

HB326 INTRODUCED



1 HB326
2 2HFHKS-1
3 By Representative Kiel
4 RFD: Ways and Means Education
5 First Read: 19-Mar-24



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SYNOPSIS:

Under existing law, certain state rebates and sales, use, and lodging tax exemptions are provided for qualified production companies in the entertainment industry working in efforts to attract the entertainment industry to Alabama.

This bill would amend the Entertainment Industry Incentive Act of 2009 to rename the Alabama Film Office as the Alabama Entertainment Office, allow music albums to be included as qualified production, set the minimum expenditure threshold for music albums to qualify for incentives, and set aside incentives for music albums until July 1 of each year.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Entertainment Industry Incentive Act of 2009; to amend Sections 41-7A-1, 41-7A-2, 41-7A-42, 41-7A-43, and 41-7A-48, Code of Alabama 1975, to rename the Alabama Film Office as the Alabama Entertainment Office; to include music albums as a qualified production; to set minimum expenditure limits for music albums to qualify for incentives; and to set



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29 aside a portion of the incentives annually for music albums
30 until July 1 of each year.

31 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

32 Section 1. Sections 41-7A-1, 41-7A-2, 41-7A-42,
33 41-7A-43, and 41-7A-48, Code of Alabama 1975, are amended to
34 read as follows:

35 "§41-7A-1

36 On September 1, 1995, the management of the Alabama
37 Entertainment ~~Film~~-Office shall be vested in a director who
38 shall be appointed by the Governor and shall serve at his or
39 her pleasure. The salary shall be established by the Governor
40 at an amount not to exceed forty-eight thousand dollars
41 (\$48,000) annually and adjusted thereafter consistent with
42 general cost-of-living adjustments approved for state
43 employees. In fixing the salary, the Governor shall give due
44 consideration to the salaries of comparable positions in other
45 states in the southeast. The director shall have the same
46 rights, privileges, benefits, and membership status in the
47 Employees' Retirement System as other unclassified employees
48 in the state service."

49 "§41-7A-2

50 All other employees necessary to carry out the duties
51 and functions of the Alabama Entertainment ~~Film~~-Office shall
52 be employed subject to the provisions of the Merit System law.
53 The State Personnel Board, with the assistance of the Director
54 of the Alabama Development Office, shall establish positions
55 as needed in the classified service for the employees of the
56 Alabama Entertainment ~~Film~~-Office."



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57 "§41-7A-42

58 For purposes of this article, the following terms shall
59 have the following meanings:

60 (1) COMPANY. A corporation, partnership, limited
61 liability company, or any other business entity.

62 (2) DEPARTMENT. The Alabama Department of Revenue.

63 (3) ENTERTAINMENT INDUSTRY. Those persons or entities
64 engaged in the production of entertainment content as defined
65 under ~~paragraph a. of subdivision~~ (8) a.

66 (4) EXPENDED IN ALABAMA. In the case of tangible
67 property, property which is acquired or leased from a source
68 within the State of Alabama; in the case of services, services
69 performed for a qualified production project in the State of
70 Alabama.

71 (5) OFFICE. The Alabama Entertainment Film-Office.

72 (6) PAYROLL. All salary, wages, and other compensation,
73 including related benefits, including specifically, but not
74 limited to, compensation and benefits provided to resident and
75 nonresident producers, directors, writers, actors, and other
76 personnel involved in qualified production projects in
77 Alabama.

78 (7) PRODUCTION EXPENDITURES.

79 a. The term includes preproduction, production, and
80 postproduction expenditures incurred in the State of Alabama
81 that are directly used in a state-certified production,
82 including, but not limited to, the following: Set construction
83 and operation, wardrobe, makeup, set accessories, and related
84 services; costs associated with photography and sound



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85 synchronization, lighting, and related services and materials;
86 editing and related services; rental of facilities and
87 equipment; leasing of vehicles; costs of food and lodging;
88 costs of catering; digital or tape editing, film processing,
89 transfer of film to tape or digital format; transfer direct to
90 DVD, cable, or satellite for distribution; sound mixing,
91 special and visual effects including duplication, film
92 processing digital, DVD, music composition, and satellite
93 distribution; total aggregate payroll; music; airfare;
94 insurance costs of bonding; or other similar production
95 expenditures as determined by rule or regulation.

