

**LAW 814 OF 2003**

**(July 2)**

[Partially regulated by National Decree 763 of 2009.](#)

**"Whereby rules are issued for promoting cinematographic activity in Colombia."**

**THE CONGRESS OF COLOMBIA,**

**DECREES:**

**CHAPTER I**

**Objectives, special competencies, and definitions**

**Article 1.** *Objective.* In harmony with the measures, principles, purposes, and concepts set forth in [Law 397 of 1997](#), this law seeks to strengthen the aim of fostering a progressive, harmonious and equitable development of national cinematography and, in general, to promote cinematographic activity in Colombia.

For the realization of this purpose, development measures are adopted to enable productive return scenarios among the sectors of the moving image industry towards their shared activity, to stimulate investment in the production of goods and services included in this cultural industry, to facilitate film management as a whole and to convene conditions of participation, competitiveness, and protection for the national film industry.

Due to its direct association with the cultural heritage of the Nation and the formation of collective identity, cinematographic activity is of social interest. As such, it is the object of special protection and shall contribute to its own industrial and artistic development and the Nation's cultural protection.

**Article 2.** *Concepts.* The concept of the film industry designates the stages and activities of production of goods and services in this audiovisual sphere, especially those of production, distribution or commercialization, and exhibition. In turn, the concept of national cinematography includes, for the purposes of this law, the series of public and private actions that interrelate to promote the artistic and industrial development of national audiovisual and film creation and production and to root this production in the national will, at the same time supporting its greater realization, conserving, preserving and disseminating it.

The term cinematographic activity in Colombia includes, in general, the two previous concepts.

Within these general concepts, the definitions and principles set forth in Law 397 of 1997 are applicable regarding the definition of Colombian film companies, audiovisual works, allocation of resources, percentages of participation in Colombian productions or co-productions of feature films, and other provisions regarding moving images, audiovisual works, national industry, and cinematography, as provided therein.

The production and co-production of Colombian cinematographic works may be executed by natural or juridical persons. Film production and co-production projects may be titled.

**Article 3. Definitions.** For the purposes of the provisions of this law, Law 397 of 1997, and the rules relating to cinematographic activity, the following definitions shall apply:

1. Movie theater or exhibition room. Premises open to the public, equipped with a projection screen which, upon payment of a price or any other form of negotiation, confers the right of admission to the projection of films in any medium.
2. Exhibitor. Whoever is in charge of the operation of a movie theater or exhibition hall, as owner, lessee, concessionaire, or under any other form that confers such right.
3. Distributor. Whoever engages in commercializing the exhibition rights of cinematographic works in any medium or support.
4. Agents or sectors of the motion picture industry. Producers, distributors, exhibitors, or any other person performing similar actions or actions directly related to this cultural industry.

The terms used in this law shall be understood in their expressed sense or, in case of doubt, in the sense of international acceptance as per the provisions included in treaties on cinematographic matters that are in force for the country or in the sense commonly incorporated in the legislations of countries that have signed such international agreements.

The works made under the production or co-production regimes provided by law, current regulations, and international treaties in force for the country are considered Colombian cinematographic works.

For the purposes of this law, the terms cinematographic work or cinematographic film are understood to be equivalent. Short films are cinematographic works with a minimum duration of seven (7) minutes, according to international standards.

**Article 4. Competencies.** The State, through the organs designated in Law 397 of 1997, shall promote, under regulations in force, all the measures within its reach for achieving the national purposes outlined in the first article regarding cinematographic activity in Colombia.

In accordance with the provisions of Law 397 of 1997, this law and other applicable norms, the Ministry of Culture, as the governing body through the Directorate of Cinematography, is responsible for:

1. Outlining policies and adopting decisions for the cultural, artistic, industrial, and commercial development of national cinematography and for its conservation, preservation, and dissemination.
2. Promoting and watching over conditions of participation and competitiveness for Colombian cinematographic works and establishing norms on percentages of national participation in Colombian cinematographic works when these are not specified in the law.
3. Granting the incentives and incentives provided for in Law 397 and overseeing the proper functioning of the Film Development Fund.

