

Bill No. CS for SB 2110

Barcode 941844

CHAMBER ACTION

Senate

House

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

Comm: RCS  
04/25/2006 10:13 AM

.  
. .  
. .  
. .  
. .  
. .

---

The Committee on Government Efficiency Appropriations (Posey)  
recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

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

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

(5) EXEMPTIONS; ACCOUNT OF USE.--

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

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

Bill No. CS for SB 2110

Barcode 941844

1 paragraph:

2 a. The credit shall be granted as a refund of sales  
3 and use tax paid by a qualifying production company on  
4 qualified expenditures in the fiscal year preceding the date  
5 of application.

6 b. To be eligible to receive the credit, an applicant  
7 must be a qualified production company as defined in s.  
8 288.1258(1)(b).

9 c. A qualified production company may not be awarded  
10 more than \$2 million in tax credits under this paragraph and  
11 s. 220.192 per year unless the production is a high-impact  
12 television series, in which case the qualified production  
13 shall be eligible for a maximum tax credit award of \$3  
14 million. The tax credit available under this paragraph shall  
15 be surrendered only in satisfaction of the tax owed by a  
16 qualified production company under this chapter and only up to  
17 the face amount of the credit. If the qualified production  
18 company cannot use the entire tax credit in the taxable year  
19 in which the credit is approved, any excess may be carried  
20 over to a succeeding taxable year. A tax credit granted under  
21 this paragraph and applied against taxes imposed under this  
22 chapter may be carried forward only for a maximum of 5 taxable  
23 years following the taxable year in which the credit was  
24 approved. Five years after the date a credit is granted under  
25 this paragraph, the credit expires and may not be used.

26 d. The aggregate amount of tax credits allowed under  
27 this paragraph and s. 220.192 in any state fiscal year is \$25  
28 million. If the total amount of allocated tax credits applied  
29 for in any state fiscal year exceeds the aggregate amount of  
30 tax credits authorized annually under this paragraph, such  
31 excess shall be treated as having been applied for on the

Bill No. CS for SB 2110

Barcode 941844

1 first day of the next state fiscal year in which tax credits  
 2 remain available for allocation. However, no more than an  
 3 aggregate amount of \$30 million in tax credits shall be  
 4 allocated between July 1, 2006, and June 30, 2007. The  
 5 cumulative amount of credits which may be allocated between  
 6 July 1, 2006, and June 30, 2009, may not exceed \$75 million.  
 7 At such time as \$75 million of tax credits have been  
 8 allocated, no additional tax credits may be allocated.

9 e. The tax credits awarded under this paragraph may be  
 10 used only by the qualified production company to whom the  
 11 credits were awarded. Credits awarded under this paragraph may  
 12 not be sold, assigned, or otherwise transferred, in whole or  
 13 in part.

14 2.a. To be eligible to receive the credit provided by  
 15 this paragraph, a qualified production company shall apply to  
 16 the Office of Film and Entertainment prior to September 1 of  
 17 each year for a refund of sales and use taxes paid on  
 18 qualified expenditures in the preceding fiscal year.

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

22 c. Upon receipt of an application, the Office of Film  
 23 and Entertainment shall review the application and information  
 24 and determine whether or not the application is complete  
 25 within 10 working days. An application shall not be considered  
 26 complete unless the application includes copies of invoices  
 27 upon which Florida sales tax is separately stated, other proof  
 28 that Florida tax was paid on the purchase of the qualified  
 29 expenditures, and other documentation as required by the  
 30 department. The Office of Film and Entertainment shall notify  
 31 the applicant within 15 calendar days of any deficiencies in

Bill No. CS for SB 2110

Barcode 941844

1 the application. Upon receipt of a completed application, the  
 2 Office of Film and Entertainment shall evaluate the  
 3 application for credit under this paragraph and issue an  
 4 approval or a denial to the applicant within an additional 15  
 5 calendar days. The Office of Film and Entertainment shall  
 6 provide the department with a copy of each completed  
 7 application that has been approved. Within 30 days after  
 8 receiving a copy of an approval, the department shall issue a  
 9 refund directly to the qualified production company in the  
 10 amount shown on the approval issued by the Office of Film and  
 11 Entertainment, notwithstanding the provisions of s. 215.26.  
 12 The provisions of s. 212.095 do not apply to this paragraph.

13 d. The Office of Tourism, Trade, and Economic  
 14 Development may adopt rules pursuant to ss. 120.536(1) and  
 15 120.54 to implement this paragraph, including, but not limited  
 16 to, rules specifying requirements for the application and  
 17 approval process, records required for substantiation of  
 18 credit awards, and determination of and qualification for  
 19 credit awards.

20 3.a. Any applicant who submits an application under  
 21 this paragraph which includes fraudulent information is liable  
 22 for reimbursement of the reasonable costs and fees associated  
 23 with the review, processing, investigation, and prosecution of  
 24 the application.

25 b. An eligible entity or company that obtains a credit  
 26 payment under this paragraph through a claim that is  
 27 fraudulent is liable for reimbursement of the credit amount  
 28 paid plus a penalty in an amount double the credit payment and  
 29 reimbursement of reasonable costs, which penalty is in  
 30 addition to any criminal penalty to which the entity or  
 31 company is liable for the same acts, plus interest. The entity

Bill No. CS for SB 2110

Barcode 941844

1 or company is also liable for costs and fees incurred by the  
2 state in investigating and prosecuting the fraudulent claim.

