

By: Representatives Peranich, Guice

To: Tourism; Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1190

1 AN ACT TO AMEND SECTION 57-89-3, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE DEFINITION OF THE TERMS "BASE INVESTMENT" AND
3 "RESIDENT" OR "RESIDENT OF MISSISSIPPI" FOR PURPOSES OF THE
4 MISSISSIPPI MOTION PICTURE INCENTIVE ACT; TO AMEND SECTION
5 57-89-5, MISSISSIPPI CODE OF 1972, WHICH PROVIDES A TAX CREDIT FOR
6 MOTION PICTURE PRODUCTION COMPANIES THAT PRODUCE MOTION PICTURES
7 IN THIS STATE, TO PROVIDE FOR THE REPEAL OF SUCH SECTION; TO AMEND
8 SECTION 57-89-7, MISSISSIPPI CODE OF 1972, TO REVISE THE BASE
9 INVESTMENT REBATE AUTHORIZED FOR MOTION PICTURE PRODUCTION
10 COMPANIES THAT PRODUCE MOTION PICTURES IN THIS STATE; AND FOR
11 RELATED PURPOSES.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

13 **SECTION 1.** Section 57-89-3, Mississippi Code of 1972, is
14 amended as follows:

15 57-89-3. As used in this chapter, the following terms shall
16 have the meanings ascribed in this section unless the context
17 clearly indicates otherwise:

18 (a) "Base investment" means the actual investment made
19 and expended in Mississippi by a motion picture production company
20 in connection with the production of a state-certified production
21 in the state. The term "base investment" shall * * * include
22 payroll; however, for the purpose of determining the rebate
23 authorized under Section 57-89-7(1)(a), the term "base investment"
24 shall not include payroll paid for persons who are not residents.

25 (b) "Motion picture" means a nationally distributed
26 feature-length film, video, television series or commercial made
27 in Mississippi, in whole or in part, for theatrical or television
28 viewing or as a television pilot. The term "motion picture" shall
29 not include the production of television coverage of news and
30 athletic events, or a film, video, television series or commercial

31 that contains any material or performance defined in Section
32 97-29-103.

33 (c) "Motion picture production company" means a company
34 engaged in the business of producing nationally distributed motion
35 pictures, videos, television series or commercials intended for a
36 theatrical release or for television viewing. The term "motion
37 picture production company" shall not mean or include any company
38 owned, affiliated, or controlled, in whole or in part, by any
39 company or person which is in default on a loan made by the state
40 or a loan guaranteed by the state, or any company or person who
41 has ever declared bankruptcy under which an obligation of the
42 company or person to pay or repay public funds or monies was
43 discharged as a part of such bankruptcy.

44 (d) "Payroll" means salary, wages or other compensation
45 including related benefits.

46 (e) "Resident" or "resident of Mississippi" means a
47 natural person, and for the purpose of determining eligibility for
48 the tax credit provided by Section 57-89-5 or the rebate provided
49 by Section 57-89-7, any person domiciled in the State of
50 Mississippi and any other person who maintains a permanent place
51 of abode within the state and spends in the aggregate more than
52 six (6) months of each year within the state.

53 (f) "State" means the State of Mississippi.

54 (g) "State-certified production" means a motion picture
55 approved by the Mississippi Development Authority produced by a
56 motion picture production company in the state. An application
57 for approval as a state-certified production must be submitted to
58 the Mississippi Development Authority before completion of the
59 project.

60 **SECTION 2.** Section 57-89-5, Mississippi Code of 1972, is
61 amended as follows:

62 57-89-5. (1) A motion picture production company shall be
63 entitled to a tax credit for the employment of residents of

64 Mississippi in connection with production of a state-certified
65 production in the state. The credit shall be equal to ten percent
66 (10%) of the total aggregate payroll for residents employed in
67 connection with such state-certified production during the taxable
68 year.

