissioned or ordered by a major linear network or streaming service from six to four for completed applications submitted after June 30, 2025, if a film production involves an eligible reality show.

N.J.A.C. 19:31T-1.4(a)12ii(2) is amended to specify that the copy of the production services agreement with the designated studio partner that must be supplied as part of a completed application for film tax credits is that for which the designated studio partner contracted with the applicant prior to qualified film production expenses being incurred and after the designation of the studio partner.

N.J.A.C. 19:31T-1.4(a)12ii(2)(B) is amended by deleting the provision requiring that the studio partner contracted with the unrelated entity prior to qualified film production expenses being incurred and after the designated studio partner was approved for such designation by the Authority, as this provision was relocated to N.J.A.C. 19:31T-1.4(a)12ii(2).

N.J.A.C. 19:31T-1.4(a)13 is amended by replacing “as a film-lease production company” with “on the basis of a film-lease partner facility designation” and changing “film-lease production company” to “film-lease production company tenant” throughout.

N.J.A.C. 19:31T-1.4(a)13v(2) is amended to codify the final clause as sub-sub-subparagraph (a)13v(2)(B) and to add that the film production referenced in an agreement submitted as evidence of the film-lease production company tenant’s operational role must be the film production that is the subject of the application. New sub-sub-subparagraph (a)13v(2)(A) is added to require that an applicant that is not the film-lease production company’s tenant but is seeking a film tax credit as a film-lease production company must provide evidence of control of at least one applicant board of directors’ position or other management responsibilities.

N.J.A.C. 19:31T-1.4(a)13v(3) is deleted and replaced to provide that an applicant that is an entity that is unrelated to the film-lease production company tenant but is principally engaged in the production of the film which is the subject of the application with whom the film-lease production company tenant contracts to perform film production services on its behalf must obtain written consent from the film-lease production company tenant in order to apply for tax credits, and must provide a copy of the production services agreement with the film-lease production company tenant, which must include certain evidence outlined at subparagraphs (a)13v(3)(A) and (B) that the film-lease production company tenant controls the subject film during pre-production, production, and post-production or control global distribution rights for the resulting film.

N.J.A.C. 19:31T-1.4(d)2 is amended by deleting “independent” from “qualified independent post-production company.”

N.J.A.C. 19:31T-1.4(d)4 is amended to state that a completed application for digital tax credits must include wages, salaries, “and other compensation” paid to New Jersey full-time or full-time equivalent employees in the required breakout of projected digital media content production expenses.

N.J.A.C. 19:31T-1.4(d)8 is amended to remove references to the diversity plan bonus and its eligibility criteria, replacing them with references to plans associated with the new hiring and promote New Jersey bonuses described at N.J.A.C. 19:31T-1.6(o)3 and 4.

N.J.A.C. 19:31T-1.4(d)9 is amended by replacing “developer” with “applicant.”

## SPECIAL ADOPTION

## OTHER AGENCIES

N.J.A.C. 19:31T-1.4(d)10 is added to describe the application submission requirements for an applicant seeking a digital media tax credit on the basis of a film-lease partner facility designation.

N.J.A.C. 19:31T-1.4(d)11 is added to state that a completed application for digital media tax credits submitted by film-lease post-production companies and qualified post-production companies must include a list of films for which post-production costs are incurred and a description of how each film satisfies the definition of film.

### N.J.A.C. 19:31T-1.5 Fees

N.J.A.C. 19:31T-1.5(e) is amended to update a cross-reference.

### N.J.A.C. 19:31T-1.6 Tax Credit Amounts; Amount; Carryforward of Tax Credits

N.J.A.C. 19:31T-1.6(a) and (b) are amended to update tax timelines consistent with Chapter 81.

N.J.A.C. 19:31T-1.6(a)4i(1) is amended to provide that the film tax credit of 35 percent of qualified film production expenses for film-lease production companies and studio partners applies to completed applications received on or before June 30, 2025.

New N.J.A.C. 19:31T-1.6(a)4i(2) is added to state that, for completed applications from studio partners received after June 30, 2025, a film tax credit of 40 percent of qualified film production expenses shall be allowed, and for film-lease production companies, a film tax credit of 35 percent shall be allowed.

N.J.A.C. 19:31T-1.6(b)1i is amended by replacing post-production "services" with post-production "costs" and to include post-production costs that are included by a film-lease post-production company as qualified digital media content production expenses.

N.J.A.C. 19:31T-1.6(b)1ii is amended by replacing "post-production services" with "post-production costs" and by deleting "independent" from "qualified independent post-production company."

N.J.A.C. 19:31T-1.6(b)3 is amended by deleting "but prior to July 10, 2024."

New N.J.A.C. 19:31T-1.6(c) is added to provide the order in which the amount of qualified film production expenses should be calculated.

New N.J.A.C. 19:31T-1.6(e) is added to provide that, for completed applications submitted on or before June 30, 2025, an approved applicant is allowed the tax credits described at subsections (a) and (b) corresponding to the tax credit vintage year.

New N.J.A.C. 19:31T-1.6(f) is added to provide that, for completed applications submitted after June 30, 2025, credits issued to approved applicants or assignees of tax credit transfer certificates may be taken in the tax period the credits are issued or in any tax period during the time an approved applicant is required to maintain the film project or digital media content project, subject to carryforward requirements consistent with Chapter 81.

Recodified subsection (o) is amended to clarify application deadlines and update cross-references. This subsection is further amended by adding a new paragraph (o)3 to provide a bonus tax credit equal to four percent of the qualified film production or digital media content production expenses for completed applications submitted after June 30, 2025, if the applicant also submits a plan that outlines specific hiring goals associated with residents of specified areas and indicates whether the applicant intends to participate in certain training, education, and recruitment programs in those areas.

New N.J.A.C. 19:31T-1.6(o)4 is added to provide a bonus tax credit equal to four percent of the qualified film production or digital media content production expenses for completed applications submitted after June 30, 2025, if the applicant submits a plan outlining specific goals to promote or invest in New Jersey, which includes at least four of the seven criteria listed in this paragraph.

New N.J.A.C. 19:31T-1.6(o)5 is added to limit the amount of additional tax credits from certain bonuses and the total amount of allowable tax credits.

### N.J.A.C. 19:31T-1.7 Evaluation Process; Approval of Award of Tax Credits

N.J.A.C. 19:31T-1.7(c)2 is amended to incorporate defined terms and citations, to add exception language deferring to N.J.A.C. 19:31T-1.9, and to include a commencement period associated with digital media projects

for satisfying the requirements of a studio partner or film-lease partner facility.

N.J.A.C. 19:31T-1.7(c)4i(4) and (5) and ii are amended to include defined terms.

N.J.A.C. 19:31T-1.7(c)4iii is amended to allow an exception to the rule that the amount of qualified film production and qualified digital media content production expenses cannot be increased after the date of the report for deferred compensation set forth in the independent CPA report described at N.J.A.C. 19:31T-1.7(g).

N.J.A.C. 19:31T-1.7(c)5 is amended to specify that the provision applies to completed applications submitted on or after June 30, 2025, to update cross-references, and make grammatical clarifications.

New N.J.A.C. 19:31T-1.7(c) is added to provide application deadlines, required evidence, and consequences of failure to submit evidence associated with the bonus described at N.J.A.C. 19:31T-1.6(o)3.

N.J.A.C. 19:31T-1.7(c)7 is deleted and replaced, as existing paragraph (c)7 applied to a qualified independent post-production company, which is no longer a defined term. New paragraph (c)7 provides application deadlines, required evidence, and consequences of failure to submit evidence associated with the bonus described at N.J.A.C. 19:31T-1.6(o)4.

Recodified N.J.A.C. 19:31T-1.7(c)8 is amended to require that applicants that are film-lease post-production companies must also submit an executed lease, sublease, or license to occupy production space in a film-lease partner facility.

New N.J.A.C. 19:31T-1.7(c)9 is added to describe application deadlines, eligibility, and evidence criteria required in order to obtain tax credits for certain script costs.

N.J.A.C. 19:31T-1.7(g) is amended to include deferred compensation payments made directly to a *bona fide* labor union pursuant to Chapter 81 and to provide that deferred compensation payments may occur and the supplemental report may be submitted after the end of the eligibility and commitment periods.

### N.J.A.C. 19:31T-1.8 Evaluation Process and Designation of Studio Partner and Film-Lease Partner Facility

N.J.A.C. 19:31T-1.8(d) is amended to allow the studio partner or film-lease partner facility to terminate its designation at the end of a studio partner's commitment period or a film-lease partner facility's minimum site control period, provided that the studio partner or film-lease partner facility is in compliance with the Program.

N.J.A.C. 19:31T-1.8(d)2 is amended to add a cross-reference.

N.J.A.C. 19:31T-1.8(d)3 is amended to include application deadlines and requirements associated with a film-lease production company applying for digital media tax credits upon the designation of the corresponding film-lease partner facility.

New N.J.A.C. 19:31T-1.8(e)3 is added to provide that if the applicant is a film-lease production company or a film-lease post-production company that is required to enter into a lease with a film-lease partner facility, but is not the tenant that is the party to the lease, then the film-lease production company tenant or film-lease post-production company that is the tenant must also sign the approval letter, which may include annual report requirements.

N.J.A.C. 19:31T-1.8(g)1 is amended to clarify the start and end of the commitment and eligibility periods.

N.J.A.C. 19:31T-1.8(g)2i is amended for clarity to change "film tax" to "film tax credit."

### N.J.A.C. 19:31T-1.9 Recapture and Reduction of Tax Credits

N.J.A.C. 19:31T-1.9(a) is proposed for deletion.

Recodified N.J.A.C. 19:31T-1.9(a) is amended to remove the cross-reference to subsection (a) (which is proposed for deletion) and to add an exception to recapture and reduction provisions regarding failure to occupy the production facility for any reason outside the control of the studio partner. The revocation of a studio partner, now referred to as rescinding the studio partner designation, and recapture provisions now provide that tax credits may only be recovered from the studio partner. This provision has also been revised to state that in the event of a non-exempt failure to occupy, all films from film production companies approved for a film tax credit as studio partners on the basis of the designated studio partner, for which an initial approval has been given, but for which the Authority has not given final approval, shall, instead of

terminating, “be reduced to eliminate the portion of the tax credits only available by virtue of such designation.”

New N.J.A.C. 19:31T-1.9(b) is added regarding recapture, forfeiture, termination, reduction, and cure period if a designated studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a studio partner for the duration of the commitment period for any reason outside the control of the studio partner.

New N.J.A.C. 19:31T-1.9(c) is added to provide that, pursuant to Chapter 81, if the studio partner was designated on the basis of a lease of a production facility that is a portion of a film-lease partner facility before the film-lease partner facility receives a temporary certificate of occupancy and fails to meet the qualifications of a studio partner, the Authority shall not recapture any tax credits within one year of the date of the designated studio partner’s lease with the film-lease production facility, which the Authority shall extend for one additional year if certain conditions are met.

