

1 carryforward of the credit; providing for
2 transfers of the credit; providing for
3 noncorporate distributions of tax credits;
4 authorizing the Department of Revenue to adopt
5 rules; amending s. 288.1254, F.S.; revising the
6 entertainment industry financial incentive
7 program to provide corporate income tax and
8 sales and use tax credits to qualified
9 entertainment entities rather than
10 reimbursements from appropriations; revising
11 provisions relating to definitions, creation
12 and scope, application procedures, approval
13 process, eligibility, required documents,
14 qualified productions, and annual reports;
15 providing criteria and limitations for awards
16 of tax credits; providing marketing
17 requirements; requiring the Office of Tourism,
18 Trade, and Economic Development and the
19 Department of Revenue to adopt rules; providing
20 liability for reimbursement of certain costs
21 and fees associated with fraudulent
22 applications; providing for future repeal;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Paragraph (r) is added to subsection (5) of
28 section 212.08, Florida Statutes, to read:

29 212.08 Sales, rental, use, consumption, distribution,
30 and storage tax; specified exemptions.--The sale at retail,
31 the rental, the use, the consumption, the distribution, and

1 the storage to be used or consumed in this state of the
2 following are hereby specifically exempt from the tax imposed
3 by this chapter.

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

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

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

11 a. The credit shall be granted as a refund of sales
12 and use tax paid by a qualifying production company on
13 qualified expenditures in the fiscal year preceding the date
14 of application.

15 b. To be eligible to receive the credit, an applicant
16 must be a qualified production company as defined in s.
17 288.1258(1)(b).

18 c. A qualified production company may not be awarded
19 more than \$2 million in tax credits under this paragraph and
20 s. 220.192 per year unless the production is a high-impact
21 television series, in which case the qualified production
22 shall be eligible for a maximum tax credit award of \$3
23 million. The tax credit available under this paragraph shall
24 be surrendered only in satisfaction of the tax owed by a
25 qualified production company under this chapter and only up to
26 the face amount of the credit. If the qualified production
27 company cannot use the entire tax credit in the taxable year
28 in which the credit is approved, any excess may be carried
29 over to a succeeding taxable year. A tax credit granted under
30 this paragraph and applied against taxes imposed under this
31 chapter may be carried forward only for a maximum of 5 taxable

1 years following the taxable year in which the credit was
2 approved. Five years after the date a credit is granted under
3 this paragraph, the credit expires and may not be used.

4 d. The aggregate amount of tax credits allowed under
5 this paragraph and s. 220.192 in any state fiscal year is \$25
6 million. If the total amount of allocated tax credits applied
7 for in any state fiscal year exceeds the aggregate amount of
8 tax credits authorized annually under this paragraph, such
9 excess shall be treated as having been applied for on the
10 first day of the next state fiscal year in which tax credits
11 remain available for allocation. However, no more than an
12 aggregate amount of \$30 million in tax credits shall be
13 allocated between July 1, 2006, and June 30, 2007. The
14 cumulative amount of credits which may be allocated between
15 July 1, 2006, and June 30, 2009, may not exceed \$75 million.
16 At such time as \$75 million of tax credits have been
17 allocated, no additional tax credits may be allocated.

18 e. The tax credits awarded under this paragraph may be
19 used only by the qualified production company to whom the
20 credits were awarded. Credits awarded under this paragraph may
21 not be sold, assigned, or otherwise transferred, in whole or
22 in part.

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

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

31

1 c. Upon receipt of an application, the Office of Film
2 and Entertainment shall review the application and information
3 and determine whether or not the application is complete
4 within 10 working days. An application shall not be considered
5 complete unless the application includes copies of invoices
6 upon which Florida sales tax is separately stated, other proof
7 that Florida tax was paid on the purchase of the qualified
8 expenditures, and other documentation as required by the
9 department. The Office of Film and Entertainment shall notify
10 the applicant within 15 calendar days of any deficiencies in
11 the application. Upon receipt of a completed application, the
12 Office of Film and Entertainment shall evaluate the
13 application for credit under this paragraph and issue an
14 approval or a denial to the applicant within an additional 15
15 calendar days. The Office of Film and Entertainment shall
16 provide the department with a copy of each completed
17 application that has been approved. Within 30 days after
18 receiving a copy of an approval, the department shall issue a
19 refund directly to the qualified production company in the
20 amount shown on the approval issued by the Office of Film and
21 Entertainment, notwithstanding the provisions of s. 215.26.
22 The provisions of s. 212.095 do not apply to this paragraph.

23 d. The Office of Tourism, Trade, and Economic
24 Development may adopt rules pursuant to ss. 120.536(1) and
25 120.54 to implement this paragraph, including, but not limited
26 to, rules specifying requirements for the application and
27 approval process, records required for substantiation of
28 credit awards, and determination of and qualification for
29 credit awards.

