

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

HOUSE BILL 1716

5 By: Representatives Williams, Vines
6

For An Act To Be Entitled

8 AN ACT TO REPEAL OBSOLETE LAWS IN TITLE 26 OF THE
9 ARKANSAS CODE; AND FOR OTHER PURPOSES.

Subtitle

12 TO REPEAL OBSOLETE LAWS IN TITLE 26 OF
13 THE ARKANSAS CODE.
14

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16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code Title 26, Chapter 4, Subchapter 2, which
20 expired on June 30, 1993, is repealed.

21 ~~26-4-201. Title.~~

22 ~~This subchapter may be referred to and cited as the "Motion Picture~~
23 ~~Incentive Act of 1983".~~

24
25 ~~26-4-202. Purpose.~~

26 ~~It is found and determined that:~~

27 ~~(1) Arkansa's natural beauty and diverse topography provide a~~
28 ~~variety of excellent settings from which the motion picture industry might~~
29 ~~choose a location for filming a motion picture or television program;~~

30 ~~(2) Several successful motion pictures have been filmed in~~
31 ~~Arkansas, due to the unique qualities of the state in terms of natural~~
32 ~~settings, availability of labor, materials, climate, and hospitality of its~~
33 ~~people;~~

34 ~~(3) The motion picture industry brings with it a much-needed~~
35 ~~infusion of capital into areas of the state which may be economically~~
36 ~~depressed;~~



1 ~~(4) The multiplier effect of the infusion of capital resulting~~
 2 ~~from the filming of a motion picture or television program serves to~~
 3 ~~stimulate economic activity beyond that immediately apparent on the film set;~~

4 ~~(5) Due to the distance of Arkansas from the film industry~~
 5 ~~center on the West Coast and due to this period of economic depression, it is~~
 6 ~~necessary to provide financial incentives to the film industry in order that~~
 7 ~~Arkansas might compete with other states for filming locations; and~~

8 ~~(6) Since a significant portion of the cost of a motion picture~~
 9 ~~production will not be eligible for a tax incentive due to the fact that~~
 10 ~~portions of the production are carried out in another state, this subchapter~~
 11 ~~may also serve as an inducement for the motion picture industry to locate~~
 12 ~~operations within the State of Arkansas in order to take advantage of the tax~~
 13 ~~incentive afforded by this subchapter.~~

14
 15 ~~26-4-203. Definitions.~~

16 ~~As used in this subchapter, unless the context otherwise requires:~~

17 ~~(1) "Financial institution" means any bank or savings and loan in the~~
 18 ~~state which carries Federal Deposit Insurance Corporation (FDIC) or Federal~~
 19 ~~Savings and Loan Insurance Corporation (FSLIC) insurance;~~

20 ~~(2) "Motion Picture Office" means the division of the Arkansas~~
 21 ~~Economic Development Council charged with the responsibility of promoting and~~
 22 ~~assisting the motion picture industry in Arkansas;~~

23 ~~(3) "Motion picture production company" means a company engaged in the~~
 24 ~~business of producing motion pictures intended for a theatrical release or~~
 25 ~~for television viewing;~~

26 ~~(4) "Resident" means natural person and includes for the purpose of~~
 27 ~~determining eligibility for the tax incentive provided by this subchapter any~~
 28 ~~person domiciled in the State of Arkansas and any other person who maintains~~
 29 ~~a permanent place of abode within the state and spends in the aggregate more~~
 30 ~~than six (6) months of the taxable year within the state; and~~

31 ~~(5) "Revenue Division" means the Revenue Division of the Department of~~
 32 ~~Finance and Administration.~~

33
 34 ~~26-4-204. Penalties.~~

35 ~~(a) Any motion picture production company failing to comply with § 26-~~
 36 ~~4-205 may be enjoined from engaging in the business of producing motion~~

1 ~~pictures in the State of Arkansas by any court of competent jurisdiction~~
2 ~~until the requirements of that section are met.~~

3 ~~(b) Any person, business, or motion picture production company~~
4 ~~exploiting or attempting to exploit the tax incentive afforded by this~~
5 ~~subchapter shall be subject to penalty in accordance with applicable state or~~
6 ~~federal law.~~