Recodified N.J.A.C. 19:31T-1.9(d)1 is amended for grammatical clarification.

Recodified N.J.A.C. 19:31T-1.9(d)2 is amended to include film-lease post-production companies as an additional entity that a portion of tax credits may be recovered from and to make grammatical clarifications.

Recodified N.J.A.C. 19:31T-1.9(d)3 is amended to make grammatical clarifications and to make this provision subject to the other provisions in this section.

New N.J.A.C. 19:31T-1.9(d)4 is added to provide a reduction of the award for all digital media projects from film-lease post-production companies in the event that the film-lease partner facility fails to operate the production facility as required.

N.J.A.C. 19:31T-1.9(e) is recodified to (k).

New N.J.A.C. 19:31T-1.9(e) is added to set forth reduction and recapture provisions where a film-lease partner facility has failed to meet the qualifications of a film-lease partner facility.

Recodified N.J.A.C. 19:31T-1.9(f) is amended to remove a cross-reference and to include an exception to the reduction and recapture provisions for a film-lease production company’s failure to occupy the film-lease partner facility for reasons outside the control of the film-lease production company.

Recodified N.J.A.C. 19:31T-1.9(f)1 is amended by replacing the Authority’s remedy to terminate a film-lease production company’s film as a film-lease production company film project and consider it a film project with a reduction of the portion of tax credits available by virtue of its film-lease partner facility designation.

Recodified N.J.A.C. 19:31T-1.9(f)2 is amended to make grammatical clarifications, to clarify that the Authority may recapture solely from the film-lease production company that fails to meet qualifications, and to delete the exception that the Authority shall not recapture any tax credits within one year of the date of the film-lease production company’s lease with the film-lease partner facility, which has been relocated to subsection (g).

New N.J.A.C. 19:31T-1.9(g) is added to provide that, in the event that a film-lease production company fails to meet the qualifications of a film-lease production company, the Authority shall not recapture any tax credits within one year of the date of the film-lease production company tenant’s lease with the film-lease production facility, which the Authority shall extend for one additional year if the film-lease production facility commences construction.

New N.J.A.C. 19:31T-1.9(h) is added to provide reduction and recapture provisions applicable to a film-lease post-production company that fails to meet the qualifications of a film-lease post-production company, and an exception for a failure to occupy the film-lease partner facility for any reason outside the control of the film-lease post-production company.

New N.J.A.C. 19:31T-1.9(i) is added to provide that if a film-lease post-production company was issued a film tax credit on the basis of a lease or sublease with a film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the film-lease post-production company fails to meet the qualifications of a film-lease post-production company, the Authority shall not recapture any tax credits for one year after the date of the film-lease post-production company

tenant’s lease with the film-lease production facility, which the Authority shall extend for one additional year if the film-lease production facility commences construction.

New N.J.A.C. 19:31T-1.9(j) is added to provide that a television series produced by a film-lease production company that satisfies applicable lease requirements and commences principal photography in New Jersey prior to receipt of a certificate of occupancy shall remain eligible to receive the tax credits only available to the film production company by virtue of the film production company’s treatment as a film-lease production company.

Recodified N.J.A.C. 19:31T-1.9(l) is amended to include recapture of tax credits awarded to any film-lease post-production company.

Recodified N.J.A.C. 19:31T-1.9(o) is amended to include a film-lease production company or a film-lease post-production company as entities the Authority can pursue recapture from.

#### N.J.A.C. 19:31T-1.10 Application for Tax Credit Transfer Certificate

N.J.A.C. 19:31T-1.10(a) is amended to update cross-references.

New N.J.A.C. 19:31T-1.10(d) is added to permit a tax credit transfer certificate holder to transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued or in any of the next successive tax periods, subject to certain carryforward provisions, without the need to amend the return for the year for which the credit was issued.

#### N.J.A.C. 19:31T-1.11 Cap on Total Credits

N.J.A.C. 19:31T-1.11(a)1 and 3i and (b)1 are amended to extend the fiscal year in which the tax credits are available from 2040 to 2050, pursuant to Chapter 81.

New N.J.A.C. 19:31T-1.11(d) is added to provide that, beginning in fiscal year 2028, if the amount of tax credits approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies is less than the cumulative total amount of tax credits permitted to be approved to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies in that fiscal year, the Authority shall certify the amount of the remaining tax credits available for approval in that fiscal year and increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners in the next subsequent fiscal year. If the certified amount remaining from the prior fiscal year is less than \$100,000,000, then, in addition to the tax credits remaining from the prior fiscal year, the difference between \$100,000,000 and the certified amount shall be made available to New Jersey studio partners, and then from the tax credits allocated in the current fiscal year to taxpayers other than New Jersey studio partners and New Jersey film-lease production companies.

The NJEDA has provided a 60-day comment period on this notice of concurrent proposal, therefore, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

#### **Social Impact**

The Garden State Film and Digital Media Jobs Program authorizes corporation business and gross income tax credits for certain expenses incurred for the production of certain films and digital media content in New Jersey, with additional benefits for production companies making long-term film production commitments, or significant capital investments in New Jersey. These specially adopted and concurrently proposed amendments will have a positive social impact by attracting motion picture, television, and digital media production in New Jersey, promoting New Jersey’s diverse locations and landscapes, revitalizing local economic activity, catalyzing tourism activity, and reestablishing New Jersey’s competitiveness in the motion picture and television industry.

#### **Economic Impact**

The specially adopted and concurrently proposed amendments are intended to bolster the State’s economy by creating additional incentives that would encourage major production companies to make a long-term commitment to the State. The resulting investments will support long-term economic benefits to the State, including well-paying jobs and revitalized communities, and will position New Jersey as a leader in the film industry. The rules set forth robust recapture and reduction provisions to ensure projects will meet their long-term obligations and protect the

State. The rules establish fees to ensure a source of necessary administrative revenue for the NJEDA to cover the costs of administering the Program. The fees were analyzed and reviewed by the NJEDA Chief Financial Officer in accordance with NJEDA procedure.

#### Federal Standards Statement

A Federal standards analysis is not required because the specially adopted and concurrently proposed amendments are not subject to any Federal requirements or standards.

#### Jobs Impact

The Authority anticipates that the specially adopted and concurrently proposed amendments will incentivize recruitment and hiring across the State, spurring an indeterminate amount of job creation, which includes direct job creation, such as construction jobs and permanent production jobs through film, television, and digital media production companies producing content in New Jersey, and indirectly through local businesses and vendors that provide support services to film, television, or digital media production. The specially adopted and concurrently proposed amendments, which offer additional benefits for production companies making long-term film production commitments and/or significant capital investment in New Jersey, will result in the creation of jobs that are less transient, relative to individual film productions, and more permanent relative to sustained and ongoing film and television production.

#### Agriculture Industry Impact

The specially adopted and concurrently proposed amendments will not have any impact on the agriculture industry of the State of New Jersey.

#### Regulatory Flexibility Analysis

The specially adopted and concurrently proposed amendments may impose minimal reporting, recordkeeping, and other compliance requirements on small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Specifically, eligible businesses will be required to comply with the Authority's standard online application process and regular incentive compliance requirements, however, any costs due to reporting, recordkeeping, and other compliance requirements on qualifying businesses will be fully offset by the amount of financial assistance received, and the only professional services required for such purposes are fully offset by the amount of financial assistance received and the only professional services required for such purposes are from a certified public accountant.

#### Housing Affordability Impact Analysis

The specially adopted and concurrently proposed amendments will not have any effect on the average costs associated with housing, nor will they affect the affordability of housing in the State because these specially adopted and concurrently proposed amendments incentivize production companies to file and create digital media content in New Jersey and do not affect housing costs.

#### Smart Growth Development Impact Analysis

The specially adopted and concurrently proposed amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that they would evoke a change in housing production in Planning Areas 1 or 2, or in designated centers, pursuant to the State Development and Redevelopment Plan because these specially adopted and concurrently proposed amendments incentivize production companies to file and create digital media content in New Jersey and do not affect housing development.

#### Racial and Ethnic Community Criminal Justice and Public Safety Impact

The specially adopted and concurrently proposed amendments will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State. Accordingly, no further analysis is required.

**Full text** of the specially adopted and concurrently proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

#### SUBCHAPTER 21. GARDEN STATE FILM AND DIGITAL MEDIA JOBS PROGRAM

##### 19:31T-1.1 Applicability and scope

The rules in this subchapter are promulgated by the New Jersey Economic Development Authority in consultation with the New Jersey Motion Picture and Television Development Commission and the New Jersey Division of Taxation to implement the Garden State Film and Digital Media Jobs Act, P.L. 2018, c. 56, as amended at P.L. 2019, c. 506; P.L. 2020, c. 156; P.L. 2021, c. 160; P.L. 2021, c. 367; P.L. 2023, c. 97; [and] P.L. 2024, c. 33; and P.L. 2025, c. 81.

##### 19:31T-1.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Applicant” means:

1.-3. (No change.)

4. A person or entity applying for a tax credit for qualified digital media content production expenses. **Such an entity includes, but is not limited to, a film-lease post-production company.**

...

“Commitment period” means, for studio partners, the period beginning with the commencement of the eligibility period, [and expiring] **continuing for a minimum of 10 years, and expiring upon notice by the studio partner to the Authority or non-compliance by the studio partner after the minimum 10 years, which starts upon the following:**

1.-2. (No change.)

“Deferred compensation” means additional payments, **incurred after film completion**, made to highly compensated individuals, such as writers, directors, producers, and performers, other than background actors with no scripted lines, that increase the total remuneration received for services performed on a production. Deferred compensation payments may include, but are not limited to, payments and advance payments for profit participations, residuals, launch bonuses, buy-out fees, or any other compensation due a highly compensated individual as a result of their services performed on, or the financial exploitation of a film or commercial audiovisual product.

...

“Digital media project” means the total digital media content production expenses incurred during a privileged period or taxable year.

...

“Economically disadvantaged area” means a New Jersey municipality that contains a Federal population census tract that was eligible to be designated as a qualified opportunity zone pursuant to 26 U.S.C. § 1400Z-1.

“Eligibility period” means, with respect to studio partners, the period in which a studio partner may claim a tax credit for qualified film production expenses, including expenses that would not constitute qualified film production expenses but for the approved applicant’s designation as a studio partner.

(a) (No change.)

(b) Regardless of the event that commences the eligibility period, the eligibility period ends [10 years after the issuance of the temporary certificate of occupancy or the commencement of the lease term described at paragraph (a)2 above] **when the commitment period ends.**

“Film” or “film project” means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to:

1.-5. (No change.)

