

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 entertainment industry economic
7 development; amending s. 212.08, F.S.; authorizing the use
8 of certain entertainment industry tax credits as a refund
9 against sales and use tax liability under certain
10 circumstances; providing requirements, procedures, and
11 limitations; authorizing the Department of Revenue to
12 adopt rules; amending s. 220.02, F.S.; revising the order
13 of priority list of applicable credits against certain
14 taxes; transferring, renumbering, and amending s.
15 288.1254, F.S.; revising the entertainment industry
16 financial incentive program to provide corporate income
17 tax credits to qualified entertainment entities rather
18 than reimbursements from appropriations; revising
19 provisions relating to definitions, creation and scope,
20 application procedures, approval process, eligibility,
21 required documents, qualified productions, and annual
22 reports; providing criteria and limitations for awards of
23 tax credits; providing marketing requirements; requiring

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24 | the Office of Tourism, Trade, and Economic Development and
 25 | Department of Revenue to adopt rules; providing liability
 26 | for reimbursement of certain costs and fees associated
 27 | with fraudulent applications; providing for future repeal;
 28 | amending s. 477.0135, F.S.; correcting a cross-reference;
 29 | providing an effective date.

30

31 | Be It Enacted by the Legislature of the State of Florida:

32

33 | Section 1. Paragraph (r) is added to subsection (5) of
 34 | section 212.08, Florida Statutes, to read:

35 | 212.08 Sales, rental, use, consumption, distribution, and
 36 | storage tax; specified exemptions.--The sale at retail, the
 37 | rental, the use, the consumption, the distribution, and the
 38 | storage to be used or consumed in this state of the following
 39 | are hereby specifically exempt from the tax imposed by this
 40 | chapter.

41 | (5) EXEMPTIONS; ACCOUNT OF USE.--

42 | (r) Entertainment industry tax credits; authorization;
 43 | eligibility for credits.--Beginning July 1, 2006, any company
 44 | engaged in producing filmed entertainment in this state that has
 45 | registered with the department under this chapter to collect or
 46 | remit sales or use tax and has satisfied the requirements
 47 | enumerated in and has received credits under s. 220.192 may use
 48 | the award of credits against the tax imposed by this chapter as
 49 | provided by this section.

50 | 1. The credit shall be granted as a refund against state
 51 | sales and use taxes reported on returns and remitted in the 12

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52 | months preceding the date of application to the department for
53 | the credit.

54 | 2. A company may not be awarded more than \$2 million in
55 | tax credits under this paragraph and s. 220.192, unless the
56 | production is a high-impact television series as defined in s.
57 | 220.192(2)(b), in which case the production shall be eligible
58 | for a maximum tax credit award of \$3 million.

59 | 3. The total amount of tax credits which may be granted
60 | for all programs approved under this paragraph and s. 220.192 is
61 | \$25 million in any state fiscal year.

62 | 4. A company may use the tax credit against the tax
63 | liability imposed under this chapter, in whole or in part, and
64 | against the liability imposed under chapter 220, so long as the
65 | credit is actually applied only once.

66 | 5. The department may adopt rules pursuant to ss.
67 | 120.536(1) and 120.54 to administer this paragraph, as provided
68 | by s. 220.192(6)(b).

69 | Section 2. Subsection (8) of section 220.02, Florida
70 | Statutes, is amended to read:

71 | 220.02 Legislative intent.--

72 | (8) It is the intent of the Legislature that credits
73 | against either the corporate income tax or the franchise tax be
74 | applied in the following order: those enumerated in s. 631.828,
75 | those enumerated in s. 220.191, those enumerated in s. 220.181,
76 | those enumerated in s. 220.183, those enumerated in s. 220.182,
77 | those enumerated in s. 220.1895, those enumerated in s. 221.02,
78 | those enumerated in s. 220.184, those enumerated in s. 220.186,
79 | those enumerated in s. 220.1845, those enumerated in s. 220.19,

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80 those enumerated in s. 220.185, ~~and~~ those enumerated in s.
81 220.187, and those enumerated in s. 220.192.

