

1 A bill to be entitled
2 An act relating to entertainment industry economic
3 development; amending s. 212.08, F.S.; providing for an
4 entertainment industry credit of sales and use taxes paid
5 on qualified expenditures; providing criteria,
6 requirements, procedures, and limitations on the credit;
7 providing for uses of the credit; providing duties and
8 responsibilities of the Office of Film and Entertainment,
9 the Office of Tourism, Trade, and Economic Development,
10 and the Department of Revenue; authorizing the Office of
11 Tourism, Trade, and Economic Development to adopt rules;
12 providing for liability for fraudulent credit
13 applications; amending s. 213.053, F.S.; authorizing the
14 Department of Revenue to provide certain tax credit and
15 tax refund information to the Office of Film and
16 Entertainment and the Office of Tourism, Trade, and
17 Economic Development; amending s. 220.02, F.S.; revising
18 the order of priority list of applicable credits against
19 certain taxes; creating s. 220.192, F.S.; providing for an
20 entertainment industry corporate income tax credit of a
21 percentage of certain qualified expenditures; providing
22 criteria, requirements, procedures, and limitations on the
23 credit; providing for aggregate amounts of tax credits
24 available; providing for uses and allocations of the
25 credit; providing for use and carryforward of the credit;
26 providing for transfers of the credit; providing for
27 noncorporate distributions of tax credits; authorizing the

28 Office of Tourism, Trade, and Economic Development and the
29 Department of Revenue to adopt rules; providing for
30 liability for fraudulent credit applications; amending s.
31 288.1254, F.S.; revising the entertainment industry
32 financial incentive program to provide corporate income
33 tax and sales and use tax credits to qualified
34 entertainment entities rather than reimbursements from
35 appropriations; revising provisions relating to
36 definitions, creation and scope, application procedures,
37 approval process, eligibility, required documents,
38 qualified productions, and annual reports; providing
39 criteria and limitations for awards of tax credits;
40 providing marketing requirements; requiring the Office of
41 Tourism, Trade, and Economic Development and Department of
42 Revenue to adopt rules; providing liability for
43 reimbursement of certain costs and fees associated with
44 fraudulent applications; providing for future repeal;
45 providing an appropriation; providing an effective date.

46
47 Be It Enacted by the Legislature of the State of Florida:

48
49 Section 1. Paragraph (r) is added to subsection (5) of
50 section 212.08, Florida Statutes, to read:

51 212.08 Sales, rental, use, consumption, distribution, and
52 storage tax; specified exemptions.--The sale at retail, the
53 rental, the use, the consumption, the distribution, and the
54 storage to be used or consumed in this state of the following

55 are hereby specifically exempt from the tax imposed by this
56 chapter.

57 (5) EXEMPTIONS; ACCOUNT OF USE.--

58 (r) Entertainment industry tax credit; authorization;
59 eligibility for credits.--

60 1. Beginning July 1, 2006, a qualified production company
61 is eligible for tax credits of taxes paid on qualified
62 expenditures as defined in s. 288.1254 as provided in this
63 paragraph:

64 a. The credit shall be granted as a refund of sales and
65 use tax paid by a qualifying production company on qualified
66 expenditures in the fiscal year preceding the date of
67 application.

68 b. To be eligible to receive the credit, an applicant must
69 be a qualified production company as defined in s.
70 288.1258(1)(b).

71 c. A qualified production company may not be awarded more
72 than \$2 million in tax credits under this paragraph and s.
73 220.192 per year unless the production is a high-impact
74 television series, in which case the qualified production shall
75 be eligible for a maximum tax credit award of \$3 million per
76 year. The tax credit available under this paragraph shall
77 consist only of the tax paid by a qualified production company
78 under this chapter and only up to the face amount of the credit.
79 If the qualified production company cannot use the entire tax
80 credit in the state fiscal year in which the credit is approved,
81 any excess may be carried over to a succeeding state fiscal

82 year. A tax credit granted under this paragraph and applied
83 against sales and use taxes imposed under this chapter may be
84 carried forward only for a maximum of 5 state fiscal years
85 following the state fiscal year in which the credit was
86 approved. Five years after the date a credit is granted under
87 this paragraph, the credit expires and may not be used.

88 d. The aggregate amount of tax credits allowed under this
89 paragraph and s. 220.192 in any state fiscal year is \$25
90 million. If the total amount of allocated tax credits applied
91 for in any state fiscal year exceeds the aggregate amount of tax
92 credits authorized annually under this paragraph, such excess
93 shall be treated as having been applied for on the first day of
94 the next state fiscal year in which tax credits remain available
95 for allocation. However, no more than an aggregate amount of \$30
96 million in tax credits shall be allocated between July 1, 2006,
97 and June 30, 2007. The cumulative amount of credits that may be
98 allocated between July 1, 2006, and June 30, 2009, shall not
99 exceed \$75 million. At such time as \$75 million of tax credits
100 have been allocated, no additional tax credits may be allocated.

101 e. The tax credits awarded under this paragraph may only
102 be used by the qualified production company to whom the credits
103 were awarded. Credits awarded under this paragraph may not be
104 sold, assigned, or otherwise transferred, in whole or in part.