30 3.a. Any applicant who submits an application under
31 this paragraph which includes fraudulent information is liable

1 for reimbursement of the reasonable costs and fees associated
2 with the review, processing, investigation, and prosecution of
3 the application.

4 b. An eligible entity or company that obtains a credit
5 payment under this paragraph through a claim that is
6 fraudulent is liable for reimbursement of the credit amount
7 paid plus a penalty in an amount double the credit payment and
8 reimbursement of reasonable costs, which penalty is in
9 addition to any criminal penalty to which the entity or
10 company is liable for the same acts, plus interest. The entity
11 or company is also liable for costs and fees incurred by the
12 state in investigating and prosecuting the fraudulent claim.

13 Section 2. Paragraph (k) of subsection (7) of section
14 213.053, Florida Statutes, is amended, and paragraph (y) is
15 added to that subsection, to read:

16 213.053 Confidentiality and information sharing.--

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

19 (k)1. Payment information relative to chapters 199,
20 201, 212, 220, 221, and 624 to the Office of Tourism, Trade,
21 and Economic Development, or its employees or agents that are
22 identified in writing by the office to the department, in the
23 administration of the tax refund program for qualified defense
24 contractors authorized by s. 288.1045 and the tax refund
25 program for qualified target industry businesses authorized by
26 s. 288.106.

27 2. Information relative to tax credits taken by a
28 business under s. 220.191 and exemptions or tax refunds
29 received by a business under s. 212.08(5)(j) and (r) to the
30 Office of Tourism, Trade, and Economic Development, or its
31 employees or agents that are identified in writing by the

1 office to the department, in the administration and evaluation
2 of the capital investment tax credit program authorized in s.
3 220.191 and the semiconductor, defense, and space tax
4 exemption program authorized in s. 212.08(5)(j).

5 (y) Information relative to tax credits taken under s.
6 220.192 and tax refunds received by a business under s.
7 212.08(5)(r) to the Office of Film and Entertainment and the
8 Office of Tourism, Trade, and Economic Development.

9
10 Disclosure of information under this subsection shall be
11 pursuant to a written agreement between the executive director
12 and the agency. Such agencies, governmental or
13 nongovernmental, shall be bound by the same requirements of
14 confidentiality as the Department of Revenue. Breach of
15 confidentiality is a misdemeanor of the first degree,
16 punishable as provided by s. 775.082 or s. 775.083.

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

19 220.02 Legislative intent.--

20 (8) It is the intent of the Legislature that credits
21 against either the corporate income tax or the franchise tax
22 be applied in the following order: those enumerated in s.
23 631.828, those enumerated in s. 220.191, those enumerated in
24 s. 220.181, those enumerated in s. 220.183, those enumerated
25 in s. 220.182, those enumerated in s. 220.1895, those
26 enumerated in s. 221.02, those enumerated in s. 220.184, those
27 enumerated in s. 220.186, those enumerated in s. 220.1845,
28 those enumerated in s. 220.19, those enumerated in s. 220.185,
29 ~~and~~ those enumerated in s. 220.187, and those enumerated under
30 s. 220.192.

31

1 Section 4. Section 220.192, Florida Statutes, is
2 created to read:

3 220.192 Entertainment industry tax credit;
4 authorization; eligibility for credits.--

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

9 (a) The credit shall be granted against the tax
10 imposed and owing under this chapter by a qualifying
11 production company for the taxable year in which the
12 application was granted.

13 (b) To be eligible to receive the credit, an applicant
14 must be a qualified production company as defined in s.
15 288.1258(1)(b).

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

1 granted under this section, the credit expires and may not be
2 used.

3 (d) The aggregate amount of tax credits allowed under
4 this section and s. 212.08(5)(r) in any state fiscal year is
5 \$25 million. If the total amount of allocated tax credits
6 applied for in any state fiscal year exceeds the aggregate
7 amount of tax credits authorized annually under this section,
8 such excess shall be treated as having been applied for on the
9 first day of the next state fiscal year in which tax credits
10 remain available for allocation. However, no more than an
11 aggregate amount of \$30 million in tax credits shall be
12 allocated between July 1, 2006, and June 30, 2007. The
13 cumulative amount of credits which may be allocated between
14 July 1, 2006, and June 30, 2009, may not exceed \$75 million.
15 At such time as \$75 million of tax credits have been
16 allocated, no additional tax credits may be allocated.

17 (2) RULES.--The Office of Tourism, Trade, and Economic
18 Development may adopt rules pursuant to ss. 120.536(1) and
19 120.54 to implement this section, including, but not limited
20 to, rules specifying requirements for the application and
21 approval process, records required for substantiation of
22 credit awards, and determination of and qualification for
23 credit awards.

24 (3) FRAUDULENT CLAIMS.--

25 (a) Any applicant who submits an application under
26 this section which includes fraudulent information is liable
27 for reimbursement of the reasonable costs and fees associated
28 with the review, processing, investigation, and prosecution of
29 the application.