82 Section 3. Section 288.1254, Florida Statutes, is
83 transferred and renumbered as section 220.192, Florida Statutes,
84 and amended to read:

85 220.192 ~~288.1254~~ Entertainment industry financial
86 incentive program; creation; purpose; definitions; application
87 procedure; approval process; ~~reimbursement~~ eligibility;
88 submission of required documentation; recommendations for credit
89 award ~~payment~~; policies and procedures; fraudulent claims.--

90 (1) CREATION AND PURPOSE OF PROGRAM.--~~Subject to specific~~
91 ~~appropriation,~~ There is created within the Office of Film and
92 Entertainment an entertainment industry financial incentive
93 program. The purpose of this program is to encourage the use of
94 this state as a site for filming and developing and sustaining
95 the workforce and infrastructure ~~providing production services~~
96 for filmed entertainment.

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

98 (a) "Filmed entertainment" means a theatrical or direct-
99 to-video motion picture, a made-for-television motion picture
100 teleproduction, a commercial, a music video, an industrial or
101 educational film, a promotional video or film, a documentary
102 film, a television pilot, a presentation for a television pilot,
103 a television special, a television series, including, but not
104 limited to, a drama, a reality, a comedy, a soap opera, a
105 telenovela, a game show, and a miniseries production, or a
106 digital-media-effects production by the entertainment industry
107 to be sold or displayed in an electronic medium, excluding news

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108 shows and sporting events. As used in this paragraph, the term
109 "motion picture" means a motion picture made on or by film,
110 tape, or otherwise and produced by means of a motion picture
111 camera, electronic camera or device, tape device, any
112 combination of the foregoing, or any other means, method, or
113 device now used or which may hereafter be adopted. As used in
114 this paragraph, the term "digital-media-effects" means visual
115 elements created through the modification of already existing or
116 newly created visual elements for film, video, or animated media
117 through the use of digital 2D/3D animation or painting, motion
118 capture, or compositing technologies. ~~For purposes of this~~
119 ~~section, the term "filmed entertainment" does not include the~~
120 ~~electronic gaming industry or sporting events.~~

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

125 (c) ~~(b)~~ "Production costs" means the costs of ~~real,~~
126 ~~tangible,~~ and intangible property used and services performed
127 primarily or customarily in the production, including
128 preproduction and postproduction, of qualified filmed
129 entertainment. Production costs generally include, but are not
130 limited to:

131 1. Wages, salaries, or other compensation, including
132 amounts paid through payroll service companies, for technical
133 and production crews, directors, producers, and performers ~~who~~
134 ~~are residents of this state.~~

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135 2. Expenditures for sound stages, backlots, production
136 editing, digital effects, sound recordings, sets, and set
137 construction.

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

140 4. Expenditures for meals, travel, and accommodations, ~~and~~
141 ~~goods~~ used in producing filmed entertainment ~~that is located and~~
142 ~~doing business in this state.~~

143 5. Expenditures for goods and services used in producing
144 filmed entertainment.

145 (d)(e) "Qualified expenditures" means production costs
146 incurred in this state within the current state fiscal year for
147 goods purchased or leased from or services provided by
148 ~~purchased, leased, or employed from a resident of this state or~~
149 ~~a vendor or supplier who is located and doing business in this~~
150 ~~state, or payments to residents of this state in the form of~~
151 salary, wages, or other compensation ~~but~~ excluding wages,
152 salaries, and ~~or~~ other compensation paid to the two highest-paid
153 residents of this state employees.

154 (e)(d) "Qualified production" means filmed entertainment
155 that meets or exceeds minimum qualified ~~makes~~ expenditures
156 required in this state for the total or partial production of
157 filmed entertainment. Productions that are deemed by the Office
158 of Film and Entertainment to contain obscene content, as defined
159 by the United States Supreme Court, are not qualified
160 productions. ~~Also, a production is not a qualified production if~~
161 ~~it is determined that the first day of principal photography in~~
162 ~~this state occurred on or before the date of submitting its~~

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163 ~~application to the Office of Film and Entertainment or prior to~~
164 ~~certification by the Office of Tourism, Trade, and Economic~~
165 ~~Development.~~