105 2.a. To be eligible to receive the credit provided by this
106 paragraph, a qualified production company shall apply to the
107 Office of Film and Entertainment prior to September 1 of each

108 year for a refund of sales and use taxes paid on qualified
109 expenditures in the preceding fiscal year.

110 b. The Office of Film and Entertainment shall develop,
111 with the cooperation of the department, a standardized
112 application form for use in applying for the credit.

113 c. Upon receipt of an application, the Office of Film and
114 Entertainment shall review the application and information and
115 determine whether or not the application is complete within 15
116 business days. An application shall not be considered complete
117 unless the application includes copies of invoices upon which
118 Florida sales and use tax is separately stated, other proof that
119 Florida sales and use tax was paid on the purchase of the
120 qualified expenditures, and other documentation as required by
121 the department. The Office of Film and Entertainment shall
122 notify the applicant within 20 business days after receipt of
123 the application of any deficiencies in the application. Upon
124 receipt of a completed application, the Office of Film and
125 Entertainment shall evaluate the application for credit under
126 this paragraph and the Office of Tourism, Trade, and Economic
127 Development shall issue an approval or a denial to the applicant
128 within an additional 15 business days. The Office of Film and
129 Entertainment shall provide the department with a copy of each
130 completed application that has been approved. Within 30 days
131 after receiving a copy of an approval, the department shall
132 issue a refund directly to the qualified production company in
133 the amount shown on the approval issued by the Office of
134 Tourism, Trade, and Economic Development, notwithstanding the

135 provisions of s. 215.26. The provisions of s. 212.095 do not
136 apply to this paragraph.

137 d. The Office of Tourism, Trade, and Economic Development
138 may adopt rules pursuant to ss. 120.536(1) and 120.54 to
139 implement this paragraph, including, but not limited to, rules
140 specifying requirements for the application and approval
141 process, records required for substantiation of credit awards,
142 and determination of and qualification for credit awards.

143 3.a. Any applicant who submits an application under this
144 paragraph that includes fraudulent information is liable for
145 reimbursement of the reasonable costs and fees associated with
146 the review, processing, investigation, and prosecution.

147 b. An eligible entity or company that obtains a credit
148 payment under this paragraph through a claim that is fraudulent
149 is liable for reimbursement of the credit amount paid plus a
150 penalty in an amount double the credit payment and reimbursement
151 of reasonable costs, which penalty is in addition to any
152 criminal penalty to which the entity or company is liable for
153 the same acts, plus interest. The entity or company is also
154 liable for costs and fees incurred by the state in investigating
155 and prosecuting the fraudulent claim.

156 Section 2. Paragraph (k) of subsection (7) of section
157 213.053, Florida Statutes, is amended, and paragraph (y) is
158 added to that subsection, to read:

159 213.053 Confidentiality and information sharing.--

160 (7) Notwithstanding any other provision of this section,
161 the department may provide:

162 (k)1. Payment information relative to chapters 199, 201,
 163 212, 220, 221, and 624 to the Office of Tourism, Trade, and
 164 Economic Development, or its employees or agents that are
 165 identified in writing by the office to the department, in the
 166 administration of the tax refund program for qualified defense
 167 contractors authorized by s. 288.1045 and the tax refund program
 168 for qualified target industry businesses authorized by s.
 169 288.106.

170 2. Information relative to tax credits taken by a business
 171 under s. 220.191 and exemptions or tax refunds received by a
 172 business under s. 212.08(5)(j) and (r) to the Office of Tourism,
 173 Trade, and Economic Development, or its employees or agents that
 174 are identified in writing by the office to the department, in
 175 the administration and evaluation of the capital investment tax
 176 credit program authorized in s. 220.191 and the semiconductor,
 177 defense, and space tax exemption program authorized in s.
 178 212.08(5)(j).

179 (y) Information relative to tax credits taken under s.
 180 220.192 and tax refunds received by a business under s.
 181 212.08(5)(r) to the Office of Film and Entertainment and the
 182 Office of Tourism, Trade, and Economic Development.

183
 184 Disclosure of information under this subsection shall be
 185 pursuant to a written agreement between the executive director
 186 and the agency. Such agencies, governmental or nongovernmental,
 187 shall be bound by the same requirements of confidentiality as
 188 the Department of Revenue. Breach of confidentiality is a

189 | misdemeanor of the first degree, punishable as provided by s.
 190 | 775.082 or s. 775.083.

191 | Section 3. Subsection (8) of section 220.02, Florida
 192 | Statutes, is amended to read:

193 | 220.02 Legislative intent.--

194 | (8) It is the intent of the Legislature that credits
 195 | against either the corporate income tax or the franchise tax be
 196 | applied in the following order: those enumerated in s. 631.828,
 197 | those enumerated in s. 220.191, those enumerated in s. 220.181,
 198 | those enumerated in s. 220.183, those enumerated in s. 220.182,
 199 | those enumerated in s. 220.1895, those enumerated in s. 221.02,
 200 | those enumerated in s. 220.184, those enumerated in s. 220.186,
 201 | those enumerated in s. 220.1845, those enumerated in s. 220.19,
 202 | those enumerated in s. 220.185, ~~and~~ those enumerated in s.
 203 | 220.187, and those enumerated under s. 220.192.