30 (b) An eligible entity or company that obtains a
31 credit payment under this section through a claim that is

1 fraudulent is liable for reimbursement of the credit amount
2 paid plus a penalty in an amount double the credit payment and
3 reimbursement of reasonable costs, which penalty is in
4 addition to any criminal penalty to which the entity or
5 company is liable for the same acts, plus interest. The entity
6 or company is also liable for costs and fees incurred by the
7 state in investigating and prosecuting the fraudulent claim.

8 (4) USE OF TAX CREDIT; CARRYFORWARD.--The tax credit
9 available under this section shall be surrendered only in
10 satisfaction of the tax owed by a qualified production company
11 under this chapter and only up to the face amount of the
12 credit. If the qualified production company cannot use the
13 entire tax credit in the taxable year in which the credit is
14 approved, any excess may be carried over to a succeeding
15 taxable year. A tax credit granted under this section and
16 applied against taxes imposed under this chapter may be
17 carried forward only for a maximum of 5 taxable years
18 following the taxable year in which the credit was approved.
19 Five years after the date a credit is granted under this
20 section, the credit expires and may not be used.

21 (5) TRANSFER OF TAX CREDITS.--Upon application to and
22 approval by the Department of Revenue, a qualified production
23 company may sell, in whole or in part, a tax credit granted
24 under this section. The sale or assignment of any amount of
25 the tax credit shall not be exchanged for consideration
26 received by the qualified production company of less than 85
27 percent of the transferred amount of tax credit. The qualified
28 production company must transfer at least 10 percent of the
29 remaining credits to each purchaser and may not conduct more
30 than three transfers. The purchaser of the tax credit granted
31 under s. 288.1254 shall use the tax credit in the state fiscal

1 year the tax credit is acquired from the qualified production
2 company and otherwise may carry the tax credit over subject to
3 the same limitations on tax credit usage as the qualified
4 production company awarded the tax credit. The purchaser of
5 the tax credit may not sell or otherwise transfer the tax
6 credit. The Department of Revenue may adopt rules pursuant to
7 ss. 120.536(1) and 120.54 to administer this subsection.

8 (6) NONCORPORATE DISTRIBUTIONS OF TAX CREDITS.--A
9 qualified production company that is not a corporation as
10 defined in s. 220.03 shall elect to make an application to the
11 Department of Revenue to distribute tax credits awarded under
12 this section to its partners or members in proportion to the
13 respective distributive share of such partners' or members'
14 income or loss in the taxable fiscal year in which such tax
15 credits were approved. A tax credit granted under this section
16 and applied against taxes imposed under this chapter may be
17 carried forward only for a maximum of 5 taxable years
18 following the state fiscal year in which the credit was
19 approved.

20 (7) USE OF TAX CREDITS.--A qualified production
21 company may use the tax credit against the tax liability
22 imposed under this chapter, in whole or in part, or against
23 the sales tax paid on qualified expenditures as defined in s.
24 288.1254.

25 (8) AGGREGATE TAX CREDIT AVAILABLE.--The aggregate
26 amount of tax credits allowed under this section in any state
27 fiscal year is \$25 million. If the total amount of allocated
28 tax credits applied for in any state fiscal year exceeds the
29 aggregate amount of tax credits authorized annually under this
30 section, such excess shall be treated as having been applied
31 for on the first day of the next state fiscal year in which

1 tax credits remain available for allocation. However, no more
2 than an aggregate amount of \$30 million in tax credits granted
3 under this section or s. 212.08(5)(r) shall be allocated
4 between July 1, 2006, and June 30, 2007. The cumulative amount
5 of credits that may be allocated between July 1, 2006, and
6 June 30, 2009, may not exceed \$75 million. At such time as \$75
7 million of tax credits granted under this section or s.
8 212.08(5)(r) have been allocated, no additional tax credits
9 shall be allocated.

10 (9) RULES.--The Department of Revenue may adopt rules
11 pursuant to ss. 120.536(1) and 120.54 to administer the
12 provisions of this section, including rules governing the
13 manner and form of documentation required to claim tax credits
14 granted or transferred under this section, and may establish
15 guidelines as to the requirements for an affirmative showing
16 of qualification for tax credits granted or transferred under
17 this section.

18 Section 5. Section 288.1254, Florida Statutes, is
19 amended to read:

20 288.1254 Entertainment industry financial incentive
21 program; creation; purpose; definitions; application
22 procedure; approval process; ~~reimbursement~~ eligibility;
23 submission of required documentation; recommendations for
24 ~~credit award payment~~; policies and procedures; fraudulent
25 claims.--

26 (1) CREATION AND PURPOSE OF PROGRAM.--~~Subject to~~
27 ~~specific appropriation,~~ There is created within the Office of
28 Film and Entertainment an entertainment industry financial
29 incentive program. The purpose of this program is to encourage
30 the use of this state as a site for filming and developing and
31

1 ~~sustaining the workforce and infrastructure providing~~
2 ~~production services~~ for filmed entertainment.