166 (f) ~~(e)~~ "Qualified production company relocation project"
167 means a corporation, limited liability company, partnership,
168 ~~corporate headquarters,~~ or other legal private entity engaged in
169 the production of filmed entertainment that is domiciled in
170 ~~another state or country and relocates its operations to this~~
171 ~~state, is organized under the laws of this or any other state or~~
172 ~~country, and includes as one of its primary purposes digital-~~
173 ~~media effects or motion picture and television production, or~~
174 ~~postproduction.~~

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

176 (a) Any company engaged in this state in producing filmed
177 entertainment may submit an application to the Office of Film
178 and Entertainment for the purpose of determining qualification
179 for an award of credits against the tax imposed by this chapter
180 as receipt of reimbursement provided in this section. The office
181 must be provided information required to determine if the
182 production is a qualified production and to determine the
183 qualified expenditures, production costs, and other information
184 necessary for the office to determine ~~both~~ eligibility for the
185 tax credit and ~~level of reimbursement.~~

186 (b) ~~A digital media effects company in the state which~~
187 ~~furnishes digital material to filmed entertainment may submit an~~
188 ~~application to the Office of Film and Entertainment for the~~
189 ~~purpose of determining qualification for receipt of~~
190 ~~reimbursement authorized by this section. The office must be~~

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191 ~~provided information required to determine if the company is~~
192 ~~qualified and to determine the amount of reimbursement.~~

193 ~~(c) Any corporation, limited liability company,~~
194 ~~partnership, corporate headquarters, or other private entity~~
195 ~~domiciled in another state which includes as one of its primary~~
196 ~~purposes digital media effects or motion picture and television~~
197 ~~production and which is considering relocation to this state may~~
198 ~~submit an application to the Office of Film and Entertainment~~
199 ~~for the purpose of determining qualification for reimbursement~~
200 ~~under this section.~~

201 ~~(d)1. The Office of Film and Entertainment shall establish~~
202 ~~a process by which an application is accepted and reviewed and~~
203 ~~reimbursement eligibility and reimbursement amount are~~
204 ~~determined. The Office of Film and Entertainment may request~~
205 ~~assistance from a duly appointed local film commission in~~
206 ~~determining qualifications for reimbursement and compliance.~~

207 1.2. The Office of Film and Entertainment shall develop a
208 standardized application form for use in qualifying an applicant
209 as approving a qualified production, a qualified relocation
210 project, or a company qualifying under paragraph (a), paragraph
211 (b), or paragraph (c). The application form for qualifying an
212 applicant as a qualified production must include, but need not
213 be limited to, production-related information on employment,
214 proposed total production budgets, planned expenditures in this
215 state ~~which are intended for use exclusively as an integral part~~
216 ~~of preproduction, production, or postproduction activities~~
217 ~~engaged primarily in this state, and a signed affirmation from~~
218 the applicant ~~Office of Film and Entertainment that the~~

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219 information on the application form has been verified and is
220 correct. The application form shall be distributed to applicants
221 by the Office of Film and Entertainment or local film
222 commissions.

223 2.3- Within 10 business days after receipt of an
224 application, the Office of Film and Entertainment shall review
225 the application to determine if the application contains all the
226 information required by this subsection and meets the criteria
227 set out in this section. The office shall qualify all
228 applications that contain the information and meet the criteria
229 set out in this section as eligible to receive a tax credit or
230 shall notify the applicant that the requirements for
231 qualification have not been met. If the application is
232 qualified, the office shall recommend to the Office of Tourism,
233 Trade, and Economic Development approval of the maximum amount
234 of the tax credit to be awarded. ~~The Office of Film and~~
235 ~~Entertainment must complete its review of each application~~
236 ~~within 5 days after receipt of the completed application,~~
237 ~~including all required information, and it must notify the~~
238 ~~applicant of its determination within 10 business days after~~
239 ~~receipt of the completed application and required information.~~

