

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 ENGROSSED SENATE  
5 BILL NO. 608

By: Hall of the Senate

6 and

7 Fetgatter of the House

8  
9 [ film production incentives - Compete with Canada  
10 Film Act - effective date ]

11  
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 68 O.S. 2011, Section 3621, is  
14 amended to read as follows:

15 Section 3621. This act shall be known and may be cited as the  
16 ~~"Compete with Canada Film Act"~~ "Oklahoma Film Incentive Act".

17 SECTION 2. AMENDATORY 68 O.S. 2011, Section 3623, as  
18 amended by Section 2, Chapter 313, O.S.L. 2019 (68 O.S. Supp. 2020,  
19 Section 3623), is amended to read as follows:

20 Section 3623. As used in the ~~Compete with Canada Film Act~~  
21 Oklahoma Film Incentive Act:

22 1. "Crew" means any person who works on preproduction,  
23 principal photography, and postproduction, with the exception of  
24 producers, principal cast, screenwriters, and the director. The

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

11 2. "Expenditure" or "production cost" includes but is not  
12 limited to:

- 13 a. wages or salaries of persons who are residents of this  
14 state and who have earned income from working on a  
15 film in this state, including payments to personal  
16 services corporations with respect to the services of  
17 qualified performing artists, as determined under  
18 Section 62(a)(A) of the Internal Revenue Code,
- 19 b. the cost of construction and operations, wardrobe,  
20 accessories and related services,
- 21 c. the cost of photography, sound synchronization,  
22 lighting and related services,
- 23 d. the cost of editing and related services,
- 24 e. rental of facilities and equipment,

- 1 f. other direct costs of producing a film, and  
2 g. the wages and salaries of persons who are defined and  
3 registered as an Oklahoma Expatriate by the Office of  
4 the Oklahoma Film and Music Commission;

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

16 4. "High impact production" means a production for which total  
17 expenditures or production costs are equal to or greater than Fifty  
18 Million Dollars (\$50,000,000.00), with at least one-third (1/3) of  
19 total costs deemed Oklahoma expenditures by the Office of the  
20 Oklahoma Film and Music Commission; and

21 5. "Production company" means a person or company who produces  
22 film for exhibition in theaters, on television or elsewhere.  
23  
24

1 SECTION 3. AMENDATORY 68 O.S. 2011, Section 3624, as  
2 last amended by Section 3, Chapter 313, O.S.L. 2019 (68 O.S. Supp.  
3 2020, Section 3624), is amended to read as follows:

4 Section 3624. A. There is hereby created the Oklahoma Film  
5 Enhancement Rebate Program. A rebate in the amount of up to  
6 seventeen percent (17%) of documented expenditures made in ~~Oklahoma~~  
7 this state directly attributable to the production of a film,  
8 television production, or television commercial, as defined in  
9 Section 3623 of this title, in this state, may be paid to the  
10 production company responsible for the production. Provided, for  
11 documented expenditures made after July 1, 2009, the rebate amount  
12 shall be thirty-five percent (35%), except as provided in subsection  
13 B of this section. Provided, for documented expenditures made after  
14 July 1, 2022, the rebate amount shall be nineteen percent (19%),  
15 except as provided in subsection B of this section.

16 B. The amount of rebate paid to the production company as  
17 provided for in subsection A of this section shall be increased by  
18 an:

- 19 1. An additional two percent (2%) of documented expenditures if  
20 a production company spends at least Twenty Thousand Dollars  
21 (\$20,000.00) for the use of music created by ~~an Oklahoma~~ a resident  
22 of this state that is recorded in ~~Oklahoma~~ this state or for the  
23 cost of recording songs or music in ~~Oklahoma~~ this state for use in  
24 the production;

1        2. For documented expenditures made after July 1, 2022, an  
2 additional two percent (2%) if a production company hires two (2)  
3 persons in coordination with the Oklahoma Works Employer Portal;

4        3. For documented expenditures made after July 1, 2022, an  
5 additional two percent (2%) if a production company displays the  
6 state logo, as provided by the Oklahoma Film and Music Commission,  
7 in the film, television production or television commercial;

8        4. For documented expenditures made after July 1, 2022, an  
9 additional two percent (2%) if a production company conducts the  
10 filming outside of at least a fifty (50) mile radius from downtown  
11 Oklahoma City, as determined by the Commission;

12        5. For documented expenditures made after July 1, 2022, an  
13 additional five percent (5%) if a production company's filming at a  
14 location in this state accounts for at least one-third (1/3) of  
15 total production days; and

16        6. For documented expenditures made after July 1, 2022, an  
17 additional five percent (5%) if a production company produces  
18 multiple films for exhibition in a theater or at least six (6)  
19 episodes of a film series in this state.