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

4 (a) "Filmed entertainment" means a theatrical or
5 direct-to-video motion picture, a made-for-television motion
6 picture teleproduction, a commercial, a music video, an
7 industrial or educational film, a promotional video or film, a
8 documentary film, a television pilot, a television special, a
9 presentation for a television pilot, a television series,
10 including, but not limited to, a drama, a reality, a comedy, a
11 soap opera, a telenovela, a game show, and a miniseries
12 production, or a digital-media-effects production by the
13 entertainment industry to be sold or displayed in an
14 electronic medium, excluding news shows and sporting events.

15 As used in this paragraph, the term "motion picture" means a
16 motion picture made on or by film, tape, or otherwise and
17 produced by means of a motion picture camera, electronic
18 camera or device, tape device, any combination of the
19 foregoing, or any other means, method, or device now used or
20 which may hereafter be adopted. As used in this paragraph, the
21 term "digital-media-effects" means visual elements created
22 through the modification of already existing or newly created
23 visual elements for film, video, or animated media through the
24 use of digital 2D/3D animation or painting, motion capture, or
25 compositing technologies. ~~For purposes of this section, the~~
26 ~~term "filmed entertainment" does not include the electronic~~
27 ~~gaming industry or sporting events.~~

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

1 ~~(c)(b)~~ "Production costs" means the costs of ~~real~~,
2 tangible, and intangible property used and services performed
3 primarily or customarily in the production, including
4 preproduction and postproduction, of qualified filmed
5 entertainment. Production costs generally include, but are not
6 limited to:

7 1. Wages, salaries, or other compensation, including
8 amounts paid through payroll service companies, for technical
9 and production crews, directors, producers, and performers ~~who~~
10 ~~are residents of this state~~.

11 2. Expenditures for sound stages, backlots, production
12 editing, digital effects, sound recordings, sets, and set
13 construction.

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

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

19 5. Expenditures for goods and services used in
20 producing filmed entertainment.

21 ~~(d)(e)~~ "Qualified expenditures" means production costs
22 incurred in this state within the current state fiscal year
23 for goods purchased or leased from or services provided by
24 ~~purchased, leased, or employed from a resident of this state~~
25 ~~or~~ a vendor or supplier who is located and doing business in
26 this state or payments to residents of this state in the form
27 of salary, wages, or other compensation, ~~but~~ excluding wages,
28 salaries, or other compensation paid to the two highest-paid
29 residents of this state participating in the qualified
30 production employees.

31

1 ~~(e)(d)~~ "Qualified production" means filmed
2 entertainment that meets or exceeds minimum qualified makes
3 expenditures required in this state for the total or partial
4 production of filmed entertainment. Productions that are
5 deemed by the Office of Film and Entertainment to contain
6 obscene content, as defined by the United States Supreme
7 Court, are not qualified productions. ~~Also, a production is~~
8 ~~not a qualified production if it is determined that the first~~
9 ~~day of principal photography in this state occurred on or~~
10 ~~before the date of submitting its application to the Office of~~
11 ~~Film and Entertainment or prior to certification by the Office~~
12 ~~of Tourism, Trade, and Economic Development.~~

13 ~~(f)(e)~~ "Qualified production company relocation
14 ~~project~~" means a corporation, limited liability company,
15 partnership, ~~corporate headquarters,~~ or other legal private
16 entity engaged in the production of filmed entertainment that
17 ~~is domiciled in another state or country and relocates its~~
18 ~~operations to this state, is organized under the laws of this~~
19 ~~or any other state or country, and includes as one of its~~
20 ~~primary purposes digital media effects or motion picture and~~
21 ~~television production, or postproduction.~~

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

23 (a) Any company engaged in this state in producing
24 filmed entertainment may submit an application to the Office
25 of Film and Entertainment for the purpose of determining
26 qualification for an award of credits against the taxes by the
27 sales tax paid on qualified expenditures as defined in s.
28 288.1254 and the corporate income tax imposed by chapter 220
29 ~~receipt of reimbursement provided in this section.~~ The office
30 must be provided information required to determine if the
31 production is a qualified production and to determine the

1 qualified expenditures, production costs, and other
2 information necessary for the office to determine ~~both~~
3 eligibility for the tax credit and ~~level of reimbursement~~.

