

By: Representatives Martinson, Bennett,
Willis, Miles, Haney, Scott, Faulkner, Howell

To: Tourism; Ways and Means

HOUSE BILL NO. 907

1 AN ACT TO CREATE THE MISSISSIPPI ENTERTAINMENT INDUSTRY
2 INVESTMENT ACT; TO PROVIDE AN INCENTIVE FOR SOUND RECORDING
3 PRODUCTION COMPANIES THAT PRODUCE SOUND RECORDING PROJECTS IN THIS
4 STATE; TO PROVIDE THAT A SOUND RECORDING PRODUCTION COMPANY SHALL
5 BE ELIGIBLE FOR A REBATE OF A PERCENTAGE OF CERTAIN EXPENDITURES
6 MADE IN CONNECTION WITH A STATE-CERTIFIED SOUND RECORDING
7 PRODUCTION PROJECT; TO PROVIDE AN INCENTIVE FOR COMPANIES THAT
8 PRODUCE MUSICAL AND THEATRICAL PROJECTS IN THIS STATE; TO PROVIDE
9 THAT A COMPANY SHALL BE ELIGIBLE FOR A REBATE OF A PERCENTAGE OF
10 EXPENDITURES MADE IN CONNECTION WITH A STATE-CERTIFIED MUSICAL OR
11 THEATRICAL PRODUCTION PROJECT; TO PROVIDE THAT THE REBATE PROGRAMS
12 CREATED IN THIS ACT SHALL BE ADMINISTERED BY THE MISSISSIPPI
13 DEVELOPMENT AUTHORITY; TO DEFINE CERTAIN TERMS FOR THE PURPOSES OF
14 THE REBATE PROGRAMS CREATED IN THIS ACT; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** This act shall be known and may be cited as the
17 "Mississippi Entertainment Investment Act."

18 **SECTION 2.** (1) As used in this section, the following words
19 and phrases shall have the following meanings, unless the context
20 clearly requires otherwise:

21 (a) "Base investment" means the actual investment made
22 and expended in this state by a sound recording production company
23 as production-related costs in connection with the production of a
24 state-certified production in Mississippi. The term "base



25 investment" includes amounts expended in Mississippi by a sound
26 production company to acquire personal property or services which
27 are subject to state sales tax under Section 27-65-1 et seq. or
28 use tax under Section 27-67-1 et seq., and/or amounts expended as
29 compensation for services performed within the state which
30 compensation is subject to state income tax under Section 27-7-1
31 et seq.

32 (b) "Sound recording" means a recording of music,
33 poetry, or spoken-word performance made in Mississippi, in whole
34 or in part. The term "sound recording" shall not include the
35 audio portions of dialogue or words spoken and recorded as part of
36 television news coverage or athletic events.

37 (c) "Sound recording production company" means a
38 company engaged in the business of producing sound recordings.
39 The term "sound recording production company" shall not mean or
40 include any person or company, or any company owned, affiliated,
41 or controlled, in whole or in part, by any company or person,
42 which is in default on a loan made by the state or a loan
43 guaranteed by the state, nor which has ever declared bankruptcy
44 under which an obligation of the company or person to pay or repay
45 public funds or monies was discharged as a part of such
46 bankruptcy.

47 (d) "State-certified production" means a sound
48 recording production, or a series of sound recording productions
49 occurring over the course of a twelve-month period, approved by



50 the Mississippi Development Authority produced by a sound
51 production company in the state. An application for approval as a
52 state-certified production must be submitted to the Mississippi
53 Development Authority before production of the project begins.

54 (e) "State" means the State of Mississippi.

55 (2) (a) A sound recording production company that expends
56 at least Fifteen Thousand Dollars (\$15,000.00) in base investment,
57 or Five Thousand Dollars (\$5,000.00) in base investment in the
58 case of a resident sound recording production company, in the
59 state shall be entitled to a rebate of a portion of the base
60 investment made by the sound recording production company.
61 Subject to the provisions of this section, the amount of the
62 rebate shall be equal to twenty-five percent (25%) of the base
63 investment made by the sound production company.

64 (b) If a sound recording production has physical
65 production activities and/or post-production activities both
66 inside and outside the state, then the sound recording production
67 company shall be required to provide an itemized accounting for
68 base investment expended regarding such activities inside and
69 outside the state for the purposes of determining the eligible
70 base investment for activities performed in the state.

