



1 A bill to be entitled

2 An act relating to economic development; amending s.
3 288.125, F.S.; expanding applicability of the definition
4 of the term "entertainment industry"; creating s.
5 288.1254, F.S.; creating a program under which certain
6 persons producing, or providing services for the
7 production of, filmed entertainment are eligible for state
8 financial incentives for activities in or relocated to
9 this state; prescribing powers and duties of the Office of
10 Tourism, Trade, and Economic Development and the Office of
11 Film and Entertainment with respect to the program;
12 defining terms; providing an application procedure and
13 approval process; prescribing limits on reimbursement;
14 requiring documentation for requested reimbursement;
15 providing for policies and procedures; providing penalties
16 for fraudulent claims for reimbursement; requiring a
17 report; providing that funding is subject to
18 appropriation; providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

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

24 288.125 Definition of "entertainment industry".--For the
25 purposes of ss. 288.1251-288.1258 ~~ss. 288.1251-288.1253~~, the
26 term "entertainment industry" means those persons or entities
27 engaged in the operation of motion picture or television studios
28 or recording studios; those persons or entities engaged in the



29 | preproduction, production, or postproduction of motion pictures,
30 | made-for-TV motion pictures, television series, commercial
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 Film and
46 | Entertainment an entertainment industry financial incentive
47 | program. The purpose of this program is to encourage the use of
48 | this state as a site for filming, and for providing production
49 | services for, motion pictures, made-for-television movies,
50 | commercials, music videos, industrial and educational films, and
51 | television programs by the entertainment industry.

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

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



57 (b) "Production costs" means the total cost of producing
 58 filmed entertainment.

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

63 (d) "Qualified production" means filmed entertainment that
 64 makes expenditures in this state for the total or partial
 65 production of a motion picture, made-for-television movie with a
 66 running time of 90 minutes or more, commercial, music video,
 67 industrial and educational film, television series pilot, or
 68 television episode. Productions that are deemed by the Office of
 69 Film and Entertainment to contain obscene content, as defined by
 70 the United States Supreme Court, shall not be considered
 71 qualified productions.

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

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

80 (a) Any company engaged in this state in producing filmed
 81 entertainment may submit an application to the Office of Film
 82 and Entertainment for the purpose of determining qualification
 83 for receipt of reimbursement provided in this section. The
 84 office must be provided information required to determine if the



85 production is a qualified production and to determine the
86 qualified expenditures, production costs, and other information
87 necessary for the office to determine both eligibility for and
88 level of reimbursement.

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

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

105 (d)1. The Office of Film and Entertainment shall establish
106 a process by which an application is accepted and reviewed and
107 reimbursement eligibility and reimbursement amount are
108 determined. The Office of Film and Entertainment may request
109 assistance from a duly appointed local film commission in
110 determining qualifications for reimbursement and compliance.

111 2. Upon determination that all criteria are met for
112 qualification for reimbursement, the office shall notify the



113 applicant of such approval. The office shall also notify the
114 Office of Tourism, Trade, and Economic Development of the
115 applicant approval and amount of reimbursement required. The
116 Office of Tourism, Trade, and Economic Development shall make
117 final determination for actual reimbursement.

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

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

122 b. The reimbursement sought does not meet the requirements
123 of this section for such reimbursement.

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

138 (f) The Office of Film and Entertainment must complete its
139 review of each application within 5 days after receipt of the
140 completed application, including all required information, and



141 it must notify the applicant of its determination within 10
142 business days after receipt of the completed application and
143 required information.

144 (4) REIMBURSEMENT ELIGIBILITY; SUBMISSION OF REQUIRED
145 DOCUMENTATION; RECOMMENDATIONS FOR PAYMENT.--

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

149 1. A reimbursement of up to 15 percent of its qualifying
150 expenditures in this state on that motion picture, made-for-
151 television movie with a running time of 90 minutes or more,
152 commercial, music video, industrial film, educational film,
153 television series pilot, or television episode that demonstrates
154 a minimum of \$850,000 in total qualified expenditures. However,
155 the maximum reimbursement that may be made with respect to a
156 motion picture is \$2 million, the maximum reimbursement that may
157 be made with respect to a made-for-television movie or
158 television series pilot with a running time of 90 minutes or
159 more is \$450,000, the maximum reimbursement that may be made
160 with respect to any single television series pilot or television
161 episode is \$150,000, the maximum reimbursement that may be made
162 with respect to a music video or commercial is \$25,000, and the
163 maximum reimbursement that may be made with respect to an
164 industrial film or an educational film is \$15,000. All noted
165 reimbursements are subject to appropriation. Payments under this
166 section in a fiscal year shall be made on a first-come, first-
167 served basis until the appropriation for that fiscal year is
168 exhausted. Subject to subsequent appropriations, the eligibility



169 of qualified productions shall carry over from year to year. The
170 Office of Film and Entertainment shall develop a procedure to
171 ensure that qualified productions continue on a reasonable
172 schedule until completion. If a qualified production is not
173 continued according to a reasonable schedule, the office shall
174 withdraw its eligibility and reallocate the funds to other
175 qualified productions.

176 2. Qualified expenditures for which reimbursement shall be
177 made include salaries and employment benefits paid for services
178 rendered in this state; rents for real and personal property
179 used in the production; payments for preproduction, production,
180 postproduction, and digital-media-effects services rendered in
181 this state; and cost of set construction. Reimbursement may not
182 be authorized for salaries of the two highest-paid actors.
183 Salaries of other actors are reimbursable.

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

195 (c) A qualified relocation project that is certified by
196 the Office of Film and Entertainment is eligible for a one-time



197 incentive payment in an amount equal to 5 percent of its annual
198 gross revenues before taxes for the first 12 months of
199 conducting business in its Florida domicile or \$200,000,
200 whichever is less. A company applying for payment must submit
201 documentation as required by the Office of Film and
202 Entertainment for determination of eligibility of claimed
203 billing and determination of the amount of payment for which the
204 company is eligible.

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

209 (e) The Office of Film and Entertainment shall notify the
210 Office of Tourism, Trade, and Economic Development whether an
211 applicant meets the criteria for reimbursement and shall
212 recommend the reimbursement amount. The Office of Tourism,
213 Trade, and Economic Development shall make the final
214 determination for actual reimbursement.

215 (5) POLICIES AND PROCEDURES.--The Office of Tourism,
216 Trade, and Economic Development shall adopt policies and
217 procedures to implement this section, including, but not limited
218 to, requirements for the application and approval process,
219 records required for submission for substantiation for
220 reimbursement, and determination of and qualification for
221 reimbursement.

222 (6) FRAUDULENT CLAIMS.--An eligible entity or company that
223 obtains a payment under this section through a claim that it
224 knows is fraudulent is liable for reimbursement of the amount



225 paid plus a penalty in an amount double the payment and
226 reimbursement of reasonable costs, which penalty is in addition
227 to any criminal penalty to which the entity or company is liable
228 for the same acts. The entity or company is also liable for
229 costs and fees incurred by the state in investigating and
230 prosecuting the fraudulent claim.

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

236 Section 3. Annual funding for the entertainment industry
237 financial incentive program is subject to legislative
238 appropriation.

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