7 ~~(c) Any motion picture production company attempting to abuse the~~
8 ~~intent of this subchapter shall be denied any tax incentive to which it would~~
9 ~~otherwise be entitled and shall be prohibited from applying for any future~~
10 ~~tax incentive afforded by this subchapter.~~

11
12 ~~26-4-205. Registration.~~

13 ~~Each motion picture production company which plans to film any scenes~~
14 ~~within the borders of the State of Arkansas shall register with the Motion~~
15 ~~Picture Office prior to the commencement of filming.~~

16
17 ~~26-4-206. Tax incentive.~~

18 ~~Any motion picture production company which expends in excess of one~~
19 ~~million dollars (\$1,000,000) in connection with the filming or production of~~
20 ~~one (1) or more motion pictures in the State of Arkansas within a twelve-~~
21 ~~month period or which expends in excess of five hundred thousand dollars~~
22 ~~(\$500,000) in connection with the filming or production of one (1) motion~~
23 ~~picture in this state within a six-month period shall, upon making~~
24 ~~application therefor and meeting other requirements prescribed in this~~
25 ~~subchapter, be entitled to a tax incentive benefit of five percent (5%) of~~
26 ~~the funds so expended in Arkansas in connection with the filming or~~
27 ~~production of a motion picture.~~

28
29 ~~26-4-207. Expiration date.~~

30 ~~The opportunity for a tax incentive provided by § 26-4-206 shall expire~~
31 ~~on June 30, 1993.~~

32
33 ~~26-4-208. Application for incentive.~~

34 ~~(a) Any motion picture production company that intends to film all or~~
35 ~~parts of a motion picture in Arkansas and desires to take advantage of the~~
36 ~~tax incentive provided for in this subchapter shall provide an estimate of~~

1 ~~total expenditures to be made in Arkansas in connection with the filming or~~
2 ~~production of the motion picture. The estimate of expenditures shall be filed~~
3 ~~with the Motion Picture Office prior to the commencement of filming in~~
4 ~~Arkansas.~~

5 ~~(b) At the time the motion picture production company provides the~~
6 ~~estimate of expenditures to the office, it shall also designate a member or~~
7 ~~representative of the motion picture production company to work with the~~
8 ~~office and the Revenue Division of the Department of Finance and~~
9 ~~Administration on the reporting of expenditures and other information~~
10 ~~necessary to take advantage of the tax incentive afforded by this subchapter.~~

11 ~~(c) Within two (2) weeks after principal photography begins, the~~
12 ~~motion picture production company shall begin filing weekly expenditure~~
13 ~~reports. Failure to file weekly expenditure reports may result in a delay in~~
14 ~~the disbursement of the tax incentive benefit as provided in § 26-4-209. The~~
15 ~~weekly expenditure report shall be filed in accordance with, but not limited~~
16 ~~to, the following provisions:~~

17 ~~(1) In order to be eligible for the tax incentive provided for~~
18 ~~by this subchapter, payments shall be made from a checking account from any~~
19 ~~Arkansas financial institution;~~

20 ~~(2) Direct cash payments by the production company to Arkansas~~
21 ~~vendors, businesses, or citizens hired as cast or crew which are accompanied~~
22 ~~by receipts shall be allowed if the sum of the cash payments does not exceed~~
23 ~~forty percent (40%) of the total verifiable expenditures;~~

24 ~~(3) Per diem expenditures by the cast or crew for lodging when~~
25 ~~accompanied by receipts shall be eligible expenditures;~~

26 ~~(4) Expenditure reports shall include, but are not limited to,~~
27 ~~check identification number, date of payment, name of payee, address of~~
28 ~~payee, amount paid, name of financial institution, and other such information~~
29 ~~as may be deemed necessary by the Revenue Division to insure compliance with~~
30 ~~this subchapter;~~

31 ~~(5) Payments for salaries or wages are limited to Arkansas~~
32 ~~residents who filed an Arkansas income tax return in the previous tax year;~~
33 ~~and~~

