

# AR H 1461, Enacted

Arkansas

SUMMARY: Amends the Digital Product and Motion Picture Industry Development Act; specifies that rebates under the Act are at the discretion of the Economic Development Commission; extends the sunset date for the Act.

Legislative History and Analysis

Changes in Bill text reflected as:

~~Text Deleted~~

*Text Added*

~~Text Vetoed~~

Current Legislative Status

02/13/2019 INTRODUCED.

02/14/2019 To HOUSE Committee on RULES.

02/20/2019 From HOUSE Committee on RULES: Do pass.

02/25/2019 Passed HOUSE. \*\*\*\*\*To SENATE.

02/25/2019 To SENATE Committee on AGRICULTURE, FORESTRY AND ECONOMIC DEVELOPMENT.

02/27/2019 Withdrawn from SENATE Committee on AGRICULTURE, FORESTRY AND ECONOMIC DEVELOPMENT.

02/27/2019 Amended on SENATE floor.

02/27/2019 Rereferred to SENATE Committee on AGRICULTURE, FORESTRY AND ECONOMIC DEVELOPMENT.

02/28/2019 From SENATE Committee on AGRICULTURE, FORESTRY AND ECONOMIC DEVELOPMENT: Do pass.

03/04/2019 Passed SENATE. \*\*\*\*\*To HOUSE for concurrence.

03/05/2019 HOUSE concurred in SENATE amendments.

03/06/2019 \*\*\*\*\*To GOVERNOR.

03/07/2019 Signed by GOVERNOR.

03/07/2019 Act No. 367

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session: Arkansas 2019 Regular Session - 92nd General  
Assembly cite: 2019 AR H 1461

Enacted

March 7, 2019

Wing

Act 367 of the Regular Session

State of Arkansas

92nd General Assembly

Regular Session, 2019

As Engrossed: S2/27/19

A Bill

HOUSE BILL 1461

By: Representatives Wing, Capp, Christiansen, Dalby, Della Rosa, D. Ferguson,

V. Flowers, M. Hodges, Murdock, Warren

By: Senators M. Pitsch, Caldwell, E. Cheatham, B. Davis, Elliott, Flippo,

Irvin, Teague

For An Act To Be Entitled

AN ACT TO AMEND THE DIGITAL PRODUCT AND MOTION PICTURE INDUSTRY DEVELOPMENT ACT OF 2009; TO SPECIFY THAT REBATES UNDER THE DIGITAL PRODUCT AND MOTION PICTURE INDUSTRY DEVELOPMENT ACT OF 2009 ARE AT THE DISCRETION OF THE EXECUTIVE DIRECTOR OF THE ARKANSAS ECONOMIC DEVELOPMENT COMMISSION; TO EXTEND THE SUNSET DATE FOR THE DIGITAL PRODUCT AND MOTION PICTURE INDUSTRY DEVELOPMENT ACT OF 2009; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE DIGITAL PRODUCT AND MOTION PICTURE INDUSTRY DEVELOPMENT ACT OF 2009.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Section 15-4-2003(13), concerning the definitions used under the Digital Product and Motion Picture Industry Development Act of 2009, is amended to read as follows:

(13) "State-certified production" means a qualified production produced by an eligible production company that is:

(A) In compliance with established rules to this subchapter;

(B) Authorized by the Film Office to conduct business in this state; and

(C) Approved by the ~~Film Office~~ **Executive Director of the Arkansas Economic Development Commission** as qualifying for a **discretionary** production rebate under this subchapter.

SECTION 2. Arkansas Code Section 15-4-2005(a), concerning production rebates under the Digital Product and Motion Picture Industry Development Act of 2009, is amended to read as follows:

- (a)(1) ~~A~~ *The Executive Director of the Arkansas Economic Development Commission may offer to a* production company ~~, upon approval of the application by the Arkansas Economic Development Commission, shall be eligible for~~ *that has submitted an application under Section 15-4-2007* a rebate of *up to* twenty percent (20%) ~~, with no cap per production,~~ on all qualified production costs in connection with the production of a state-certified film project.
- (2) ~~An~~ *If the executive director approves a project for a rebate under this section,* *an* additional rebate of ten percent (10%) shall be granted for the payroll of below-the-line employees who are full-time residents of Arkansas.

SECTION 3. Arkansas Code Section 15-4-2006(a), concerning postproduction rebates under the Digital Product and Motion Picture Industry Development Act of 2009, is amended to read as follows:

- (a)(1) ~~A~~ *The Executive Director of the Arkansas Economic Development Commission may offer to a* qualifying production company ~~, upon approval of the application by the Arkansas Economic Development Commission, shall be eligible for~~ *that has submitted an application under Section 15-4-2007* a rebate of *up to* twenty percent (20%) ~~, with no cap per production,~~ on all qualified production costs in connection with the postproduction of a state-certified film project.
- (2) ~~An~~ *If the executive director approves a project for a rebate under this section,* *an* additional rebate of ten percent (10%) shall be granted for the payroll of below-the-line employees who are full-time residents of Arkansas.

