



*Setting the Stage for
Motion Picture Production in Kentucky*



Support Motion Picture Incentive Legislation!



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Lights...Camera...KENTUCKY!

OUR MISSION

Lights...Camera...KENTUCKY! Inc, is a broad coalition of companies, associations and individuals interested in creating a sustainable and profitable motion picture production industry in Kentucky. It is our goal to build the infrastructure, workforce and economic climate necessary to create an industry that brings new jobs and new revenues to the Commonwealth of Kentucky.

To support this long-term goal, we will work to see that legislation is enacted by the 2008 General Assembly that will put in place economic incentives to encourage increased film, video and digital production in Kentucky.

We are pleased to present the following briefing document detailing the numerous benefits available to Kentucky by creating a more welcoming economic environment for film, video and digital production. Many other states are already realizing the economic rewards and prestige fostered by this industry. The time is right for Kentucky to do the same.

“Dreamer”—An Opportunity Missed



Kentucky’s diverse and beautiful scenery, rich heritage and historical prominence offer a tremendous backdrop for film and television production. Unfortunately, Kentucky’s current tax incentive program, which offers only 6 percent refund of the sales tax on production costs for filming in-state, does not.

While this incentive may be enough to lure filmmakers to Kentucky to take advantage of its historic scenery and rich culture to obtain film footage, it isn’t enough to keep them here for the entire production work.

The perfect example of a missed opportunity for Kentucky occurred in 2004 when the movie “Dreamer” was filmed (“Film Office wants incentives sweetened” *Kentucky Post*, 2004). While this story of a father and daughter mending their broken relationship through the process of restoring the health of an injured horse is set in Lexington, a majority of the movie was actually filmed in Louisiana. Why? Better incentives. Louisiana’s tax-transferable income tax credit of 10 to 20 percent had greater appeal than Kentucky’s 6 percent refund. While in Kentucky the production spent approximately \$2 million. In order to relocate to Louisiana the production incurred reported costs of \$500,000. If the production had remained in Kentucky for the final seven weeks of filming the anticipated spend would have been an additional \$4.7 million for a total of \$6.7 million over the full term of in-state activity.

Today, Kentucky’s 6 percent sales tax refund is still the operating incentive for moviemakers, while Louisiana has actually increased its incentive to 25 percent with an additional 10 percent employment credit for Louisiana resident labor (Axiom 2007). In October of 2007, three films were in production in Louisiana and six were in pre-production stages (www.lafilm.org). At the same time, no major films were being filmed in Kentucky.

In 2004, when questioned about Kentucky’s incentives for filmmakers, the former director of the Kentucky Film Office said Kentucky was not in the business of giving away money. But because Kentucky’s incentives were not appealing enough, it actually lost business to another state.

Today, only five states do not offer incentive programs, while states like Rhode Island and Connecticut have recently instituted extensive and generous programs to jump start in-state movie production. Should Kentucky’s incentive remain the same while other states step up to the plate, “Dreamer” will become one of many movies to choose to move its cast and crew elsewhere while Kentucky loses out on the money, jobs and image movie production brings.

An Opportunity for Kentucky

In recent years, there has been a significant exodus in film production from California and New York due to increasing fees and taxes. Because of this, the stage is set for Kentucky to take advantage of this potential revenue. To do so, we must create an economically attractive environment for the industry by implementing tax credits and incentives for in-state production.

The purpose of tax credits is to encourage the development of entertainment and commercial production in order to achieve an independent and sustainable film and video industry in Kentucky. Since about 50 percent of a production's total budget is spent in the community where shooting takes place, the cost of incentive programs is offset by the positive economic impact.

The Time to Act is Now!

The Foundation Exists

Current Kentucky tax law prohibits us from competing on equal ground with more aggressive states. However, the good news is that the state already has a tax incentive law to build upon, and the interest exists among legislators to take it to the next level.

The Timing is Right

While other states are unable to accept new projects or are dragging their feet on legislation, an excellent opportunity exists for Kentucky to move to the forefront of the tax incentive trend and capitalize on unclaimed business. South Carolina had to stop accepting applications from film production companies while deciding how to handle the unexpected growth its new incentives produced. Louisiana, on the other hand, has lost many film projects due to Hurricane Katrina and ongoing recovery efforts. At present, only a few states offer the kind of truly aggressive incentive packages needed to lure production companies. The time is right for Kentucky to act.

The Results are Proven

Kentucky can learn from the mistakes and successes of other states, and use them to create the best environment possible. On one end, Louisiana gained a 1500 percent increase in production spending the first year after passing its incentive plan. On the opposite end, Tennessee lost \$69 million in production revenue over three years and nearly twice that in economic impact due to its lack of an effective tax incentive plan.

