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A bill to be entitled

An act relating to economic development; amending s. 288.125, F.S.; expanding applicability of the definition of the term "entertainment industry"; creating s. 288.1254, F.S.; creating a program under which certain persons producing, or providing services for the production of, filmed entertainment are eligible for state financial incentives for activities in or relocated to this state; prescribing powers and duties of the Office of Tourism, Trade, and Economic Development and the Office of Film and Entertainment with respect to the program; defining terms; providing an application procedure and approval process; prescribing limits on reimbursement; requiring documentation for requested reimbursement; providing for policies and procedures; providing penalties for fraudulent claims for reimbursement; providing an appropriation; requiring a report; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 288.125, Florida Statutes, is amended to read:

288.125 Definition of "entertainment industry".--For the purposes of ss. 288.1251-288.1258 ~~ss. 288.1251-288.1253~~, the term "entertainment industry" means those persons or entities engaged in the operation of motion picture or television studios or recording studios; those persons or entities engaged in the preproduction, production, or postproduction of motion pictures, made-for-TV motion pictures, television series, commercial



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31 advertising, music videos, or sound recordings; and those
 32 persons or entities providing products or services directly
 33 related to the preproduction, production, or postproduction of
 34 motion pictures, made-for-TV motion pictures, television series,
 35 commercial advertising, music videos, or sound recordings,
 36 including, but not limited to, the broadcast industry.

37 Section 2. Section 288.1254, Florida Statutes, is created
 38 to read:

39 288.1254 Entertainment industry financial incentive
 40 program; creation; purpose; definitions; application procedure;
 41 approval process; reimbursement eligibility; submission of
 42 required documentation; recommendations for payment; policies
 43 and procedures; fraudulent claims.--

44 (1) CREATION AND PURPOSE OF PROGRAM.--Subject to specific
 45 appropriation, there is created within the Office of Tourism,
 46 Trade, and Economic Development an entertainment industry
 47 financial incentive program. The purpose of this program is to
 48 encourage the use of this state as a site for filming, and for
 49 providing production services for, motion pictures, made-for-
 50 television movies, commercials, music videos, industrial and
 51 educational films, and television programs by the entertainment
 52 industry.

53 (2) DEFINITIONS.--As used in this section, the term:

54 (a) "Filmed entertainment" means a motion picture,
 55 teleproduction, commercial, music video, or digital-media-
 56 effects production to be sold or displayed in an electronic
 57 medium.

58 (b) "Production costs" means the total cost of producing
 59 filmed entertainment, including expenses incurred for travel



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60 when purchased from a Florida-based travel agency or travel
61 company.

62 (c) "Qualified expenditures" means goods purchased or
63 leased or services purchased, leased, or employed from a
64 resident of this state or a vendor or supplier who is located
65 and doing business in this state.

66 (d) "Qualified production" means filmed entertainment that
67 makes expenditures in this state for the total or partial
68 production of a motion picture, made-for-television movie with a
69 running time of 90 minutes or more, commercial, music video,
70 industrial and educational film, television series pilot, or
71 television episode, which production is intended, where
72 applicable, to have a rating no more restrictive than "NC-17" or
73 a comparable status in the case of a production intended for
74 television.

75 (e) "Qualified relocation project" means a corporation,
76 limited liability company, partnership, corporate headquarters,
77 or other private entity that is domiciled in another state or
78 country and relocates its operations to this state, is organized
79 under the laws of this or any other state or country, and
80 includes as one of its primary purposes digital-media-effects or
81 motion picture and television production, or postproduction.

82 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.--

83 (a) Any company engaged in this state in producing filmed
84 entertainment may submit an application to the Office of Film
85 and Entertainment for the purpose of determining qualification
86 for receipt of reimbursement provided in this section. The
87 office must be provided information required to determine if the
88 production is a qualified production and to determine the
89 qualified expenditures, production costs, and other information



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90 necessary for the office to determine both eligibility for and
 91 level of reimbursement.

