



**House Ways and Means Education Reported Substitute
for HB429**

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A BILL
TO BE ENTITLED
AN ACT

Relating to the Entertainment Industry Incentive Act of 2009; to amend Sections 41-7A-40, 41-7A-41, 41-7A-42, and 41-7A-43, Code of Alabama 1975, to expand the incentive by renaming it the Film and Music Incentive Act of 2023, and to allow for the inclusion of music and virtual reality as qualified production companies.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 41-7A-40, 41-7A-41, 41-7A-42, and 41-7A-43, ~~41-7A-45, and 41-7A-48~~, Code of Alabama 1975, are amended to read as follows:

"§41-7A-40

This article may be cited as the "~~Entertainment Industry Incentive Act of 2009~~. Film and Music Incentive Act of 2023."

"§41-7A-41

The following is hereby found and declared by the Legislature of Alabama:

(1) Although Alabama is filled with attractive natural resources, a growing workforce, and other resources attractive to the ~~entertainment~~ film and music industry,



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29 Alabama has not developed its potential in terms of
30 attracting the ~~entertainment~~film and music industry to the
31 state by offering production incentives for qualified
32 productions not previously offered in Alabama.

33 (2) ~~Entertainment~~Film and music industry incentives
34 offered by other states attract valuable projects to their
35 states which stimulate local economies, use local manpower
36 and suppliers, offer other employment and entrepreneurial
37 opportunities for state residents, and provide public
38 awareness of the natural resources available in their
39 states.

40 (3) Because Alabama does not currently offer a
41 sufficiently viable incentive package to the industry,
42 Alabama cannot effectively compete with other states for
43 attracting industry projects in such a volume to cause the
44 development of adequate industry infrastructure and those
45 projects locate elsewhere.

46 (4) For Alabama to compete nationally or
47 internationally for the location and production of more
48 projects in Alabama and to foster a growing ~~entertainment~~
49 film and music industry in Alabama, an increase in industry
50 specific production incentives are immediately necessary.

51 (5) The Legislature recognizes and confirms the
52 planning and promotion of the ~~entertainment~~film and music
53 industry are of vital importance to the economic development
54 of Alabama as are the recruitment, expansion, and retention
55 of industrial development within the state, and the
56 promotion of the ~~entertainment~~film and music industry should



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57 be included as an integral part of any comprehensive
58 economic development strategy plan promoted by the state and
59 state agencies.

60 (6) Since Act 2009-144 was passed in 2009, the State
61 of Georgia has attracted a number of film and music
62 productions and established successful film production
63 facilities, whereas Alabama has enjoyed less success and has
64 yet to establish a successful film production facility.

65 (7) The film and music industry has been significantly
66 disrupted since Act 2009-144 was passed in 2009, and, to be
67 competitive in attracting such projects, Alabama must devote
68 more financial resources to the effort."

69 "§41-7A-42

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

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

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

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

78 ~~(4)~~ (3) EXPENDED IN ALABAMA. In the case of tangible
79 property, property which is acquired or leased from a source
80 within the State of Alabama; in the case of services,
81 services performed for a qualified production project in the
82 State of Alabama.

83 (4) FILM AND MUSIC INDUSTRY. Those persons or entities
84 engaged in the production of qualified products with



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85 entertainment content as defined under paragraph a. of
86 subdivision (8).

87 ~~(5) HISTORIC LOCATION. Parcels, portions of which are~~
88 ~~located in or within 300 feet of both of the following:~~

89 ~~a. The Africatown Historic District, as defined in~~
90 ~~Section 11-74-2,~~

91 ~~b. The Mobile County Training School, one of the~~
92 ~~oldest African American public schools in the State of~~
93 ~~Alabama.~~

94 (5) OFFICE. The Alabama Film Office.

95 (6) PAYROLL. All salary, wages, and other
96 compensation, including related benefits, including
97 specifically, but not limited to, compensation and benefits
98 provided to resident and nonresident producers, directors,
99 writers, actors, and other personnel involved in qualified
100 production projects in Alabama.

