

By Senator Campbell

33-355-02

1 A bill to be entitled
2 An act relating to the entertainment industry;
3 amending s. 212.031, F.S.; eliminating a sales
4 and use tax exemption for the renting, leasing,
5 letting, or granting a license for the use of
6 real property used as an integral part of the
7 performance of qualified production services;
8 amending s. 212.06, F.S.; eliminating a sales
9 and use tax exemption for fabrication labor
10 related to certain qualified motion pictures;
11 amending s. 212.20, F.S.; providing that a
12 specified amount of proceeds from sales and use
13 taxes and communications services taxes shall
14 be transferred to the Florida Entertainment
15 Industry Promotion Trust Fund; amending s.
16 288.1251, F.S.; revising the purposes of the
17 Office of Film and Entertainment; providing for
18 specific organizational units within the
19 office; directing the Office of Film and
20 Entertainment, subject to specific legislative
21 appropriation, to establish regional field
22 offices; prescribing the purpose of the field
23 offices; authorizing the Commissioner of Film
24 and Entertainment to hire and supervise field
25 office staff; requiring a plan governing
26 establishment and operation of the field
27 offices; prescribing minimum elements of the
28 plan; amending s. 288.1252, F.S.; revising a
29 deadline relating to appointment of members of
30 the Florida Film and Entertainment Advisory
31 Council; revising the composition of council

1 members; prohibiting certain individuals from
2 serving as members of the council; requiring
3 the Office of Film and Entertainment to
4 maintain a directory of potential council
5 members; providing legislative findings
6 regarding state, regional, and local efforts to
7 develop the entertainment industry; requiring a
8 performance evaluation of local and regional
9 efforts; prescribing minimum elements of the
10 evaluation; repealing s. 212.08(5)(f), F.S.,
11 which provides for a sales and use tax
12 exemption for certain motion picture or video
13 equipment used in motion picture or television
14 production activities and sound recording
15 equipment used in the production of master
16 tapes and master records; repealing s.
17 212.08(12), F.S., which provides for a partial
18 sales and use tax exemption for master tapes,
19 records, films, or videotapes; repealing s.
20 213.053(7)(t), F.S., which provides for the
21 sharing of certain tax information by the
22 Department of Revenue with the Office of Film
23 and Entertainment; repealing s. 288.1258, F.S.,
24 which provides for the application and approval
25 of entertainment industry production companies
26 to receive a sales and use tax certificate of
27 exemption; providing for the expiration of
28 terms of members of the Florida Film and
29 Entertainment Advisory Council; expressing
30 legislative intent for new appointments to the
31 council; authorizing reappointment to the

1 council; providing for the effect of prior
2 service on the council; providing for an
3 evaluation report from OPPAGA; creating the
4 Florida Film Finance Act; providing a short
5 title; prescribing the purpose of the act;
6 defining terms; creating the Florida Film
7 Finance Corporation; providing for the purpose,
8 membership, and powers of the corporation;
9 authorizing a credit against premium tax
10 liability for certain insurance companies that
11 make investments in the corporation; providing
12 for annual limits on the amount of tax credits;
13 providing for applications for financing from
14 the corporation for qualified film projects;
15 providing for application procedures,
16 eligibility requirements, and evaluation
17 criteria; requiring an agreement between the
18 corporation and an applicant approved for film
19 financing; providing for distribution of funds
20 to qualified investors in the corporation;
21 requiring an annual report from the
22 corporation; providing for transferability of
23 credits against premium tax liability;
24 providing rulemaking authority; providing for
25 an expiration date and legislative review;
26 providing effective dates.

27
28 Be It Enacted by the Legislature of the State of Florida:
29

30 Section 1. Paragraph (a) of subsection (1) of section
31 212.031, Florida Statutes, is amended to read:

1 212.031 Lease or rental of or license in real
2 property.--

3 (1)

4 (a) It is declared to be the legislative intent that
5 every person is exercising a taxable privilege who engages in
6 the business of renting, leasing, letting, or granting a
7 license for the use of any real property unless such property
8 is:

9 1. Assessed as agricultural property under s. 193.461.

10 2. Used exclusively as dwelling units.

11 3. Property subject to tax on parking, docking, or
12 storage spaces under s. 212.03(6).

13 4. Recreational property or the common elements of a
14 condominium when subject to a lease between the developer or
15 owner thereof and the condominium association in its own right
16 or as agent for the owners of individual condominium units or
17 the owners of individual condominium units. However, only the
18 lease payments on such property shall be exempt from the tax
19 imposed by this chapter, and any other use made by the owner
20 or the condominium association shall be fully taxable under
21 this chapter.

22 5. A public or private street or right-of-way and
23 poles, conduits, fixtures, and similar improvements located on
24 such streets or rights-of-way, occupied or used by a utility
25 or provider of communications services, as defined by s.
26 202.11, for utility or communications or television purposes.
27 For purposes of this subparagraph, the term "utility" means
28 any person providing utility services as defined in s.
29 203.012. This exception also applies to property, wherever
30 located, on which the following are placed: towers, antennas,
31 cables, accessory structures, or equipment, not including

1 switching equipment, used in the provision of mobile
2 communications services as defined in s. 202.11. For purposes
3 of this chapter, towers used in the provision of mobile
4 communications services, as defined in s. 202.11, are
5 considered to be fixtures.

6 6. A public street or road which is used for
7 transportation purposes.

8 7. Property used at an airport exclusively for the
9 purpose of aircraft landing or aircraft taxiing or property
10 used by an airline for the purpose of loading or unloading
11 passengers or property onto or from aircraft or for fueling
12 aircraft.

13 8.a. Property used at a port authority, as defined in
14 s. 315.02(2), exclusively for the purpose of oceangoing
15 vessels or tugs docking, or such vessels mooring on property
16 used by a port authority for the purpose of loading or
17 unloading passengers or cargo onto or from such a vessel, or
18 property used at a port authority for fueling such vessels, or
19 to the extent that the amount paid for the use of any property
20 at the port is based on the charge for the amount of tonnage
21 actually imported or exported through the port by a tenant.

22 b. The amount charged for the use of any property at
23 the port in excess of the amount charged for tonnage actually
24 imported or exported shall remain subject to tax except as
25 provided in sub-subparagraph a.

26 ~~9. Property used as an integral part of the~~
27 ~~performance of qualified production services. As used in this~~
28 ~~subparagraph, the term "qualified production services" means~~
29 ~~any activity or service performed directly in connection with~~
30 ~~the production of a qualified motion picture, as defined in s.~~
31 ~~212.06(1)(b), and includes:~~

1 a. ~~Photography, sound and recording, casting, location~~
2 ~~managing and scouting, shooting, creation of special and~~
3 ~~optical effects, animation, adaptation (language, media,~~
4 ~~electronic, or otherwise), technological modifications,~~
5 ~~computer graphics, set and stage support (such as~~
6 ~~electricians, lighting designers and operators, greensmen,~~
7 ~~prop managers and assistants, and grips), wardrobe (design,~~
8 ~~preparation, and management), hair and makeup (design,~~
9 ~~production, and application), performing (such as acting,~~
10 ~~dancing, and playing), designing and executing stunts,~~
11 ~~coaching, consulting, writing, scoring, composing,~~
12 ~~choreographing, script supervising, directing, producing,~~
13 ~~transmitting dailies, dubbing, mixing, editing, cutting,~~
14 ~~looping, printing, processing, duplicating, storing, and~~
15 ~~distributing.~~

16 b. ~~The design, planning, engineering, construction,~~
17 ~~alteration, repair, and maintenance of real or personal~~
18 ~~property including stages, sets, props, models, paintings, and~~
19 ~~facilities principally required for the performance of those~~
20 ~~services listed in sub-subparagraph a. and~~

21 c. ~~Property management services directly related to~~
22 ~~property used in connection with the services described in~~
23 ~~sub-subparagraphs a. and b.~~

24
25 ~~This exemption will inure to the taxpayer upon presentation of~~
26 ~~the certificate of exemption issued to the taxpayer under the~~
27 ~~provisions of s. 288.1258.~~

28 9.10. ~~Leased, subleased, licensed, or rented to a~~
29 ~~person providing food and drink concessionaire services within~~
30 ~~the premises of a convention hall, exhibition hall,~~
31 ~~auditorium, stadium, theater, arena, civic center, performing~~

1 arts center, publicly owned recreational facility, or any
2 business operated under a permit issued pursuant to chapter
3 550. A person providing retail concessionaire services
4 involving the sale of food and drink or other tangible
5 personal property within the premises of an airport shall be
6 subject to tax on the rental of real property used for that
7 purpose, but shall not be subject to the tax on any license to
8 use the property. For purposes of this subparagraph, the term
9 "sale" shall not include the leasing of tangible personal
10 property.

