

1 A bill to be entitled
2 An act relating to entertainment industry economic
3 development; amending s. 288.1254, F.S.; revising the
4 entertainment industry financial incentive program to
5 provide corporate income tax and sales and use tax credits
6 to qualified entertainment entities rather than
7 reimbursements from appropriations; revising provisions
8 relating to definitions, creation and scope, application
9 procedures, approval process, eligibility, required
10 documents, qualified and certified productions, and annual
11 reports; providing duties and responsibilities of the
12 Office of Film and Entertainment, the Office of Tourism,
13 Trade, and Economic Development, and the Department of
14 Revenue relating to the tax credits; providing criteria
15 and limitations for awards of tax credits; providing total
16 aggregate amount available for tax credits; providing for
17 uses, allocations, election, distributions, and
18 carryforward of the tax credits; providing for use of
19 consolidated returns; providing for partnership and
20 noncorporate distributions of tax credits; providing for
21 succession of tax credits; providing requirements for
22 transfer of tax credits; requiring a recipient of
23 transferred tax credits to pay a percentage of the amount
24 paid to fund specified film education grants; providing
25 priority allocation of tax credits; providing for
26 withdrawal of tax credit eligibility; establishing queues;
27 authorizing the Office of Tourism, Trade, and Economic
28 Development to adopt rules, policies, and procedures;

29 | authorizing the Department of Revenue to adopt rules and
30 | conduct audits; providing for revocation and forfeiture of
31 | tax credits; providing liability for reimbursement of
32 | certain costs and fees associated with a fraudulent claim;
33 | requiring an annual report to the Governor and the
34 | Legislature; providing for future repeal; creating s.
35 | 288.1256, F.S.; establishing the Florida Graduate Film
36 | Investment Fund; requiring administration by the Office of
37 | Film and Entertainment; providing for deposit of funds;
38 | requiring that funds be used for certain family-friendly
39 | films; amending s. 288.1252, F.S.; requiring the Florida
40 | Film and Entertainment Advisory Council to advise on films
41 | produced under the Florida Graduate Film Investment Fund;
42 | amending s. 220.02, F.S.; including tax credits enumerated
43 | in s. 288.1254, F.S., in the order of application of
44 | credits against certain taxes; amending s. 213.053, F.S.;
45 | authorizing the Department of Revenue to provide tax
46 | credit information to the Office of Film and Entertainment
47 | and the Office of Tourism, Trade, and Economic
48 | Development; amending s. 212.08, F.S.; requiring
49 | electronic funds transfer for the entertainment industry
50 | tax credit; providing procedures; repealing s. 288.1255,
51 | F.S., to remove the requirement that annual funding for
52 | the entertainment industry financial incentive program be
53 | subject to legislative appropriation; providing an
54 | effective date.

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

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Section 1. Section 288.1254, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 288.1254, F.S., for present text.)

288.1254 Entertainment industry financial incentive program.--

(1) CREATION AND PURPOSE OF PROGRAM.--There is created within the Office of Film and Entertainment an entertainment industry financial incentive program. The purpose of this program is to encourage the use of this state as a site for filming and to develop and sustain the workforce and infrastructure for film and entertainment production.

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

(a) "Production" means a theatrical or direct-to-video motion picture, a made-for-television motion picture, a commercial, a music video, an industrial or educational film, an infomercial, a documentary film, a television pilot, a presentation for a television pilot, a television series, including, but not limited to, a drama, a reality, a comedy, a soap opera, a telenovela, a game show, miniseries production, or a digital media project by the entertainment industry. One season of a television series is considered one production. The term "production" does not include a weather or market program, a sporting event, a sports show, a gala, a production that solicits funds, a home shopping program, a political program, a political documentary, political advertising, a gambling-related project or production, a concert production, or a local,

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85 regional, or Internet-only news show, current events show, or
86 current affairs show. A production may be produced on or by
87 film, tape, or otherwise and produced by means of a motion
88 picture camera, electronic camera or device, tape device,
89 computer, any combination of the foregoing, or any other means,
90 method, or device now used or that may hereafter be adopted.

