

115TH CONGRESS  
2D SESSION

# S. 2625

To amend title 17, United States Code, to provide for the payment of performance royalties to certain producers, mixers, and sound engineers of sound recordings, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 22, 2018

Mr. GRASSLEY (for himself, Mrs. FEINSTEIN, Ms. HARRIS, and Mr. CORKER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend title 17, United States Code, to provide for the payment of performance royalties to certain producers, mixers, and sound engineers of sound recordings, 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:

6 “(5) LETTER OF DIRECTION.—

7 “(A) IN GENERAL.—A nonprofit collective  
 8 designated by the Copyright Royalty Judges to  
 9 distribute receipts from the licensing of trans-  
 10 missions in accordance with subsection (f) shall  
 11 adopt and reasonably implement a policy that  
 12 provides, in circumstances determined by the  
 13 collective to be appropriate, for acceptance of  
 14 instructions from an artist payee identified  
 15 under subparagraph (A) or (D) of paragraph  
 16 (2) to distribute, to a producer, mixer, or sound  
 17 engineer who was part of the creative process  
 18 that created a sound recording, a portion of the  
 19 payments to which the artist payee would other-  
 20 wise be entitled from the licensing of trans-  
 21 missions of the sound recording. In this section,  
 22 such instructions shall be referred to as a ‘letter  
 23 of direction’.

24 “(B) ACCEPTANCE OF LETTER.—To the  
 25 extent that the collective accepts a letter of di-  
 26 rection under subparagraph (A), the person en-

1           titled to payment pursuant to the letter of di-  
 2           rection shall, during the period in which the let-  
 3           ter of direction is in effect and carried out by  
 4           the collective, be treated for all purposes as the  
 5           owner of the right to receive such payment and  
 6           the artist payee providing the letter of direction  
 7           to the collective shall be treated as having no  
 8           interest in such payment.

9           “(C) AUTHORITY OF COLLECTIVE.—This  
 10          paragraph shall not be construed in such a  
 11          manner so that the collective is not authorized  
 12          to accept or act upon payment instructions in  
 13          circumstances other than those to which this  
 14          paragraph applies.”.

15          (b) ADDITIONAL PROVISIONS FOR RECORDINGS

16          FIXED BEFORE NOVEMBER 1, 1995.—Section 114(g) of  
 17          title 17, United States Code, as amended by subsection  
 18          (a), is further amended by adding at the end the following:

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

21                 “(A) PAYMENT ABSENT LETTER OF DI-  
 22          RECTION.—A nonprofit collective designated by  
 23          the Copyright Royalty Judges to distribute re-  
 24          ceipts from the licensing of transmissions in ac-  
 25          cordance with subsection (f) (in this paragraph

referred to as the ‘collective’) shall adopt and reasonably implement a policy that provides, in circumstances determined by the collective to be appropriate, for the deduction of 2 percent of the receipts that are collected from the licensing of transmissions of a sound recording fixed before November 1, 1995, but that are withdrawn from the amount otherwise payable under paragraph (2)(D) to the recording artist or artists featured on the sound recording (or the persons conveying rights in the artists’ performance in the sound recording), and the distribution of such amount to one or more persons described in subparagraph (B), after deduction of costs described in paragraph (3) or (4), as applicable, if each of the following requirements is met:

“(i) CERTIFICATION OF ATTEMPT TO OBTAIN A LETTER OF DIRECTION.—The person described in subparagraph (B) who is to receive the distribution has certified to the collective, under penalty of perjury, that—

“(I) for a period of at least 4 months, that person made reasonable efforts to contact the artist payee for

1 such sound recording to request and  
2 obtain a letter of direction instructing  
3 the collective to pay to that person a  
4 portion of the royalties payable to the  
5 featured recording artist or artists;  
6 and

7 “(II) during the period beginning  
8 on the date that person began the rea-  
9 sonable efforts described in subclause  
10 (I) and ending on the date of that  
11 person’s certification to the collective,  
12 the artist payee did not affirm or  
13 deny in writing the request for a let-  
14 ter of direction.

15 “(ii) COLLECTIVE ATTEMPT TO CON-  
16 TACT ARTIST.—After receipt of the certifi-  
17 cation described in clause (i) and for a pe-  
18 riod of at least 4 months before the collec-  
19 tive’s first distribution to the person de-  
20 scribed in subparagraph (B), the collective  
21 attempted, in a reasonable manner as de-  
22 termined by the collective, to notify the  
23 artist payee of the certification made by  
24 the person described in subparagraph (B).

1 “(iii) NO OBJECTION RECEIVED.—The  
2 artist payee did not, as of the date that is  
3 10 business days before the date on which  
4 the first distribution is made, submit to  
5 the collective in writing an objection to the  
6 distribution.