204 | Section 4. Section 220.192, Florida Statutes, is created
 205 | to read:

206 | 220.192 Entertainment industry tax credit; authorization;
 207 | eligibility for credits.--

208 | (1) TAX CREDITS; ELIGIBILITY; AWARD;
 209 | ALLOCATION.--Beginning July 1, 2006, a qualified production
 210 | company is eligible for tax credits in the amount of 15 percent
 211 | of qualified expenditures, as defined in s. 288.1254.

212 | (a) The credit shall be granted against the tax imposed
 213 | and owing under this chapter by a qualified production company
 214 | for the taxable year in which the application was granted.

215 (b) To be eligible to receive the credit, an applicant
216 must be a qualified production company as defined in s.
217 288.1258(1)(b).

218 (c) A qualified production company may not be awarded more
219 than a total of \$2 million in tax credits under this section and
220 s. 212.08(5)(r) per year unless the production is a high-impact
221 television series, in which case the production shall be
222 eligible for a maximum total tax credit award of \$3 million per
223 year.

224 (2) AGGREGATE TAX CREDIT AVAILABLE.--The aggregate amount
225 of tax credits allowed under this section and s. 212.08(5)(r) in
226 any state fiscal year is \$25 million. If the total amount of
227 allocated tax credits applied for in any state fiscal year
228 exceeds the aggregate amount of tax credits authorized annually
229 under this section, such excess shall be treated as having been
230 applied for on the first day of the next state fiscal year in
231 which tax credits remain available for allocation. However, no
232 more than an aggregate amount of \$30 million in tax credits
233 shall be allocated between July 1, 2006, and June 30, 2007. The
234 cumulative amount of credits that may be allocated between July
235 1, 2006, and June 30, 2009, shall not exceed \$75 million. At
236 such time as \$75 million of tax credits have been allocated, no
237 additional tax credits may be allocated.

238 (3) USE OF TAX CREDIT; CARRY FORWARD.--The tax credit
239 available for use under this section for a taxable year is
240 limited to the amount of the tax due under this chapter by a
241 qualified production company. If the qualified production

242 company cannot use the entire tax credit in the taxable year in
243 which the credit is approved, any excess may be carried over to
244 a succeeding taxable year. A tax credit granted under this
245 section and applied against taxes imposed under this chapter may
246 be carried forward only for a maximum of 5 taxable years
247 following the taxable year in which the credit was approved.
248 Five years after the date a credit is granted under this
249 section, the credit expires and may not be used.

250 (4) TRANSFER OF TAX CREDITS.--Upon application to and
251 approval by the Department of Revenue, a qualified production
252 company may sell, in whole or in part, a tax credit granted
253 under this section. The sale of any amount of the tax credit
254 shall not be exchanged for consideration received by the
255 qualified production company of less than 85 percent of the
256 transferred amount of tax credit. The qualified production
257 company must transfer at least 10 percent of the remaining
258 credits to each purchaser and may not conduct more than three
259 transfers. The purchaser of the tax credit granted under this
260 section and s. 288.1254 shall use the tax credit in the state
261 fiscal year the tax credit is acquired from the qualified
262 production company and otherwise may carry the tax credit over
263 subject to the same limitations on tax credit usage as the
264 qualified production company awarded the tax credit. The
265 purchaser of the tax credit may not sell or otherwise transfer
266 the tax credit. The Department of Revenue may adopt rules
267 pursuant to ss. 120.536(1) and 120.54 to administer this
268 subsection as provided in subsection (7).

269 (5) NONCORPORATE DISTRIBUTIONS OF TAX CREDITS.--A
 270 qualified production company that is not a corporation as
 271 defined in s. 220.03 shall elect to make an application to the
 272 Department of Revenue to distribute tax credits awarded under
 273 this section to its partners or members in proportion to the
 274 respective distributive share of such partners' or members'
 275 income or loss in the taxable year in which such tax credits
 276 were approved. A tax credit granted under this section and
 277 applied against taxes imposed under this chapter may be carried
 278 forward only for a maximum of 5 taxable years following the
 279 state fiscal year in which the credit was approved.

280 (6) USE OF TAX CREDITS.--A qualified production company
 281 may use the tax credit against the tax liability imposed under
 282 this chapter, in whole or in part, and for a refund of sales and
 283 use tax paid on qualified expenditures as provided in s.
 284 212.08(5)(r), the combination of which may not exceed the
 285 limitations provided in paragraph (1)(c).

286 (7) RULES.--

287 (a) The Office of Tourism, Trade, and Economic Development
 288 may adopt rules pursuant to ss. 120.536(1) and 120.54 to
 289 implement this section, including, but not limited to, rules
 290 specifying requirements for the application and approval
 291 process, records required for substantiation of credit awards,
 292 and determination of and qualification for credit awards.

293 (b) The Department of Revenue may adopt rules pursuant to
 294 ss. 120.536(1) and 120.54 to administer the provisions of this
 295 section, including rules governing the manner and form of

296 documentation required to claim tax credits granted or
 297 transferred under this section, and may establish guidelines as
 298 to the requirements for an affirmative showing of qualification
 299 for tax credits granted or transferred under this section.