11 10.11. Property occupied pursuant to an instrument
12 calling for payments which the department has declared, in a
13 Technical Assistance Advisement issued on or before March 15,
14 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c),
15 Florida Administrative Code; provided that this subparagraph
16 shall only apply to property occupied by the same person
17 before and after the execution of the subject instrument and
18 only to those payments made pursuant to such instrument,
19 exclusive of renewals and extensions thereof occurring after
20 March 15, 1993.

21 11.12. Rented, leased, subleased, or licensed to a
22 concessionaire by a convention hall, exhibition hall,
23 auditorium, stadium, theater, arena, civic center, performing
24 arts center, or publicly owned recreational facility, during
25 an event at the facility, to be used by the concessionaire to
26 sell souvenirs, novelties, or other event-related products.
27 This subparagraph applies only to that portion of the rental,
28 lease, or license payment which is based on a percentage of
29 sales and not based on a fixed price.

30 12.13. Property used or occupied predominantly for
31 space flight business purposes. As used in this subparagraph,

1 "space flight business" means the manufacturing, processing,
2 or assembly of a space facility, space propulsion system,
3 space vehicle, satellite, or station of any kind possessing
4 the capacity for space flight, as defined by s. 212.02(23), or
5 components thereof, and also means the following activities
6 supporting space flight: vehicle launch activities, flight
7 operations, ground control or ground support, and all
8 administrative activities directly related thereto. Property
9 shall be deemed to be used or occupied predominantly for space
10 flight business purposes if more than 50 percent of the
11 property, or improvements thereon, is used for one or more
12 space flight business purposes. Possession by a landlord,
13 lessor, or licensor of a signed written statement from the
14 tenant, lessee, or licensee claiming the exemption shall
15 relieve the landlord, lessor, or licensor from the
16 responsibility of collecting the tax, and the department shall
17 look solely to the tenant, lessee, or licensee for recovery of
18 such tax if it determines that the exemption was not
19 applicable.

20 Section 2. Effective July 1, 2003, paragraph (a) of
21 subsection (1) of section 212.031, Florida Statutes, as
22 amended by section 3 of chapter 2000-345 and section 27 of
23 chapter 2001-140, Laws of Florida, is amended to read:

24 212.031 Lease or rental of or license in real
25 property.--

26 (1)(a) It is declared to be the legislative intent
27 that every person is exercising a taxable privilege who
28 engages in the business of renting, leasing, letting, or
29 granting a license for the use of any real property unless
30 such property is:

31 1. Assessed as agricultural property under s. 193.461.

1 2. Used exclusively as dwelling units.

2 3. Property subject to tax on parking, docking, or
3 storage spaces under s. 212.03(6).

4 4. Recreational property or the common elements of a
5 condominium when subject to a lease between the developer or
6 owner thereof and the condominium association in its own right
7 or as agent for the owners of individual condominium units or
8 the owners of individual condominium units. However, only the
9 lease payments on such property shall be exempt from the tax
10 imposed by this chapter, and any other use made by the owner
11 or the condominium association shall be fully taxable under
12 this chapter.

13 5. A public or private street or right-of-way and
14 poles, conduits, fixtures, and similar improvements located on
15 such streets or rights-of-way, occupied or used by a utility
16 or provider of communications services, as defined by s.
17 202.11, for utility or communications or television purposes.
18 For purposes of this subparagraph, the term "utility" means
19 any person providing utility services as defined in s.
20 203.012. This exception also applies to property, wherever
21 located, on which the following are placed: towers, antennas,
22 cables, accessory structures, or equipment, not including
23 switching equipment, used in the provision of mobile
24 communications services as defined in s. 202.11. For purposes
25 of this chapter, towers used in the provision of mobile
26 communications services, as defined in s. 202.11, are
27 considered to be fixtures.

28 6. A public street or road which is used for
29 transportation purposes.

30 7. Property used at an airport exclusively for the
31 purpose of aircraft landing or aircraft taxiing or property

1 used by an airline for the purpose of loading or unloading
2 passengers or property onto or from aircraft or for fueling
3 aircraft.

4 8.a. Property used at a port authority, as defined in
5 s. 315.02(2), exclusively for the purpose of oceangoing
6 vessels or tugs docking, or such vessels mooring on property
7 used by a port authority for the purpose of loading or
8 unloading passengers or cargo onto or from such a vessel, or
9 property used at a port authority for fueling such vessels, or
10 to the extent that the amount paid for the use of any property
11 at the port is based on the charge for the amount of tonnage
12 actually imported or exported through the port by a tenant.

13 b. The amount charged for the use of any property at
14 the port in excess of the amount charged for tonnage actually
15 imported or exported shall remain subject to tax except as
16 provided in sub-subparagraph a.

17 ~~9. Property used as an integral part of the~~
18 ~~performance of qualified production services. As used in this~~
19 ~~subparagraph, the term "qualified production services" means~~
20 ~~any activity or service performed directly in connection with~~
21 ~~the production of a qualified motion picture, as defined in s.~~
22 ~~212.06(1)(b), and includes:~~

23 ~~a. Photography, sound and recording, casting, location~~
24 ~~managing and scouting, shooting, creation of special and~~
25 ~~optical effects, animation, adaptation (language, media,~~
26 ~~electronic, or otherwise), technological modifications,~~
27 ~~computer graphics, set and stage support (such as~~
28 ~~electricians, lighting designers and operators, greensmen,~~
29 ~~prop managers and assistants, and grips), wardrobe (design,~~
30 ~~preparation, and management), hair and makeup (design,~~
31 ~~production, and application), performing (such as acting,~~

1 ~~dancing, and playing), designing and executing stunts,~~
2 ~~coaching, consulting, writing, scoring, composing,~~
3 ~~choreographing, script supervising, directing, producing,~~
4 ~~transmitting dailies, dubbing, mixing, editing, cutting,~~
5 ~~looping, printing, processing, duplicating, storing, and~~
6 ~~distributing;~~

7 ~~b. The design, planning, engineering, construction,~~
8 ~~alteration, repair, and maintenance of real or personal~~
9 ~~property including stages, sets, props, models, paintings, and~~
10 ~~facilities principally required for the performance of those~~
11 ~~services listed in sub-subparagraph a.; and~~

12 ~~c. Property management services directly related to~~
13 ~~property used in connection with the services described in~~
14 ~~sub-subparagraphs a. and b.~~

15
16 ~~This exemption will inure to the taxpayer upon presentation of~~
17 ~~the certificate of exemption issued to the taxpayer under the~~
18 ~~provisions of s. 288.1258.~~

19 ~~9.10.~~ 9.10. Leased, subleased, licensed, or rented to a
20 person providing food and drink concessionaire services within
21 the premises of a convention hall, exhibition hall,
22 auditorium, stadium, theater, arena, civic center, performing
23 arts center, publicly owned recreational facility, or any
24 business operated under a permit issued pursuant to chapter
25 550. A person providing retail concessionaire services
26 involving the sale of food and drink or other tangible
27 personal property within the premises of an airport shall be
28 subject to tax on the rental of real property used for that
29 purpose, but shall not be subject to the tax on any license to
30 use the property. For purposes of this subparagraph, the term

31

1 "sale" shall not include the leasing of tangible personal
2 property.