SECTION 4. Arkansas Code Section 15-4-2007(a) and (b), concerning an application for a rebate under the Digital Product and Motion Picture Industry Development Act of 2009, are amended to read as follows:

- (a)(1) To ~~qualify~~ *apply* for the rebates provided under this subchapter, a production company shall submit an application and provide an estimate of total expenditures to be made in Arkansas in connection with the production.
- (2) The application and estimate of expenditures *required under subdivision (a)(1) of this section* shall be filed with the Arkansas Economic Development Commission and be approved *by the Executive Director of the Arkansas Economic Development Commission* as eligible for the rebate provided by this subchapter before the commencement of production in Arkansas.
- (b)(1) ~~After each production company submits an application, the commission~~ *If an application for a rebate is approved under subsection (a) of this section, the production company and the executive director* shall sign a financial incentive agreement ~~with each eligible production company that qualifies under this subchapter and is approved by the commission~~ .
- (2)(A) The financial incentive agreement shall define the ~~benefits~~ *incentives* to be received and the start and end date of the project.
- (B) The financial incentive agreement shall include the:
  - (i) Effective date of the *financial incentive* agreement;
  - (ii) Term of the *financial incentive* agreement, which shall be calculated from the date the agreement is signed by the production company and the

~~Executive Director of the Arkansas Economic Development Commission~~  
*executive director* ;

- (iii) Incentive for which the production company may qualify;
- (iv) Investment threshold requirements necessary to qualify for eligibility;
- (v) Production company's responsibilities for certifying eligibility requirements; and
- (vi) Production company's responsibilities for failure to meet or maintain eligibility requirements.

SECTION 5. Arkansas Code Section 15-4-2007(e)(1) and (2), concerning an application for a rebate under the Digital Product and Motion Picture Industry Development Act of 2009, are amended to read as follows:

- (e)(1) Production companies are encouraged to make payments for production and ~~post-production~~ *postproduction* expenses from a checking account from an Arkansas financial institution.
- (2) Direct cash payments by a production company to Arkansas vendors, businesses, or citizens hired as cast or crew that are accompanied by receipts ~~shall~~ *may* be allowed if the sum of the cash payments does not exceed forty percent (40%) of the total verifiable expenditures.

SECTION 6. Arkansas Code Section 15-4-2007(h)-(l), concerning an application for a rebate under the Digital Product and Motion Picture Industry Development Act of 2009, are amended to read as follows:

- (h)(1) ~~The~~ *If approved by the executive director, the* employment rebate also entitles a state-certified production ~~for~~ *to* an additional rebate for employing full-time residents of Arkansas.
- (2) The employment rebate authorizes an additional credit of ten percent (10%) for the aggregate payroll of salaries and wages to Arkansas residents who are below-the-line employees of the state-certified production.
- (i) ~~The~~ *If approved by the executive director, the* employment rebate ~~shall~~ *may* include the first five hundred thousand dollars (\$500,000) of a highly compensated individual's salary.
- (j) Payments for penalties or fines, payments to nonprofit organizations, and payments to federal and state entities that do not pay state taxes are not eligible.
- (k) If a production company hires a payroll service company to handle the payroll of a production, the payroll payments otherwise allowable ~~shall~~ *may* be allowed as eligible expenditures if all eligible income payments to employees and independent contractors done through the payroll service are subject to Arkansas state income taxes.
- (l)(1)(A) Within two (2) weeks after principal photography begins, the production company shall begin filing weekly expenditure reports.
- (B) Failure to file weekly expenditure reports may result in a delay in the disbursement of the rebate provided in Sections 15-4-2005 and 15-4-2006.
- (2) The weekly expenditure report shall be filed in accordance with but shall not be limited to the following:

- (A) Direct cash payments by the production company to Arkansas vendors, businesses, or citizens hired as castor crew that are accompanied by receipts shall be allowed if the sum of those cash payments does not exceed forty percent (40%) of the total verifiable expenditures;
- (B) Per diem expenditures by cast or crew, or both, for lodging, when accompanied by receipts, shall be **allowed as** eligible expenditures; and
- (C) Expenditure reports shall include without limitation:
  - (i) Check identification number;
  - (ii) Date of payment;
  - (iii) Name of payee;
  - (iv) Address of payee;(v) Amount paid; and
  - (vi) Other information the division deems necessary to ensure compliance with this subsection.

SECTION 7. Arkansas Code Section 15-4-2007(n)(3), concerning an application for a rebate under the Digital Product and Motion Picture Industry Development Act of 2009, is amended to read as follows:

- (3) The production company shall provide documentation for expenditures in accordance with rules promulgated by the ~~Film Office~~ **commission** .

SECTION 8. Arkansas Code Section 15-4-2008(a), concerning the disbursement of rebate incentives under the Digital Product and Motion Picture Industry Development Act of 2009, is amended to read as follows:

- (a) The Revenue Division of the Department of Finance and Administration shall upon receipt of an application for a rebate, including a proof of performance expenditure report from the Film Office:
  - (1) Calculate the total expenditures of the relevant production company for which there are documented receipts for funds expended in the state;
  - (2) Calculate the incentive benefit to which the applicant is entitled , **subject to any conditions of the approved financial incentive agreement** ; and
  - (3) Provide certification to the Director of the Department of Finance and Administration specifying the amount to be remitted to the production company within one hundred twenty (120) days after the final expenditure report has been submitted.

SECTION 9. Arkansas Code Section 15-4-2008(c)(1), concerning the disbursement of rebate incentives under the Digital Product and Motion Picture Industry Development Act of 2009, is amended to read as follows:

- (c)(1) ~~There is no per-production cap on the rebate, and the amount of the rebate shall be limited only by the amount of moneys in the Digital Product and Motion Picture Office Fund.~~ **The amount of the rebate is limited to the amount specified in the approved financial incentive agreement.**

SECTION 10. Arkansas Code Section 15-4-2011 is amended to read as follows:

15-4-2011. Sunset.

The opportunity for a rebate provided by this subchapter shall expire on June 30, ~~2019~~ 2029 .