4. Protecting and expanding the locations dedicated to film exhibitions and classifying movie theaters as deemed necessary in the latter case. This classification shall consider elements related to the type and quality of the projection, physical characteristics, prices, and type of films exhibited. It is the obligation of the exhibitors to publicly announce, as provided by the Ministry of Culture, the classification of the theater and to maintain the assigned classification unless the conditions for classification change.

5. Ensuring compliance with constitutional, legal, and regulatory provisions pertaining to cinematographic activity in Colombia and the adequate exploitation and provision of film services.

6. Maintaining, for adequate follow-up and control of the Film Development Fee and execution of the resources of the Film Development Fund and compliance with the public policies under its responsibility, an Information and Film Registry System, to be called SIREC, on agents or sectors participating in the film industry in Colombia, and, in general, on the marketing of works in different media or formats, and attendance levels in movie theaters. The participants in the cinematographic activity must provide the information required by the Ministry of Culture for creating and maintaining the SIREC. The information will be confidential and may be considered only in relation to the general tasks of the rules on the subject. For the information system, the Ministry may establish mandatory records of agents of the sector, box office, box office types, and inspection systems that may be necessary. No movie theater or place of public exhibition of cinematographic works may operate in the national territory without prior registration before the Ministry of Culture, which shall come after processing the required permits and licenses before the other competent public authorities. The registration of the closing of movie theaters must also be carried out. Registrations made before this law shall be valid.

7. Imposing or promoting, as the case may be, the sanctions and fines to the agents of the cinematographic activity under the parameters defined in this law.

The fees for registrations and classifications payable by the agents or sectors participating in the film industry shall be set by the Ministry of Culture, taking into account the administrative costs necessary for the maintenance of the SIREC, without these fees exceeding one legal minimum wage in force for each registration or classification.

## CHAPTER II

### Parafiscal Fee for the Film Development;

#### Film Development Fund

**Article 5. *Film Development Fee.*** To support the objectives outlined in this law and Law 397 of 1997, a parafiscal contribution, called Film Development Fee, shall be created, payable by film exhibitors, distributors engaged in the commercialization of film exhibition rights for movie theaters or exhibition venues established in national territory, and producers of Colombian feature films, calculated as follows:

1. For exhibitors: Eight point five percent (8.5%) payable by film exhibitors on the net amount of their income obtained from the sale or negotiation of income rights to the cinematographic exhibition in movie theaters or exhibition venues, whatever form they adopt. This net income shall be taken after deducting the percentage of income corresponding to the distributor and the producer, as the case may be.

2. Eight point five percent (8.5%) payable by the distributors or those who carry out the activity of commercialization of exhibition rights of non-Colombian cinematographic films for movie theaters established in the national territory on the net amount of their income obtained from the sale or negotiation of such rights under any form.

3. Five percent (5%) payable by the producers of Colombian feature films on the net income corresponding to them, regardless of the form or denomination adopted by such income, for the exhibition of the cinematographic film in movie theaters in the national territory. In no case may the fee stipulated in this numeral be calculated on a value lower than thirty percent (30%) of the box office income that the film generates from the exhibition in movie theaters in Colombia. The fee shall not be levied on the income corresponding to the producer for the sale or negotiation of exhibition rights exclusively for projection media outside the national territory or, also exclusively, for screening facilities in the national territory other than movie theaters.

**Paragraph 1.** The exhibition of Colombian feature films in movie theaters or exhibition venues does not cause the fee to be charged to the exhibitor or distributor.

**Paragraph 2.** The income from the Film Development Fee established in this law is not part of the Nation's general budget.

**Article 6.** *Withholding of the Film Development Fee.* The withholding of the Film Development Fee shall be made as follows:

1. Amount payable by distributors or those who carry out the activity of commercialization of non-Colombian works. The withholding of the contribution payable by those who carry out these activities shall be made by the exhibitor at the time of payment or credit on account for the sale or negotiation by any means of tickets or admission rights to the motion picture in theaters when the negotiation has been made on box office receipts or similar. In different negotiation events, the withholding shall be made by whoever is obliged to pay for each payment or credit on account made to the distributor or to whoever undertakes commercialization.

