

115TH CONGRESS
1ST SESSION

H. R. 881

To amend title 17, United States Code, to provide for direct payment of statutory sound recording performance royalties to record producers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 2017

Mr. CROWLEY (for himself, Mr. THOMAS J. ROONEY of Florida, Mrs. BLACKBURN, Ms. BROWNLEY of California, Ms. JUDY CHU of California, Mr. COHEN, Ms. ESHOO, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LIPINSKI, Mr. MCCAUL, Mr. NADLER, Ms. SCHAKOWSKY, Mr. SHERMAN, Ms. SLAUGHTER, Mr. SMITH of Texas, Mr. TIPTON, Ms. WASSERMAN SCHULTZ, Mr. SCHIFF, Mr. FRANKS of Arizona, Mr. ISSA, Mr. DEUTCH, Mr. CONYERS, Mr. MARINO, and Mr. COLLINS of Georgia) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 17, United States Code, to provide for direct payment of statutory sound recording performance royalties to record producers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Allocation for Music
5 Producers Act” or the “AMP Act”.

1 **SEC. 2. PAYMENT OF STATUTORY PERFORMANCE ROYAL-**
2 **TIES.**

3 (a) LETTER OF DIRECTION.—Section 114(g) of title
4 17, United States Code, is amended by adding at the end
5 the following new paragraph:

6 “(5) LETTER OF DIRECTION.—A collective des-
7 ignated by the Copyright Royalty Judges to dis-
8 tribute receipts from the licensing of transmissions
9 in accordance with subsection (f) shall adopt and
10 reasonably implement a policy that provides, in cir-
11 cumstances determined by the collective to be appro-
12 priate, for acceptance of instructions from a payee
13 identified in subparagraph (A) or (D) of paragraph
14 (2) to distribute a portion of the payments to which
15 the payee otherwise would be entitled from the li-
16 censing of transmissions of a particular sound re-
17 cording to a producer, mixer, or sound engineer who
18 was part of the creative process that created the
19 sound recording (in this section, referred to as a ‘let-
20 ter of direction’). To the extent that the collective
21 accepts a letter of direction, the person entitled to
22 payment pursuant to such letter of direction shall,
23 during the time such letter of direction is in effect
24 and followed by the collective, be treated for all pur-
25 poses as the owner of the right to receive such pay-
26 ment. This paragraph shall not be interpreted to

1 imply that a collective cannot accept or act upon
2 payment instructions in other circumstances.”.

3 (b) ADDITIONAL PROVISIONS FOR RECORDINGS
4 FIXED BEFORE NOVEMBER 1, 1995.—Section 114(g) of
5 title 17, United States Code, as amended by subsection
6 (a), is further amended by adding at the end the following
7 new paragraph:

8 “(6) SOUND RECORDINGS FIXED BEFORE NO-
9 VEMBER 1, 1995.—

10 “(A) PAYMENT ABSENT LETTER OF DI-
11 RECTION.—A collective designated by the Copy-
12 right Royalty Judges to distribute receipts from
13 the licensing of transmissions in accordance
14 with subsection (f) shall adopt and reasonably
15 implement a policy that provides, in cir-
16 cumstances determined by the collective to be
17 appropriate, for deduction of 2 percent of the
18 receipts from the licensing of transmissions of
19 a sound recording fixed before November 1,
20 1995, from receipts otherwise payable to the re-
21 cording artist or artists featured on such sound
22 recording (or the persons conveying rights in
23 the artists’ performance in the sound record-
24 ings) pursuant to paragraph (2)(D) (which
25 leaves the recording artist or artists featured on

1 such sound recording (or the persons conveying
2 rights in the artists' performance in the sound
3 recordings) 43 percent of the total receipts paid
4 pursuant to paragraph (2)) and distribution of
5 such amount to one or more persons described
6 in subparagraph (B), after deduction of costs as
7 described in paragraph (3) or (4), as applicable,
8 if each of the following requirements is met:

9 “(i) CERTIFICATION OF ATTEMPT TO
10 OBTAIN A LETTER OF DIRECTION.—A per-
11 son described in subparagraph (B) cer-
12 tified to the collective, under penalty of
13 perjury, that—

14 “(I) for a period of at least 4
15 months, that person made reasonable
16 efforts to contact the artist payee for
17 such sound recording to request and
18 obtain a letter of direction instructing
19 the collective to pay a portion of the
20 royalties from the featured recording
21 artist or artists to that person; and

22 “(II) during the period beginning
23 on the date that person began the rea-
24 sonable efforts described in subclause
25 (I) and ending on date of that per-

1 son’s certification to the collective, the
2 artist payee did not definitively affirm
3 or deny the request for a letter of di-
4 rection.

