

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 608

By: Hall

4
5
6 AS INTRODUCED

7 An Act relating to film production incentives;
8 amending 68 O.S. 2011, Sections 3621, 3623, as
9 amended by Section 2, Chapter 313, O.S.L. 2019, 3624,
10 as last amended by Section 3, Chapter 313, O.S.L.
11 2019 and 3626, as last amended by Section 5, Chapter
12 313, O.S.L. 2019 (68 O.S. Supp. 2020, Sections 3623,
13 3624 and 3626), which relate to the Compete with
14 Canada Film Act; renaming act; clarifying statutory
15 language; modifying amount of rebate after certain
16 date; providing additional rebates for meeting
17 certain requirements; extending term of act; updating
18 statutory reference; and providing an effective date.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 68 O.S. 2011, Section 3621, is
17 amended to read as follows:

18 Section 3621. This act shall be known and may be cited as the
19 ~~"Compete with Canada Film Act"~~ "Oklahoma Film Incentive Act".

20 SECTION 2. AMENDATORY 68 O.S. 2011, Section 3623, as
21 amended by Section 2, Chapter 313, O.S.L. 2019 (68 O.S. Supp. 2020,
22 Section 3623), is amended to read as follows:

23 Section 3623. As used in the ~~Compete with Canada Film Act~~
24 Oklahoma Film Incentive Act:

1 1. "Crew" means any person who works on preproduction,
2 principal photography, and postproduction, with the exception of
3 producers, principal cast, screenwriters, and the director. The
4 qualifying salary of producers, principal cast, screenwriters, and
5 the director, also known as "above-the-line personnel", may be
6 included as crew if the salaries are paid to loan-out corporations
7 and limited liability companies registered to do business in ~~the~~
8 ~~State of Oklahoma~~ this state or the salaries are paid to Oklahoma-
9 based above-the-line personnel. The qualifying salary of above-the-
10 line personnel shall not comprise more than twenty-five percent
11 (25%) of total expenditures as defined in paragraph 2 of this
12 section. For purposes of this paragraph, "Oklahoma-based" means a
13 company or individual with an Oklahoma income tax requirement;

14 2. "Expenditure" or "production cost" includes but is not
15 limited to:

- 16 a. wages or salaries of persons who are residents of this
17 state and who have earned income from working on a
18 film in this state, including payments to personal
19 services corporations with respect to the services of
20 qualified performing artists, as determined under
21 Section 62(a)(A) of the Internal Revenue Code,
- 22 b. the cost of construction and operations, wardrobe,
23 accessories and related services,

- c. the cost of photography, sound synchronization, lighting and related services,
- d. the cost of editing and related services,
- e. rental of facilities and equipment,
- f. other direct costs of producing a film, and
- g. the wages and salaries of persons who are defined and registered as an Oklahoma Expatriate by the Office of the Oklahoma Film and Music Commission;

3. "Film" means a professional single media, multimedia program or feature, which is not child pornography as defined in subsection A of Section 1024.1 of Title 21 of the Oklahoma Statutes or obscene material as defined in paragraph 1 of subsection B of Section 1024.1 of Title 21 of the Oklahoma Statutes, including, but not limited to, national advertising messages that are broadcast on a national affiliate or cable network, fixed on film or digital video, which can be viewed or reproduced and which is exhibited in theaters, licensed for exhibition by individual television stations, groups of stations, networks, cable television stations or other means or licensed for home viewing markets;

4. "High impact production" means a production for which total expenditures or production costs are equal to or greater than Fifty Million Dollars (\$50,000,000.00), with at least one-third (1/3) of total costs deemed Oklahoma expenditures by the Office of the Oklahoma Film and Music Commission; and

1 5. "Production company" means a person or company who produces
2 film for exhibition in theaters, on television or elsewhere.

3 SECTION 3. AMENDATORY 68 O.S. 2011, Section 3624, as
4 last amended by Section 3, Chapter 313, O.S.L. 2019 (68 O.S. Supp.
5 2020, Section 3624), is amended to read as follows:

6 Section 3624. A. There is hereby created the Oklahoma Film
7 Enhancement Rebate Program. A rebate in the amount of up to
8 seventeen percent (17%) of documented expenditures made in ~~Oklahoma~~
9 this state directly attributable to the production of a film,
10 television production, or television commercial, as defined in
11 Section 3623 of this title, in this state, may be paid to the
12 production company responsible for the production. Provided, for
13 documented expenditures made after July 1, 2009, the rebate amount
14 shall be thirty-five percent (35%), except as provided in subsection
15 B of this section. Provided, for documented expenditures made after
16 July 1, 2022, the rebate amount shall be nineteen percent (19%),
17 except as provided in subsection B of this section.

18 B. The amount of rebate paid to the production company as
19 provided for in subsection A of this section shall be increased by
20 an:

21 1. An additional two percent (2%) of documented expenditures if
22 a production company spends at least Twenty Thousand Dollars
23 (\$20,000.00) for the use of music created by ~~an Oklahoma~~ a resident
24 of this state that is recorded in ~~Oklahoma~~ this state or for the

1 cost of recording songs or music in ~~Oklahoma~~ this state for use in
2 the production;

3 2. For documented expenditures made after July 1, 2022, an
4 additional two percent (2%) if a production company hires two (2)
5 persons in coordination with the Oklahoma Works Employer Portal;

6 3. For documented expenditures made after July 1, 2022, an
7 additional two percent (2%) if a production company displays the
8 state logo, as provided by the Oklahoma Film and Music Commission,
9 in the film, television production or television commercial;

10 4. For documented expenditures made after July 1, 2022, an
11 additional two percent (2%) if a production company conducts the
12 filming outside of at least a fifty (50) mile radius from downtown
13 Oklahoma City, as determined by the Commission;

14 5. For documented expenditures made after July 1, 2022, an
15 additional five percent (5%) if a production company's filming at a
16 location in this state accounts for at least one-third (1/3) of
17 total production days; and

18 6. For documented expenditures made after July 1, 2022, an
19 additional five percent (5%) if a production company produces
20 multiple films for exhibition in a theater or at least six (6)
21 episodes of a film series in this state.

