

CHAMBER ACTION

1 The Tourism Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to economic development; amending s.
7 288.125, F.S.; changing the term "television series" to
8 "television programming" for purposes of the definition of
9 the term "entertainment industry" in provisions
10 establishing the Office of Film and Entertainment within
11 the Office of Tourism, Trade, and Economic Development;
12 amending s. 288.1254, F.S.; revising a program under which
13 certain persons producing, or providing services for the
14 production of, filmed entertainment are eligible for state
15 financial incentives for activities in or relocated to
16 this state; revising definitions; revising application
17 procedures and requirements; revising application approval
18 provisions; revising reimbursement eligibility criteria
19 and requirements; revising limits on reimbursement;
20 revising the due date for the annual report to be
21 submitted to the Governor and the Legislature; providing
22 an effective date.

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

25

26 Section 1. Section 288.125, Florida Statutes, is amended
27 to read:

28 288.125 Definition of "entertainment industry".--For the
29 purposes of ss. 288.1251-288.1258, the term "entertainment
30 industry" means those persons or entities engaged in the
31 operation of motion picture or television studios or recording
32 studios; those persons or entities engaged in the preproduction,
33 production, or postproduction of motion pictures, made-for-
34 television movies ~~made-for-TV motion pictures~~, television
35 programming series, commercial advertising, music videos, or
36 sound recordings; and those persons or entities providing
37 products or services directly related to the preproduction,
38 production, or postproduction of motion pictures, made-for-
39 television movies ~~made-for-TV motion pictures~~, television
40 programming series, commercial advertising, music videos, or
41 sound recordings, including, but not limited to, the broadcast
42 industry.

43 Section 2. Subsections (1), (2), (3), (4), and (7) of
44 section 288.1254, Florida Statutes, are amended to read:

45 288.1254 Entertainment industry financial incentive
46 program; creation; purpose; definitions; application procedure;
47 approval process; reimbursement eligibility; submission of
48 required documentation; recommendations for payment; policies
49 and procedures; fraudulent claims.--

50 (1) CREATION AND PURPOSE OF PROGRAM.--Subject to specific
51 appropriation, there is created within the Office of Film and

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52 Entertainment an entertainment industry financial incentive
 53 program. The purpose of this program is to encourage the use of
 54 this state as a site for filming, ~~and for~~ providing production
 55 services for filmed entertainment, ~~motion pictures, made-for-~~
 56 ~~television movies, commercials, music videos, industrial and~~
 57 ~~educational films, and television programs by the entertainment~~
 58 ~~industry.~~

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

60 (a) "Filmed entertainment" means a theatrical or direct-
 61 to-video motion picture, a made-for-television motion picture
 62 ~~teleproduction, a commercial, a music video, an industrial or~~
 63 educational film, a promotional video or film, a documentary
 64 film, a television pilot, a presentation for a television pilot,
 65 a television series, including, but not limited to, a drama, a
 66 reality, a comedy, a soap opera, a telenovella, a game show, and
 67 a miniseries production, or a digital-media-effects production
 68 by the entertainment industry to be sold or displayed in an
 69 electronic medium. As used in this paragraph, the term "motion
 70 picture" means a motion picture made on or by film, tape, or
 71 otherwise and produced by means of a motion picture camera,
 72 electronic camera or device, tape device, any combination of the
 73 foregoing, or any other means, method, or device now used or
 74 which may hereafter be adopted. As used in this paragraph, the
 75 term "digital-media-effects" means visual elements created
 76 through the modification of already existing or newly created
 77 visual elements for film, video, or animated media through the
 78 use of digital 2D/3D animation or painting, motion capture, or
 79 compositing technologies. For purposes of this section, the term

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80 "filmed entertainment" does not include the electronic gaming
81 industry or sporting events.

82 (b) "Production costs" means the costs of real, tangible,
83 and intangible property used and services performed in the
84 production, including preproduction and postproduction, of
85 qualified filmed entertainment. Production costs generally
86 include, but are not limited to:

87 1. Wages, salaries, or other compensation for technical
88 and production crews, directors, producers, and performers who
89 are residents of this state.