240 3.4- Within 10 business days after receiving notice from
241 the Office of Film and Entertainment of qualification of an
242 applicant as a qualified production and a recommended approval
243 of the maximum amount of tax credit to be awarded, the Office of
244 Tourism, Trade, and Economic Development shall certify the
245 maximum tax credit award, if any. The certification shall be
246 transmitted to the applicant and to the executive director of

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247 | the Department of Revenue. The applicant shall be responsible
 248 | for forwarding a certified application to the Department of
 249 | Revenue. Upon determination that all criteria are met for
 250 | qualification for reimbursement, The Office of Film and
 251 | Entertainment shall notify the applicant of such approval. the
 252 | office shall also notify the Office of Tourism, Trade, and
 253 | Economic Development of the applicant approval and amount of
 254 | reimbursement required. The Office of Tourism, Trade, and
 255 | Economic Development shall make final determination for actual
 256 | reimbursement.

257 | 4.5. The Office of Film and Entertainment shall deny an
 258 | application if it determines that:

259 | a. The application is not complete or does not meet the
 260 | requirements of this section; or

261 | b. The tax credit amount reimbursement sought does not
 262 | meet the requirements of this section ~~for such reimbursement.~~

263 | (4) CREDIT REIMBURSEMENT ELIGIBILITY; SUBMISSION OF
 264 | REQUIRED DOCUMENTATION; APPLICATION RECOMMENDATIONS FOR TRANSFER
 265 | PAYMENT. --

266 | (a) Tax credit award.--A production of filmed
 267 | entertainment that is qualified by the Office of Film and
 268 | Entertainment and is certified by the Office of Tourism, Trade,
 269 | and Economic Development is eligible for a tax credit for
 270 | ~~reimbursement of up to 15 percent of its qualified qualifying~~
 271 | ~~expenditures in this state on a filmed entertainment program~~
 272 | ~~that demonstrates a minimum of \$850,000 in total qualified~~
 273 | ~~expenditures for the entire run of the project, versus the~~
 274 | ~~budget on a single episode, within the fiscal year from July 1~~

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275 ~~to June 30. However, the maximum reimbursement that may be made~~
276 ~~with respect to any filmed entertainment program is \$2 million.~~
277 ~~All reimbursements under this section are subject to~~
278 ~~appropriation.~~

279 (b) Production spanning 2 state fiscal years.--A qualified
280 production that starts in one state fiscal year and finishes in
281 the next state fiscal year shall have all qualified expenditures
282 from both state fiscal years certified for the latter state
283 fiscal year. This requirement does not apply to the commercials
284 and music video queue described in subparagraph (d)3.

285 (c) Aggregate tax credit available.--The aggregate amount
286 of tax credits allowed under this section in any state fiscal
287 year is \$25 million. If the total amount of allocated tax
288 credits applied for in any state fiscal year exceeds the
289 aggregate amount of tax credits authorized annually under this
290 section, such excess shall be treated as having been applied for
291 on the first day of the next state fiscal year in which tax
292 credits remain available for allocation. However, no more than
293 an aggregate amount of \$100 million in tax credits shall be
294 allocated in state fiscal year 2006-2007, aggregate allocations
295 in state fiscal year 2007-2008 shall not exceed \$133 million,
296 aggregate allocations in state fiscal year 2008-2009 shall not
297 exceed \$166 million, and aggregate allocations in state fiscal
298 years 2009-2010 and thereafter shall not exceed \$200 million. At
299 such time as \$200 million of tax credits have been allocated, no
300 additional tax credits shall be allocated.

301 (d) Filmed entertainment queues.--Tax credits awarded
302 Payments under this section in a state fiscal year shall be made