101 (7) PRODUCTION EXPENDITURES.

102 a. The term includes preproduction, production, and
103 postproduction expenditures incurred in the State of Alabama
104 that are directly used in a state-certified production,
105 including, but not limited to, the following: Set
106 construction and operation, wardrobe, makeup, set
107 accessories, and related services; costs associated with
108 photography and sound synchronization, lighting, and related
109 services and materials; editing and related services; rental
110 of facilities and equipment; leasing of vehicles; costs of
111 food and lodging; costs of catering; digital or tape
112 editing, film processing, transfer of film to tape or



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113 digital format; transfer direct to DVD, cable, or satellite
114 for distribution; sound mixing, special and visual effects
115 including duplication, film processing digital, DVD, music
116 composition, and satellite distribution; total aggregate
117 payroll; music; airfare; insurance costs of bonding; or
118 other similar production expenditures as determined by rule
119 or regulation.

120 b. The term includes financial contributions or
121 educational or workforce development in partnership with
122 related educational institutions, or local industry
123 organizations, or both, contributed toward the furtherance
124 of the local ~~entertainment media~~film and music industries.

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

130 (8) ~~QUALIFIED PRODUCTION.~~ PRODUCTION HEADQUARTERS. The
131 temporary headquarters in Alabama of a qualified production,
132 as certified by a qualified production facility.

133 (9) QUALIFIED PRODUCTION.

134 a. The term means ~~entertainment~~film and music content
135 created in whole or in part within the state, including
136 motion pictures; soundtracks for motion pictures;
137 documentaries; long-form, specials, miniseries, series,
138 sound recordings, videos and music videos, and interstitials
139 television programming; interactive television; interactive
140 games; video games; music albums; entertainment and



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141 educational content that incorporates virtual reality or
142 augmented reality, or virtual reality film production;
143 commercials; infomercials; any format of digital media,
144 including an interactive website that is intended for
145 national or international distribution or exhibition to the
146 general public; and any trailer, pilot, video teaser, or
147 demo created primarily to stimulate the sale, marketing,
148 promotion, or exploitation of future investment in either a
149 product or a qualified production via any means and media in
150 any digital media format, film, or videotape, provided such
151 program meets all the underlying criteria of a qualified
152 production.

153 b. The term does not include any ongoing television
154 program created primarily as news, weather, or financial
155 market reports, a production featuring current events,
156 sporting events, an awards show or other gala event, a
157 production whose sole purpose is fund-raising, a long-form
158 production that primarily markets a product or service, a
159 production used for corporate training or in-house corporate
160 advertising or other similar productions; nor does the term
161 include any production for which records are required to be
162 maintained under 18 U.S.C. § 2257 with respect to sexually
163 explicit content; nor does the term mean or include any form
164 of gambling, gaming, wagering, or pari-mutuel wagering
165 activity or enterprise.

166 ~~(9)~~ (10) QUALIFIED PRODUCTION COMPANY.

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



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

172 (11) QUALIFIED PRODUCTION FACILITY. A complex of
173 buildings and associated back-lot facilities in which films
174 or music are intended to be regularly produced that is
175 within the State of Alabama and that contains at least four
176 of the following:

177 a. A minimum of 5,000 square feet of office space
178 available for use by qualified production companies for
179 qualified productions.

180 b. Indoor, climate-controlled storage for sets and
181 materials anticipated to be used or are being used for
182 qualified productions.

183 c. Space for carpentry or other set and scene
184 preparation activities for qualified productions.

185 d. At least three indoor, fully-insulated,
186 climate-controlled, and soundproof sound stage facilities
187 with a minimum ceiling height of 30 feet. Each sound stage
188 facility must contain sufficient electrical service so as to
189 not need generators for ordinary operation.

190 e. A minimum of 4,000 square feet of
191 climate-controlled, enclosed storage for costumes used for
192 qualified productions.