4 (b) ~~A digital media effects company in the state which~~
5 ~~furnishes digital material to filmed entertainment may submit~~
6 ~~an application to the Office of Film and Entertainment for the~~
7 ~~purpose of determining qualification for receipt of~~
8 ~~reimbursement authorized by this section. The office must be~~
9 ~~provided information required to determine if the company is~~
10 ~~qualified and to determine the amount of reimbursement.~~

11 (c) ~~Any corporation, limited liability company,~~
12 ~~partnership, corporate headquarters, or other private entity~~
13 ~~domiciled in another state which includes as one of its~~
14 ~~primary purposes digital media effects or motion picture and~~
15 ~~television production and which is considering relocation to~~
16 ~~this state may submit an application to the Office of Film and~~
17 ~~Entertainment for the purpose of determining qualification for~~
18 ~~reimbursement under this section.~~

19 (d)1. ~~The Office of Film and Entertainment shall~~
20 ~~establish a process by which an application is accepted and~~
21 ~~reviewed and reimbursement eligibility and reimbursement~~
22 ~~amount are determined. The Office of Film and Entertainment~~
23 ~~may request assistance from a duly appointed local film~~
24 ~~commission in determining qualifications for reimbursement and~~
25 ~~compliance.~~

26 1.2. The Office of Film and Entertainment shall
27 develop a standardized application form for use in qualifying
28 an applicant as approving a qualified production, ~~a qualified~~
29 ~~relocation project, or a company qualifying under paragraph~~
30 ~~(a), paragraph (b), or paragraph (c).~~ The application form for
31 qualifying an applicant as a qualified production must

1 include, but need not be limited to, production-related
2 information on employment, proposed total production budgets,
3 planned expenditures in this state ~~which are intended for use~~
4 ~~exclusively as an integral part of preproduction, production,~~
5 ~~or postproduction activities engaged primarily in this state,~~
6 and a signed affirmation from the applicant ~~Office of Film and~~
7 ~~Entertainment~~ that the information on the application form has
8 been verified and is correct. The application form shall be
9 distributed to applicants by the Office of Film and
10 Entertainment or local film commissions.

11 2.3. Within 10 business days after receipt of an
12 application, the Office of Film and Entertainment shall review
13 the application to determine if the application contains all
14 the information required by this subsection and meets the
15 criteria set out in this section. The office shall qualify all
16 applications that contain the information and meet the
17 criteria set out in this section as eligible to receive a tax
18 credit or shall notify the applicant that the requirements for
19 qualification have not been met. If the application is
20 qualified, the office shall recommend to the Office of
21 Tourism, Trade, and Economic Development approval of the
22 maximum amount of the tax credit to be awarded. The Office of
23 Film and Entertainment must complete its review of each
24 application within 5 days after receipt of the completed
25 application, including all required information, and it must
26 notify the applicant of its determination within 10 business
27 days after receipt of the completed application and required
28 information.

29 3.4. Within 10 business days after receiving notice
30 from the Office of Film and Entertainment of qualification of
31 an applicant as a qualified production and a recommended

1 approval of the maximum amount of tax credit to be awarded,
2 the Office of Tourism, Trade, and Economic Development shall
3 certify the maximum tax credit award, if any. The
4 certification shall be transmitted to the applicant and to the
5 executive director of the Department of Revenue. The applicant
6 shall be responsible for forwarding a certified application to
7 the Department of Revenue. Upon determination that all
8 criteria are met for qualification for reimbursement, the
9 Office of Film and Entertainment shall notify the applicant of
10 such approval. The office shall also notify the Office of
11 Tourism, Trade, and Economic Development of the applicant
12 approval and amount of reimbursement required. The Office of
13 Tourism, Trade, and Economic Development shall make final
14 determination for actual reimbursement.

15 4.5- The Office of Film and Entertainment shall deny
16 an application if the office ~~it~~ determines that:

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

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

21 (4) CREDIT REIMBURSEMENT ELIGIBILITY; SUBMISSION OF
22 REQUIRED DOCUMENTATION; APPLICATION RECOMMENDATIONS FOR
23 TRANSFER PAYMENT.--

24 (a) Tax credit award.--A production of filmed
25 entertainment that is qualified by the Office of Film and
26 Entertainment and is certified by the Office of Tourism,
27 Trade, and Economic Development is eligible for corporate tax
28 credits granted pursuant to s. 220.192 and credits against
29 sales tax paid on qualified expenditures pursuant to s.
30 212.08(5)(r) in an amount equal a reimbursement of up to 15
31 percent of its qualified ~~qualifying~~ expenditures.