“Film” shall not include a production featuring news, current events, weather, and market reports or public programming, or sports events, a production that solicits funds, a production containing obscene material as defined at N.J.S.A. 2C:34-2 and 2C:34-3, or a production primarily for private, industrial, corporate, or institutional purposes[ or]. **Film shall not include** a reality show, except if the production company of the reality show has obtained a minimum [six episode] six-episode order for a completed application submitted on or before June 30, 2025, or a

**minimum four-episode order for a completed application submitted after June 30, 2025, from[,] and is commissioned and scheduled to premiere on[,] a major linear network or streaming service. Notwithstanding any provision of this definition to the contrary, for an applicant applying on the basis of a studio partner designation, "film" shall include an ongoing television production that relocated to New Jersey and features news or current events, which may include sports-themed current events programming, but shall not include a sports event, provided that the ongoing television production relocates to a production facility that is leased or owned by the studio partner and for which production facility such studio partner received its designation as a studio partner. "Film" shall not include an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.**

... "Full-time or full-time equivalent employee" means an individual employed by the approved applicant for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages, **salaries, and other compensation** are subject to withholding as provided in the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., or whose wages, **salaries, and other compensation** are not subject to tax pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state, regardless of whether the individual is a resident or nonresident gross income taxpayer, or who is a partner of an approved applicant, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq. "Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the approved applicant.

"Highly compensated individual" means, for studio partners and film-lease production companies **that submitted a completed application on or before June 30, 2025**, an individual who directly or indirectly receives compensation in excess of \$500,000 for the performance of services used directly in a production and for approved applicants other than studio partners and film-lease production companies [who applied] **that submitted a completed application** on or after July 10, 2024, an individual who directly or indirectly receives compensation in excess of \$750,000 for the performance of services used directly in a production. **After June 30, 2025, "highly compensated individual" means, for all approved applicants, an individual who directly or indirectly receives compensation in excess of \$750,000 for the performance of services used directly in a production.** An individual receives compensation indirectly when the approved applicant pays a loan out company that, in turn, pays the individual for the performance of services.

... "[Independent post-production company" or "qualified independent post-production company" means a corporation, partnership, limited liability company, or other entity principally engaged in the provision of post-production services, including visual effects services, for a film or films described in this chapter, including a film or films that do not satisfy the requirements at N.J.S.A. 54:10A-5.39b(a)(1)(a) and 54A:4-12b(a)(1)(a) and N.J.A.C. 19:31T-1.3(a), which entity is not a publicly traded entity or for which entity that no more than five percent of the beneficial ownership is owned directly or indirectly by a publicly traded entity.]

... "New Jersey film-lease post-production company" or "film-lease post-production company" means a qualified post-production company that is:

(a) An applicant, including any applicant that is a member of a combined group pursuant to N.J.S.A. 54:10A-4.11 or any other entity in which the film-lease post-production company has a material ownership interest of at least 30 percent and a material operational role in the film production, including, but not limited to, as a

producer, that otherwise complies with the eligibility requirements of the program, has made a commitment to lease or otherwise occupy production space in a film-lease partner facility, and satisfies the criteria of N.J.S.A. 54:10A-5.39b(b)(3), 54A:4-12b(b)(3), and N.J.A.C. 19:31T-1.3(b)1ii(1).

(b) In addition to paragraph (a) of this definition, if a film-lease partner facility has not yet received a temporary or final certificate of occupancy, a film-lease post-production company shall have entered into a lease or sublease with the owner or developer of a film-lease partner facility, which:

1. Is for not less than three years of occupancy of the film-lease partner facility;

2. Includes at least 36,000 square feet of gross rentable space; and

3. Cannot be subleased to an entity that does not meet this definition of "film-lease post-production company," such that the occupancy of the film-lease post-production company is less than the requirements at paragraphs (b)1 and 2 above.

"New Jersey film-lease post-production company tenant" or "film-lease post-production company tenant" means the film-lease post-production company that is the party to the lease or sublease with the owner or developer of a film-lease partner facility.

"New Jersey film-lease production company" or "film-lease production company" means:

(a) An applicant, including any applicant that is a member of a combined group pursuant to N.J.S.A. 54:10A-4.11 or any other entity in which the film-lease production company has a material ownership interest of at least 30 percent and **has oversight of the operations of the entity, as demonstrated by the control of at least one board of director position or other management responsibilities, which may include the right to appoint managers or having employees of the film-lease production company serve as the managers of the entity, or has a material operational role in the film production, including, but not limited to, as a producer, that otherwise complies with the eligibility requirements of the program and has made a commitment to lease or otherwise occupy production space in a film-lease partner facility and who will shoot at least 50 percent of the total principal photography shoot days of the film project within New Jersey.**

1. In addition to the foregoing, if a film-lease partner facility has received a temporary or final certificate of occupancy, a film production company shall satisfy one of the following two criteria:

i. (No change.)

ii. The qualified film production expenses of the project for all services performed and goods used or consumed at the film-lease partner facility, **including qualified wage and salary payments**, and payments made for the use of the film-lease partner facility equal or exceed 33 percent of the total qualified film production expenses of the film project.

2. In addition to the foregoing, if a film-lease partner facility has not yet received a temporary or final certificate of occupancy, a film production company shall have:

i. Entered into a lease or sublease with the owner or developer of a film-lease partner facility, which:

(1) Is for not less than three years of occupancy of the film-lease partner facility; [and]

(2) (No change.)

**(3) Cannot be subleased to an entity that does not meet this definition of "film-lease production company," such that the occupancy of the film-lease production company is less than the requirements at (1) and (2) above; and**

ii. (No change.)

(b) An unrelated entity principally engaged in the production of a film or other commercial audiovisual product with whom a [designated] film-lease production company **tenant** contracts to perform film production services on its behalf, **for which the film-lease production company tenant contracted with the unrelated entity prior to qualified film production expenses incurred and after the film-lease production company tenant satisfies all of the requirements at paragraph (a) of this definition, such that the [designated] film-lease production company [controls] tenant:**

1. Controls such film or product during preproduction, production, and postproduction[, and all results and proceeds of such services constitute,

from the moment of creation, “works made for hire” for the film-lease production company pursuant to the provisions of the Federal Copyright Act of 1976, 17 U.S.C. §§ 101 et seq.]; or

**2. Controls global distribution rights for the resulting film or other commercial audiovisual product.**

“New Jersey film-lease production company tenant” or “film-lease production company tenant” means the film-lease production company that is the party to the lease or sublease with the owner or developer of a film-lease partner facility.

“New Jersey studio partner” or “studio partner” means:

(a) (No change.)

(b) When applying for a film tax credit:

1.-2. (No change.)

3. An entity unrelated to the film production company designated as a studio partner, which entity is principally engaged in the production of a film or other commercial audiovisual product with whom the film production company designated as a studio partner contracts to perform film production services on its behalf or for its benefit, **which contract was entered into prior to the qualified film production expenses being incurred and after the designation of the studio partner**, such that the film production company designated as a studio partner:

i. (No change.)

ii. Controls global distribution rights for the resulting film or other commercial audiovisual product[, provided that the studio partner contracted with the unrelated entity prior to qualified film production expenses being incurred].

“Out-of-State producer fees” means wages or salaries or other compensation paid to individuals who are listed in the credits for the film with a title that includes “producer” and payments made to a vendor that provides production services. Payments made to a loan out company, which must comply with N.J.A.C. 19:31T-1.3(c), shall also be included. To be counted as out-of-State producer fees, the individuals, vendors, and loan-out company employees performing the services shall not be physically located in New Jersey while performing the production services. Out-of-State producer fees do not include payments made to individuals, including line producers or individuals involved in specific department responsibilities, or to vendors who provide production services, for a specific geographic jurisdiction.

“Qualified digital media content production expenses” means expenses incurred in New Jersey after July 1, 2018, to the extent that any such expense is incurred for the production of digital media content. “Qualified digital media content production expenses” shall include, but not be limited to: the wages, [and] salaries, **and other compensation** of individuals employed in the production of digital media content on which the tax imposed by the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., has been paid or is due and any wages, [and] salaries, **and other compensation** of individuals employed in the production of digital media content that are not subject to tax pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment; and the costs for post-production, including, but not limited to: editing, sound design, visual effects, animation, music composition, color grading, and mastering. Payments made to a loan out company or to an independent contractor shall not be deemed “qualified digital media content production expenses” unless the payments are made in connection with a trade, profession, or occupation carried out in this State or for the rendition of personal services performed in the State and the approved applicant has made the withholding required pursuant to N.J.S.A. 54:10A-5.39b.g and 54A:4-12b.h and N.J.A.C. 19:31T-1.3(c). For applications submitted prior to July 10, 2024, “qualified digital media content production expenses” shall not include expenses incurred in marketing, promotion, or advertising digital media or other costs not directly related to the production of digital media content. For applications submitted after July 10, 2024, “qualified digital media content production expenses” shall not include expenses incurred in marketing, promotion, or advertising digital media; costs incurred for the design, maintenance, and hosting of

websites; or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the approved applicant for distribution or incorporation into the approved applicant’s digital media content or any costs included in another program application submitted to the Authority, or other costs for intangible personal property, shall not be deemed “qualified digital media content production expenses.”

“Qualified film production expenses” means [an]:

(a) An expense incurred in New Jersey[:] after July 1, 2018, for the production of a film, including pre-production costs[,] and post-production costs incurred in New Jersey, and for completed applications submitted on or after January 1, 2026, until film completion, except that deferred compensation may be incurred after film completion. “Qualified film production expenses” shall include, but not be limited to: the wages, [and] salaries, **and other compensation** of individuals employed in the production of a film on which the tax imposed pursuant to N.J.S.A. 54A:1-1 et seq., has been paid or is due, and any wages, [and] salaries, **and other compensation** of individuals employed in the production of a film that are not subject to tax pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state; and the costs for tangible personal property used and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals.

(b) Notwithstanding anything to the contrary at (a) above, or (d) and (f) below in this definition, for completed applications submitted after June 30, 2025, and expenses incurred after June 30, 2025, by a studio partner or film-lease production company that enters into a lease to occupy a film-lease partner facility for at least three years, “qualified film production expenses” includes the following expenses incurred in the production of the film, which expenses shall be included in a percentage proportional to the percentage of principal photography shoot days in the State: total production insurance premiums paid to insurance companies registered to do business in New Jersey, which premiums shall exclude payments for errors and omissions insurance; total out-of-State producer fees; and total intellectual property rights fees. For purposes of this paragraph, intellectual property rights include life, derivative, book, and music rights, but exclude intellectual property rights associated with script costs. However, cumulative expenses for total production insurance premiums, total out-of-State producer fees, and total intellectual property rights fees shall not exceed seven and one-half percent of “qualified film production expenses” for any studio partner or film-lease production company, based on the order of calculation of expenses as set forth at N.J.A.C. 19:31T-1.6(c).

