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**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control No. 281 Department or Agency: Department of Commerce / Alabama Film Office

Rule No. 281-1-1

Rule Title: Certification for Sales and Use Tax Exemptions and Lodging Tax Exemptions

 New Amend X Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? YES

Is there another, less restrictive method of regulation available that could adequately protect the public? YES

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed rule have an economic impact? NO

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Angela Till
Angela Till, Deputy Secretary of Commerce

Date: March 16, 2015

07/04

Department of Commerce
Alabama Film Office

NOTICE OF INTENDED ACTION

RULE NO. & TITLE: 281-1-1 Certification for Sales and Use Tax Exemptions and Lodging Tax Exemptions

INTENDED ACTION: Repeal of rules.

SUBSTANCE OF PROPOSED ACTION: The agency proposes to repeal this rule because the matters which it initially regulated are adequately addressed under this chapter and by the Entertainment Industry Incentive Act of 2009 (Act 2009-144).

TIME PLACE, MANNER OF PRESENTING VIEWS: All interested parties may submit their views either orally or in writing to the Department of Commerce, 401 Adams Avenue, Suite 170, Montgomery, AL 36130, at any time prior to the date specified below which more than thirty-five (35) days is following the publication of the notice.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

May 18, 2015

CONTACT PERSONS AT AGENCY:

Angela Till
Deputy Secretary of Commerce
401 Adams Avenue
Montgomery, AL 36130
(334) 242-0421

William A. McCrary
General Counsel
RSA Union Building
100 North Union Street, Suite 134
Montgomery, AL 36130-2631
(334) 242-7133



Angela Till
Deputy Secretary of Commerce
Date: March 16, 2015

"REPEALED"

ALABAMA DEPARTMENT OF COMMERCE
ALABAMA FILM OFFICE
ADMINISTRATIVE CODE

CHAPTER 281-1-1
CERTIFICATION FOR SALES AND USE TAX EXEMPTIONS
AND LODGING TAX EXEMPTIONS

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281-1-1-.01 Definitions.

(1) Unless otherwise defined herein, the definitions of terms set forth in Act 2001-975 of the 2001 3rd Special Session are incorporated by reference herein.

(2) As used in this chapter, the phrase "documentaries, videos, commercial, print industrial productions" means productions for national or regional presentations with expenses exceeding \$100,000.

(3) As used in this chapter, the term "feature length motion picture" means either of the following:

(a) A film with a budget of \$500,000 or more and 100 percent of the film is shot in Alabama.

(b) A film with a budget of not less than 1,000,000.

(4) As used in this chapter, the term "qualified film" means a production intended for theatrical release of a feature length motion picture or for exhibition on national television by a network or through national syndication, documentaries, videos, commercial, print, or industrial productions produced for commercial use.

Authors: Brian Kurlander, Anita Archie

Statutory Authority: Code of Ala. 1975, Act 2001-975 of the 2001 3rd Special Session.

History: New Rule: Filed February 11, 2002; effective March 18, 2002. Repeal of Rule Filed: March 16, 2015.

281-1-1-.02 Film Notification. The Director of the Alabama Film Office shall be notified, either orally or in writing and prior to actual production concerning whether a production company for a qualified film will be locating within the State and that the production company for the qualified film intends to claim exemptions pursuant to Sections 40-23-4, 40-23-62, and 40-26-1, Code of Ala. 1975.

Authors: Brian Kurlander, Anita Archie

Statutory Authority: Code of Ala. 1975, Act 2001-975 of the 2001 3rd Special Session.

History: New Rule: Filed February 11, 2002; effective March 18, 2002. Repeal of Rule Filed: March 16, 2015

281-1-1-.03 Application For Certificate; Supporting Documentation.

(1) On or after December 1, 2001, a production company for a qualified film that films in the State may apply to the Alabama Film Office for certification to qualify for sales and use tax exemption pursuant to Section 40-23-4 and 40-23-62, Code of Ala. 1975, and lodging tax exemption pursuant to 40-26-1, Code of Ala. 1975.

