

By Senator Saunders

37-85C-03

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

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

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27 Section 1. Section 288.125, Florida Statutes, is
28 amended to read:29 288.125 Definition of "entertainment industry".--For
30 the purposes of ss. 288.1251-288.1258 ~~ss. 288.1251-288.1253~~,
31 the term "entertainment industry" means those persons or

1 entities engaged in the operation of motion picture or
2 television studios ~~or recording studios~~; those persons or
3 entities engaged in the preproduction, production, or
4 postproduction of motion pictures, made-for-TV motion
5 pictures, television series, commercial advertising, or music
6 videos, ~~or sound recordings~~; and those persons or entities
7 providing products or services directly related to the
8 preproduction, production, or postproduction of motion
9 pictures, made-for-TV motion pictures, television series,
10 commercial advertising, or music videos, ~~or sound recordings~~,
11 ~~including, but not limited to, the broadcast industry.~~

12 Section 2. Section 288.1254, Florida Statutes, is
13 created to read:

14 288.1254 Entertainment industry financial incentive
15 program; creation; purpose; definitions; application
16 procedure; approval process; reimbursement eligibility;
17 submission of required documentation; recommendations for
18 payment; policies and procedures; fraudulent claims.--

19 (1) CREATION AND PURPOSE OF PROGRAM.--Subject to
20 specific appropriation, there is created within the Office of
21 Tourism, Trade, and Economic Development an entertainment
22 industry financial incentive program. The purpose of this
23 program is to encourage the use of this state as a site for
24 filming, and for providing production services for, motion
25 pictures, made-for-television movies, commercials, music
26 videos, industrial and educational films, and television
27 programs by the entertainment industry.

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

29 (a) "Filmed entertainment" means a motion picture,
30 teleproduction, commercial, music video, or
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1 digital-media-effects production to be sold or displayed in an
2 electronic medium.

3 (b) "Production costs" means the total cost of
4 producing filmed entertainment.

5 (c) "Qualified expenditures" means goods purchased or
6 leased or services purchased, leased, or employed from a
7 resident of this state or a vendor or supplier who is located
8 and doing business in this state.

9 (d) "Qualified production" means filmed entertainment
10 that makes expenditures in this state for the total or partial
11 production of a motion picture, made-for-television movie with
12 a running time of 90 minutes or more, commercial, music video,
13 industrial and educational film, television series pilot, or
14 television episode. Productions that are deemed by the Office
15 of Film and Entertainment to contain obscene content, as
16 defined by the United States Supreme Court, shall not be
17 considered qualified productions.

18 (e) "Qualified relocation project" means a
19 corporation, limited liability company, partnership, corporate
20 headquarters, or other private entity that is domiciled in
21 another state or country and relocates its operations to this
22 state, is organized under the laws of this or any other state
23 or country, and includes as one of its primary purposes
24 digital-media-effects or motion picture and television
25 production, or postproduction.

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

27 (a) Any company engaged in this state in producing
28 filmed entertainment may submit an application to the Office
29 of Film and Entertainment for the purpose of determining
30 qualification for receipt of reimbursement provided in this
31 section. The office must be provided information required to

1 determine if the production is a qualified production and to
2 determine the qualified expenditures, production costs, and
3 other information necessary for the office to determine both
4 eligibility for and level of reimbursement.

5 (b) A digital-media-effects company in the state which
6 furnishes digital material to a qualified production that is
7 certified by the Office of Film and Entertainment may submit
8 an application to the Office of Film and Entertainment for the
9 purpose of determining qualification for receipt of
10 reimbursement authorized by this section. The office must be
11 provided information required to determine if the company is
12 qualified and to determine the amount of reimbursement.

13 (c) Any corporation, limited liability company,
14 partnership, corporate headquarters, or other private entity
15 domiciled in another state which includes as one of its
16 primary purposes digital-media-effects or motion picture and
17 television production and which is considering relocation to
18 this state may submit an application to the Office of Film and
19 Entertainment for the purpose of determining qualification for
20 reimbursement under this section.

21 (d)1. The Office of Film and Entertainment shall
22 establish a process by which an application is accepted and
23 reviewed and reimbursement eligibility and reimbursement
24 amount are determined. The Office of Film and Entertainment
25 may, when appropriate, delegate to a duly appointed local film
26 commission the responsibility for determining qualifications
27 for reimbursement and compliance.

28 2. Upon determination that all criteria are met for
29 qualification for reimbursement, the office shall notify the
30 applicant of such approval. The office shall also notify the
31 Office of Tourism, Trade, and Economic Development of the

1 applicant approval and amount of reimbursement required. The
2 Office of Tourism, Trade, and Economic Development shall make
3 final determination for actual reimbursement.

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

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

8 b. The reimbursement sought does not meet the
9 requirements of this section for such reimbursement.

10 (e) The Office of Film and Entertainment shall develop
11 a standardized application form for use in approving a
12 qualified production, a qualified relocation project, or a
13 company qualifying under paragraph (b). The application form
14 must include, but is not limited to, production-related
15 information on employment, proposed total production budgets,
16 planned expenditures in this state which are intended for use
17 exclusively as an integral part of preproduction, production,
18 or postproduction activities engaged in primarily in this
19 state, and a signed affirmation from the Office of Film and
20 Entertainment that the information on the application form has
21 been verified and is correct. The application form shall be
22 distributed to applicants by the Office of Film and
23 Entertainment or local film commissions.

