

1                                   A bill to be entitled  
 2           An act relating to entertainment industry economic  
 3           development; transferring, renumbering, and amending s.  
 4           288.1254, F.S.; revising the entertainment industry  
 5           financial incentive program to provide corporate income  
 6           tax credits to qualified entertainment entities rather  
 7           than reimbursements from appropriations; revising  
 8           provisions relating to definitions, creation and scope,  
 9           application procedures, approval process, eligibility,  
 10          required documents, qualified productions, rules,  
 11          fraudulent claims, and annual reports; providing criteria  
 12          and limitations for awards of tax credits; providing  
 13          marketing requirements; providing for future repeal;  
 14          amending s. 477.0135, F.S.; correcting a cross-reference;  
 15          providing an effective date.

16  
 17   Be It Enacted by the Legislature of the State of Florida:

18  
 19           Section 1.   Section 288.1254, Florida Statutes, is  
 20           transferred and renumbered as section 220.192, Florida Statutes,  
 21           and amended to read:

22           220.192 ~~288.1254~~ Entertainment industry financial  
 23           incentive program; creation; purpose; definitions; application  
 24           procedure; approval process; ~~reimbursement~~ eligibility;  
 25           submission of required documentation; recommendations for credit  
 26           award ~~payment~~; policies and procedures; fraudulent claims.--

27           (1)   CREATION AND PURPOSE OF PROGRAM.--~~Subject to specific~~  
 28           ~~appropriation~~, There is created within the Office of Film and

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29 Entertainment an entertainment industry financial incentive  
30 program. The purpose of this program is to encourage the use of  
31 this state as a site for filming and developing and sustaining  
32 the workforce and infrastructure ~~providing production services~~  
33 for filmed entertainment.

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

35 (a) "Filmed entertainment" means a theatrical or direct-  
36 to-video motion picture, a made-for-television motion picture  
37 teleproduction, a commercial, a music video, an industrial or  
38 educational film, a promotional video or film, a documentary  
39 film, a television pilot, a presentation for a television pilot,  
40 a television special, a television series, including, but not  
41 limited to, a drama, a reality, a comedy, a soap opera, a  
42 telenovela, a game show, and a miniseries production, or a  
43 digital-media-effects production by the entertainment industry  
44 to be sold or displayed in an electronic medium, excluding news  
45 shows and sporting events. As used in this paragraph, the term  
46 "motion picture" means a motion picture made on or by film,  
47 tape, or otherwise and produced by means of a motion picture  
48 camera, electronic camera or device, tape device, any  
49 combination of the foregoing, or any other means, method, or  
50 device now used or which may hereafter be adopted. As used in  
51 this paragraph, the term "digital-media-effects" means visual  
52 elements created through the modification of already existing or  
53 newly created visual elements for film, video, or animated media  
54 through the use of digital 2D/3D animation or painting, motion  
55 capture, or compositing technologies. ~~For purposes of this~~  
56 ~~section, the term "filmed entertainment" does not include the~~

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57 ~~electronic gaming industry or sporting events.~~

58 (b) "High-impact television series" means a production  
59 created to run multiple production seasons with an estimated  
60 order of at least seven episodes per season and qualified  
61 expenditures of at least \$625,000 per episode.

62 (c) ~~(b)~~ "Production costs" means the costs of ~~real,~~  
63 ~~tangible,~~ and intangible property used and services performed  
64 primarily or customarily in the production, including  
65 preproduction and postproduction, of qualified filmed  
66 entertainment. Production costs generally include, but are not  
67 limited to:

68 1. Wages, salaries, or other compensation, including  
69 amounts paid through payroll service companies, for technical  
70 and production crews, directors, producers, and performers ~~who~~  
71 ~~are residents of this state.~~

72 2. Expenditures for sound stages, backlots, production  
73 editing, digital effects, sound recordings, sets, and set  
74 construction.

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

77 4. Expenditures for meals, travel, and accommodations, ~~and~~  
78 ~~goods~~ used in producing filmed entertainment ~~that is located and~~  
79 ~~doing business in this state.~~

80 5. Expenditures for goods and services used in producing  
81 filmed entertainment.

82 (d) ~~(e)~~ "Qualified expenditures" means production costs  
83 incurred in this state within the current fiscal year for goods  
84 purchased or leased from or services provided by ~~purchased,~~

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85 ~~leased, or employed from a resident of this state or~~ a vendor or  
 86 supplier who is located and doing business in this state, or  
 87 payments to residents of this state ~~but~~ excluding wages,  
 88 salaries, and ~~or~~ other compensation paid to the two highest-paid  
 89 employees in this state.