3 10.11. Property occupied pursuant to an instrument
4 calling for payments which the department has declared, in a
5 Technical Assistance Advisement issued on or before March 15,
6 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c),
7 Florida Administrative Code; provided that this subparagraph
8 shall only apply to property occupied by the same person
9 before and after the execution of the subject instrument and
10 only to those payments made pursuant to such instrument,
11 exclusive of renewals and extensions thereof occurring after
12 March 15, 1993.

13 11.12. Property used or occupied predominantly for
14 space flight business purposes. As used in this subparagraph,
15 "space flight business" means the manufacturing, processing,
16 or assembly of a space facility, space propulsion system,
17 space vehicle, satellite, or station of any kind possessing
18 the capacity for space flight, as defined by s. 212.02(23), or
19 components thereof, and also means the following activities
20 supporting space flight: vehicle launch activities, flight
21 operations, ground control or ground support, and all
22 administrative activities directly related thereto. Property
23 shall be deemed to be used or occupied predominantly for space
24 flight business purposes if more than 50 percent of the
25 property, or improvements thereon, is used for one or more
26 space flight business purposes. Possession by a landlord,
27 lessor, or licensor of a signed written statement from the
28 tenant, lessee, or licensee claiming the exemption shall
29 relieve the landlord, lessor, or licensor from the
30 responsibility of collecting the tax, and the department shall
31 look solely to the tenant, lessee, or licensee for recovery of

1 such tax if it determines that the exemption was not
2 applicable.

3 Section 3. Paragraph (b) of subsection (1) of section
4 212.06, Florida Statutes, is amended to read:

5 212.06 Sales, storage, use tax; collectible from
6 dealers; "dealer" defined; dealers to collect from purchasers;
7 legislative intent as to scope of tax.--

8 (1)

9 (b) Except as otherwise provided, any person who
10 manufactures, produces, compounds, processes, or fabricates in
11 any manner tangible personal property for his or her own use
12 shall pay a tax upon the cost of the product manufactured,
13 produced, compounded, processed, or fabricated without any
14 deduction therefrom on account of the cost of material used,
15 labor or service costs, or transportation charges,
16 notwithstanding the provisions of s. 212.02 defining "cost
17 price." However, the tax levied under this paragraph shall
18 not be imposed upon any person who manufactures or produces
19 electrical power or energy, steam energy, or other energy at a
20 single location, when such power or energy is used directly
21 and exclusively at such location, or at other locations if the
22 energy is transferred through facilities of the owner in the
23 operation of machinery or equipment that is used to
24 manufacture, process, compound, produce, fabricate, or prepare
25 for shipment tangible personal property for sale or to operate
26 pollution control equipment, maintenance equipment, or
27 monitoring or control equipment used in such operations. The
28 manufacture or production of electrical power or energy that
29 is used for space heating, lighting, office equipment, or
30 air-conditioning or any other nonmanufacturing, nonprocessing,
31 noncompounding, nonproducing, nonfabricating, or nonshipping

1 activity is taxable. Electrical power or energy consumed or
2 dissipated in the transmission or distribution of electrical
3 power or energy for resale is also not taxable. ~~Fabrication~~
4 ~~labor shall not be taxable when a person is using his or her~~
5 ~~own equipment and personnel, for his or her own account, as a~~
6 ~~producer, subproducer, or coproducer of a qualified motion~~
7 ~~picture. For purposes of this chapter, the term "qualified~~
8 ~~motion picture" means all or any part of a series of related~~
9 ~~images, either on film, tape, or other embodiment, including,~~
10 ~~but not limited to, all items comprising part of the original~~
11 ~~work and film-related products derived therefrom as well as~~
12 ~~duplicates and prints thereof and all sound recordings created~~
13 ~~to accompany a motion picture, which is produced, adapted, or~~
14 ~~altered for exploitation in, on, or through any medium or~~
15 ~~device and at any location, primarily for entertainment,~~
16 ~~commercial, industrial, or educational purposes. This~~
17 ~~exemption for fabrication labor associated with production of~~
18 ~~a qualified motion picture will inure to the taxpayer upon~~
19 ~~presentation of the certificate of exemption issued to the~~
20 ~~taxpayer under the provisions of s. 288.1258.~~A person who
21 manufactures factory-built buildings for his or her own use in
22 the performance of contracts for the construction or
23 improvement of real property shall pay a tax only upon the
24 person's cost price of items used in the manufacture of such
25 buildings.

26 Section 4. Paragraph (d) of subsection (6) of section
27 212.20, Florida Statutes, is amended to read:

28 212.20 Funds collected, disposition; additional powers
29 of department; operational expense; refund of taxes
30 adjudicated unconstitutionally collected.--

31

1 (6) Distribution of all proceeds under this chapter
2 and s. 202.18(1)(b) and (2)(b) shall be as follows:

3 (d) The proceeds of all other taxes and fees imposed
4 pursuant to this chapter or remitted pursuant to s.

5 202.18(1)(b) and (2)(b) shall be distributed as follows:

6 1. In any fiscal year, the greater of \$500 million,
7 minus an amount equal to 4.6 percent of the proceeds of the
8 taxes collected pursuant to chapter 201, or 5 percent of all
9 other taxes and fees imposed pursuant to this chapter or
10 remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be
11 deposited in monthly installments into the General Revenue
12 Fund.

13 2. Two-tenths of one percent shall be transferred to
14 the Solid Waste Management Trust Fund.

15 3. After the distribution under subparagraphs 1. and
16 2., 9.653 percent of the amount remitted by a sales tax dealer
17 located within a participating county pursuant to s. 218.61
18 shall be transferred into the Local Government Half-cent Sales
19 Tax Clearing Trust Fund.

20 4. After the distribution under subparagraphs 1., 2.,
21 and 3., 0.065 percent shall be transferred to the Local
22 Government Half-cent Sales Tax Clearing Trust Fund and
23 distributed pursuant to s. 218.65.

24 5. For proceeds received after July 1, 2000, and after
25 the distributions under subparagraphs 1., 2., 3., and 4., 2.25
26 percent of the available proceeds pursuant to this paragraph
27 shall be transferred monthly to the Revenue Sharing Trust Fund
28 for Counties pursuant to s. 218.215.

29 6. For proceeds received after July 1, 2000, and after
30 the distributions under subparagraphs 1., 2., 3., and 4.,
31 1.0715 percent of the available proceeds pursuant to this

1 paragraph shall be transferred monthly to the Revenue Sharing
2 Trust Fund for Municipalities pursuant to s. 218.215. If the
3 total revenue to be distributed pursuant to this subparagraph
4 is at least as great as the amount due from the Revenue
5 Sharing Trust Fund for Municipalities and the Municipal
6 Financial Assistance Trust Fund in state fiscal year
7 1999-2000, no municipality shall receive less than the amount
8 due from the Revenue Sharing Trust Fund for Municipalities and
9 the Municipal Financial Assistance Trust Fund in state fiscal
10 year 1999-2000. If the total proceeds to be distributed are
11 less than the amount received in combination from the Revenue
12 Sharing Trust Fund for Municipalities and the Municipal
13 Financial Assistance Trust Fund in state fiscal year
14 1999-2000, each municipality shall receive an amount
15 proportionate to the amount it was due in state fiscal year
16 1999-2000.

17 7. Of the remaining proceeds:

18 a. Beginning July 1, 2000, and in each fiscal year
19 thereafter, the sum of \$29,915,500 shall be divided into as
20 many equal parts as there are counties in the state, and one
21 part shall be distributed to each county. The distribution
22 among the several counties shall begin each fiscal year on or
23 before January 5th and shall continue monthly for a total of 4
24 months. If a local or special law required that any moneys
25 accruing to a county in fiscal year 1999-2000 under the
26 then-existing provisions of s. 550.135 be paid directly to the
27 district school board, special district, or a municipal
28 government, such payment shall continue until such time that
29 the local or special law is amended or repealed. The state
30 covenants with holders of bonds or other instruments of
31 indebtedness issued by local governments, special districts,

1 or district school boards prior to July 1, 2000, that it is
2 not the intent of this subparagraph to adversely affect the
3 rights of those holders or relieve local governments, special
4 districts, or district school boards of the duty to meet their
5 obligations as a result of previous pledges or assignments or
6 trusts entered into which obligated funds received from the
7 distribution to county governments under then-existing s.
8 550.135. This distribution specifically is in lieu of funds
9 distributed under s. 550.135 prior to July 1, 2000.

