

Law for Promoting the Film Industry of the Dominican Republic (No. 108-10)

September 2010

INTRODUCTION

With the aim of stimulating the development, production, dissemination and preservation of Dominican films, as a mean of communication and cultural diversity and as an activity of great economic potential, the Dominican government enacted Law No. 108-10, the Film Industry Law. This Law is necessary because without incentives and protection, domestic films have historically faced numerous economic and structural barriers that have considerably affected their competitiveness. Thus, this Law was passed, recognizing that the Dominican territory is privileged and should be promoted as a stage for local and foreign films, so that a lucrative industry emerges that contributes to the national economy and encourages foreign investment.

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I. Scope and Objectives of the Law for Movies

The Film Industry Law is applicable to natural or legal persons in the Dominican Republic that develop activities for the creation, production, distribution, and exhibition of films and audiovisual training and related technical industries. This Law aims to encourage a progressive, harmonious and equitable development of the local cinema, and promote the film industry in the Dominican Republic, which due to its association to the cultural heritage, is of public and social interest.

To ensure the promotion and protection of the local film industry, the Law provides that the Government's objective, through the Law and its regulation, is to:

1. Create and restructure public institutions related to the film industry.
2. Channel the funds generated by taxes on film-related goods and services, to the film industry.
3. Establish a taxation system that stimulates the film industry in the Dominican Republic as well as domestic and foreign investment in it.
4. Facilitate customs procedures and administrative systems, and establish a special tariff regime for the production of domestic or foreign films in the Dominican territory.
5. Facilitate and encourage imports of raw materials, capital, equipment, procurement of services relating to the film industry, and installation in the country of businesses of technical services specific to the film industry.
6. Promote the means that will enable the film industry to access the credit system and incentives for businesses and industries in the country.
7. Promote education and training consistent with the purposes of the Law.
8. Establish a National Film Information Registry.

II. The General Directorate of Films (DGCINE)

For the administration and enforcement of the Law, the General Directorate of Films is created, under the Ministry of Culture, as a decentralized body of the Dominican government, with legal personality, and administrative, financial and technical autonomy. The DGCINE Director is appointed by the President at the request of the Minister of Culture.

The General Directorate of Films (DGCINE) has the following functions:

1. Support the Ministry of Culture in defining public policy in the field of cinema and audiovisual material and to coordinate and regulate the implementation of policies for film and audiovisual activities;
2. Promote the development of the production and promotion of films and audiovisual material and support actions or schemes which contribute to the development of the industry;

3. Categorize movie theaters, based on their prices, characteristics and type of films they exhibit.
4. Promote policies directed towards national and foreign investors from commercial financial institutions, public and private, so that the latter may grant soft financial credits to facilitate the development of film industry activities in the country;
5. Execute partnership agreements with national or international, public and private entities, necessary for the promotion of cinematographic and audiovisual activities, as well as training professionals in the industry and represent the country in official activities within its jurisdiction;
6. Work with education authorities to promote and disseminate knowledge of cinema and support programs to promote film schools;
7. Develop the market for films and audiovisual works by stimulating the creation of new audiences;
8. Grant financial support to the sector through the Film Promotion Fund (FONPROCINE) and other incentives;
9. Gather statistics and cultural indicators of the industry to measure its development;
10. Promote the work of relevant bodies to act against illegal activities involving intellectual property rights;
11. Promote research and development;
12. Establish measures to promote gender equality;
13. Update and map out the territory and natural locations and the structure that can be used for cinematography activities;
14. Establish awards in recognition of careers;
15. Assess applications and issue Certificates of Dominican Nationality and Filming Permits.

III. The Dominican Cinematheque

The Dominican Cinematheque acts as an agency of the General Directorate of Films (DGCINE) with its own institutional status, which allows it to identify properly its own operating basis. Its functions are to: (i) safeguard the audiovisual heritage of the nation and spread the values of national and international films, (ii) disseminate programs to promote films, both classical and contemporary, (iii) create a center for film documentation, (iv) create the technical conditions necessary to rescue, preserve and protect movies and negatives; search and collect the visual memory converted as heritage of the Dominican Republic (v) create events such as

festivals or film presentations to promote a critical interest in cinema throughout the national territory, (vi) promote research on film matters.

It is the duty of the producer of any cinematographic work that has received funds from FONPROCINE to transfer and deliver a new and original copy to the Dominican Cinematheque, which will be preserved as a cultural heritage property of the nation, to be reproduced solely for preservation and dissemination. The producers who receive such funds shall agree, pursuant to an agreement to be executed for such purposes, that once the term of

eighteen (18) months from the first public showing of the film in cinemas in the country has expired, it can be displayed and generally communicated to the public by the Government through the General Directorate of Films for no more than a week. Similarly, the producer shall authorize the cultural

presentation and dissemination of the work at showings and festivals on a national or international level, in which the country participates.