The Benefits Will Multiply

From Black Beauty to Seabiscuit, films shot in Kentucky have gone a long way to enhance the state's image as a tourism destination. An increase in film production of the magnitude proposed here would resonate statewide – not just as a boost for local economies, but for the cultural climate and trademark image of Kentucky as a whole.

Creating a Sustainable Industry

The stage is set for Kentucky to take its place in the movie production spotlight. Location, once the most important element of the production decision, is now taking a back seat to economic incentives as a chief priority in film making. Creating the right economic environment will help create a sustainable industry and long-lasting benefits to the Commonwealth.

Why is this important for Kentucky?

Money

Movie and television production is an untapped source of revenue for both local economies and Kentucky as a whole.

Jobs

Movie and television production will bring a broad spectrum of new jobs and offer training in new and diverse skill sets for Kentuckians across the Commonwealth.

Image

The films and television shows produced with the help of this legislation will serve to showcase Kentucky's natural beauty, reshape Kentucky's image and bring about increased awareness across a wide range of new audiences.

The motion picture production industry is quickly becoming a serious source of revenue for states across the nation. As production is moving away from locations in California and New York, other states are starting to realize the significant economic benefits the industry brings to both local and state economies.

Forward-thinking states are realizing the economic impact television and film production can have and are rapidly developing tax incentive programs to lure production companies. The National Conference of State Legislatures reports that all but five states either already have tax incentives for the film or television industry, or are in the process of passing them. Some states, such as Louisiana, Massachusetts, New Mexico and South Carolina, are ahead in both the timing and the aggressiveness of their incentives, and the results are impressive.

Film and video production is a clean and decentralized industry. Since it is also non-polluting and has the potential to benefit communities across the state, it is an ideal industry to support

The Equation is Simple

Positive Economic Environment = Money, Jobs and Prestige for Kentucky

The Right Legislation

MONEY ♦ JOBS ♦ IMAGE

*The television and film industry can deliver these to Kentucky.
The right legislation can deliver the industry.*

The only production incentive currently available through Kentucky law is the Kentucky Tax Rebate Program. According to the Kentucky Film Office, this program entitles eligible production companies to a refund of the 6 percent sales and use tax on expenditures made in connection with production and must be paid through a Kentucky financial institution.

Kentucky must pass new legislation that will create an attractive economic environment designed to lure production companies to the Commonwealth. Any legislation passed should include the following key items, which would apply to the pre-production, production and post-production of feature films, national and regional commercials, corporate videos, documentaries and video games with a rating of “R” or below.

- **25 percent sales tax refund to investors for goods and services on qualified productions of \$50,000 or more**
- **Extra 10 percent credit for salaries of Kentucky residents**
- **20 percent credit for investments in infrastructure to improve the state and/or industry**
- **Tax credits in the form of a refund**
- **Credits may be carried forward for 10 years for individuals or corporations if credit exceeds tax liability for the year(s) of production**
- **Point-of-sale sales tax exemption on goods, services and lodging for stays of more than 28 nights**
- **Fee-free permits and free state locations**
- **Easy application process and annual approval for production companies**

Critical to Elements Motion Picture Incentive Legislation

	Element	Importance	Reason
1	25 sales percent tax refund to investors for goods and services on qualified productions of \$50,000 or more	This is the primary financial criterion considered by production execs when deciding on location	25 percent is the new “standard” set by Louisiana; Connecticut just passed 30 percent
2	Extra 10 percent credit for salaries of Kentucky residents	Encourages the hiring of Kentucky residents vs. bringing in crew and talent from elsewhere	This increases jobs in the state from semi-skilled labor through highly-specialized professionals
3	20 percent credit for investments in infrastructure to improve the state and/or the industry	When soundstages, etc., are built in the state, it decreases the dollars sent out of state and shows stability and long-term commitment to the industry	The residual benefits to the state are widespread; commercial and industrial work will no longer be lost to areas with these resources.
4	Tax credits should be in the form of a refund	Encourages investors from other states to bring their investment dollars into Kentucky	Refunds cost the state the same as a credit, and it is less cumbersome for the investors
5	Credits may be carried forward for 10 years for individuals or corporations if credit exceeds tax liability for the year(s) of production	More user-friendly, avoids a rush during certain months of the year to wrap within the year or spread production through multiple years	Annual credit cannot exceed tax liability for that year
6	Point-of-sale exemption of sales tax on goods and services and lodging tax for stays over 28 nights	Generates hotel and local retail activity. An extension of the rebate currently offered by the state	May not want the sales tax exemption to be used with the 25 percent investment refund
7	Fee-free permits and free state locations	Easy access encourages state to be showcased	Typical in most states
8	Easy application process and annual approval for production companies	Encourages repeat business (Each project is reviewed, but company profile stays in file.)	On-line applications, quick turnaround are key

