

HB379 INTRODUCED



1 HB379
2 SL9RY87-1
3 By Representative Collins
4 RFD: Ways and Means Education
5 First Read: 03-Feb-26



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4 SYNOPSIS:

5 This bill would create an additional incentive
6 program within the Alabama Entertainment Office by
7 allowing small productions with production expenditures
8 of \$100,000-\$499,999 to qualify for an incentive rebate
9 for 45 percent of all production payroll paid to
10 residents of Alabama.

11 This bill would extend the deadline for the
12 Department of Commerce to contract with an out-of-state
13 entity to review and evaluate incentives as prescribed
14 by the Entertainment Industry Incentive Act of 2009 and
15 report the findings to the Legislature on the 1st
16 legislative day of the 2028 Regular Legislative
17 Session.

18 This bill would also clarify requirements for
19 including compensation paid to loan out companies for
20 purposes of calculating the rebate under Section
21 41-7A-43.

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24 A BILL

25 TO BE ENTITLED
26 AN ACT

27
28 Relating to the Entertainment Industry Incentive Act of



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29 2009; to amend Sections 41-7A-42, 41-7A-43, 41-7A-46,
30 41-7A-47, 41-7A-48, and 41-7A-49, Code of Alabama 1975, to
31 provide an additional incentive program for small productions;
32 to clarify the eligibility of compensation to loan out
33 companies; and to extend the deadline for the Entertainment
34 Industry Incentive Act review and evaluation.

35 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

36 Section 1. Sections 41-7A-42, 41-7A-43, 41-7A-46,
37 41-7A-47, 41-7A-48, and 41-7A-49, Code of Alabama 1975, are
38 amended to read as follows:

39 "§41-7A-42

40 For purposes of this article, the following terms have
41 the following meanings:

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

44 (2) DEPARTMENT. The Alabama Department of
45 CommerceRevenue.

46 (3) ENTERTAINMENT INDUSTRY. Those persons or entities
47 engaged in the production of entertainment content as defined
48 under paragraph (8)a.

49 (4) EXPENDED IN ALABAMA. In the case of tangible
50 property, property that is acquired or leased from a source
51 within the State of Alabama; in the case of services, services
52 performed for a qualified production project in the State of
53 Alabama.

54 (5) OFFICE. The Alabama Entertainment Office.

55 (6) PAYROLL. All salary, wages, and other compensation,
56 including related benefits, including specifically, but not



57 limited to, compensation and benefits provided to resident and
58 nonresident producers, directors, writers, actors, and other
59 personnel involved in qualified production projects in the
60 State of Alabama. For the purpose of the rebate for qualified
61 production companies computed under Section 41-7A-43, other
62 compensation includes payments to a loan-out company by a
63 qualified production company only if:

64 a. The qualified production company withheld and
65 remitted Alabama withholding tax at the highest rate levied in
66 Section 40-18-71 on all payments to the loan-out company for
67 services performed in this state. The amount withheld is
68 considered to have been withheld by the loan-out company on
69 wages paid to its employees for services performed in this
70 state; or

71 b. The qualified production company withheld and
72 remitted Alabama income tax at the highest rate levied in
73 Section 40-18-5, or Section 40-18-31 in the case of a C
74 corporation, on all payments to the loan-out company for
75 services performed in this state. The amount withheld on
76 payments to the loan-out company and remitted to the State of
77 Alabama shall satisfy the loan-out company's requirement to
78 make estimated income tax payments under Section 40-18-80.1 in
79 the case of C corporation or Electing Pass-Through Entity, and
80 Section 40-18-80 in the case of an individual, if the loan-out
81 company is a Single Member LLC or independent contractor, and
82 the requirement to pay composite tax on nonresident members of
83 a pass-through entity under Section 40-18-24.2.

84 (7) PRODUCTION EXPENDITURES.



85 a. The term includes preproduction, production, and
86 postproduction expenditures incurred in the State of Alabama
87 which are directly used in a state-certified production,
88 including, but not limited to, the following: Set construction
89 and operation, wardrobe, makeup, set accessories, and related
90 services; costs associated with photography and sound
91 synchronization, lighting, and related services and materials;
92 editing and related services; rental of facilities and
93 equipment; leasing of vehicles; costs of food and lodging;
94 costs of catering; digital or tape editing, film processing,
95 transfer of film to tape or digital format; transfer direct to
96 DVD, cable, or satellite for distribution; sound mixing,
97 special and visual effects including duplication, film
98 processing digital, DVD, music composition, and satellite
99 distribution; total aggregate payroll; music; airfare;
100 insurance costs of bonding; or other similar production
101 expenditures as determined by rule or regulation.