90 2. Expenditures for sound stages, backlots, production
91 editing, digital effects, sound recordings, sets, and set
92 construction.

93 3. Expenditures for rental equipment, including, but not
94 limited to, cameras and grip or electrical equipment.

95 4. Expenditures for meals, travel, accommodations, and
96 goods used in producing filmed entertainment that is located and
97 doing business in this state ~~total cost of producing filmed~~
98 ~~entertainment.~~

99 (c) "Qualified expenditures" means production costs for
100 goods purchased or leased or services purchased, leased, or
101 employed from a resident of this state or a vendor or supplier
102 who is located and doing business in this state, but excluding
103 wages, salaries, or other compensation paid to the two highest-
104 paid employees.

105 (d) "Qualified production" means filmed entertainment that
106 makes expenditures in this state for the total or partial
107 production of filmed entertainment ~~a motion picture, made for-~~

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108 ~~television movie with a running time of 90 minutes or more,~~
 109 ~~commercial, music video, industrial and educational film,~~
 110 ~~television series pilot, or television episode.~~ Productions that
 111 are deemed by the Office of Film and Entertainment to contain
 112 obscene content, as defined by the United States Supreme Court,
 113 are shall not be considered qualified productions. Also, a
 114 production is not a qualified production if it is determined
 115 that the first day of principal photography in this state
 116 occurred on or before the date of submitting its application to
 117 the Office of Film and Entertainment or prior to certification
 118 by the Office of Tourism, Trade, and Economic Development.

119 (e) "Qualified relocation project" means a corporation,
 120 limited liability company, partnership, corporate headquarters,
 121 or other private entity that is domiciled in another state or
 122 country and relocates its operations to this state, is organized
 123 under the laws of this or any other state or country, and
 124 includes as one of its primary purposes digital-media-effects or
 125 motion picture and television production, or postproduction.

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

127 (a) Any company engaged in this state in producing filmed
 128 entertainment may submit an application to the Office of Film
 129 and Entertainment for the purpose of determining qualification
 130 for receipt of reimbursement provided in this section. The
 131 office must be provided information required to determine if the
 132 production is a qualified production and to determine the
 133 qualified expenditures, production costs, and other information
 134 necessary for the office to determine both eligibility for and
 135 level of reimbursement.

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136 (b) A digital-media-effects company in the state which
 137 furnishes digital material to filmed entertainment ~~a qualified~~
 138 ~~production that is certified by the Office of Film and~~
 139 ~~Entertainment~~ may submit an application to the Office of Film
 140 and Entertainment for the purpose of determining qualification
 141 for receipt of reimbursement authorized by this section. The
 142 office must be provided information required to determine if the
 143 company is qualified and to determine the amount of
 144 reimbursement.

145 (c) Any corporation, limited liability company,
 146 partnership, corporate headquarters, or other private entity
 147 domiciled in another state which includes as one of its primary
 148 purposes digital-media-effects or motion picture and television
 149 production and which is considering relocation to this state may
 150 submit an application to the Office of Film and Entertainment
 151 for the purpose of determining qualification for reimbursement
 152 under this section.

153 (d)1. The Office of Film and Entertainment shall establish
 154 a process by which an application is accepted and reviewed and
 155 reimbursement eligibility and reimbursement amount are
 156 determined. The Office of Film and Entertainment may request
 157 assistance from a duly appointed local film commission in
 158 determining qualifications for reimbursement and compliance.

159 2. The Office of Film and Entertainment shall develop a
 160 standardized application form for use in approving a qualified
 161 production, a qualified relocation project, or a company
 162 qualifying under paragraph (a), paragraph (b), or paragraph (c).
 163 The application form must include, but need not be limited to,

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164 production-related information on employment, proposed total
165 production budgets, planned expenditures in this state which are
166 intended for use exclusively as an integral part of
167 preproduction, production, or postproduction activities engaged
168 primarily in this state, and a signed affirmation from the
169 Office of Film and Entertainment that the information on the
170 application form has been verified and is correct. The
171 application form shall be distributed to applicants by the
172 Office of Film and Entertainment or local film commissions.

173 3. The Office of Film and Entertainment must complete its
174 review of each application within 5 days after receipt of the
175 completed application, including all required information, and
176 it must notify the applicant of its determination within 10
177 business days after receipt of the completed application and
178 required information.

