

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 2459

6 By: Hill

7 COMMITTEE SUBSTITUTE

8 An Act relating to revenue and taxation; amending 68
9 O.S. 2021, Sections 3632, 3635 and 3638, which relate
10 to the Filmed in Oklahoma Act of 2021; modifying
11 definitions; modifying incentive related to certain
12 post production activity; modifying provisions
13 related to appearance of logo in finished
14 productions; providing an effective date; and
15 declaring an emergency.

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

17 SECTION 1. AMENDATORY 68 O.S. 2021, Section 3632, is
18 amended to read as follows:

19 Section 3632. As used in the Filmed in Oklahoma Act of 2021:

20 1. "Above-the-line personnel" means producers, principal cast,
21 screenwriters and directors who work on production of films or
22 television series. The qualifying salary of above-the-line
23 personnel may be included as crew, as defined in paragraph 3 of this
24 section, if the salaries are paid to loan-out corporations and
limited liability companies registered to do business in this state

1 or the salaries are paid to Oklahoma-based above-the-line personnel.
2 The qualifying salary of above-the-line personnel shall not comprise
3 more than twenty-five percent (25%) of total expenditures as defined
4 in paragraph 5 of this section. For purposes of this paragraph,
5 "Oklahoma-based" means a company or individual with an Oklahoma
6 income tax requirement;

7 2. "Apprentice" means a person who works for a skilled or
8 qualified person in order to learn a trade or profession for an
9 agreed-upon period of time. An apprentice may work in any of the
10 trades recognized by the Oklahoma Department of Commerce as
11 necessary for a film production. An apprentice shall be required to
12 complete safety training appropriate for the duties to be performed
13 in connection with a qualified project and also to complete a course
14 related to and with the objective of preventing workplace
15 misbehavior, such as bullying and sexual harassment;

16 3. "Crew" means any person who works on preproduction,
17 principal photography and postproduction, with the exception of
18 above-the-line-personnel;

19 4. "Eligible television series" means a project if either
20 seventy-five percent (75%) of the series season is filmed within the
21 state or, for an episodic television pilot, if more than seventy-
22 five percent (75%) of the pilot is filmed within the state;

23 5. "Expenditure" or "production cost" includes but is not
24 limited to:

- 1 a. wages or salaries of persons who are residents of this
2 state or who are enrolled as full-time students at a
3 college or university located in the state offering an
4 undergraduate degree program or who are on active
5 military duty and stationed in Oklahoma and involved
6 in a restorative workforce program and who have earned
7 income from working on a film in this state including
8 payments to personal services corporations with
9 respect to the services of qualified performing
10 artists, pursuant to the provisions of the Internal
11 Revenue Code, 26 U.S.C., Section 62(a)(2),
- 12 b. the cost of construction and operations, wardrobe,
13 accessories and related services,
- 14 c. the cost of photography, sound synchronization,
15 lighting and related services,
- 16 d. the cost of editing and related services,
- 17 e. rental of facilities and equipment,
- 18 f. other direct costs of producing a film, and
- 19 g. the wages and salaries of persons who are defined and
20 registered as an Oklahoma Expatriate by the Office of
21 the Oklahoma Film and Music Commission;

22 6. "Film" means a professional single media, multimedia program
23 or feature, which is not child pornography as defined in subsection
24 A of Section 1024.1 of Title 21 of the Oklahoma Statutes or obscene

1 material as defined in paragraph 1 of subsection B of Section 1024.1
2 of Title 21 of the Oklahoma Statutes including, but not limited to,
3 national advertising messages that are broadcast on a national
4 affiliate or cable network, fixed on film or digital video, which
5 can be viewed or reproduced and which is exhibited in theaters,
6 licensed for exhibition by individual television stations, groups of
7 stations, networks, cable television stations or other means or
8 licensed for home viewing markets. The term shall also include
9 filming for interactive and video gaming including, but not limited
10 to, green screen, motion capture and similar production techniques;

11 7. "Multi-film deal" means a project in which a production
12 company films at least seventy-five percent (75%) of main crew
13 principal photography for three (3) or more films in this state
14 within three (3) years or where the third film starts main crew
15 principal photography within the three (3) year period;

16 8. "Nonresident crew member" means a person who is not an
17 Oklahoma resident, hired for a qualifying production project
18 occurring within the state and who is subject to the payment of
19 Oklahoma employment taxes;

20 9. "Production company" means a person, producer or company who
21 produces film for exhibition in theaters, on television or
22 elsewhere;

23 10. "Qualified production expenditure amount" means an
24 expenditure defined pursuant to paragraph 5 of this section; and

1 11. "Qualified soundstage facility" means a state certified
2 industry standard soundstage facility having not less than seven
3 thousand five hundred (7,500) square feet of combined soundstage
4 space and with a total state rental cost to the production company
5 equal to at least ~~one percent (1%)~~ three percent (3%) of the
6 qualifying Oklahoma expenditures with respect to a production.