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303 to qualified productions according to a production's principal
304 photography start date, for those qualified productions having
305 entered into the first queue as cited in subparagraph 1. or the
306 second queue cited in subparagraph 2. within the first 2 weeks
307 after the queue's opening. All other qualified productions
308 entering into either queue after the initial 2-week openings
309 shall be on a first-come, first-served basis until the
310 ~~appropriation for that fiscal year is exhausted. On February 1~~
311 ~~of each year, the remaining funds within both queues shall be~~
312 ~~combined into a single queue and distributed based on a~~
313 ~~project's principal photography start date. The eligibility of~~
314 ~~qualified productions may not carry over from year to year, but~~
315 ~~such productions may reapply for eligibility under the~~
316 ~~guidelines established for doing so. The Office of Film and~~
317 ~~Entertainment shall develop a procedure to ensure that qualified~~
318 ~~productions continue on a reasonable schedule until completion.~~
319 ~~If a qualified production is not continued according to a~~
320 ~~reasonable schedule, the office shall withdraw its eligibility~~
321 ~~and reallocate the funds to the next qualified productions~~
322 ~~already in the queue that have yet to receive their full maximum~~
323 ~~or 15 percent financial reimbursement, if they have not started~~
324 ~~principal photography by the time the funds become available.~~

325 1. Film, television, and episodic queue.--Theatrical or
326 direct-to-video motion pictures, made-for-television movies,
327 ~~commercials, music videos,~~ industrial and educational films,
328 promotional videos or films, documentary films, television
329 specials, television series, including, but not limited to,
330 miniseries and telenovelas, and digital-media-effects

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331 productions by the entertainment industry to be sold or
332 displayed in an electronic medium that demonstrate a minimum of
333 \$625,000 in total qualified expenditures for the entire run of
334 the project, which, for a television series, means a season even
335 if the season is not completed in the same state fiscal year in
336 which principal photography began, shall have their own separate
337 queue established, and such queue shall have dedicated to it 60
338 percent of all available tax credits in any state fiscal year
339 for which this section applies ~~of the state incentive money.~~ The
340 maximum tax credit award that may be made from this queue for
341 any single production is \$2 million, unless the production is a
342 high-impact television series, in which case the production
343 shall be eligible for a maximum tax credit award of \$3 million,
344 provided such production meets the other criteria of this
345 section. On March 1 of each year, the remaining tax credits
346 within this queue shall be merged into a general queue and may
347 be used for other purposes of this section as determined by the
348 Office of Film and Entertainment. A television series,
349 including, but not limited to, a qualified high-impact
350 television series, is not eligible for a tax credit award under
351 this section after its fifth production season. A qualified
352 high-impact television series shall be allowed first position in
353 this queue for its first five production seasons in this state
354 if the application is received by the Office of Film and
355 Entertainment within the first 2 weeks after the queue's
356 opening. A qualified high-impact television series must file an
357 application for each state fiscal year in which it is eligible

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358 | to receive the credit, unless otherwise provided in this
359 | section.

360 | 2. Television pilot queue.--Television pilots and,
361 | presentations for television pilots for television series
362 | intended to be shot in this state and, or television series,
363 | including, but not limited to, drama, reality, comedy, soap
364 | opera, telenovela, game show, or miniseries productions, by the
365 | entertainment industry to be sold or displayed in an electronic
366 | medium that demonstrate a minimum of \$625,000 in total qualified
367 | expenditures for the pilot episode or presentation shall have
368 | their own separate queue established, and such queue shall have
369 | dedicated to it 20 40 percent of all available tax credits in
370 | any given state fiscal year for which this section applies of
371 | the state incentive money. The maximum tax credit award that may
372 | be made from this queue for any single project is \$2 million. On
373 | March 1 of each year, the remaining tax credits within this
374 | queue shall be merged into a general queue and may be used for
375 | other purposes of this section as determined by the Office of
376 | Film and Entertainment.

377 | 3. Commercials and music video queue.--Commercials and
378 | music videos by the entertainment industry to be sold or
379 | displayed in an electronic medium that demonstrate a minimum of
380 | \$500,000 in combined total qualified expenditures from a
381 | production company during the state fiscal year with a minimum
382 | of \$75,000 in qualified expenditures for each production shall
383 | have their own separate queue established. Such queue shall have
384 | dedicated to it 20 percent of available tax credits in any given
385 | state fiscal year for which this section applies. The maximum

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386 tax credit award that may be made from this queue for any single
387 production company is \$500,000 for a state fiscal year. On April
388 1 of each year, the remaining tax credits within this queue
389 shall be merged into a general queue and may be used for other
390 purposes of this section as determined by the Office of Film and
391 Entertainment.

