An Act

ENROLLED HOUSE
BILL NO. 2459

By: Hill and McDugle of the House

and

Hall of the Senate

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

SUBJECT: Revenue and taxation

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

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

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

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 personnel may be included as crew, as defined in paragraph 3 of this section, if the salaries are paid to loan-out corporations and limited liability companies registered to do business in this state or the salaries are paid to Oklahoma-based above-the-line personnel. The qualifying salary of above-the-line personnel shall not comprise more than twenty-five percent (25%) of total expenditures as defined in paragraph 5 of this section. For purposes of this paragraph,

"Oklahoma-based" means a company or individual with an Oklahoma income tax requirement;

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

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

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

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

a. wages or salaries of persons who are residents of this state or who are enrolled as full-time students at a college or university located in the state offering an undergraduate degree program or who are on active military duty and stationed in Oklahoma or involved in a restorative workforce program and who have earned income from working on a film in this state including payments to personal services corporations with respect to the services of qualified performing artists, pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 62(a)(2),

b. the cost of construction and operations, wardrobe, 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~~ Office;

6. "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. The term shall also include filming for interactive and video gaming including, but not limited to, green screen, motion capture and similar production techniques;

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

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

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

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

11. "Qualified soundstage facility" means a state certified industry standard soundstage facility having not less than seven thousand five hundred (7,500) square feet of combined soundstage space and with a total state rental cost to the production company

equal to at least ~~one percent (1%)~~ three percent (3%) of the qualifying Oklahoma expenditures with respect to a production.

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

Section 3635. A. Subject to the final approval of the eligibility application by the Oklahoma Department of Commerce, a requirement that the incentive payments made pursuant to the provisions of ~~this act~~ the Filmed in Oklahoma Act of 2021 achieve the maximum positive impact for the Oklahoma economy and subject to the Oklahoma workforce requirements of Section ~~7~~ 3637 of this ~~act~~ title, the base incentive amount for a project filmed in this state, not including above-the-line personnel, shall be a maximum of ~~twenty~~ thirty percent ~~(20%)~~ (30%) of the qualified production expenditure amount. An incentive for a project filmed in this state for wages paid to nonresident crew, not including above-the-line personnel, ~~before July 1, 2023,~~ shall be provided in the amount of seven and one-half percent (7.5%) for wages paid before April 1, 2023, and twenty percent (20%) for wages paid on or after April 1, 2023.

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

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

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

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

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

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

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

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

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

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

b. licensing of Oklahoma music; and

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

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.

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

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~~ the Filmed in Oklahoma Act of 2021 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.

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

Passed the House of Representatives the 24th day of May, 2023.

Presiding Officer of the House
of Representatives

Passed the Senate the 25th day of May, 2023.

Brent Howard
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 26th
day of May, 20 23, at 10:34 o'clock a. M.
By: Jenee Curry

Approved by the Governor of the State of Oklahoma this 7th
day of June, 20 23, at 3:41 o'clock p. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 7th
day of June, 20 23, at 5:15 o'clock P. M.
By: Brian Bingman