7 SECTION 2. AMENDATORY 68 O.S. 2021, Section 3635, is
8 amended to read as follows:

9 Section 3635. A. Subject to the final approval of the
10 eligibility application by the Oklahoma Department of Commerce, a
11 requirement that the incentive payments made pursuant to the
12 provisions of this act achieve the maximum positive impact for the
13 Oklahoma economy and subject to the Oklahoma workforce requirements
14 of Section 7 3637 of this ~~act~~ title, the base incentive amount for a
15 project filmed in this state shall be a maximum of twenty percent
16 (20%) of the qualified production expenditure amount. ~~An incentive~~
17 ~~for a project filmed in this state for wages paid to nonresident~~
18 ~~crew, not including above the line personnel, before July 1, 2023,~~
19 ~~shall be provided in the amount of seven and one-half percent~~
20 ~~(7.5%).~~

21 B. In addition to the amount authorized by subsection A of this
22 section, there may be an additional incentive amount, subject to the
23 final approval of the Oklahoma Department of Commerce, in the
24 maximum amount of:

1 1. Three percent (3%) of the qualified production expenditure
2 amount for projects where at least twenty-five percent (25%) of main
3 crew principal photography days are filmed on location, excluding
4 sound stage production, in any county of this state if the county
5 has a population of less than two hundred fifty thousand (250,000)
6 persons according to the federal Decennial Census or most recent
7 population estimate;

8 2. Two percent (2%) of the qualified production expenditure
9 amount for projects whose hub location, as determined by the
10 Department, is or projects where at least twenty-five percent (25%)
11 of main crew principal photography days are filmed on location,
12 excluding sound stage production, in a municipality having a
13 population of thirteen thousand (13,000) or fewer persons according
14 to the federal Decennial Census or most recent population estimate
15 regardless of the county in which the municipality is located or
16 partially located;

17 3. Five percent (5%) of the qualified production expenditure
18 amount for soundstage expenditures if at least twenty-five percent
19 (25%) of main crew principal photography days are filmed at a
20 qualified soundstage facility;

21 4. For eligible television series as defined in paragraph 4 of
22 Section ~~2~~ 3632 of this ~~act~~ title:

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1 a. two percent (2%) of the qualified production
2 expenditure amount for an eligible television episodic
3 pilot, and

4 b. five percent (5%) of the qualified production
5 expenditure amount if a television series is filmed
6 for one or more seasons;

7 5. Five percent (5%) of the qualified production expenditure
8 amount for an eligible multi-film deal as defined in paragraph 7 of
9 Section ~~2~~ 3632 of this ~~act~~ title; and

10 6. On or after July 1, 2023, two percent (2%) of the qualified
11 production expenditure amount for the post production expenses of:

12 a. music production, recording, mixing or composition, or

13 b. licensing of Oklahoma music;

14 7. Three percent (3%) of the qualified production expenditure
15 amount based on expenditures paid to Oklahoma vendors for post-
16 production expenses with a minimum expenditure of three percent (3%)
17 of Oklahoma production expenditures. Post-production expenditures
18 include but are not limited to the following categories:

19 a. sound recording or mixing,

20 b. color grading,

21 c. editorial work,

22 d. visual effects,

23 e. animation,

24 f. deliverables, excluding marketing and advertising,

- 1 g. ~~music production, recording, mixing or composition,~~
2 h. ~~licensing of Oklahoma music, and~~
3 ~~i.~~ editing equipment or editing facility rental, and
4 h. color grading or digital intermediate processing,
5 audio post production processes including Foley artist
6 processes or services, and graphics, including but not
7 limited to the GFX system.

8 SECTION 3. AMENDATORY 68 O.S. 2021, Section 3638, is
9 amended to read as follows:

10 Section 3638. All production projects for which any incentive
11 is paid pursuant to the provisions of this act shall contain a logo,
12 as approved by the Oklahoma Department of Commerce, to be displayed
13 in the ~~end~~ credits of the finished production for a period of at
14 least five (5) seconds or, if the production does not contain ~~end~~
15 credits, the Oklahoma Department of Commerce shall obtain a
16 commitment by the production company to provide equivalent value as
17 determined by the Oklahoma Department of Commerce.

18 SECTION 4. Sections 1 and 3 of this act shall become effective
19 July 1, 2023.

20 SECTION 5. It being immediately necessary for the preservation
21 of the public peace, health or safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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