

EHB 2792

THE STATE SENATE
Thursday, March 23, 2006

ENGROSSED
House Bill No. 2792
As Amended

ENGROSSED HOUSE BILL NO. 2792 - By: MILLER (Doug), SHERRER, HILLIARD
and MORGAN (Danny) of the House and BASS of the Senate.

[film and music - Compete with Canada Film Act - effective
date -
emergency]

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 3623, as
amended by Section 1, Chapter 203, O.S.L. 2002 (68 O.S. Supp. 2005,
Section 3623), is amended to read as follows:

Section 3623. As used in the Compete with Canada Film Act:

1. "Crew" means any person who works on preproduction,
principal photography, and postproduction, with the exception of
producers, principal cast, and the director;

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

- a. wages or salaries of persons who are
residents of this state 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

1 qualified performing artists, as determined
2 under Section 62(a) (A) of the Internal
3 Revenue Code,
4 b. the cost of construction and operations,
5 wardrobe, accessories and related services,
6 c. the cost of photography, sound
7 synchronization, lighting and related
8 services,
9 d. the cost of editing and related services,
10 e. rental of facilities and equipment, ~~and~~
11 f. other direct costs of producing a film, and
12 g. the wages and salaries of persons who are
13 defined and registered as an Oklahoma
14 Expatriate by the Office of the Oklahoma Film
15 and Music Commission;

16 ~~2.~~ 3. "Film" means a professional single media, multimedia
17 program or feature, which is not child pornography as defined in
18 subsection A of Section 1024.1 of Title 21 of the Oklahoma Statutes
19 or obscene material as defined in paragraph 1 of subsection B of
20 Section 1024.1 of Title 21 of the Oklahoma Statutes, including but
21 not limited to, national advertising messages that are broadcast on
22 a national affiliate or cable network, fixed on film or digital
23 video, which can be viewed or reproduced and which is exhibited in

1 theaters, licensed for exhibition by individual television stations,
2 groups of stations, networks, cable television stations or other
3 means or licensed for home viewing markets; and

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

7 SECTION 2. AMENDATORY 68 O.S. 2001, Section 3624, as
8 last amended by Section 15, Chapter 381, O.S.L. 2005 (68 O.S. Supp.
9 2005, Section 3624), is amended to read as follows:

10 Section 3624. A. There is hereby created the Oklahoma Film
11 Enhancement Rebate Program. A rebate in the amount of up to fifteen
12 percent (15%) of documented expenditures made in Oklahoma directly
13 attributable to the production of a film, television production, or
14 television commercial, as defined in Section 3623 of this title, in
15 this state, may be paid to the production company responsible for
16 the production if the Office of the Oklahoma Film and Music
17 Commission determines that the proposed project has a reasonable
18 chance of economic success.

19 B. 1. The amount of rebate paid to the production company as
20 provided for in subsection A of this section shall be determined as
21 follows:

22 ~~1. Fifteen~~

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

9 2. The production company shall also file an Oklahoma income
10 tax return;

11 3. ~~The Except major studio productions, the production company~~
12 shall provide the name of the completion guarantor, and a copy of
13 the bond guaranteeing the completion date, ~~and a copy of the~~
14 ~~contract between the production company and the principal actors or~~
15 ~~equivalent proof of completion to ensure a mechanism for the~~
16 ~~compensation of local vendors~~ 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 Two Million Dollars
22 (\$2,000,000.00) of which not less than One Million Two Hundred Fifty
23 Thousand Dollars (\$1,250,000.00) shall be expended in this state.

1 The minimum budget requirements of this paragraph shall be met by
2 any film, television, or commercial production company that produces
3 multiple film, television, or commercial projects within one (1)
4 year, if each project meets a minimum budget of Three Hundred
5 Thousand Dollars (\$300,000.00) and the total budget of all projects
6 in one (1) year is not less than Two Million Dollars (\$2,000,000.00)
7 of which not less than One Million Two Hundred Fifty Thousand
8 Dollars (\$1,250,000.00) shall be expended in this state;

9 5. The production company shall provide evidence of a
10 recognizable domestic or foreign distribution agreement within one
11 (1) year from the end of principal photography; and

12 6. The production company shall provide evidence of complete
13 financing for production prior to the commencement of principal
14 photography; and

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

20 E. A production company shall not be eligible to receive both a
21 rebate payment pursuant to the provisions of this act and an
22 exemption from sales taxes pursuant to the provisions of paragraph
23 21 of Section 1357 of this title. If a production company has

1 received such an exemption from sales taxes and submits a claim for
2 rebate pursuant to the provisions of the Compete with Canada Film
3 Act, the company shall be required to fully repay the amount of the
4 exemption to the Tax Commission. A claim for a rebate shall include
5 documentation from the Tax Commission that repayment has been made
6 as required herein or shall include an affidavit from the production
7 company that the company has not received an exemption from sales
8 taxes pursuant to the provisions of paragraph 21 of Section 1357 of
9 this title.

