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 Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

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

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SEC. 2. PAYMENT OF STATUTORY PERFORMANCE ROYALTIES.

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

“(5) LETTER OF DIRECTION.—A collective designated by the Copyright Royalty Judges to distribute receipts from the licensing of transmissions in accordance with subsection (f) shall adopt and reasonably implement a policy that provides, in circumstances determined by the collective to be appropriate, for acceptance of instructions from a payee identified in subparagraph (A) or (D) of paragraph (2) to distribute a portion of the payments to which the payee otherwise would be entitled from the licensing of transmissions of a particular sound recording to a producer, mixer, or sound engineer who was part of the creative process that created the sound recording (in this section, referred to as a ‘letter of direction’). To the extent that the collective accepts a letter of direction, the person entitled to payment pursuant to such letter of direction shall, during the time such letter of direction is in effect and followed by the collective, be treated for all purposes as the owner of the right to receive such payment. This paragraph shall not be interpreted to
imply that a collective cannot accept or act upon payment instructions in other circumstances.”.

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

“(6) Sound recordings fixed before November 1, 1995.—

“(A) Payment absent letter of direction.—A collective designated by the Copyright Royalty Judges to distribute receipts from the licensing of transmissions in accordance with subsection (f) shall adopt and reasonably implement a policy that provides, in circumstances determined by the collective to be appropriate, for deduction of 2 percent of the receipts from the licensing of transmissions of a sound recording fixed before November 1, 1995, from receipts otherwise payable to the recording artist or artists featured on such sound recording (or the persons conveying rights in the artists’ performance in the sound recordings) pursuant to paragraph (2)(D) (which leaves the recording artist or artists featured on
such sound recording (or the persons conveying
rights in the artists’ performance in the sound
recordings) 43 percent of the total receipts paid
pursuant to paragraph (2)) and distribution of
such amount to one or more persons described
in subparagraph (B), after deduction of costs as
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.—A per-
son described in subparagraph (B) cer-
tified 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
such sound recording to request and
obtain a letter of direction instructing
the collective to pay a portion of the
royalties from the featured recording
artist or artists to that person; and

“(II) during the period beginning
on the date that person began the rea-
sonable efforts described in subclause
(I) and ending on date of that per-
son’s certification to the collective, the artist payee did not definitively affirm or deny the request for a letter of direction.

“(ii) COLLECTIVE ATTEMPT TO CONTACT ARTIST.—After receipt of the certification described in clause (i) and for a period of at least 4 months before the collective’s first distribution to the person described in subparagraph (B), the collective attempted to notify the artist payee of the certification made by the person described in subparagraph (B) in a manner reasonably determined by the collective.

“(iii) NO OBJECTION RECEIVED.—An objection to the distribution has not been submitted to the collective by the artist payee as of the date that is 10 business days before the date on which the first distribution is made.

“(B) ELIGIBILITY FOR PAYMENT.—A person shall be eligible for payment under subparagraph (A) if such person—

“(i) is a producer, mixer, or sound engineer of the relevant sound recording;
“(ii) has entered into a written contract with a record company involved in
the creation or lawful exploitation of the relevant sound recording, or with the re-
cording artist or artists featured on such sound recording (or the persons conveying
rights in the artists’ performance in the sound recordings), pursuant to which such
person is entitled to participate in royalty payments based on exploitation of the rel-
evant sound recording that are payable from royalties otherwise payable to the re-
cording artist or artists featured on such sound recording (or the persons conveying
rights in the artists’ performance in the sound recordings);

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

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

“(C) MULTIPLE CERTIFICATIONS.—Subject to subparagraph (D), in a case in which more than one person described in subparagraph (B) has met the requirements for a distribution pursuant to subparagraph (A) with respect to a sound recording as of the date that is 10 business days before the date on which a distribution is made, the collective shall divide the 2 percent distribution equally among all such persons.

“(D) OBJECTION TO PAYMENT.—Not later than 10 days after the collective receives from the artist payee a written objection to a distribution made pursuant to subparagraph (A), the collective shall cease making any further payment related to such distribution. In any case in which the collective has made one or more distributions pursuant to subparagraph (A) to a person described in subparagraph (B) before the date that is 10 business days after the date on which the collective receives an objection by the artist payee to such distribution, the objection shall not affect that person’s enti-
tlement to any distribution made before the collective ceases such distribution pursuant to this subparagraph.

“(E) OWNERSHIP OF THE RIGHT TO RECEIVE PAYMENTS.—To the extent that the collective determines that a distribution will be made pursuant to subparagraph (A) to a person described in subparagraph (B), such person shall during the period of such distribution be treated for all purposes as the owner of the right to receive such payments.

“(F) ARTIST PAYEE DEFINED.—In this paragraph, the term ‘artist payee’ means a person, other than a person described in subparagraph (B), who owns the right to receive all or part of the receipts payable under paragraph (2)(D) with respect to a sound recording. In a case in which there are multiple artist payees with respect to a sound recording, an objection by one such payee shall apply only to that payee’s share of the receipts payable under paragraph (2)(D), and does not preclude payment under subparagraph (A) from the share of an artist payee that does not object.”.
(c) TECHNICAL AND CONFORMING AMENDMENTS.—

Section 114(g) of title 17, United States Code, as amended by subsections (a) and (b), is further amended—

(1) in paragraph (2), by striking “An agent designated” and inserting “Except as provided for in paragraph (6), a collective designated by the Copyright Royalty Judges”;

(2) in paragraph (3)—

(A) by striking “agent designated” and inserting “collective designated by the Copyright Royalty Judges”; and

(B) by striking “agent” and inserting “collective”, each place it appears; and

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