

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) "Certified audit" means an audit that:
 - (a) Contains production-related expenditures;
 - (b) Is completed within one hundred eighty (180) days of the completion of production in Kentucky; and
 - (c) Is conducted in accordance with the office's standards established by administrative regulations promulgated in accordance with KRS Chapter 13A, including the adoption of expenditure sampling procedures;
- (7) "Commonwealth" means the Commonwealth of Kentucky;
- (8) "Compensation" means:
 - (a) Compensation included in adjusted gross income as calculated in KRS 141.019; and
 - (b) The following:
 1. Employer-paid payroll taxes;
 2. Union and guild benefits;
 3. Workers' compensation insurance premiums;
 4. Payroll service fees; and
 5. Qualifying per diem;

- (9) "Continuous film production" means a motion picture or entertainment production that:
- (a)
 1. Has a projected minimum spend of ten million dollars (\$10,000,000) for qualifying expenditures and qualifying payroll expenditures, which may be a prorated amount based on the total budget of the production; 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 office;
 - (b) Demonstrates a distribution contract for each motion or entertainment production; and
 - (c) 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;
- (10) "Council" means the Kentucky Film Leadership Council created in KRS 154.12-282;
- (11) "Documentary" means a production based upon factual information and not subjective interjections;
- (12) "Eligible company" means any person that intends to film or produce a motion picture or entertainment production in the Commonwealth;
- (13) "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;
- (14) "Employer-paid payroll taxes" means the tax paid by an approved company as an employer under the Federal Insurance Contributions Act, 26 U.S.C. sec. 3101 et seq., and the approved company's share of contributions required under KRS Chapter 341;
- (15) "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 broadcast, cable, and streaming;
- (16) "Heritage county" means a county where the county population ranking determined by the cabinet under KRS 154.21-017 scores greater than or equal to ninety-seven (97);
- (17) "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;
- (18) "Kentucky-based company" has the same meaning as in KRS 164.6011;

- (19) "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;
- (20) (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;
 - d. A documentary;
 - e. A video game;
 - f. A music video; or
 - g. A commercial; 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;
- (21) "Obscene" has the same meaning as in KRS 531.010;
- (22) "Office" means the Kentucky Film Office created in KRS 154.12-280;
- (23) "Payroll service fees" means administrative fees paid by an approved company to a third-party payroll service company providing Kentucky-based payroll processing for above-the-line and below-the-line production crew members;
- (24) "Person" has the same meaning as in KRS 141.010;
- (25) (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:
 - 1. Kentucky sales and use tax paid by the approved company on the qualifying expenditure; or
 - 2. Distribution expenses;
- (26) "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;
- (27) "Qualifying per diem":
 - (a) Means:
 - 1. Meal and incidental allowance per diems, including those not taken on set, in the amounts established by the United States General Services Administration, if incurred in the Commonwealth; and
 - 2. Hotel and other overnight living accommodations per diems, in the amounts established by the United States General Services Administration, if incurred in the Commonwealth; and
 - (b) Includes any amounts that:
 - 1. Exceed the limits in paragraph (a)1. and 2. of this subsection; and
 - 2. Are included in taxable compensation and subject to the withholding required under KRS Chapter 341;
- (28) "Resident" has the same meaning as in KRS 141.010;
- (29) "Secretary" means the secretary of the Cabinet for Economic Development;
- (30) "Tax incentive agreement" means the agreement entered into pursuant to KRS 154.61-030 between the council and the approved company;
- (31) "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;
- (32) "Union and guild benefits" means any mandatory contributions to pension, health, and welfare plans paid by an approved company or a third-party payroll service company pursuant to a union or guild agreement entered into for the provision of services by above-the-line or below-the-line production crew members; and
- (33) "Workers' compensation insurance premiums" means premiums paid by an approved company or a third-party payroll service company for the provision of workers' compensation covering above-the-line or below-the-line production crew members.

Effective: July 15, 2026

History: Amended 2026 Ky. Acts ch. 194, sec. 4, effective July 15, 2026; and ch. 198, sec. 22, effective April 27, 2026. -- Amended 2025 Ky. Acts ch. 91, sec. 5, effective July 1, 2025. -- Amended 2023 Ky. Acts ch. 75, sec. 30, effective June 29, 2023. -- Created 2021 Ky. Acts ch. 156, sec. 17, effective June 29, 2021.

Legislative Research Commission Note (7/15/2026). This statute was amended by 2026 Ky. Acts chs. 194 and 198, which do not appear to be in conflict and have been codified together.