

Senate Bill 635

Sponsored by COMMITTEE ON FINANCE AND REVENUE (at the request of Governor Theodore R. Kulongoski)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Increases maximum reimbursement from Oregon Production Investment Fund for film or television production. Increases maximum tax credits for certified film production development contributions to Oregon Production Investment Fund. Applies to films starting principal photography on or after January 1, 2007.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to the Oregon Production Investment Fund; creating new provisions; amending ORS 284.368 and 315.514; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 284.368 is amended to read:

284.368. (1) As used in this section:

(a) "Actual expenses" means the costs paid in Oregon for principal photography, production or postproduction in Oregon of a film, including but not limited to the purchase or rental cost of equipment, food, lodging, real property and permits and payments made for salaries, wages and benefits for work in Oregon.

(b) "Film" means a television movie or one or more episodes of a single television series, or a movie produced for release to theaters, video or the Internet. "Film" does not include the production of a commercial or one or more segments of a newscast or sporting event.

(2)(a) The Economic and Community Development Department may reimburse a bona fide television or film production company for a portion of the actual expenses paid in Oregon by the television or film production company to produce a film.

(b) Maximum reimbursement for a single film, other than a television series, shall be **the lesser of 10 percent of actual expenses paid or [\$250,000, *whichever is less*] \$500,000**. Maximum reimbursement for one or more episodes of a television series shall be **the lesser of 10 percent of actual expenses paid or [\$30,000] \$50,000** per episode produced in Oregon[, *whichever is less*].

(c) In order to qualify for reimbursement under this section, total actual expenses paid for the film must equal or exceed \$1 million.

(d) Reimbursement under this section shall be made from moneys credited to or deposited in the Oregon Production Investment Fund during the biennium in which the actual expenses were paid or any prior biennium. A reimbursement may not be made to the extent funds are not available in the fund to make the reimbursement.

(3)(a) Total actual expenses supporting a claim for reimbursement under this section must be verified by the Oregon Film and Video Office. The production company must submit to the office proof of the actual expenses paid in Oregon to produce the film. The proof must include any documentation that may be required by the office in its discretion to verify the actual expenses.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

(b) The office may charge the production company for costs reasonably incurred to verify the actual expenses, including but not limited to the cost for a review or audit of the supporting documentation by an accountant or auditor. The office may require the department to deduct the costs incurred by the office in performing its review or audit from any reimbursement made to the production company under this section.

(c) The office may adopt rules that establish a procedure for the submission and verification of actual expenses.

SECTION 2. ORS 315.514 is amended to read:

315.514. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified film production development contributions made by the taxpayer during the tax year to the Oregon Production Investment Fund established under ORS 284.367.

(2)(a) The amount of the tax credit shall equal the amount certified for credit by the Oregon Film and Video Office, except that a contribution must equal at least 90 percent of the tax credit.

(b) The Oregon Film and Video Office shall adopt rules for determining the amount of tax credit to be certified by the office. The rules shall be adopted in order to achieve the following goals:

(A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of [\$1 million] **\$5 million** are certified for each fiscal year;

(B) Maximize income and excise tax revenues that are retained by the State of Oregon for state operations; and

(C) Provide the necessary financial incentives for taxpayers to make contributions, taking into consideration the impact of granting a credit upon a taxpayer's federal income tax liability.

(3) A taxpayer seeking a tax credit under this section shall apply for tax credit certification to the Oregon Film and Video Office on a form supplied by the office. The taxpayer shall include payment of the contribution at the time of application.

(4) Contributions made under this section shall be deposited in the Oregon Production Investment Fund.

(5)(a) Upon receipt of a contribution, the Oregon Film and Video Office shall issue to the taxpayer written certification of the amount certified for tax credit under this section to the extent the amount certified for tax credit, when added to all amounts previously certified for tax credit under this section, does not exceed [\$1 million] **\$5 million** for the fiscal year in which certification is made.

(b) The Oregon Film and Video Office is not liable, and a refund of a contributed amount need not be made, if a taxpayer who has received tax credit certification is unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

(6) To the extent the Oregon Film and Video Office does not certify contributed amounts as eligible for a tax credit under this section, the taxpayer may request a refund of the amount the taxpayer contributed, and the office shall refund that amount.

(7)(a) Except as provided in paragraph (b) of this subsection, a tax credit claimed under this section may not exceed the tax liability of the taxpayer and may not be carried over to another tax year.

(b) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year but may not

1 be carried forward for any tax year thereafter.

2 (8) If a tax credit is claimed under this section by a nonresident or part-year resident taxpayer,
3 the amount shall be allowed without proration under ORS 316.117.

4 (9) A taxpayer who has received a tax credit certificate under this section may sell the certif-
5 icate to another taxpayer. The sale is effective only if a notice of tax credit certificate sale is filed
6 with the Department of Revenue. The notice shall be filed on a form prescribed by the department
7 on or before the date on which the income or corporate excise tax return of the buyer for the first
8 year for which the credit could be claimed is filed or due, whichever is earlier. The notice form shall
9 include the following information:

10 (a) The name and taxpayer identification number of the seller;

11 (b) The name and taxpayer identification number of the buyer;

12 (c) The amount of the tax credit certificate that is being sold to the buyer;

13 (d) The amount of the tax credit certificate that is being retained by the seller; and

14 (e) Any other information required by the department.

15 (10) If requested by the Department of Revenue, the Oregon Film and Video Office shall supply
16 a list of taxpayers that have obtained tax credit certification under this section, and for each listed
17 taxpayer disclose:

18 (a) The amount of contribution made by the taxpayer; and

19 (b) The amount certified for tax credit under this section.

20 (11) If the amount of contribution for which a tax credit certification is made is allowed as a
21 deduction for federal tax purposes, the amount of the contribution shall be added to federal taxable
22 income for Oregon tax purposes.

23 **SECTION 3. (1) The amendments to ORS 284.368 by section 1 of this 2007 Act apply to**
24 **films starting principal photography on or after January 1, 2007.**

25 **(2) The amendments to ORS 315.514 by section 2 of this 2007 Act apply to tax credit cer-**
26 **tifications issued by the Oregon Film and Video Office on or after the effective date of this**
27 **2007 Act.**

28 **SECTION 4. This 2007 Act takes effect on the 91st day after the date on which the reg-**
29 **ular session of the Seventy-fourth Legislative Assembly adjourns sine die.**

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