102 b. The term includes financial contributions or
103 educational or workforce development in partnership with
104 related educational institutions, or local industry
105 organizations, or both, contributed toward the furtherance of
106 the local entertainment media industries.

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

111 d. This term does not include other compensation paid
112 to a loan-out company by a qualified production company if the



113 qualified production company does not withhold and remit
114 either the Alabama withholding tax at the highest rate levied
115 in 40-18-71 or Alabama income tax at the highest rate levied
116 in Section 40-18-5, or Section 40-18-31 in the case of a C
117 corporation. A loan-out company shall file the applicable
118 Alabama withholding tax and/or income tax returns for the
119 taxable year in which such services were performed. A loan-out
120 company's failure to file an Alabama income tax return shall
121 not disqualify payments made to that loan-out company for the
122 rebate computed under Section 41-7A-43.

123 (8) QUALIFIED PRODUCTION.

124 a. The term means entertainment content created in
125 whole or in part within the state, including motion pictures;
126 soundtracks for motion pictures; documentaries; long-form,
127 specials, miniseries, series, sound recordings, music albums,
128 videos and music videos, and interstitials television
129 programming; interactive television; interactive games; video
130 games; commercials; infomercials; any format of digital media,
131 including an interactive website that is intended for national
132 or international distribution or exhibition to the general
133 public; and any trailer, pilot, video teaser, or demo created
134 primarily to stimulate the sale, marketing, promotion, or
135 exploitation of future investment in either a product or a
136 qualified production via any means and media in any digital
137 media format, film, or videotape, provided such program meets
138 all the underlying criteria of a qualified production.

139 b. The term does not include any ongoing television
140 program created primarily as news, weather, or financial



141 market reports, a production featuring current events,
142 sporting events, an awards show or other gala event, a
143 production whose sole purpose is fundraising, a long-form
144 production that primarily markets a product or service, a
145 production used for corporate training or in-house corporate
146 advertising or other similar productions; nor does the term
147 include any production for which records are required to be
148 maintained under 18 U.S.C. § 2257 with respect to sexually
149 explicit content; nor does the term mean or include any form
150 of gambling, gaming, wagering, or pari-mutuel wagering
151 activity or enterprise.

152 (9) QUALIFIED PRODUCTION COMPANY.

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

155 b. The term does not mean or include any company owned,
156 affiliated, or controlled, in whole or in part, by any company
157 or person that is in default on a loan.

158 (10) RESIDENT OF ALABAMA. A natural person and, for the
159 purpose of determining eligibility for the incentives provided
160 by this article, any person domiciled in the State of Alabama
161 and any other person who maintains a permanent place of abode
162 within the state and spends in the aggregate more than six
163 months of each year within the State of Alabama.

164 (11) STATE-CERTIFIED PRODUCTION. A qualified production
165 approved by the office, produced by a qualified production
166 company."

167 "§41-7A-43

168 (a) Beginning January 1, 2009, a qualified production



169 company shall be entitled to a rebate for production
170 expenditures, as defined in Section 41-7A-42, related to a
171 state-certified production. The rebate shall be equal to 25
172 percent of the state-certified production's production
173 expenditures excluding payroll paid to residents of Alabama
174 plus 35 percent of all payroll paid to residents of Alabama
175 for the state-certified production, provided the total
176 production expenditures for a project must equal or exceed at
177 least five hundred thousand dollars (\$500,000), but no rebate
178 shall be available for production expenditures incurred after
179 the first twenty million dollars (\$20,000,000) of production
180 expenditures expended in Alabama on a state-certified
181 production.

182 (b) Each year, the office may reserve up to two million
183 dollars (\$2,000,000) for small budget qualified productions. A
184 qualified production company shall be entitled to a rebate
185 equal to 45 percent of payroll paid to residents of Alabama
186 for the state-certified production, provided the total
187 production expenditures for such small budget qualified
188 production must equal to or exceed at least one hundred
189 thousand dollars (\$100,000), but shall not be available if the
190 total production expenditures exceed four hundred ninety-nine
191 thousand nine hundred ninety-nine dollars (\$499,999).