90 ~~(e)-(d)~~ "Qualified production" means filmed entertainment  
 91 that meets or exceeds minimum ~~makes~~ expenditures required in  
 92 this state for the total or partial production of filmed  
 93 entertainment. Productions that are deemed by the Office of Film  
 94 and Entertainment to contain obscene content, as defined by the  
 95 United States Supreme Court, are not qualified productions.  
 96 ~~Also, a production is not a qualified production if it is~~  
 97 ~~determined that the first day of principal photography in this~~  
 98 ~~state occurred on or before the date of submitting its~~  
 99 ~~application to the Office of Film and Entertainment or prior to~~  
 100 ~~certification by the Office of Tourism, Trade, and Economic~~  
 101 ~~Development.~~

102 ~~(f)-(e)~~ "Qualified production company relocation project"  
 103 means a corporation, limited liability company, partnership,  
 104 ~~corporate headquarters,~~ or other private entity engaged in  
 105 productions of filmed entertainment ~~that is domiciled in another~~  
 106 ~~state or country and relocates its operations to this state, is~~  
 107 ~~organized under the laws of this or any other state or country,~~  
 108 ~~and includes as one of its primary purposes digital media-~~  
 109 ~~effects or motion picture and television production, or~~  
 110 ~~postproduction.~~

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

112 (a) Any company engaged in this state in producing filmed

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113 entertainment may submit an application to the Office of Film  
114 and Entertainment for the purpose of determining qualification  
115 for an award of credits against the tax imposed by this chapter  
116 as receipt of reimbursement provided in this section. The office  
117 must be provided information required to determine if the  
118 production is a qualified production and to determine the  
119 qualified expenditures, production costs, and other information  
120 necessary for the office to determine ~~both~~ eligibility for the  
121 15-percent tax credit and level of reimbursement.

122 (b) ~~A digital media effects company in the state which~~  
123 ~~furnishes digital material to filmed entertainment may submit an~~  
124 ~~application to the Office of Film and Entertainment for the~~  
125 ~~purpose of determining qualification for receipt of~~  
126 ~~reimbursement authorized by this section. The office must be~~  
127 ~~provided information required to determine if the company is~~  
128 ~~qualified and to determine the amount of reimbursement.~~

129 (c) ~~Any corporation, limited liability company,~~  
130 ~~partnership, corporate headquarters, or other private entity~~  
131 ~~domiciled in another state which includes as one of its primary~~  
132 ~~purposes digital media effects or motion picture and television~~  
133 ~~production and which is considering relocation to this state may~~  
134 ~~submit an application to the Office of Film and Entertainment~~  
135 ~~for the purpose of determining qualification for reimbursement~~  
136 ~~under this section.~~

137 (d)1. ~~The Office of Film and Entertainment shall establish~~  
138 ~~a process by which an application is accepted and reviewed and~~  
139 ~~reimbursement eligibility and reimbursement amount are~~  
140 ~~determined. The Office of Film and Entertainment may request~~

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141 ~~assistance from a duly appointed local film commission in~~  
142 ~~determining qualifications for reimbursement and compliance.~~

143 1.2. The Office of Film and Entertainment shall develop a  
144 standardized application form for use in approving a qualified  
145 production, ~~a qualified relocation project, or a company~~  
146 ~~qualifying under paragraph (a), paragraph (b), or paragraph (c).~~  
147 The application form for a qualified production must include,  
148 but need not be limited to, production-related information on  
149 employment, proposed total production budgets, planned  
150 expenditures in this state ~~which are intended for use~~  
151 ~~exclusively as an integral part of preproduction, production, or~~  
152 ~~postproduction activities engaged primarily in this state, and a~~  
153 signed affirmation from the applicant ~~Office of Film and~~  
154 ~~Entertainment~~ that the information on the application form has  
155 been verified and is correct. The application form shall be  
156 distributed to applicants by the Office of Film and  
157 Entertainment or local film commissions.

158 2.3. The Office of Film and Entertainment must complete  
159 its review of each application and recommend approval of the  
160 amount of the tax credit award to the Office of Tourism, Trade,  
161 and Economic Development or notify the applicant that he or she  
162 has not met the requirements for qualification within 10  
163 business 5 days after receipt of the completed application,  
164 including all required information, and it must notify the  
165 applicant of the certified maximum tax credit award, if any, its  
166 ~~determination~~ within 10 business days after being notified of  
167 certification by the Office of Tourism, Trade, and Economic  
168 Development ~~receipt of the completed application and required~~

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169 information.