(c) Notwithstanding anything to the contrary at (a) above or (d) and (f) below in this definition, for completed applications submitted after June 30, 2025, and expenses incurred after June 30, 2025, by a studio partner or film-lease production company that enters into a lease to occupy a film-lease partner facility for at least three years, “qualified film production expenses” includes: the total script costs of any script written within New Jersey; or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in New Jersey relative to the total principal photography shoot days for the film. Notwithstanding the foregoing, for any original application approved by the Authority on or after January 1, 2028, for a New Jersey studio partner or New Jersey film-lease production company that enters into a lease to occupy a New Jersey film-lease partner facility for at least three years, “qualified film production expenses” shall include the total script costs of any script written within New Jersey; or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in this State relative to the total principal photography shoot days for the film, provided that the approved applicant satisfies the requirements set forth at N.J.A.C. 19:31T-1.7(c)9.

(d) Payments made to a loan out company or to an independent contractor shall not be deemed a “qualified film production expense” unless the payments are made in connection with a trade, profession, or

occupation performed in this State or for the rendition of personal services performed in this State and the approved applicant has made the withholding required pursuant to N.J.S.A. 54:10A-5.39b,g and 54A:4-12b,h and N.J.A.C. 19:31T-1.3(c). As of July 6, 2023, the effective date of P.L. 2023, c. 97, payment made to a homeowner, who is otherwise not a vendor authorized to do business in New Jersey, for the use of a personal residence for filming shall not be deemed a “qualified film production expense” unless the approved applicant has made the withholding required pursuant to N.J.S.A. 54:10A-5.39b,g and 54A:4-12b,h and N.J.A.C. 19:31T-1.3(c).

(e) For the purposes of this definition, wages, [and] salaries, **and other compensation** of individuals employed in the production of a film shall include deferred compensation, including advances on deferred compensation, incurred by studio partners, provided the studio partner files a supplemental report as set forth at N.J.A.C. 19:31T-[1.7(f)]1.7(g). As of June 30, 2025, the effective date of P.L. 2025, c. 81, deferred compensation payments made directly to a *bona fide* labor union on behalf of an individual who performed services on a production where the taxes pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., were not withheld shall constitute qualified film production expenses, provided that the payment otherwise satisfies the requirements at P.L. 2025, c. 81.

(f) “Qualified film production expenses” shall not include: costs for intangible personal property incurred after February 26, 2024; expenses incurred in marketing or advertising a film; expenses for a story, script, or scenario to be used for a film, except that qualified film production expenses may include script costs, including the cost of script purchase, for a studio partner or film-lease production company as set forth at (c) above; and reality show, game show, and competition show prizes or awards; any costs included in [an] another program application submitted to the Authority[; for taxpayers other than studio partners and film-lease production companies.].

(g) “Qualified film production expenses” shall not include payment in excess of \$750,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines [; and for studio partners and film-lease production companies, payment in excess of \$500,000 to a highly compensated individual for wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines], except as follows[; based on the qualified film production expenses in the State without including the excess amounts paid to highly compensated individuals]:

1. For a studio partner that [incurs]:

i. **Incurs** less than \$25,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this subparagraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed \$18,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

[2.] ii. [For a studio partner that incurs] **Incurs** \$25,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this subparagraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed \$72,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

iii. After June 30, 2025, incurs \$125,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this subparagraph, for the production of a film that is a feature film, the following shall constitute qualified film production expenses:

(1) Amounts in excess of the amounts paid to highly compensated individuals, an additional amount, not to exceed \$72,000,000, of the wages and salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified

film production expenses, except for costs included at (2) and (3) below;

(2) Amounts paid for script costs; and

(3) Amounts paid or incurred for deferred compensation, including advances on deferred compensation.

[3.] 2. For a film-lease production company that [incurs]:

i. **Incurs** less than \$50,000,000 in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this subparagraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed \$15,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

[4.] ii. [For a film-lease production company that incurs] **Incurs** \$50,000,000 or more in qualified film production expenses in the State, which shall be determined by including the additional amount provided in this subparagraph, in excess of amounts paid to highly compensated individuals, an additional amount, not to exceed \$60,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses.

“Qualified post-production company” means a corporation, partnership, limited liability company, or other entity engaged in post-production and that incurs post-production costs, including visual effects activities on a film or films, including, but not limited to, a film or films that do not satisfy the requirements at N.J.S.A. 54:10A-5.39b,a(1)(a) or 54A:4-12b,a(1)(a) or N.J.A.C. 19:31T-1.3(a)1.

“Qualified wage and salary payments” means the wage and salary payments or other compensation incurred by the approved applicant [in New Jersey] that are qualified film production expenses or qualified digital media content production expenses.

...

“Reason outside the control” means any event related to the production facility, including, but not limited to, the failure of the approved applicant’s landlord to timely deliver or to operate the production facility or a landlord’s breach of the production facility lease with the approved applicant, beyond the approved applicant’s control and without its fault or negligence for which the approved applicant is using good faith efforts, with all due diligence, to proceed with its obligations under the program and the approved applicant has made good faith efforts to prevent, avoid, mitigate, and overcome the event.

“Script costs” means expenses incurred for the direct costs of labor for writing a script and for associated intellectual property rights. Payments made to a loan out company, which must comply with N.J.A.C. 19:31T-1.3(c), shall also be included. Script costs shall not include expenses for other intellectual property rights or any expenses incurred outside of New Jersey for facilities or materials.

...

“Tax credit vintage year” means:

(a) The **approved** applicant’s privilege period or taxable year in which the Authority issued the initial approval of the application, until the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to **approved** applicants exceeds the amounts of tax credits available in a fiscal year, after which “tax credit vintage year” shall mean the next subsequent privilege period or taxable year of the applicant in which tax credits are available;

(b) For applications approved on or after January 1, 2026, “tax credit vintage year” means the **approved** applicant’s privilege period or taxable year in which the Authority gives final approval; and

(c) For applications that received initial approval prior to January 1, 2026, but have not yet received final approval, the approved applicant may elect on or after January 1, 2026, upon written notice to the Authority to use the tax credit vintage year at [paragraph] (b) above.

...

“Television series” or “television production” means a series of one or more television shows, each 22 minutes or more in length. A television series may be a single season in a multi-season production.

“Total digital media content production expenses” means costs for services performed and property used or consumed in the production of digital media content including, but not limited to, wages, [and] salaries, **and other compensation**.

“Total film production expenses” means costs for services performed and tangible personal property used or consumed in the production of a film, including, but not limited to, wages, [and] salaries, **and other compensation**. For completed applications submitted on or after January 1, 2026, total film production expenses shall not include any costs incurred after film completion, except that deferred compensation may be incurred after film completion.

...

### 19:31T-1.3 Eligibility criteria

(a) An applicant shall be eligible for the program for film tax credits if the Authority finds that:

1. After July 1, 2018:

i. At least 60 percent of the applicant’s total film production expenses, exclusive of post-production costs, are incurred in New Jersey for services performed, and goods purchased, through vendors authorized to do business in New Jersey, including wages, [and] salaries, **and other compensation**;

ii. The qualified film production expenses of the applicant during at least one privilege period or taxable year incurred in New Jersey for services performed, and goods purchased, through vendors authorized to do business in New Jersey, including **qualified wage[s] salaries** and **salary payments**, exceed \$1,000,000 per production; or

iii. For reality shows, **with completed applications submitted on or before June 30, 2025**, at least 60 percent of the applicant’s total film production expenses, exclusive of post-production costs, are incurred in New Jersey for services performed, and goods purchased through vendors authorized to do business in New Jersey, including wages and salaries, and the qualified film production expenses of the applicant during at least one privilege period or taxable year incurred in New Jersey for services performed, and goods purchased, through vendors authorized to do business in New Jersey, including **qualified wage[s]** and **[salaries] salary payments**, exceed \$1,000,000 per production;

#### 2. For reality shows with completed applications submitted after June 30, 2025, either (a)ii or ii above applies;

Recodify existing 2-5. as 3-6. (No change in text.)

[6.] 7. At least one principal photography day is shot in New Jersey; [and]

[7.] 8. For a studio partner or film-lease production company, the principal photography of the film commenced after the designation of the studio partner or the corresponding film-lease partner facility[.]; and

9. For a film-lease production company that was designated as a studio partner, the principal photography of the film commenced before the designation of the corresponding film-lease partner facility:

i. If applicable, the principal photography of the film commenced after the designation as a studio partner and the date of the required agreement at subparagraph (a)(2)(ii) in the definition of “film-lease production company”; and

ii. If the studio partner otherwise satisfies the requirements of a film-lease production company.

(b) An applicant shall be eligible for the program for digital media tax credits if the Authority finds that the applicant will incur qualified digital media content production expenses during a privilege period or taxable year[.]; provided that:

1. After July 1, 2018:

i. At least [\$ 2,000,000] **\$2,000,000** of the total digital media content production expenses of the applicant are incurred in New Jersey for services performed, and goods purchased, through vendors authorized to do business in New Jersey, including wages and salaries; provided, however, for the purposes of eligibility, for applications submitted after July 10, 2024, qualified wage and salary payments made to full-time employees working on digital media shall not be deemed an expense incurred for services performed. In addition, at least 50 percent of the qualified digital media content production expenses of the applicant are

for **qualified** wage[s] and [salaries] **salary payments** paid to full-time or full-time equivalent employees in New Jersey;

ii. [At] **For completed applications submitted after June 30, 2025**, at least \$500,000 of the qualified digital media content production expenses of the applicant are incurred in New Jersey for post-production [services] **costs**, including visual effects services[,] performed [at]:

(1) At a film-lease [production] **partner** facility [by]:

(A) **By a film-lease post-production company**. If the qualified media content production expenses are incurred after the issuance of a temporary certificate of occupancy for the production facility, then the qualified media content production expenses must be incurred during the term of the occupancy at the film-lease partner facility. For purposes of satisfying the requirements of this subparagraph, a film-lease post-production company may include in an application only the qualified digital media content production expenses incurred for post-production, including, but not limited to, visual effects activities that are performed by the film-lease post-production company or by a business entity in which the film-lease post-production company has an ownership interest of at least 51 percent; or

(B) **By a studio partner**; or

[iii.] (2) [At least \$500,000 of the qualified digital media content production expenses of the applicant are incurred in New Jersey for post-production services, including visual effects services, performed by] **By a taxpayer** that is a qualified [independent] post-production company[.], which may include qualified digital media content production expenses incurred for post-production, including visual effects activities performed by a business entity in which the qualified post-production company has an ownership interest of at least 51 percent.

2-3. (No change.)

(c) An approved applicant shall withhold, **or shall have withheld**, from each payment to a loan out company, to an independent contractor, or, for an applicant for a film tax credit, to a homeowner for the use of a personal residence, an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., and the approved applicant shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to Chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee’s payment by the loan out company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to Chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the approved applicant withheld. Notwithstanding any provision of this section to the contrary, qualified film production expenses and qualified digital media content production expenses shall include any payments made by the approved applicant to a loan out company for services performed in New Jersey by individuals who are employees of the loan out company and whose wages, [and] salaries, **and other compensation** are subject to withholding, but not subject to tax pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., due to the provisions of a reciprocity agreement with another state.