2. Amount payable by producers of Colombian works. The withholding of the contribution to be paid by the producers of Colombian works shall be made by the exhibitors or by those who have to make payments or compensations to the producer under any other form of negotiation of rights for the film on each payment or credit on account.

When the taxpayers of the Film Development Fee present balances in their favor, such credits may be charged to any of the following declarations until they are exhausted or may be subject to refund within the month following the filing date of the request for a refund, if applicable.

**Paragraph.** The withholding at source established in this article shall be made at the time of each payment or payment on account, whichever occurs first.

**Article 7.** *Declaration and payment periods.* [Regulated by National Decree 352 of 2004.](#) The declaration and payment period for the Film Development Fee is monthly. The National Government shall regulate the

periods and places for filing and payment and the mechanisms for refunds or compensations of balances in favor.

For such purpose, those responsible for the Fee shall file a monthly statement including the Fee payable and the withholdings that should have been made, when applicable.

If the withholdings foreseen in the preceding articles are not made, the declarations are not filed, the payments are not made, or the statements are inaccurate, the penalties foreseen in the Tax Statute and the procedures for imposition of fines and discussion established therein shall be applied. Regardless of the parafiscal nature of the contribution created in this law, the Direction of National Taxes and Customs, DIAN, shall be in charge of carrying out the inspection, the assessments and application of sanctions provided in this article, and the resolution of the appeals and challenges to such acts, as well as for the enforced collection of the Fee, interest, and sanctions by applying the procedure provided in the Tax Statute.

For the purposes outlined in the preceding paragraph, the DIAN shall celebrate an agreement with the administrator of the Film Development Fund.

The amounts collected by the DIAN of the Fee, interest, penalties, and others originating in the Film Development Fee shall be transferred through the General Treasury of the Nation to the Film Development Fund created in this law within the month following its collection.

**Article 8. *Inspection of the information.*** In addition to the obligations to provide the information stated in this law to the SIREC, and under legal reserve, the Direction of National Taxes and Customs or, as the case may be, the auditor or whoever takes the place of the entity that administers the Fund created in this law, may make visits to inspect the accounting books of the taxpayers and withholding agents of the Film Development Fee, exclusively for the purposes related to the Fee.

**Article 9. *Administration of the Film Development Fee.*** [Regulated by National Decree 352 of 2004](#). The resources of the Film Development Fee and those stated in this law shall be paid into a special account called the Film Development Fund, which shall be administered and managed through a contract between the Ministry of Culture and the Mixed Fund for Film Promotion created under Article 46 of Law 397 of 1997. The State contract directly signed will stipulate the definition of the activities, projects, eligibility methodologies, amounts, and percentages that may be allocated to each area of cinematographic activity.

In case the Mixed Fund for Film Promotion does not exist, the Film Development Fund shall be administered by the mixed or private entity representing the several sectors of the film industry or a public entity of a financial or fiduciary nature, directly designated by decree by the National Government, which shall perform the same activities contemplated in this law for the Mixed Fund mentioned above. The Ministry of Culture shall celebrate the contract with the designated party, which shall comply with the same requirements indicated in the preceding paragraph.

**Article 10. *Film Development Fund.*** The Film Development Fund is hereby created as a special account without legal personality administered by the Mixed Fund for Film Promotion following the provisions of the previous article, the resources of which shall be constituted by:

1. The proceeds of the Film Development Fee, including the financial yields it produces.

2. The income derived from the operations carried out with the resources of the Fund.
3. The proceeds from the sale or liquidation of its investments.
4. Donations, transfers, and contributions in money received.
5. Contributions from international cooperation.
6. Penalties and interest imposed by the Direction of National Taxes and Customs due to non-compliance with the duties of withholding, declaration, and payment of the Film Development Fee, under the agreement signed with the administrator of the Fund.
7. The resources assigned to it in the national budget.

