

STATE-LAW, 2007 OK S 623 , Enacted, (June 4, 2007)
2007 OK S 623 , Enacted

Oklahoma

Changes in Bill text reflected as:

~~Text Deleted~~

Text Added

~~Text Vetoed~~

SUMMARY: Relates to the Compete with Canada Film Act; lowers the amount of the minimum budget for a film in order to qualify for a rebate under the Act; provides the in-state crew requirements in order to receive the rebate shall not apply if it is determined there is a lack of available personnel in the state to work as crew; provides such determination shall be verified by the State Office of Film and Music Commission; requires the production company to verify evidence of being accepted to certain film festivals.-SAME__AS:

Current Legislative Status

01/18/2007 PREFILED.

02/05/2007 INTRODUCED.

02/06/2007 To SENATE Committee on FINANCE.

02/15/2007 From SENATE Committee on FINANCE: Do pass as amended.

03/06/2007 Passed SENATE. *****To HOUSE.

03/08/2007 To HOUSE Committee on APPROPRIATIONS AND BUDGET.

03/20/2007 Withdrawn from HOUSE Committee on APPROPRIATIONS AND BUDGET.

03/20/2007 To HOUSE Committee on NATURAL RESOURCES.

03/28/2007 Withdrawn from HOUSE Committee on NATURAL RESOURCES.

03/28/2007 To HOUSE Committee on APPROPRIATIONS AND BUDGET.

04/09/2007 From HOUSE Committee on APPROPRIATIONS AND BUDGET: Do pass as substituted.

04/16/2007 Passed HOUSE. *****To SENATE for concurrence.

05/01/2007 SENATE refused to concur in HOUSE amendments.

05/01/2007 *****To CONFERENCE Committee.

05/22/2007 CONFERENCE Committee Report submitted.

05/23/2007 CONFERENCE Committee Report adopted by SENATE.

05/24/2007 CONFERENCE Committee Report adopted by HOUSE.

05/24/2007 Referred for Enrollment.

05/25/2007 *****To GOVERNOR.

06/04/2007 Signed by GOVERNOR.

06/11/2007 Chapter No. 341

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session: Oklahoma First Session of the 51st Legislative Session

cite: 2007 OK S 623

Enacted

June 4, 2007

Bass

ENROLLED

SENATE BILL NO. 623

By: Bass and Williamson of the Senate

and
Armes and McDaniel (Randy) of the House

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

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

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

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 qualified performing artists, as determined under Section 62(a)(A) of the Internal Revenue Code,

b. the cost of construction and operations, wardrobe, accessories and related services,

c. the cost of photography, sound synchronization, lighting and related services,

d. the cost of editing and related services,

e. rental of facilities and equipment,

f. other direct costs of producing a film, and

g. the wages and salaries of persons who are defined and registered as an Oklahoma Expatriate by the Office of the Oklahoma Film and Music Commission;

3. "Film" means a professional single media, multimedia program or feature, which is not child pornography as defined in subsection A of Section 1024.1 of Title 21 of the Oklahoma Statutes or obscene material as defined in paragraph 1 of subsection B of Section 1024.1 of Title 21 of the Oklahoma Statutes, including , but not limited to, national advertising messages that are

broadcast on a national affiliate or cable network, fixed on film or digital video, which can be viewed or reproduced and which is exhibited in theaters, licensed for exhibition by individual television stations, groups of stations, networks, cable television stations or other means or licensed for home viewing markets; and

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

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

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

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

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

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

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

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

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

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

D. To be eligible for a rebate payment:

1. The production company responsible for a film, television production, or television commercial, as defined in Section 3623 of this title, made in this state shall submit documentation

to the Office of the Oklahoma Film and Music Commission of the amount of wages paid for employment in this state to residents of this state directly relating to the production and the amount of other production costs incurred in this state directly relating to the production;

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

3. Except major studio productions, the production company shall provide the name of the completion guarantor and a copy of the bond guaranteeing the completion of the project or if a film has not secured a completion bond, the production company shall provide evidence that all Oklahoma crew and local vendors have been paid and there are no liens against the production company pending in the state;

4. The minimum budget for the film shall be ~~Two Million Dollars (\$2,000,000.00)~~ **Five Hundred Thousand Dollars (\$500,000.00)** of which not less than ~~One Million Two Hundred Fifty Thousand Dollars (\$1,250,000.00)~~ **Three Hundred Thousand Dollars (\$300,000.00)** shall be expended in this state. The minimum budget requirements of this paragraph shall be met by any film, television, or commercial production company that produces multiple film, television, or commercial projects within one (1) year, if each project meets a minimum budget of ~~Three Hundred Thousand Dollars (\$300,000.00)~~ **Two Hundred Fifty Thousand Dollars (\$250,000.00)** and the total budget of all projects in one (1) year is not less than ~~Two Million Dollars (\$2,000,000.00)~~ **Five Hundred Thousand Dollars (\$500,000.00)** of which not less than ~~One Million Two Hundred Fifty Thousand Dollars (\$1,250,000.00)~~ **Three Hundred Thousand Dollars (\$300,000.00)** shall be expended in this state;

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

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

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

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

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

order in which the claims are approved by the Office. If an approved claim is not paid in whole or in part, the unpaid claim or unpaid portion may be paid in the following fiscal year subject to the limitations specified in this subsection.

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