34 ~~(6) Payments for penalties or fines, payments to nonprofit~~
35 ~~organizations, and payments to federal and state entities that do not pay~~
36 ~~state taxes are to be excluded.~~

1 ~~(d) The twelve month period during which expenditures may qualify for~~
2 ~~the tax incentive provided by this subchapter begins on the date of the~~
3 ~~earliest expenditure reported.~~

4 ~~(e) Upon completion of filming or production in Arkansas, the motion~~
5 ~~picture production company shall file an application for the tax incentive~~
6 ~~afforded by this subchapter. The application shall include a final~~
7 ~~expenditure report giving a total amount of expenditures which were made in~~
8 ~~the state in connection with the filming or production of a motion picture~~
9 ~~and which comply with the provisions of this subchapter. The motion picture~~
10 ~~production company shall provide documentation for expenditures in accordance~~
11 ~~with regulations promulgated by the division.~~

12 ~~(f) Applications for the tax incentive provided by this subchapter~~
13 ~~shall be accepted only from those motion picture production companies which~~
14 ~~report expenditures in the state in excess of one million dollars~~
15 ~~(\$1,000,000) in connection with the filming or production of one (1) or more~~
16 ~~motion pictures in the state within a twelve month period or five hundred~~
17 ~~thousand dollars (\$500,000) in connection with the filming or production of~~
18 ~~one (1) motion picture in the state within a six month period.~~

19 ~~(g)(1) When a motion picture production company hires a payroll~~
20 ~~service company to handle the payroll of a production, the payroll payments~~
21 ~~otherwise allowable under § 26-4-201 et seq. shall be allowed as eligible~~
22 ~~expenditures if:~~

23 ~~(A) Payments made by the motion picture production company~~
24 ~~to the payroll service company are paid through an Arkansas financial~~
25 ~~institution account; and~~

26 ~~(B) The payroll checks issued by the payroll service~~
27 ~~company are drawn on a bank or other entity which is outside the State of~~
28 ~~Arkansas, and the out-of-state bank or other entity guarantees payment of the~~
29 ~~checks at an Arkansas financial institution;~~

30 ~~(2) When a motion picture production company hires a food~~
31 ~~eatering service company which is outside the State of Arkansas, payments~~
32 ~~otherwise allowable under § 26-4-201 et seq., which are made by the out-of-~~
33 ~~state food catering service to food businesses located in Arkansas, shall be~~
34 ~~allowed as eligible expenditures if actual receipts or copies of invoices~~
35 ~~from the food businesses located in Arkansas are filed with the weekly~~
36 ~~expenditure reports and payments made by the motion picture production~~

1 ~~company to the out-of-state food catering service company are paid through an~~
 2 ~~Arkansas financial institution account; and~~

3 ~~(3) Preproduction and postproduction expenses, which otherwise~~
 4 ~~qualify, may be made from a checking account from a financial institution~~
 5 ~~located outside of Arkansas.~~

6
 7 ~~26-4-209. Disbursement of benefit.~~

8 ~~(a) The Revenue Division of the Department of Finance and~~
 9 ~~Administration, upon receipt of an application for a tax incentive, shall:~~

10 ~~(1) Calculate the total expenditures of the motion picture~~
 11 ~~production company for which there are documented receipts for funds expended~~
 12 ~~in the state;~~

13 ~~(2) Calculate the tax incentive benefit to which the applicant~~
 14 ~~is entitled; and~~

15 ~~(3) Certify it to the Chief Fiscal Officer of the State. The~~
 16 ~~division shall certify to the Chief Fiscal Officer of the State the amount to~~
 17 ~~be remitted to the motion picture production company within sixty (60) days~~
 18 ~~of the final expenditure report.~~

19 ~~(b) The Chief Fiscal Officer of the State shall remit the five percent~~
 20 ~~(5%) tax incentive benefit to the motion picture production company within~~
 21 ~~ten (10) working days of the receipt of the certification of the amount~~
 22 ~~thereof from the division. The benefit shall be paid from any available funds~~
 23 ~~appropriated for miscellaneous tax refunds by the General Assembly.~~