71 (c) The total amount of rebates authorized in any
72 fiscal year shall not exceed One Million Dollars (\$1,000,000.00)
73 in the aggregate.



74 (3) A sound recording production desiring a rebate under
75 this section must submit a rebate request to the Mississippi
76 Development Authority upon completion of the project. The request
77 must include a detailed accounting of the base investment made by
78 the sound recording production company and any other information
79 required by the Mississippi Development Authority. The
80 Mississippi Development Authority shall review the application and
81 determine the amount of rebate to be paid to the sound recording
82 production company. The Mississippi Development Authority shall
83 certify such amount to the Department of Revenue and the
84 Department of Revenue shall pay the rebate to the sound recording
85 production company. Rebates made under this section shall be made
86 from current tax collections. The Mississippi Development
87 Authority shall not approve any application for a rebate under
88 this section after July 1, 2019.

89 (4) (a) A sound recording production company desiring to
90 participate in the rebate program authorized in this section must
91 submit an application to the Mississippi Development Authority
92 that includes the following information for the proposed sound
93 recording project:

- 94 (i) A distribution plan for the project;
- 95 (ii) A preliminary budget including estimated
96 Mississippi payroll and estimated base investment for the project;
- 97 (iii) A description of the type of sound to be
98 recorded;



99 (iv) A list of the principal creative elements
100 including any performing artists and producers;

101 (v) The name and address of the recording studio
102 or other location where the sound recording production will take
103 place;

104 (vi) The estimated start and completion dates for
105 the project; and

106 (vii) Any additional information requested by the
107 Mississippi Development Authority.

108 (b) The Mississippi Development Authority shall review
109 the application and determine whether the sound recording
110 production company is eligible to participate in the program
111 authorized in this section. If the Mississippi Development
112 Authority determines that the sound recording production company
113 is eligible to participate in the program authorized in this
114 section it shall issue a certificate to the applicant designating
115 the project as a state-certified production. The Mississippi
116 Development Authority also may require as a condition for being
117 designated a state-certified production and receiving the rebates
118 authorized in this section that the production must display the
119 state brand or logo, or both, as prescribed by the Mississippi
120 Development Authority.

121 (5) The Mississippi Development Authority shall have all
122 powers necessary to implement and administer the provisions of
123 this section, and the Mississippi Development Authority shall



124 promulgate rules and regulations, in accordance with the
125 Mississippi Administrative Procedures Law, necessary for the
126 implementation of this section.

127 **SECTION 3.** (1) As used in this section, the following words
128 and phrases shall have the following meanings, unless the context
129 clearly requires otherwise:

130 (a) "Base investment" means the actual investment made
131 and expended in this state by a company as production-related
132 costs and as production expenditures in connection with a
133 state-certified production in Mississippi. The term "base
134 investment" includes amounts expended in Mississippi to acquire
135 personal property which are subject to state sales tax under
136 Section 27-65-1 et seq. or use tax under Section 27-67-1 et seq.,
137 and/or amounts expended as compensation for services performed
138 within the state which compensation is subject to state income tax
139 under Section 27-7-1 et seq.

140 (b) "Company" means any individual, firm, partnership,
141 limited liability company, joint venture, association,
142 corporation, estate, trust, or other entity, group, or combination
143 thereof acting as a unit.

144 (c) "Musical or theatrical production" means (i) the
145 producing, rehearsing, marketing, administration, recording,
146 performing, and/or filming of a live musical or theatrical
147 performance in the state before live audiences, including, but not
148 limited to, concerts, musical tours, ballet, dance, drama, comedy,



149 comedy revue, opera or live variety entertainment, whether or not
150 there is a charge for admission, and/or (ii) a series of such
151 productions occurring over the course of a twelve-month period,
152 and the recording or filming of such productions, that originate,
153 are developed, or have their initial public performance before an
154 audience within Mississippi, or that have their United States
155 debut within Mississippi. The term "musical or theatrical
156 production" does not include nontouring music and cultural
157 festivals, industry seminars, trade shows, and any production
158 activity taking place outside of the state.

159 (d) "Production expenditures" means a contemporaneous
160 exchange of cash or cash equivalent for goods or services related
161 to development, production, or operating expenditures in this
162 state for a state-certified production, including, but not limited
163 to, expenditures for set construction and operation, including
164 special and visual effects, costumes, wardrobes, make-up,
165 accessories, costs associated with sound, lighting, staging,
166 payroll, and other related costs. The term "production
167 expenditures" does not include any indirect costs, any
168 expenditures later reimbursed by a third party or any amounts that
169 are paid to persons or entities as a result of their participation
170 in profits from the exploitation of the production.