IV. Intersectoral Council for the Promotion of the film industry in the Dominican Republic (CIPAC)

it is the highest entity of the General Directorate of Films and is composed of:

1. The Minister of Culture or a Deputy Minister, who will preside it.
2. The Minister of Tourism or a Deputy Minister;
3. The Director or Deputy Director of the Directorate General of Internal Revenue (DGII)
4. The Director of the General Directorate of Films (DGCINE) who shall act as secretary, with voice but no voting power
5. The Executive Director or Deputy Director of the Center for Export and Foreign Investment (CEI-RD).
6. The Director General or a deputy from PROINDUSTRIA;
7. One (1) representative of film academia appointed by its members;
8. A representative of the Association of Exhibitors, appointed by them.
9. A representative of the Association of Distributors, appointed by them.

10. A representative of the Associations of Film Professionals, appointed by them.

The functions of the CIPAC are the following:

1. Allocate resources from the Film Promotion Fund (FONPROCINE), as provided in the Law.
2. Establish, within the two (2) last months of each year, the activities, percentages, amounts, limits, rules, lines of expenditure for each year within the parameters established by the Law to offer incentives with resources from FONPROCINE in the following year.
3. Act as an adviser and consultant of the Ministry of Culture on matters pertaining to the determination of the Film Policy in the Dominican Republic.
4. Approve programs and projects submitted to the General Directorate of Films.
5. Request to public and private entities, the information and collaboration necessary for the exercise of its powers.
6. Develop and approve the internal regulations of the Film Promotion Fund.

V. National Film Information Registry (SIRECINE)

The National Film Information Registry (SIRECINE) is created by law with the purpose of maintaining records and information about the participants of the film industry in the country, keep records on the sale of works in various media and record on the levels of attendance at movie theaters. Enrollment and Registration of Film and Audiovisual Industry involves the payment of a fee to be established, stamped and adjusted by the General Directorate of Films, by regulation.

Producers, distributors, cinema operators and public authorities must provide the DGCINE, the information that the latter may require in connection with the marketing of films in the country, especially on the budgets of works, place of deposit of the negatives, access to any benefit, assistance for quantity of theaters showing the work, number of

domestic and foreign titles exhibited in the year and periods of exhibition of films by theater.

Participants in the Dominican film industry to benefit from the incentives provided by the Law, must be registered with the National Film Information Registry.

Similarly, no theater or place of public exhibition of films will operate in the country without prior registration with the General Directorate of Films, which must be accomplished after obtaining the required permits and licenses from the other public institutions concerned.

Exhibitors and owners of theaters or cinemas must register the closing of any theater with the General Directorate of Films.

VI. Film Promotion Fund (FONPROCINE)

The Law creates a Film Promotion Fund Managed by the Intersectoral Council for the Promotion of the film industry in the Dominican Republic (CIPAC), through the General Directorate of Films (DGCINE) for the development and continued promotion of the national film and audiovisual industry, which allows the offering of a system of financial support, guarantees and investments for the benefit of producers, distributors, and exhibitors of domestic films as well as for educational policy development in the film industry. The FONPROCINE shall receive funds from:

1. The resources allocated from General Government's Budget;
2. The amounts for national taxes on the ticket or entrance fees to cinemas.
3. Tax revenues generated by the tax on transfer of goods and services (ITBIS) on sales and rentals of movies in establishments dedicated to it;
4. Revenues generated by ITBIS in the sale of goods inside movie theaters;

5. Resources generated by FONPROCINE operations, its financial performance, sale or liquidation of its investments and other resources that are generated, capitalized in this fund.
6. Donations, transfers, and national or international contributions received in cash.
7. Funds derived from penalties imposed for breach of the Law
8. Any other resource that is assigned from the General Government's Budget.
9. Interest and income from financial deposits and certificates of ownership.
10. Reimbursement resources from credits granted by application of the Law
11. Unspent resources from previous years.
12. Revenues resulting from the sale of editions, publications and other materials produced by the fund.
13. Any other income allocated to it by law or legal transaction.
14. Any other income by the Film Promotion Fund.

FONPROCINE resources can be destined to any or all of the following general incentives:

1. To promote, encourage and develop educational plans and programs in the area of films and other aspects relating to the Law;
2. Creation, development, production, promotion and dissemination of local films and related educational activities;
3. Conservation and preservation of Dominican film and audiovisual memory and universal films of a

particular cultural value, including the purchase of goods and supplies needed for this.

4. Research in the field of film activity, in a manner that can contribute to the establishment of national policies in this area, and incentives for training in different areas of filmmaking.
5. Actions against the violation of the copyright in the marketing, distribution and exhibition of films.
6. Establishment of the National Film Information Registry (SIRECINE).
7. Promotion of the Dominican Republic as a suitable destination for foreign film production.

No Dominican cinematographic work may receive funds from FONPROCINE that exceed 70% of the Dominican budget in the film, according to budget limits, in general set by the Intersectoral Council for the Promotion of the film industry in the Dominican Republic, subject to additional costs that the producer may assume freely.