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

8 (c) Aggregate tax credit available.--The aggregate
9 amount of tax credits allowed under this section in any state
10 fiscal year is \$25 million. If the total amount of allocated
11 tax credits applied for in any state fiscal year exceeds the
12 aggregate amount of tax credits authorized annually under this
13 section, such excess shall be treated as having been applied
14 for on the first day of the next state fiscal year in which
15 tax credits remain available for allocation. However, no more
16 than an aggregate amount of \$30 million in tax credits granted
17 pursuant to this section and ss. 212.08(5)(r) and 220.192
18 shall be allocated between July 1, 2006, and June 30, 2007.
19 The cumulative amount of credits which may be allocated
20 between July 1, 2006, and June 30, 2009, may not exceed \$75
21 million. At such time as \$75 million of tax credits granted
22 pursuant to this section and ss. 212.08(5)(r) and 220.192 have
23 been allocated, no additional tax credits may be allocated in
24 this state on a filmed entertainment program that demonstrates
25 a minimum of \$850,000 in total qualified expenditures for the
26 entire run of the project, versus the budget on a single
27 episode, within the fiscal year from July 1 to June 30.
28 However, the maximum reimbursement that may be made with
29 respect to any filmed entertainment program is \$2 million. All
30 reimbursements under this section are subject to
31 appropriation.

1 (d) Filmed entertainment queues.--Tax credits awarded
2 ~~Payments~~ under this section in a state fiscal year shall be
3 made to qualified productions according to a production's
4 principal photography start date, for those qualified
5 productions having entered into the first queue as cited in
6 subparagraph 1. or the second queue cited in subparagraph 2.
7 within the first 2 weeks after the queue's opening. All other
8 qualified productions entering into either queue after the
9 initial 2-week openings shall be on a first-come, first-served
10 basis ~~until the appropriation for that fiscal year is~~
11 ~~exhausted. On February 1 of each year, the remaining funds~~
12 ~~within both queues shall be combined into a single queue and~~
13 ~~distributed based on a project's principal photography start~~
14 ~~date. The eligibility of qualified productions may not carry~~
15 ~~over from year to year, but such productions may reapply for~~
16 ~~eligibility under the guidelines established for doing so. The~~
17 ~~Office of Film and Entertainment shall develop a procedure to~~
18 ~~ensure that qualified productions continue on a reasonable~~
19 ~~schedule until completion. If a qualified production is not~~
20 ~~continued according to a reasonable schedule, the office shall~~
21 ~~withdraw its eligibility and reallocate the funds to the next~~
22 ~~qualified productions already in the queue that have yet to~~
23 ~~receive their full maximum or 15 percent financial~~
24 ~~reimbursement, if they have not started principal photography~~
25 ~~by the time the funds become available.~~

26 1. Film, television, and episodic queue.--Theatrical
27 or direct-to-video motion pictures, made-for-television
28 movies, ~~commercials, music videos,~~ industrial and educational
29 films, promotional videos or films, documentary films,
30 television specials, television series, including, but not
31 limited to, miniseries and telenovelas, and

1 digital-media-effects productions by the entertainment
2 industry to be sold or displayed in an electronic medium which
3 demonstrate a minimum of \$625,000 in total qualified
4 expenditures for the entire run of the project, which, for a
5 television series, means a season even if the season is not
6 completed in the same state fiscal year in which principal
7 photography began, shall have their own separate queue
8 established, and such queue shall have dedicated to it 60
9 percent of all available tax credits in any state fiscal year
10 for which this section applies. The maximum tax credit award
11 that may be made from this queue for any single production is
12 \$2 million unless the production is a high-impact television
13 series, in which case the production shall be eligible for a
14 maximum tax credit award of \$3 million, provided such
15 production meets the other criteria of this section. On March
16 1 of each year, the remaining tax credits within this queue
17 shall be merged into a general queue and may be used for other
18 purposes of this section as determined by the Office of Film
19 and Entertainment. A television series, including, but not
20 limited to, a qualified high-impact television series, is not
21 eligible for a tax credit award under this section after its
22 fifth production season in this state. A qualified high-impact
23 television series shall be allowed first position in this
24 queue for its first five production seasons in this state if
25 the application is received by the Office of Film and
26 Entertainment within the first 2 weeks after the queue's
27 opening. A qualified high-impact television series must file
28 an application for each state fiscal year in which it is
29 eligible to receive the credit, unless otherwise provided in
30 this section ~~of the state incentive money.~~

31

1 2. Television pilot queue.--Television pilots and
2 presentations for television pilots for television series
3 intended to be shot in this state and, or television series,
4 including, but not limited to, drama, reality, comedy, soap
5 opera, telenovela, game show, or miniseries productions, by
6 the entertainment industry to be sold or displayed in an
7 electronic medium which demonstrate a minimum of \$625,000 in
8 total qualified expenditures for the pilot episode or
9 presentation shall have their own separate queue established,
10 and such queue shall have dedicated to it 20 40 percent of all
11 available tax credits in any given state fiscal year for which
12 this section applies. The maximum tax credit award that may be
13 made from this queue for any single pilot episode or
14 presentation is \$2 million. On March 1 of each year, the
15 remaining tax credits within this queue shall be merged into a
16 general queue and may be used for other purposes of this
17 section as determined by the Office of Film and Entertainment.