179 4.2- Upon determination that all criteria are met for
180 qualification for reimbursement, the Office of Film and
181 Entertainment shall notify the applicant of such approval. The
182 office shall also notify the Office of Tourism, Trade, and
183 Economic Development of the applicant approval and amount of
184 reimbursement required. The Office of Tourism, Trade, and
185 Economic Development shall make final determination for actual
186 reimbursement.

187 5.3- The Office of Film and Entertainment shall deny an
188 application if it determines that:

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

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191 b. The reimbursement sought does not meet the requirements
192 of this section for such reimbursement.

193 ~~(c) The Office of Film and Entertainment shall develop a~~
194 ~~standardized application form for use in approving a qualified~~
195 ~~production, a qualified relocation project, or a company~~
196 ~~qualifying under paragraph (b). The application form must~~
197 ~~include, but is not limited to, production-related information~~
198 ~~on employment, proposed total production budgets, planned~~
199 ~~expenditures in this state which are intended for use~~
200 ~~exclusively as an integral part of preproduction, production, or~~
201 ~~postproduction activities engaged in primarily in this state,~~
202 ~~and a signed affirmation from the Office of Film and~~
203 ~~Entertainment that the information on the application form has~~
204 ~~been verified and is correct. The application form shall be~~
205 ~~distributed to applicants by the Office of Film and~~
206 ~~Entertainment or local film commissions.~~

207 ~~(f) The Office of Film and Entertainment must complete its~~
208 ~~review of each application within 5 days after receipt of the~~
209 ~~completed application, including all required information, and~~
210 ~~it must notify the applicant of its determination within 10~~
211 ~~business days after receipt of the completed application and~~
212 ~~required information.~~

213 (4) REIMBURSEMENT ELIGIBILITY; SUBMISSION OF REQUIRED
214 DOCUMENTATION; RECOMMENDATIONS FOR PAYMENT.--

215 (a) A qualified production that is qualified certified by
216 the Office of Film and Entertainment and is certified by the
217 Office of Tourism, Trade, and Economic Development is eligible
218 for the following financial incentives from the state:

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219 ~~1.~~ a reimbursement of up to 15 percent of its qualifying
 220 expenditures in this state on a filmed entertainment program
 221 ~~that motion picture, made for television movie with a running~~
 222 ~~time of 90 minutes or more, commercial, music video, industrial~~
 223 ~~film, educational film, television series pilot, or television~~
 224 ~~episode that~~ demonstrates a minimum of \$850,000 in total
 225 qualified expenditures for the entire run of the project, versus
 226 the budget on a single episode, within the fiscal year from July
 227 1 to June 30. However, the maximum reimbursement that may be
 228 made with respect to any filmed entertainment program ~~a motion~~
 229 ~~picture~~ is \$2 million, ~~the maximum reimbursement that may be~~
 230 ~~made with respect to a made for television movie or television~~
 231 ~~series pilot with a running time of 90 minutes or more is~~
 232 ~~\$450,000, the maximum reimbursement that may be made with~~
 233 ~~respect to any single television series pilot or television~~
 234 ~~episode is \$150,000, the maximum reimbursement that may be made~~
 235 ~~with respect to a music video or commercial is \$25,000, and the~~
 236 ~~maximum reimbursement that may be made with respect to an~~
 237 ~~industrial film or an educational film is \$15,000. All noted~~
 238 reimbursements under this section are subject to appropriation.
 239 Payments under this section in a fiscal year shall be made to
 240 qualified productions according to a production's principal
 241 photography start date, for those qualified productions having
 242 entered into the first queue as cited in subparagraph 1. or the
 243 second queue cited in subparagraph 2. within the first 2 weeks
 244 after the queue's opening. All other qualified productions
 245 entering into either queue after the initial 2-week openings
 246 shall be on a first-come, first-served basis until the

