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February 4, 2021

By: Leewright

An Act relating to Oklahoma Tourism Development Act; amending Section 6, Chapter 196, O.S.L. 2017, as amended by Section 4, Chapter 443, O.S.L. 2019 (68 O.S. Supp. 2020, Section 2396), which relates to tourism project agreements; modifying the term of certain agreement; and providing an effective date.

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

SECTION 1. AMENDATORY Section 6, Chapter 196, O.S.L. 2017, as amended by Section 4, Chapter 443, O.S.L. 2019 (68 O.S. Supp. 2020, Section 2396), is amended to read as follows:

Section 2396. A. Upon granting final approval, the Executive Director of the Oklahoma Tourism and Recreation Department may enter into an agreement with an approved company with respect to its tourism attraction project. The terms and provisions of each agreement shall include, but shall not be limited to:

1. The amount of approved costs, which shall be determined by negotiations between the Executive Director and the approved company;

2. A date certain by which the approved company shall have completed the tourism attraction project or an individual component

1 or phase of the project if the tourism attraction project is an
2 Entertainment District. Within three (3) months of the completion
3 date of the whole or an individual component or phase of the
4 project, the approved company shall document its actual costs of the
5 project through a certification of the costs by an independent
6 certified public accountant acceptable to the Executive Director;
7 and

8 3. The following provisions:

9 a. the term of the agreement shall be ~~ten (10) years~~
10 fifteen (15) years from the later of:

11 (1) the date of the final approval of the tourism
12 attraction project, or

13 (2) the completion date specified in the agreement,
14 if the completion date is within three (3) years
15 of the date of the final approval of the tourism
16 attraction project. However, the term of the
17 agreement may be extended for up to two (2)
18 additional years by the Executive Director, with
19 the advice and consent of the Oklahoma Tax
20 Commission, if the Executive Director determines
21 that the failure to complete the tourism
22 attraction project within three (3) years
23 resulted from:
24

1 (a) unanticipated and unavoidable delay in the
2 construction of the tourism attraction
3 project,

4 (b) an original completion date for the tourism
5 attraction project, as originally planned,
6 which will be more than three (3) years from
7 the date construction began, or

8 (c) a change in business structure resulting
9 from a merger or acquisition,

10 b. in any tax year during which an agreement is in
11 effect, if the amount of sales tax to be remitted by
12 the approved company or an Entertainment District
13 Tenant Party, if applicable, exceeds the sales tax
14 credit available to the approved company or
15 Entertainment District Tenant Party, if applicable,
16 then the approved company or Entertainment District
17 Tenant Party, if applicable, shall pay the excess to
18 this state as sales tax,

19 c. within forty-five (45) days after the end of each
20 calendar year the approved company shall supply the
21 Executive Director with such reports and
22 certifications as the Executive Director may request
23 demonstrating to the satisfaction of the Executive
24 Director that the approved company is in compliance

1 with the provisions of the Oklahoma Tourism
2 Development Act, and

3 d. the approved company or an Entertainment District
4 Tenant Party, if applicable, shall not receive an
5 inducement with respect to any calendar year if:

6 (1) with respect to any tourism attraction project
7 that is not an Entertainment District in any
8 calendar year following the fourth year of the
9 agreement, the tourism attraction project fails
10 to attract at least fifteen percent (15%) of its
11 visitors from among persons who are not residents
12 of this state, or

13 (2) in any calendar year following the first year of
14 the project or the tourism attraction project is
15 not operating and open to the public on a regular
16 and consistent basis, which for a tourism
17 attraction project that is an Entertainment
18 District shall mean that a substantial portion of
19 the Entertainment District is not operating and
20 open to the public on a regular and consistent
21 basis.

22 B. The agreement shall not be transferable or assignable by the
23 approved company without the written consent of the Executive
24 Director but, with respect to a tourism attraction project that is

1 an Entertainment District, the approved company can elect to pass-
2 through all or a portion of the sales tax credit to one or more
3 Entertainment District Tenant Parties in accordance with Section
4 2397 of this title.

5 C. If the approved company utilizes or receives inducements
6 which are subsequently disallowed then the approved company will be
7 liable for the payment to the Tax Commission of an amount equal to
8 (i) all taxes resulting from the disallowance of the inducements
9 plus applicable penalties and interest, whether owed by the approved
10 company or an Entertainment District Tenant Party to which the
11 credits have been passed-through in accordance with Section 2397 of
12 this title, and/or (ii) all incentive payments previously received
13 by the approved company, plus applicable penalties and interest.
14 Only the approved company originally allowed a sales tax credit
15 shall be held liable to make such payments and not any Entertainment
16 District Tenant Party to whom the credit has been passed-through in
17 accordance with Section 2397 of this title.

18 D. The Executive Director shall provide a copy of each
19 agreement entered into with an approved company to the Tax
20 Commission.

21 E. For a tourism attraction project that is an Entertainment
22 District and anticipated to have multiple components or phases, the
23 Executive Director may enter into more than one agreement with
24 different approved companies for the different components or phases

1 of the Entertainment District and such agreements may be entered
2 into at different times as though the different components or phases
3 of the Entertainment District are their own separate project. In
4 such case, the Executive Director shall not be required to obtain a
5 separate consultant's report (referred to in subsection C of Section
6 2394 of this title) for each individual component or phase of the
7 Entertainment District, but only one consultant's report for the
8 entire Entertainment District.

9 SECTION 2. This act shall become effective November 1, 2021.

10 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
11 February 4, 2021 - DO PASS
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