

HB325 INTRODUCED



1 HB325
2 HD4G866-1
3 By Representative Kiel
4 RFD: Economic Development and Tourism
5 First Read: 19-Mar-24



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SYNOPSIS:

Under existing law, the management of the Alabama Film Office is vested in a Director who is appointed by the Governor. The salary of the Director is established by law.

This bill would require the Secretary of the Department of Commerce to appoint and establish the salary for the Director of the Alabama Film Office.

This bill would also modify the definition of Department as it relates to film incentives to mean the Department of Commerce.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Alabama Film Office; to amend Sections 41-7A-1, 41-7A-42, and 41-7A-43, Code of Alabama 1975, to grant the appointment and salary determination powers of the Director of the Alabama Film Office to the Alabama Department of Commerce; and to modify the definition of "department".

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 41-7A-1, 41-7A-42, and 41-7A-43, Code of Alabama 1975, are hereby amended as follows:



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29 "§41-7A-1

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

44 "§41-7A-42

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

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

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

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

54 (4) EXPENDED IN ALABAMA. In the case of tangible
55 property, property which is acquired or leased from a source
56 within the State of Alabama; in the case of services, services



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57 performed for a qualified production project in the State of
58 Alabama.

59 (5) OFFICE. The Alabama Film Office.

60 (6) PAYROLL. All salary, wages, and other compensation,
61 including related benefits, including specifically, but not
62 limited to, compensation and benefits provided to resident and
63 nonresident producers, directors, writers, actors, and other
64 personnel involved in qualified production projects in
65 Alabama.

66 (7) PRODUCTION EXPENDITURES.

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

84 b. The term includes financial contributions or



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85 educational or workforce development in partnership with
86 related educational institutions, or local industry
87 organizations, or both, contributed toward the furtherance of
88 the local entertainment media industries.

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

93 (8) QUALIFIED PRODUCTION.

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

109 b. The term does not include any ongoing television
110 program created primarily as news, weather, or financial
111 market reports, a production featuring current events,
112 sporting events, an awards show or other gala event, a



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113 production whose sole purpose is fund-raising, a long-form
114 production that primarily markets a product or service, a
115 production used for corporate training or in-house corporate
116 advertising or other similar productions; nor does the term
117 include any production for which records are required to be
118 maintained under 18 U.S.C. § 2257 with respect to sexually
119 explicit content; nor does the term mean or include any form
120 of gambling, gaming, wagering, or pari-mutuel wagering
121 activity or enterprise.

122 (9) QUALIFIED PRODUCTION COMPANY.

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

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

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

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

137 "§41-7A-43

138 (a) Beginning January 1, 2009, a qualified production
139 company shall be entitled to a rebate for production
140 expenditures, as defined in ~~subdivision (7) of~~ Section



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141 41-7A-42 [\(7\)](#), related to a state-certified production. The
142 rebate shall be equal to 25 percent of the state-certified
143 production's production expenditures excluding payroll paid to
144 residents of Alabama plus 35 percent of all payroll paid to
145 residents of Alabama for the state-certified production,
146 provided the total production expenditures for a project must
147 equal or exceed at least five hundred thousand dollars
148 (\$500,000), but no rebate shall be available for production
149 expenditures incurred after the first twenty million dollars
150 (\$20,000,000) of production expenditures expended in Alabama
151 on a state-certified production.

152 (b) A single episode in a television series or
153 miniseries may be considered a single production project for
154 purposes of this section. However, in determining the total
155 production expenditures incurred by a qualified production
156 company on a qualified production, the total production
157 expenditures of a television series or miniseries, whether a
158 single season or multiple seasons thereof, to be filmed within
159 a period of 12 consecutive months, each individual episode of
160 which separately and independently meets the definition of a
161 qualified production, may be aggregated to meet the monetary
162 requirements set forth in subsection (a) as long as each
163 individual episode within the series pertains to the same
164 subject as the other episodes in the series.

165 (c) A single commercial may be considered a single
166 production project for purposes of this section. However, in
167 determining the total production expenditures incurred by a
168 qualified production company on a qualified production, the



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169 total production expenditures of a series of commercials to be
170 filmed within a period of 12 consecutive months, each of which
171 separately and independently meets the definition of a
172 qualified production, may be aggregated to meet the monetary
173 requirements set forth in subsection (a) as long as each
174 individual commercial within the series pertains to the same
175 subject as the other commercials in the series and was planned
176 as part of a series of commercials to be filmed within a
177 period of 12 consecutive months at the time the qualified
178 production company applied for the incentives.

179 (d) A qualified production company shall be entitled to
180 the rebate for production expenditures as provided in
181 subsection (a) for a qualified project that is limited only to
182 the production of a soundtrack used in a motion picture or
183 documentary, provided that the production expenditures for the
184 soundtrack project must equal or exceed at least fifty
185 thousand dollars (\$50,000), but no rebate shall be available
186 for production expenditures incurred after the first three
187 hundred thousand dollars (\$300,000) of production expenditures
188 expended in Alabama.

189 (e) A qualified production company shall be entitled to
190 the rebate for production expenditures as provided in
191 subsection (a) for a qualified project that is limited only to
192 the production of a music video, provided that the production
193 expenditures for the music video equal or exceed fifty
194 thousand dollars (\$50,000), but no rebate shall be available
195 for production expenditures incurred after the first two
196 hundred thousand dollars (\$200,000) of production expenditures



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197 expended in Alabama.

198 (f) The rebate described in this section may be applied
199 to offset any income tax liability applicable to a qualified
200 production company for the tax year in which production
201 activity in Alabama on the state-certified production
202 concludes.

203 (g) If the rebate available under this section exceeds
204 a qualified production company's Alabama income tax liability
205 for the tax year in which production activity in Alabama
206 concludes on the state-certified production, the excess of the
207 rebate over a qualified production company's Alabama income
208 tax liability shall be rebated to the qualified production
209 company.

210 (h) The department and the Commissioner of the
211 Department of Revenue ~~and the office~~ shall ~~promulgate~~adopt
212 rules necessary to administer this section."

213 Section 2. This act shall become effective on June 1,
214 2024.