ENGROSSED HOUSE
BILL NO. 1756

By: Miller (Doug) of the House

and

Wilson of the Senate

(revenue and taxation - amending 68 O.S., Sections 3624 and 1357.8 - Compete with Canada Film Act - adding commercials - sales tax refund - repealing 68 O.S., Section 3625 - Oklahoma Film Enhancement Rebate Program Revolving Fund - effective date - emergency)

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 3624, as amended by Section 2, Chapter 203, O.S.L. 2002 (68 O.S. Supp. 2004, Section 3624), is amended to read as follows:

Section 3624. A. There is hereby created the Oklahoma Film Enhancement Rebate Program. ~~Subject to the availability of funds in the Oklahoma Film Enhancement Rebate Program Revolving Fund created in Section 3625 of this title, a~~ A rebate in the amount of fifteen percent (15%) of documented expenditures made in Oklahoma directly attributable to the production of a film, commercial, or television production, as defined in Section 3623 of this title, in this state, may be paid to the production company responsible for the production if the Office of the Oklahoma Film and Music Commission determines that the proposed project has a reasonable chance of economic success.

B. The rebate program shall be administered by the Office of the Oklahoma Film and Music Commission and the Oklahoma Tax Commission, as provided in the Compete with Canada Film Act.

C. To be eligible for a rebate payment~~, the~~:

1. The production company responsible for a film, commercial, or television production, as defined in Section 3623 of this title, made in this state shall submit documentation to the Office of the Oklahoma Film and Music Commission of the amount of wages paid for employment in this state by residents of this state directly relating to the production and the amount of other production costs incurred in this state directly relating to the production~~. To be eligible for a rebate payment, the~~;

2. The production company shall also file an Oklahoma income tax return~~. To be eligible for a rebate payment, the~~;

3. The production company shall provide the name of the completion bond, a copy of the bond, and a copy of the contract between the production company and the principal actors or equivalent proof of completion to ensure a mechanism for the compensation of local vendors~~. To be eligible for a rebate payment, the~~;

4. The minimum budget for the film shall be One Million Dollars ($1,000,000.00)~~. To be eligible for a rebate payment, the~~;

5. The production company shall provide evidence of a recognizable distribution agreement within one hundred eighty (180) days; and

6. The production company shall provide evidence of a certificate of completion bond and liability insurance.

D. A production company shall not be eligible to receive both a rebate payment pursuant to the provisions of this act and an exemption from sales taxes pursuant to the provisions of paragraph 21 of Section 1357 of this title. If a production company has received such an exemption from sales taxes and submits a claim for

rebate pursuant to the provisions of the Compete with Canada Film Act, the company shall be required to fully repay the amount of the exemption to the Tax Commission. A claim for a rebate shall include documentation from the Tax Commission that repayment has been made as required herein or shall include an affidavit from the production company that the company has not received an exemption from sales taxes pursuant to the provisions of paragraph 21 of Section 1357 of this title. ~~To be eligible for a rebate, the production company shall also submit a completion bond to the Office of the Oklahoma Film and Music Commission.~~

~~D.~~ E. The Office shall approve or disapprove all claims for rebate and shall notify the Tax Commission. The Tax Commission shall issue payment for all approved claims from ~~funds in~~ the ~~Oklahoma Film Enhancement Rebate Program Revolving Fund created in Section 3625 of this title~~ General Revenue Fund. The amount of payments in any single fiscal year shall not exceed Two Million Dollars ($2,000,000.00). If the amount of approved claims exceeds ~~the amount of monies available for the making of rebate payments in the fund or exceeds~~ the amount specified in this subsection in a fiscal year, payments shall be made in the order in which the claims are approved by the Office. If an approved claim is not paid in whole or in part, the unpaid claim or unpaid portion may be paid in the following fiscal year subject to the limitations specified in this subsection.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 1357.8, is amended to read as follows:

Section 1357.8 A. In order to administer the exemption for sales of tangible personal property or services to ~~a~~ producers of motion picture ~~or~~, television ~~production company~~ programs, or commercials as provided by paragraph 21 of Section 1357 of this title, there shall be made a sales tax refund for state and local

sales taxes paid by a qualifying purchaser of such items for use in an eligible production.

B. The Oklahoma Tax Commission shall transfer each month from sales tax collected the amount which the Tax Commission estimates to be necessary to make the sales tax refund provided by this section to an account designated as the Tax Commission determines.

C. Any refund shall be paid from the account prescribed by this section. The amount of the refund shall not exceed the total state and local sales taxes paid together with accrued interest upon such total. The amount of interest paid upon the principal amount of any refund made to such production company for purposes of administering the exemption provided by paragraph 21 of Section 1357 of this title shall be determined according to the provisions of this subsection. For any month during which the Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Tax Commission shall determine an interest rate by determining the rate of interest paid for a three-month Treasury Bill of the United States government as of the first working day of the month and such interest shall accrue upon any amount transferred to the account together with interest previously accrued upon such amounts.

D. The qualified purchaser shall file, during the preproduction phase, with the Tax Commission, a registration form containing the estimated production dates, estimated local production expenditures and name and address of the representative responsible for the expenditure records required to be submitted pursuant to rules promulgated by the Tax Commission.

E. The qualified purchaser shall file, within one hundred twenty (120) days after the completion of the production schedule, with the Tax Commission, for any refund claimed, invoices and all receipts indicating the amount of state and local sales tax paid on sales exempt from tax pursuant to the provisions of paragraph 21 of Section 1357 of this title and the amount of such sales.

All documentation shall be accompanied by an affidavit, signed by a duly authorized representative of the qualified purchaser, that the refund is for state and local sales tax which has been paid on sales exempt from tax pursuant to the provisions of paragraph 21 of Section 1357 of this title. In addition to any other penalties provided by law, any purchaser who willfully or intentionally fails, neglects or refuses to pay the full amount of tax levied by Section 1350 et seq. of this title, or who willfully or intentionally claims a refund for taxes paid on sales not exempt pursuant to the provisions of paragraph 21 of Section 1357 of this title, shall be subject to a penalty in the amount of Five Hundred Dollars ($500.00), which shall be apportioned as provided for the apportionment of the tax.

SECTION 3. REPEALER 68 O.S. 2001, Section 3625, is hereby repealed.

SECTION 4. This act shall become effective July 1, 2005.

SECTION 5. It being immediately necessary for the preservation of he public peace, health and 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 22nd day of February, 2005.

_____
Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2005.

_____
Presiding Officer of the Senate