



CHAMBER ACTION

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The Committee on Commerce recommends the following:

Committee Substitute

Remove the entire bill and insert:

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; requiring a report; providing an appropriation; providing an effective date.



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

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

33 288.125 Definition of "entertainment industry".--For the
34 purposes of ss. 288.1251-288.1258 ~~ss. 288.1251-288.1253~~, the
35 term "entertainment industry" means those persons or entities
36 engaged in the operation of motion picture or television studios
37 or recording studios; those persons or entities engaged in the
38 preproduction, production, or postproduction of motion pictures,
39 made-for-TV motion pictures, television series, commercial
40 advertising, music videos, or sound recordings; and those
41 persons or entities providing products or services directly
42 related to the preproduction, production, or postproduction of
43 motion pictures, made-for-TV motion pictures, television series,
44 commercial advertising, music videos, or sound recordings,
45 including, but not limited to, the broadcast industry.

46 Section 2. Section 288.1254, Florida Statutes, is created
47 to read:

48 288.1254 Entertainment industry financial incentive
49 program; creation; purpose; definitions; application procedure;
50 approval process; reimbursement eligibility; submission of
51 required documentation; recommendations for payment; policies
52 and procedures; fraudulent claims.--

53 (1) CREATION AND PURPOSE OF PROGRAM.--Subject to specific
54 appropriation, there is created within the Office of Film and
55 Entertainment an entertainment industry financial incentive
56 program. The purpose of this program is to encourage the use of



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57 | this state as a site for filming, and for providing production
58 | services for, motion pictures, made-for-television movies,
59 | commercials, music videos, industrial and educational films, and
60 | television programs by the entertainment industry.

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

62 | (a) "Filmed entertainment" means a motion picture,
63 | teleproduction, commercial, music video, or digital-media-
64 | effects production to be sold or displayed in an electronic
65 | medium.

66 | (b) "Production costs" means the total cost of producing
67 | filmed entertainment.

68 | (c) "Qualified expenditures" means goods purchased or
69 | leased or services purchased, leased, or employed from a
70 | resident of this state or a vendor or supplier who is located
71 | and doing business in this state.

72 | (d) "Qualified production" means filmed entertainment that
73 | makes expenditures in this state for the total or partial
74 | production of a motion picture, made-for-television movie with a
75 | running time of 90 minutes or more, commercial, music video,
76 | industrial and educational film, television series pilot, or
77 | television episode. Productions that are deemed by the Office of
78 | Film and Entertainment to contain obscene content, as defined by
79 | the United States Supreme Court, shall not be considered
80 | qualified productions.

81 | (e) "Qualified relocation project" means a corporation,
82 | limited liability company, partnership, corporate headquarters,
83 | or other private entity that is domiciled in another state or
84 | country and relocates its operations to this state, is organized



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85 under the laws of this or any other state or country, and
86 includes as one of its primary purposes digital-media-effects or
87 motion picture and television production, or postproduction.

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

89 (a) Any company engaged in this state in producing filmed
90 entertainment may submit an application to the Office of Film
91 and Entertainment for the purpose of determining qualification
92 for receipt of reimbursement provided in this section. The
93 office must be provided information required to determine if the
94 production is a qualified production and to determine the
95 qualified expenditures, production costs, and other information
96 necessary for the office to determine both eligibility for and
97 level of reimbursement.

98 (b) A digital-media-effects company in the state which
99 furnishes digital material to a qualified production that is
100 certified by the Office of Film and Entertainment may submit an
101 application to the Office of Film and Entertainment for the
102 purpose of determining qualification for receipt of
103 reimbursement authorized by this section. The office must be
104 provided information required to determine if the company is
105 qualified and to determine the amount of reimbursement.

106 (c) Any corporation, limited liability company,
107 partnership, corporate headquarters, or other private entity
108 domiciled in another state which includes as one of its primary
109 purposes digital-media-effects or motion picture and television
110 production and which is considering relocation to this state may
111 submit an application to the Office of Film and Entertainment



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112 for the purpose of determining qualification for reimbursement
113 under this section.

114 (d)1. The Office of Film and Entertainment shall establish
115 a process by which an application is accepted and reviewed and
116 reimbursement eligibility and reimbursement amount are
117 determined. The Office of Film and Entertainment may request
118 assistance from a duly appointed local film commission in
119 determining qualifications for reimbursement and compliance.