5 “(ii) COLLECTIVE ATTEMPT TO CON-
6 TACT ARTIST.—After receipt of the certifi-
7 cation described in clause (i) and for a pe-
8 riod of at least 4 months before the collec-
9 tive’s first distribution to the person de-
10 scribed in subparagraph (B), the collective
11 attempted to notify the artist payee of the
12 certification made by the person described
13 in subparagraph (B) in a manner reason-
14 ably determined by the collective.

15 “(iii) NO OBJECTION RECEIVED.—An
16 objection to the distribution has not been
17 submitted to the collective by the artist
18 payee as of the date that is 10 business
19 days before the date on which the first dis-
20 tribution is made.

21 “(B) ELIGIBILITY FOR PAYMENT.—A per-
22 son shall be eligible for payment under subpara-
23 graph (A) if such person—

24 “(i) is a producer, mixer, or sound en-
25 gineer of the relevant sound recording;

1 “(ii) has entered into a written con-
2 tract with a record company involved in
3 the creation or lawful exploitation of the
4 relevant sound recording, or with the re-
5 cording artist or artists featured on such
6 sound recording (or the persons conveying
7 rights in the artists’ performance in the
8 sound recordings), pursuant to which such
9 person is entitled to participate in royalty
10 payments based on exploitation of the rel-
11 evant sound recording that are payable
12 from royalties otherwise payable to the re-
13 cording artist or artists featured on such
14 sound recording (or the persons conveying
15 rights in the artists’ performance in the
16 sound recordings);

17 “(iii) made a contribution, of a nature
18 subject to copyright protection under sec-
19 tion 102, to the creation of the relevant
20 sound recording; and

21 “(iv) submits a written certification to
22 the collective stating, under penalty of per-
23 jury, that such person meets the require-
24 ments in clauses (i) through (iii) and in-

1 cludes a true copy of the contract de-
2 scribed in clause (ii).

3 “(C) MULTIPLE CERTIFICATIONS.—Sub-
4 ject to subparagraph (D), in a case in which
5 more than one person described in subpara-
6 graph (B) has met the requirements for a dis-
7 tribution pursuant to subparagraph (A) with re-
8 spect to a sound recording as of the date that
9 is 10 business days before the date on which a
10 distribution is made, the collective shall divide
11 the 2 percent distribution equally among all
12 such persons.

13 “(D) OBJECTION TO PAYMENT.—Not later
14 than 10 days after the collective receives from
15 the artist payee a written objection to a dis-
16 tribution made pursuant to subparagraph (A),
17 the collective shall cease making any further
18 payment related to such distribution. In any
19 case in which the collective has made one or
20 more distributions pursuant to subparagraph
21 (A) to a person described in subparagraph (B)
22 before the date that is 10 business days after
23 the date on which the collective receives an ob-
24 jection by the artist payee to such distribution,
25 the objection shall not affect that person’s enti-

1 tlement to any distribution made before the col-
2 lective ceases such distribution pursuant to this
3 subparagraph.

4 “(E) OWNERSHIP OF THE RIGHT TO RE-
5 CEIVE PAYMENTS.—To the extent that the col-
6 lective determines that a distribution will be
7 made pursuant to subparagraph (A) to a person
8 described in subparagraph (B), such person
9 shall during the period of such distribution be
10 treated for all purposes as the owner of the
11 right to receive such payments.

12 “(F) ARTIST PAYEE DEFINED.—In this
13 paragraph, the term ‘artist payee’ means a per-
14 son, other than a person described in subpara-
15 graph (B), who owns the right to receive all or
16 part of the receipts payable under paragraph
17 (2)(D) with respect to a sound recording. In a
18 case in which there are multiple artist payees
19 with respect to a sound recording, an objection
20 by one such payee shall apply only to that pay-
21 ee’s share of the receipts payable under para-
22 graph (2)(D), and does not preclude payment
23 under subparagraph (A) from the share of an
24 artist payee that does not object.”.

1 (c) TECHNICAL AND CONFORMING AMENDMENTS.—
2 Section 114(g) of title 17, United States Code, as amend-
3 ed by subsections (a) and (b), is further amended—

4 (1) in paragraph (2), by striking “An agent
5 designated” and inserting “Except as provided for in
6 paragraph (6), a collective designated by the Copy-
7 right Royalty Judges”;

8 (2) in paragraph (3)—

9 (A) by striking “agent designated” and in-
10 sserting “collective designated by the Copyright
11 Royalty Judges”; and

12 (B) by striking “agent” and inserting “col-
13 lective”, each place it appears; and

14 (3) in paragraph (4), by striking “agent” and
15 inserting “collective”, each place it appears.

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