

1 AN ACT relating to film industry tax incentives.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 148.542 is amended to read as follows:

4 As used in KRS 148.542 to 148.546:

- 5 (1) "Above-the-line production crew" means employees involved with the production
6 of a motion picture or entertainment production whose salaries are negotiated prior
7 to commencement of production, such as actors, directors, producers, and writers;
- 8 (2) "Animated production" means a nationally distributed feature-length film created
9 with the rapid display of a sequence of images using 2-D or 3-D graphics of artwork
10 or model positions in order to create an illusion of movement;
- 11 (3) "Approved company" means an eligible company approved for incentives provided
12 under KRS 141.383 and 148.544;
- 13 (4) "Below-the-line production crew" means employees involved with the production
14 of a motion picture or entertainment production except above-the-line production
15 crew. "Below-the-line production crew" includes but is not limited to:
- 16 (a) Casting assistants;
- 17 (b) Costume design;
- 18 (c) Extras;
- 19 (d) Gaffers;
- 20 (e) Grips;
- 21 (f) Location managers;
- 22 (g) Production assistants;
- 23 (h) Set construction staff; and
- 24 (i) Set design staff;
- 25 (5) "Cabinet" means the Finance and Administration Cabinet;
- 26 (6) "Commercial" means an individual production or series of live-action or animated
27 productions, music videos, infomercials, or interstitials that are:

- 1 (a) Less than thirty-one (31) minutes in length;
- 2 (b) Made for the purpose of promoting a product, service, or idea; and
- 3 (c) Produced for regional or national distribution via broadcast, cable, or any
- 4 digital format, including but not limited to cable, satellite, Internet, or mobile
- 5 electronic devices;
- 6 (7) "Commonwealth" means the Commonwealth of Kentucky;
- 7 (8) "Compensation" means compensation included in adjusted gross income as defined
- 8 in KRS 141.010(10);
- 9 (9) "Documentary" means a production based upon factual information and not
- 10 subjective interjections;
- 11 (10) "Eligible company" means any person that intends to film or produce a motion
- 12 picture or entertainment production in the Commonwealth;
- 13 (11) "Employee" means the same as defined in KRS 141.010(20);
- 14 (12) "Enhanced incentive county" has the same meaning as in KRS 154.32-010, ***plus all***
- 15 ***Kentucky counties included in the Appalachian region as defined in the latest***
- 16 ***edition of the Appalachian Regional Development Act of 1965, 40 U.S.C. sec.***
- 17 ***14102***;
- 18 (13) "Feature-length film" means a live-action or animated production that is:
- 19 (a) More than thirty (30) minutes in length; and
- 20 (b) Produced for distribution in theaters or via digital format, including but not
- 21 limited to DVD, Internet, or mobile electronic devices;
- 22 (14) "Industrial film" means a business-to-business film that may be viewed by the
- 23 public, including but not limited to videos used for training or for viewing at a trade
- 24 show;
- 25 (15) "Kentucky-based company" has the same meaning as in KRS 164.6011;
- 26 (16) (a) "Motion picture or entertainment production" means:
- 27 1. The following if filmed in whole or in part, or produced in whole or in

- 1 part, in the Commonwealth:
- 2 a. A feature-length film;
- 3 b. A television program;
- 4 c. An industrial film;
- 5 d. A documentary; or
- 6 e. A commercial; or
- 7 2. A national touring production of a Broadway show produced in
- 8 Kentucky;
- 9 (b) "Motion picture or entertainment production" does not include the filming or
- 10 production of obscene material or television coverage of news or athletic
- 11 events;
- 12 (17) "Obscene" means the same as defined in KRS 531.010;
- 13 (18) "Office" means the Kentucky Film Office in the Tourism, Arts and Heritage
- 14 Cabinet;
- 15 (19) "Person" means the same as defined in KRS 141.010(15);
- 16 (20) (a) "Qualifying expenditure" means expenditures made in the Commonwealth for
- 17 the following if directly used in or for a motion picture or entertainment
- 18 production:
- 19 1. The production script and synopsis;
- 20 2. Set construction and operations, wardrobe, accessories, and related
- 21 services;
- 22 3. Lease or rental of real property in Kentucky as a set location;
- 23 4. Photography, sound synchronization, lighting, and related services;
- 24 5. Editing and related services;
- 25 6. Rental of facilities and equipment;
- 26 7. Vehicle leases;
- 27 8. Food; and

1 9. Accommodations.

2 (b) "Qualifying expenditure" does not include Kentucky sales and use tax paid by
3 the approved company on the qualifying expenditure;

4 (21) "Qualifying payroll expenditure" means compensation paid to above-the-line crew
5 and below-the line crew while working on a motion picture or entertainment
6 production in the Commonwealth if the compensation is for services performed in
7 the Commonwealth;

8 (22) "Resident" has the same meaning as in KRS 141.010;

9 (23) "Secretary" means the secretary of the Tourism, Arts and Heritage Cabinet;

10 (24) "Tax incentive agreement" means the agreement entered into pursuant to KRS
11 148.546 between the office and the approved company; and

12 (25) "Television program" means any live-action or animated production or
13 documentary, including but not limited to:

14 (a) An episodic series;

15 (b) A miniseries;

16 (c) A television movie; or

17 (d) A television pilot;

18 that is produced for distribution on television via broadcast, cable, or any digital
19 format, including but not limited to cable, satellite, Internet, or mobile electronic
20 devices.

21 ➔Section 2. This Act applies to taxable years beginning on or after January 1,
22 2017.