24
 25 ~~26-4-210. Audit.~~

26 ~~The Revenue Division of the Department of Finance and Administration~~
 27 ~~may require that reported expenditures and the application for a tax~~
 28 ~~incentive from the motion picture production company be subjected to an audit~~
 29 ~~by Revenue division auditors to verify expenditures.~~

30
 31 ~~26-4-212. Rules and regulations.~~

32 ~~The Revenue Division of the Department of Finance and Administration~~
 33 ~~shall promulgate appropriate rules and regulations to carry out the intent~~
 34 ~~and purposes of this subchapter and to prevent abuse.~~

35
 36 ~~26-4-213. Disclaimer by state.~~

1 ~~The State of Arkansas reserves the right to refuse the use of Arkansa's~~
 2 ~~name in the credits of any motion picture filmed or produced in the state.~~

3
 4 SECTION 2. Arkansas Code § 26-18-303(b)(11), concerning permissible
 5 tax record disclosures, is amended to remove the reference to the Motion
 6 Picture Incentive Act of 1983, § 26-4-201 et. seq., that expired on June 30,
 7 1993, to read as follows:

8 (11) Disclosure of the name of any taxpayer and the amount of
 9 any tax credit, tax rebate, tax discount, or commission for the collection of
 10 a tax received by such taxpayer from the following tax incentive provisions:

11 (A) Discount for prompt payment, § 26-52-503;

12 (B) Economic Investment Tax Credit Act, § 26-52-701 et
 13 seq.;

14 (C) Steel Mill Tax Incentives, §§ 26-52-901 – 26-52-903
 15 and §§ 26-52-912 – 26-52-914;

16 (D) Motor fuel shrinkage allowance, § 26-55-230(a)(1)(F);

17 (E) Commission for sale of stamps for cigarettes and the
 18 collection of cigarette taxes, § 26-57-236(f);

19 ~~(F) Motion Picture Incentive Act of 1983, § 26-4-201 et~~
 20 ~~seq.;~~

21 ~~(G)~~(F) Credit on severance tax of oil producer, § 26-58-
 22 204;

23 ~~(H)~~(G) Credit on severance tax of gas producer, § 26-58-
 24 205;

25 ~~(I)~~(H) Refund of motor fuel tax by municipal buses, § 26-
 26 55-401 et seq.;

27 ~~(J)~~(I) Refund of distillate special fuel tax to interstate
 28 users, §§ 26-56-214 and 26-56-215;

29 ~~(K)~~(J) Credit against severance tax for the discovery of a
 30 commercial oil pool, § 15-72-706;

31 ~~(L)~~(K) Native wines – Subsidies, § 3-5-1001 et seq.;

32 ~~(M)~~(L) Native wines – Incentive grants, § 3-5-901 et seq.;

33 ~~(N) Native wines export incentives, § 3-5-607 [repealed];~~

34 ~~(O)~~(M) Consolidated Incentive Act of 2003, § 15-4-2701 et
 35 seq.; and

36 ~~(P)~~(i)(N)(i) Any other tax incentive program enacted after

1 January 1, 1991, that provides a tax credit, tax rebate, tax discount, or
 2 commission for the collection of a tax, with the exception of any benefits
 3 under the income tax laws of this state.

4 (ii) However, information that is subject to
 5 disclosure under the provisions of this subdivision (b)(11) shall not be
 6 disclosed if such information would give an advantage to competitors or
 7 bidders or if such information is exempt from disclosure under any other
 8 provision of law that exempts specified information from disclosure under any
 9 such law;

10
 11 SECTION 3. DO NOT CODIFY. The enactment and adoption of this act
 12 shall not repeal, expressly or impliedly, the acts passed at the regular
 13 session of the Eighty-Ninth General Assembly. All such acts shall have full
 14 force and effect, and so far as those acts intentionally vary from or
 15 conflict with any provision contained in this act, those acts shall have the
 16 effect of subsequent acts amending or repealing the appropriate parts of the
 17 Arkansas Code of 1987.