300 (8) FRAUDULENT CLAIMS.--

301 (a) Any applicant who submits an application under this
 302 section that includes fraudulent information is liable for
 303 reimbursement of the reasonable costs and fees associated with
 304 the review, processing, investigation, and prosecution.

305 (b) An eligible entity or company that obtains a credit
 306 payment under this section through a claim that is fraudulent is
 307 liable for reimbursement of the credit amount paid plus a
 308 penalty in an amount double the credit payment and reimbursement
 309 of reasonable costs, which penalty is in addition to any
 310 criminal penalty to which the entity or company is liable for
 311 the same acts, plus interest. The entity or company is also
 312 liable for costs and fees incurred by the state in investigating
 313 and prosecuting the fraudulent claim.

314 Section 5. Section 288.1254, Florida Statutes, is amended
 315 to read:

316 288.1254 Entertainment industry financial incentive
 317 program; creation; purpose; definitions; application procedure;
 318 approval process; ~~reimbursement~~ eligibility; submission of
 319 required documentation; recommendations for credit award
 320 ~~payment~~; policies and procedures; fraudulent claims.--

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

323 Entertainment an entertainment industry financial incentive
324 program. The purpose of this program is to encourage the use of
325 this state as a site for filming and developing and sustaining
326 the workforce and infrastructure ~~providing production services~~
327 for filmed entertainment by granting tax credits for qualified
328 production companies applicable to the corporate income tax
329 imposed in s. 220.11 and a refund of sales and use taxes as
330 provided in s. 212.08(5)(r).

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

332 (a) "Filmed entertainment" means a theatrical or direct-
333 to-video motion picture, a made-for-television motion picture
334 teleproduction, a commercial, a music video, an industrial or
335 educational film, a promotional video or film, a documentary
336 film, a television pilot, a television special, a presentation
337 for a television pilot, a television series, including, but not
338 limited to, a drama, a reality, a comedy, a soap opera, a
339 telenovela, a game show, and a miniseries production, or a
340 digital-media-effects production by the entertainment industry
341 to be sold or displayed in an electronic medium, excluding news
342 shows and sporting events. As used in this paragraph, the term
343 "motion picture" means a motion picture made on or by film,
344 tape, or otherwise and produced by means of a motion picture
345 camera, electronic camera or device, tape device, any
346 combination of the foregoing, or any other means, method, or
347 device now used or which may hereafter be adopted. As used in
348 this paragraph, the term "digital-media-effects" means visual
349 elements created through the modification of already existing or

350 newly created visual elements for film, video, or animated media
351 through the use of digital 2D/3D animation or painting, motion
352 capture, or compositing technologies. ~~For purposes of this~~
353 ~~section, the term "filmed entertainment" does not include the~~
354 ~~electronic gaming industry or sporting events.~~

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

359 (c) ~~(b)~~ "Production costs" means the costs of ~~real,~~
360 ~~tangible,~~ and intangible property used and services performed
361 primarily or customarily in the production, including
362 preproduction and postproduction, of qualified filmed
363 entertainment. Production costs generally include, but are not
364 limited to:

365 1. Wages, salaries, or other compensation, including
366 amounts paid through payroll service companies, for technical
367 and production crews, directors, producers, and performers ~~who~~
368 ~~are residents of this state.~~

369 2. Expenditures for sound stages, backlots, production
370 editing, digital effects, sound recordings, sets, and set
371 construction.

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

374 4. Expenditures for meals, travel, and accommodations, ~~and~~
375 ~~goods used in producing filmed entertainment that is located and~~
376 ~~doing business in this state.~~

377 5. Expenditures for goods and services used in producing
 378 filmed entertainment.

379 (d)-(e) "Qualified expenditures" means production costs
 380 incurred in this state within the current state fiscal year for
 381 goods purchased or leased from or services provided by
 382 purchased, leased, or employed from a resident of this state or
 383 a vendor or supplier who is located and doing business in this
 384 state or payments to residents of this state in the form of
 385 salary, wages, or other compensation, but excluding wages,
 386 salaries, or other compensation paid to the two highest-paid
 387 residents of this state participating in the qualified
 388 production employees.

389 (e)-(d) "Qualified production" means filmed entertainment
 390 that meets or exceeds minimum qualified ~~makes~~ expenditures
 391 required in this state for the total or partial production of
 392 filmed entertainment. Productions that are deemed by the Office
 393 of Film and Entertainment to contain obscene content, as defined
 394 by the United States Supreme Court, are not qualified
 395 productions. Also, a production is not a qualified production if
 396 it is determined that the first day of principal photography in
 397 this state occurred on or before the date of submitting its
 398 application to the Office of Film and Entertainment or prior to
 399 certification by the Office of Tourism, Trade, and Economic
 400 Development.