171 (e) "State-certified production" means a musical or
172 theatrical production approved by the Mississippi Development
173 Authority produced by a company in this state. A musical or



174 theatrical production that was previously designated as a
175 "state-certified production" and later returns for performances
176 within the state after being performed on Broadway may be
177 redesignated as a "state-certified production." An application
178 for approval as a state-certified production must be submitted to
179 the Mississippi Development Authority before production of the
180 project begins.

181 (2) (a) A company that expends at least One Hundred
182 Thousand Dollars (\$100,000.00) in base investment in the state
183 shall be entitled to a rebate of a portion of the base investment
184 made by the company. Subject to the provisions of this section,
185 the amount of the rebate shall be equal to twenty-five percent
186 (25%) of the base investment made by the company.

187 (b) The total amount of rebates authorized in any
188 fiscal year shall not exceed Five Hundred Thousand Dollars
189 (\$500,000.00) in the aggregate.

190 (3) A company desiring a rebate under this section must
191 submit a rebate request to the Mississippi Development Authority
192 upon completion of the project. The request must include a
193 detailed accounting of the base investment made by the company and
194 any other information required by the Mississippi Development
195 Authority. The Mississippi Development Authority shall review the
196 application and determine the amount of rebate to be paid to the
197 company. The Mississippi Development Authority shall certify such
198 amount to the Department of Revenue and the Department of Revenue



199 shall pay the rebate to the company. Rebates made under this
200 section shall be made from current tax collections. The
201 Mississippi Development Authority shall not approve an application
202 for a rebate under this section after July 1, 2019.

203 (4) (a) A company desiring to participate in the rebate
204 program authorized in this section must submit an application to
205 the Mississippi Development Authority that includes the following
206 information for the proposed musical or theatrical production
207 project:

208 (i) A preliminary budget including estimated
209 Mississippi payroll, estimated transportation expenditures and
210 estimated base investment, including the manner in which available
211 federal and state incentives will be utilized in the financing or
212 operation of the production;

213 (ii) A general description of the production and
214 performance which may, at the request of the Mississippi
215 Development Authority, include the book, libretto, score, or
216 concept, and plans for recording and/or filming such production;

217 (iii) A list of the principal creative elements
218 including the cast, musicians, headline performers, conductor,
219 producer, or director;

220 (iv) The possibility of offering students in
221 Mississippi colleges, universities, and vocational-technical
222 schools an opportunity to work directly in the production in an
223 arts-related position, including a description of possible job or



224 trainee positions working with professional actors, writers,
225 producers, stagehands, directors, or technicians working on all
226 aspects of the production such as lighting, sound, and actual
227 stage work, or working indirectly on the production with
228 professionals in accounting, law, management, and marketing;

229 (v) Estimated dates for start and completion of
230 rehearsals before paid performances and the estimated dates of
231 performances in the state;

232 (vi) Plans, if any, for a national tour or for any
233 performances in other states;

234 (vii) The companies to whom the rebates shall be
235 allocated and the estimated amounts of the rebates to be allocated
236 to each;

237 (viii) A discussion of any other reasons why the
238 applicant believes the production should be considered a
239 state-certified production; and

240 (ix) Any additional information requested by the
241 Mississippi Development Authority.

242 (b) The Mississippi Development Authority shall review
243 the application and determine whether the company is eligible to
244 participate in the program authorized in this section. If the
245 Mississippi Development Authority determines that the company is
246 eligible to participate in the program authorized in this section
247 it shall issue a certificate to the applicant designating the
248 project as a state-certified production. The Mississippi



249 Development Authority also may require as a condition for being
250 designated a state-certified production and receiving the rebates
251 authorized in this section that the production must display the
252 state brand or logo, or both, as prescribed by the Mississippi
253 Development Authority.

254 (5) The Mississippi Development Authority shall have all
255 powers necessary to implement and administer the provisions of
256 this section, and the Mississippi Development Authority shall
257 promulgate rules and regulations, in accordance with the
258 Mississippi Administrative Procedures Law, necessary for the
259 implementation of this section.

260 **SECTION 4.** This act shall take effect and be in force from
261 and after July 1, 2016.