392 (e) Loss of eligibility; reallocation of tax credits.--If
393 a qualified production is not continued according to a
394 reasonable schedule or the Office of Film and Entertainment is
395 notified that a qualified production will no longer be produced,
396 the office shall withdraw the production's eligibility for tax
397 credits and reallocate the tax credits to the next qualified
398 productions already in the queue that have yet to receive a full
399 tax credit if such next qualified productions have not started
400 principal photography by the time the tax credits become
401 available.

402 (f) Verification of tax credit award.--The Office of Film
403 and Entertainment shall develop a process by which a qualified
404 production that has been certified by the Office of Tourism,
405 Trade, and Economic Development shall submit to the Office of
406 Film and Entertainment, in a timely manner after production ends
407 and after making all of its qualified expenditures, verifying
408 data to substantiate each qualified expenditure. The Office of
409 Film and Entertainment shall report to the Office of Tourism,
410 Trade, and Economic Development the final verified amount of
411 actual qualified expenditures made by the qualified production.
412 The Office of Tourism, Trade, and Economic Development shall
413 then notify the executive director of the Department of Revenue

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414 that the qualified production has met all requirements of the
415 incentive program and shall recommend the final amount of the
416 tax credit.

417 (g)-(b) Use of tax credit; carry forward.--The tax credit
418 available under this section shall only be surrendered in
419 satisfaction of the tax owed by a qualified production company
420 under this chapter and only up to the face amount of the credit.
421 If the qualified production company cannot use the entire tax
422 credit in the state fiscal year in which the credit is approved,
423 any excess may be carried over to a succeeding state fiscal
424 year. A tax credit granted under this section and applied
425 against taxes imposed under this chapter may be carried forward
426 only for a maximum of 5 state fiscal years following the state
427 fiscal year in which the credit was approved. A digital media-
428 effects company in the state which furnishes digital material to
429 filmed entertainment may be eligible for a payment in an amount
430 not to exceed 5 percent of its annual gross revenues on
431 qualified expenditures as defined in paragraph (2)(c) before
432 taxes or \$100,000, whichever is less. A company applying for
433 payment must submit documentation annually as required by the
434 Office of Film and Entertainment for determination of
435 eligibility of claimed billing and determination of the amount
436 of payment for which the company is eligible.

437 (h)-(e) Transfer of tax credits.--Upon application and
438 approval by the Department of Revenue, a taxpayer may sell or
439 assign, in whole or in part, a tax credit granted under this
440 section. The sale or assignment of any amount of the tax credit
441 shall not be exchanged for consideration received by the

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442 taxpayer of less than 85 percent of the transferred amount of
443 tax credit. The purchaser or assignee shall surrender the tax
444 credit in the state fiscal year acquired from the qualified
445 production company and otherwise may carry the tax credit over
446 subject to the same limitations on tax credit usage as the
447 qualified production company awarded the tax credit. The
448 purchaser may not sell, assign, or otherwise transfer the tax
449 credit. Tax credits granted by this section may not be sold or
450 assigned, in whole or in part, until all credits the taxpayer is
451 eligible to use under this chapter and chapter 212 are
452 exhausted. The Department of Revenue may adopt rules pursuant to
453 ss. 120.536(1) and 120.54 to administer this paragraph, as
454 provided in paragraph (6) (b). ~~A qualified relocation project~~
455 ~~that is certified by the Office of Film and Entertainment is~~
456 ~~eligible for a one time incentive payment in an amount equal to~~
457 ~~5 percent of its annual gross revenues before taxes for the~~
458 ~~first 12 months of conducting business in its Florida domicile~~
459 ~~or \$200,000, whichever is less. A company applying for payment~~
460 ~~must submit documentation as required by the Office of Film and~~
461 ~~Entertainment for determination of eligibility of claimed~~
462 ~~billing and determination of the amount of payment for which the~~
463 ~~company is eligible.~~