120 2. Upon determination that all criteria are met for
121 qualification for reimbursement, the office shall notify the
122 applicant of such approval. The office shall also notify the
123 Office of Tourism, Trade, and Economic Development of the
124 applicant approval and amount of reimbursement required. The
125 Office of Tourism, Trade, and Economic Development shall make
126 final determination for actual reimbursement.

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

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

131 b. The reimbursement sought does not meet the requirements
132 of this section for such reimbursement.

133 (e) The Office of Film and Entertainment shall develop a
134 standardized application form for use in approving a qualified
135 production, a qualified relocation project, or a company
136 qualifying under paragraph (b). The application form must
137 include, but is not limited to, production-related information
138 on employment, proposed total production budgets, planned
139 expenditures in this state which are intended for use



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140 exclusively as an integral part of preproduction, production, or
141 postproduction activities engaged in primarily in this state,
142 and a signed affirmation from the Office of Film and
143 Entertainment that the information on the application form has
144 been verified and is correct. The application form shall be
145 distributed to applicants by the Office of Film and
146 Entertainment or local film commissions.

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

153 (4) REIMBURSEMENT ELIGIBILITY; SUBMISSION OF REQUIRED
154 DOCUMENTATION; RECOMMENDATIONS FOR PAYMENT.--

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

158 1. A reimbursement of up to 15 percent of its qualifying
159 expenditures in this state on that motion picture, made-for-
160 television movie with a running time of 90 minutes or more,
161 commercial, music video, industrial film, educational film,
162 television series pilot, or television episode that demonstrates
163 a minimum of \$850,000 in total qualified expenditures. However,
164 the maximum reimbursement that may be made with respect to a
165 motion picture is \$2 million, the maximum reimbursement that may
166 be made with respect to a made-for-television movie or
167 television series pilot with a running time of 90 minutes or



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168 more is \$450,000, the maximum reimbursement that may be made
169 with respect to any single television series pilot or television
170 episode is \$150,000, the maximum reimbursement that may be made
171 with respect to a music video or commercial is \$25,000, and the
172 maximum reimbursement that may be made with respect to an
173 industrial film or an educational film is \$15,000. All noted
174 reimbursements are subject to appropriation. Payments under this
175 section in a fiscal year shall be made on a first-come, first-
176 served basis until the appropriation for that fiscal year is
177 exhausted. Subject to subsequent appropriations, the eligibility
178 of qualified productions shall carry over from year to year. The
179 Office of Film and Entertainment shall develop a procedure to
180 ensure that qualified productions continue on a reasonable
181 schedule until completion. If a qualified production is not
182 continued according to a reasonable schedule, the office shall
183 withdraw its eligibility and reallocate the funds to other
184 qualified productions.

185 2. Qualified expenditures for which reimbursement shall be
186 made include salaries and employment benefits paid for services
187 rendered in this state; rents for real and personal property
188 used in the production; payments for preproduction, production,
189 postproduction, and digital-media-effects services rendered in
190 this state; and cost of set construction. Reimbursement may not
191 be authorized for salaries of the two highest-paid actors.
192 Salaries of other actors are reimbursable.

193 (b) A digital-media-effects company in the state which
194 furnishes digital material to a qualified production that is
195 certified by the Office of Film and Entertainment may be



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196 eligible for a payment in an amount not to exceed 5 percent of
197 its annual gross revenues on qualified expenditures listed in
198 subparagraph (a)2. before taxes or \$100,000, whichever is less.
199 A company applying for payment must submit documentation
200 annually as required by the Office of Film and Entertainment for
201 determination of eligibility of claimed billing and
202 determination of the amount of payment for which the company is
203 eligible.

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

214 (d) A qualified production, a digital-media-effects
215 company, or a qualified relocation project applying for a
216 payment under this section must submit documentation for claimed
217 qualified expenditures to the Office of Film and Entertainment.

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



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

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

240 (7) ANNUAL REPORT.--The Office of Film and Entertainment
241 shall provide an annual report, due January 1, to the Governor,
242 the President of the Senate, and the Speaker of the House of
243 Representatives outlining the return on investment to the state
244 on funds expended pursuant to this section.

245 Section 3. The sum of \$20 million is appropriated from the
246 General Revenue Fund to the Office of Film and Entertainment to
247 implement this act in the 2003-2004 fiscal year. The Office of
248 Film and Entertainment may use up to \$50,000 for staff and
249 administrative costs to implement this act.

250 Section 4. This act shall take effect July 1, 2003.