The Film Development Fund resources shall be executed in accordance with the rules of private law and contracting between individuals and shall be managed separately from the other resources of the Mixed Fund for Film Promotion.

Under Article 267 of the Constitution, the Office of the Comptroller General of the Republic shall exercise fiscal control over the resources of the Film Development Fund. The Ministry of Culture, through the Directorate of Cinematography, and the Direction of National Taxes and Customs will carry out oversight within their jurisdiction.

**Article 11.** *Destination of the resources of the Film Development Fund.* The resources of the Film Development Fund shall be used for the following purposes:

1. Granting stimuli and incentives equal to those established in Articles 41 and 45 of Law 397 of 1997, including subsidies for the recovery of Colombian production and co-production.
2. Incentives and subsidies for recovery of the exhibition of Colombian cinematographic works in movie theaters.
3. Loans for film production under preferential conditions via financial institutions.
4. Loans under preferential conditions for establishing or improving exhibition infrastructure via financial institutions.
5. Loans on preferential conditions for establishing film processing laboratories via financial institutions.
6. Provision of guarantees to film production via financial institutions.
7. Creation of the Information and Film Registry System, SIREC.
8. Research in cinematography, feasibility studies for establishing or improving the cinematographic infrastructure, technical assistance, and incentives for training in various areas of cinematography.

9. Actions against copyright infringement in the commercialization, distribution, and exhibition of cinematographic works.

10. Stimuli to the subjects of the contribution established in numeral 2 of article 5° of this law.

11. Up to ten percent (10%) remuneration to the Film Development Fund administrator.

At least seventy percent (70%) of the resources of the Film Development Fund shall be allocated to the creation, production, co-production, and, in general, to the realization of Colombian feature films and short films.

The incentives, stimuli, and credits provided herein shall be allocated exclusively in proportion to the Colombian participation in the project in question, as the case may be.

In no circumstances may the Fund's resources be used by the Fund's administrator to act as co-producer of films or to share risks in the projects without prejudice to the agreement that, as the case may be, may be established with third parties on profit sharing.

**Article 12.** *Management of the Film Development Fund.* [Regulated by National Decree 352 of 2004.](#) The Management of the Film Development Fund shall be in charge of the National Council of Arts and Culture in Cinematography, whose composition shall be regulated by the National Government to guarantee the presence of the Ministry of Culture, the Ministry's Direction of Cinematography and the taxpayers of the parafiscal fee created in this law.

The Technical Secretariat of the National Council of Arts and Culture in Cinematography will be in charge of the Film Development Fund administrator, who will have a voice but no vote. The National Council of Arts and Culture in Cinematography that has been formed shall adapt its composition and functions according to the regulations of the National Government.

Within the last two (2) months of each year, through a general act, the National Council of Arts and Culture in Cinematography shall establish the activities, percentages, amounts, limits, competition or direct application modalities, and other requirements and conditions necessary to access the benefits, incentives, and credits allocable with the resources of the Film Development Fund in the following fiscal year.

The parameters and criteria above may be modified during the year of execution of the resources due to exceptional circumstances.

The National Council of Arts and Culture in Cinematography shall directly allocate the Film Development Fund resources or may establish evaluation and selection subcommittees and set their compensation and expenses.

Members of the Mixed Fund for Film Promotion may have access to the Film Development Fund resources on equal terms with other agents of the industry and shall not participate in the decisions or responsibilities corresponding to the National Council of Arts and Culture in Cinematography on the resources of the Film Development Fund.

[See National Decree 2291 of 2003](#)

**Article 13.** Nature of the Film Development Fee. The Film Development Fee established in this law shall be treated as a deductible cost when determining the taxpayer's income following applicable provisions.

**Article 14.** Incentives for the exhibition of Colombian short films. [Regulated by National Decree 352 of 2004](#). For the benefit of the exhibition activity, the film exhibitors may discount directly from the contribution payable by them six point twenty-five (6.25) percentage points when they exhibit Colombian short films certified as such under regulations on the matter.