7 “(B) ELIGIBILITY FOR PAYMENT.—A per-  
8 son shall be eligible for payment under subpara-  
9 graph (A) if the person—

10 “(i) is a producer, mixer, or sound en-  
11 gineer of the sound recording;

12 “(ii) has entered into a written con-  
13 tract with a record company involved in  
14 the creation or lawful exploitation of the  
15 sound recording, or with the recording art-  
16 ist or artists featured on the sound record-  
17 ing (or the persons conveying rights in the  
18 artists’ performance in the sound record-  
19 ing), under which the person seeking pay-  
20 ment is entitled to participate in royalty  
21 payments that are based on the exploi-  
22 tation of the sound recording and are pay-  
23 able from royalties otherwise payable to  
24 the recording artist or artists featured on  
25 the sound recording (or the persons con-

veying rights in the artists' performance in  
the sound recording);

“(iii) made a creative contribution to  
the creation of the sound recording; and

“(iv) submits a written certification to  
the collective stating, under penalty of per-  
jury, that the person meets the require-  
ments in clauses (i) through (iii) and in-  
cludes a true copy of the contract de-  
scribed in clause (ii).

“(C) MULTIPLE CERTIFICATIONS.—Sub-  
ject to subparagraph (D), in a case in which  
more than 1 person described in subparagraph  
(B) has met the requirements for a distribution  
under subparagraph (A) with respect to a  
sound recording as of the date that is 10 busi-  
ness days before the date on which a distribu-  
tion is made, the collective shall divide the 2  
percent distribution equally among all such per-  
sons.

“(D) OBJECTION TO PAYMENT.—Not later  
than 10 business days after the collective re-  
ceives from the artist payee a written objection  
to a distribution made pursuant to subpara-  
graph (A), the collective shall cease making any

1 further payment relating to such distribution.  
 2 In any case in which the collective has made  
 3 one or more distributions pursuant to subpara-  
 4 graph (A) to a person described in subpara-  
 5 graph (B) before the date that is 10 business  
 6 days after the date on which the collective re-  
 7 ceives from the artist payee an objection to  
 8 such distribution, the objection shall not affect  
 9 that person's entitlement to any distribution  
 10 made before the collective ceases such distribu-  
 11 tion under this subparagraph.

12 “(E) OWNERSHIP OF THE RIGHT TO RE-  
 13 CEIVE PAYMENTS.—To the extent that the col-  
 14 lective determines that a distribution will be  
 15 made under subparagraph (A) to a person de-  
 16 scribed in subparagraph (B), such person shall,  
 17 during the period covered by such distribution,  
 18 be treated for all purposes as the owner of the  
 19 right to receive such payments and the artist  
 20 payee to which such payments would otherwise  
 21 be payable shall be treated as having no inter-  
 22 est in such payments.

23 “(F) ARTIST PAYEE DEFINED.—In this  
 24 paragraph, the term ‘artist payee’ means a per-  
 25 son, other than a person described in subpara-

1 graph (B), who owns the right to receive all or  
 2 part of the receipts payable under paragraph  
 3 (2)(D) with respect to a sound recording. In a  
 4 case in which there are multiple artist payees  
 5 with respect to a sound recording, an objection  
 6 by 1 such payee shall apply only to that payee's  
 7 share of the receipts payable under paragraph  
 8 (2)(D), and does not preclude payment under  
 9 subparagraph (A) from the share of an artist  
 10 payee that does not so object.”.

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

14 (1) in paragraph (2), in the matter preceding  
 15 subparagraph (A), by striking “An agent des-  
 16 ignated” and inserting “Except as provided for in  
 17 paragraph (6), a nonprofit collective designated by  
 18 the Copyright Royalty Judges”;

19 (2) in paragraph (3), in the matter preceding  
 20 subparagraph (A)—

21 (A) by striking “nonprofit agent des-  
 22 ignated” and inserting “nonprofit collective des-  
 23 ignated by the Copyright Royalty Judges”;

1 (B) by striking “another designated agent”  
2 and inserting “another designated nonprofit col-  
3 lective”;

4 (C) by striking “such nonprofit agent” and  
5 inserting “such nonprofit collective”; and

6 (D) by striking “such agent” and inserting  
7 “such collective”; and

8 (3) in paragraph (4)—

9 (A) by striking “designated agent” and in-  
10 serting “nonprofit collective”; and

11 (B) by striking “agent” and inserting “col-  
12 lective” each subsequent place it appears.

13 **SEC. 3. EFFECTIVE DATE.**

14 This Act and the amendments made by Act shall take  
15 effect on the date of enactment of this Act.

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