3 Section 2. Paragraph (k) of subsection (7) of section  
4 213.053, Florida Statutes, is amended, and paragraph (y) is  
5 added to that subsection, to read:

6 213.053 Confidentiality and information sharing.--

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

9 (k)1. Payment information relative to chapters 199,  
10 201, 212, 220, 221, and 624 to the Office of Tourism, Trade,  
11 and Economic Development, or its employees or agents that are  
12 identified in writing by the office to the department, in the  
13 administration of the tax refund program for qualified defense  
14 contractors authorized by s. 288.1045 and the tax refund  
15 program for qualified target industry businesses authorized by  
16 s. 288.106.

17 2. Information relative to tax credits taken by a  
18 business under s. 220.191 and exemptions or tax refunds  
19 received by a business under s. 212.08(5)(j) and (r) to the  
20 Office of Tourism, Trade, and Economic Development, or its  
21 employees or agents that are identified in writing by the  
22 office to the department, in the administration and evaluation  
23 of the capital investment tax credit program authorized in s.  
24 220.191 and the semiconductor, defense, and space tax  
25 exemption program authorized in s. 212.08(5)(j).

26 (y) Information relative to tax credits taken under s.  
27 220.192 and tax refunds received by a business under s.  
28 212.08(5)(r) to the Office of Film and Entertainment and the  
29 Office of Tourism, Trade, and Economic Development.

30  
31 Disclosure of information under this subsection shall be

Bill No. CS for SB 2110

Barcode 941844

1 pursuant to a written agreement between the executive director  
 2 and the agency. Such agencies, governmental or  
 3 nongovernmental, shall be bound by the same requirements of  
 4 confidentiality as the Department of Revenue. Breach of  
 5 confidentiality is a misdemeanor of the first degree,  
 6 punishable as provided by s. 775.082 or s. 775.083.

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

9 220.02 Legislative intent.--

10 (8) It is the intent of the Legislature that credits  
 11 against either the corporate income tax or the franchise tax  
 12 be applied in the following order: those enumerated in s.  
 13 631.828, those enumerated in s. 220.191, those enumerated in  
 14 s. 220.181, those enumerated in s. 220.183, those enumerated  
 15 in s. 220.182, those enumerated in s. 220.1895, those  
 16 enumerated in s. 221.02, those enumerated in s. 220.184, those  
 17 enumerated in s. 220.186, those enumerated in s. 220.1845,  
 18 those enumerated in s. 220.19, those enumerated in s. 220.185,  
 19 ~~and those enumerated in s. 220.187, and those enumerated under~~  
 20 s. 220.192.

21 Section 4. Section 220.192, Florida Statutes, is  
 22 created to read:

23 220.192 Entertainment industry tax credit;  
 24 authorization; eligibility for credits.--

25 (1) TAX CREDITS; ELIGIBILITY; AWARD;  
 26 ALLOCATION.--Beginning July 1, 2006, a qualified production  
 27 company is eligible for tax credits in the amount of 15  
 28 percent of qualified expenditures, as defined in s. 288.1254.

29 (a) The credit shall be granted against the tax  
 30 imposed and owing under this chapter by a qualifying  
 31 production company for the taxable year in which the

Bill No. CS for SB 2110

Barcode 941844

1 application was granted.

2 (b) To be eligible to receive the credit, an applicant  
3 must be a qualified production company as defined in s.  
4 288.1258(1)(b).

5 (c) A qualified production company may not be awarded  
6 more than a total of \$2 million in tax credits under this  
7 section and s. 212.08 per year unless the production is a  
8 high-impact television series, in which case the production  
9 shall be eligible for a maximum total tax credit award of \$3  
10 million. The tax credit available under this section shall be  
11 surrendered only in satisfaction of the tax owed under this  
12 chapter by a qualified production company under this chapter  
13 and only up to the face amount of the credit. If the qualified  
14 production company cannot use the entire tax credit in the  
15 taxable year in which the credit is approved, any excess may  
16 be carried over to a succeeding taxable year. A tax credit  
17 granted under this section and applied against taxes imposed  
18 under this chapter may be carried forward for only a maximum  
19 of 5 taxable years following the taxable year in which the  
20 credit was approved. Five years after the date a credit is  
21 granted under this section, the credit expires and may not be  
22 used.

23 (d) The aggregate amount of tax credits allowed under  
24 this section and s. 212.08(5)(r) in any state fiscal year is  
25 \$25 million. If the total amount of allocated tax credits  
26 applied for in any state fiscal year exceeds the aggregate  
27 amount of tax credits authorized annually under this section,  
28 such excess shall be treated as having been applied for on the  
29 first day of the next state fiscal year in which tax credits  
30 remain available for allocation. However, no more than an  
31 aggregate amount of \$30 million in tax credits shall be

Bill No. CS for SB 2110

Barcode 941844

1 allocated between July 1, 2006, and June 30, 2007. The  
 2 cumulative amount of credits which may be allocated between  
 3 July 1, 2006, and June 30, 2009, may not exceed \$75 million.  
 4 At such time as \$75 million of tax credits have been  
 5 allocated, no additional tax credits may be allocated.

6 (2) RULES.--The Office of Tourism, Trade, and Economic  
 7 Development may adopt rules pursuant to ss. 120.536(1) and  
 8 120.54 to implement this section, including, but not limited  
 9 to, rules specifying requirements for the application and  
 10 approval process, records required for substantiation of  
 11 credit awards, and determination of and qualification for  
 12 credit awards.