193 ~~(10)~~ **(12)** RESIDENT OF ALABAMA. A natural person and,
194 for the purpose of determining eligibility for the
195 incentives provided by this article, any person domiciled in
196 the State of Alabama and any other person who maintains a



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197 permanent place of abode within the state and spends in the
198 aggregate more than six months of each year within the State
199 of Alabama.

200 ~~(11)~~ (13) STATE-CERTIFIED PRODUCTION. A qualified
201 production approved by the office, produced by a qualified
202 production company."

203 "§41-7A-43

204 (a) Beginning January 1, 2009, a qualified production
205 company shall be entitled to a rebate for production
206 expenditures, as defined in subdivision (7) of Section
207 41-7A-42, related to a state-certified production. The
208 rebate shall be equal to 25 percent of the state-certified
209 production's production expenditures excluding payroll paid
210 to residents of Alabama plus 35 percent of all payroll paid
211 to residents of Alabama for the state-certified production,
212 provided the total production expenditures for a project
213 must equal or exceed at least five hundred thousand dollars
214 (\$500,000), but ~~for each year until the fiscal year ending~~
215 ~~September 30, 2023,~~ no rebate shall be available for
216 production expenditures incurred after the first twenty
217 million dollars (\$20,000,000). ~~of production expenditures~~
218 ~~expended in Alabama on a state-certified production.~~ ~~For the~~
219 ~~fiscal year ending September 30, 2024, no rebate shall be~~
220 ~~available for production expenditures incurred after the~~
221 ~~first sixty-five million dollars (\$65,000,000).~~ ~~For the~~
222 ~~fiscal year ending September 30, 2025, no rebate shall be~~
223 ~~available for production expenditures incurred after the~~
224 ~~first one hundred ten million dollars (\$110,000,000).~~ ~~For~~



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225 ~~the fiscal year ending September 30, 2026, and each~~
226 ~~subsequent fiscal year thereafter, no rebate shall be~~
227 ~~available for production expenditures incurred after the~~
228 ~~first one hundred fifty million dollars (\$150,000,000). The~~
229 ~~office shall adopt rules that prioritize rebates for~~
230 ~~qualified productions created, in whole or in part, at a~~
231 ~~qualified production facility. The applicable qualified~~
232 ~~production facility shall be required to make a~~
233 ~~certification that it is the production headquarters for the~~
234 ~~applicable qualified production and may impose a cap on the~~
235 ~~rebate available on such qualified productions that is less~~
236 ~~than the cap provided in Section 41-7A-43..~~

237 (b) A single episode in a television series or
238 miniseries may be considered a single production project for
239 purposes of this section. However, in determining the total
240 production expenditures incurred by a qualified production
241 company on a qualified production, the total production
242 expenditures of a television series or miniseries, whether a
243 single season or multiple seasons thereof, to be filmed
244 within a period of 12 consecutive months, each individual
245 episode of which separately and independently meets the
246 definition of a qualified production, may be aggregated to
247 meet the monetary requirements set forth in subsection (a)
248 as long as each individual episode within the series
249 pertains to the same subject as the other episodes in the
250 series.

251 (c) A single commercial may be considered a single
252 production project for purposes of this section. However, in



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253 determining the total production expenditures incurred by a
254 qualified production company on a qualified production, the
255 total production expenditures of a series of commercials to
256 be filmed within a period of 12 consecutive months, each of
257 which separately and independently meets the definition of a
258 qualified production, may be aggregated to meet the monetary
259 requirements set forth in subsection (a) as long as each
260 individual commercial within the series pertains to the same
261 subject as the other commercials in the series and was
262 planned as part of a series of commercials to be filmed
263 within a period of 12 consecutive months at the time the
264 qualified production company applied for the incentives.