170 ~~3.4. Upon determination that all criteria are met for~~  
171 ~~qualification for reimbursement, The Office of Film and~~  
172 ~~Entertainment shall notify the applicant of such approval. the~~  
173 ~~office shall also notify the Office of Tourism, Trade, and~~  
174 ~~Economic Development of the applicant approval and amount of~~  
175 ~~reimbursement required. The Office of Tourism, Trade, and~~  
176 ~~Economic Development shall make the final determination for the~~  
177 ~~actual tax credit award reimbursement.~~

178 ~~4.5. The Office of Film and Entertainment shall deny an~~  
179 ~~application if it determines that:~~

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

182 b. The tax credit amount reimbursement sought does not  
183 meet the requirements of this section ~~for such reimbursement.~~

184 (4) CREDIT REIMBURSEMENT ELIGIBILITY; SUBMISSION OF  
185 REQUIRED DOCUMENTATION; APPLICATION RECOMMENDATIONS FOR TRANSFER  
186 PAYMENT. --

187 (a) A production that is qualified by the Office of Film  
188 and Entertainment and is certified by the Office of Tourism,  
189 Trade, and Economic Development is eligible for a tax credit for  
190 ~~reimbursement of~~ up to 15 percent of its qualifying expenditures  
191 in this state on a filmed entertainment program, excluding  
192 wages, salaries, and other compensation paid to the two highest-  
193 paid employees of the production in this state that demonstrates  
194 ~~a minimum of \$850,000 in total qualified expenditures for the~~  
195 ~~entire run of the project, versus the budget on a single~~  
196 ~~episode, within the fiscal year from July 1 to June 30. However,~~

197 ~~the maximum reimbursement that may be made with respect to any~~  
198 ~~filmed entertainment program is \$2 million. All reimbursements~~  
199 ~~under this section are subject to appropriation. Tax credits~~  
200 awarded ~~Payments~~ under this section in a fiscal year shall be  
201 made to qualified productions according to a production's  
202 principal photography start date, for those qualified  
203 productions having entered into the first queue as cited in  
204 subparagraph 1. or the second queue cited in subparagraph 2.  
205 within the first 2 weeks after the queue's opening. All other  
206 qualified productions entering into either queue after the  
207 initial 2-week openings shall be on a first-come, first-served  
208 basis ~~until the appropriation for that fiscal year is exhausted.~~  
209 The aggregate amount of tax credits allowed under this section  
210 in any fiscal year is \$25 million. If the total amount of  
211 allocated tax credits applied for in any fiscal year exceeds the  
212 aggregate amount of tax credits authorized annually under this  
213 section, such excess shall be treated as having been applied for  
214 on the first day of the next fiscal year in which tax credits  
215 remain available for allocation. ~~On February 1 of each year, the~~  
216 ~~remaining funds within both queues shall be combined into a~~  
217 ~~single queue and distributed based on a project's principal~~  
218 ~~photography start date. The eligibility of qualified productions~~  
219 ~~may not carry over from year to year, but such productions may~~  
220 ~~reapply for eligibility under the guidelines established for~~  
221 ~~doing so. The Office of Film and Entertainment shall develop a~~  
222 ~~procedure to ensure that qualified productions continue on a~~  
223 ~~reasonable schedule until completion. If a qualified production~~  
224 is not continued according to a reasonable schedule, the office



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225 shall withdraw its eligibility and reallocate the funds to the  
226 next qualified productions already in the queue that have yet to  
227 receive their full tax credit ~~maximum or 15 percent financial~~  
228 ~~reimbursement~~, if they have not started principal photography by  
229 the time the funds become available.

230 1. Film, television, and episodic queue.--Theatrical or  
231 direct-to-video motion pictures, made-for-television movies,  
232 ~~commercials, music videos,~~ industrial and educational films,  
233 promotional videos or films, documentary films, television  
234 specials, television series, including, but not limited to,  
235 miniseries and telenovelas, and digital-media-effects  
236 productions by the entertainment industry to be sold or  
237 displayed in an electronic medium that demonstrate a minimum of  
238 \$625,000 in total qualified expenditures for the entire run of  
239 the project, which, for a television series, means a season even  
240 if the season is not completed in the same fiscal year in which  
241 principal photography began, shall have their own separate queue  
242 established, and such queue shall have dedicated to it 60  
243 percent of all available tax credits in any fiscal year for  
244 which this section applies ~~of the state incentive money.~~ The  
245 maximum tax credit award that may be made from this queue for  
246 any single production is \$2 million, unless the production is a  
247 high-impact television series, in which case the production  
248 shall be eligible for a maximum tax credit award of \$3 million,  
249 provided such production meets the other criteria of this  
250 section. On March 1 of each year, the remaining tax credits  
251 within this queue shall be merged into a general queue and may  
252 be used for other purposes of this section as determined by the