96 b. The term includes financial contributions or
97 educational or workforce development in partnership with
98 related educational institutions, or local industry
99 organizations, or both, contributed toward the furtherance of
100 the local entertainment media industries.

101 c. The term does not include postproduction
102 expenditures for marketing or any amounts that are paid to
103 persons or entities as a result of their participation in
104 profits from the exploitation of a motion picture production.

105 (8) QUALIFIED PRODUCTION.

106 a. The term means entertainment content created in
107 whole or in part within the state, including motion pictures;
108 soundtracks for motion pictures; documentaries; long-form,
109 specials, miniseries, series, sound recordings, music albums,
110 videos and music videos, and interstitials television
111 programming; interactive television; interactive games; video
112 games; commercials; infomercials; any format of digital media,



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113 including an interactive website that is intended for national
114 or international distribution or exhibition to the general
115 public; and any trailer, pilot, video teaser, or demo created
116 primarily to stimulate the sale, marketing, promotion, or
117 exploitation of future investment in either a product or a
118 qualified production via any means and media in any digital
119 media format, film, or videotape, provided such program meets
120 all the underlying criteria of a qualified production.

121 b. The term does not include any ongoing television
122 program created primarily as news, weather, or financial
123 market reports, a production featuring current events,
124 sporting events, an awards show or other gala event, a
125 production whose sole purpose is fund-raising, a long-form
126 production that primarily markets a product or service, a
127 production used for corporate training or in-house corporate
128 advertising or other similar productions; nor does the term
129 include any production for which records are required to be
130 maintained under 18 U.S.C. § 2257 with respect to sexually
131 explicit content; nor does the term mean or include any form
132 of gambling, gaming, wagering, or pari-mutuel wagering
133 activity or enterprise.

134 (9) QUALIFIED PRODUCTION COMPANY.

135 a. The term means a company engaged in the business of
136 producing a qualified production, as that term is defined.

137 b. The term does not mean or include any company owned,
138 affiliated, or controlled, in whole or in part, by any company
139 or person which is in default on a loan.

140 (10) RESIDENT OF ALABAMA. A natural person and, for the



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141 purpose of determining eligibility for the incentives provided
142 by this article, any person domiciled in the State of Alabama
143 and any other person who maintains a permanent place of abode
144 within the state and spends in the aggregate more than six
145 months of each year within the State of Alabama.

146 (11) STATE-CERTIFIED PRODUCTION. A qualified production
147 approved by the office, produced by a qualified production
148 company."

149 "§41-7A-43

150 (a) Beginning January 1, 2009, a qualified production
151 company shall be entitled to a rebate for production
152 expenditures, as defined in ~~subdivision (7) of~~ Section
153 41-7A-42 (7), related to a state-certified production. The
154 rebate shall be equal to 25 percent of the state-certified
155 production's production expenditures excluding payroll paid to
156 residents of Alabama plus 35 percent of all payroll paid to
157 residents of Alabama for the state-certified production,
158 provided the total production expenditures for a project must
159 equal or exceed at least five hundred thousand dollars
160 (\$500,000), but no rebate shall be available for production
161 expenditures incurred after the first twenty million dollars
162 (\$20,000,000) of production expenditures expended in Alabama
163 on a state-certified production.

164 (b) A single episode in a television series or
165 miniseries may be considered a single production project for
166 purposes of this section. However, in determining the total
167 production expenditures incurred by a qualified production
168 company on a qualified production, the total production



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169 expenditures of a television series or miniseries, whether a
170 single season or multiple seasons thereof, to be filmed within
171 a period of 12 consecutive months, each individual episode of
172 which separately and independently meets the definition of a
173 qualified production, may be aggregated to meet the monetary
174 requirements set forth in subsection (a) as long as each
175 individual episode within the series pertains to the same
176 subject as the other episodes in the series.