92 (b) A digital-media-effects or postproduction company in
 93 the state which furnishes services or digital material to a
 94 qualified production that is certified by the Office of Film and
 95 Entertainment may submit an application to the Office of Film
 96 and Entertainment for the purpose of determining qualification
 97 for receipt of reimbursement authorized by this section. The
 98 office must be provided information required to determine if the
 99 company is qualified and to determine the amount of
 100 reimbursement.

101 (c) Any corporation, limited liability company,
 102 partnership, corporate headquarters, or other private entity
 103 domiciled in an another state which includes as one of its
 104 primary purposes digital-media-effects or motion picture and
 105 television production or postproduction and which is considering
 106 relocation to this state may submit an application to the Office
 107 of Film and Entertainment for the purpose of determining
 108 qualification for reimbursement under this section.

109 (d)1. The Office of Film and Entertainment shall establish
 110 a process by which an application is accepted and reviewed and
 111 reimbursement eligibility and reimbursement amount are
 112 determined. The Office of Film and Entertainment may, when
 113 appropriate, delegate to a duly appointed local film commission
 114 the responsibility for determining qualifications for
 115 reimbursement and compliance.

116 2. Upon determination that all criteria are met for
 117 qualification for reimbursement, the office shall notify the
 118 applicant of such approval. The office shall also notify the
 119 Office of Tourism, Trade, and Economic Development of the



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120 applicant approval and amount of reimbursement required. The
121 Office of Tourism, Trade, and Economic Development shall make
122 final determination for actual reimbursement.

123 3. The Office of Film and Entertainment shall deny an
124 application if it determines that:

125 a. The application is not complete or does not meet the
126 requirements of this section; or

127 b. The reimbursement sought does not meet the requirements
128 of this section for such reimbursement.

129 (e) The Office of Film and Entertainment shall develop a
130 standardized application form for use in approving a qualified
131 production, a qualified relocation project, or a company
132 qualifying under paragraph (b). The application form must
133 include, but is not limited to, production-related information
134 on employment, proposed total production budgets, planned
135 expenditures in this state which are intended for use
136 exclusively as an integral part of preproduction, production, or
137 postproduction activities engaged in primarily in this state,
138 and a signed affirmation from the Office of Film and
139 Entertainment that the information on the application form has
140 been verified and is correct. The application form shall be
141 distributed to applicants by the Office of Film and
142 Entertainment or local film commissions.

143 (f) The Office of Film and Entertainment must complete its
144 review of each application within 5 days after receipt of the
145 completed application, including all required information, and
146 it must notify the applicant of its determination within 10
147 business days after receipt of the completed application and
148 required information.



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149 (4) REIMBURSEMENT ELIGIBILITY; SUBMISSION OF REQUIRED
150 DOCUMENTATION; RECOMMENDATIONS FOR PAYMENT.--

151 (a) A qualified production that is certified by the Office
152 of Film and Entertainment is eligible for the following
153 financial incentives from the state:

154 1. A reimbursement of up to 15 percent of its qualifying
155 expenditures within this state on that motion picture, made-for-
156 television movie with a running time of 90 minutes or more,
157 commercial, music video, industrial film, educational film,
158 television series pilot, or television episode that demonstrates
159 a minimum of \$850,000 in total qualified expenditures. However,
160 the maximum reimbursement that may be made with respect to a
161 motion picture is \$2 million, the maximum reimbursement that may
162 be made with respect to a made-for-television movie or
163 television series pilot with a running time of 90 minutes or
164 more is \$450,000, the maximum reimbursement that may be made
165 with respect to any single television series pilot or television
166 episode is \$150,000, the maximum reimbursement that may be made
167 with respect to a music video or commercial is \$25,000, and the
168 maximum reimbursement that may be made with respect to an
169 industrial film or an educational film is \$15,000. All noted
170 reimbursements are subject to appropriation. Payments under this
171 section in a fiscal year shall be made on a first-come, first-
172 served basis until the appropriation for that fiscal year is
173 exhausted. Subject to subsequent appropriations, the eligibility
174 of qualified productions shall carry over from year to year. The
175 Office of Film and Entertainment shall develop a procedure to
176 ensure that qualified productions continue on a reasonable
177 schedule until completion. If a qualified production is not
178 continued according to a reasonable schedule, the office shall



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179 withdraw its eligibility and reallocate the funds to other
180 qualified productions.