13 (3) FRAUDULENT CLAIMS.--

14 (a) Any applicant who submits an application under  
 15 this section which includes fraudulent information is liable  
 16 for reimbursement of the reasonable costs and fees associated  
 17 with the review, processing, investigation, and prosecution of  
 18 the application.

19 (b) An eligible entity or company that obtains a  
 20 credit payment under this section through a claim that is  
 21 fraudulent is liable for reimbursement of the credit amount  
 22 paid plus a penalty in an amount double the credit payment and  
 23 reimbursement of reasonable costs, which penalty is in  
 24 addition to any criminal penalty to which the entity or  
 25 company is liable for the same acts, plus interest. The entity  
 26 or company is also liable for costs and fees incurred by the  
 27 state in investigating and prosecuting the fraudulent claim.

28 (4) USE OF TAX CREDIT; CARRYFORWARD.--The tax credit  
 29 available under this section shall be surrendered only in  
 30 satisfaction of the tax owed by a qualified production company  
 31 under this chapter and only up to the face amount of the



Bill No. CS for SB 2110

Barcode 941844

1 credit. If the qualified production company cannot use the  
 2 entire tax credit in the taxable year in which the credit is  
 3 approved, any excess may be carried over to a succeeding  
 4 taxable year. A tax credit granted under this section and  
 5 applied against taxes imposed under this chapter may be  
 6 carried forward only for a maximum of 5 taxable years  
 7 following the taxable year in which the credit was approved.  
 8 Five years after the date a credit is granted under this  
 9 section, the credit expires and may not be used.

10 (5) TRANSFER OF TAX CREDITS.--Upon application to and  
 11 approval by the Department of Revenue, a qualified production  
 12 company may sell, in whole or in part, a tax credit granted  
 13 under this section. The sale or assignment of any amount of  
 14 the tax credit shall not be exchanged for consideration  
 15 received by the qualified production company of less than 85  
 16 percent of the transferred amount of tax credit. The qualified  
 17 production company must transfer at least 10 percent of the  
 18 remaining credits to each purchaser and may not conduct more  
 19 than three transfers. The purchaser of the tax credit granted  
 20 under s. 288.1254 shall use the tax credit in the state fiscal  
 21 year the tax credit is acquired from the qualified production  
 22 company and otherwise may carry the tax credit over subject to  
 23 the same limitations on tax credit usage as the qualified  
 24 production company awarded the tax credit. The purchaser of  
 25 the tax credit may not sell or otherwise transfer the tax  
 26 credit. The Department of Revenue may adopt rules pursuant to  
 27 ss. 120.536(1) and 120.54 to administer this subsection.

28 (6) NONCORPORATE DISTRIBUTIONS OF TAX CREDITS.--A  
 29 qualified production company that is not a corporation as  
 30 defined in s. 220.03 shall elect to make an application to the  
 31 Department of Revenue to distribute tax credits awarded under

Bill No. CS for SB 2110

Barcode 941844

1 this section to its partners or members in proportion to the  
 2 respective distributive share of such partners' or members'  
 3 income or loss in the taxable fiscal year in which such tax  
 4 credits were approved. A tax credit granted under this section  
 5 and applied against taxes imposed under this chapter may be  
 6 carried forward only for a maximum of 5 taxable years  
 7 following the state fiscal year in which the credit was  
 8 approved.

9       (7) USE OF TAX CREDITS.--A qualified production  
 10 company may use the tax credit against the tax liability  
 11 imposed under this chapter, in whole or in part, or against  
 12 the sales tax paid on qualified expenditures as defined in s.  
 13 288.1254.

14       (8) AGGREGATE TAX CREDIT AVAILABLE.--The aggregate  
 15 amount of tax credits allowed under this section in any state  
 16 fiscal year is \$25 million. If the total amount of allocated  
 17 tax credits applied for in any state fiscal year exceeds the  
 18 aggregate amount of tax credits authorized annually under this  
 19 section, such excess shall be treated as having been applied  
 20 for on the first day of the next state fiscal year in which  
 21 tax credits remain available for allocation. However, no more  
 22 than an aggregate amount of \$30 million in tax credits granted  
 23 under this section or s. 212.08(5)(r) shall be allocated  
 24 between July 1, 2006, and June 30, 2007. The cumulative amount  
 25 of credits that may be allocated between July 1, 2006, and  
 26 June 30, 2009, may not exceed \$75 million. At such time as \$75  
 27 million of tax credits granted under this section or s.  
 28 212.08(5)(r) have been allocated, no additional tax credits  
 29 shall be allocated.

30       (9) RULES.--The Department of Revenue may adopt rules  
 31 pursuant to ss. 120.536(1) and 120.54 to administer the

Bill No. CS for SB 2110

Barcode 941844

1 provisions of this section, including rules governing the  
 2 manner and form of documentation required to claim tax credits  
 3 granted or transferred under this section, and may establish  
 4 guidelines as to the requirements for an affirmative showing  
 5 of qualification for tax credits granted or transferred under  
 6 this section.