24 (f) The Office of Film and Entertainment must complete
25 its review of each application within 5 days after receipt of
26 the completed application, including all required information,
27 and it must notify the applicant of its determination within
28 10 business days after receipt of the completed application
29 and required information.

30 (4) REIMBURSEMENT ELIGIBILITY; SUBMISSION OF REQUIRED
31 DOCUMENTATION; RECOMMENDATIONS FOR PAYMENT.--

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

4 1. A reimbursement of up to 15 percent of its
5 qualifying expenditures within this state on that motion
6 picture, made-for-television movie with a running time of 90
7 minutes or more, commercial, music video, industrial film,
8 educational film, television series pilot, or television
9 episode that demonstrates a minimum of \$850,000 in total
10 qualified expenditures. However, the maximum reimbursement
11 that may be made with respect to a motion picture is \$2
12 million, the maximum reimbursement that may be made with
13 respect to a made-for-television movie or television series
14 pilot with a running time of 90 minutes or more is \$450,000,
15 the maximum reimbursement that may be made with respect to any
16 single television series pilot or television episode is
17 \$150,000, the maximum reimbursement that may be made with
18 respect to a music video or commercial is \$25,000, and the
19 maximum reimbursement that may be made with respect to an
20 industrial film or an educational film is \$15,000. All noted
21 reimbursements are subject to appropriation. Payments under
22 this section in a fiscal year shall be made on a first-come,
23 first-served basis until the appropriation for that fiscal
24 year is exhausted. Subject to subsequent appropriations, the
25 eligibility of qualified productions shall carry over from
26 year to year. The Office of Film and Entertainment shall
27 develop a procedure to ensure that qualified productions
28 continue on a reasonable schedule until completion. If a
29 qualified production is not continued according to a
30 reasonable schedule, the office shall withdraw its eligibility
31 and reallocate the funds to other qualified productions.

1 2. Qualified expenditures for which reimbursement
2 shall be made include salaries and employment benefits paid
3 for services rendered within this state; rents for real and
4 personal property used in the production; payments for
5 preproduction, production, postproduction, and
6 digital-media-effects services rendered within this state; and
7 cost of set construction. Reimbursement may not be authorized
8 for salaries of the two highest-paid actors. Salaries of other
9 actors are reimbursable.

10 (b) A digital-media-effects company in the state which
11 furnishes digital material to a qualified production that is
12 certified by the Office of Film and Entertainment may be
13 eligible for a payment in an amount not to exceed 5 percent of
14 its annual gross revenues on qualified expenditures listed in
15 subparagraph (a)2. before taxes or \$100,000, whichever is
16 less. A company applying for payment must submit documentation
17 annually as required by the Office of Film and Entertainment
18 for determination of eligibility of claimed billing and
19 determination of the amount of payment for which the company
20 is eligible.

21 (c) A qualified relocation project that is certified
22 by the Office of Film and Entertainment is eligible for a
23 one-time incentive payment in an amount equal to 5 percent of
24 its annual gross revenues before taxes for the first 12 months
25 of conducting business in its Florida domicile or \$200,000,
26 whichever is less. A company applying for payment must submit
27 documentation as required by the Office of Film and
28 Entertainment for determination of eligibility of claimed
29 billing and determination of the amount of payment for which
30 the company is eligible.

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1 (d) A qualified production, a digital-media-effects
2 company, or a qualified relocation project applying for a
3 payment under this section must submit documentation for
4 claimed qualified expenditures to the Office of Film and
5 Entertainment.

6 (e) The Office of Film and Entertainment shall notify
7 the Office of Tourism, Trade, and Economic Development whether
8 an applicant meets the criteria for reimbursement and shall
9 recommend the reimbursement amount. The Office of Tourism,
10 Trade, and Economic Development shall make the final
11 determination for actual reimbursement.

12 (5) POLICIES AND PROCEDURES.--The Office of Tourism,
13 Trade, and Economic Development shall adopt policies and
14 procedures to implement this section, including, but not
15 limited to, requirements for the application and approval
16 process, records required for submission for substantiation
17 for reimbursement, and determination of and qualification for
18 reimbursement.

19 (6) FRAUDULENT CLAIMS.--An eligible entity or company
20 that obtains a payment under this section through a claim that
21 it knows is fraudulent is liable for reimbursement of the
22 amount paid plus a penalty in an amount double the payment and
23 reimbursement of reasonable costs, which penalty is in
24 addition to any criminal penalty to which the entity or
25 company is liable for the same acts. The entity or company is
26 also liable for costs and fees incurred by the state in
27 investigating and prosecuting the fraudulent claim.

28 Section 3. The sum of \$20 million is appropriated from
29 the General Revenue Fund to the Office of Tourism, Trade, and
30 Economic Development to implement this act in the 2003-2004
31 fiscal year. The Office of Tourism, Trade, and Economic