Recommendations for Re-investment of New Revenue

The Kentucky Film Office	The Kentucky Film Institute
We recommend that a percentage of the newly-generated revenue be reinvested in the Kentucky Film Office to further industry success. Funding should be provided to the Film Office to sufficiently provide staffing and support to carry out its responsibilities involving promotions and marketing, customer service, application processing and approval, and all tasks generated by increased business to the state.	An incentive should also be given to an accredited post-secondary educational institution to foster the growth of a skilled workforce through the establishment of an academic program and allocation of funds to other entities to train professionals for the industry. We recommend creating a Kentucky Film Institute to further enrich and sustain Kentucky’s film industry. This institute would help ensure the longevity and sustainability of the industry in Kentucky while creating and preserving new jobs and generating new revenue.

Reaping the Benefits

Other States are Already Realizing the Rewards of Increased Production

A number of other states are ahead of the curve in both the timing and the aggressiveness of their incentives, and the results are impressive. These are just a few examples of the enormous impact the right incentives can have on a state's economy.

Louisiana: Often hailed as having the most aggressive motion picture production tax incentive law in the nation, Louisiana saw film production spending soar from \$20 million to \$335 million in the first year after passing legislation. According to the June 2007, SLC Report, the film and television industry is expected to contribute more than \$1 billion to Louisiana's economy in 2007.

New Mexico: Nicknamed "Tamale-Wood", since introducing incentives in 2003, New Mexico has taken in more than \$260 million in direct expenditures while the Governor's office estimates the financial benefits to be \$780 million.

South Carolina: According to the state's film commissioner, South Carolina received so much attention after passing its new incentives (six recent major projects) that it now has to turn away new film offers.

What are these other states doing so well?

States that have implemented substantial tax incentive programs for production companies have in return obtained a very lucrative revenue generator for their economy. Below are case studies detailing the programs other states have put in place.

The Originals

California

The state offers a 5 percent sales tax exemption on the purchase or lease of post-production equipment for qualified persons. (Exemption is taken by the seller of the equipment and passed on to the buyer at the point of purchase.) California also has the STAR program, which provides surplus state-owned assets for motion picture production. Through this program, unused state properties such as health facilities and vacant office structures are available at no charge or a nominal fee to filmmakers. The Film California First program directly reimburses production companies certain costs associated when filming on public property. These reimbursements fall into four categories: personnel - available for public employees assigned to work on film shoots; permits - any permit costs associated with filming on state property; public property fees - those costs associated with filming on state properties; and public equipment fees - the costs incurred when using equipment mandated by the state on public property. Recent enhancements to the program include increased reimbursement levels as well as an expansion of the number of shoots that could be considered for reimbursement. The program is capped at \$300,000 per production but is not currently funded.

Source: www.film.ca.gov and www.filmcafirst.ca.gov

Reaping the Benefits

New York

Legislation establishing the Empire State Film Production Credit was signed into law on Aug. 20, 2004. Designed to bring new film and television production into New York State, the program provides a fully-refundable tax credit equal to 10 percent of qualified expenditures to qualifying film and television productions. The program will be administered by the New York State Governor's Office for Motion Picture & Television Development. New York City provides an additional 5 percent credit and also provides free permits at public locations as well as location parking for essential production vehicles. In addition, police officers are provided at no cost. Both the state and city of New York provide a comprehensive sales and use tax exemption for machinery, equipment, and services used in production and postproduction.

Source: www.nylovesfilm.com

The Trend-Setters

New Mexico

New Mexico offers a tax rebate of up to 25 percent of direct production expenditures made in the state that are subject to taxation. The state also offers an exemption of the 6 percent gross receipts tax, but you cannot qualify for both of these programs. Also, New Mexico offers a loan with participation in lieu of interest of up to \$15 million per project (which can represent 100 percent of the budget) for qualifying feature films or television projects. Terms are negotiated and budget must be at least \$1 million. No lodging tax on hotel rooms for production companies after 30 days.

Source: www.nmfilm.com

Louisiana

Louisiana offers three tax incentive programs. A sales and use tax (4 percent) exclusion is available to companies that anticipate spending more than \$250,000 in Louisiana within a consecutive 12-month period (only applies to productions that were certified prior to Jan. 1, 2006). *A labor tax credit of 10 percent is also available to production companies that employ Louisiana residents. If the base investment is greater than \$300,000, an investment tax credit of up to 25 percent can be claimed for investing in Louisiana-based productions.

**The labor tax credit of 10 percent for Louisiana residents was rescinded after five years because of its overwhelming success in training the state's workforce. During its tenure, this incentive successfully provided the training and experience to put Louisiana residents on even par with outside industry professionals to successfully compete for jobs.*

Source: www.lafilm.org

South Carolina

Productions that film in South Carolina can receive up to a 20 percent cash rebate on employee wages and up to a 30 percent cash rebate on supplier expenditures. In addition, all productions spending more than \$250,000 in South Carolina are exempt from sales and accommodations taxes and are eligible to use state properties fee-free.