7 Section 5. Section 288.1254, Florida Statutes, is  
 8 amended to read:

9 288.1254 Entertainment industry financial incentive  
 10 program; creation; purpose; definitions; application  
 11 procedure; approval process; ~~reimbursement~~ eligibility;  
 12 submission of required documentation; recommendations for  
 13 credit award ~~payment~~; policies and procedures; fraudulent  
 14 claims.--

15 (1) CREATION AND PURPOSE OF PROGRAM.--~~Subject to~~  
 16 ~~specific appropriation~~, There is created within the Office of  
 17 Film and Entertainment an entertainment industry financial  
 18 incentive program. The purpose of this program is to encourage  
 19 the use of this state as a site for filming and developing and  
 20 sustaining the workforce and infrastructure ~~providing~~  
 21 ~~production services~~ for filmed entertainment.

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

23 (a) "Filmed entertainment" means a theatrical or  
 24 direct-to-video motion picture, a made-for-television motion  
 25 picture teleproduction, a commercial, a music video, an  
 26 industrial or educational film, a promotional video or film, a  
 27 documentary film, a television pilot, a television special, a  
 28 presentation for a television pilot, a television series,  
 29 including, but not limited to, a drama, a reality, a comedy, a  
 30 soap opera, a telenovela, a game show, and a miniseries  
 31 production, or a digital-media-effects production by the

Bill No. CS for SB 2110

Barcode 941844

1 entertainment industry to be sold or displayed in an  
 2 electronic medium, excluding news shows and sporting events.  
 3 As used in this paragraph, the term "motion picture" means a  
 4 motion picture made on or by film, tape, or otherwise and  
 5 produced by means of a motion picture camera, electronic  
 6 camera or device, tape device, any combination of the  
 7 foregoing, or any other means, method, or device now used or  
 8 which may hereafter be adopted. As used in this paragraph, the  
 9 term "digital-media-effects" means visual elements created  
 10 through the modification of already existing or newly created  
 11 visual elements for film, video, or animated media through the  
 12 use of digital 2D/3D animation or painting, motion capture, or  
 13 compositing technologies. ~~For purposes of this section, the~~  
 14 ~~term "filmed entertainment" does not include the electronic~~  
 15 ~~gaming industry or sporting events.~~

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

20 (c)(b) "Production costs" means the costs of ~~real,~~  
 21 ~~tangible,~~ and intangible property used and services performed  
 22 primarily or customarily in the production, including  
 23 preproduction and postproduction, of qualified filmed  
 24 entertainment. Production costs generally include, but are not  
 25 limited to:

26 1. Wages, salaries, or other compensation, including  
 27 amounts paid through payroll service companies, for technical  
 28 and production crews, directors, producers, and performers ~~who~~  
 29 ~~are residents of this state.~~

30 2. Expenditures for sound stages, backlots, production  
 31 editing, digital effects, sound recordings, sets, and set

Bill No. CS for SB 2110

Barcode 941844

1 construction.

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

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

7 5. Expenditures for goods and services used in  
8 producing filmed entertainment.

9 (d)(c) "Qualified expenditures" means production costs  
10 incurred in this state within the current state fiscal year  
11 for goods purchased or leased ~~from~~ or services ~~provided by~~  
12 ~~purchased, leased, or employed from a resident of this state~~  
13 ~~or~~ a vendor or supplier who is located and doing business in  
14 this state ~~or payments to residents of this state in the form~~  
15 ~~of salary, wages, or other compensation,~~ but excluding wages,  
16 salaries, or other compensation paid to the two highest-paid  
17 residents of this state participating in the qualified  
18 production employees.

19 (e)(d) "Qualified production" means filmed  
20 entertainment that meets or exceeds minimum qualified ~~makes~~  
21 expenditures required in this state for the total or partial  
22 production of filmed entertainment. Productions that are  
23 deemed by the Office of Film and Entertainment to contain  
24 obscene content, as defined by the United States Supreme  
25 Court, are not qualified productions. ~~Also, a production is~~  
26 ~~not a qualified production if it is determined that the first~~  
27 ~~day of principal photography in this state occurred on or~~  
28 ~~before the date of submitting its application to the Office of~~  
29 ~~Film and Entertainment or prior to certification by the Office~~  
30 ~~of Tourism, Trade, and Economic Development.~~

31 (f)(e) "Qualified production company relocation

Bill No. CS for SB 2110

Barcode 941844

1 ~~project" means a corporation, limited liability company,~~  
2 ~~partnership, corporate headquarters, or other legal private~~  
3 ~~entity engaged in the production of filmed entertainment that~~  
4 ~~is domiciled in another state or country and relocates its~~  
5 ~~operations to this state, is organized under the laws of this~~  
6 ~~or any other state or country, and includes as one of its~~  
7 ~~primary purposes digital-media-effects or motion picture and~~  
8 ~~television production, or postproduction.~~

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

10 (a) Any company engaged in this state in producing  
11 filmed entertainment may submit an application to the Office  
12 of Film and Entertainment for the purpose of determining  
13 qualification for an award of credits against the taxes by the  
14 sales tax paid on qualified expenditures as defined in s.  
15 288.1254 and the corporate income tax imposed by chapter 220  
16 ~~receipt of reimbursement provided in this section.~~ The office  
17 must be provided information required to determine if the  
18 production is a qualified production and to determine the  
19 qualified expenditures, production costs, and other  
20 information necessary for the office to determine ~~both~~  
21 eligibility for the tax credit ~~and level of reimbursement.~~

22 (b) ~~A digital-media-effects company in the state which~~  
23 ~~furnishes digital material to filmed entertainment may submit~~  
24 ~~an application to the Office of Film and Entertainment for the~~  
25 ~~purpose of determining qualification for receipt of~~  
26 ~~reimbursement authorized by this section. The office must be~~  
27 ~~provided information required to determine if the company is~~  
28 ~~qualified and to determine the amount of reimbursement.~~