10 b. The department shall distribute \$166,667 monthly
11 pursuant to s. 288.1162 to each applicant that has been
12 certified as a "facility for a new professional sports
13 franchise" or a "facility for a retained professional sports
14 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be
15 distributed monthly by the department to each applicant that
16 has been certified as a "facility for a retained spring
17 training franchise" pursuant to s. 288.1162; however, not more
18 than \$208,335 may be distributed monthly in the aggregate to
19 all certified facilities for a retained spring training
20 franchise. Distributions shall begin 60 days following such
21 certification and shall continue for not more than 30 years.
22 Nothing contained in this paragraph shall be construed to
23 allow an applicant certified pursuant to s. 288.1162 to
24 receive more in distributions than actually expended by the
25 applicant for the public purposes provided for in s.
26 288.1162(6). However, a certified applicant is entitled to
27 receive distributions up to the maximum amount allowable and
28 undistributed under this section for additional renovations
29 and improvements to the facility for the franchise without
30 additional certification.

31

1 c. Beginning 30 days after notice by the Office of
2 Tourism, Trade, and Economic Development to the Department of
3 Revenue that an applicant has been certified as the
4 professional golf hall of fame pursuant to s. 288.1168 and is
5 open to the public, \$166,667 shall be distributed monthly, for
6 up to 300 months, to the applicant.

7 d. Beginning 30 days after notice by the Office of
8 Tourism, Trade, and Economic Development to the Department of
9 Revenue that the applicant has been certified as the
10 International Game Fish Association World Center facility
11 pursuant to s. 288.1169, and the facility is open to the
12 public, \$83,333 shall be distributed monthly, for up to 168
13 months, to the applicant. This distribution is subject to
14 reduction pursuant to s. 288.1169. A lump sum payment of
15 \$999,996 shall be made, after certification and before July 1,
16 2000.

17 e. An amount equal to \$5 million shall be transferred
18 each fiscal year to the Florida Entertainment Industry
19 Promotion Trust Fund.

20 8. All other proceeds shall remain with the General
21 Revenue Fund.

22 Section 5. Subsection (1) of section 288.1251, Florida
23 Statutes, is amended, and paragraph (c) is added to subsection
24 (2) of that section to read:

25 288.1251 Promotion and development of entertainment
26 industry; Office of Film and Entertainment; creation; purpose;
27 powers and duties.--

28 (1) CREATION.--

29 (a) There is hereby created within the Office of
30 Tourism, Trade, and Economic Development the Office of Film
31 and Entertainment for the purpose of developing, marketing,

1 promoting, and providing services to the state's entertainment
2 industry. A principal purpose of the office is to foster
3 infrastructure, workforce, and capital capacity necessary to
4 create, locate, grow, and sustain entertainment-industry
5 businesses in the state.

6 (b) The Office of Tourism, Trade, and Economic
7 Development shall conduct a national search for a qualified
8 person to fill the position of Commissioner of Film and
9 Entertainment, and the Executive Director of the Office of
10 Tourism, Trade, and Economic Development shall hire the
11 Commissioner of Film and Entertainment. Guidelines for
12 selection of the Commissioner of Film and Entertainment shall
13 include, but not be limited to, the Commissioner of Film and
14 Entertainment having the following:

15 1. A working knowledge of the equipment, personnel,
16 financial, and day-to-day production operations of the
17 industries to be served by the office;

18 2. Marketing and promotion experience related to the
19 industries to be served by the office;

20 3. Experience working with a variety of individuals
21 representing large and small entertainment-related businesses,
22 industry associations, local community entertainment industry
23 liaisons, and labor organizations; and

24 4. Experience working with a variety of state and
25 local governmental agencies.

26 (c) Within the organizational structure of the Office
27 of Film and Entertainment there is created a separate unit
28 focused on the film and motion picture segment of the
29 entertainment industry and a separate unit focused on
30 television production. The Commissioner of Film and
31 Entertainment shall appoint, and serve as the supervisor of, a

1 Deputy Commissioner of Film and Entertainment for the film and
2 motion picture unit and a separate Deputy Commissioner of Film
3 and Entertainment for the television production unit.

4 (2) POWERS AND DUTIES.--

5 (c) The Office of Film and Entertainment, subject to
6 specific legislative appropriation, shall establish field
7 offices in regions of the state.

8 1. The purpose of these field offices is to:

9 a. Assist the Office of Film and Entertainment in
10 delivering a consistent marketing and promotion message and a
11 consistent level of services to the entertainment industry.

12 b. Coordinate with local governmental agencies, local
13 film commission offices, labor organizations, and similar
14 local or regional organizations and entities whose activities
15 affect the entertainment industry.

16 c. Provide local-level assistance on behalf of the
17 state to out-of-state and indigenous entertainment-industry
18 production entities.

19 d. Monitor the performance of local film commission
20 offices and, based upon such monitoring, make recommendations
21 through the Commissioner of Film and Entertainment to the
22 Governor, the Legislature, and local governments on how to
23 enhance the effectiveness and coordination of state, regional,
24 and local efforts to develop, market, promote, and provide
25 services to the entertainment industry.

26 2. The Commissioner of Film and Entertainment may hire
27 staff to operate the field offices, which staff shall report
28 to and be supervised by the commissioner.

29 3. Before January 1, 2003, the Office of Film and
30 Entertainment shall submit to the Governor and the Legislature
31 a plan for the establishment and operation of field offices

1 under this paragraph. The office shall develop the plan in
2 consultation with the Florida Film and Entertainment Advisory
3 Council created under s. 288.1252, and the plan, at a minimum,
4 must:

5 a. Identify the regions and specific communities of
6 the state in which the Office of Film and Entertainment
7 recommends that field offices be located.

8 b. Specify a timeline for the establishment of field
9 offices.

10 c. Describe how the field offices will operate,
11 including their personnel structure, and how the Commissioner
12 of Film and Entertainment will supervise the operation of the
13 field offices.

14 d. Recommend an annual level of funding and staffing
15 necessary to operate field offices, with alternative funding
16 and staffing levels based upon the number and location of such
17 field offices and a timeline for establishment of such field
18 offices.

19 e. Prescribe performance standards and measurable
20 outcomes for the field offices.

21 Section 6. Subsection (3) of section 288.1252, Florida
22 Statutes, is amended to read:

23 288.1252 Florida Film and Entertainment Advisory
24 Council; creation; purpose; membership; powers and duties.--

25 (3) MEMBERSHIP.--

26 (a) The council shall consist of 17 members, seven to
27 be appointed by the Governor, five to be appointed by the
28 President of the Senate, and five to be appointed by the
29 Speaker of the House of Representatives, with the initial
30 appointments being made no later than August 1, 2002 ~~1999~~.

31

1 (b) When making appointments to the council, the
2 Governor, the President of the Senate, and the Speaker of the
3 House of Representatives shall appoint persons who are
4 ~~residents of the state and who are~~ highly knowledgeable of,
5 active in, and recognized leaders in the Florida's motion
6 picture, television, video, sound recording, or other
7 entertainment industries. These persons shall include, but not
8 be limited to, ~~representatives of local film commissions,~~
9 representatives of entertainment associations, a
10 representative of the broadcast industry, ~~representatives of~~
11 ~~labor organizations in the entertainment industry,~~ and board
12 chairs, presidents, chief executive officers, chief operating
13 officers, or persons of comparable executive position or
14 stature of leading or otherwise important entertainment
15 industry businesses and offices. The membership of the council
16 may not include a representative of a local film commission, a
17 representative of a labor organization in the entertainment
18 industry, or an elected public official. Council members shall
19 be appointed in such a manner as to equitably represent the
20 broadest spectrum of the entertainment industry. The Office of
21 Film and Entertainment shall develop and maintain a directory
22 of individuals who have the requisite entertainment-industry
23 expertise and who have a desire to serve on the council. The
24 office shall provide this information to the Governor, the
25 President of the Senate, and the Speaker of the House of
26 Representatives for their consideration in making appointments
27 to the council.~~and geographic areas of the state.~~

28 (c) Council members shall serve for 4-year terms,
29 except that the initial terms for appointments made after July
30 1, 2002, shall be staggered:
31

1 1. The Governor shall appoint one member for a 1-year
2 term, two members for 2-year terms, two members for 3-year
3 terms, and two members for 4-year terms.