(d) (No change.)

(e) For any applicant applying to be designated as a film-lease partner facility, the applicant shall be eligible if the applicant demonstrates to the Authority that the applicant meets the definition of a film-lease partner facility and that it shall satisfy the conditions of approval at N.J.A.C. 19:31T-1.8(e) within the prescribed time.

1. Except for a production facility, or portion thereof, owned, built, leased, or operated by a film production company designated as a studio partner by the Authority on or before January 3, 2024, in order for a production facility to be designated as a film-lease partner facility, the owner or developer shall accept the acquisition by the Authority, at the

Authority's discretion, of equity in the production facility, on commercially reasonable and customary terms and conditions determined by the Authority and the film-lease partner facility and on the condition that the Authority may require the applicant to redeem the investment if the **approved** applicant is not compliant with the program. The Authority may, at its discretion, accept the offer to purchase the shares of stock by the film-lease partner facility or any other investor in lieu of redemption.

2. (No change.)

(f)-(g) (No change.)

#### 19:31T-1.4 Application submission requirements

(a) A completed application for film tax credits shall include:

1.-8. (No change.)

9. If the applicant intends to participate in the bonus amount of tax credit for a [diversity] plan pursuant to N.J.A.C. 19:31T-[1.6(l)1]**1.6(o)3 or 4**, satisfaction of the requirements [at N.J.A.C. 19:31T-1.6(l)1i, ii, iii, and iv; and for the increased bonus amount of tax credits pursuant to N.J.A.C. 19:31T-1.6(l)2, satisfaction of the requirements at N.J.A.C. 19:31T-1.6(l)2i through iii] in the respective section;

10. If the film production involves an eligible reality show[:

i. For applications submitted prior to the effective date of P.L. 2024, c. 33 (July 10, 2024), a description of the capital investment, which shall be no less than \$ 3,000,000, and a description of the production facility, which shall be no less than 20,000 square feet of real property, respectively, within a designated enterprise zone established pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et seq., or a UEZ-impacted business district established pursuant to N.J.S.A. 52:27H-66.2, and an executed letter of interest, lease, sublease, deed, or purchase contract; and

ii. For applications submitted on or after the effective date of P.L. 2024, c. 33 (July 10, 2024)], evidence that a major linear network or streaming service has commissioned or ordered a minimum of six episodes, **or four episodes for completed applications submitted after June 30, 2025**, and has scheduled the reality show to premiere.

11. (No change.)

12. If the applicant is seeking a film tax credit as a studio partner:

i. (No change.)

ii. If the applicant is not the designated studio partner, one of the following:

(1) (No change.)

(2) If the applicant is an entity unrelated to the studio partner and is principally engaged in the production of the film that is the subject of the application with whom a designated studio partner contracts to perform film production services on its behalf or for its benefit, written consent from the studio partner for the unrelated entity to apply for tax credits and a copy of the production services agreement with the designated studio partner, **for which the designated studio partner contracted with the applicant prior to qualified film production expenses being incurred and after the designation of the studio partner**, evidencing that the designated studio partner:

(A) (No change.)

(B) Controls global distribution rights for the resulting film[, provided that the studio partner contracted with the unrelated entity prior to qualified film production expenses being incurred and after the designated studio partner was approved for such designation by the Authority];

13. If the applicant is seeking a film tax credit [as a film-lease production company] on the basis of a film-lease partner facility designation:

i.-iii. (No change.)

iv. If the applicant is seeking a film tax credit pursuant to paragraph (a)2 in the definition of "New Jersey film-lease production company", the lease or sublease for the film-lease partner facility and the contract with the owner or developer of the film-lease partner facility required in that section, which contract shall be dated prior to incurring qualified film production expenses; [and]

v. If the applicant is not the film-lease production company tenant, one of the following:

(1) Written verification that the applicant is a member of the film-lease production [company's] **company tenant's** combined group;

(2) Any documentation evidencing the film-lease production [company's] **company tenant's** ownership interest in the applicant [and any agreement evidencing the film-lease production company's operational role in the film production; or]:

[(3) For "works made for hire" for the film-lease production company:

(A) Documentation evidencing that the applicant is principally engaged in the production of film and other commercial audiovisual product;

(B) An executed contract with the film-lease production company to perform film production services for the film on the film-lease production company's behalf such that the designated film-lease production company controls the film or product during pre-production, production, and post-production, and all results and proceeds of such services constitute, from the moment of creation, "works made for hire" for the New Jersey studio partner pursuant to the provisions of the Federal Copyright Act of 1976, 17 U.S.C. §§ 101 et seq.; and

(C) Opinion of counsel that the executed contract with the film-lease production company satisfies the criteria at (a)13v(3)(B) above; and]

(A) Evidence of the film-lease production company tenant's control of at least one applicant board of directors' position or other management responsibilities; or

(B) Any agreement evidencing the film-lease production company tenant's operational role in the film production that is the subject of the application; or

(3) If the applicant is an entity unrelated to the film-lease production company tenant and is principally engaged in the production of the film that is the subject of the application with whom the film-lease production company tenant contracts to perform film production services on its behalf, written consent from the film-lease production company tenant for the applicant to apply for tax credits and a copy of the production services agreement with the film-lease production company tenant, for which the film-lease production company tenant contracted with the applicant prior to qualified film production expenses being incurred and after the film-lease production company tenant satisfies all of the requirements in the definition of film-lease production company, and which evidences that the film-lease production company tenant:

(A) Controls such film during pre-production, production, and post-production; or

(B) Controls global distribution rights for the resulting film; and

14. (No change.)

(b)-(c) (No change.)

(d) A completed application for digital media tax credits shall include:

1. (No change.)

2. If the applicant is applying on the basis of services performed by a qualified [independent] post-production company, the ownership structure of the company and any other evidence that the company meets the definition of a qualified [independent] post-production company during the time in which the qualified digital media content production expenses were incurred;

3. (No change.)

4. A breakout of projected digital media content production expenses for wages, [and] salaries, **and other compensation** paid to full-time or full-time equivalent employees in New Jersey;

5.-7. (No change.)

8. If the applicant intends to participate in the bonus amount of tax credit for a [diversity] plan pursuant to N.J.A.C. 19:31T-[1.6(l)1]**1.6(o)3 or 4**, satisfaction of the requirements [pursuant to N.J.A.C. 19:31T-1.6i, ii, iii, and iv] in the respective section;

9. A list of all the development subsidies, as defined at N.J.S.A. 52:39-1 et seq., that the [developer] applicant is requesting or receiving, the name of the granting body, the value of each development subsidy, and the aggregate value of all development subsidies requested or received; [and]

10. If the applicant is seeking a digital media tax credit on the basis of a film-lease partner facility designation:

i. A certification from the film-lease partner facility that it remains eligible as a film-lease partner facility;

ii. If the applicant is seeking a digital media tax credit as a film-lease post-production company, an executed lease, sublease, license,

or letter of intent to occupy production space in a film-lease partner facility. The sublease, license, or letter of intent can be obtained from a tenant or subtenant of the film-lease partner facility; and

iii. If the applicant is not the film-lease post-production company tenant, one of the following:

(1) Written verification that the applicant is a member of the film-lease post-production company tenant's combined group; or

(2) Any documentation evidencing the film-lease post-production company tenant's ownership interest in the applicant and any agreement evidencing the film-lease post-production company's operational role in the film production that is the subject of the application;

11. For film-lease post-production companies and qualified post-production companies, a list of films for which post-production costs are incurred and a description of how each film satisfies the definition of film; and

[10.] 12. (No change in text.)

(e) (No change.)

19:31T-1.5 Fees

(a)-(d) (No change.)

(e) A studio partner or a film-lease production facility shall pay to the Authority a non-refundable fee of \$5,000 for the first six-month extension and \$7,500 for each subsequent extension to the date the temporary certification of occupancy for the production facility is due pursuant to N.J.A.C. 19:31T-[1.8(e)3]1.8(e)4.

(f)-(g) (No change.)

19:31T-1.6 Tax credit amounts; amount; carryforward of tax credits

(a) An approved applicant, upon final approval of an application to the Authority and the Director for film tax credits pursuant to N.J.A.C. 19:31T-1.7(e), shall be allowed a credit against the tax imposed pursuant to N.J.S.A. 54:10A-5 or the tax otherwise due for the taxable year pursuant to N.J.S.A. 54A:1-1 et seq., [corresponding to the tax credit vintage year, which shall be a privilege period or taxable year commencing on or after July 1, 2018, but before July 1, 2039,] in an amount equal to:

1.-3. (No change.)

4. For completed applications received on or after July 2, 2021, the following percent of the qualified film production expenses of the approved applicant during a privilege period or taxable year:

i. For such expenses that are incurred for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York:

(1) For completed applications received after July 6, 2023, and on or before June 30, 2025, 35 percent for applications from film-lease production companies and studio partners; [and]

(2) For completed applications received after June 30, 2025, 40 percent for applications from studio partners and 35 percent for applications from film-lease production companies; and

[2)] (3) (No change in text.)

ii. (No change.)

(b) An approved applicant, upon final approval of an application to the Authority and the Director for digital media tax credits pursuant to N.J.A.C. 19:31T-1.7(e), shall be allowed a credit against the tax imposed pursuant to N.J.S.A. 54:10A-5 or the tax otherwise due for the taxable year pursuant to N.J.S.A. 54A:1-1 et seq., [corresponding to the tax credit vintage year, which shall be a privilege period or taxable year commencing on or after July 1, 2018, but before July 1, 2039] in an amount equal to:

1. For completed applications received on or after July 10, 2024:

i. Forty percent of the qualified digital media content production expenses of the approved applicant during a privilege period or taxable year that are incurred in New Jersey for post-production [services] costs, including visual effects services, performed at a film-lease partner facility, that are incurred by a film-lease post-production company, or are incurred by a studio partner; and

ii. Thirty-five percent of the qualified digital media content production expenses of the approved applicant during a privilege period or taxable

year that are incurred in New Jersey for post-production [services] costs, including visual effects services, and for which post-production [services] costs are performed by a qualified [independent] post-production company.

2. (No change.)

3. For completed applications received on or after January 12, 2022, but prior to July 10, 2024:

i.-ii. (No change.)

(c) The Authority shall calculate the amount of qualified film production expenses in the following order:

1. The amount without any expenses available to a studio partner or film-lease production company;

2. Any allowed amount of total production insurance premium fees, total out-of-State producer fees, and total intellectual property right fees as set forth at subparagraph (b) in the definition of "qualified film production expenses";

3. Any allowed amount for total script costs of any script written outside New Jersey as set forth at subparagraphs (b) and (c) in the definition of "qualified film production expenses";

4. Any deferred compensation that results in qualified wage and salary payments equal to or less than the cap for highly compensated individuals; and

5. Any amount of qualified wage and salary payments paid to highly compensated individuals above the cap on qualified wages and salary payments and script costs and deferred compensation additionally allowed as set forth at subparagraph (g) in the definition of "qualified film production expenses."