253 Office of Film and Entertainment. A qualified high-impact  
 254 television series shall be allowed first position in this queue  
 255 for its first five production seasons if the application is  
 256 received by the Office of Film and Entertainment within the  
 257 first 2 weeks after the queue's opening. A television series  
 258 after its fifth production season is not eligible for tax credit  
 259 awards under this section.

260 2. Television pilot queue.--Television pilots and,  
 261 presentations for television pilots for television series  
 262 intended to be shot in this state and, or television series,  
 263 including, but not limited to, drama, reality, comedy, soap  
 264 opera, telenovela, game show, or miniseries productions, by the  
 265 entertainment industry to be sold or displayed in an electronic  
 266 medium that demonstrate a minimum of \$625,000 in total qualified  
 267 expenditures for the pilot episode or presentation shall have  
 268 their own separate queue established, and such queue shall have  
 269 dedicated to it 20 40 percent of all available tax credits in  
 270 any given fiscal year for which this section applies of the  
 271 state incentive money. The maximum tax credit award that may be  
 272 made from this queue for any single project is \$2 million. On  
 273 March 1 of each year, the remaining tax credits within this  
 274 queue shall be merged into a general queue and may be used for  
 275 other purposes of this section as determined by the Office of  
 276 Film and Entertainment.

277 3. Commercials and music video queue.--Commercials and  
 278 music videos by the entertainment industry to be sold or  
 279 displayed in an electronic medium that demonstrate a minimum of  
 280 \$500,000 in total qualified expenditures from a production

281 company during the state fiscal year with a minimum of \$75,000  
282 in qualified expenditures for each production shall have their  
283 own separate queue established. Such queue shall have dedicated  
284 to it 20 percent of available tax credits in any given fiscal  
285 year for which this section applies. The maximum tax credit  
286 award that may be made from this queue for any single production  
287 company is \$500,000. On April 1 of each year, the remaining tax  
288 credits within this queue shall be merged into a general queue  
289 and may be used for other purposes of this section as determined  
290 by the Office of Film and Entertainment.

291 (b) The tax credit available under this section shall only  
292 be surrendered in satisfaction of the tax owed by a qualified  
293 production company under this chapter and only up to the face  
294 amount of the credit. If the qualified production company cannot  
295 use the entire tax credit in the year in which the credit is  
296 approved, any excess may be carried over to a succeeding taxable  
297 year. A tax credit granted under this section may be carried  
298 forward only for a maximum of 5 years following the year in  
299 which the credit was approved. A digital-media-effects company  
300 in the state which furnishes digital material to filmed  
301 entertainment may be eligible for a payment in an amount not to  
302 exceed 5 percent of its annual gross revenues on qualified  
303 expenditures as defined in paragraph (2)(c) before taxes or  
304 \$100,000, whichever is less. A company applying for payment must  
305 submit documentation annually as required by the Office of Film  
306 and Entertainment for determination of eligibility of claimed  
307 billing and determination of the amount of payment for which the  
308 company is eligible.

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309           (c) Upon application and approval by the Department of  
310 Revenue, a taxpayer may sell or assign, in whole or in part, a  
311 tax credit granted under this section. The sale or assignment of  
312 any amount of the tax credit shall not be exchanged for  
313 consideration received by the taxpayer of less than 75 percent  
314 of the transferred amount of tax credit. The purchaser or  
315 assignee shall surrender the tax credit in the year acquired  
316 from the qualified production company and otherwise may carry  
317 the tax credit over subject to the same limitations on credit  
318 usage as the qualified production company awarded the tax  
319 credit. The purchaser may not sell, assign, or otherwise  
320 transfer the tax credit. A qualified relocation project that is  
321 certified by the Office of Film and Entertainment is eligible  
322 for a one time incentive payment in an amount equal to 5 percent  
323 of its annual gross revenues before taxes for the first 12  
324 months of conducting business in its Florida domicile or  
325 \$200,000, whichever is less. A company applying for payment must  
326 submit documentation as required by the Office of Film and  
327 Entertainment for determination of eligibility of claimed  
328 billing and determination of the amount of payment for which the  
329 company is eligible.