18 3. Commercials and music video queue.--Commercials and
19 music videos by the entertainment industry to be sold or
20 displayed in an electronic medium which demonstrate a minimum
21 of \$500,000 in combined total qualified expenditures from a
22 production company during the state fiscal year with a minimum
23 of \$75,000 in qualified expenditures for each production shall
24 have their own separate queue established. Such queue shall
25 have dedicated to it 20 percent of available tax credits in
26 any given state fiscal year for which this section applies.
27 The maximum tax credit award that may be made from this queue
28 for any single production company is \$500,000 for a state
29 fiscal year. On April 1 of each year, the remaining tax
30 credits within this queue shall be merged into a general queue
31

1 and may be used for other purposes of this section as
2 determined by the Office of Film and Entertainment.

3 (e) Loss of eligibility; reallocation of tax
4 credits.--If a qualified production is not continued according
5 to a reasonable schedule or the Office of Film and
6 Entertainment is notified that a qualified production will no
7 longer be produced, the office shall withdraw the production's
8 eligibility for tax credits and reallocate the tax credits to
9 the next qualified productions already in the queue that have
10 yet to receive a full tax credit if such next qualified
11 productions have not started principal photography by the time
12 the tax credits become available.

13 (f) Verification of tax credit award.--The Office of
14 Film and Entertainment shall develop a process by which a
15 qualified production that has been certified by the Office of
16 Tourism, Trade, and Economic Development shall submit to the
17 Office of Film and Entertainment, in a timely manner after
18 production ends and after making all of its qualified
19 expenditures, verifying data to substantiate each qualified
20 expenditure. The Office of Film and Entertainment shall report
21 to the Office of Tourism, Trade, and Economic Development the
22 final verified amount of actual qualified expenditures made by
23 the qualified production. The Office of Tourism, Trade, and
24 Economic Development shall then notify the executive director
25 of the Department of Revenue that the qualified production has
26 met all requirements of the incentive program and shall
27 recommend the final amount of the tax credit of the state
28 incentive money.

29 ~~(b) A digital media effects company in the state which~~
30 ~~furnishes digital material to filmed entertainment may be~~
31 ~~eligible for a payment in an amount not to exceed 5 percent of~~

1 ~~its annual gross revenues on qualified expenditures as defined~~
2 ~~in paragraph (2)(c) before taxes or \$100,000, whichever is~~
3 ~~less. A company applying for payment must submit documentation~~
4 ~~annually as required by the Office of Film and Entertainment~~
5 ~~for determination of eligibility of claimed billing and~~
6 ~~determination of the amount of payment for which the company~~
7 ~~is eligible.~~

8 ~~(g)(c)~~ Transfer of tax credits.--Upon application and
9 approval by the Department of Revenue, a qualified production
10 company may sell, in whole or in part, a tax credit granted
11 pursuant to this section and s. 220.192. The sale of any
12 amount of the tax credit shall not be exchanged for
13 consideration received by the qualified production company of
14 less than 85 percent of the transferred amount of tax credit.
15 The qualified production company must transfer at least 10
16 percent of the remaining credits to each purchaser and may not
17 conduct more than three transfers. The purchaser shall
18 surrender the tax credit in the state fiscal year acquired
19 from the qualified production company and otherwise may carry
20 the tax credit over subject to the same limitations on tax
21 credit usage as the qualified production company awarded the
22 tax credit. The purchaser may not sell or otherwise transfer
23 the tax credit. The Department of Revenue may adopt rules
24 pursuant to ss. 120.536(1) and 120.54 to administer this
25 paragraph, as provided in paragraph (6)(b). A qualified
26 ~~relocation project that is certified by the Office of Film and~~
27 ~~Entertainment is eligible for a one time incentive payment in~~
28 ~~an amount equal to 5 percent of its annual gross revenues~~
29 ~~before taxes for the first 12 months of conducting business in~~
30 ~~its Florida domicile or \$200,000, whichever is less. A company~~
31 ~~applying for payment must submit documentation as required by~~

1 ~~the Office of Film and Entertainment for determination of~~
2 ~~eligibility of claimed billing and determination of the amount~~
3 ~~of payment for which the company is eligible.~~

4 (h)(d) Noncorporate distribution of tax credits.--A
5 qualified production company that is not a corporation as
6 defined in s. 220.03 shall elect to make an application to the
7 Department of Revenue as provided in paragraph (g) or
8 distribute tax credits awarded under this section to its
9 partners or members in proportion to the respective
10 distributive share of such partners' or members' income or
11 loss in the state fiscal year in which such tax credits were
12 approved. A tax credit granted under this section and applied
13 against taxes imposed under this chapter shall be carried
14 forward only for a maximum of 5 taxable years following the
15 state fiscal year in which the credit was approved. The
16 Department of Revenue may adopt rules pursuant to ss.
17 120.536(1) and 120.54 to administer this paragraph, as
18 ~~provided in paragraph (6)(b), a digital media effects company,~~
19 ~~or a qualified relocation project applying for a payment under~~
20 ~~this section must submit documentation for claimed qualified~~
21 ~~expenditures to the Office of Film and Entertainment.~~