10 F. The Office shall approve or disapprove all claims for rebate
11 and shall notify the Tax Commission. The Tax Commission shall issue
12 payment for all approved claims from funds in the Oklahoma Film
13 Enhancement Rebate Program Revolving Fund created in Section 3625 of
14 this title on or after July 1, 2006, and on or after each July 1
15 thereafter following the fiscal year in which the documented
16 expenditures were made. The amount of payments in any single fiscal
17 year shall not exceed Five Million Dollars (\$5,000,000.00). If the
18 amount of approved claims exceeds the amount specified in this
19 subsection in a fiscal year, payments shall be made in the order in
20 which the claims are approved by the Office. If an approved claim
21 is not paid in whole or in part, the unpaid claim or unpaid portion
22 may be paid in the following fiscal year subject to the limitations
23 specified in this subsection.

1 SECTION 3. AMENDATORY Section 37, Chapter 363, O.S.L.
2 2005 (74 O.S. Supp. 2005, Section 2236), is amended to read as
3 follows:

4 Section 2236. A. There is hereby created within the
5 Department, the Office of the Oklahoma Film and Music Commission.
6 The Office shall have the primary responsibility in state government
7 for promoting the state as a location for producing motion pictures,
8 television programs, videos and recording or performing music. The
9 Office shall assist the motion picture, television and video film
10 and music industries by providing production contacts in the state,
11 suggesting possible filming, performing, publishing, and recording
12 locations, and other activities that may be required to promote the
13 state as a filming and music center. The Office shall develop
14 resource guides, a database, and a web site. The Office shall
15 develop listings of music festivals and music events being held in
16 Oklahoma.

17 B. 1. There is hereby established within the Department, the
18 Oklahoma Film and Music Commission which shall consist of the
19 Lieutenant Governor, who shall serve as an ex officio member and as
20 chair of the Commission, and eleven (11) members appointed by the
21 Director of the Department. Appointed members shall serve two-year
22 terms. Five appointed members shall have experience in the
23 development and implementation of economic development programs.

1 Three appointed members shall possess a broad working knowledge of
2 the film industry. Three appointed members shall possess a broad
3 working knowledge of the music industry.

4 2. The Oklahoma Film and Music Commission shall have the
5 following responsibilities:

- 6 a. focus the film-and-music-industry-related activities
7 and functions of the Office of the Oklahoma Film and
8 Music Commission to provide the maximum economic
9 development impact to the State of Oklahoma,
- 10 b. promote the film and music industries to local
11 communities,
- 12 c. solicit input annually from a cross section of the
13 public including industry, business, and community
14 leaders,
- 15 d. along with the Oklahoma Music Hall of Fame, serve as a
16 clearinghouse for the Oklahoma music industry using
17 databases which it develops and maintains,
- 18 e. along with the Oklahoma Music Hall of Fame, promote
19 Oklahoma music and musicians to a national and
20 international audience,
- 21 f. assist the Office of the Oklahoma Film and Music
22 Commission in developing a marketing plan and a
23 production manual, and

1 g. assist the Office of the Oklahoma Film and Music
2 Commission in the preparation of the annual report.

3 C. The Office of the Oklahoma Film and Music Commission shall
4 cooperate with other state and local offices as required to promote
5 the film and music industries in this state.

6 D. The Office of the Oklahoma Film and Music Commission shall
7 establish a film production registration program. Under the
8 program, film production companies shall be required to register
9 with the Office prior to starting production on a film located in
10 the state. The Office shall not require production companies to pay
11 a fee for registration. The purpose of the program shall be to
12 allow the Office to accurately track the number of filming
13 productions occurring in the state and the economic impact of those
14 productions.

15 E. The Office of the Oklahoma Film and Music Commission shall
16 submit an annual report to the Governor, the Speaker of the House of
17 Representatives, and the President Pro Tempore of the Senate prior
18 to July 1 of each year regarding the activities of the Office. The
19 report shall state the number of filming productions that the Office
20 has helped bring to the state and the economic impact of those
21 productions, and provide similar information concerning the efforts
22 of the Office to promote the music industry in this state.

23 SECTION 4. This act shall become effective July 1, 2006.

1 SECTION 5. It being immediately necessary for the preservation
2 of the public peace, health and 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, dated 3-21-06 - DO PASS,
6 As Amended.