

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 2459

By: Hill and McDugle of the
House

7 and

Hall of the Senate

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10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to revenue and taxation; amending 68
12 O.S. 2021, Sections 3632, 3635, and 3638, which
13 relate to the Filmed in Oklahoma Act of 2021;
14 modifying definitions; modifying incentive related to
15 certain post production activity; modifying
16 provisions related to appearance of logo in finished
17 productions; prescribing limit on incentive amounts;
18 providing an effective date; and declaring an
19 emergency.

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

21 SECTION 1. AMENDATORY 68 O.S. 2021, Section 3632, is
22 amended to read as follows:

23 Section 3632. As used in the Filmed in Oklahoma Act of 2021:

24 1. "Above-the-line personnel" means producers, principal cast,
screenwriters, and directors who work on production of films or
television series. The qualifying salary of above-the-line

1 personnel may be included as crew, as defined in paragraph 3 of this
2 section, if the salaries are paid to loan-out corporations and
3 limited liability companies registered to do business in this state
4 or the salaries are paid to Oklahoma-based above-the-line personnel.
5 The qualifying salary of above-the-line personnel shall not comprise
6 more than twenty-five percent (25%) of total expenditures as defined
7 in paragraph 5 of this section. For purposes of this paragraph,
8 "Oklahoma-based" means a company or individual with an Oklahoma
9 income tax requirement;

10 2. "Apprentice" means a person who works for a skilled or
11 qualified person in order to learn a trade or profession for an
12 agreed-upon period of time. An apprentice may work in any of the
13 trades recognized by the Oklahoma Department of Commerce as
14 necessary for a film production. An apprentice shall be required to
15 complete safety training appropriate for the duties to be performed
16 in connection with a qualified project and also to complete a course
17 related to and with the objective of preventing workplace
18 misbehavior, such as bullying and sexual harassment;

19 3. "Crew" means any person who works on preproduction,
20 principal photography and ~~postproduction~~ post-production, with the
21 exception of ~~above-the-line personnel~~ above-the-line personnel;

22 4. "Eligible television series" means a project if either
23 seventy-five percent (75%) of the series season is filmed within the
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1 state or, for an episodic television pilot, if more than seventy-
2 five percent (75%) of the pilot is filmed within the state;

3 5. "Expenditure" or "production cost" includes but is not
4 limited to:

- 5 a. wages or salaries of persons who are residents of this
6 state or who are enrolled as full-time students at a
7 college or university located in the state offering an
8 undergraduate degree program or who are on active
9 military duty and stationed in Oklahoma or involved in
10 a restorative workforce program and who have earned
11 income from working on a film in this state including
12 payments to personal services corporations with
13 respect to the services of qualified performing
14 artists, pursuant to the provisions of the Internal
15 Revenue Code, 26 U.S.C., Section 62(a)(2),
- 16 b. the cost of construction and operations, wardrobe,
17 accessories and related services,
- 18 c. the cost of photography, sound synchronization,
19 lighting and related services,
- 20 d. the cost of editing and related services,
- 21 e. rental of facilities and equipment,
- 22 f. other direct costs of producing a film, and

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1 g. the wages and salaries of persons who are defined and
2 registered as an Oklahoma Expatriate by the ~~Office of~~
3 ~~the Oklahoma Film and Music Commission~~ Office;

4 6. "Film" means a professional single media, multimedia program
5 or feature, which is not child pornography as defined in subsection
6 A of Section 1024.1 of Title 21 of the Oklahoma Statutes or obscene
7 material as defined in paragraph 1 of subsection B of Section 1024.1
8 of Title 21 of the Oklahoma Statutes including, but not limited to,
9 national advertising messages that are broadcast on a national
10 affiliate or cable network, fixed on film or digital video, which
11 can be viewed or reproduced and which is exhibited in theaters,
12 licensed for exhibition by individual television stations, groups of
13 stations, networks, cable television stations or other means or
14 licensed for home viewing markets. The term shall also include
15 filming for interactive and video gaming including, but not limited
16 to, green screen, motion capture and similar production techniques;

17 7. "Multi-film deal" means a project in which a production
18 company films at least seventy-five percent (75%) of main crew
19 principal photography for three (3) or more films in this state
20 within three (3) years or where the third film starts main crew
21 principal photography within the three (3) year period;

22 8. "Nonresident crew member" means a person who is not an
23 Oklahoma resident, hired for a qualifying production project
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1 occurring within the state and who is subject to the payment of
2 Oklahoma employment taxes;

3 9. "Production company" means a person, producer or company who
4 produces film for exhibition in theaters, on television or
5 elsewhere;

6 10. "Qualified production expenditure amount" means an
7 expenditure defined pursuant to paragraph 5 of this section; and

8 11. "Qualified soundstage facility" means a state certified
9 industry standard soundstage facility having not less than seven
10 thousand five hundred (7,500) square feet of combined soundstage
11 space and with a total state rental cost to the production company
12 equal to at least ~~one percent (1%)~~ three percent (3%) of the
13 qualifying Oklahoma expenditures with respect to a production.