192 ~~(b)~~ (c) A single episode in a television series or
193 miniseries may be considered a single production project for
194 purposes of this section. However, in determining the total
195 production expenditures incurred by a qualified production
196 company on a qualified production, the total production



197 expenditures of a television series or miniseries, whether a
198 single season or multiple seasons thereof, to be filmed within
199 a period of 12 consecutive months, each individual episode of
200 which separately and independently meets the definition of a
201 qualified production, may be aggregated to meet the monetary
202 requirements set forth in subsection (a) as long as each
203 individual episode within the series pertains to the same
204 subject as the other episodes in the series.

205 ~~(c)~~ (d) A single commercial may be considered a single
206 production project for purposes of this section. However, in
207 determining the total production expenditures incurred by a
208 qualified production company on a qualified production, the
209 total production expenditures of a series of commercials to be
210 filmed within a period of 12 consecutive months, each of which
211 separately and independently meets the definition of a
212 qualified production, may be aggregated to meet the monetary
213 requirements set forth in subsection (a) as long as each
214 individual commercial within the series pertains to the same
215 subject as the other commercials in the series and was planned
216 as part of a series of commercials to be filmed within a
217 period of 12 consecutive months at the time the qualified
218 production company applied for the incentives.

219 ~~(d)~~ (e) A qualified production company shall be entitled
220 to the rebate for production expenditures as provided in
221 subsection (a) for a qualified project that is limited only to
222 the production of a soundtrack used in a motion picture or
223 documentary, provided that the production expenditures for the
224 soundtrack project must equal or exceed at least ~~fifty~~thirty



225 thousand dollars ~~(\$50,000)~~ (\$30,000), but no rebate shall be
226 available for production expenditures incurred after the first
227 ~~three~~two hundred thousand dollars ~~(\$300,000)~~ (\$200,000) of
228 production expenditures expended in Alabama.

229 ~~(e)~~ (f) A qualified production company shall be entitled
230 to the rebate for production expenditures as provided in
231 subsection (a) for a qualified project that is limited only to
232 the production of a music video, provided that the production
233 expenditures for the music video equal or exceed ~~fifty~~thirty
234 thousand dollars ~~(\$50,000)~~ (\$30,000), but no rebate shall be
235 available for production expenditures incurred after the first
236 two hundred thousand dollars (\$200,000) of production
237 expenditures expended in Alabama.

238 ~~(f)~~ (g) A qualified production company shall be entitled
239 to the rebate for production expenditures as provided in
240 subsection (a) for a qualified project that is limited only to
241 the production of a music album, provided that the production
242 expenditures for the music album equal or exceed thirty
243 thousand dollars (\$30,000), but no rebate shall be available
244 for production expenditures incurred after the first two
245 hundred thousand dollars (\$200,000) of production expenditures
246 expended in Alabama.

247 ~~(g)~~ (h) The rebate described in this section may be
248 applied to offset any income tax liability applicable to a
249 qualified production company for the tax year in which
250 production activity in Alabama on the state-certified
251 production concludes.

252 ~~(h)~~ (i) If the rebate available under this section



253 exceeds a qualified production company's Alabama income tax
254 liability for the tax year in which production activity in
255 Alabama concludes on the state-certified production, the
256 excess of the rebate over a qualified production company's
257 Alabama income tax liability shall be rebated to the qualified
258 production company.

259 ~~(i)~~(j) The ~~department~~Department of Commerce and the
260 Commissioner of the Department of Revenue shall adopt rules
261 necessary to administer this section."

262 "§41-7A-46

263 (a) A qualified production company that intends to
264 produce all or any part of a qualified production project in
265 Alabama and desires to be exempted from the payment of state
266 sales, use, and lodging taxes levied pursuant to Sections
267 40-23-2, 40-23-61, and 40-26-1, respectively, shall provide an
268 estimate of total expenditures expected to be made in Alabama
269 in connection with the production project. The estimate of
270 expenditures shall be filed with the office before the
271 commencement of the project in Alabama.

272 (b) At the time the qualified production company
273 provides the estimate of expenditures to the ~~department~~office,
274 it also shall designate a member or representative of the
275 company to work with the office and the department on
276 reporting of expenditures and other information necessary to
277 take advantage of the sales, use, and lodging tax exemptions
278 afforded by this article.

279 (c) (1) An application for the sales, use, and lodging
280 tax exemptions provided in this article may be accepted only



281 from those qualified production companies that report
282 anticipated expenditures in the State of Alabama in the
283 aggregate equal to or exceeding one hundred fifty thousand
284 dollars (\$150,000) in connection with the production of one or
285 more qualified production projects in the State of Alabama
286 within a consecutive 12-month period.

