



HB 1149

2003  
CS

## CHAMBER ACTION

The Committee on Appropriations 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 that funding is subject to appropriation; providing an effective date.



HB 1149

2003  
CS

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

30

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



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



HB 1149

2003  
CS

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



HB 1149

2003  
CS

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



HB 1149

2003  
CS

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



HB 1149

2003  
CS

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



HB 1149

2003  
CS

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. A  
199 company applying for payment must submit documentation annually  
200 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.





HB 1149

2003  
CS

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. Annual funding for the entertainment industry  
246 financial incentive program is subject to legislative  
247 appropriation.

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