

By Senator Saunders

37-833B-05

1 A bill to be entitled

2 An act relating to economic development;

3 amending s. 288.125, F.S.; changing the term

4 "television series" to "television programming"

5 for purposes of the definition of the term

6 "entertainment industry" in provisions

7 establishing the Office of Film and

8 Entertainment within the Office of Tourism,

9 Trade, and Economic Development; amending s.

10 288.1254, F.S.; revising a program under which

11 certain persons producing, or providing

12 services for the production of, filmed

13 entertainment are eligible for state financial

14 incentives for activities in or relocated to

15 this state; revising definitions; deleting a

16 provision that requires a digital-media-effects

17 company to be certified by the Office of Film

18 and Entertainment in order to submit an

19 application for qualification for receipt of

20 reimbursement; revising limits on

21 reimbursement; revising the due date for the

22 annual report to be submitted to the Governor

23 and the Legislature; providing an effective

24 date.

25

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

27

28 Section 1. Section 288.125, Florida Statutes, is

29 amended to read:

30 288.125 Definition of "entertainment industry".--For

31 the purposes of ss. 288.1251-288.1258, the term "entertainment

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

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

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

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

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

30 (a) "Filmed entertainment" means a motion picture,
31 theatrical or direct to video, made-for-television movie

1 ~~teleproduction~~, commercial, music video, industrial and
2 educational films, promotional videos or films, documentary
3 film, or television program or series, including, but not
4 limited to, drama, reality, comedy, soap, telenovella, game
5 show and miniseries, and ~~or~~ digital-media-effects production
6 by the entertainment industry to be sold or displayed in an
7 electronic medium. As used in this paragraph, the term "motion
8 pictures" means and includes, and has always meant and
9 included, motion pictures made on or by film, tape, or
10 otherwise and produced by means of motion picture cameras,
11 electronic cameras or devices, tape devices, any combination
12 of the foregoing, or any other means, methods, or devices now
13 used or which may hereafter be adopted. As used in this
14 paragraph, the term "digital-media-effects" means visual
15 elements created through the modification of already existing
16 or newly created visual elements for film, video, or animated
17 media through the use of digital 2D/3D animation or painting,
18 motion capture, or compositing technologies. The term "filmed
19 entertainment," for the purpose of the section, does not
20 include the electronic gaming industry or sporting events.

21 (b) "Production costs" means the costs of real,
22 tangible, and intangible property used and services performed
23 in the production, including preproduction and postproduction,
24 of qualified filmed entertainment. Production costs generally
25 include, but are not limited to, wages, salaries, or other
26 compensation for technical and production crews, directors,
27 producers, performers who are residents of this state, and
28 expenditures for sound stages, backlots, production editing,
29 digital effects, sound recordings, sets and set construction,
30 rental equipment, including, but not limited to, cameras, grip
31 or electrical equipment, meals, travel, accommodations, and

1 other goods used in producing filmed entertainment which are
2 located and doing business in this state ~~total cost of~~
3 ~~producing filmed entertainment.~~

4 (c) "Qualified expenditures" means production costs
5 for goods purchased or leased or services purchased, leased,
6 or employed from a resident of this state or a vendor or
7 supplier who is located and doing business in this state, but
8 excluding wages, salaries, or other compensation paid to the
9 two highest-paid employees.

10 (d) "Qualified production" means filmed entertainment
11 ~~that makes~~ expenditures in this state for the total or partial
12 production of filmed entertainment ~~a motion picture,~~
13 ~~made for television movie with a running time of 90 minutes or~~
14 ~~more, commercial, music video, industrial and educational~~
15 ~~film, television series pilot, or television episode.~~
16 Productions that are deemed by the Office of Film and
17 Entertainment to contain obscene content, as defined by the
18 United States Supreme Court, are ~~shall not be considered~~
19 qualified productions. Also, productions already planned to
20 shoot in this state, which are determined by the first day of
21 principal photography in this state having started at the time
22 of submitting their application to the Office of Film and
23 Entertainment within that same fiscal year in this state, are
24 not qualified productions.

25 (e) "Qualified relocation project" means a
26 corporation, limited liability company, partnership, corporate
27 headquarters, or other private entity that is domiciled in
28 another state or country and relocates its operations to this
29 state, is organized under the laws of this or any other state
30 or country, and includes as one of its primary purposes
31

1 digital-media-effects or motion picture and television
2 production, or postproduction.

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

4 (a) Any company engaged in this state in producing
5 filmed entertainment may submit an application to the Office
6 of Film and Entertainment for the purpose of determining
7 qualification for receipt of reimbursement provided in this
8 section. The office must be provided information required to
9 determine if the production is a qualified production and to
10 determine the qualified expenditures, production costs, and
11 other information necessary for the office to determine both
12 eligibility for and level of reimbursement.

13 (b) A digital-media-effects company in the state which
14 furnishes digital material to a qualified production that ~~is~~
15 ~~certified by the Office of Film and Entertainment~~ may submit
16 an application to the Office of Film and Entertainment for the
17 purpose of determining qualification for receipt of
18 reimbursement authorized by this section. The office must be
19 provided information required to determine if the company is
20 qualified and to determine the amount of reimbursement.

21 (c) Any corporation, limited liability company,
22 partnership, corporate headquarters, or other private entity
23 domiciled in another state which includes as one of its
24 primary purposes digital-media-effects or motion picture and
25 television production and which is considering relocation to
26 this state may submit an application to the Office of Film and
27 Entertainment for the purpose of determining qualification for
28 reimbursement under this section.