287 (2) The application shall be approved by the office.

288 (3) Once the application is approved by the office, the
289 department shall issue sales, use, and lodging tax exemption
290 certificates to the qualified production company as evidence
291 of the exemptions. The exemptions are effective on the date
292 the certificate is issued by the department.

293 (d) A qualified production company that is approved and
294 receives sales, use, and lodging tax exemption certificates,
295 but fails to expend one hundred fifty thousand dollars
296 (\$150,000) within a consecutive 12-month period, is liable for
297 the sales, use, and lodging taxes that would have been paid
298 had the approval not been granted; except that the company
299 must be given a 60-day period in which to pay the sales, use,
300 and lodging taxes without incurring penalties. The sales, use,
301 and lodging taxes are considered due as of the date the
302 tangible personal property was purchased in or brought into
303 Alabama for use, storage, or consumption for purposes of state
304 sales and use taxes and due as of the date that lodgings occur
305 for purposes of state lodging taxes.

306 (e) Upon completion of a qualified production, the
307 company shall return the sales, use, and lodging tax exemption
308 certificates to the department and submit a report to the



309 office of the actual expenditures made in Alabama in
310 connection with the qualified production.

311 (f) Notwithstanding Act 98-192, the sales and use tax
312 exemption provided for in this article shall only apply to the
313 state sales and use tax."

314 "§41-7A-47

315 The ~~department~~Department of Commerce ~~and the office~~ may
316 ~~collectively promulgate adopt~~ rules as are necessary to
317 implement and administer this article."

318 "§41-7A-48

319 (a) For the fiscal year ending September 30, 2015,
320 through the fiscal year ending September 30, 2025, the
321 aggregate cap of incentives granted under this article shall
322 not exceed twenty million dollars (\$20,000,000) for all
323 qualified production companies. For the fiscal year ending
324 September 30, 2026, and all subsequent fiscal years, the
325 aggregate cap of incentives granted under this article shall
326 not exceed twenty-two million dollars (\$22,000,000) for all
327 qualified production expenditures.

328 (b) For the fiscal year ending September 30, 2026, and
329 all subsequent fiscal years, two million dollars (\$2,000,000)
330 of the amounts in subsection (a) shall be reserved for music
331 albums. In the event applications are not received and
332 incentives are not allocated for music albums by July 1 of
333 each year, the funds may be used for rebates to other
334 qualified production companies.

335 (c) Any unspent incentives under this article in a
336 fiscal year shall be carried over to the following fiscal



337 year, provided that the total amount carried over in any
338 fiscal year does not exceed three million dollars
339 (\$3,000,000).

340 (d) In addition to any reporting required by existing
341 law for this article, the Department of Commerce shall
342 contract with an out-of-state entity to review and evaluate
343 this program and report the findings to the Legislature by the
344 1st legislative day of the ~~2027~~2028 Regular Legislative
345 Session."

346 "§41-7A-49

347 (a) The Entertainment Industry Incentive Act of 2009,
348 Article 3, commencing with Section 41-7A-40, Chapters 7A, of
349 Title 41, is repealed effective December 31, 2028, unless
350 extended by an act of the Legislature. Prior to the repeal of
351 the incentive, the Department of Commerce shall report to the
352 Legislature beginning in 2023 and annually thereafter,
353 regarding the entertainment industry incentives, in accordance
354 with Section 40-1-50.

355 (b) The repealing of the incentives in subsection (a)
356 shall only affect the availability of the tax credits after
357 December 31, 2028, and shall not cause a reduction or
358 suspension of any credits awarded on or prior to December 31,
359 2028.

360 (c) On an annual basis, the department shall furnish
361 the Department of Commerce with a list of each qualified
362 production company that has claimed the incentive under this
363 act.

364 (1) The Department of Commerce shall use the



365 information received under subsection (c) solely for the
366 purposes of economic development planning and program
367 evaluation.

368 (2) To ensure taxpayer confidentiality, all information
369 shared under this section shall remain subject to the
370 confidentiality provisions of Section 40-2A-10, Code of
371 Alabama 1975. The Department of Commerce shall implement
372 safeguards to ensure that taxpayer information is not
373 disclosed to unauthorized persons or entities."

374 Section 2. This act shall become effective on October
375 1, 2026.