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~~ Oklahoma  
23 Film Incentive Act.

24        D. To be eligible for a rebate payment:

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 has filed or will file any Oklahoma  
10 tax return or tax document which may be required by law;

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 Fifty Thousand  
19 Dollars (\$50,000.00) of which not less than Twenty-five Thousand  
20 Dollars (\$25,000.00) shall be expended in this state;

21           5. The production company shall provide evidence of financing  
22 for production prior to the commencement of principal photography;  
23 and  
24

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

6           E. A production company shall not be eligible to receive both a  
7 rebate payment pursuant to the provisions of ~~this act~~ Section 3621  
8 et seq. of this title and an exemption from sales taxes pursuant to  
9 the provisions of paragraph 23 of Section 1357 of this title. If a  
10 production company has received such an exemption from sales taxes  
11 and submits a claim for rebate pursuant to the provisions of the  
12 ~~Compete with Canada Film Act~~ Oklahoma Film Incentive Act, the  
13 company shall be required to fully repay the amount of the exemption  
14 to the Tax Commission. A claim for a rebate shall include  
15 documentation from the Tax Commission that repayment has been made  
16 as required herein or shall include an affidavit from the production  
17 company that the company has not received an exemption from sales  
18 taxes pursuant to the provisions of paragraph ~~21~~ 23 of Section 1357  
19 of this title.

20           F. The Office shall approve or disapprove all claims for rebate  
21 and shall notify the Tax Commission. The Tax Commission shall, upon  
22 notification of approval from the Office of the Film and Music  
23 Commission, issue payment for all approved claims from funds in the  
24 Oklahoma Film Enhancement Rebate Program Revolving Fund created in

1 Section 3625 of this title. Excluding any rebate payments to high  
2 impact productions as provided for in subsection G of this section,  
3 the amount of payments in any single fiscal year shall not exceed  
4 Eight Million Dollars (\$8,000,000.00). If the amount of approved  
5 claims exceeds the amount specified in this subsection in a fiscal  
6 year, payments shall be made in the order in which the claims are  
7 approved by the Office. If an approved claim is not paid in whole  
8 or in part, the unpaid claim or unpaid portion may be paid in the  
9 following fiscal year subject to the limitations specified in this  
10 subsection.

11 G. 1. At the time the Office of the Film and Music Commission  
12 issues a conditional prequalification for a production, such  
13 prequalification may include a proposed designation as a high impact  
14 production, as defined in Section 3623 of this title.

15 2. The proposed designation must be approved by the Cabinet  
16 Secretary for Commerce and Tourism.

17 3. If the high impact production otherwise meets all of the  
18 requirements of the ~~Compete With Canada Act~~ Oklahoma Film Incentive  
19 Act and the Office gives final approval to rebate claims, such  
20 rebate claims shall not be subject to the Eight Million Dollar  
21 (\$8,000,000.00) cap provided for in subsection F of this section.

22 4. The payment of a rebate claim approved by the Office for a  
23 production designated as a high impact production by the Cabinet  
24 Secretary may be made as follows:



- 1 a. by special appropriation to the Oklahoma Film  
2 Enhancement Rebate Program Revolving Fund, if the  
3 claim is approved during a regular or special session  
4 of the Oklahoma Legislature, or
- 5 b. by payment from the Oklahoma Quick Action Closing Fund  
6 pursuant to Section 48.2 of Title 62 of the Oklahoma  
7 Statutes, if the claim is approved when the Oklahoma  
8 Legislature is not in session.

9 SECTION 4. AMENDATORY 68 O.S. 2011, Section 3626, as  
10 last amended by Section 5, Chapter 313, O.S.L. 2019 (68 O.S. Supp.  
11 2020, Section 3626), is amended to read as follows:

12 Section 3626. The provisions of the ~~Compete with Canada Film~~  
13 ~~Act~~ Oklahoma Film Incentive Act shall be terminated effective ~~July~~  
14 ~~1, 2027~~ July 1, 2035, and no claim shall be paid thereafter.

15 SECTION 5. This act shall become effective November 1, 2021.

16  
17 DIRECT TO CALENDAR.  
18  
19  
20  
21  
22  
23  
24