

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

As Engrossed: S3/13/97

# A Bill

ACT 919 OF 1997  
SENATE BILL 625

4  
5 By: Senator Dowd  
6  
7

## For An Act To Be Entitled

8  
9 "AN ACT TO PROVIDE A FINANCIAL INCENTIVE FOR THE  
10 PRODUCTION OF FILMS FOR THE MOTION PICTURE AND TELEVISION  
11 INDUSTRIES IN THE STATE OF ARKANSAS; TO PROVIDE FOR THE  
12 REGISTRATION OF MOTION PICTURE PRODUCTION COMPANIES DOING  
13 BUSINESS IN THE STATE; AND FOR OTHER PURPOSES."  
14

### Subtitle

15  
16 "TO PROVIDE A FINANCIAL INCENTIVE FOR  
17 THE PRODUCTION OF FILMS FOR THE MOTION  
18 PICTURE AND TELEVISION INDUSTRIES IN THE  
19 STATE OF ARKANSAS."  
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 SECTION 1. SHORT TITLE. This Act may be referred to and cited as the  
24 "Motion Picture Incentive Act of 1997".  
25

26 SECTION 2. LEGISLATIVE DETERMINATION. It is hereby found and  
27 determined that:

28 (a) Arkansas' natural beauty and diverse topography provides a variety  
29 of excellent settings from which the motion picture industry might choose a  
30 location for filming a motion picture or television program.

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

34 (c) The motion picture industry brings with it a much needed infusion  
35 of capital into areas of the State which may be economically depressed;

36 (d) The multiplier effect of the infusion of capital resulting from

1 the filming of a motion picture or television program serves to stimulate  
2 economic activity beyond that immediately apparent on the film set;

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

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

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14 SECTION 3. DEFINITIONS. As used in this Act:

15 (a) "Revenue Division" means the Revenue Division of the Arkansas  
16 Department of Finance and Administration.

17 (b) "Motion Picture Production Company" means a company engaged in the  
18 business of producing motion pictures intended for a theatrical release or for  
19 television viewing.

20 (c) "Motion Picture Office" means the division of the Arkansas  
21 Industrial Development Commission charged with the responsibility of promoting  
22 and assisting the motion picture industry in Arkansas.

23 (d) "Resident" means natural persons and includes for the purpose of  
24 determining eligibility for the tax incentive provided by this Act any person  
25 domiciled in the State of Arkansas and any other person who maintains a  
26 permanent place of abode within the State and spends in the aggregate more  
27 than six (6) months of the taxable year within the State.

28 (e) "Financial Institution" means any bank or savings and loan in the  
29 State which carried FDIC or FSLIC insurance.

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31 SECTION 4. REQUIREMENT FOR REGISTRATION. Each motion picture production  
32 company which plans to film any scenes within the borders of the State of  
33 Arkansas shall register with the Motion Picture Office prior to the  
34 commencement of filming.

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36 SECTION 5. TAX INCENTIVE. A qualifying production company, upon making

1 application therefor and meeting other requirements prescribed in this Act,  
2 shall be entitled to a tax refund of one hundred percent (100%) of the tax  
3 imposed by Ark. Code Ann. §26-52-301, et seq., and Ark. Code Ann. §26-53-101,  
4 et seq., and paid on the purchase of property and services in Arkansas in  
5 connection with the filming and/or production projects within Arkansas. To  
6 qualify, a production company must:

7       (a) Spend five hundred thousand dollars (\$500,000) within a six (6)  
8 month period in connection with the filming and/or production of one (1)  
9 feature film, telefilm, music video, documentary, episodic television show, or  
10 commercial advertising project; or

11       (b) Spend in excess of one million dollars (\$1,000,000) within a twelve  
12 (12) month period in connection with the filming and/or production of one (1)  
13 or more feature films, telefilms, music video, documentary, episodic  
14 television show, or commercial advertising projects.