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247 | appropriation for that fiscal year is exhausted. On February 1
 248 | of each year, the remaining funds within both queues shall be
 249 | combined into a single queue and distributed based on a
 250 | project's principal photography start date. Subject to
 251 | ~~subsequent appropriations,~~ The eligibility of qualified
 252 | productions may not shall carry over from year to year but such
 253 | productions may reapply for eligibility under the guidelines
 254 | established for doing so. The Office of Film and Entertainment
 255 | shall develop a procedure to ensure that qualified productions
 256 | continue on a reasonable schedule until completion. If a
 257 | qualified production is not continued according to a reasonable
 258 | schedule, the office shall withdraw its eligibility and
 259 | reallocate the funds to the next ~~other~~ qualified productions
 260 | already in the queue that have yet to receive their full maximum
 261 | or 15-percent financial reimbursement, if they have not started
 262 | principal photography by the time the funds become available.

263 | 1. Theatrical or direct-to-video motion pictures, made-
 264 | for-television movies, commercials, music videos, industrial and
 265 | educational films, promotional videos or films, documentary
 266 | films, television specials, and digital-media-effects
 267 | productions by the entertainment industry to be sold or
 268 | displayed in an electronic medium shall have their own separate
 269 | queue established, and such queue shall have dedicated to it 60
 270 | percent of all of the state incentive money.

271 | 2. Television pilots, presentations for television pilots,
 272 | or television series, including, but not limited to, drama,
 273 | reality, comedy, soap opera, telenovella, game show, or
 274 | miniseries productions, by the entertainment industry to be sold

275 or displayed in an electronic medium shall have their own
 276 separate queue established, and such queue shall have dedicated
 277 to it 40 percent of all of the state incentive money. ~~Qualified~~
 278 ~~expenditures for which reimbursement shall be made include~~
 279 ~~salaries and employment benefits paid for services rendered in~~
 280 ~~this state; rents for real and personal property used in the~~
 281 ~~production; payments for preproduction, production,~~
 282 ~~postproduction, and digital-media-effects services rendered in~~
 283 ~~this state; and cost of set construction. Reimbursement may not~~
 284 ~~be authorized for salaries of the two highest paid actors.~~
 285 ~~Salaries of other actors are reimbursable.~~

286 (b) A digital-media-effects company in the state which
 287 furnishes digital material to filmed entertainment ~~a qualified~~
 288 ~~production that is certified by the Office of Film and~~
 289 ~~Entertainment~~ may be eligible for a payment in an amount not to
 290 exceed 5 percent of its annual gross revenues on qualified
 291 expenditures as defined listed in paragraph (2)(c)
 292 ~~subparagraph(a)2.~~ before taxes or \$100,000, whichever is less. A
 293 company applying for payment must submit documentation annually
 294 as required by the Office of Film and Entertainment for
 295 determination of eligibility of claimed billing and
 296 determination of the amount of payment for which the company is
 297 eligible.

298 (c) A qualified relocation project that is certified by
 299 the Office of Film and Entertainment is eligible for a one-time
 300 incentive payment in an amount equal to 5 percent of its annual
 301 gross revenues before taxes for the first 12 months of
 302 conducting business in its Florida domicile or \$200,000,

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303 | whichever is less. A company applying for payment must submit
 304 | documentation as required by the Office of Film and
 305 | Entertainment for determination of eligibility of claimed
 306 | billing and determination of the amount of payment for which the
 307 | company is eligible.

308 | (d) A qualified production, a digital-media-effects
 309 | company, or a qualified relocation project applying for a
 310 | payment under this section must submit documentation for claimed
 311 | qualified expenditures to the Office of Film and Entertainment.

312 | (e) The Office of Film and Entertainment shall notify the
 313 | Office of Tourism, Trade, and Economic Development whether an
 314 | applicant meets the criteria for reimbursement and shall
 315 | recommend the reimbursement amount. The Office of Tourism,
 316 | Trade, and Economic Development shall make the final
 317 | determination for actual reimbursement.

318 | (7) ANNUAL REPORT.--The Office of Film and Entertainment
 319 | shall provide an annual report for the previous fiscal year, due
 320 | October ~~January~~ 1, to the Governor, the President of the Senate,
 321 | and the Speaker of the House of Representatives outlining the
 322 | return on investment to the state on funds expended pursuant to
 323 | this section.

324 | Section 3. This act shall take effect July 1, 2005.