

By the Committee on Commerce, Economic Opportunities, and Consumer Services; and Senator Saunders

310-2111-03

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"; creating s. 288.1254,  
6           F.S.; creating a program under which certain  
7           persons producing, or providing services for  
8           the production of, filmed entertainment are  
9           eligible for state financial incentives for  
10          activities in or relocated to this state;  
11          prescribing powers and duties of the Office of  
12          Tourism, Trade, and Economic Development and  
13          the Office of Film and Entertainment with  
14          respect to the program; defining terms;  
15          providing an application procedure and approval  
16          process; prescribing limits on reimbursement;  
17          requiring documentation for requested  
18          reimbursement; providing for policies and  
19          procedures; providing penalties for fraudulent  
20          claims for reimbursement; requiring a report;  
21          providing an appropriation; providing an  
22          effective date.

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24 Be It Enacted by the Legislature of the State of Florida:  
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26           Section 1. Section 288.125, Florida Statutes, is  
27 amended to read:

28           288.125 Definition of "entertainment industry".--For  
29 the purposes of ss. 288.1251-288.1258 ~~ss. 288.1251-288.1253~~,  
30 the term "entertainment industry" means those persons or  
31 entities engaged in the operation of motion picture or

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

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

13 288.1254 Entertainment industry financial incentive  
14 program; creation; purpose; definitions; application  
15 procedure; approval process; reimbursement eligibility;  
16 submission of required documentation; recommendations for  
17 payment; policies and procedures; fraudulent claims.--

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

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

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

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1           (b) "Production costs" means the total cost of  
2 producing filmed entertainment.

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

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

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

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

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

1 other information necessary for the office to determine both  
2 eligibility for and level of reimbursement.

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

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

19 (d)1. The Office of Film and Entertainment shall  
20 establish a process by which an application is accepted and  
21 reviewed and reimbursement eligibility and reimbursement  
22 amount are determined. The Office of Film and Entertainment  
23 may request assistance from a duly appointed local film  
24 commission in determining qualifications for reimbursement and  
25 compliance.

26 2. Upon determination that all criteria are met for  
27 qualification for reimbursement, the office shall notify the  
28 applicant of such approval. The office shall also notify the  
29 Office of Tourism, Trade, and Economic Development of the  
30 applicant approval and amount of reimbursement required. The  
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1 Office of Tourism, Trade, and Economic Development shall make  
2 final determination for actual reimbursement.

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

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

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

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

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

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

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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           (7) ANNUAL REPORT.--The Office of Film and  
29 Entertainment shall provide an annual report due January 1, to  
30 the Governor, the President of the Senate, and the Speaker of  
31 the House of Representatives outlining the return on



1 investment to the state on funds expended pursuant to this  
2 section.

3 Section 3. The sum of \$20 million is appropriated from  
4 the General Revenue Fund to the Office of Film and  
5 Entertainment to implement this act in the 2003-2004 fiscal  
6 year. The Office of Film and Entertainment may use up to  
7 \$50,000 for staff and administrative costs to implement this  
8 act.

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

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11 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
12 COMMITTEE SUBSTITUTE FOR  
13 Senate Bill 1756

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14 The committee substitute removes a provision from the original  
15 bill which would have excluded sound recording studios and the  
16 broadcast industry from the definition of "entertainment  
17 industry"; specifies that the entertainment industry financial  
18 incentive program is created within the Office of Film and  
19 Entertainment, rather than in the Office of Tourism, Trade,  
20 and Economic Development as provided in the original bill;  
21 authorizes the Office of Film and Entertainment to request  
22 assistance from local film commissions in determining the  
23 eligibility of applicants, but does not permit this  
24 responsibility to be delegated to the local commissions as  
25 provided in the original bill; and provides the appropriation  
26 and authority to expend funds for staff and administrative  
27 costs to the Office of Film and Entertainment, rather than to  
28 the Office of Tourism, Trade, and Economic Development as  
29 provided in the original bill.

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