401 (f)-(e) "Qualified production company relocation project"
 402 means a corporation, limited liability company, partnership,
 403 corporate headquarters, or other legal private entity engaged in

404 ~~the production of filmed entertainment that is domiciled in~~
405 ~~another state or country and relocates its operations to this~~
406 ~~state, is organized under the laws of this or any other state or~~
407 ~~country, and includes as one of its primary purposes digital-~~
408 ~~media effects or motion picture and television production, or~~
409 ~~postproduction.~~

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

411 (a) Any company engaged in this state in producing filmed
412 entertainment may submit an application to the Office of Film
413 and Entertainment for the purpose of determining qualification
414 for an award of tax credits ~~receipt of reimbursement provided in~~
415 ~~this section.~~ The office must be provided information required
416 to determine if the production is a qualified production and to
417 determine the qualified expenditures, production costs, and
418 other information necessary for the office to determine both
419 eligibility for the tax credit ~~and level of reimbursement.~~

420 (b) ~~A digital media effects company in the state which~~
421 ~~furnishes digital material to filmed entertainment may submit an~~
422 ~~application to the Office of Film and Entertainment for the~~
423 ~~purpose of determining qualification for receipt of~~
424 ~~reimbursement authorized by this section.~~ The office must be
425 ~~provided information required to determine if the company is~~
426 ~~qualified and to determine the amount of reimbursement.~~

427 (c) ~~Any corporation, limited liability company,~~
428 ~~partnership, corporate headquarters, or other private entity~~
429 ~~domiciled in another state which includes as one of its primary~~
430 ~~purposes digital media effects or motion picture and television~~

431 ~~production and which is considering relocation to this state may~~
432 ~~submit an application to the Office of Film and Entertainment~~
433 ~~for the purpose of determining qualification for reimbursement~~
434 ~~under this section.~~

435 ~~(d)1. The Office of Film and Entertainment shall establish~~
436 ~~a process by which an application is accepted and reviewed and~~
437 ~~reimbursement eligibility and reimbursement amount are~~
438 ~~determined. The Office of Film and Entertainment may request~~
439 ~~assistance from a duly appointed local film commission in~~
440 ~~determining qualifications for reimbursement and compliance.~~

441 1.2. The Office of Film and Entertainment shall develop a
442 standardized application form for use in qualifying an applicant
443 as approving a qualified production, ~~a qualified relocation~~
444 ~~project, or a company qualifying under paragraph (a), paragraph~~
445 ~~(b), or paragraph (c).~~ The application form for qualifying an
446 applicant as a qualified production must include, but need not
447 be limited to, production-related information on employment,
448 proposed total production budgets, planned expenditures in this
449 state ~~which are intended for use exclusively as an integral part~~
450 ~~of preproduction, production, or postproduction activities~~
451 ~~engaged primarily in this state,~~ and a signed affirmation from
452 the applicant ~~Office of Film and Entertainment~~ that the
453 information on the application form has been verified and is
454 correct. The application form shall be distributed to applicants
455 by the Office of Film and Entertainment or local film
456 commissions.

457 2.3- Within 10 business days after receipt of an
458 application, the Office of Film and Entertainment shall review
459 the application to determine if the application contains all the
460 information required by this subsection and meets the criteria
461 set out in this section. The office shall qualify all
462 applications that contain the information and meet the criteria
463 set out in this section as eligible to receive a tax credit or
464 shall notify the applicant that the requirements for
465 qualification have not been met. If the application is
466 qualified, the office shall recommend to the Office of Tourism,
467 Trade, and Economic Development approval of the maximum amount
468 of the tax credit to be awarded. The Office of Film and
469 ~~Entertainment must complete its review of each application~~
470 ~~within 5 days after receipt of the completed application,~~
471 ~~including all required information, and it must notify the~~
472 ~~applicant of its determination within 10 business days after~~
473 ~~receipt of the completed application and required information.~~

474 3.4- Within 10 business days after receiving notice from
475 the Office of Film and Entertainment of qualification of an
476 applicant as a qualified production and a recommended approval
477 of the maximum amount of tax credit to be awarded, the Office of
478 Tourism, Trade, and Economic Development shall certify the
479 maximum tax credit award, if any. The certification shall be
480 transmitted to the applicant and to the executive director of
481 the Department of Revenue. The applicant shall be responsible
482 for forwarding a certified application to the Department of
483 Revenue. Upon determination that all criteria are met for

484 ~~qualification for reimbursement, the Office of Film and~~
 485 ~~Entertainment shall notify the applicant of such approval. The~~
 486 ~~office shall also notify the Office of Tourism, Trade, and~~
 487 ~~Economic Development of the applicant approval and amount of~~
 488 ~~reimbursement required. The Office of Tourism, Trade, and~~
 489 ~~Economic Development shall make final determination for actual~~
 490 ~~reimbursement.~~

491 4.5. The Office of Film and Entertainment shall deny an
 492 application if the office ~~it~~ determines that:

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

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

497 (4) CREDIT REIMBURSEMENT ELIGIBILITY; SUBMISSION OF
 498 REQUIRED DOCUMENTATION; APPLICATION RECOMMENDATIONS FOR TRANSFER
 499 PAYMENT. --

500 (a) Tax credit award. -- A production of filmed
 501 entertainment that is qualified by the Office of Film and
 502 Entertainment and is certified by the Office of Tourism, Trade,
 503 and Economic Development is eligible for corporate income tax
 504 credits granted pursuant to s. 220.192 in an amount equal a
 505 reimbursement of up to 15 percent of its qualified ~~qualifying~~
 506 expenditures and credits granted against sales and use tax paid
 507 on qualified expenditures pursuant to s. 212.08(5)(r).