15

16       SECTION 6. APPLICATION FOR TAX INCENTIVE.

17       (a) Any motion picture production company which desires to take  
18 advantage of the tax incentive program provided for in this Act shall submit  
19 an application along with a letter of support from the local government(s) in  
20 the affected area and provide an estimate of total expenditures to be made in  
21 Arkansas in connection with the filming and/or production of such motion  
22 picture. The application and estimate of expenditures shall be filed with the  
23 Motion Picture Office and approved as eligible for the tax incentive provided  
24 by this act prior to the commencement of filming in Arkansas.

25       (b) At the time the motion picture production company registers and  
26 provides the estimate of expenditures to the Motion Picture Office, it shall  
27 also designate a member, or representative, of the motion picture production  
28 company to work with the Arkansas Industrial Development Commission's Motion  
29 Picture Development Office and the Department of Finance and Administration,  
30 Revenue Division, on the reporting of expenditures and other information  
31 necessary to take advantage of the tax incentive afforded by this Act.

32       (c) Within two (2) weeks after principal photography begins the motion  
33 picture production company shall begin filing weekly expenditure reports.  
34 Failure to file weekly expenditure reports may result in a delay in the  
35 disbursement of the tax incentive benefit as provided in Section 7 of this  
36 Act. The weekly expenditure report shall be filed in accordance with, but not

1 limited to, the following provisions:

2 (1) In order to be eligible for the tax incentive provided for by  
3 this Act, payments shall be made from a checking account from any Arkansas  
4 financial institution; and

5 (2) Direct cash payments by the production company to Arkansas  
6 vendors, businesses, or citizens hired as cast or crew, which are accompanied  
7 by receipts shall be allowed provided that the sum of the cash payments does  
8 not exceed 40 percent of the total verifiable expenditures; and

9 (3) Per diem expenditures by the cast and/or crew for lodging,  
10 when accompanied by receipts, shall be eligible expenditures; and

11 (4) Expenditure reports shall include, but are not limited to;  
12 check identification number, date of payment, name of payee, address of payee,  
13 amount paid, name of financial institution and other such information as may  
14 be deemed necessary by the Revenue Division to insure compliance with this  
15 Act; and

16 (5) Payments for salaries or wages are limited to Arkansas  
17 residents who filed an Arkansas income tax return in the previous tax year;  
18 and

19 (6) Payments for penalties or fines, payments to non-profit  
20 organizations and payments to federal and state entities that do not pay State  
21 taxes are to be excluded.

22 (7) When a motion picture production company hires a payroll  
23 service company to handle the payroll of a production, the payroll payments  
24 otherwise allowable shall be allowed as eligible expenditures provided (i)  
25 payments made by the motion picture production company to the payroll service  
26 company are paid through an Arkansas financial institution account and (ii) if  
27 the payroll checks issued by the payroll service company are drawn on a bank  
28 or other entity which is outside the State of Arkansas, such out-of-state bank  
29 or other entity guarantees payment of the checks at an Arkansas financial  
30 institution; and

31 (8) When a motion picture production company hires a food  
32 catering service company which is outside the State of Arkansas, payments  
33 otherwise allowable which are made by the out-of-state food catering service  
34 to food businesses located in Arkansas, shall be allowed as eligible  
35 expenditures provided (i) actual receipts or copies of invoices from such food  
36 businesses located in Arkansas are filed with the weekly expenditure reports

1 and (ii) payments made by the motion picture production company to the out-of-  
2 state food catering service company are paid through an Arkansas financial  
3 institution account; and

4 (9) Pre-production and post-production expenses, which otherwise  
5 qualify, may be made from a checking account from a financial institution  
6 located out of Arkansas.

7 (d) The twelve (12) month period and six (6) month period during which  
8 expenditures may qualify for the tax incentive provided by this Act, begins on  
9 the date of the earliest expenditure reported.

10 (e) Upon completion of filming and/or production in Arkansas, the  
11 motion picture production company shall file an application for the tax  
12 incentive afforded by the Act. The application shall include a final  
13 expenditure report giving a total amount of expenditures which were made in  
14 the State in connection with the filming and/or production of a motion picture  
15 and which comply with the provisions of this Act. The motion picture  
16 production company shall provide documentation for expenditures in accordance  
17 with regulations promulgated by the Revenue Division.

