

**SB285 INTRODUCED**



1 SB285  
2 JM5CNFF-1  
3 By Senator Gudger  
4 RFD: Finance and Taxation Education  
5 First Read: 04-Apr-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.