The National Government shall regulate the obligations of exhibitors, maximum validity periods, and the types of public exhibition of Colombian short films for the application of the provisions of this article.

**Article 15.** *Incentives for the distribution of Colombian feature films.* For a period of ten (10) years, film distributors may reduce by up to three (3) percentage points the Film Development Fee payable by them when in the year preceding the year in which the Fee is incurred, they have effectively marketed or distributed for movie theaters in Colombia or abroad a number of Colombian feature films equal to or greater than the number fixed by the National Government according to Article 18 of this law.

In this case, the reduction of the Fee shall be verified on a number of foreign films distributed for movie theaters in Colombia equal to the number of national films distributed, provided that such number in no case may be greater than twice the number corresponding to that fixed according to Article 18. The films to which this reduction applies shall be chosen by the distributor with prior notice to the administrator of the Film Development Fund at least five (5) working days before the first public exhibition of the film in movie theaters.

The effective commercialization or distribution of Colombian feature films must be certified by the Ministry of Culture. For the purposes stated in Article 46 of Law 397 of 1997, the expenses incurred by the distributor for the distribution of Colombian works in the country or abroad shall be considered as an investment of the distributor in the film sector.

## CHAPTER III

### Certificates of Film Investment or Donation;

#### Production Incentive

**Article 16.** *Tax benefits for donation or investment in film production.* [Regulated by National Decree 352 of 2004, Modified by art. 195, Law 1607 of 2012](#). Income taxpayers who make investments or donations to film projects of Colombian production or co-production of feature films or short films approved by the Ministry of Culture through the Direction of Cinematography shall be eligible to deduct from their income for the taxable period in which the investment or donation is made and regardless of their income-producing activity, one hundred and twenty-five percent (125%) of the net value invested or donated.

To access the deduction stipulated in this article, the Ministry of Culture, through the Direction of Cinematography, shall issue investment or donation certificates called, as the case may be, Certificates of Investment in Cinematography or Certificates of Donation in Cinematography.



The investments or donations acceptable for the provisions of this article shall be made exclusively in cash.

The National Government shall regulate the conditions, terms, and requirements to receive this benefit, which in no case shall be granted to advertising films or soap operas, and also the characteristics of the film investment or donation certificates issued by the Ministry of Culture through the Direction of Cinematography.

**Article 17. *Limitations.*** The benefit stated in the previous article shall be granted to income taxpayers who, regarding film projects, do not hold the status of producer or co-producer. Should the participation be made as an investment, it will give rights over the profit reported by the film proportionally to the investment as agreed between the investor and producer. Film investment certificates shall be negotiable securities in the market.

Profits reported by the investment will not be subject to this benefit. The National Government shall regulate the provisions of this article.

**Article 18. *Promotion of national cinematography.*** The National Government, within the last two (2) months of each year and in direct consultation with the conditions of national cinematographic production, also considering the existing exhibition infrastructure in the country and the attendance averages, may issue regulations on minimum percentages for the exhibition of national titles in movie theaters or any other exhibition or commercialization media of cinematographic works other than television. These measures shall be in force for the following year.

For issuing these norms through the Ministry of Culture, Direction of Cinematography, the agents or sectors of the cinematographic industry will be consulted, especially producers, distributors, and exhibitors, but their opinion will not be mandatory.

These measures may differ according to the geographic coverage of theaters, their classification, and potential audience levels in the municipalities with exhibition infrastructure.

The National Television Commission will annually fix a percentage of broadcasting of national cinematographic works.

Using the resources of the Film Development Fund, up to the amount determined annually by the National Film Council, economic incentives or recovery subsidies may be granted to theaters that must comply with exhibition percentages of Colombian feature films established under this article. Likewise, such incentives may be given to theaters that screen Colombian productions exceeding those minimum percentages.

**Article 19. *Advertisements in movie theaters.*** The National Government may establish the obligation that commercials or advertising messages presented in movie theaters be exclusively, or a percentage, domestically produced.