[(c)] (d) (No change in text.)

(e) For completed applications submitted on or before June 30, 2025, an approved applicant shall be allowed a tax credit as set forth at (a) and (b) above corresponding to the tax credit vintage year, which shall be a privilege period or taxable year commencing on or after July 1, 2018, but before July 1, 2049.

(f) For completed applications submitted after June 30, 2025, a credit issued to an approved applicant or the purchaser or assignee of a tax credit transfer certificate, may first be taken by the tax certificate holder for the tax period in which it was issued, or in any tax period during the time an approved applicant is required to maintain the film project or digital media content project at a location in this State, subject to the carryforward provisions of this section.

Recodify existing (d)-(k) as (g)-(n) (No change in text.)

[(l)] (o) Notwithstanding any limit at (a) or (b) above, the tax credits awarded may be increased pursuant to the following:

1. [An] For completed applications submitted on or before June 30, 2025, an approved applicant shall be allowed an increase in the tax credit against the tax imposed pursuant to N.J.S.A. 54:10A-5, or pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., in an amount equal to two percent of the qualified film production expenses or the qualified digital media content production expenses. For completed applications submitted on or after July 10, 2024, but on or before June 30, 2025, an increase of four percent of the qualified digital media content production expenses shall be allowed. In all cases, the application shall be accompanied by a diversity plan, outlining, in relation to the total film production expenses or total digital media content production expenses:

i.-iv. (No change.)

2. For completed applications submitted on or after January 12, 2022, but on or before June 30, 2025, the amount of the increase to a tax credit allowed pursuant to [(l)] (o)1 above shall increase to four percent of the qualified film production expenses of the approved applicant if the diversity plan, in addition to meeting the requirements at [(l)] (o)1 above, outlines specific goals that include hiring no less than 25 percent of persons as performers, excluding background actors and extras with no spoken lines, in the film who:

i.-iii. (No change.)

3. For completed applications submitted after June 30, 2025, an approved applicant shall be allowed a credit against the tax imposed pursuant to N.J.S.A. 54:10A-5 or the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., in an amount equal to four percent of the qualified film production expenses or four percent of the digital media content production expenses during a privilege period or

taxable year commencing on or after July 1, 2018, but before July 1, 2049, provided that the application is accompanied by a plan:

i. Outlining specific goals, which may include advertising and recruitment actions, for hiring no less than 25 percent of employees (excluding independent contractors) working in New Jersey who are residents of an economically disadvantaged area in the State, a distressed municipality as that term is defined at N.J.S.A. 34:1B-323, or land owned by the Federal government on or before December 31, 2005; and

ii. The application shall indicate whether the applicant intends to participate in training, education, and recruitment programs that are organized in cooperation with State colleges and universities, labor organizations, and the motion picture industry and are designed to promote and encourage the training and hiring of New Jersey residents of an economically disadvantaged area in the State, a distressed municipality, as defined at N.J.S.A. 34:1B-323, or land owned by the Federal government on or before December 31, 2005.

4. For completed applications submitted after June 30, 2025, an approved applicant that is a studio partner or film-lease production company, and subject to the provisions of section 6 at P.L. 2025, c. 81, and (o)5 below, shall be allowed an additional tax credit against the tax imposed pursuant to N.J.S.A. 54:10A-5 or the "New Jersey Gross Income Tax Act," N.J.S.A. 54A:1-1 et seq., in an amount equal to four percent of the qualified film production expenses or qualified digital media content production expenses of the approved applicant incurred during a tax period commencing on or after July 1, 2025, but before July 1, 2049, provided that the application is accompanied by a plan outlining specific goals to promote or invest in New Jersey, which plan shall include at least four of the following criteria:

i. The creation of a video at least three minutes in length of publicly accessible locations in New Jersey used for the film, with commentary on how and why each location was chosen, published on the website promoting the film or in another form and manner approved by the Authority. To receive credit for this promotional criterion, an approved applicant shall provide to the Authority, a list of locations in New Jersey used for the film and relevant footage of the three-minute video for use without restriction by the Authority and any other State entity for promotional purposes;

ii. The creation of five public social media posts, including commentary on positive experiences at publicly accessible New Jersey locations or positive experiences filming in the State. The social media posts shall originate from an official account of the approved applicant, the film, the director of the film, a leading actor or actress in the film, any actor or actress in the main cast, or as otherwise permitted by the Authority. To receive credit for this promotional criterion, the approved applicant shall provide, to the Authority, the website or location on which the post is publicly visible for use by the Authority and any other State entity for promotional purposes;

iii. The placement of a New Jersey promotional logo provided by the Authority or the Commission for a two-second exposure, not displayed over content or on a shared card, and displayed before the below-the-line crew crawl and after contractual credit placement obligations. To receive credit for this promotional criterion, the approved applicant shall provide, to the Authority, a clip of the portion of the film displaying the New Jersey promotional logo;

iv. The film is set, at least in part, in New Jersey, and the State is referenced in the film. To receive credit for this promotional criterion, the approved applicant shall provide, to the Authority, a clip of the portion of the film evidencing that the film is set, at least in part, in New Jersey and that New Jersey is referenced in the film;

v. Support for a workforce development program established by the approved applicant, the designated studio partner, or the film-lease production company tenant with one of the following entities in this State: a college, including, but not limited to, a community college; an entity with an apprentice program; or a university. The program shall include direct training or employment opportunities on the film for residents of this State during the dates of principal photography in New Jersey. To receive credit for this promotional criterion, the approved applicant shall provide a document

evidencing the agreement between the approved applicant and the other entity demonstrating the establishment and support for a workforce development program and the period during which the program offered direct training or employment opportunities;

vi. A film industry recruiting program established by the approved applicant, the designated studio partner, or the film-lease production company tenant, providing paid internships or entry level employment opportunities in film crew positions for residents of an economically disadvantaged area in the State, a distressed municipality, as defined at N.J.S.A. 34:1B-323, or land owned by the Federal government on or before December 31, 2005. The program shall be offered during the dates of principal photography in New Jersey. To receive credit for this promotional criterion, the approved applicant shall demonstrate its efforts to advertise and promote paid internships or entry level employment opportunities in the designated areas during the film's principal photography in New Jersey; and

vii. The approved applicant incurs qualified film production expenses from at least five vendors authorized to do business in New Jersey that employ at least one full-time employee at a physical location of the vendor's in an economically disadvantaged area in the State, a distressed municipality, as defined at N.J.S.A. 34:1B-323, or on land owned by the Federal government on or before December 31, 2005. To receive credit for this promotional criterion, the approved applicant shall provide a certification from each vendor in a form provided by the Authority.

5. Notwithstanding any provision at P.L. 2025, c. 81, (o)4 above, or any law, rule, or regulation to the contrary:

i. Any additional tax credits from bonuses set forth at (o)3 and 4 above shall not exceed an aggregate additional amount totaling five percent of the qualified film production expenses or qualified digital media content production expenses of the approved applicant incurred during a tax period commencing on or after July 1, 2025, but before July 1, 2049; and

ii. The total amount of tax credits allowed pursuant to the Garden State Film and Digital Media Jobs Act, N.J.S.A. 54:10A-5.39b, shall not exceed an aggregate, including the additional amount, totaling 45 percent of the qualified film production expenses or qualified digital media content production expenses of the approved applicant incurred during a tax period commencing on or after July 1, 2025, but before July 1, 2049.

19:31T-1.7 Evaluation process; approval of award of tax credits

(a)-(b) (No change.)

(c) Upon completion of the total digital media content production expenses for the privilege period or taxable year identified in the initial approval or at film completion, the approved applicant shall submit the following final documentation, which the Authority, in consultation with the Director and the Commission, shall process and evaluate:

1. (No change.)

2. [If] Except as set forth at N.J.A.C. 19:31T-1.9, if the approved applicant is a studio partner, a film-lease production company, or film-lease [production facility] post-production company, a certification from the designated studio partner or film-lease partner facility that it has continued to satisfy the requirements of a studio partner or film-lease [production] partner facility from the commencement of principal photography, or from the commencement of the digital media project;

3. (No change.)

4. A report prepared by an independent certified public accountant licensed in the State verifying the expenses claimed by the approved applicant. The report shall be prepared by the independent certified public accountant, pursuant to agreed-upon procedures prescribed by the Authority and the Director.

i. The report shall include such information and documentation as shall be determined to be necessary by the Authority and the Director to substantiate the total and qualified film production expenses or the total and qualified digital media content production expenses of the approved applicant, and the date of the last total film production expense, excluding any deferred compensation payments, including:

(1)-(3) (No change.)

(4) A review of the qualified wage[s] and salary payments for the 15 employees, independent contractors, or loan-out companies with the highest qualified wage[s] and salary payments; and

(5) A review of the qualified wage[s] and salary payments for 35 randomly selected employees, independent contractors, or loan-out companies with qualified wage[s] and salary payments other than the 15 employees, independent contractors, or loan-out companies with the highest qualified wage[s] and salary payments;

ii. In the report, the approved applicant's qualified film production expenses and digital media content production expenses shall be adjusted based on any discrepancies identified for the reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items, and qualified wage[s] and salary payments. The approved applicant's qualified film production expenses and digital media content production expenses also shall be adjusted based on the projection of any discrepancies identified based on the review of randomly selected expense items or qualified wage[s] and salary payments in each strata pursuant to this subsection to the extent that the discrepancies exceed one percent of the total reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items, or qualified wage[s] and salary payments in each strata. The determination shall be provided by the independent certified public accountant, in writing, to the approved applicant, the Authority, and the Director, and the approved applicant shall include a copy of the written determination in the filing of a return that includes a claim for a tax credit allowed pursuant to the Program;

iii. The amount of the qualified film production expenses or qualified digital media content production expenses in the report shall not be increased regardless of additional expenses after the date of the report, except for the amount of deferred compensation in the report as set forth at (g) below;

iv.-v. (No change.)