29 (c) ~~Any corporation, limited liability company,~~  
30 ~~partnership, corporate headquarters, or other private entity~~  
31 ~~domiciled in another state which includes as one of its~~

1 ~~primary purposes digital-media-effects or motion picture and~~  
 2 ~~television production and which is considering relocation to~~  
 3 ~~this state may submit an application to the Office of Film and~~  
 4 ~~Entertainment for the purpose of determining qualification for~~  
 5 ~~reimbursement under this section.~~

6       ~~(d)1. The Office of Film and Entertainment shall~~  
 7 ~~establish a process by which an application is accepted and~~  
 8 ~~reviewed and reimbursement eligibility and reimbursement~~  
 9 ~~amount are determined. The Office of Film and Entertainment~~  
 10 ~~may request assistance from a duly appointed local film~~  
 11 ~~commission in determining qualifications for reimbursement and~~  
 12 ~~compliance.~~

13       1.2. The Office of Film and Entertainment shall  
 14 develop a standardized application form for use in qualifying  
 15 an applicant as approving a qualified production, a qualified  
 16 relocation project, or a company qualifying under paragraph  
 17 (a), paragraph (b), or paragraph (c). The application form for  
 18 qualifying an applicant as a qualified production must  
 19 include, but need not be limited to, production-related  
 20 information on employment, proposed total production budgets,  
 21 planned expenditures in this state ~~which are intended for use~~  
 22 ~~exclusively as an integral part of preproduction, production,~~  
 23 ~~or postproduction activities engaged primarily in this state,~~  
 24 and a signed affirmation from the applicant ~~Office of Film and~~  
 25 ~~Entertainment~~ that the information on the application form has  
 26 been verified and is correct. The application form shall be  
 27 distributed to applicants by the Office of Film and  
 28 Entertainment or local film commissions.

29       2.3. Within 10 business days after receipt of an  
 30 application, the Office of Film and Entertainment shall review  
 31 the application to determine if the application contains all

Bill No. CS for SB 2110

Barcode 941844

1 the information required by this subsection and meets the  
2 criteria set out in this section. The office shall qualify all  
3 applications that contain the information and meet the  
4 criteria set out in this section as eligible to receive a tax  
5 credit or shall notify the applicant that the requirements for  
6 qualification have not been met. If the application is  
7 qualified, the office shall recommend to the Office of  
8 Tourism, Trade, and Economic Development approval of the  
9 maximum amount of the tax credit to be awarded. ~~The Office of~~  
10 ~~Film and Entertainment must complete its review of each~~  
11 ~~application within 5 days after receipt of the completed~~  
12 ~~application, including all required information, and it must~~  
13 ~~notify the applicant of its determination within 10 business~~  
14 ~~days after receipt of the completed application and required~~  
15 ~~information.~~

16 3.4. Within 10 business days after receiving notice  
17 from the Office of Film and Entertainment of qualification of  
18 an applicant as a qualified production and a recommended  
19 approval of the maximum amount of tax credit to be awarded,  
20 the Office of Tourism, Trade, and Economic Development shall  
21 certify the maximum tax credit award, if any. The  
22 certification shall be transmitted to the applicant and to the  
23 executive director of the Department of Revenue. The applicant  
24 shall be responsible for forwarding a certified application to  
25 the Department of Revenue. ~~Upon determination that all~~  
26 ~~criteria are met for qualification for reimbursement, the~~  
27 ~~Office of Film and Entertainment shall notify the applicant of~~  
28 ~~such approval. The office shall also notify the Office of~~  
29 ~~Tourism, Trade, and Economic Development of the applicant~~  
30 ~~approval and amount of reimbursement required. The Office of~~  
31 ~~Tourism, Trade, and Economic Development shall make final~~



Bill No. CS for SB 2110

Barcode 941844

1 ~~determination for actual reimbursement.~~

2       ~~4.5.~~ The Office of Film and Entertainment shall deny  
3 an application if the office ~~it~~ determines that:

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

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

8           (4) CREDIT REIMBURSEMENT ELIGIBILITY; SUBMISSION OF  
9 REQUIRED DOCUMENTATION; APPLICATION RECOMMENDATIONS FOR  
10 TRANSFER PAYMENT.--

11           (a) Tax credit award.--A production of filmed  
12 entertainment that is qualified by the Office of Film and  
13 Entertainment and is certified by the Office of Tourism,  
14 Trade, and Economic Development is eligible for corporate tax  
15 credits granted pursuant to s. 220.192 and credits against  
16 sales tax paid on qualified expenditures pursuant to s.  
17 212.08(5)(r) in an amount equal a reimbursement of up to 15  
18 percent of its qualified qualifying expenditures.

19           (b) Production spanning 2 state fiscal years.--A  
20 qualified production that starts in one state fiscal year and  
21 finishes in the next state fiscal year shall have all  
22 qualified expenditures from both state fiscal years certified  
23 for the latter state fiscal year. This requirement does not  
24 apply to the commercials and music video queue described in  
25 subparagraph (d)3.