29 (d)1. The Office of Film and Entertainment shall
30 establish a process by which an application is accepted and
31 reviewed and reimbursement eligibility and reimbursement

1 amount are determined. The Office of Film and Entertainment
2 may request assistance from a duly appointed local film
3 commission in determining qualifications for reimbursement and
4 compliance.

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

20 3. The Office of Film and Entertainment must complete
21 its review of each application within 5 days after receipt of
22 the completed application, including all required information,
23 and it must notify the applicant of its determination within
24 10 business days after receipt of the completed application
25 and required information.

26 ~~4.2-~~ 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
31

1 Office of Tourism, Trade, and Economic Development shall make
2 final determination for actual reimbursement.

3 ~~5.3-~~ The Office of Film and Entertainment shall deny
4 an 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 ~~(c) 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.--

31

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 in this state on a filmed
6 entertainment program that ~~motion picture, made for television~~
7 ~~movie with a running time of 90 minutes or more, commercial,~~
8 ~~music video, industrial film, educational film, television~~
9 ~~series pilot, or television episode~~ that demonstrates a
10 minimum of \$850,000 in total qualified expenditures for the
11 entire run of the project, versus the budget on a single
12 episode, within the fiscal calendar year from July 1 to June
13 30. However, the maximum reimbursement that may be made with
14 respect to any filmed entertainment program ~~a motion picture~~
15 is \$2 million, ~~the maximum reimbursement that may be made with~~
16 ~~respect to a made for television movie or television series~~
17 ~~pilot with a running time of 90 minutes or more is \$450,000,~~
18 ~~the maximum reimbursement that may be made with respect to any~~
19 ~~single television series pilot or television episode is~~
20 ~~\$150,000, the maximum reimbursement that may be made with~~
21 ~~respect to a music video or commercial is \$25,000, and the~~
22 ~~maximum reimbursement that may be made with respect to an~~
23 ~~industrial film or an educational film is \$15,000~~. All noted
24 reimbursements under this section are subject to
25 appropriation. Payments under this section in a fiscal year
26 shall be made to approved projects according to a project's
27 principal photography start date, for those projects having
28 entered into the motion picture queue or the long-form
29 television queue within the first 2 weeks of the queue's
30 opening. All other projects entering into either queue after
31 the initial 2-week openings shall be on a first-come,

1 first-served basis until the appropriation for that fiscal
2 year is exhausted, except that until February 1 of each year,
3 the remaining funds within both queues shall be combined into
4 a single queue and distributed based on a project's principal
5 photography start date. Subject to subsequent appropriations,
6 The eligibility of qualified productions may not ~~shall~~ carry
7 over from year to year, but are eligible to reapply under the
8 guidelines established for doing so. The Office of Film and
9 Entertainment shall develop a procedure to ensure that
10 qualified productions continue on a reasonable schedule until
11 completion. If a qualified production is not continued
12 according to a reasonable schedule, the office shall withdraw
13 its eligibility and reallocate the funds to the next ~~other~~
14 qualified productions already in the queue that have yet to
15 receive their full maximum or 15 percent financial
16 reimbursement, if they have not started principal photography
17 by the time the funds become available.

18 1. Motion pictures, theatrical or direct-to-video,
19 made-for-television movies, commercials, music videos,
20 industrial and educational films, promotional videos or films,
21 documentary films, television specials, and
22 digital-media-effects productions by the entertainment
23 industry to be sold or displayed in an electronic medium shall
24 have their own separate queue established, and shall have
25 dedicated to it 60 percent of all of the state incentive
26 money.

27 2. Long-form television programs or series, including,
28 but not limited to drama, reality, comedy, soap, telenovella,
29 game show, or miniseries productions by the entertainment
30 industry to be sold or displayed in an electronic medium shall
31 have their own separate queue established, and shall have

1 dedicated to it 40 percent of all of the state incentive
2 money.

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

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

23 (c) A qualified relocation project that is certified
24 by the Office of Film and Entertainment is eligible for a
25 one-time incentive payment in an amount equal to 5 percent of
26 its annual gross revenues before taxes for the first 12 months
27 of conducting business in its Florida domicile or \$200,000,
28 whichever is less. A company applying for payment must submit
29 documentation as required by the Office of Film and
30 Entertainment for determination of eligibility of claimed
31

1 | billing and determination of the amount of payment for which
2 | the company is eligible.

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

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

14 | (7) ANNUAL REPORT.--The Office of Film and
15 | Entertainment shall provide an annual report for the previous
16 | fiscal year, due October 1 ~~January 1~~, to the Governor, the
17 | President of the Senate, and the Speaker of the House of
18 | Representatives outlining the return on investment to the
19 | state on funds expended pursuant to this section.

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

21 |
22 | *****

23 | SENATE SUMMARY

24 | Revises a program under which certain persons producing,
25 | or providing services for the production of, filmed
26 | entertainment are eligible for state financial incentives
27 | for activities in or relocated to this state. Deletes a
28 | provision that requires a digital-media-effects company
29 | to be certified by the Office of Film and Entertainment
30 | within the Office of Tourism, Trade, and Economic
31 | Development in order to submit an application for
32 | qualification for receipt of reimbursement. Revises
33 | limits on reimbursement. Revises the due date for the
34 | annual report to be submitted to the Governor and the
35 | Legislature. (See bill for details.)