508 (b) Production spanning 2 state fiscal years. -- A qualified
 509 production that starts in one state fiscal year and finishes in
 510 the next state fiscal year shall have all qualified expenditures

511 from both state fiscal years certified for the latter state
512 fiscal year. This requirement does not apply to the commercials
513 and music video queue described in subparagraph (d)3.

514 (c) Aggregate tax credit available.--The aggregate amount
515 of tax credits allowed under this section in any state fiscal
516 year is \$25 million. If the total amount of allocated tax
517 credits applied for in any state fiscal year exceeds the
518 aggregate amount of tax credits authorized annually under this
519 section, such excess shall be treated as having been applied for
520 on the first day of the next state fiscal year in which tax
521 credits remain available for allocation. However, no more than
522 an aggregate amount of \$30 million in tax credits granted
523 pursuant to this section and ss. 212.08(5)(r) and 220.192 shall
524 be allocated between July 1, 2006, and June 30, 2007. The
525 cumulative amount of credits that may be allocated between July
526 1, 2006, and June 30, 2009, may not exceed \$75 million. At such
527 time as \$75 million of tax credits granted pursuant to this
528 section and ss. 212.08(5)(r) and 220.192 have been allocated, no
529 additional tax credits may be allocated in this state on a
530 filmed entertainment program that demonstrates a minimum of
531 \$850,000 in total qualified expenditures for the entire run of
532 the project, versus the budget on a single episode, within the
533 fiscal year from July 1 to June 30. However, the maximum
534 reimbursement that may be made with respect to any filmed
535 entertainment program is \$2 million. All reimbursements under
536 this section are subject to appropriation.

537 (d) Filmed entertainment queues.--Tax credits awarded
538 ~~Payments~~ under this section in a state fiscal year shall be made
539 to qualified productions according to a production's principal
540 photography start date, for those qualified productions having
541 entered into the first queue as cited in subparagraph 1. or the
542 second queue cited in subparagraph 2. within the first 2 weeks
543 after the queue's opening. All other qualified productions
544 entering into either queue after the initial 2-week openings
545 shall be on a first-come, first-served basis ~~until the~~
546 ~~appropriation for that fiscal year is exhausted. On February 1~~
547 ~~of each year, the remaining funds within both queues shall be~~
548 ~~combined into a single queue and distributed based on a~~
549 ~~project's principal photography start date. The eligibility of~~
550 ~~qualified productions may not carry over from year to year, but~~
551 ~~such productions may reapply for eligibility under the~~
552 ~~guidelines established for doing so. The Office of Film and~~
553 ~~Entertainment shall develop a procedure to ensure that qualified~~
554 ~~productions continue on a reasonable schedule until completion.~~
555 ~~If a qualified production is not continued according to a~~
556 ~~reasonable schedule, the office shall withdraw its eligibility~~
557 ~~and reallocate the funds to the next qualified productions~~
558 ~~already in the queue that have yet to receive their full maximum~~
559 ~~or 15 percent financial reimbursement, if they have not started~~
560 ~~principal photography by the time the funds become available.~~

561 1. Film, television, and episodic queue.--Theatrical or
562 direct-to-video motion pictures, made-for-television movies,
563 ~~commercials, music videos, industrial and educational films,~~

564 promotional videos or films, documentary films, television
565 specials, television series, including, but not limited to,
566 miniseries and telenovelas, and digital-media-effects
567 productions by the entertainment industry to be sold or
568 displayed in an electronic medium that demonstrate a minimum of
569 \$625,000 in total qualified expenditures for the entire run of
570 the project, which, for a television series, means a season even
571 if the season is not completed in the same state fiscal year in
572 which principal photography began, shall have their own separate
573 queue established, and such queue shall have dedicated to it 60
574 percent of all available tax credits in any state fiscal year
575 for which this section applies. The maximum tax credit award
576 that may be made from this queue for any single production is \$2
577 million per year unless the production is a high-impact
578 television series, in which case the production shall be
579 eligible for a maximum tax credit award of \$3 million per year,
580 provided such production meets the other criteria of this
581 section. On March 1 of each year, the remaining tax credits
582 within this queue shall be merged into a general queue and may
583 be used for other purposes of this section as determined by the
584 Office of Film and Entertainment. A television series,
585 including, but not limited to, a qualified high-impact
586 television series, is not eligible for a tax credit award under
587 this section after its fifth production season in this state. A
588 qualified high-impact television series shall be allowed first
589 position in this queue for its first five production seasons in
590 this state if the application is received by the Office of Film

591 and Entertainment within the first 2 weeks after the queue's
592 opening. A qualified high-impact television series must file an
593 application for each state fiscal year in which it is eligible
594 to receive the credit, unless otherwise provided in this section
595 of the state incentive money.