(2) The applicant shall submit to the Alabama Film Office a Film Certification Tax Exemption Form (FCTE). The form shall be

available from the Alabama Film Office or by downloading an application from the Alabama Film Office's website.

Authors: Brian Kurlander, Anita Archie

Statutory Authority: Code of Ala. 1975, Act 2001-975 of the 2001 3rd Special Session.

History: **New Rule:** Filed February 11, 2002; effective March 18, 2002. Repeal of Rule Filed: March 16, 2015

281-1-1.04 Examination, Notification, And Appeal.

(1) The Alabama Film Office shall analyze the application and the supporting documentations to determine whether the following requirements are met:

(a) The proposed qualified film provides a significant and positive economic impact on the state.

(b) The proposed qualified film produces sufficient revenues and public demand to cover the costs of production in the State.

(c) The proposed qualified film utilizes to the extent reasonable under the circumstances, Alabama resource including, but not limited to, employees, contractors, equipment, materials, and supplies.

(d) The proposed qualified film furthers the comprehensive economic development strategy plan promoted by the state and state agencies.

(2) The Alabama Film Office shall inform the applicant in writing of whether the production company is an approved company. If the applicant is an approved company, the Director of the Alabama Film Office shall certify the Form FCTE as approved. The certification of the form by the Director of the Alabama Film Office shall constitute a binding written agreement between the approved company and the Film Office.

The Alabama Film Office shall notify the applicant in writing if an application is denied. The Director of the Alabama Film Office shall explain in writing the reason or reasons for the denial. The applicant may seek a reconsideration of its application within 30 days from receipt of the notification from the Office.

Authors: Brian Kurlander, Anita Archie

Statutory Authority: Code of Ala. 1975, Act 2001-975 of the 2001 3rd Special Session.

History: **New Rule:** Filed February 11, 2002; effective March 18, 2002. **Repeal of Rule Filed:** March 16, 2015

281-1-1-.05 **Disqualification.** An approved company that fails to comply with this chapter shall be disqualified from receiving future benefits and upon audit shall be liable for payment of additional tax liability as may be due, plus interest.

Authors: Brian Kurlander, Anita Archie

Statutory Authority: Code of Ala. 1975, Act 2001-975 of the 2001 3rd Special Session.

History: **New Rule:** Filed February 11, 2002; effective March 18, 2002. **Repeal of Rule Filed:** March 16, 2015

281-1-1-.06 **Additional Eligibility Requirements Criteria For Student Film Makers.** In addition to the requirements of Rule 281-1-1-.03-.03ER, a graduate student seeking a certificate of approval under this chapter shall submit letters of recommendation from the department head and dean stating that the graduate student applying for incentives is working on a thesis film and that the graduate student is currently enrolled and in good standing with the university.

Authors: Brian Kurlander, Anita Archie

Statutory Authority: Code of Ala. 1975, Act 2001-975 of the 2001 3rd Special Session.

History: **New Rule:** Filed February 11, 2002; effective March 18, 2002. **Repeal of Rule Filed:** March 16, 2015

281-1-1-.07 **Final Determination For Exemptions Determined By The Alabama Department Of Revenue.** The approved company shall be responsible for submitting an approved certified application to the Alabama Department of Revenue. The final determination exemptions shall be made by the Alabama Department of Revenue.

Authors: Brian Kurlander, Anita Archie

Statutory Authority: Code of Ala. 1975, Act 2001-975 of the 2001 3rd Special Session.

History: **New Rule:** Filed February 11, 2002; effective March 18, 2002. **Repeal of Rule Filed:** March 16, 2015

281-1-1-.08 Sunset Provision. The certification for tax exemptions pursuant to this chapter shall expire at the end of the fiscal year ending September 30, 2005, unless otherwise continued by an act of the Alabama Legislature.

Authors: Brian Kurlander, Anita Archie

Statutory Authority: Code of Ala. 1975, Act 2001-975 of the 2001 3rd Special Session.

History: New Rule: Filed February 11, 2002; effective March 18, 2002. **Repeal of Rule Filed:** March 16, 2015