

154.61-020 Purposes -- Tax incentives for motion pictures and entertainment productions and continuous film productions.

- (1) The purposes of KRS 141.383 and this subchapter are to encourage:
 - (a) The film and entertainment industry to choose locations in the Commonwealth for the filming and production of motion picture or entertainment productions;
 - (b) The development of a film and entertainment industry in Kentucky;
 - (c) Increased employment opportunities for the citizens of the Commonwealth within the film and entertainment industry; and
 - (d) The development of a production and postproduction infrastructure in the Commonwealth for film production and touring Broadway show production facilities containing state-of-the-art technologies.
- (2) The authority, together with the Department of Revenue, shall administer the tax credit established by KRS 141.383, this section, and KRS 154.61-030.
- (3) To qualify for the tax incentive provided in subsection (5) of this section, the following requirements shall be met:
 - (a) For an approved company that is also a Kentucky-based company that:
 1. Films or produces a feature-length film, television program, or industrial film in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be one hundred twenty-five thousand dollars (\$125,000);
 2. Produces a national touring production of a Broadway show in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be twenty thousand dollars (\$20,000); or
 3. Films or produces a documentary in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be ten thousand dollars (\$10,000); and
 - (b) For an approved company that is not a Kentucky-based company that:
 1. Films or produces a feature-length film, television program, or industrial film in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be two hundred fifty thousand dollars (\$250,000); or
 2. Films or produces a documentary in whole or in part in the Commonwealth or that produces a national touring production of a Broadway show, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be twenty thousand dollars (\$20,000).
- (4) (a) Beginning on January 1, 2022, the total tax incentive approved under KRS 141.383 and this subchapter shall be limited to seventy-five million dollars (\$75,000,000) for calendar year 2022 and each calendar year thereafter; and
- (b) Beginning with calendar year 2024:

1. Twenty-five million dollars (\$25,000,000) shall be allocated for all approved companies with a continuous film production; and
 2. On the first day of July of each calendar year, any unused balance of the amount allocated under subparagraph 1. of this paragraph for continuous film productions shall be made available for all approved companies with motion picture or entertainment productions.
- (5) (a) To qualify for the tax incentive available under KRS 141.383 and this subchapter all applicants shall:
1. Begin filming or production in Kentucky within six (6) months of approval by the authority; and
 2. Complete filming or production in Kentucky within two (2) years of the filming or production start date.
- (b) The tax credit shall be against the Kentucky income tax imposed under KRS 141.020 or 141.040, and the limited liability entity tax imposed under KRS 141.0401, and shall be refundable as provided in KRS 141.383.
- (c) 1. For a motion picture or entertainment production or continuous film production filmed or produced in its entirety in an enhanced incentive county, the amount of the incentive shall be equal to thirty-five percent (35%) of the approved company's:
- a. Qualifying expenditures;
 - b. Qualifying payroll expenditures paid to resident and nonresident below-the-line production crew; and
 - c. Qualifying payroll expenditures paid to resident and nonresident above-the-line production crew not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee.
2. a. To the extent the approved company films or produces a motion picture or entertainment production or continuous film production in part in an enhanced incentive county and in part a Kentucky county that is not an enhanced incentive county, the approved company shall be eligible to receive the incentives provided in this paragraph for those expenditures incurred in the enhanced incentive county and all other expenditures shall be subject to the incentives provided in paragraph (d) of this subsection.
- b. The approved company shall track the requisite expenditures by county. If the approved company can demonstrate to the satisfaction of the cabinet that it is not practical to use a separate accounting method to determine the expenditures by county, the approved company shall determine the correct expenditures by county using an alternative method approved by the cabinet.
- (d) For a motion picture or entertainment production or continuous film production filmed or produced in whole or in part in any Kentucky county other than in an enhanced incentive county, the amount of the incentive shall be equal to:
1. Thirty percent (30%) of the approved company's:

- a. Qualifying expenditures;
 - b. Qualifying payroll expenditures paid to below-the-line production crew that are not residents; and
 - c. Qualifying payroll expenditures paid to above-the-line production crew that are not residents, not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee; and
2. Thirty-five percent (35%) of the approved company's:
 - a. Qualifying payroll expenditures paid to resident below-the-line production crew; and
 - b. Qualifying payroll expenditures paid to resident above-the-line production crew not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee.

Effective: June 29, 2023

History: Amended 2023 Ky. Acts ch. 75, sec. 31, effective June 29, 2023. -- Created 2021 Ky. Acts ch. 156, sec. 18, effective June 29, 2021.