26           (c) Aggregate tax credit available.--The aggregate  
27 amount of tax credits allowed under this section in any state  
28 fiscal year is \$25 million. If the total amount of allocated  
29 tax credits applied for in any state fiscal year exceeds the  
30 aggregate amount of tax credits authorized annually under this  
31 section, such excess shall be treated as having been applied

Bill No. CS for SB 2110

Barcode 941844

1 for on the first day of the next state fiscal year in which  
 2 tax credits remain available for allocation. However, no more  
 3 than an aggregate amount of \$30 million in tax credits granted  
 4 pursuant to this section and ss. 212.08(5)(r) and 220.192  
 5 shall be allocated between July 1, 2006, and June 30, 2007.  
 6 The cumulative amount of credits which may be allocated  
 7 between July 1, 2006, and June 30, 2009, may not exceed \$75  
 8 million. At such time as \$75 million of tax credits granted  
 9 pursuant to this section and ss. 212.08(5)(r) and 220.192 have  
 10 been allocated, no additional tax credits may be allocated in  
 11 this state on a filmed entertainment program that demonstrates  
 12 a minimum of \$850,000 in total qualified expenditures for the  
 13 entire run of the project, versus the budget on a single  
 14 episode, within the fiscal year from July 1 to June 30.  
 15 ~~However, the maximum reimbursement that may be made with~~  
 16 ~~respect to any filmed entertainment program is \$2 million. All~~  
 17 ~~reimbursements under this section are subject to~~  
 18 ~~appropriation.~~

19 (d) Filmed entertainment queues.--Tax credits awarded  
 20 ~~Payments~~ under this section in a state fiscal year shall be  
 21 made to qualified productions according to a production's  
 22 principal photography start date, for those qualified  
 23 productions having entered into the first queue as cited in  
 24 subparagraph 1. or the second queue cited in subparagraph 2.  
 25 within the first 2 weeks after the queue's opening. All other  
 26 qualified productions entering into either queue after the  
 27 initial 2-week openings shall be on a first-come, first-served  
 28 basis ~~until the appropriation for that fiscal year is~~  
 29 ~~exhausted. On February 1 of each year, the remaining funds~~  
 30 ~~within both queues shall be combined into a single queue and~~  
 31 ~~distributed based on a project's principal photography start~~

Bill No. CS for SB 2110

Barcode 941844

1 ~~date. The eligibility of qualified productions may not carry~~  
2 ~~over from year to year, but such productions may reapply for~~  
3 ~~eligibility under the guidelines established for doing so. The~~  
4 ~~Office of Film and Entertainment shall develop a procedure to~~  
5 ~~ensure that qualified productions continue on a reasonable~~  
6 ~~schedule until completion. If a qualified production is not~~  
7 ~~continued according to a reasonable schedule, the office shall~~  
8 ~~withdraw its eligibility and reallocate the funds to the next~~  
9 ~~qualified productions already in the queue that have yet to~~  
10 ~~receive their full maximum or 15-percent financial~~  
11 ~~reimbursement, if they have not started principal photography~~  
12 ~~by the time the funds become available.~~

13       1. Film, television, and episodic queue.--Theatrical  
14 or direct-to-video motion pictures, made-for-television  
15 movies, ~~commercials, music videos,~~ industrial and educational  
16 films, promotional videos or films, documentary films,  
17 television specials, television series, including, but not  
18 limited to, miniseries and telenovelas, and  
19 digital-media-effects productions by the entertainment  
20 industry to be sold or displayed in an electronic medium which  
21 demonstrate a minimum of \$625,000 in total qualified  
22 expenditures for the entire run of the project, which, for a  
23 television series, means a season even if the season is not  
24 completed in the same state fiscal year in which principal  
25 photography began, shall have their own separate queue  
26 established, and such queue shall have dedicated to it 60  
27 percent of all available tax credits in any state fiscal year  
28 for which this section applies. The maximum tax credit award  
29 that may be made from this queue for any single production is  
30 \$2 million unless the production is a high-impact television  
31 series, in which case the production shall be eligible for a

Bill No. CS for SB 2110

Barcode 941844

1 maximum tax credit award of \$3 million, provided such  
 2 production meets the other criteria of this section. On March  
 3 1 of each year, the remaining tax credits within this queue  
 4 shall be merged into a general queue and may be used for other  
 5 purposes of this section as determined by the Office of Film  
 6 and Entertainment. A television series, including, but not  
 7 limited to, a qualified high-impact television series, is not  
 8 eligible for a tax credit award under this section after its  
 9 fifth production season in this state. A qualified high-impact  
 10 television series shall be allowed first position in this  
 11 queue for its first five production seasons in this state if  
 12 the application is received by the Office of Film and  
 13 Entertainment within the first 2 weeks after the queue's  
 14 opening. A qualified high-impact television series must file  
 15 an application for each state fiscal year in which it is  
 16 eligible to receive the credit, unless otherwise provided in  
 17 this section of the state incentive money.

18       2. Television pilot queue.--Television pilots and,  
 19 presentations for television pilots ~~for television series~~  
 20 ~~intended to be shot in this state and, or television series,~~  
 21 ~~including, but not limited to, drama, reality, comedy, soap~~  
 22 ~~opera, telenovela, game show, or miniseries productions, by~~  
 23 ~~the entertainment industry to be sold or displayed in an~~  
 24 electronic medium which demonstrate a minimum of \$625,000 in  
 25 total qualified expenditures for the pilot episode or  
 26 presentation shall have their own separate queue established,  
 27 and such queue shall have dedicated to it 20 ~~40~~ percent of all  
 28 available tax credits in any given state fiscal year for which  
 29 this section applies. The maximum tax credit award that may be  
 30 made from this queue for any single pilot episode or  
 31 presentation is \$2 million. On March 1 of each year, the

Bill No. CS for SB 2110

Barcode 941844

1 remaining tax credits within this queue shall be merged into a  
2 general queue and may be used for other purposes of this  
3 section as determined by the Office of Film and Entertainment.

