

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: S2/27/19

A Bill

HOUSE BILL 1461

5 By: Representatives Wing, Capp, Christiansen, Dalby, Della Rosa, D. Ferguson, V. Flowers, M. Hodges,
6 Murdock, Warren

7 By: Senators M. Pitsch, Caldwell, E. Cheatham, B. Davis, Elliott, Flipppo, Irvin, Teague
8

For An Act To Be Entitled

9
10 AN ACT TO AMEND THE DIGITAL PRODUCT AND MOTION
11 PICTURE INDUSTRY DEVELOPMENT ACT OF 2009; TO SPECIFY
12 THAT REBATES UNDER THE DIGITAL PRODUCT AND MOTION
13 PICTURE INDUSTRY DEVELOPMENT ACT OF 2009 ARE AT THE
14 DISCRETION OF THE EXECUTIVE DIRECTOR OF THE ARKANSAS
15 ECONOMIC DEVELOPMENT COMMISSION; TO EXTEND THE SUNSET
16 DATE FOR THE DIGITAL PRODUCT AND MOTION PICTURE
17 INDUSTRY DEVELOPMENT ACT OF 2009; AND FOR OTHER
18 PURPOSES.
19
20

Subtitle

21
22 TO AMEND THE DIGITAL PRODUCT AND MOTION
23 PICTURE INDUSTRY DEVELOPMENT ACT OF 2009.
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25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. Arkansas Code § 15-4-2003(13), concerning the definitions
29 used under the Digital Product and Motion Picture Industry Development Act of
30 2009, is amended to read as follows:

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

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

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



1 (C) Approved by the ~~Film Office~~ Executive Director of the
2 Arkansas Economic Development Commission as qualifying for a discretionary
3 production rebate under this subchapter.
4

5 SECTION 2. Arkansas Code § 15-4-2005(a), concerning production rebates
6 under the Digital Product and Motion Picture Industry Development Act of
7 2009, is amended to read as follows:

8 (a)(1) A The Executive Director of the Arkansas Economic Development
9 Commission may offer to a production company, ~~upon approval of the~~
10 ~~application by the Arkansas Economic Development Commission, shall be~~
11 ~~eligible for~~ that has submitted an application under § 15-4-2007 a rebate of
12 up to twenty percent (20%), ~~with no cap per production,~~ on all qualified
13 production costs in connection with the production of a state-certified film
14 project.

15 (2) ~~An~~ If the executive director approves a project for a rebate
16 under this section, an additional rebate of ten percent (10%) shall be
17 granted for the payroll of below-the-line employees who are full-time
18 residents of Arkansas.
19

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

23 (a)(1) A The Executive Director of the Arkansas Economic Development
24 Commission may offer to a qualifying production company, ~~upon approval of the~~
25 ~~application by the Arkansas Economic Development Commission, shall be~~
26 ~~eligible for~~ that has submitted an application under § 15-4-2007 a rebate of
27 up to twenty percent (20%), ~~with no cap per production,~~ on all qualified
28 production costs in connection with the postproduction of a state-certified
29 film project.

30 (2) ~~An~~ If the executive director approves a project for a rebate
31 under this section, an additional rebate of ten percent (10%) shall be
32 granted for the payroll of below-the-line employees who are full-time
33 residents of Arkansas.
34

35 SECTION 4. Arkansas Code § 15-4-2007(a) and (b), concerning an
36 application for a rebate under the Digital Product and Motion Picture

1 Industry Development Act of 2009, are amended to read as follows:

2 (a)(1) To ~~qualify~~ apply for the rebates provided under this
3 subchapter, a production company shall submit an application and provide an
4 estimate of total expenditures to be made in Arkansas in connection with the
5 production.

6 (2) The application and estimate of expenditures required under
7 subdivision (a)(1) of this section shall be filed with the Arkansas Economic
8 Development Commission and be approved by the Executive Director of the
9 Arkansas Economic Development Commission as eligible for the rebate provided
10 by this subchapter before the commencement of production in Arkansas.

11 (b)(1) ~~After each production company submits an application, the~~
12 ~~commission~~ If an application for a rebate is approved under subsection (a) of
13 this section, the production company and the executive director shall sign a
14 financial incentive agreement ~~with each eligible production company that~~
15 ~~qualifies under this subchapter and is approved by the commission.~~

16 (2)(A) The financial incentive agreement shall define the
17 ~~benefits~~ incentives to be received and the start and end date of the project.