177 (c) A single commercial may be considered a single
178 production project for purposes of this section. However, in
179 determining the total production expenditures incurred by a
180 qualified production company on a qualified production, the
181 total production expenditures of a series of commercials to be
182 filmed within a period of 12 consecutive months, each of which
183 separately and independently meets the definition of a
184 qualified production, may be aggregated to meet the monetary
185 requirements set forth in subsection (a) as long as each
186 individual commercial within the series pertains to the same
187 subject as the other commercials in the series and was planned
188 as part of a series of commercials to be filmed within a
189 period of 12 consecutive months at the time the qualified
190 production company applied for the incentives.

191 (d) A qualified production company shall be entitled to
192 the rebate for production expenditures as provided in
193 subsection (a) for a qualified project that is limited only to
194 the production of a soundtrack used in a motion picture or
195 documentary, provided that the production expenditures for the
196 soundtrack project must equal or exceed at least fifty



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197 thousand dollars (\$50,000), but no rebate shall be available
198 for production expenditures incurred after the first three
199 hundred thousand dollars (\$300,000) of production expenditures
200 expended in Alabama.

201 (e) A qualified production company shall be entitled to
202 the rebate for production expenditures as provided in
203 subsection (a) for a qualified project that is limited only to
204 the production of a music video, provided that the production
205 expenditures for the music video equal or exceed fifty
206 thousand dollars (\$50,000), but no rebate shall be available
207 for production expenditures incurred after the first two
208 hundred thousand dollars (\$200,000) of production expenditures
209 expended in Alabama.

210 (f) A qualified production company shall be entitled to
211 the rebate for production expenditures as provided in
212 subsection (a) for a qualified project that is limited only to
213 the production of a music album, provided that the production
214 expenditures for the music album equal or exceed thirty
215 thousand dollars (\$30,000), but no rebate shall be available
216 for production expenditures incurred after the first two
217 hundred thousand dollars (\$200,000) of production expenditures
218 expended in Alabama.

219 ~~(f)~~ (g) The rebate described in this section may be
220 applied to offset any income tax liability applicable to a
221 qualified production company for the tax year in which
222 production activity in Alabama on the state-certified
223 production concludes.

224 ~~(g)~~ (h) If the rebate available under this section



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225 exceeds a qualified production company's Alabama income tax
226 liability for the tax year in which production activity in
227 Alabama concludes on the state-certified production, the
228 excess of the rebate over a qualified production company's
229 Alabama income tax liability shall be rebated to the qualified
230 production company.

231 ~~(h)~~ (i) The Commissioner of the Department of Revenue
232 and the office shall ~~promulgate~~ adopt rules necessary to
233 administer this section."

234 "§41-7A-48

235 (a) For the fiscal year ending September 30, 2009, the
236 aggregate cap of incentives granted under this article shall
237 not exceed five million dollars (\$5,000,000) for all qualified
238 production companies. For the fiscal year ending September 30,
239 2010, the aggregate cap of incentives granted under this
240 article shall not exceed seven million five hundred thousand
241 dollars (\$7,500,000) for all qualified production companies.
242 For fiscal years ending September 30, 2011, and September 30,
243 2012, the aggregate cap of incentives granted under this
244 article shall not exceed ten million dollars (\$10,000,000) for
245 all qualified production companies. For the fiscal year ending
246 September 30, 2013, the aggregate cap of incentives granted
247 under this article shall not exceed fifteen million dollars
248 (\$15,000,000). For the fiscal year ending September 30, 2014,
249 the aggregate cap of incentives granted under this article
250 shall not exceed fifteen million dollars (\$15,000,000) and for
251 all subsequent fiscal years thereafter, the aggregate cap of
252 incentives granted under this article shall not exceed twenty



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253 million dollars (\$20,000,000) for all qualified production
254 companies.

255 (b) For each fiscal year beginning October 1, 2024, two
256 million dollars (\$2,000,000) of the amounts in subsection (a)
257 shall be reserved for music albums. In the event applications
258 are not received and incentives are not allocated for music
259 albums by July 1 of each year, the funds may revert for
260 rebates to other qualified production companies."

261 Section 2. This act shall become effective on June 1,
262 2024.