4 3. Commercials and music video queue.--Commercials and  
5 music videos by the entertainment industry to be sold or  
6 displayed in an electronic medium which demonstrate a minimum  
7 of \$500,000 in combined total qualified expenditures from a  
8 production company during the state fiscal year with a minimum  
9 of \$75,000 in qualified expenditures for each production shall  
10 have their own separate queue established. Such queue shall  
11 have dedicated to it 20 percent of available tax credits in  
12 any given state fiscal year for which this section applies.

13 The maximum tax credit award that may be made from this queue  
14 for any single production company is \$500,000 for a state  
15 fiscal year. On April 1 of each year, the remaining tax  
16 credits within this queue shall be merged into a general queue  
17 and may be used for other purposes of this section as  
18 determined by the Office of Film and Entertainment.

19 (e) Loss of eligibility; reallocation of tax  
20 credits.--If a qualified production is not continued according  
21 to a reasonable schedule or the Office of Film and  
22 Entertainment is notified that a qualified production will no  
23 longer be produced, the office shall withdraw the production's  
24 eligibility for tax credits and reallocate the tax credits to  
25 the next qualified productions already in the queue that have  
26 yet to receive a full tax credit if such next qualified  
27 productions have not started principal photography by the time  
28 the tax credits become available.

29 (f) Verification of tax credit award.--The Office of  
30 Film and Entertainment shall develop a process by which a  
31 qualified production that has been certified by the Office of

Bill No. CS for SB 2110

Barcode 941844

1 Tourism, Trade, and Economic Development shall submit to the  
2 Office of Film and Entertainment, in a timely manner after  
3 production ends and after making all of its qualified  
4 expenditures, verifying data to substantiate each qualified  
5 expenditure. The Office of Film and Entertainment shall report  
6 to the Office of Tourism, Trade, and Economic Development the  
7 final verified amount of actual qualified expenditures made by  
8 the qualified production. The Office of Tourism, Trade, and  
9 Economic Development shall then notify the executive director  
10 of the Department of Revenue that the qualified production has  
11 met all requirements of the incentive program and shall  
12 recommend the final amount of the tax credit of the state  
13 incentive money.

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

24 (g)(c) Transfer of tax credits.--Upon application and  
25 approval by the Department of Revenue, a qualified production  
26 company may sell, in whole or in part, a tax credit granted  
27 pursuant to this section and s. 220.192. The sale of any  
28 amount of the tax credit shall not be exchanged for  
29 consideration received by the qualified production company of  
30 less than 85 percent of the transferred amount of tax credit.  
31 The qualified production company must transfer at least 10

Bill No. CS for SB 2110

Barcode 941844

1 percent of the remaining credits to each purchaser and may not  
 2 conduct more than three transfers. The purchaser shall  
 3 surrender the tax credit in the state fiscal year acquired  
 4 from the qualified production company and otherwise may carry  
 5 the tax credit over subject to the same limitations on tax  
 6 credit usage as the qualified production company awarded the  
 7 tax credit. The purchaser may not sell or otherwise transfer  
 8 the tax credit. The Department of Revenue may adopt rules  
 9 pursuant to ss. 120.536(1) and 120.54 to administer this  
 10 paragraph, as provided in paragraph (6)(b). A qualified  
 11 relocation project that is certified by the Office of Film and  
 12 Entertainment is eligible for a one-time incentive payment in  
 13 an amount equal to 5 percent of its annual gross revenues  
 14 before taxes for the first 12 months of conducting business in  
 15 its Florida domicile or \$200,000, whichever is less. A company  
 16 applying for payment must submit documentation as required by  
 17 the Office of Film and Entertainment for determination of  
 18 eligibility of claimed billing and determination of the amount  
 19 of payment for which the company is eligible.

20 (h)(d) Noncorporate distribution of tax credits.--A  
 21 qualified production company that is not a corporation as  
 22 defined in s. 220.03 shall elect to make an application to the  
 23 Department of Revenue as provided in paragraph (g) or  
 24 distribute tax credits awarded under this section to its  
 25 partners or members in proportion to the respective  
 26 distributive share of such partners' or members' income or  
 27 loss in the state fiscal year in which such tax credits were  
 28 approved. A tax credit granted under this section and applied  
 29 against taxes imposed under this chapter shall be carried  
 30 forward only for a maximum of 5 taxable years following the  
 31 state fiscal year in which the credit was approved. The

Bill No. CS for SB 2110

Barcode 941844

1 Department of Revenue may adopt rules pursuant to ss.  
 2 120.536(1) and 120.54 to administer this paragraph, as  
 3 provided in paragraph (6)(b), a digital media effects company,  
 4 or a qualified relocation project applying for a payment under  
 5 this section must submit documentation for claimed qualified  
 6 expenditures to the Office of Film and Entertainment.

7 (i)(e) Use of tax credits.--A qualified production  
 8 company may use the tax credit against the tax liability  
 9 imposed under s. 220.192, in whole or in part, or against the  
 10 sales tax paid under chapter 212 in whole or in part. The  
 11 Office of Film and Entertainment shall notify the Office of  
 12 Tourism, Trade, and Economic Development whether an applicant  
 13 meets the criteria for reimbursement and shall recommend the  
 14 reimbursement amount. The Office of Tourism, Trade, and  
 15 Economic Development shall make the final determination for  
 16 actual reimbursement.