5. [If] For completed applications submitted on or before June 30, 2025, if the approved applicant was initially approved for a bonus amount of tax credit for a diversity plan pursuant to N.J.A.C. 19:31T-[1.6(l)]1.6(o)1 or 2, evidence of achieving the relevant percentage in the diversity plan or good faith efforts to undertake the diversity plan. The bonus amount shall not be included in the amount of the final approval if the approved applicant fails to submit satisfactory evidence to the Authority and the division;

6. For completed applications submitted after June 30, 2025, if the approved applicant was initially approved for a bonus amount of tax credit for a plan pursuant to N.J.A.C. 19:31T-1.6(o)3, evidence of achieving the relevant percentage in the plan or good faith efforts to undertake the plan. The bonus amount shall not be included in the amount of the final approval if the approved applicant fails to submit satisfactory evidence to the Authority and the division;

7. For completed applications submitted after June 30, 2025, if the approved applicant was initially approved for a bonus amount of tax credits based on the criteria at N.J.A.C. 19:31T-1.6(o)4, evidence of satisfying the requisite number of criteria. The bonus amount shall not be included in the amount of the final approval if the approved applicant fails to submit satisfactory evidence to the Authority and the division;

[6.] 8. If the approved applicant is a film-lease production company or a film-lease post-production company, the executed lease, sublease, or license to occupy production space in a film-lease partner facility;

[7. If the approved applicant is seeking tax credits on the basis of services performed by a qualified independent post-production company, a certification from the approved applicant that the independent post-production company met the definition of a qualified independent post-production company during the time in which the qualified digital media content production expenses were incurred;]

9. For completed applications submitted on or after January 1, 2028, if the approved applicant that is a studio partner or film-lease production company is seeking tax credits for the total script costs of any script written in New Jersey; or the product of the total script costs of any script written outside New Jersey and the percentage of the principal photography shoot days in this State relative to the total principal photography shoot days for the film, evidence certified by

an independent certified public accountant licensed in this State and according to such agreed-upon procedures as the Authority may establish, that two or more of the following criteria have been met:

i. The approved applicant establishes a writer's skills development program with any of the following in this State: a college, including a community college; an entity with an apprentice program; university; vocational school; or high school;

ii. The approved applicant opens a writer's room in this State at the designated studio partner's or the film-lease partner facility's production facility where writing support services are provided at least in part for the film;

iii. A writer on the film is a resident of this State for a period including at least one year prior to the commencement of principal photography for the film in this State; or

iv. The approved applicant hires one or more researchers that are residents of this State to perform research services in this State for the development of a script or scripts for a film;

Recodify existing 8.-9. as 10.-11. (No change in text.)

(d)-(f) (No change.)

(g) If a studio partner received a tax credit for qualified film production expenses that included deferred compensation payments based on work or services provided on a production, including deferred compensation payments made directly to a bona fide labor union, the studio partner shall submit a supplemental report prepared by a certified public accountant pursuant to agreed-upon procedures prescribed by the Authority and the Director no later than [two] four years after the date on which the production concludes, as established by the date of film completion. The deferred compensation payments may occur and the supplemental report may be submitted after the end of the eligibility and commitment periods.

19:31T-1.8 Evaluation process and designation of studio partner and film-lease partner facility

(a)-(c) (No change.)

(d) Upon review of the completed application, the Authority's Board shall consider whether to designate the applicant as a studio partner or film-lease partner facility pursuant to N.J.A.C. 19:31T-1.3(d) and (e), respectively. [The designation shall expire at the end of the studio partner's commitment period.] After the end of the studio partner's minimum commitment period or the film-lease partner facility's minimum site control period, the studio partner or film-lease partner facility may terminate the designation upon notice to the Authority, provided that the studio partner or film-lease partner facility is in compliance with the program.

1. (No change.)

2. A film production facility may receive its film-lease partner facility designation prior to executing an equity agreement with the Authority, as set forth at N.J.A.C. 19:31T-1.3(e)1, provided final approval of such agreement occurs on or before the date on which production commences at the facility.

3. For completed applications approved on or after July 10, 2024, a film-lease production company may apply for film tax credits upon the designation of the corresponding film-lease partner facility, if the film-lease production company applies pursuant to paragraph (a)2 in the definition of "New Jersey film-lease production company." For completed applications approved after June 30, 2025, a film-lease post-production company may apply for digital media tax credits upon the designation of the corresponding film-lease partner facility, if the film-lease post-production company applies pursuant to paragraph (a) in the definition of "New Jersey film-lease post-production company."

(e) Following approval by the Authority's Board, the Authority shall require the approved applicant to execute and return an approval letter to the Authority. The Board's designation shall be subject to conditions subsequent set forth in the approval letter. The conditions in the approval letter must be met to retain the designation.

1.-2. (No change.)

3. If the approved applicant is a film-lease production company or a film-lease post-production company that is required to enter into a lease with a film-lease partner facility, but the approved applicant is

not the film-lease production company tenant or the film-lease post-production company tenant, respectively, then the film-lease production company tenant or film-lease post-production company tenant, respectively, shall also sign the approval letter, which may include a requirement that such film-lease production company tenant or film-lease post-production tenant submit annual reports during the minimum term of the required lease.

Recodify existing 3.-4. as 4.-5. (No change in text.)

(f) (No change.)

(g) A studio partner shall execute an award agreement that shall include, but not be limited to:

1. The [commencement] events that start and end [of] the commitment and eligibility periods; and

2. An agreement that the studio partner shall maintain the lease or ownership of the production facility for the duration of the commitment period. The studio partner shall:

i. Not lease, sublease, or license any part of the production facility such that the studio partner occupies less than the minimum amount of square feet for more than 12 consecutive months or for a period longer than the remainder of the duration of the commitment period unless the lease, sublease, or license is to another entity that is a studio partner, when applying for a film tax credit on the basis of the designated studio partner;

ii.-iii. (No change.)

(h)-(i) (No change.)

#### 19:31T-1.9 Recapture and reduction of tax credits

[(a) If the studio partner was designated on the basis of a lease of a production facility that is a portion of a film-lease production facility before the film-lease partner facility receives a temporary certificate of occupancy and fails to occupy such facility:

1. The Authority shall revoke the designation of the studio partner;

2. All the studio partner's films, and all films from film production companies approved for film tax credits as studio partners on the basis of the designated studio partner, for which an initial approval has been given, but for which the Authority has not given final approval, shall terminate as a studio partner film project and shall be considered as a film project without the benefit of a studio partner designation; and

3. The Authority may recapture from the studio partner the portion of the tax credit that was only available to the studio partner or any film production company by virtue of the studio partner's designation as a studio partner, except that the Authority shall not recapture any tax credits within one year after the approval of the studio partner designation.]

[(b)] (a) For all studio partners [other than those described at (a) above], if a designated studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a studio partner for the duration of the commitment period or otherwise fails to satisfy the conditions for designation as a studio partner, **except for the failure to occupy the production facility for any reason outside the control of the studio partner**, the Authority: [shall revoke the designation of the] **may rescind the studio partner [and] designation**; **may recapture solely** from the studio partner the portion of the tax credit that was only available to the studio partner or any film production company by virtue of the studio partner's designation as a studio partner[.]; and [all the studio partner's films, and] all films from film production companies approved for a film tax credit as studio partners on the basis of the designated studio partner, for which an initial approval has been given, but for which the Authority has not given final approval, shall [terminate] be reduced to eliminate the portion of the tax credits only available by virtue of such designation.

(b) **If a designated studio partner fails to occupy the production facility developed, purchased, or leased as a condition of designation as a studio partner for the duration of the commitment period for any reason outside the control of the studio partner:**

1. The designated studio partner shall not be subject to the following solely on the basis of the failure to occupy the production facility:

i. Recapture of tax credits issued before the failure to occupy; or

ii. Forfeiture, termination, or reduction of any film production award initially approved before the failure to occupy and on the basis of the studio partner designation;

2. The designated studio partner, at its option, may occupy a production facility for the remainder of the commitment period as follows:

i. If the temporary certificate of occupancy for the production facility approved as part of the designation of the studio partner has not been issued before the deadline specified at N.J.A.C. 19:31T-1.8(e)4, the designated studio partner shall have until the later of the specified temporary certificate of occupancy deadline and six months from the event that was the reason outside the control of the designated studio partner, to be issued the temporary certificate of occupancy for a production facility, subject to possible six-month extensions as set forth at N.J.A.C. 19:31T-1.8(e)4;

ii. If the event that was the reason outside the control of the designated studio partner occurred after the deadline at N.J.A.C. 19:31T-1.8(e)4 for the temporary certificate of occupancy for the production facility, the studio partner shall have until six months from the event that was the reason outside the control of the designated studio partner to occupy a production facility, subject to possible six-month extensions as provided at N.J.A.C. 19:31T-1.8(e)4;

iii. If the designated studio partner does not diligently seek a production facility within the dates set forth at (b)2i and ii above, the Authority shall: revoke the studio partner's designation; reduce the tax credit amount for any film production award initially approved following the event that is the reason outside the control of the designated studio partner but for which no tax credits have been issued, to eliminate the portion of tax credits that was only available to the designated studio partner or any film production company by virtue of the studio partner's designation; and recapture the excess benefits for any film production initially approved following the event that is the reason outside the control of the designated studio partner for which tax credits have been issued. Such revocation, reduction, and recapture shall not extend to any film production tax credits or approvals at (b)1 above; and

3. If at the end of the period to occupy a production facility set forth at (b)2 above, the designated studio partner does not occupy a production facility, the Authority shall revoke the studio partner's designation and, thereafter, no film production applications shall be initially approved with tax credit amounts on the basis of the studio partner's revoked designation. Such revocation shall not cause any recapture, forfeiture, reduction, or termination of any film production tax credits or approvals at (b)1 above or any tax credits issued or film productions initially approved during the period to occupy a production facility set forth at (b)2 above when the designated studio partner is diligently seeking a production facility.

(c) Notwithstanding (a) or (b) above, if the studio partner was designated on the basis of a lease of a production facility that is a portion of a film-lease partner facility before the film-lease partner facility receives a temporary certificate of occupancy and fails to meet the qualifications of a studio partner, including, but not limited to, failure to occupy the required amount of space at the film-lease production facility for the required time, the Authority shall not recapture any tax credits within one year of the date of the designated studio partner's lease with the film-lease production facility, which the Authority shall extend for one additional year if the film-lease production facility commences construction, as evidenced by the issuance of a building permit, including permits for demolition and site remediation, within one year of the date of the designated studio partner's lease with the film-lease production facility.

[(c)] (d) If a film-lease partner facility fails to operate the production facility developed, purchased, or leased as a condition of designation as a film-lease partner facility or otherwise fails to satisfy the conditions for designation as a film-lease partner facility for the duration of the five-year period, the Authority [may]:

1. **May** revoke the designation of the film-lease partner facility [and];

2. **May** recapture from the film-lease partner facility the portion of the tax credit that was only available to film-lease production companies and film-lease post-production companies by virtue of the film-lease partner facility's designation as a film-lease partner facility[, and];

3. **Shall reduce the award for** all films from film-lease production companies that relied on the film-lease partner facility designation for

which an initial approval has been given, but for which the Authority has not given final approval, [shall be reduced] to eliminate the portion of the tax credits only available by virtue of the film-lease partner facility's designation as a film-lease partner facility[.], subject to any other provisions of this section; and

4. Shall reduce the award for all digital media projects from film-lease post-production companies that relied on the film-lease partner facility designation for which an initial approval has been given, but for which the Authority has not given final approval, to eliminate the portion of the tax credits only available by virtue of the film-lease partner facility's designation as a film-lease partner facility if the digital media project is otherwise eligible or shall be terminated if not eligible, subject to the any other provisions of this section.

