

154.61-010 Definitions for subchapter.

As used in this subchapter:

- (1) "Above-the-line production crew" means employees involved with the production of a motion picture or entertainment production whose salaries are negotiated prior to commencement of production, such as actors, directors, producers, and writers;
- (2) "Animated production" means a nationally distributed feature-length film created with the rapid display of a sequence of images using 2-D or 3-D graphics of artwork or model positions in order to create an illusion of movement;
- (3) "Approved company" means an eligible company approved for incentives provided under KRS 141.383 and 154.61-020;
- (4) "Below-the-line production crew" means employees involved with the production of a motion picture or entertainment production except above-the-line production crew. "Below-the-line production crew" includes but is not limited to:
 - (a) Casting assistants;
 - (b) Costume design;
 - (c) Extras;
 - (d) Gaffers;
 - (e) Grips;
 - (f) Location managers;
 - (g) Production assistants;
 - (h) Set construction staff; and
 - (i) Set design staff;
- (5) "Cabinet" means the Cabinet for Economic Development;
- (6) "Commonwealth" means the Commonwealth of Kentucky;
- (7) "Compensation" means compensation included in adjusted gross income as defined in KRS 141.010;
- (8) "Continuous film production" means a motion picture or entertainment production that:
 - (a)
 1. Has a projected budget of a minimum of ten million dollars (\$10,000,000) per calendar year for qualifying expenditures and qualifying payroll expenditures allocated to all qualifying motion picture or entertainment productions to be filmed or produced in Kentucky, with a minimum of one million five hundred thousand dollars (\$1,500,000) per production in Kentucky; and
 2. Has a minimum of fifty percent (50%) of the funds available and the ability to raise the remaining funds necessary to complete the filming and production, which may be verified by:
 - a. Bank statements or other financial documents; or
 - b. A fundraising plan at the request of the council;
 - (b) Demonstrates a distribution contract for each motion or entertainment production;

- (c) Films and produces a minimum of twelve (12) or more days per production within the Commonwealth; and
- (d) Maintains:
 - 1. An apprenticeship program or on-the-job training program as defined in KRS 343.010; or
 - 2. Partners with a film studies program with an accredited institution of postsecondary education located in the Commonwealth;
- (9) "Council" means the Kentucky Film Leadership Council created in KRS 154.12-282;
- (10) "Documentary" means a production based upon factual information and not subjective interjections;
- (11) "Eligible company" means any person that intends to film or produce a motion picture or entertainment production in the Commonwealth;
- (12) "Employee" has the same meaning as in KRS 141.010, and, for purposes of this subchapter, also may include the employees or independent contractors of an approved company or the employees of a loan-out entity engaged by an approved company if they meet the requirements of KRS 141.310;
- (13) "Enhanced incentive county" has the same meaning as in KRS 154.32-010;
- (14) "Feature-length film" means a live-action or animated production that is:
 - (a) More than thirty (30) minutes in length; and
 - (b) Produced for distribution in theaters or via digital format, including but not limited to DVD, Internet, or mobile electronic devices;
- (15) "Industrial film" means a business-to-business film that may be viewed by the public, including but not limited to videos used for training or for viewing at a trade show;
- (16) "Kentucky-based company" has the same meaning as in KRS 164.6011;
- (17) "Loan-out entity" means a corporation, partnership, limited liability company, or other entity through which an artist or other person is loaned out to perform services for the approved company. A loan-out entity shall be registered and in good standing with the Kentucky Secretary of State. Notwithstanding the business organization, the loan-out entity and all employees of and other persons performing services for the loan-out entity shall be subject to all applicable provisions of the Kentucky personal income tax and any applicable payroll or other tax provisions;
- (18) (a) "Motion picture or entertainment production" means:
 - 1. The following if filmed in whole or in part, or produced in whole or in part, in the Commonwealth:
 - a. A feature-length film;
 - b. A television program;
 - c. An industrial film; or
 - d. A documentary; or
 - 2. A national touring production of a Broadway show produced in Kentucky.

- (b) "Motion picture or entertainment production" does not include the filming or production of obscene material or television coverage of news or athletic events;
- (19) "Obscene" has the same meaning as in KRS 531.010;
- (20) "Person" has the same meaning as in KRS 141.010;
- (21) (a) "Qualifying expenditure" means expenditures made in the Commonwealth for the following if directly used in or for a motion picture or entertainment production:
 - 1. The production script and synopsis;
 - 2. Set construction and operations, wardrobe, accessories, and related services;
 - 3. Lease or rental of real property in Kentucky as a set location;
 - 4. Photography, sound synchronization, lighting, and related services;
 - 5. Editing and related services;
 - 6. Rental of facilities and equipment;
 - 7. Vehicle leases;
 - 8. Food; and
 - 9. Accommodations.
- (b) "Qualifying expenditure" does not include Kentucky sales and use tax paid by the approved company on the qualifying expenditure;
- (22) "Qualifying payroll expenditure" means compensation paid to above-the-line crew and below-the line crew while working on a motion picture or entertainment production in the Commonwealth if the compensation is for services performed in the Commonwealth;
- (23) "Resident" has the same meaning as in KRS 141.010;
- (24) "Secretary" means the secretary of the Cabinet for Economic Development;
- (25) "Tax incentive agreement" means the agreement entered into pursuant to KRS 154.61-030 between the council and the approved company; and
- (26) "Television program" means any live-action or animated production or documentary, including but not limited to:
 - (a) An episodic series;
 - (b) A miniseries;
 - (c) A television movie; or
 - (d) A television pilot;that is produced for distribution on television via broadcast, cable, or any digital format, including but not limited to cable, satellite, internet, or mobile electronic devices.

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