18 (B) The financial incentive agreement shall include the:

19 (i) Effective date of the financial incentive
20 agreement;

21 (ii) Term of the financial incentive agreement,
22 which shall be calculated from the date the agreement is signed by the
23 production company and the ~~Executive Director of the Arkansas Economic~~
24 ~~Development Commission~~ executive director;

25 (iii) Incentive for which the production company may
26 qualify;

27 (iv) Investment threshold requirements necessary to
28 qualify for eligibility;

29 (v) Production company's responsibilities for
30 certifying eligibility requirements; and

31 (vi) Production company's responsibilities for
32 failure to meet or maintain eligibility requirements.

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

1 (e)(1) Production companies are encouraged to make payments for
2 production and ~~post-production~~ postproduction expenses from a checking
3 account from an Arkansas financial institution.

4 (2) Direct cash payments by a production company to Arkansas
5 vendors, businesses, or citizens hired as cast or crew that are accompanied
6 by receipts ~~shall~~ may be allowed if the sum of the cash payments does not
7 exceed forty percent (40%) of the total verifiable expenditures.

8
9 SECTION 6. Arkansas Code § 15-4-2007(h)-(1), concerning an application
10 for a rebate under the Digital Product and Motion Picture Industry
11 Development Act of 2009, are amended to read as follows:

12 (h)(1) ~~The~~ If approved by the executive director, the employment
13 rebate also entitles a state-certified production ~~for~~ to an additional rebate
14 for employing full-time residents of Arkansas.

15 (2) The employment rebate authorizes an additional credit of ten
16 percent (10%) for the aggregate payroll of salaries and wages to Arkansas
17 residents who are below-the-line employees of the state-certified production.

18
19 (i) ~~The~~ If approved by the executive director, the employment rebate
20 ~~shall~~ may include the first five hundred thousand dollars (\$500,000) of a
21 highly compensated individual's salary.

22 (j) Payments for penalties or fines, payments to nonprofit
23 organizations, and payments to federal and state entities that do not pay
24 state taxes are not eligible.

25 (k) If a production company hires a payroll service company to handle
26 the payroll of a production, the payroll payments otherwise allowable ~~shall~~
27 may be allowed as eligible expenditures if all eligible income payments to
28 employees and independent contractors done through the payroll service are
29 subject to Arkansas state income taxes.

30 (1)(1)(A) Within two (2) weeks after principal photography begins, the
31 production company shall begin filing weekly expenditure reports.

32 (B) Failure to file weekly expenditure reports may result
33 in a delay in the disbursement of the rebate provided in §§ 15-4-2005 and 15-
34 4-2006.

35 (2) The weekly expenditure report shall be filed in accordance
36 with but shall not be limited to the following:

1 (A) Direct cash payments by the production company to
2 Arkansas vendors, businesses, or citizens hired as cast or crew that are
3 accompanied by receipts shall be allowed if the sum of those cash payments
4 does not exceed forty percent (40%) of the total verifiable expenditures;

5 (B) Per diem expenditures by cast or crew, or both, for
6 lodging, when accompanied by receipts, shall be allowed as eligible
7 expenditures; and

8 (C) Expenditure reports shall include without limitation:
9 (i) Check identification number;
10 (ii) Date of payment;
11 (iii) Name of payee;
12 (iv) Address of payee;
13 (v) Amount paid; and
14 (vi) Other information the division deems necessary
15 to ensure compliance with this subsection.
16

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

20 (3) The production company shall provide documentation for
21 expenditures in accordance with rules promulgated by the ~~Film Office~~
22 commission.
23

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

27 (a) The Revenue Division of the Department of Finance and
28 Administration shall upon receipt of an application for a rebate, including a
29 proof of performance expenditure report from the Film Office:

30 (1) Calculate the total expenditures of the relevant production
31 company for which there are documented receipts for funds expended in the
32 state;

33 (2) Calculate the incentive benefit to which the applicant is
34 entitled, subject to any conditions of the approved financial incentive
35 agreement; and

36 (3) Provide certification to the Director of the Department of

1 Finance and Administration specifying the amount to be remitted to the
2 production company within one hundred twenty (120) days after the final
3 expenditure report has been submitted.

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

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

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13 SECTION 10. Arkansas Code § 15-4-2011 is amended to read as follows:
14 15-4-2011. Sunset.

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

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19 /s/Wing

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22 **APPROVED: 3/7/19**