69 (2) The credit may be applied to the tax liability
70 applicable to the motion picture production company imposed by
71 Chapter 7 of Title 27, Mississippi Code of 1972. The credit shall
72 be limited to the tax liability created by the activity for which
73 the credit is granted.

74 (3) If the motion picture production company is an entity
75 not subject to the tax imposed by Chapter 7 of Title 27,
76 Mississippi Code of 1972, the tax credit shall flow through to its
77 partners or members as follows:

78 (a) Corporate partners or members shall claim their
79 share of the credit on their corporation income tax return.

80 (b) Individual partners or members shall claim their
81 share of the credit on their individual income tax returns.

82 (c) Partners or members that are estates or trusts
83 shall claim their share of the credit on their fiduciary income
84 tax returns.

85 (4) Any unused credit may be carried forward no more than
86 ten (10) years from the date the credit was earned. The credit
87 authorized in this section is not refundable.

88 (5) A motion picture production company desiring a tax
89 credit under this section must submit an application to the State
90 Tax Commission. The application must include a detailed
91 accounting of the total aggregate payroll for residents employed
92 in connection with such state-certified production during the
93 taxable year and any other information required by the State Tax
94 Commission.

95 (6) The State Tax Commission shall have all powers necessary
96 to implement and administer the provisions of this section, and

97 the commission shall promulgate rules and regulations, in
98 accordance with the Mississippi Administrative Procedures Law,
99 necessary for the implementation of this section.

100 (7) This section shall stand repealed from and after the
101 effective date of House Bill No. 1190, 2007 Regular Session.

102 **SECTION 3.** Section 57-89-7, Mississippi Code of 1972, is
103 amended as follows:

104 57-89-7. (1) (a) A motion picture production company shall
105 be entitled to a rebate of a portion of the base investment made
106 by the motion picture production company. The amount of the
107 rebate shall be equal to * * *:

108 (i) Twenty percent (20%) of the base investment
109 made by the motion picture production company if the base
110 investment is less than One Million Dollars (\$1,000,000.00),

111 (ii) Twenty-five percent (25%) of the base
112 investment made by the motion picture production company if the
113 base investment is at least One Million Dollars (\$1,000,000.00),
114 but not more than Five Million Dollars (\$5,000,000.00), and

115 (iii) Thirty percent (30%) of the base investment
116 made by the motion picture production company if the base
117 investment is greater than Five Million Dollars (\$5,000,000.00).

118 (b) In addition to the rebate authorized under
119 paragraph (a) of this subsection, a motion picture production
120 company may receive a rebate equal to ten percent (10%) of the
121 portion of the base investment for payroll paid for any employee
122 of the producer who is not a resident and whose wages are subject
123 to the Mississippi Income Tax Withholding Law and are less than
124 One Million Dollars (\$1,000,000.00).

125 (c) The total amount of rebates authorized for a motion
126 picture project shall not exceed Five Million Dollars
127 (\$5,000,000.00) in the aggregate. However, a motion picture
128 production company that has received the maximum rebate authorized
129 under this section for the production of a motion picture that is

130 a television series shall not be limited to the making of only one
131 (1) application for the rebates authorized under this section, but
132 may receive rebates upon one or more additional applications
133 subject to the maximum limitation for each application.

134 (2) A motion picture production company desiring a rebate
135 under this section must submit an application to the State Tax
136 Commission before completion of the project. The application must
137 include a detailed accounting of the base investment made by the
138 motion picture production company and any other information
139 required by the State Tax Commission. Rebates made by the State
140 Tax Commission under this section shall be made from current
141 income tax collections. The State Tax Commission shall not
142 approve any application for a rebate under subsection (1)(b) of
143 this section after July 1, 2012.

144 (3) The State Tax Commission shall have all powers necessary
145 to implement and administer the provisions of this section, and
146 the State Tax Commission shall promulgate rules and regulations,
147 in accordance with the Mississippi Administrative Procedures Law,
148 necessary for the implementation of this section.

149 **SECTION 4.** This act shall take effect and be in force from
150 and after its passage.