265 (d) A qualified production company shall be entitled
266 to the rebate for production expenditures as provided in
267 subsection (a) for a qualified project that is limited only
268 to the production of a soundtrack used in a motion picture
269 or documentary, provided that the production expenditures
270 for the soundtrack project must equal or exceed at least
271 fifty thousand dollars (\$50,000), but no rebate shall be
272 available for production expenditures incurred after the
273 first three hundred thousand dollars (\$300,000) of
274 production expenditures expended in Alabama under this
275 subsection.

276 (e) A qualified production company shall be entitled
277 to the rebate for production expenditures as provided in
278 subsection (a) for a qualified project that is limited only
279 to the production of a music album or music video, provided
280 that the production expenditures for the music album equal



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281 or exceed twenty thousand dollars (\$20,000) and the
282 production expenditures for the music video equal or exceed
283 fifty thousand dollars (\$50,000), but no rebate shall be
284 available for production expenditures incurred after the
285 first two hundred thousand dollars (\$200,000) of production
286 expenditures expended in Alabama under this subsection.
287 Rebates received under this subsection may not, in the
288 aggregate, exceed five percent of the funding available each
289 year under Section 41-7A-43(a) for all qualified production
290 companies.

291 (f) The rebate described in this section may be
292 applied to offset any income tax liability applicable to a
293 qualified production company for the tax year in which
294 production activity in Alabama on the state-certified
295 production concludes.

296 (g) If the rebate available under this section exceeds
297 a qualified production company's Alabama income tax
298 liability for the tax year in which production activity in
299 Alabama concludes on the state-certified production, the
300 excess of the rebate over a qualified production company's
301 Alabama income tax liability shall be rebated to the
302 qualified production company.

303 (h) The Commissioner of the Department of Revenue and
304 the office shall ~~promulgate~~ adopt rules necessary to
305 administer this section.

306 ~~"§41-7A-45~~

307 ~~A qualified production company that intends to expend~~
308 ~~in the aggregate one hundred fifty thousand dollars~~



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309 ~~(\$150,000) or more in connection with a qualified production~~
310 ~~in the State of Alabama within a consecutive 12-month~~
311 ~~period, upon making application for, meeting the~~
312 ~~requirements of, and receiving written certification of that~~
313 ~~designation from the office, shall be exempted from the~~
314 ~~payment of the state portion, but not the local portion of~~
315 ~~sales, use, and lodging taxes levied pursuant to Sections~~
316 ~~40-23-2, 40-23-61, and 40-26-1, respectively, on production~~
317 ~~expenditures expended in Alabama in connection with the~~
318 ~~state-certified productions production. For each year until~~
319 ~~the fiscal year ending September 30, 2023, the The exemption~~
320 ~~provided by this section shall not be available for~~
321 ~~production expenditures incurred by a qualified production~~
322 ~~company after the first twenty million dollars~~
323 ~~(\$20,000,000). For the fiscal year ending September 30,~~
324 ~~2024, the cap on such of production expenditures expended~~
325 ~~eligible for the exemption described in this section, shall~~
326 ~~be sixty-five million dollars (\$65,000,000). For the fiscal~~
327 ~~year ending September 30, 2025, the cap on such production~~
328 ~~expenditures eligible for the exemption described in in~~
329 ~~Alabama on a state-certified project. this section shall be~~
330 ~~one hundred ten million dollars (\$110,000,000). For the~~
331 ~~fiscal year ending September 30, 2026, and each subsequent~~
332 ~~fiscal year thereafter, the cap on such production~~
333 ~~expenditures eligible for the exemption described in this~~
334 ~~section shall be one hundred fifty million dollars~~
335 ~~(\$150,000,000)."~~