4 2. The President of the Senate shall appoint one
5 member for a 1-year term, one member for a 2-year term, two
6 members for 3-year terms, and one member for a 4-year term.

7 3. The Speaker of the House of Representatives shall
8 appoint one member for a 1-year term, one member for a 2-year
9 term, two members for 3-year terms, and one member for a
10 4-year term.

11 (d) Subsequent appointments shall be made by the
12 official who appointed the council member whose expired term
13 is to be filled.

14 (e) The Commissioner of Film and Entertainment, a
15 representative of Enterprise Florida, Inc., a representative
16 of Workforce Florida, Inc., and a representative of the
17 Florida Tourism Industry Marketing Corporation shall serve as
18 ex officio, nonvoting members of the council, and shall be in
19 addition to the 17 appointed members of the council.

20 (f) Absence from three consecutive meetings shall
21 result in automatic removal from the council.

22 (g) A vacancy on the council shall be filled for the
23 remainder of the unexpired term by the official who appointed
24 the vacating member.

25 (h) No more than one member of the council may be an
26 employee of any one company, organization, or association.

27 (i) Any member shall be eligible for reappointment but
28 may not serve more than two consecutive terms.

29 Section 7. (1) The Legislature finds that there are a
30 variety of public and private organizations or entities at the
31 local and regional levels engaged in efforts to develop,

1 market, promote, and provide services to the entertainment
2 industry. Simultaneously, the Legislature recognizes that it
3 has assigned to the Office of Film and Entertainment within
4 the Office of Tourism, Trade, and Economic Development powers
5 and duties to foster the growth of the entertainment industry
6 throughout the state. The Legislature further finds that in
7 order to avoid duplication between local and regional efforts
8 and state efforts and in order to avoid the communication of
9 conflicting or confusing messages to out-of-state or
10 indigenous entertainment-industry entities regarding the state
11 as a location for conducting business, it is necessary to
12 examine local and regional entertainment-industry-development
13 efforts vis-a-vis comparable efforts by the state.

14 (2) Before December 1, 2002, the Legislature's Office
15 of Program Policy Analysis and Government Accountability shall
16 submit to the President of the Senate and the Speaker of the
17 House of Representatives an evaluation of the performance of
18 local and regional efforts to develop, market, promote, and
19 provide services to the entertainment industry, with a
20 particular focus on the interrelationship between local and
21 regional efforts and comparable efforts by the state. At the
22 minimum, the evaluation must:

23 (a) Describe the organizational structures, funding
24 levels, operations, and performance outcomes of local and
25 regional organizations or entities engaged in
26 entertainment-industry development, including, but not limited
27 to, local or regional film commission offices.

28 (b) Assess the extent to which local and regional
29 entertainment-industry-development efforts are being
30 coordinated with the efforts of the state Office of Film and
31 Entertainment.

1 (c) Provide recommendations regarding the appropriate
2 roles and functions of local and regional
3 entertainment-industry-development organizations or entities
4 vis-a-vis the Office of Film and Entertainment.

5 (d) Provide recommendations regarding whether it would
6 be sound public policy for the state to establish and operate
7 field offices in regions of the state to assist the Office of
8 Film and Entertainment in fulfilling its duties under section
9 288.1251, Florida Statutes, and to enhance the delivery of
10 services to the entertainment industry.

11 Section 8. Paragraph (f) of subsection (5) and
12 subsection (12) of section 212.08, paragraph (t) of subsection
13 (7) of section 213.053, and section 288.1258, Florida
14 Statutes, are repealed.

15 Section 9. Notwithstanding section 288.1252, Florida
16 Statutes, the terms of all members of the Florida Film and
17 Entertainment Advisory Council expire on July 1, 2002. It is
18 the intent of the Legislature that the Governor, the President
19 of the Senate, and the Speaker of the House of Representatives
20 make new appointments to the council no later than August 1,
21 2002, as provided in section 288.1252, Florida Statutes, as
22 amended by this act. This act, however, does not prevent an
23 individual who is a member of the council as of June 30, 2002,
24 and who is otherwise eligible under the criteria prescribed in
25 section 288.1252, Florida Statutes, as amended by this act,
26 from being reappointed to the council. Service on the council
27 before July 1, 2002, may not be counted for the purpose of
28 determining whether a member of the council has served more
29 than two consecutive terms under section 288.1252(3)(i),
30 Florida Statutes.

31 Section 10. Florida Film Finance Act.--

1 (1) SHORT TITLE.--This section may be cited as the
2 "Florida Film Finance Act."

3 (2) PURPOSE.--The primary purpose of this act is to
4 stimulate a substantial increase in investment capital in this
5 state toward development of the entertainment industry by
6 providing an incentive for insurance companies to invest in
7 the Florida Film Finance Corporation, which, in turn, will
8 make investments in qualified film projects. The incentive is
9 a vested credit against premium tax liability and serves as a
10 guarantee of last resort that the insurance company will
11 recover its investment. The increase in investment capital
12 flowing into qualified film projects is intended to contribute
13 to employment growth, create jobs that exceed the average wage
14 for the county in which the jobs are created, and expand or
15 diversify the economic base of this state, including fostering
16 continued growth of the entertainment industry and related
17 business activity. The granting of a credit against premium
18 tax liability as authorized in this section does not
19 constitute a pledge of the credit of the state. Under no
20 circumstance is the credit of the state pledged under this
21 act.

22 (3) DEFINITIONS.--As used in this section, the term:

23 (a) "Act" means the "Florida Film Finance Act."

24 (b) "Affiliate of an insurance company" means:

25 1. Any person directly or indirectly beneficially
26 owning, whether through rights, options, convertible
27 interests, or otherwise, controlling, or holding power to vote
28 10 percent or more of the outstanding voting securities or
29 other ownership interests of the insurance company;

30 2. Any person whose 10 percent or more of outstanding
31 voting securities or other ownership interest is directly or

1 indirectly beneficially owned, whether through rights,
2 options, convertible interests, or otherwise, controlled, or
3 held with power to vote by the insurance company;

4 3. Any person directly or indirectly controlling,
5 controlled by, or under common control with the insurance
6 company;

7 4. A partnership in which the insurance company is a
8 general partner; or

9 5. Any person who is a principal, director, employee,
10 or agent of the insurance company or an immediate family
11 member of the principal, director, employee, or agent.

12 (c) "Applicant" means a film-production company that
13 is organized under the laws of this state, is headquartered in
14 this state, has its principal business operations in this
15 state, and is seeking a qualified investment from the Florida
16 Film Finance Corporation.

17 (d) "Certified capital" means an investment of cash by
18 a certified investor in the Florida Film Finance Corporation
19 which fully funds the purchase price of either or both its
20 equity interest in the corporation or a qualified debt
21 instrument issued by the corporation.

22 (e) "Certified investor" means any insurance company
23 subject to premium tax liability under section 624.509,
24 Florida Statutes, that contributes certified capital.

25 (f) "Corporation" means the Florida Film Finance
26 Corporation.

27 (g) "Department" means the Department of Banking and
28 Finance.

29 (h) "Director" means the director of the Office of
30 Tourism, Trade, and Economic Development.

31

1 (i) "Office" means the Office of Tourism, Trade, and
2 Economic Development.

3 (j) "Premium tax liability" means any liability
4 incurred by an insurance company under the provisions of
5 section 624.509, Florida Statutes.