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19 SECTION 7. DISBURSEMENT OF TAX INCENTIVE.

20 The Revenue Division shall, upon receipt of an application for a tax  
21 refund pursuant to this act and supporting documentation, confirm the  
22 eligibility of the applicant based on total expenditures and the amount of  
23 sales and use tax paid by the applicant for which a refund is due. The  
24 applicant shall provide, with the application for refund, a schedule of  
25 purchases accompanied by invoices which show the property or service  
26 purchased, the name and location of the vendor, and the amount of sales or use  
27 tax paid. The Revenue Division shall calculate the tax refund to which the  
28 applicant is entitled, and shall certify the same to the Chief Fiscal Officer  
29 of the State. Upon receipt of all necessary documentation to support the  
30 applicant's claim for refund, the Revenue Division shall certify to the Chief  
31 Fiscal Officer the amount to be remitted to the motion picture production  
32 company within 60 days of the final expenditure report.

33 The Chief Fiscal Officer shall remit the tax refund to the motion  
34 picture production company following receipt of the certification of the  
35 amount thereof from the Revenue Division. Such benefit shall be paid from any  
36 available funds appropriated for miscellaneous tax refunds by the General

1 Assembly.

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3 SECTION 8. PENALTIES.

4 (a) Any motion picture production company failing to comply with  
5 Section 4 of this Act may be enjoined from engaging in the business of  
6 producing motion pictures in the State of Arkansas by any court of competent  
7 jurisdiction until the requirements of Section 4 are met.

8 (b) Any motion picture production company failing to comply with all  
9 provisions of this act may be denied any future application for participation  
10 in this incentive program.

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12 SECTION 9. DISCLAIMER. The State of Arkansas reserves the right to  
13 refuse the use of Arkansas' name in the credits of any motion picture filmed  
14 and/or produced in the State.

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16 SECTION 10. AUDIT. The Revenue Division may require that reported  
17 expenditures and the application for a tax incentive from the motion picture  
18 production company be subjected to an audit by Revenue Division auditors to  
19 verify expenditures.

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21 SECTION 11. SUNSET. The opportunity for a tax incentive provided by  
22 Section 5 of this Act shall expire on June 30, 2007.

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24 SECTION 12. RULES AND REGULATIONS. The Revenue Division and the  
25 Arkansas Industrial Development Commission shall promulgate appropriate rules  
26 and regulations to carry out the intent and purposes of this Act and to  
27 prevent abuse.

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29 SECTION 13. All provisions of this act of a general and permanent  
30 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
31 Code Revision Commission shall incorporate the same in the Code.

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33 SECTION 14. If any provision of this act or the application thereof to  
34 any person or circumstance is held invalid, such invalidity shall not affect  
35 other provisions or applications of the act which can be given effect without  
36 the invalid provision or application, and to this end the provisions of this

1 act are declared to be severable.

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3 SECTION 15. All laws and parts of laws in conflict with this act are  
4 hereby repealed.

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6 SECTION 16. EMERGENCY. It is hereby found and determined by the  
7 General Assembly that the incentive afforded by this Act to the motion picture  
8 industry can serve to stimulate the economy of the area in which filming is  
9 done; and that the incentive has a multiplier effect, in terms of economic  
10 development, in the locality of the filming and statewide; and that tax  
11 revenues generated by the activities of motion picture filming more than  
12 offset the revenue lost through the incentive provided by this Act.  
13 Therefore, an emergency is declared to exist and this act being immediately  
14 necessary for the preservation of the public peace, health and safety shall  
15 become effective on the date of its approval by the Governor. If the bill is  
16 neither approved nor vetoed by the Governor, it shall become effective on the  
17 expiration of the period of time during which the Governor may veto the bill.  
18 If the bill is vetoed by the Governor and the veto is overridden, it shall  
19 become effective on the date the last house overrides the veto.

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/s/Dowd

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APPROVED:3-28-97

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