17 (5) MARKETING REQUIREMENTS.--The Office of Film and  
 18 Entertainment shall ensure that appropriate marketing  
 19 materials, including, but not limited to, promotions of this  
 20 state as a tourist or filming destination, are required, when  
 21 appropriate, to be included on any filmed entertainment as a  
 22 condition of receiving a tax credit under this section. The  
 23 Office of Film and Entertainment shall consult with  
 24 appropriate entities for the development and implementation of  
 25 marketing materials.

26 (6)(5) RULES POLICIES AND PROCEDURES.--

27 (a) The Office of Tourism, Trade, and Economic  
 28 Development shall adopt rules pursuant to ss. 120.536(1) and  
 29 120.54 policies and procedures to implement this section,  
 30 including, but not limited to, rules specifying requirements  
 31 for the application and approval process, records required for



Bill No. CS for SB 2110

Barcode 941844

1 ~~submission for~~ substantiation of credit awards for  
 2 ~~reimbursement, and~~ determination of and qualification for  
 3 credit awards, and marketing requirements for credit  
 4 recipients reimbursement.

5 (b) The Department of Revenue may adopt rules pursuant  
 6 to ss. 120.536(1) and 120.54 to administer the provisions of  
 7 this section, including rules governing the manner and form of  
 8 documentation required to claim tax credits granted or  
 9 transferred under this section, and may establish guidelines  
 10 as to the requisites for an affirmative showing of  
 11 qualification for tax credits granted or transferred under  
 12 this section.

13 (7)(6) FRAUDULENT CLAIMS.--

14 (a) Any applicant who submits an application under  
 15 this section which includes fraudulent information is liable  
 16 for reimbursement of the reasonable costs and fees associated  
 17 with the review, processing, investigation, and prosecution.

18 (b) An eligible entity or company that obtains a  
 19 credit payment under this section through a claim that it  
 20 knows is fraudulent is liable for reimbursement of the credit  
 21 amount paid plus a penalty in an amount double the credit  
 22 payment and reimbursement of reasonable costs, which penalty  
 23 is in addition to any criminal penalty to which the entity or  
 24 company is liable for the same acts, plus interest. The entity  
 25 or company is also liable for costs and fees incurred by the  
 26 state in investigating and prosecuting the fraudulent claim.

27 (8)(7) ANNUAL REPORT.--The Office of Film and  
 28 Entertainment shall provide an annual report for the previous  
 29 state fiscal year, due October 1, to the Governor, the  
 30 President of the Senate, and the Speaker of the House of  
 31 Representatives outlining the return on investment to the

Bill No. CS for SB 2110

Barcode 941844

1 state on tax credits awarded ~~funds expended~~ pursuant to this  
2 section.

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

4 Section 6. This act shall take effect July 1, 2006.

5  
6

7 ===== T I T L E A M E N D M E N T =====

8 And the title is amended as follows:

9 Delete everything before the enacting clause

10

11 and insert:

12

A bill to be entitled

13

An act relating to entertainment industry

14

economic development; amending s. 212.08, F.S.;

15

providing for an entertainment industry credit

16

of sales and use taxes paid on qualified

17

expenditures; providing criteria, requirements,

18

procedures, and limitations on the credit;

19

providing for uses of the credit; providing

20

duties and responsibilities of the Office of

21

Film and Entertainment and the Department of

22

Revenue; authorizing the Office of Tourism,

23

Trade, and Economic Development to adopt rules;

24

providing for liability for fraudulent credit

25

applications; amending s. 213.053, F.S.;

26

authorizing the Department of Revenue to

27

provide certain tax credit and tax refund

28

information to the Office of Film and

29

Entertainment and the Office of Tourism, Trade,

30

and Economic Development; amending s. 220.02,

31

F.S.; revising the order of priority list of

Bill No. CS for SB 2110

Barcode 941844

1 applicable credits against certain taxes;  
2 creating s. 220.192, F.S.; providing for an  
3 entertainment industry corporate income tax  
4 credit of a percentage of certain qualified  
5 expenditures; providing criteria, requirements,  
6 procedures, and limitations on the credit;  
7 providing for uses and allocations of the  
8 credit; authorizing the Office of Tourism,  
9 Trade, and Economic Development to adopt rules;  
10 providing for liability for fraudulent credit  
11 applications; providing for use and  
12 carryforward of the credit; providing for  
13 transfers of the credit; providing for  
14 noncorporate distributions of tax credits;  
15 authorizing the Department of Revenue to adopt  
16 rules; amending s. 288.1254, F.S.; revising the  
17 entertainment industry financial incentive  
18 program to provide corporate income tax and  
19 sales and use tax credits to qualified  
20 entertainment entities rather than  
21 reimbursements from appropriations; revising  
22 provisions relating to definitions, creation  
23 and scope, application procedures, approval  
24 process, eligibility, required documents,  
25 qualified productions, and annual reports;  
26 providing criteria and limitations for awards  
27 of tax credits; providing marketing  
28 requirements; requiring the Office of Tourism,  
29 Trade, and Economic Development and the  
30 Department of Revenue to adopt rules; providing  
31 liability for reimbursement of certain costs

Bill No. CS for SB 2110

Barcode 941844

1           and fees associated with fraudulent  
2           applications; providing for future repeal;  
3           providing an effective date.  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31