6 (k) "Principal" means an executive officer of a
7 corporation, partner of a partnership, manager of a limited
8 liability company, or any other person with equivalent
9 executive functions.

10 (l) "Qualified distribution" means any distribution or
11 payment to equity holders of the corporation for:

12 1. Costs and expenses of forming, syndicating,
13 managing, and operating the corporation, including an annual
14 management fee in an amount that does not exceed 2.5 percent
15 of the certified capital of the corporation, plus reasonable
16 and necessary fees related to the operation of the corporation
17 in accordance with industry custom for professional services,
18 including, but not limited to, legal and accounting services.

19 2. Any projected increase in federal or state taxes,
20 including penalties and interest related to state and federal
21 income taxes, of the equity owners of the corporation
22 resulting from the earnings or other tax liability of the
23 corporation to the extent that the increase is related to the
24 ownership, management, or operation of the corporation.

25 (m) "Qualified film project" means a film project that
26 has been approved by the Florida Film Finance Corporation to
27 receive funding under the provisions of this section.

28 (n) "Qualified investment" means the investment of
29 cash by the Florida Film Finance Corporation in a qualified
30 film project.

31

1 (4) FLORIDA FILM FINANCE CORPORATION; CREATION;
2 PURPOSE; MEMBERSHIP; POWERS.--

3 (a) There is created a not-for-profit corporation, to
4 be known as the "Florida Film Finance Corporation," which is
5 registered, incorporated, organized, and operated in
6 compliance with chapter 617, Florida Statutes, and which is
7 not a unit or entity of state government. The Legislature
8 determines, however, that public policy declares that the
9 corporation operate in the most open and accessible manner
10 consistent with its public purpose. To this end, the
11 Legislature specifically declares that the Florida Film
12 Finance Corporation is subject to provisions of chapter 119,
13 Florida Statutes, relating to public records and those
14 provisions of chapter 286, Florida Statutes, relating to public
15 meetings and records, unless specifically provided otherwise
16 by an exemption to the public records or public meetings laws
17 of this state.

18 (b) The purposes of the corporation include, but are
19 not limited to:

20 1. Promoting the act, in cooperation with the Office
21 of Film and Entertainment, to certified investors and to
22 film-production companies.

23 2. Receiving contributions of certified capital from
24 certified investors and executing contracts with certified
25 investors governing the terms and conditions of the
26 contributions.

27 3. Receiving, reviewing, and approving applications
28 for funding of qualified film projects from film-production
29 companies.

30
31

1 4. Executing contracts with applicants relating to
2 qualified film projects that are approved for funding, which
3 contracts govern the terms and conditions of the funding.

4 (c) The Florida Film Finance Corporation shall be
5 governed by a board of directors, which consists of nine
6 members, five of whom the Governor shall appoint, two of whom
7 the President of the Senate shall appoint, and two of whom the
8 Speaker of the House of Representatives shall appoint.

9 1. Each member of the board of directors must be
10 experienced in film production, and at least six of the
11 members must be experienced in film-production financing or
12 film distribution.

13 2. In order to assure that the board of directors has
14 the requisite film experience, all members need not be
15 residents of this state; however, at least four members must
16 reside in this state. The Office of Film and Entertainment
17 shall develop and maintain a directory of individuals who have
18 the requisite entertainment-industry expertise and who have a
19 desire to serve on the board of directors of the corporation.
20 The office shall provide this information to the Governor, the
21 President of the Senate, and the Speaker of the House of
22 Representatives for their consideration in making appointments
23 to the board of directors.

24 3. Members shall serve terms of 4 years, except that
25 the initial terms shall be staggered:

26 a. The Governor shall appoint one member for a 1-year
27 term, one member for a 2-year term, one member for a 3-year
28 term, and two members for a 4-year term.

29 b. The President of the Senate shall appoint one
30 member for a 3-year term and one member for a 4-year term.

31

1 c. The Speaker of the House of Representatives shall
2 appoint one member for a 3-year term and one member for a
3 4-year term.

4 4. Absence from three consecutive meetings will result
5 in automatic removal from the board of directors.

6 5. Except as provided in subparagraph 7., a member of
7 the Florida Film and Entertainment Advisory Council created
8 under section 288.1252, Florida Statutes, may not be appointed
9 a member of the board of directors of the Florida Film Finance
10 Corporation. A member of the board of directors of the
11 corporation may not serve on the advisory council.

12 6. Subsequent appointments shall be made by the
13 official who appointed the board member whose term is to be
14 filled. Any person appointed to fill a vacancy on the board
15 shall be appointed in a like manner as the initial appointment
16 and shall serve for only the unexpired term. Any member is
17 eligible for reappointment.

18 7. The director of the Office of Tourism, Trade, and
19 Economic Development, or the director's designee, and the
20 Commissioner of Film and Entertainment shall serve as
21 ex-officio, nonvoting members of the board of directors and
22 are in addition to the nine appointed members of the council.

23 8. Members of the board of directors shall serve
24 without compensation but are entitled to reimbursement for per
25 diem and travel expenses in accordance with section 112.061,
26 Florida Statutes, while in the performance of their duties.

27 9. The Governor shall appoint the chairperson of the
28 board of directors, who shall be a member of the board of
29 directors. The members of the board of directors shall elect
30 annually one of the members to serve as vice chairperson.

31

1 10. A majority of the members of the board of
2 directors constitute a quorum.

3 (d) The Office of Tourism, Trade, and Economic
4 Development, in consultation with the department, shall enter
5 into and oversee a contract with the corporation governing the
6 corporation's administration of the act. The Office of Film
7 and Entertainment shall provide staff assistance to the
8 corporation, which includes, but is not limited to, keeping
9 records of the proceedings of the board of directors and
10 servicing as custodian of all books, documents, and papers filed
11 with the board of directors.

12 (e) The board of directors has all the powers
13 necessary or convenient to carry out and effectuate the
14 purposes and provisions of this section, including, but not
15 limited to, the power to:

16 1. Adopt, amend, and repeal bylaws, not inconsistent
17 with the powers granted to it or the articles of
18 incorporation, for the administration of the affairs of the
19 corporation and the exercise of its corporate powers.

20 2. Adopt, use, and alter a common corporate seal.

21 3. Make and execute contracts and other instruments
22 necessary or convenient for the exercise of its power and
23 function.

24 4. Enter into agreements or other transactions with a
25 certified investor.

26 5. Acquire, hold, and dispose of personal property for
27 its corporate and investment purposes.

28 6. Solicit, request, and receive money, property,
29 labor, or other things of value from any public or private
30 sector source to be used and applied consistent with the
31 purposes of this act.

1 7. Expend or invest funds held in trust or otherwise
2 consistent with the purposes of this act.

3 8. Procure insurance or require bond against any loss
4 in connection with its property in such amounts and from such
5 insurers as may be necessary or desirable.

6 9. Create, issue, hold, buy and sell, and invest in
7 stock, partnerships, limited partnerships, evidences of
8 indebtedness, and other equity or capital participation
9 instruments in furtherance of the purposes contained in this
10 section and to underwrite the creation of a capital market for
11 these securities in a manner designed to enhance development
12 of film production in this state.

13 10. Invest any funds not required for immediate
14 disbursements in such investments as may be authorized under
15 this act.

16 11. Appear on its own behalf before boards,
17 commissions, departments, or other agencies of municipal,
18 county, state, or Federal Government.

19 12. Receive and accept from any federal, state, or
20 local agency grants, loans, or advances for or in aid of the
21 purposes of this act, and to receive and accept contributions
22 from any source of either money, property, labor, or other
23 things of value to be held, used, and applied for those
24 purposes.

25 13. Do any and all things necessary or convenient to
26 carry out the purposes of and exercise the powers given and
27 granted in this act.