Source: www.scfilmoffice.com

Reaping the Benefits

The Newcomers

Connecticut

In the 2006 session, the Connecticut General Assembly established tax credits for the production of digital media and motion pictures in Connecticut. The legislation calls for a tax credit equal to 30 percent of qualified digital media and motion picture production, preproduction and postproduction expenses incurred in the state that exceed \$50,000. No lodging tax on hotel rooms for production companies after 30 days.

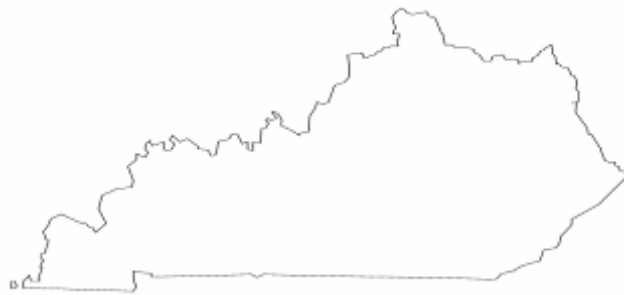
Source: www.cultureandtourism.org

Rhode Island

The 2006 incentive law provides a 25 percent Motion Picture Company Transferable Tax Credit for all Rhode Island spending. There are no caps. It also includes salaries for people working on the ground. The film/TV commercial/video game production must be filmed primarily in the state of Rhode Island and have a minimum budget of \$300,000.

Source: www.rifilm.com

Poised to make a Debut



Case Study: Louisiana

The Louisiana Motion Picture Incentive Program was created to achieve three basic goals:

- Encourage film and video production in Louisiana
- Advocate the hiring of Louisiana technical crew and talent
- Support and encourage the use of Louisiana equipment and services

To jumpstart Louisiana's film industry, the Louisiana Motion Picture Incentive Program was created in 2002 to provide transferable Louisiana income tax credits as an incentive for the production of motion pictures in the State. The transferable income tax credit is equal to 25% of the production's expenses incurred directly in Louisiana plus an additional credit of 10% of payroll for the employment of Louisiana residents. These tax credits are available to individuals, corporations, trusts and partnerships with Louisiana tax liabilities.

Louisiana has seen the highest statewide film activity growth in the country, and they are currently the top place to produce a film outside L.A. and New York. Louisiana's film industry has experienced an annual employment growth rate of 23% each year -- the highest in the nation. And annual wages have increased about 20%.

This large success is due, in part, to an incentives package geared to the industry that is second to none. These entertainment incentives are designed to create a strong capital base for motion pictures and to help achieve a more independent and economically sustainable entertainment industry. For the long-term, it also serves to attract private investment for the production of motion pictures and develop a Louisiana indigenous entertainment industry.

Since the passage of the incentive program, the film industry in Louisiana has grown faster than anyone could have imagined, translating into more than \$400 million in economic stimulus for the Louisiana economy since 2002. Production costs exceeded \$600 million in 2005, and are expected to exceed \$1 billion in 2007.

Louisiana has grown its local film industry union labor (IATSE) to nearly 500 strong, an approximate 200% increase since 2002. Overall union membership has grown 500%. Louisiana payroll alone has amounted to an average of \$40 million per year since 2003. Louisiana residents have embraced the industry as we have well over 2000 locals working on projects in a variety of positions.

Louisiana will benefit from the transition to digital cinema technology, such as HD productions that are becoming increasingly prominent in television and film. At the UNO Robert E. Nims Center in Harahan, LA, construction is being completed on high definition production suites that will include online and offline editing bays, a screening room, and an ADR (additional dialogue recording) suite. This shows the commitment our state has made to create a production hub for the entertainment industry in our own backyard.

Despite Hurricanes Katrina, Rita and Wilma in 2005, Louisiana hosted the production of nearly two dozen feature films and TV movies, such as *All the King's Men*, *Failure to Launch*, *Big Momma's House 2*, and the critically acclaimed television series *Thief*. 2006 was strong as well, with Disney's *The Guardian* and the Jerry Bruckheimer/Denzel Washington blockbuster *Deja Vu*.

The message to producers is simple -- film Louisiana and film in Louisiana. For more information on the film industry, visit www.lafilm.org.

The Stage is Set for Kentucky

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Movie and television production will bring a broad spectrum of new jobs and offer training in new and diverse skill sets for Kentuckians across the Commonwealth.

Image

The films and television shows produced with the help of this legislation will serve to showcase Kentucky's natural beauty, reshape Kentucky's image and bring about increased awareness across a wide range of new audiences.

The television and film industry can deliver.

The right legislation can deliver the industry.





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