(e) If a film-lease partner facility fails to operate the production facility developed, purchased, or leased as a condition of designation as a film-lease partner facility or otherwise fails to satisfy the conditions for designation as a film-lease partner facility for the duration of any lease of at least three years by a film-lease production company tenant after the five-year period, the Authority may revoke the designation of the film-lease partner facility and recapture from the film-lease partner facility the portion of the tax credit that was only available to film-lease production companies by virtue of the film-lease partner facility's designation as a film-lease partner facility, and all films from film-lease production companies that relied on the film-lease partner facility designation for which an initial approval has been given, but for which the Authority has not given final approval, shall be reduced to eliminate the portion of the tax credits only available by virtue of the film-lease partner facility's designation as a film-lease partner facility, subject to any other provisions of this section.

[(d)] (f) If a film-lease production company [that was issued a film tax credit pursuant to paragraph (a)2 in the definition of New Jersey film-lease production company has failed] fails to meet the qualifications of a film-lease production company or otherwise comply with the applicable provisions in the definition of New Jersey film-lease production company, except for the failure to occupy the film-lease partner facility for any reason outside the control of the film-lease production company:

1. All the film-lease production company's films for which an initial approval has been given, but for which the Authority has not given final approval, shall [terminate as a film-lease production company film project and shall be considered a film project without the benefit of any film-lease partner facility designation] be reduced to eliminate the portion of the tax credits only available by virtue of such designation; and

2. The Authority may recapture solely from [the] that film-lease production company the portion of any tax credits that had been awarded to the film-lease production company that was only available to the film-lease production company on the basis of the designation of a film-lease partner facility[, except that the Authority shall not recapture any tax credits within one year of the date of the film-lease production company's lease with the film-lease partner facility].

(g) Notwithstanding (f) above, if a film-lease production company was issued a film tax credit on the basis of a lease or sublease with a film-lease partner facility before that facility receives a temporary or final certificate of occupancy and the film-lease production company fails to meet the qualifications of a film-lease production company or otherwise comply with the applicable provisions in the definition of film-lease production company, including, but not limited to, the failure to occupy the required amount of space at a film-lease production facility for the required time, the Authority shall not recapture any tax credits within one year of the date of the film-lease production company tenant's lease with the film-lease production facility, which the Authority shall extend for one additional year if the film-lease production facility commences construction, as evidenced by the issuance of a building permit, including permits for demolition and site remediation, within one year of the date of the film-lease production company tenant's lease with the film-lease production facility.

(h) In the event that the Authority determines that a film-lease post-production company has failed to meet the qualifications of a film-lease post-production company or otherwise comply with the

provisions of this section, except for the failure to occupy the film-lease partner facility for any reason outside the control of the film-lease post-production company, the Authority may recapture solely from that qualified post-production company the portion of any tax credits that had been awarded to that qualified post-production company that was only available to the qualified post-production company by virtue of the qualified post-production company treatment as a film-lease post-production company, and all films for which an initial approval has been given, but for which the Authority has not approved final documentation, shall be either reduced to eliminate the portion of the tax credits only available by virtue of such treatment if the digital media project is otherwise eligible or shall be terminated if not eligible.

(i) Notwithstanding (h) above, if a film-lease post-production company was issued a film tax credit on the basis of a lease or sublease with a film-lease partner facility before that facility receives a temporary or final certificate of occupancy, and the film-lease post-production company fails to meet the qualifications of a film-lease post-production company or otherwise comply with the applicable provisions in the definition of film-lease post-production company, including, but not limited to, the failure to occupy the required amount of space at a film-lease production facility for the required time, the Authority shall not recapture any tax credits within one year of the date of the film-lease post-production company tenant's lease with the film-lease production facility, which the Authority shall extend for one additional year if the film-lease production facility commences construction as evidenced by the issuance of a building permit, including permits for demolition and remediation, within one year of the date of the film-lease post-production company tenant's lease with the film-lease production facility.

(j) A television series produced by a film-lease production company that satisfies the three-year lease requirements at subparagraph (a) in the definition of "film-lease production company" and that commences principal photography in New Jersey prior to the film-lease partner facility's receipt of a temporary or final certificate of occupancy shall remain eligible to receive the tax credits only available to the film production company by virtue of the film production company's treatment as a film-lease production company; provided that the series continues production in New Jersey, the film production company continues to satisfy the requirements of a film-lease production company at least through the conclusion of production of the television series in New Jersey, and the television series continues to satisfy the requirements for a film that commences production prior to the film-lease partner facility's receipt of a temporary or final certificate of occupancy.

[(e)] (k) (No change in text.)

[(f)] (l) If, at any time, the Authority determines that a designated studio partner or film-lease partner facility made a material misrepresentation on its application or any submission pursuant to this program, the Authority shall revoke the designation and the studio partner or film-lease partner facility shall forfeit, and the Authority may recapture any or all of, the tax credits awarded to the studio partner, any film-lease post-production company, or any film-lease production company or film production company approved for tax credits by virtue of the designation of the studio partner or film-lease partner facility, which shall be in addition to any other remedies in any approval letter, award agreement, and any criminal or civil penalties to which the approved applicant and the respective officer may be subject.

Recodify existing (g)-(h) as (m)-(n) (No change in text.)

[(i)] (o) If all or part of a tax credit sold or assigned pursuant to N.J.A.C. 19:31T-1.10 is subject to recapture, then the Authority shall pursue recapture from the corresponding studio partner, film-lease partner facility, [or] film production company, film-lease production company, or film-lease post-production company and not from the purchaser or assignee of the tax credit transfer certificate.

[(j)] (p) (No change in text.)

19:31T-1.10 Application for tax credit the transfer certificate

(a) Tax credits, upon receipt thereof by an approved applicant from the Director and the Authority, may be transferred, by sale or assignment, in

full or in part, pursuant to this section, subject to the cumulative total at N.J.A.C. 19:31T-1.11(a), to any other taxpayer who may have a tax liability pursuant to [N.J.S.A. 54:10A-5 or 54A:1-1 et seq.] **the Corporation Business Tax Act (1945), N.J.S.A. 54:10A-1 et seq., and the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., 54:18A-2, 54A:18A-3, 17:32-15, or 17B:23-5.** An approved applicant shall apply to the Authority and the Director for a tax credit transfer certificate, in lieu of the approved applicant being allowed any amount of the credit against the tax liability of the approved applicant. Such application shall identify the specific tax credits to be transferred, the consideration received therefor, and the identity of the transferee. Once approved by the Chief Executive Officer of the Authority and the Director of the Division of Taxation, a tax credit transfer certificate shall be issued to the approved applicant, naming the transferee. The certificate issued to the approved applicant shall include a statement waiving the approved applicant's right to claim that amount of the tax credit against the taxes that the approved applicant has elected to sell or assign. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability shall be subject to the same limitations and conditions that apply to the use of the tax credits pursuant to N.J.A.C. 19:31T-1.6.

(b)-(c) (No change.)

(d) **The tax credit transfer certificate holder may transfer the tax credit amount on or after the date of issuance for use by the transferee in the tax period for which it was issued, or in any of the next successive tax periods, subject to the carryforward provisions at N.J.S.A. 54:10A-5.39b.c and 54A:4-12b.c and N.J.A.C. 19:31T-1.6. The tax credit transfer certificate holder or transferee may first use the credit against tax liabilities in the tax period in which it was issued or in a succeeding tax period, as authorized in this subsection, subject to the carryforward provisions at N.J.S.A. 54:10A-5.39b.c and 54A:4-12b.c and N.J.A.C. 19:31T-1.6, without the need to amend the return for the year for which the credit was issued.**

Recodify existing (d)-(e) as (e)-(f) (No change in text.)

#### 19:31T-1.11 Cap on total credits

(a) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the Director and the Authority pursuant to N.J.A.C. 19:31T-1.6(a) to apply against the tax imposed pursuant to N.J.S.A. 54:10A-5 and the tax imposed pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., shall be allowed in the fiscal year of initial approval, except as provided at (a)4 below, as follows:

1. Pursuant to N.J.S.A. 54:10A-5.39b.e and 54A:4-12b.f, and except as provided at N.J.S.A. 34:1B-362.d and (a)2 below, to approved applicants, other than studio partners and film-lease production companies, the cumulative total shall not exceed \$100,000,000 in fiscal year 2019, and in each fiscal year thereafter prior to fiscal year [2040] **2050**.

2. (No change.)

3. For studio partners and film-lease production companies:

i. Pursuant to N.J.S.A. 54:10A-5.39b.e and 54A:4-12b.f, except as provided at (a)3ii and iii below, the cumulative total shall not exceed \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2024, and shall not exceed a cumulative total of \$150,000,000 in fiscal year 2024 and in each fiscal year thereafter prior to fiscal year [2040] **2050**, to apply against the tax imposed pursuant to N.J.S.A. 54:10A-5 and the tax imposed pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq.

ii.-iii. (No change.)

4. (No change.)

(b) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the Authority and the Director pursuant to N.J.A.C. 19:31T-1.6(b) to apply against the tax imposed pursuant to N.J.S.A. 54:10A-5 and the tax imposed pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., shall be allowed in the fiscal year of initial approval as follows:

1. Pursuant to N.J.S.A. 54:10A-5.39b.e and 54A:4-12b.f, the cumulative total of \$30,000,000 in fiscal year 2019, and in each fiscal year thereafter prior to fiscal year [2040] **2050**.

2.-3. (No change.)

(c) (No change.)

(d) **Notwithstanding any provision of this section to the contrary, beginning in fiscal year 2028, if the amount of tax credits approved to approved applicants other than studio partners and film-lease production companies pursuant to this section is less than the cumulative total amount of tax credits permitted to be approved to approved applicants other than studio partners and film-lease production companies in that fiscal year, the Authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, which certified amount shall not exceed \$100,000,000 in any fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners pursuant to N.J.S.A. 54A:4-12b.a and 54:10A-5.39b.a in the next subsequent fiscal year by the certified amount remaining for approved applicants other than studio partners and film-lease production companies from the prior fiscal year. If the certified amount remaining from the prior fiscal year is less than \$100,000,000, then, in addition to the tax credits remaining from the prior fiscal year, the difference between \$100,000,000 and the certified amount shall be made available to studio partners, first from any funds available pursuant to N.J.S.A. 34:1B-362.b(1)(f), not including tax credits made available for transformative projects, and then, if there are insufficient funds available pursuant to N.J.S.A. 34:1B-362.b(1)(f), from the tax credits allocated in the current fiscal year to approved applicants other than studio partners and film-lease production companies.**

Recodify existing (d)-(e) as (e)-(f) (No change in text.)