28 (5) PREMIUM TAX CREDIT; AMOUNT; LIMITATIONS.--

29 (a) Any certified investor who makes an investment of
30 certified capital in the Florida Film Finance Corporation
31 shall earn a vested credit against premium tax liability equal

1 to the percentage of the certified capital invested by the
2 certified investor which serves as the basis for the credit
3 and which has not been reimbursed through disbursements from
4 the corporation. The tax credit may not exceed an amount equal
5 to 100 percent of the certified capital invested by the
6 certified investor. Certified investors are entitled to use no
7 more than 10 percentage points of the vested premium tax
8 credit per year, including any carryforward credits under this
9 act, beginning with premium tax filings for the fourth
10 calendar year after the date the certified investor makes the
11 investment of certified capital, as provided in subsection
12 (6). Any premium tax credits not used by certified investors
13 in any single year may be carried forward and applied against
14 the premium tax liabilities of those investors for subsequent
15 calendar years. The carryforward credit may be applied
16 against subsequent premium tax filings through calendar year
17 2020.

18 (b) Beginning with the fourth year after the date of
19 its investment of certified capital in the Florida Film
20 Finance Corporation, a certified investor may claim the credit
21 against premium tax liability based on that investment of
22 certified capital, consistent with the provisions of paragraph
23 (a). The total amount of the credit available to the certified
24 investor is equal to the amount of the specific investment of
25 certified capital that has not been returned to the certified
26 investor through distributions from the Florida Film Finance
27 Corporation under subsection (9).

28 (c) The credit to be applied against premium tax
29 liability in any single year may not exceed the premium tax
30 liability of the certified investor for that taxable year.

31

1 (d) A certified investor claiming a credit against
2 premium tax liability earned through an investment in the
3 Florida Film Finance Corporation is not required to pay any
4 additional retaliatory tax levied pursuant to section
5 624.5091, Florida Statutes, as a result of claiming the
6 credit. Because credits under this section are available to a
7 certified investor, section 624.5091, Florida Statutes, does
8 not limit the credit in any manner.

9 (e) The amount of tax credits vested under the Florida
10 Film Finance Act may not be considered in ratemaking
11 proceedings involving a certified investor.

12 (6) ANNUAL TAX CREDIT; MAXIMUM AMOUNT; ALLOCATION
13 PROCESS.--

14 (a) The total amount of vested credits against premium
15 tax liability which may be allocated to the Florida Film
16 Finance Corporation for use by certified investors may not
17 exceed \$100 million per year. The total amount of tax credits
18 that may be claimed by certified investors under this act may
19 not exceed \$10 million annually.

20 (b) The Florida Film Finance Corporation must apply to
21 the office for an allocation of premium tax credits for
22 potential certified investors by October 1 of each year, on a
23 form developed by the office in consultation with the
24 department and the Department of Revenue. The form must be
25 accompanied by an affidavit from each potential certified
26 investor confirming that the potential certified investor has
27 agreed to make an investment of certified capital in the
28 corporation up to a specified amount, subject only to the
29 receipt of a vested premium tax credit under this subsection.

30 (c) If the corporation does not receive certified
31 capital equaling the amount of premium tax credits allocated

1 to a potential certified investor for which the investor filed
2 an affidavit under paragraph (b) within 10 business days after
3 the certified investor received a notice from the corporation
4 of the allocation, the corporation shall notify the office by
5 overnight common carrier delivery service of the corporation's
6 failure to receive the capital. That portion of the premium
7 tax credits allocated to the corporation are forfeited.

8 (d) The maximum amount of certified capital for which
9 premium tax allocation claims may be filed on behalf of any
10 certified investor and its affiliates by the corporation may
11 not exceed \$10 million.

12 (e) To the extent that less than \$100 million in
13 certified capital is raised in connection with the procedure
14 set forth in this subsection for a given year, the department
15 may adopt rules to allow a subsequent allocation of the
16 remaining premium tax credits authorized under this section
17 for that year.

18 (f) On an annual basis, on or before December 31, the
19 corporation shall file with the department and the office, in
20 consultation with the department, on a form prescribed by the
21 office, for each calendar year:

22 1. The total dollar amount the certified capital
23 company received from certified investors, the identity of the
24 certified investors, and the amount received from each
25 certified investor during the calendar year.

26 2. The total dollar amount the corporation invested
27 and the amount invested in qualified film projects, together
28 with the identity and location of the applicants and the
29 amount invested in each qualified film project.

30 3. For informational purposes only, the total number
31 of permanent, full-time jobs either created or retained

1 through the qualified film project during the calendar year,
2 the average wage of the jobs created or retained, and any
3 additional capital invested in qualified film projects from
4 sources other than the corporation.

5 (g) The form shall be verified by one or more
6 principals of the corporation in accordance with sections
7 92.525(1)(b) and 92.525(3), Florida Statutes.

8 (h) The office shall review the form and any
9 supplemental documentation submitted by the corporation for
10 the purpose of verifying:

11 1. That the film projects in which certified capital
12 has been invested by the corporation are in fact qualified
13 film projects and that the amount of certified capital
14 invested by the corporation is as represented in the form.

15 2. The amount of certified capital invested in the
16 corporation by the certified investors.

17 3. The amount of premium tax credit available to
18 certified investors.

19 (i) The Department of Revenue may audit and examine
20 the accounts, books, or records of the corporation and
21 certified investors for the purpose of ascertaining the
22 correctness of any report and financial return that has been
23 filed.

24 (7) APPLICATION FOR INVESTMENT CAPITAL; APPROVAL.--

25 (a) The Florida Film Finance Corporation may accept
26 applications for funding of, and under this section approve
27 the investment of funds in, qualified film productions.

28 (b) The corporation shall issue guidelines and forms
29 governing the application process.

30
31

1 (c) In order for a film project to be eligible for
2 funding under this section, an applicant initially must
3 demonstrate to the satisfaction of the corporation that:

4 1. The applicant is headquartered in this state and
5 its principal business operations are located in this state.

6 2. The applicant is unable to obtain conventional
7 financing, which means that the business has failed in an
8 attempt to obtain funding for a loan from a bank or other
9 commercial lender or that the business cannot reasonably be
10 expected to qualify for financing under the standards of
11 commercial lending.

12 3. The primary producer or the secondary producer of
13 the film project is a resident of this state.

14 4. The primary production accounts for the film
15 project are maintained in a financial institution located in
16 this state.

17 5. The film project is the basis for a domestic
18 distribution agreement with a company that meets professional
19 standards for the entertainment industry which are acceptable
20 to the corporation.

21 6. The applicant has a commitment for exhibition of
22 the film.

23 7. At least 70 percent of the filming will occur in
24 this state, unless the applicant demonstrates to the
25 corporation that the applicant cannot satisfy this requirement
26 because of the particular subject matter and location needs of
27 the film.

28 8. At least 70 percent of the post-production work of
29 the film project will be conducted in this state.

30 (d) Drawing on the expertise and experience of the
31 members of the board of directors, the corporation shall adopt

1 evaluation criteria and scoring guidelines to be used in
2 reviewing applications that satisfy the requirements of
3 paragraph (c). The criteria and guidelines, at a minimum,
4 must:
5 1. Utilize a point system that requires each
6 application to score a minimum number of points and that
7 awards points to a film project if:
8 a. The director is a resident of the state.
9 b. The principal writer is a resident of the state.
10 c. The lead actor is a resident of the state.
11 d. A secondary or supporting actor is a resident of
12 the state.
13 e. The director of photography is a resident of the
14 state.
15 f. The first assistant director is a resident of the
16 state.
17 g. The production manager or line producer is a
18 resident of the state.
19 h. The insurance company insuring the film project is
20 based in this state.
21 i. The completion bond company for the film project is
22 based in this state.
23 j. The production company has been located in this
24 state for a period longer than 1 year at the time the
25 application is submitted.
26 k. The content of the film is expected to result in a
27 rating from the Motion Picture Association of America no
28 higher than PG-13, and the applicant agrees in writing to
29 re-edit the film if it is assigned a higher rating, in order
30 to secure a rating no higher than PG-13.
31

1 2. Provide that, under the point system, the
2 conditions specified in sub-subparagraphs 1.a.-d. shall result
3 in the highest number of points; the conditions specified in
4 sub-subparagraphs 1.e.-i. result in the second highest number
5 of points; and the conditions specified in sub-subparagraphs
6 1.j. and k. result in the lowest number of points.