464 (i)(d) Noncorporate distributions of tax credits.--A
465 qualified production company that is not a corporation, as
466 defined in s. 220.03(1)(e), shall elect to make an application,
467 ~~a digital media effects company, or a qualified relocation~~
468 ~~project applying for a payment under this section must submit~~
469 ~~documentation for claimed qualified expenditures to the~~

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470 Department of Revenue as provided in paragraph (h) or distribute
 471 tax credits awarded under this section to its partners or
 472 members in proportion to the respective distributive share of
 473 such partners' or members' income or loss in the state fiscal
 474 year in which such tax credits were approved. A tax credit
 475 granted under this section and applied against taxes imposed
 476 under this chapter shall be carried forward only for a maximum
 477 of 5 state fiscal years following the state fiscal year in which
 478 the credit was approved ~~Office of Film and Entertainment. The~~
 479 Department of Revenue may adopt rules pursuant to ss. 120.536(1)
 480 and 120.54 to administer this paragraph, as provided in
 481 paragraph (6) (b).

482 (j)(e) Use of tax credits.--A company may use the tax
 483 credit against the tax liability imposed under this chapter, in
 484 whole or in part, and against the tax liability imposed under
 485 chapter 212. ~~The Office of Film and Entertainment shall notify~~
 486 ~~the Office of Tourism, Trade, and Economic Development whether~~
 487 ~~an applicant meets the criteria for reimbursement and shall~~
 488 ~~recommend the reimbursement amount. The Office of Tourism,~~
 489 ~~Trade, and Economic Development shall make the final~~
 490 ~~determination for actual reimbursement.~~

491 (5) MARKETING REQUIREMENTS.--The Office of Film and
 492 Entertainment shall ensure appropriate marketing materials,
 493 including promotions of this state as a tourist or filming
 494 destination, are required when appropriate to be included on
 495 any filmed entertainment as a condition of receiving a tax
 496 credit under this section. The Office of Film and

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497 Entertainment shall consult with appropriate entities for the
498 development and implementation of marketing materials.

499 (6)-(5) RULES POLICIES AND PROCEDURES.--

500 (a) The Office of Tourism, Trade, and Economic Development
501 shall adopt rules pursuant to ss. 120.536(1) and 120.54 policies
502 and procedures to implement this section, including, but not
503 limited to, rules specifying requirements for the application
504 and approval process, records required for submission for
505 substantiation of credit awards for reimbursement, and
506 determination of and qualification for credit awards, and
507 marketing requirements for credit recipients reimbursement.

508 (b) The Department of Revenue may adopt rules pursuant to
509 ss. 120.536(1) and 120.54 to administer the provisions of this
510 section, including rules governing the manner and form of
511 documentation required to claim tax credits granted or
512 transferred under this section, and may establish guidelines as
513 to the requisites for an affirmative showing of qualification
514 for tax credits granted or transferred under this section.

515 (7)-(6) FRAUDULENT CLAIMS.--

516 (a) Any applicant who submits an application under this
517 section that includes fraudulent information shall be liable for
518 reimbursement of the reasonable costs and fees associated with
519 the review, processing, investigation, and prosecution of the
520 application.

521 (b) An eligible entity or company that obtains a credit
522 payment under this section through a claim that it knows is
523 fraudulent is liable for reimbursement of the credit amount paid
524 plus a penalty in an amount double the credit payment and

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525 reimbursement of reasonable costs, which penalty is in addition
 526 to any criminal penalty to which the entity or company is liable
 527 for the same acts, plus interest. The entity or company is also
 528 liable for costs and fees incurred by the state in investigating
 529 and prosecuting the fraudulent claim.

530 (8)-(7) ANNUAL REPORT.--The Office of Film and
 531 Entertainment shall provide an annual report for the previous
 532 state fiscal year, due October 1, to the Governor, the President
 533 of the Senate, and the Speaker of the House of Representatives
 534 outlining the return on investment to the state on tax credits
 535 awarded funds expended pursuant to this section.

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

537 Section 4. Subsection (5) of section 477.0135, Florida
 538 Statutes, is amended to read:

539 477.0135 Exemptions.--

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

548 Section 5. This act shall take effect July 1, 2006.