

EHB 2793

1 THE STATE SENATE  
2 Thursday, March 23, 2006

3 ENGROSSED  
4 House Bill No. 2793  
5 As Amended

6 ENGROSSED HOUSE BILL NO. 2793 - By: MILLER (Doug), NANCE, DORMAN,  
7 SHERRER, HILLIARD and MORGAN (Danny) of the House and BASS of the  
8 Senate.

9 [ revenue and taxation - amending 68 O.S., Section 2357.101  
10 - credit for investment in a film or music project -  
11 effective date -  
12 emergency ]

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

14 SECTION 1. AMENDATORY Section 1, Chapter 301, O.S.L.

15 2005 (68 O.S. Supp. 2005, Section 2357.101), is amended to read as  
16 follows:

17 Section 2357.101 A. For taxable years beginning after December  
18 31, 2004, there shall be allowed against the tax imposed by Section  
19 2355 of Title 68 of the Oklahoma Statutes, a credit equal to twenty-  
20 five percent (25%) of the amount of profit made by a taxpayer from  
21 investment in an existing Oklahoma film or music project with a  
22 production company to pay for production costs that is reinvested by  
23 the taxpayer with the production company to pay for the production  
24 cost of the production company for a new Oklahoma film or music  
25 project.

1           B. In no event shall the amount of the credit provided for in  
2 subsection A of this section for an eligible taxpayer exceed the tax  
3 liability of the taxpayer in a calendar year.

4           C. The Oklahoma Tax Commission shall have the authority to  
5 prescribe forms for purposes of claiming the credit authorized in  
6 subsection A of this section. The forms shall include, but not be  
7 limited to, requests for information that prove who the investment  
8 was with, the amount of the original investment and the amount of  
9 the profit realized from the investment.

10          D. As used in this section:

11           1. "Film" means a professional single media, multimedia program  
12 or feature, which is not child pornography as defined in subsection  
13 A of Section 1024.1 of Title 21 of the Oklahoma Statutes or obscene  
14 material as defined in paragraph 1 of subsection B of Section 1024.1  
15 of Title 21 of the Oklahoma Statutes including, but not limited to,  
16 national advertising messages that are broadcast on a national  
17 affiliate or cable network, fixed on film or digital video, which  
18 can be viewed or reproduced and which is exhibited in theaters,  
19 licensed for exhibition by individual television stations, groups of  
20 stations, networks, cable television stations or other means or  
21 licensed for home viewing markets;

22           2. "Music project" means a professional recording released on a  
23 national or international level, whether via traditional

1 manufacturing or distributing or electronic distribution, using  
2 technology currently in use or future technology including, but not  
3 limited to, music CDs, radio commercials, jingles, cues, or  
4 electronic device recordings;

5 3. "Production company" means a person who produces a film or  
6 music project for exhibition in theaters, on television or  
7 elsewhere; ~~and~~

8 4. "Production cost" includes, but is not limited to:

- 9 a. wages or salaries of persons who have earned income  
10 from working on a film or music project in this state,  
11 including payments to personal services corporations  
12 with respect to the services of qualified performing  
13 artists, as determined under Section 62(a)(A) of the  
14 Internal Revenue Code,  
15 b. the cost of construction and operations, wardrobe,  
16 accessories and related services,  
17 c. the cost of photography, sound synchronization,  
18 lighting and related services,  
19 d. the cost of editing and related services,  
20 e. rental of facilities and equipment, and  
21 f. other direct costs of producing a film or music  
22 project;

1           5. "Existing Oklahoma film or music project" means a film or  
2 music project produced after July 1, 2005;

3           6. "Profit" means the amount made by the taxpayer to be  
4 determined as follows:

- 5           a. the gross revenues less gross expenses, including  
6 direct production, distribution and marketing costs  
7 and an allocation of indirect overhead costs, of the  
8 film or music project shall be multiplied by,
- 9           b. a ratio, the numerator of which is Oklahoma  
10 production costs and the denominator of which is  
11 total production costs, which shall be multiplied by,
- 12           c. the percent of the taxpayer's taxable income  
13 allocated to Oklahoma in a taxable year, and
- 14           d. subtract from the result of the formula calculated  
15 pursuant to subparagraphs a through c of this  
16 paragraph the profit made by a taxpayer from  
17 investment in an existing Oklahoma film or music  
18 project in previous taxable years. Profit shall  
19 include either a net profit or net loss;

20           7. "Production cost" means the cost of an Oklahoma production.  
21 Oklahoma production cost shall be production cost provided by any  
22 entity of which fifty percent (50%) or more of its employees are  
23 Oklahoma residents as reported on Forms W-2 measured in terms of

1 both gross wages and the number of employees. An employee under  
2 this paragraph shall include the self employed. The Oklahoma Tax  
3 Commission shall prescribe a form as provided for in subsection C of  
4 this section by which an entity may certify qualification to a  
5 production company under this paragraph or withdraw such  
6 certification; and

7 8. "Investment" means costs associated with the original  
8 production company. Film or music projects acquired from an  
9 original production company do not qualify as investment under  
10 subsection A of this section.

11 SECTION 2. This act shall become effective July 1, 2006.

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

16 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 3-21-06 - DO PASS,  
17 As Amended.