7 (e) The corporation may invest a dollar amount up to
8 40 percent of the production budget of a qualified film
9 project. The investment may not exceed \$5 million per
10 qualified film project.

11 (f) Before the release of funds under this section,
12 the corporation and the applicant shall enter into an
13 agreement as provided in subsection (8).

14 (8) INVESTMENT CAPITAL AGREEMENT.--

15 (a) An applicant for whom a qualified film project is
16 approved for funding under this section must enter into a
17 written agreement with the Florida Film Finance Corporation
18 which, at a minimum, specifies that the corporation has a
19 right to have its qualified investment returned to it in full
20 by the qualified film project immediately after satisfaction
21 of project obligations related to the exhibition of the film,
22 the portion of the project budget commonly known as print and
23 advertisement, and fees for domestic distribution of the film.
24 Investments returned to the corporation by the qualified film
25 project shall be retained and segregated by the corporation
26 for distribution to certified investors as provided under
27 subsection (9). Any funds remaining after qualified investors
28 have been repaid may be used by the corporation to support
29 additional applications for funding under this section.

30 (b) As part of the agreement under this subsection,
31 the applicant must commit that, distinct from reimbursement of

1 the initial qualified investment as required under paragraph
2 (a), 40 percent of any profit from the qualified film project
3 shall be allocated to the corporation, for equal division
4 between the corporation and certified investors as provided
5 under subsection (9).

6 (9) DISTRIBUTIONS TO CERTIFIED INVESTORS.--

7 (a) The Florida Film Finance Corporation shall enter
8 into a standard agreement with each certified investor that
9 makes a contribution to the corporation governing the terms
10 and conditions of distributions to the certified investor
11 under this section. The agreement must provide for
12 distributions necessary to reimburse the certified investor
13 for its initial investment, as well as for the potential
14 distribution of profits allocated to the corporation and its
15 certified investors from qualified film projects in which the
16 corporation invests.

17 (b) The corporation may make qualified distributions
18 at any time. In order to make a distribution to its equity
19 holders, other than a qualified distribution, the corporation
20 must have invested an amount cumulatively equal to 100 percent
21 of its certified capital in qualified investments. Payments to
22 debt holders of the corporation, however, may be made without
23 restriction with respect to repayments of principal and
24 interest on indebtedness owed to them by the corporation,
25 including indebtedness of the corporation on which certified
26 investors earned premium tax credits. A debt holder that is
27 also a certified investor or equity holder of the corporation
28 may receive payments with respect to the debt without
29 restrictions.

30 (c) Cumulative distributions from the corporation to
31 its certified investors and equity holders, other than

1 qualified distributions, in excess of the corporation's
2 original certified capital and any additional capital
3 contributions to the corporation may be audited by a
4 nationally recognized certified public accounting firm
5 acceptable to the department, at the expense of the
6 corporation, if the department directs the audit be conducted.
7 The audit must determine whether aggregate cumulative
8 distributions from the corporation to all certified investors
9 and equity holders, other than qualified distributions, have
10 equaled the sum of the corporation's original certified
11 capital and any additional capital contributions to the
12 corporation. If at the time of any distribution made by the
13 corporation, the distribution taken together with all other
14 distributions made by the corporation, other than qualified
15 distributions, exceeds in the aggregate the sum of the
16 corporation's original certified capital and any additional
17 capital contributions to the corporation, as determined by the
18 audit, the corporation shall pay to the Department of Revenue
19 10 percent of the portion of the distribution in excess of
20 that amount. Payments to the Department of Revenue by a
21 corporation under this paragraph may not exceed the aggregate
22 amount of tax credits used by all certified investors in the
23 corporation.

24 (10) ANNUAL REPORT.--Before December 1 of each year,
25 the board of directors of the Florida Film Finance Corporation
26 shall submit to the Governor, the President of the Senate, and
27 the Speaker of the House of Representatives a complete and
28 detailed report setting forth:

29 (a) The operations and accomplishments of the
30 corporation during the most recent fiscal year.
31

1 (b) The total dollar amount from all certified
2 investors and any other investor, the identity of the
3 certified investors, and the total amount of premium tax
4 credit used by each certified investor for the most recent
5 fiscal year.

6 (c) The total dollar amount invested by the
7 corporation and that portion invested in qualified businesses,
8 the identity and location of those businesses, the amount
9 invested in each qualified business, and the total number of
10 permanent, full-time jobs created or retained by each
11 qualified business.

12 (d) The number of qualified film productions in which
13 the corporation invested during the most recent fiscal year.

14 (e) The dollar value of production expended in the
15 state during the most recent fiscal year by qualified film
16 projects supported with an investment from the corporation.

17 (f) The return for the state as a result of
18 investments by the corporation, including the extent to which:

19 1. Investments have contributed to employment growth.

20 2. The wage level of qualified film projects in which
21 the corporation has invested exceed the average wage for the
22 county in which the jobs are located.

23 3. The investments of the corporation have contributed
24 to expanding or diversifying the economic base of the state
25 and have contributed to the development of the entertainment
26 industry in particular.

27 (g) The assets and liabilities of the corporation at
28 the end of the most recent fiscal year.

29 (h) The receipts and expenditures of the corporation
30 during the most recent fiscal year in accordance with the
31 categories or classifications established by the board of

1 directors of the corporation for the corporation's operating
2 and capital accounts.

3 (11) TRANSFERABILITY--The claim of a transferee of a
4 certified investor's unused premium tax credit is permitted in
5 the same manner and subject to the same provisions and
6 limitations of this act as the original certified investor.
7 The term "transferee" means any person who:

8 (a) Through the voluntary sale, assignment, or other
9 transfer of the business or control of the business of the
10 certified investor, including the sale or other transfer of
11 stock or assets by merger, consolidation, or dissolution,
12 succeeds to all or substantially all of the business and
13 property of the certified investor;

14 (b) Becomes by operation of law or otherwise the
15 parent company of the certified investor;

16 (c) Directly or indirectly owns, whether through
17 rights, options, convertible interests, or otherwise,
18 controls, or holds power to vote 10 percent or more of the
19 outstanding voting securities or other ownership interest of
20 the certified investor;

21 (d) Is a subsidiary of the certified investor or 10
22 percent or more of whose outstanding voting securities or
23 other ownership interests are directly or indirectly owned,
24 whether through rights, options, convertible interests, or
25 otherwise, by the certified investor; or

26 (e) Directly or indirectly controls, is controlled by,
27 or is under the common control with the certified investor.

28 (12) RULEMAKING AUTHORITY.--

29 (a) The Department of Revenue may by rule prescribe
30 forms and procedures for the tax credit filings, audits, and
31 forfeiture of premium tax credits described in this section.

1 (b) The office may adopt any rules necessary to carry
2 out its duties, obligations, and powers related to the
3 administration, review, and reporting provisions of this
4 section and may perform any other acts necessary for the
5 proper administration and enforcement of those duties,
6 obligations, and powers.

7 (13) EXPIRATION.--This section expires June 30, 2007,
8 unless reenacted after review by the Legislature before that
9 date.

10 Section 11. This act shall take effect July 1, 2002.

12 *****

13 SENATE SUMMARY

14 Eliminates several tax exemptions for motion picture,
15 video, television, and sound recording productions within
16 the entertainment industry. Provides for a specified
17 amount of taxes to be transferred to the Florida
18 Entertainment Industry Promotion Trust Fund. Revises the
19 purposes of the Office of Film and Entertainment. Revises
20 the membership, terms of office, and qualifications of
21 the Florida Film and Entertainment Advisory Council.
22 Requires an evaluation report from OPPAGA regarding the
23 performance of local and regional efforts to promote the
24 entertainment industry. Creates the Florida Film Finance
25 Act to stimulate investment in the entertainment industry
26 by providing an incentive for insurance companies to
27 invest in the Florida Film Finance Corporation. Provides
28 for a credit against premium tax liability. Authorizes
29 rulemaking by specified agencies. Provides for an
30 expiration date and legislative review. (See bill for
31 details.)