330           (d) A qualified production company that is not a  
331 corporation, as defined in s. 220.03(1)(e), shall make an  
332 election, a digital media effects company, or a qualified  
333 relocation project applying for a payment under this section  
334 must submit documentation for claimed qualified expenditures to  
335 the Department of Revenue or distribute tax credits awarded  
336 under this section to its partners or members in proportion to

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337 the respective distributive share of such partners' or members'  
338 income or loss in the year in which such tax credits were  
339 approved. A tax credit granted under this section shall be  
340 carried forward only for a maximum of 5 years following the year  
341 in which the credit was approved ~~Office of Film and~~  
342 ~~Entertainment.~~

343 (e) A qualified production applying for a tax credit award  
344 under this section must submit in a timely manner, but no later  
345 than August 15 of the state fiscal year following the state  
346 fiscal year in which claimed qualified expenditures were  
347 incurred, a single report from a certified public accountant  
348 based in this state, preapproved by the Office of Film and  
349 Entertainment, documenting the amount of claimed qualified  
350 expenditures to the Office of Film and Entertainment. ~~The Office~~  
351 ~~of Film and Entertainment shall notify the Office of Tourism,~~  
352 ~~Trade, and Economic Development whether an applicant meets the~~  
353 ~~criteria for reimbursement and shall recommend the reimbursement~~  
354 ~~amount. The Office of Tourism, Trade, and Economic Development~~  
355 ~~shall make the final determination for actual reimbursement.~~

356 (5) MARKETING REQUIREMENTS.--The Office of Film and  
357 Entertainment shall ensure appropriate marketing materials,  
358 including promotions of this state as a tourist or filming  
359 destination, are required when appropriate to be included on  
360 any filmed entertainment as a condition of receiving a tax  
361 credit under this section. The Office of Film and  
362 Entertainment shall coordinate with VISIT Florida and other  
363 appropriate state entities for the development and  
364 implementation of marketing materials.

365           ~~(5)~~ (6) ~~RULES POLICIES AND PROCEDURES.~~--The Office of  
 366 Tourism, Trade, and Economic Development shall adopt rules  
 367 pursuant to ss. 120.536(1) and 120.54 ~~policies and procedures~~ to  
 368 implement this section, including, but not limited to, rules  
 369 specifying requirements for the application and approval  
 370 process, records required for ~~submission for~~ substantiation of   
 371 credit awards for reimbursement, and determination of and  
 372 qualification for credit awards, and marketing requirements for  
 373 credit recipients reimbursement.

374           ~~(6)~~ (7) FRAUDULENT CLAIMS.--An eligible entity or company  
 375 that obtains a payment under this section through a claim that  
 376 it knows is fraudulent is liable for reimbursement of the amount  
 377 paid plus a penalty in an amount double the payment and  
 378 reimbursement of reasonable costs, which penalty is in addition  
 379 to any criminal penalty to which the entity or company is liable  
 380 for the same acts. The entity or company is also liable for  
 381 costs and fees incurred by the state in investigating and  
 382 prosecuting the fraudulent claim. Any applicant who knowingly  
 383 submits an application under this section that includes  
 384 fraudulent information shall be liable for reimbursement of the  
 385 reasonable costs and fees associated with the review,  
 386 processing, investigation, and prosecution of the fraudulent  
 387 application.

388           ~~(7)~~ (8) ANNUAL REPORT.--The Office of Film and  
 389 Entertainment shall provide an annual report for the previous  
 390 fiscal year, due October 1, to the Governor, the President of  
 391 the Senate, and the Speaker of the House of Representatives  
 392 outlining the return on investment to the state on funds

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393 expended pursuant to this section.

394 (9) REPEAL.--This section is repealed July 1, 2014.

395 Section 2. Subsection (5) of section 477.0135, Florida  
396 Statutes, is amended to read:

397 477.0135 Exemptions.--

398 (5) A license is not required of any individual providing  
399 makeup, special effects, or cosmetology services to an actor,  
400 stunt person, musician, extra, or other talent during a  
401 production recognized by the Office of Film and Entertainment as  
402 a qualified production as defined in s. 220.192 ~~288.1254(2)~~.  
403 Such services are not required to be performed in a licensed  
404 salon. Individuals exempt under this subsection may not provide  
405 such services to the general public.

406 Section 3. This act shall take effect July 1, 2006.