22 (i)(e) Use of tax credits.--A qualified production
23 company may use the tax credit against the tax liability
24 imposed under s. 220.192, in whole or in part, or against the
25 sales tax paid under chapter 212 in whole or in part The
26 ~~Office of Film and Entertainment shall notify the Office of~~
27 ~~Tourism, Trade, and Economic Development whether an applicant~~
28 ~~meets the criteria for reimbursement and shall recommend the~~
29 ~~reimbursement amount. The Office of Tourism, Trade, and~~
30 ~~Economic Development shall make the final determination for~~
31 ~~actual reimbursement.~~

1 (5) MARKETING REQUIREMENTS.--The Office of Film and
2 Entertainment shall ensure that appropriate marketing
3 materials, including, but not limited to, promotions of this
4 state as a tourist or filming destination, are required, when
5 appropriate, to be included on any filmed entertainment as a
6 condition of receiving a tax credit under this section. The
7 Office of Film and Entertainment shall consult with
8 appropriate entities for the development and implementation of
9 marketing materials.

10 ~~(6)(5)~~ ~~RULES POLICIES AND PROCEDURES.--~~

11 (a) The Office of Tourism, Trade, and Economic
12 Development shall adopt rules pursuant to ss. 120.536(1) and
13 120.54 ~~policies and procedures~~ to implement this section,
14 including, but not limited to, rules specifying requirements
15 for the application and approval process, records required for
16 ~~submission for~~ substantiation of credit awards ~~for~~
17 ~~reimbursement, and~~ determination of and qualification for
18 credit awards, and marketing requirements for credit
19 recipients reimbursement.

20 (b) The Department of Revenue may adopt rules pursuant
21 to ss. 120.536(1) and 120.54 to administer the provisions of
22 this section, including rules governing the manner and form of
23 documentation required to claim tax credits granted or
24 transferred under this section, and may establish guidelines
25 as to the requisites for an affirmative showing of
26 qualification for tax credits granted or transferred under
27 this section.

28 ~~(7)(6)~~ ~~FRAUDULENT CLAIMS.--~~

29 (a) Any applicant who submits an application under
30 this section which includes fraudulent information is liable
31

1 for reimbursement of the reasonable costs and fees associated
2 with the review, processing, investigation, and prosecution.

3 (b) An eligible entity or company that obtains a
4 credit payment under this section through a claim that it
5 knows is fraudulent is liable for reimbursement of the credit
6 ~~amount paid~~ plus a penalty in an amount double the credit
7 ~~payment~~ and reimbursement of reasonable costs, which penalty
8 is in addition to any criminal penalty to which the entity or
9 company is liable for the same acts, plus interest. The entity
10 or company is also liable for costs and fees incurred by the
11 state in investigating and prosecuting the fraudulent claim.

12 ~~(8)(7)~~ ANNUAL REPORT.--The Office of Film and
13 Entertainment shall provide an annual report for the previous
14 state fiscal year, due October 1, to the Governor, the
15 President of the Senate, and the Speaker of the House of
16 Representatives outlining the return on investment to the
17 state on tax credits awarded ~~funds expended~~ pursuant to this
18 section.

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

20 Section 6. This act shall take effect July 1, 2006.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS/SB 2110

4 The Committee Substitute restructured and clarified the
5 Entertainment Industry Financial Incentive Program as follows:

- 6 1. Returns the Entertainment Industry Financial Incentive
7 Program to its original location in ch. 288 of the
8 statutes and creates sections in chs. 212 and 220
9 regarding the administration of the tax credits.
- 10 2. Reduces the length of the program from eight years to
11 three years.
- 12 3. Reduces the total amount of credits allotted over the
13 life of the program from \$200 million to \$75 million.
- 14 4. Clarifies that only the corporate income tax credits may
15 be transferred.
- 16 5. Removes the requirement that a qualified production
17 company must exhaust all of its tax liability before
18 selling or transferring any of its tax credits, in whole
19 or in part.
- 20 6. Allows tax credits applied toward the sales and use tax
21 to be carried forward up to five years.
- 22 7. Limits the number of sales or transfers per qualified
23 film production to three.
- 24 8. Requires that a transfer of credits must be for at least
25 ten percent of the total credit value of the qualified
26 film production.
- 27 9. Makes the sales and use tax refund a once per taxable
28 year program (instead of a monthly filing procedure).
- 29 10. Clarifies that there is no time limit to when a credit
30 can be transferred, although the credit is only valid for
31 five years.
11. Allows the Department of Revenue, the Office of Tourism,
Trade, and Economic Development and the Office of Film
Entertainment to share information regarding the
Entertainment Industry Financial Incentive Program.