22 C. The rebate program shall be administered by the Office of
23 the Oklahoma Film and Music Commission and the Oklahoma Tax
24

1 Commission, as provided in the ~~Compete with Canada Film Act~~ Oklahoma
2 Film Incentive Act.

3 D. To be eligible for a rebate payment:

4 1. The production company responsible for a film, television
5 production, or television commercial, as defined in Section 3623 of
6 this title, made in this state shall submit documentation to the
7 Office of the Oklahoma Film and Music Commission of the amount of
8 wages paid for employment in this state to residents of this state
9 directly relating to the production and the amount of other
10 production costs incurred in this state directly relating to the
11 production;

12 2. The production company has filed or will file any Oklahoma
13 tax return or tax document which may be required by law;

14 3. Except major studio productions, the production company
15 shall provide the name of the completion guarantor and a copy of the
16 bond guaranteeing the completion of the project or if a film has not
17 secured a completion bond, the production company shall provide
18 evidence that all Oklahoma crew and local vendors have been paid and
19 there are no liens against the production company pending in the
20 state;

21 4. The minimum budget for the film shall be Fifty Thousand
22 Dollars (\$50,000.00) of which not less than Twenty-five Thousand
23 Dollars (\$25,000.00) shall be expended in this state;

1 5. The production company shall provide evidence of financing
2 for production prior to the commencement of principal photography;
3 and

4 6. The production company shall provide evidence of a
5 certificate of general liability insurance with a minimum coverage
6 of One Million Dollars (\$1,000,000.00) and a workers' compensation
7 policy pursuant to state law, which shall include coverage of
8 employer's liability.

9 E. A production company shall not be eligible to receive both a
10 rebate payment pursuant to the provisions of ~~this act~~ Section 3621
11 et seq. of this title and an exemption from sales taxes pursuant to
12 the provisions of paragraph 23 of Section 1357 of this title. If a
13 production company has received such an exemption from sales taxes
14 and submits a claim for rebate pursuant to the provisions of the
15 ~~Compete with Canada Film Act~~ Oklahoma Film Incentive Act, the
16 company shall be required to fully repay the amount of the exemption
17 to the Tax Commission. A claim for a rebate shall include
18 documentation from the Tax Commission that repayment has been made
19 as required herein or shall include an affidavit from the production
20 company that the company has not received an exemption from sales
21 taxes pursuant to the provisions of paragraph ~~21~~ 23 of Section 1357
22 of this title.

23 F. The Office shall approve or disapprove all claims for rebate
24 and shall notify the Tax Commission. The Tax Commission shall, upon

1 notification of approval from the Office of the Film and Music
2 Commission, issue payment for all approved claims from funds in the
3 Oklahoma Film Enhancement Rebate Program Revolving Fund created in
4 Section 3625 of this title. Excluding any rebate payments to high
5 impact productions as provided for in subsection G of this section,
6 the amount of payments in any single fiscal year shall not exceed
7 Eight Million Dollars (\$8,000,000.00). If the amount of approved
8 claims exceeds the amount specified in this subsection in a fiscal
9 year, payments shall be made in the order in which the claims are
10 approved by the Office. If an approved claim is not paid in whole
11 or in part, the unpaid claim or unpaid portion may be paid in the
12 following fiscal year subject to the limitations specified in this
13 subsection.

14 G. 1. At the time the Office of the Film and Music Commission
15 issues a conditional prequalification for a production, such
16 prequalification may include a proposed designation as a high impact
17 production, as defined in Section 3623 of this title.

18 2. The proposed designation must be approved by the Cabinet
19 Secretary for Commerce and Tourism.

20 3. If the high impact production otherwise meets all of the
21 requirements of the ~~Compete With Canada Act~~ Oklahoma Film Incentive
22 Act and the Office gives final approval to rebate claims, such
23 rebate claims shall not be subject to the Eight Million Dollar
24 (\$8,000,000.00) cap provided for in subsection F of this section.

1 4. The payment of a rebate claim approved by the Office for a
2 production designated as a high impact production by the Cabinet
3 Secretary may be made as follows:

4 a. by special appropriation to the Oklahoma Film
5 Enhancement Rebate Program Revolving Fund, if the
6 claim is approved during a regular or special session
7 of the Oklahoma Legislature, or

8 b. by payment from the Oklahoma Quick Action Closing Fund
9 pursuant to Section 48.2 of Title 62 of the Oklahoma
10 Statutes, if the claim is approved when the Oklahoma
11 Legislature is not in session.

12 SECTION 4. AMENDATORY 68 O.S. 2011, Section 3626, as
13 last amended by Section 5, Chapter 313, O.S.L. 2019 (68 O.S. Supp.
14 2020, Section 3626), is amended to read as follows:

15 Section 3626. The provisions of the ~~Compete with Canada Film~~
16 ~~Act~~ Oklahoma Film Incentive Act shall be terminated effective ~~July~~
17 ~~1, 2027~~ July 1, 2035, and no claim shall be paid thereafter.

18 SECTION 5. This act shall become effective November 1, 2021.

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