596 2. Television pilot queue.--Television pilots and,
597 presentations for television pilots for television series
598 intended to be shot in this state and, ~~or television series,~~
599 ~~including, but not limited to, drama, reality, comedy, soap~~
600 ~~opera, telenovela, game show, or miniseries productions, by the~~
601 ~~entertainment industry to be sold or displayed in an electronic~~
602 medium that demonstrate a minimum of \$625,000 in total qualified
603 expenditures for the pilot episode or presentation shall have
604 their own separate queue established, and such queue shall have
605 dedicated to it 20 ~~40~~ percent of all available tax credits in
606 any given state fiscal year for which this section applies. The
607 maximum tax credit award that may be made from this queue for
608 any single pilot episode or presentation is \$2 million. On March
609 1 of each year, the remaining tax credits within this queue
610 shall be merged into a general queue and may be used for other
611 purposes of this section as determined by the Office of Film and
612 Entertainment.

613 3. Commercials and music video queue.--Commercials and
614 music videos by the entertainment industry to be sold or
615 displayed in an electronic medium that demonstrate a minimum of
616 \$500,000 in combined total qualified expenditures from a
617 production company during the state fiscal year with a minimum

618 of \$75,000 in qualified expenditures for each production shall
619 have their own separate queue established. Such queue shall have
620 dedicated to it 20 percent of available tax credits in any given
621 state fiscal year for which this section applies. The maximum
622 tax credit award that may be made from this queue for any single
623 production company is \$500,000 for a state fiscal year. On April
624 1 of each year, the remaining tax credits within this queue
625 shall be merged into a general queue and may be used for other
626 purposes of this section as determined by the Office of Film and
627 Entertainment.

628 (e) Loss of eligibility; reallocation of tax credits.--If
629 a qualified production is not continued according to a
630 reasonable schedule or the Office of Film and Entertainment is
631 notified that a qualified production will no longer be produced,
632 the office shall withdraw the production's eligibility for tax
633 credits and reallocate the tax credits to the next qualified
634 productions already in the queue that have yet to receive a full
635 tax credit if such next qualified productions have not started
636 principal photography by the time the tax credits become
637 available.

638 (f) Verification of tax credit award.--The Office of Film
639 and Entertainment shall develop a process by which a qualified
640 production that has been certified by the Office of Tourism,
641 Trade, and Economic Development shall submit to the Office of
642 Film and Entertainment, in a timely manner after production ends
643 and after making all of its qualified expenditures, verifying
644 data to substantiate each qualified expenditure. The Office of

645 Film and Entertainment shall report to the Office of Tourism,
646 Trade, and Economic Development the final verified amount of
647 actual qualified expenditures made by the qualified production.
648 The Office of Tourism, Trade, and Economic Development shall
649 then notify the executive director of the Department of Revenue
650 that the qualified production has met all requirements of the
651 incentive program and shall recommend the final amount of the
652 tax credit ~~of the state incentive money.~~

653 (g) Use of tax credit; carry forward.--

654 1. The tax credit available under s. 212.08(5)(r) shall
655 consist only of the tax paid by a qualified production company
656 under chapter 212 and only up to the face amount of the credit.
657 If the qualified production company cannot use the entire tax
658 credit in the state fiscal year in which the credit is approved,
659 any excess may be carried over to a succeeding state fiscal
660 year. A tax credit granted under s. 212.08(5)(r) and applied
661 against sales and use taxes imposed under chapter 212 may be
662 carried forward only for a maximum of 5 state fiscal years
663 following the state fiscal year in which the credit was
664 approved. Five years after the date a credit is granted under s.
665 212.08(5)(r), the credit expires and may not be used.

666 2. The tax credit available for use under s. 220.192 for a
667 taxable year is limited to the amount of the tax due under
668 chapter 220 by a qualified production company. If the qualified
669 production company cannot use the entire tax credit in the
670 taxable year in which the credit is approved, any excess may be
671 carried over to a succeeding taxable year. A tax credit granted

672 under s. 220.192 and applied against taxes imposed under chapter
673 220 may be carried forward only for a maximum of 5 taxable years
674 following the taxable year in which the credit was approved.
675 Five years after the date a credit is granted under s. 220.192,
676 the credit expires and may not be used.

677 (h) Transfer of tax credits.--Upon application to and
678 approval by the Department of Revenue, a qualified production
679 company may sell, in whole or in part, a tax credit granted
680 pursuant to this section and s. 220.192. The sale of any amount
681 of the tax credit shall not be exchanged for consideration
682 received by the qualified production company of less than 85
683 percent of the transferred amount of tax credit. The qualified
684 production company must transfer at least 10 percent of the
685 remaining credits to each purchaser and may not conduct more
686 than three transfers. The purchaser shall surrender the tax
687 credit in the state fiscal year acquired from the qualified
688 production company and otherwise may carry the tax credit over
689 subject to the same limitations on tax credit usage as the
690 qualified production company awarded the tax credit. The
691 purchaser may not sell or otherwise transfer the tax credit. The
692 Department of Revenue may adopt rules pursuant to ss. 120.536(1)
693 and 120.54 to administer this paragraph, as provided in
694 paragraph (6) (b).