FONPROCINE resources will not be allocated towards: (i) films made for television and soap operas, (ii) cinematographic works financed entirely by public institutions, (iii) those whose content is essentially for advertising or political propaganda, (iv) those that do not respect the Dominican laws and regulations, and (v) those that constitute a crime, as indicated by irrevocable judgment.

VII. Fiscal Incentives

All natural or legal persons who administer, promote, or develop films and other audiovisual works which meet the requirements set forth below, can benefit from tax incentives to the film industry in the Dominican Republic:

1. Have a Filming Permit, which is issued for free by the General Directorate of Films for a period of 10 years;
2. Have an insurance policy against civil liability in case of damages caused to third parties;
3. Be registered with the National Film Information Registry, except foreign films produced in the Dominican Republic that only require the provisions of paragraphs 1 and 2 above. They can benefit from the incentives of the Law except for the use of resources from FONPROCINE;
4. Twenty percent (20%) of the amount budgeted for the motion picture or other audiovisual work to be developed must be spent in the Dominican Republic or the Dominican capital invested may not be less than twenty percent (20%) of the budget. These percentages may be reduced by the General Directorate of Films if the country cannot meet the demand of personnel with the training required for the functions to be implemented in the motion pictures or audiovisual works, and
5. Have a minimum participation of Dominicans in accordance with this Law.

a) **Fiscal Incentives for Investment in the National Film Industry**: legal persons who invest in

cash in Dominican feature film projects previously approved by the General Directorate of Films are entitled to deduct one hundred percent (100%) of the real value invested or donated for the purpose of calculating income tax charge for the tax period in which the investment is made. The amount of this investment cannot exceed twenty five (25%) of the total tax payable by the investor for the current fiscal year.

b) **Tax incentives for Reinvestment in the Film Industry**:

The income of producers, distributors of Dominican films, both inside and outside the national territory, as well as exhibitors, that is capitalized or reserved to develop new products or investments in the film sector, will be exempt up to 100% of income tax.

c) **Tax exemptions on the establishment of new movie theaters**:

Natural or legal persons who invest in the construction of cinemas in the National District and the municipality of Santiago de los Caballeros, shall be exempted from fifty percent (50%) of their Income Tax for a period of fifteen (15) years on account for revenue generated by the respective theaters. For other provinces and municipalities, the exemption granted shall be one hundred percent (100%). Also, the following shall be exempt: (i) national and municipal taxes levied for issuing building permits, including acts of buying property for a period of five (5) years from the effective date of the Law, (ii) import duties and other taxes, including ITBIS, applicable on equipment, materials and furnishings that are necessary for the initial

equipment and operation of the theater in a period of five (5) years from the effective date of the Law.

d) **Tax exemption on foreign films**: foreign films produced in the Dominican Republic are exempted from paying ITBIS and other municipal tax or of any other nature with respect to the filming, film equipment, and general production, except for provisions relating to the National Film Information Registry.

e) **Tax exemptions on the provision of technical services**: income earned by individuals or legal entities domiciled in the Dominican Republic for providing technical services for all films shot in our territory, are exempt from income tax.

f) **Incentive for the establishment of film studios in the country**: Natural or legal persons that establish film studios in the country shall enjoy an exemption of one hundred percent (100%) from the payment of income tax from the operation of such studios for a period of fifteen (15) years from the effective date of the Law and for a period of ten (10) years from the effective date of the Law they may import, duty free, capital goods required for the purposes of this article.

g) **Customs duty on import of domestic feature films**: The media materials and copies of Dominican films imported into the country shall pay taxes, levies or duties, exclusively on the appraised value of the respective equipment, without affecting the application of other legal provisions that may exempt the payment of taxes for importation of such goods.

h) **Temporary importation of equipment and goods**: With the national film permit issued by the

General Directorate of Films, equipment and consumables or otherwise, necessary for filming can be imported temporarily into the country for up to a

term of six (6) months, period that may be extendable, provided that all goods imported in this way are re-exported at the end of such term.

i) **Exemptions from export or return of Dominican and foreign films**: The media materials and copies of Dominican and foreign films that are exported or returned to the country, shall pay no taxes, levies or duties.

j) **Facilitation of formalities**: customs authorities, as indicated by the Law, must grant express delivery status on imports required for the filming of movies that have the national film permit for filming movies.

VIII. Sanctions

To ensure compliance with the aims and objectives of the Law, CIPAC through the DGCINE may impose, as the case may be and pursuant to the terms of the Law, the following types of sanctions: 1) Written warning; 2) temporary or permanent closure of theaters, 3) Suspension of showing, 4) Fines between fifty (50) and one hundred fifty (150) minimum wages; 5) Temporary or permanent ban of members, agents or sectors from the film industry.

Jurisdiction. Disputes arising from the application and enforcement of the penalties provided by this Law are known in accordance with the Administrative Judicial Process.

Civil or criminal liability. The administrative penalties under the Law, are applied without prejudice to civil or criminal liability arising from actions taken.

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