181 2. Qualified expenditures for which reimbursement shall be
182 made include salaries paid to and employment benefits paid on
183 behalf of state residents; rents for real and personal property
184 used in the production; payments to state residents or state-
185 domiciled entities for preproduction, production,
186 postproduction, and digital-media-effects services; and cost of
187 set construction. Reimbursement may not be authorized for
188 salaries of the two highest-paid actors. Salaries of other
189 actors are reimbursable.

190 (b) A digital-media-effects or postproduction company in
191 the state which furnishes services or digital material to a
192 qualified production that is certified by the Office of Film and
193 Entertainment may be eligible for a payment in an amount not to
194 exceed 5 percent of its annual gross revenues on qualified
195 expenditures listed in subparagraph (a)2. before taxes or
196 \$100,000, whichever is less. A company applying for payment must
197 submit documentation annually as required by the Office of Film
198 and Entertainment for determination of eligibility of claimed
199 billing and determination of the amount of payment for which the
200 company is eligible.

201 (c) A qualified relocation project that is certified by
202 the Office of Film and Entertainment is eligible for a one-time
203 incentive payment in an amount equal to 5 percent of its annual
204 gross revenues before taxes for the first 12 months of
205 conducting business in its Florida domicile or \$200,000,
206 whichever is less. A company applying for payment must submit
207 documentation as required by the Office of Film and
208 Entertainment for determination of eligibility of claimed



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209 billing and determination of the amount of payment for which the
210 company is eligible.

211 (d) A qualified production, a digital-media-effects
212 company, or a qualified relocation project applying for a
213 payment under this section must submit documentation for claimed
214 qualified expenditures to the Office of Film and Entertainment.
215 Only one entity is eligible for payment for each application for
216 claimed expenditures.

217 (e) The Office of Film and Entertainment shall notify the
218 Office of Tourism, Trade, and Economic Development whether an
219 applicant meets the criteria for reimbursement and shall
220 recommend the reimbursement amount. The Office of Tourism,
221 Trade, and Economic Development shall make the final
222 determination for actual reimbursement.

223 (5) POLICIES AND PROCEDURES.--The Office of Tourism,
224 Trade, and Economic Development shall adopt policies and
225 procedures to implement this section, including, but not limited
226 to, requirements for the application and approval process,
227 records required for submission for substantiation for
228 reimbursement, and determination of and qualification for
229 reimbursement.

230 (6) FRAUDULENT CLAIMS.--An eligible entity or company that
231 obtains a payment under this section through a claim that it
232 knows is fraudulent is liable for reimbursement of the amount
233 paid plus a penalty in an amount double the payment and
234 reimbursement of reasonable costs, which penalty is in addition
235 to any criminal penalty to which the entity or company is liable
236 for the same acts. The entity or company is also liable for
237 costs and fees incurred by the state in investigating and
238 prosecuting the fraudulent claim.



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239 Section 3. The sum of \$20 million is appropriated from the
 240 General Revenue Fund to the Office of Tourism, Trade, and
 241 Economic Development to implement this act in the 2003-2004
 242 fiscal year. The Office of Tourism, Trade, and Economic
 243 Development may use up to \$50,000 for staff and administrative
 244 costs to implement this act.

245 Section 4. The Office of Film and Entertainment shall
 246 provide an annual report, due January 1, to the Governor,
 247 President of the Senate, and Speaker of the House of
 248 Representatives outlining the return on investment to the state
 249 on funds expended.

250 Section 5. This act shall take effect July 1, 2003.