695 (i) Noncorporate distribution of tax credits.--A qualified
696 production company that is not a corporation as defined in s.
697 220.03 shall elect to make an application to the Department of
698 Revenue as provided in paragraph (h) or distribute tax credits

699 awarded under this section to its partners or members in
700 proportion to the respective distributive share of such
701 partners' or members' income or loss in the state fiscal year in
702 which such tax credits were approved. A tax credit granted
703 pursuant to this section and s. 220.192 and applied against
704 taxes imposed under chapter 220 shall be carried forward only
705 for a maximum of 5 taxable years following the state fiscal year
706 in which the credit was approved. The Department of Revenue may
707 adopt rules pursuant to ss. 120.536(1) and 120.54 to administer
708 this paragraph, as provided in paragraph (6)(b).

709 (j) Use of tax credits.--A qualified production company
710 may use the tax credit against the tax liability imposed under
711 s. 220.192, in whole or in part, and for a refund of sales and
712 use taxes paid on qualified expenditures as provided in s.
713 212.08(5)(r) the combination of which may not exceed the credit
714 limitations provided in this section.

715 ~~(b) A digital media effects company in the state which~~
716 ~~furnishes digital material to filmed entertainment may be~~
717 ~~eligible for a payment in an amount not to exceed 5 percent of~~
718 ~~its annual gross revenues on qualified expenditures as defined~~
719 ~~in paragraph (2)(c) before taxes or \$100,000, whichever is less.~~
720 ~~A company applying for payment must submit documentation~~
721 ~~annually as required by the Office of Film and Entertainment for~~
722 ~~determination of eligibility of claimed billing and~~
723 ~~determination of the amount of payment for which the company is~~
724 ~~eligible.~~

725 ~~(c) A qualified relocation project that is certified by~~
726 ~~the Office of Film and Entertainment is eligible for a one time~~
727 ~~incentive payment in an amount equal to 5 percent of its annual~~
728 ~~gross revenues before taxes for the first 12 months of~~
729 ~~conducting business in its Florida domicile or \$200,000,~~
730 ~~whichever is less. A company applying for payment must submit~~
731 ~~documentation as required by the Office of Film and~~
732 ~~Entertainment for determination of eligibility of claimed~~
733 ~~billing and determination of the amount of payment for which the~~
734 ~~company is eligible.~~

735 ~~(d) A qualified production, a digital media effects~~
736 ~~company, or a qualified relocation project applying for a~~
737 ~~payment under this section must submit documentation for claimed~~
738 ~~qualified expenditures to the Office of Film and Entertainment.~~

739 ~~(e) The Office of Film and Entertainment shall notify the~~
740 ~~Office of Tourism, Trade, and Economic Development whether an~~
741 ~~applicant meets the criteria for reimbursement and shall~~
742 ~~recommend the reimbursement amount. The Office of Tourism,~~
743 ~~Trade, and Economic Development shall make the final~~
744 ~~determination for actual reimbursement.~~

745 (5) MARKETING REQUIREMENTS.--The Office of Film and
746 Entertainment shall ensure appropriate marketing materials,
747 including, but not limited to, promotions of this state as a
748 tourist or filming destination, are required when appropriate
749 to be included on any filmed entertainment as a condition of
750 receiving a tax credit under this section. The Office of Film

751 and Entertainment shall consult with appropriate entities for
 752 the development and implementation of marketing materials.

753 (6) (5) RULES POLICIES AND PROCEDURES.--

754 (a) The Office of Tourism, Trade, and Economic Development
 755 shall adopt rules pursuant to ss. 120.536(1) and 120.54 policies
 756 and procedures to implement this section, including, but not
 757 limited to, rules specifying requirements for the application
 758 and approval process, records required for submission for
 759 substantiation of credit awards for reimbursement, and
 760 determination of and qualification for credit awards, and
 761 marketing requirements for credit recipients reimbursement.

762 (b) The Department of Revenue may adopt rules pursuant to
 763 ss. 120.536(1) and 120.54 to administer the provisions of this
 764 section, including rules governing the manner and form of
 765 documentation required to claim tax credits granted or
 766 transferred under this section, and may establish guidelines as
 767 to the requisites for an affirmative showing of qualification
 768 for tax credits granted or transferred under this section.

769 (7) (6) FRAUDULENT CLAIMS.--

770 (a) Any applicant who submits an application under this
 771 section that includes fraudulent information is liable for
 772 reimbursement of the reasonable costs and fees associated with
 773 the review, processing, investigation, and prosecution.

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

778 reimbursement of reasonable costs, which penalty is in addition
779 to any criminal penalty to which the entity or company is liable
780 for the same acts, plus interest. The entity or company is also
781 liable for costs and fees incurred by the state in investigating
782 and prosecuting the fraudulent claim.

783 (8) ~~(7)~~ ANNUAL REPORT.--The Office of Film and
784 Entertainment shall provide an annual report for the previous
785 state fiscal year, due October 1, to the Governor, the President
786 of the Senate, and the Speaker of the House of Representatives
787 outlining the return on investment to the state on tax credits
788 awarded funds expended pursuant to this section.

789 (9) REPEAL.--This section is repealed July 1, 2009.

790 Section 6. For the fiscal year 2006-2007, one full-time
791 equivalent position is authorized and the sums of \$44,863 in
792 recurring funds and \$4,843 in nonrecurring funds are
793 appropriated from the General Revenue Fund to the Department of
794 Revenue for the purpose of funding the provisions of this act.

795 Section 7. This act shall take effect July 1, 2006.