

1 **SENATE FLOOR VERSION**

2 April 3, 2023

3 ENGROSSED HOUSE
4 BILL NO. 2459

By: Hill and McDugle of the
House

5 and

6 Hall of the Senate

7
8
9 An Act relating to revenue and taxation; amending 68
10 O.S. 2021, Sections 3632, 3635, and 3638, which
11 relate to the Filmed in Oklahoma Act of 2021;
12 modifying definitions; modifying incentive related to
13 certain post production activity; modifying
14 provisions related to appearance of logo in finished
15 productions; providing an effective date; and
16 declaring an emergency.

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

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

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

21 1. "Above-the-line personnel" means producers, principal cast,
22 screenwriters and directors who work on production of films or
23 television series. The qualifying salary of above-the-line
24 personnel may be included as crew, as defined in paragraph 3 of this
section, if the salaries are paid to loan-out corporations and

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

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

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

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

24

1 5. "Expenditure" or "production cost" includes but is not
2 limited to:

- 3 a. wages or salaries of persons who are residents of this
4 state or who are enrolled as full-time students at a
5 college or university located in the state offering an
6 undergraduate degree program or who are on active
7 military duty and stationed in Oklahoma or involved in
8 a restorative workforce program and who have earned
9 income from working on a film in this state including
10 payments to personal services corporations with
11 respect to the services of qualified performing
12 artists, pursuant to the provisions of the Internal
13 Revenue Code, 26 U.S.C., Section 62(a)(2),
- 14 b. the cost of construction and operations, wardrobe,
15 accessories and related services,
- 16 c. the cost of photography, sound synchronization,
17 lighting and related services,
- 18 d. the cost of editing and related services,
- 19 e. rental of facilities and equipment,
- 20 f. other direct costs of producing a film, and
- 21 g. the wages and salaries of persons who are defined and
22 registered as an Oklahoma Expatriate by the Office of
23 the Oklahoma Film and Music Commission;
- 24

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

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

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

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

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

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

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

14 Section 3635. A. Subject to the final approval of the
15 eligibility application by the Oklahoma Department of Commerce, a
16 requirement that the incentive payments made pursuant to the
17 provisions of this act achieve the maximum positive impact for the
18 Oklahoma economy and subject to the Oklahoma workforce requirements
19 of Section 7 3637 of this ~~act~~ title, the base incentive amount for a
20 project filmed in this state, not including above-the-line
21 personnel, shall be a maximum of ~~twenty~~ thirty percent ~~(20%)~~ (30%)
22 of the qualified production expenditure amount. An incentive for a
23 project filmed in this state for wages paid to nonresident crew, not
24 including above-the-line personnel, ~~before July 1, 2023,~~ shall be

1 provided in the amount of ~~seven and one-half~~ twenty percent ~~(7.5%)~~
2 (20%).

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

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

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

23 3. Five percent (5%) of the qualified production expenditure
24 amount for soundstage expenditures if at least twenty-five percent

1 (25%) of main crew principal photography days are filmed at a
2 qualified soundstage facility;

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

5 a. two percent (2%) of the qualified production
6 expenditure amount for an eligible television episodic
7 pilot, and

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

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

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

16 a. music production, recording, mixing, or composition,
17 or

18 b. licensing of Oklahoma music;

19 7. Three percent (3%) of the qualified production expenditure
20 amount based on expenditures paid to Oklahoma vendors for post-
21 production expenses with a minimum expenditure of three percent (3%)
22 of Oklahoma production expenditures. Post-production expenditures
23 include but are not limited to the following categories:

24 a. sound recording or mixing,

- b. color grading,
- c. editorial work,
- d. visual effects,
- e. animation,
- f. deliverables, excluding marketing and advertising,
- g. ~~music production, recording, mixing or composition,~~
- h. ~~licensing of Oklahoma music, and~~
- ~~i.~~ editing equipment or editing facility rental,
- h. color grading or digital intermediate processing,
- i. audio post production processes including Foley artist
processes or services, and
- j. graphics, including but not limited to the GFX system.

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

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

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

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

5 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
6 April 3, 2023 - DO PASS
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