336 ~~"§41-7A-48~~



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337 ~~(a) For the fiscal year ending September 30, 2009,~~
338 ~~the aggregate cap of incentives granted under this article~~
339 ~~shall not exceed five million dollars (\$5,000,000) for all~~
340 ~~qualified production companies. For the fiscal year ending~~
341 ~~September 30, 2010, the aggregate cap of incentives granted~~
342 ~~under this article shall not exceed seven million five~~
343 ~~hundred thousand dollars (\$7,500,000) for all qualified~~
344 ~~production companies. For fiscal years ending September 30,~~
345 ~~2011, and September 30, 2012, the aggregate cap of~~
346 ~~incentives granted under this article shall not exceed ten~~
347 ~~million dollars (\$10,000,000) for all qualified production~~
348 ~~companies. For the fiscal year ending September 30, 2013,~~
349 ~~the aggregate cap of incentives granted under this article~~
350 ~~shall not exceed fifteen million dollars (\$15,000,000). for~~
351 ~~all qualified production companies. For the fiscal year~~
352 ~~ending September 30, 2014, the aggregate cap of incentives~~
353 ~~granted under this article shall not exceed fifteen million~~
354 ~~dollars (\$15,000,000) and for ~~all~~ each subsequent fiscal~~
355 ~~years thereafter, year until the fiscal year ending~~
356 ~~September 30, 2023, the aggregate cap of incentives granted~~
357 ~~under this article shall not exceed twenty million dollars~~
358 ~~(\$20,000,000) for all qualified production companies. For~~
359 ~~the fiscal year ending September 30, 2024, the aggregate cap~~
360 ~~of incentives granted under this article shall not exceed~~
361 ~~sixty-five million dollars (\$65,000,000) for all qualified~~
362 ~~production companies. For the fiscal year ending September~~
363 ~~30, 2025, the aggregate cap of incentives granted under this~~
364 ~~article shall not exceed one hundred ten million dollars~~



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365 ~~(\$110,000,000) for all qualified production companies. For~~
366 ~~the fiscal year ending September 30, 2026, and each~~
367 ~~subsequent fiscal year thereafter, the aggregate cap of~~
368 ~~incentives granted under this article shall not exceed one~~
369 ~~hundred fifty million dollars (\$150,000,000) for all~~
370 ~~qualified production companies.~~

371 ~~(b) Beginning the fiscal year ending September 30,~~
372 ~~2024, one-third of the aggregate cap described in subsection~~
373 ~~(a), together with the caps described in Section~~
374 ~~41-7A-43(c), shall be reserved each year for qualified~~
375 ~~productions created, in whole or in part, at a qualified~~
376 ~~production facility located at a historic location and which~~
377 ~~also has its production headquarters at such qualified~~
378 ~~production facility, as certified by such qualified~~
379 ~~production facility. The applicable qualified production~~
380 ~~facility shall be required to make a certification of the~~
381 ~~foregoing and may impose a cap on the rebate available on~~
382 ~~applicable qualified productions that is less than the caps~~
383 ~~provided in Section 41-7A-43. In the event that applications~~
384 ~~are not received by the close of the fourth quarter of a~~
385 ~~particular year for the amounts reserved in this section,~~
386 ~~such reserved but unallocated funds shall carry forward for~~
387 ~~allocations in accordance with this subsection in the~~
388 ~~subsequent fiscal years until fully allocated. Amounts~~
389 ~~carried forward into subsequent fiscal years shall not be~~
390 ~~counted towards the aggregate caps described in subsection~~
391 ~~(a) for purposes of calculating the amount reserved under~~
392 ~~this section for the subsequent fiscal years. The aggregate~~



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393 ~~caps described in subsection (a) shall be increased to allow~~
394 ~~for the carry forward described in this section."~~

395 Section 2. If a court of competent jurisdiction
396 adjudges invalid or unconstitutional any clause, sentence,
397 paragraph, section, or part of this act, such judgment or
398 decree shall not affect, impair, invalidate, or nullify the
399 remainder of this act, but the effect of the decision shall
400 be confined to the clause, sentence, paragraph, section, or
401 part of this act adjudged to be invalid or unconstitutional.

402 Section 3. All laws or parts of laws which conflict
403 with this act are repealed.

404 Section 4. This act shall become effective
405 immediately following its passage and approval by the
406 Governor, or its otherwise becoming law.