14 SECTION 2. AMENDATORY 68 O.S. 2021, Section 3635, is
15 amended to read as follows:

16 Section 3635. A. Subject to the final approval of the
17 eligibility application by the Oklahoma Department of Commerce, a
18 requirement that the incentive payments made pursuant to the
19 provisions of ~~this act~~ the Filmed in Oklahoma Act of 2021 achieve
20 the maximum positive impact for the Oklahoma economy and subject to
21 the Oklahoma workforce requirements of Section ~~7~~ 3637 of this ~~act~~
22 title, the base incentive amount for a project filmed in this state,
23 not including above-the-line personnel, shall be a maximum of ~~twenty~~
24 thirty percent ~~(20%)~~ (30%) of the qualified production expenditure

1 amount. An incentive for a project filmed in this state for wages
2 paid to nonresident crew, not including above-the-line personnel,
3 ~~before July 1, 2023,~~ shall be provided in the amount of seven and
4 one-half percent (7.5%) for wages paid before April 1, 2023 and
5 twenty percent (20%) for wages paid on or after April 1, 2023.

6 B. In addition to the amount authorized by subsection A of this
7 section, there may be an additional incentive amount, subject to the
8 final approval of the Oklahoma Department of Commerce, in the
9 maximum amount of:

10 1. Three percent (3%) of the qualified production expenditure
11 amount for projects where at least twenty-five percent (25%) of main
12 crew principal photography days are filmed on location, excluding
13 sound stage production, in any county of this state if the county
14 has a population of less than two hundred fifty thousand (250,000)
15 persons according to the ~~federal~~ Federal Decennial Census or most
16 recent population estimate;

17 2. Two percent (2%) of the qualified production expenditure
18 amount for projects whose hub location, as determined by the
19 Department, is or projects where at least twenty-five percent (25%)
20 of main crew principal photography days are filmed on location,
21 excluding sound stage production, in a municipality having a
22 population of ~~thirteen thousand (13,000)~~ twenty-five thousand
23 (25,000) or fewer persons according to the ~~federal~~ Federal Decennial
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1 Census or most recent population estimate regardless of the county
2 in which the municipality is located or partially located;

3 3. Five percent (5%) of the qualified production expenditure
4 amount for soundstage expenditures if at least twenty-five percent
5 (25%) of main crew principal photography days are filmed at a
6 qualified soundstage facility;

7 4. For eligible television series as defined in paragraph 4 of
8 Section ~~2~~ 3632 of this ~~act~~ title:

9 a. two percent (2%) of the qualified production
10 expenditure amount for an eligible television episodic
11 pilot, and

12 b. five percent (5%) of the qualified production
13 expenditure amount if a television series is filmed
14 for one or more seasons;

15 5. Five percent (5%) of the qualified production expenditure
16 amount for an eligible multi-film deal as defined in paragraph 7 of
17 Section ~~2~~ 3632 of this ~~act~~ title; and

18 6. On or after July 1, 2023, two percent (2%) of the qualified
19 production expenditure amount for the post-production expenses of:

20 a. music production, recording, mixing, or composition,
21 or

22 b. licensing of Oklahoma music; and

23 7. Three percent (3%) of the qualified production expenditure
24 amount based on expenditures paid to Oklahoma vendors for post-

1 production expenses with a minimum expenditure of three percent (3%)
2 of Oklahoma production expenditures. Post-production expenditures
3 include but are not limited to the following categories:

- 4 a. sound recording or mixing,
- 5 b. color grading,
- 6 c. editorial work,
- 7 d. visual effects,
- 8 e. animation,
- 9 f. deliverables, excluding marketing and advertising,
- 10 ~~g. music production, recording, mixing or composition,~~
- 11 ~~h. licensing of Oklahoma music, and~~
- 12 ~~i. editing equipment or editing facility rental,~~
- 13 h. color grading or digital intermediate processing,
- 14 i. audio post-production processes including Foley artist
15 processes or services, and
- 16 j. graphics, including but not limited to the GFX system.

17 C. Notwithstanding any other provisions of this section or the
18 provisions of the Filmed In Oklahoma Act of 2021 to the contrary, in
19 no case shall the total incentive payments authorized by this
20 section exceed thirty percent (30%) of the otherwise qualified
21 production expenditure amount. The incentive payment amount
22 prescribed by subsection A of this section may be used in any
23 combination with the additional incentive amounts authorized by
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1 subsection B of this section, but the combination of the incentive
2 amounts shall not exceed thirty percent (30%).

3 SECTION 3. AMENDATORY 68 O.S. 2021, Section 3638, is
4 amended to read as follows:

5 Section 3638. All production projects for which any incentive
6 is paid pursuant to the provisions of ~~this act~~ the Filmed in
7 Oklahoma Act of 2021 shall contain a logo, as approved by the
8 Oklahoma Department of Commerce, to be displayed in the ~~end~~ credits
9 of the finished production for a period of at least five (5) seconds
10 or, if the production does not contain ~~end~~ credits, the Oklahoma
11 Department of Commerce shall obtain a commitment by the production
12 company to provide equivalent value as determined by the Oklahoma
13 Department of Commerce.

14 SECTION 4. Sections 1 and 3 of this act shall become effective
15 July 1, 2023.

16 SECTION 5. It being immediately necessary for the preservation
17 of the public peace, health or safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

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