

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 CONFERENCE COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL 623

By: Bass and Williamson of
the Senate

6 and

7 Armes of the House

8
9
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to revenue and taxation; amending 68
12 O.S. 2001, Sections 3623, as last amended by Section
13 1, Chapter 29, O.S.L. 2006, and 3624, as last amended
14 by Section 2, Chapter 29, O.S.L. 2006 (68 O.S. Supp.
15 2006, Sections 3623 and 3624), which relate to the
16 Compete with Canada Film Act; modifying definition;
17 reducing minimum budget amount for specified rebate;
18 authorizing waiver of certain requirement under
19 specified circumstances; modifying budget
20 requirements for eligibility; expending certain
21 eligibility provision; and providing an effective
22 date.

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

24 SECTION 1. AMENDATORY 68 O.S. 2001, Section 3623, as
last amended by Section 1, Chapter 29, O.S.L. 2006 (68 O.S. Supp.
2006, Section 3623), is amended to read as follows:

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

1 1. "Crew" means any person who works on preproduction,
2 principal photography, and postproduction, with the exception of
3 producers, principal cast, screenwriters, and the director. The
4 qualifying salary of producers, principal cast, screenwriters, and
5 the director, also known as "above-the-line personnel", may be
6 included as crew if the salaries are paid to loan-out corporations
7 and limited liability companies registered to do business in the
8 State of Oklahoma or the salaries are paid to Oklahoma-based above-
9 the-line personnel. The qualifying salary of above-the-line
10 personnel shall not comprise more than twenty-five percent (25%) of
11 total expenditures as defined in paragraph 2 of this section. For
12 purposes of this paragraph, "Oklahoma-based" means a company or
13 individual with an Oklahoma income tax or corporate tax liability;

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

- 16 a. wages or salaries of persons who are
17 residents of this state and who have earned
18 income from working on a film in this state,
19 including payments to personal services
20 corporations with respect to the services of
21 qualified performing artists, as determined
22 under Section 62(a) (A) of the Internal
23 Revenue Code,

24

- 1 b. the cost of construction and operations,
2 wardrobe, accessories and related services,
3 c. the cost of photography, sound
4 synchronization, lighting and related
5 services,
6 d. the cost of editing and related services,
7 e. rental of facilities and equipment,
8 f. other direct costs of producing a film, and
9 g. the wages and salaries of persons who are
10 defined and registered as an Oklahoma
11 Expatriate by the Office of the Oklahoma Film
12 and Music Commission;

13 3. "Film" means a professional single media, multimedia program
14 or feature, which is not child pornography as defined in subsection
15 A of Section 1024.1 of Title 21 of the Oklahoma Statutes or obscene
16 material as defined in paragraph 1 of subsection B of Section 1024.1
17 of Title 21 of the Oklahoma Statutes, including, but not limited to,
18 national advertising messages that are broadcast on a national
19 affiliate or cable network, fixed on film or digital video, which
20 can be viewed or reproduced and which is exhibited in theaters,
21 licensed for exhibition by individual television stations, groups of
22 stations, networks, cable television stations or other means or
23 licensed for home viewing markets; and
24

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

3 SECTION 2. AMENDATORY 68 O.S. 2001, Section 3624, as
4 last amended by Section 2, Chapter 29, O.S.L. 2006 (68 O.S. Supp.
5 2006, Section 3624), is amended to read as follows:

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

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

18 a. fifteen percent (15%) if fifty percent (50%) or more
19 of the crew are residents of Oklahoma and are employed
20 in this state,

21 b. ten percent (10%) if twenty-five percent (25%) to
22 forty-nine percent (49%) of the crew are residents of
23 Oklahoma and are employed in this state, and
24

1 c. five percent (5%) if less than twenty-five percent
2 (25%) of the crew are residents of Oklahoma and are
3 employed in this state.

4 2. For a production company with a minimum budget for a film of
5 ~~Thirty Million Dollars (\$30,000,000.00)~~ Five Million Dollars
6 (\$5,000,000.00) or more, the amount of rebate paid as provided for
7 in subsection A of this section shall be fifteen percent (15%). The
8 Oklahoma crew requirements set forth in paragraph 1 of this
9 subsection shall not apply to production companies that meet the
10 minimum budget requirements of this paragraph.

11 3. The Oklahoma crew requirements set forth in paragraph 1 of
12 this subsection shall not apply if it is determined there is a lack
13 of available Oklahoma personnel to serve as crew. The lack of
14 available Oklahoma personnel to serve as crew shall be verified in
15 writing by the Office of the Oklahoma Film and Music Commission.
16 The amount of rebate paid as provided for in subsection A of this
17 section to a production company where the Oklahoma crew requirements
18 have been waived pursuant to this paragraph shall be fifteen percent
19 (15%).

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

23 D. To be eligible for a rebate payment:
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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. Except major studio productions, the production company
12 shall provide the name of the completion guarantor and a copy of the
13 bond guaranteeing the completion of the project or if a film has not
14 secured a completion bond, the production company shall provide
15 evidence that all Oklahoma crew and local vendors have been paid and
16 there are no liens against the production company pending in the
17 state;

18 4. The minimum budget for the film shall be ~~Two Million Dollars~~
19 ~~(\$2,000,000.00)~~ Five Hundred Thousand Dollars (\$500,000.00) of which
20 not less than ~~One Million Two Hundred Fifty Thousand Dollars~~
21 ~~(\$1,250,000.00)~~ Three Hundred Thousand Dollars (\$300,000.00) shall
22 be expended in this state. The minimum budget requirements of this
23 paragraph shall be met by any film, television, or commercial
24 production company that produces multiple film, television, or

1 commercial projects within one (1) year, if each project meets a
2 minimum budget of ~~Three Hundred Thousand Dollars (\$300,000.00)~~ Two
3 Hundred Fifty Thousand Dollars (\$250,000.00) and the total budget of
4 all projects in one (1) year is not less than ~~Two Million Dollars~~
5 ~~(\$2,000,000.00)~~ Five Hundred Thousand Dollars (\$500,000.00) of which
6 not less than ~~One Million Two Hundred Fifty Thousand Dollars~~
7 ~~(\$1,250,000.00)~~ Three Hundred Thousand Dollars (\$300,000.00) shall
8 be expended in this state;

9 5. The production company shall provide evidence of a
10 recognizable domestic or foreign distribution agreement or evidence
11 of being accepted to at least one of the top fifteen film festivals
12 or two or more of the top thirty film festivals in the United States
13 as determined by the Office of the Oklahoma Film and Music
14 Commission within one (1) year from the end of principal
15 photography;

16 6. The production company shall provide evidence of complete
17 financing for production prior to the commencement of principal
18 photography; and

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

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

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

1 is not paid in whole or in part, the unpaid claim or unpaid portion
2 may be paid in the following fiscal year subject to the limitations
3 specified in this subsection.

4 SECTION 3. This act shall become effective July 1, 2007.

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