

As Amended by House Committee

Session of 2005

HOUSE BILL No. 2444

By Committee on Economic Development

2-11

10 AN ACT creating the Kansas film production tax credit act.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. Sections 1 to 4, inclusive, and amendments thereto, shall
14 be known and may be cited as the Kansas film production tax credit act.

15 Sec. 2. On and after January 1, 2006:

16 (a) The tax credit created by this section may be referred to as the
17 “film production tax credit”. An eligible film production company may
18 apply for, and the department of revenue may allow, a tax credit in an
19 amount equal to 15% of direct production expenditures made in Kansas
20 that are directly attributable to the production of a film in Kansas and
21 that are subject to taxation by the state of Kansas.

22 (b) The film production tax credit shall not be claimed with respect
23 to expenditures for which the film production company has delivered a
24 nontaxable transaction certificate.

25 (c) A long-form narrative film production for which the film produc-
26 tion tax credit is claimed shall contain an acknowledgment that the pro-
27 duction was filmed in Kansas.

28 (d) To be eligible for the film production tax credit, a film production
29 company shall submit to the department of commerce information re-
30 quired by the department to demonstrate conformity with the require-
31 ments of this section. The department of commerce shall determine the
32 eligibility of the company and shall report this information to the de-
33 partment of revenue in a manner and at times the department of com-
34 merce and department of revenue shall agree upon.

35 (e) To receive a film production tax credit, a film production company
36 shall apply to the department of revenue on forms and in the manner the
37 department may prescribe. The application shall include a certification of
38 the amount of direct production expenditures made in Kansas with re-
39 spect to the film production for which the film production company is
40 seeking the film production tax credit. If the film production company
41 has complied with the requirements of this section, the department of
42 revenue shall approve the film production tax credit and issue a document
43 granting the tax credit.

1 (f) The film production company may apply all or a portion of the
2 film production tax credit granted against personal income tax liability or
3 corporate income tax liability. If the amount of the film production tax
4 credit claimed exceeds the film production company's tax liability for the
5 taxable year in which the credit is being claimed, the excess shall be
6 refunded.

7 **(g) The secretary of commerce is hereby authorized to adopt**
8 **rules and regulations to implement and administer the provisions**
9 **of this act.**

10 Sec. 3. (a) "Direct production expenditure" means a transaction that
11 is subject to taxation in Kansas, including:

12 (1) Payment of wages, fringe benefits or fees for talent, management
13 or labor to a person who is a Kansas resident for purposes of the income
14 tax act;

15 (2) payment to a personal services corporation for the services of a
16 performing artist, if:

17 (A) The personal services corporation pays gross receipts tax in Kan-
18 sas on those payments; or

19 (B) the performing artist receiving payments from the personal serv-
20 ices corporation pays Kansas income tax; and

21 (3) any of the following provided by a vendor:

22 (A) The story and scenario to be used for a film;

23 (B) set construction and operations, wardrobe, accessories and rel-
24 ated services;

25 (C) photography, sound synchronization, lighting and related
26 services;

27 (D) editing and related services;

28 (E) rental of facilities and equipment;

29 (F) leasing of vehicles;

30 (G) food or lodging;

31 (H) airfare if purchased through a Kansas-based travel agency or
32 travel company;

33 (I) insurance coverage and bonding if purchased through a Kansas-
34 based insurance agent; and

35 (J) other direct costs of producing a film in accordance with generally
36 accepted entertainment industry practice.

37 (b) "Film" means a single media or multimedia program, excluding
38 advertising messages other than national or regional advertising messages
39 intended for exhibition, that:

40 (1) Is fixed on film, digital medium, videotape, computer disc, laser
41 disc or other similar delivery medium;

42 (2) can be viewed or reproduced; and

43 (3) is intended for reasonable commercial exploitation for the deliv-

- 1 ery medium used.
- 2 (c) “Film production company” means a person that produces one or
3 more films.
- 4 Sec. 4 (a) Receipts from selling or leasing property and from per-
5 forming services may be deducted from gross receipts or from govern-
6 mental gross receipts if the sale, lease or performance is made to a qual-
7 ified production company that delivers a nontaxable transaction certificate
8 to the seller, lessor or performer.
- 9 (b) For the purposes of this section:
- 10 (1) “Film” means a single media or multimedia program, including
11 an advertising message, that:
- 12 (A) Is fixed on film, digital medium, videotape, computer disc, laser
13 disc or other similar delivery medium;
- 14 (B) can be viewed or reproduced; and
- 15 (C) is intended for reasonable commercial exploitation for the deliv-
16 ery medium used;
- 17 (2) “production company” means a person that produces one or more
18 films for exhibition in theaters, on television or elsewhere;
- 19 (3) “production costs” means the costs of the following:
- 20 (A) A story and scenario to be used for a film;
- 21 (B) salaries of talent, management and labor, including payments to
22 personal services corporations for the services of a performing artist;
- 23 (C) set construction and operations, wardrobe, accessories and re-
24 lated services;
- 25 (D) photography, sound synchronization, lighting and related
26 services;
- 27 (E) editing and related services;
- 28 (F) rental of facilities and equipment; or
- 29 (G) other direct costs of producing the film in accordance with gen-
30 erally accepted entertainment industry practice; and
- 31 (4) “qualified production company” means a production company
32 that meets the provisions of this section and has registered or will register
33 with the department of commerce.
- 34 (c) A qualified production company may deliver the nontaxable trans-
35 action certificates authorized by this section only with respect to produc-
36 tion costs.
- 37 Sec. 5. If any part or application of this act is held invalid, the re-
38 mainder or its application to other situations or persons shall not be
39 affected.
- 40 Sec. 6. This act shall take effect and be in force from and after its
41 publication in the statute book.