

HB379 INTRODUCED



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



SYNOPSIS:

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

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

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

A BILL

TO BE ENTITLED

AN ACT

Relating to the Entertainment Industry Incentive Act of



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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§41-7A-42

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

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

(2) DEPARTMENT. The Alabama Department of ~~Commerce~~Revenue.

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

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

(5) OFFICE. The Alabama Entertainment Office.

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



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

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

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

(7) PRODUCTION EXPENDITURES.



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

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

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

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



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

(8) QUALIFIED PRODUCTION.

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

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



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

(9) QUALIFIED PRODUCTION COMPANY.

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

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

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

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

"§41-7A-43

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



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

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

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



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

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

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



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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



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

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

"§41-7A-46

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

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

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



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

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

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

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

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



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

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

"§41-7A-47

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

"§41-7A-48

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

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

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



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

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

"§41-7A-49

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

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

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

(1) The Department of Commerce shall use the



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

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

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