## CHAPTER IV

### Penalty Regime

**Article 20. Penalties.** To ensure the attainment of the objectives of promoting the national cinematographic activity, the Ministry of Culture may impose, proportionately, the sanctions established in this law for failure to comply with the obligations of film producers, distributors, and exhibitors, as follows:

1. Due to non-compliance with the measures dictated under Article 18, a fine up to the equivalent value of forty (40) legal monthly minimum wages. In case of recidivism, in addition to the penalty stipulated herein, the theater or premises shall be closed for up to three (3) months. This sanction shall apply to every movie theater, movie rental, or commercialization premises that fail to comply with the provisions of said article.
2. Due to failure to timely supply the information required by the Film Information and Registration System, SIREC, a fine of up to twenty (20) monthly minimum wages shall be imposed on whoever incurs non-compliance for each occurrence of the same.
3. Failure of the exhibition theaters to register before opening or failure to register the existing ones within two (2) months following the enactment of this law shall result in the closing of the theater until the registration is made.

**Article 21. Penalty procedure.** The Ministry of Culture shall make the imposition of the penalties established in the previous article according to the following procedure:

1. Inquiry. The occurrence or not of the fact constituting an infringement shall be determined ex officio or at the request of a party through an administrative inquiry carried out by the Ministry of Culture, in which the producer, distributor, or exhibitor subject of the investigation shall be notified according to the provisions of the Contentious-Administrative Code. During this stage, the subject of the investigation and the applicant may request the collection of evidence, which shall be carried out within a term not exceeding thirty (30) working days from the notification of the subject of the investigation. Within the same period, the Ministry shall perform the tests it deems necessary.
2. Resolution of the sanction. Within fifteen (15) working days following the practice of the tests carried out within the term outlined in the previous paragraph, the Ministry of Culture shall issue a grounded resolution in which it refrains from imposing a sanction or decides to impose it following the stipulations of Article 21 of this law.

Against the resolution issued according to the provisions of this article shall proceed the appeals of the governmental channels, which shall be processed and resolved per the relevant provisions of the Contentious-Administrative Code. The Ministry of Culture shall exercise coercive jurisdiction to enforce payment of the penalties imposed when the responsible party does not proceed voluntarily to their payment. The inquiry referred to in this article shall have an expiration term of two (2) years from the occurrence of the fact.

Natural or juridical persons who are unwilling to provide the information required by the Film Information System or who are in the process of collecting any fine for the concepts established in this law shall not have access to the stimuli, incentives, or loans granted through the Film Development Fund until they comply with those obligations.

The above sanctions shall be imposed without prejudice to those contemplated in article 7 of this law and the accusation before the competent criminal authorities for providing false information.

The closing of exhibition theaters or video rental premises shall be carried out by the municipal or local mayors with jurisdiction over the place of their location at the request of the Ministry of Culture.

**Article 22. *Validity and repeals.*** This law is in force from the date of its enactment and, regarding the cinematographic exhibition, it repeals numeral 1 of Article 7 of Law 12 of 1932 and literal (a) of Article 3 of Law 33 of 1968, as well as the other provisions related to this tax relevant to the exhibition.

**The President of the Honorable Senate of the Republic,**

**Luis Alfredo Ramos Botero.**

**The Secretary General of the Honorable Senate of the Republic,**

**Emilio Ramón Otero Dajud.**

**The President of the honorable House of Representatives,**

**William Vélez Mesa.**

**The Secretary General of the Honorable House of Representatives,**

**Angelino Lizcano Rivera.**

**REPUBLIC OF COLOMBIA - NATIONAL GOVERNMENT**

**Be it published and executed.**

**Issued in Bogotá, D. C., on July 2, 2003.**

**ÁLVARO URIBE VÉLEZ**

**The Minister of Finance and Public Credit,**

**Alberto Carrasquilla Barrera.**

**The Minister of Culture,**

**María Consuelo Araújo Castro.**

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