91 (b) "Digital media project" means a production of
92 interactive entertainment, including a video game, simulation,
93 or animation, including a production intended for Internet or
94 wireless distribution, that is produced for commercial or
95 education distribution. The term "digital media project" does
96 not include a production deemed by the Office of Film and
97 Entertainment to contain obscene content as defined by the
98 United States Supreme Court.

99 (c) "Production expenditures" means the costs of tangible
100 and intangible property used and services performed primarily
101 and customarily in the production, including pre-production and
102 post-production, excluding development and distribution costs.
103 Production expenditures generally include, but are not limited
104 to:

105 1. Wages, salaries, or other compensation, including
106 amounts paid through payroll service companies, for technical
107 and production crews, directors, producers, and performers.

108 2. Expenditures for sound stages, backlots, production
109 editing, digital effects, sound recordings, sets, and set
110 construction.

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

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113 4. Expenditures for meals, travel, and accommodations.

114 (d) "Qualified expenditures" means production expenditures
115 incurred in this state by a qualified production for the
116 following:

117 1. Goods purchased or leased from, or services provided
118 by, a Florida vendor or supplier who is registered with the
119 Department of State or the Department of Revenue and doing
120 business in this state.

121 2. Payments to residents of this state in the form of
122 salary, wages, or other compensation up to a maximum of \$400,000
123 per resident.

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125 For a qualified production involving an event, such as an awards
126 show, qualified expenditures exclude expenditures solely
127 associated with the event itself and not directly required by
128 the production. A qualified production's expenditures made prior
129 to certification shall not be considered qualified expenditures,
130 with the exception of those incurred by a commercial, a music
131 video, or the pickup of additional episodes of a television
132 series within a single season.

133 (e) "Qualified production" means a production in this
134 state that meets the requirements of this section and the
135 minimum qualified expenditures and requirements of its
136 appropriate queue. A qualified production's combined production
137 cast and below-the-line production crew positions must be filled
138 by at least 50 percent Florida residents or students enrolled
139 full-time in a film and entertainment-related course of study at
140 a Florida institution of higher education, or a combination

141 thereof. For purposes of this section, proof of Florida
 142 residency is a valid Florida driver's license or other state-
 143 issued Florida identification confirming residency in the state.

144 Productions that are deemed by the Office of Film and
 145 Entertainment to contain obscene content as defined by the
 146 United States Supreme Court are not qualified productions.

147 (f) "Certified production" means a qualified production
 148 that has tax credits allocated to it based on its estimated
 149 qualified expenditures, up to its maximum certified amount of
 150 tax credits, by the Office of Tourism, Trade, and Economic
 151 Development. A qualified production is not a certified
 152 production if its first day of principal photography in the
 153 state occurs before it is certified by the Office of Tourism,
 154 Trade, and Economic Development, unless it is a previously
 155 certified production spanning fiscal years and required to make
 156 an application for continuing the same production in the
 157 subsequent year.

158 (g) "Qualified production company" means a corporation,
 159 limited liability company, partnership, or other legal entity
 160 engaged in producing a qualified production.

161 (h) "Off-season certified production" means a certified
 162 production, other than a digital media project or an animated
 163 production, that films 75 percent or more of its principal
 164 photography days from June 1 through November 30.

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

166 (a) Program application.--A qualified production company
 167 in this state producing a qualified production may submit a
 168 program application to the Office of Film and Entertainment for

169 the purpose of determining qualification for an award of tax
 170 credits authorized by this section. The office must be provided
 171 information required to determine whether the production is a
 172 qualified production and to determine the qualified expenditures
 173 and other information necessary for the office to determine
 174 eligibility for the tax credits.

175 (b) Required documentation.--The Office of Film and
 176 Entertainment shall develop a program application form for use
 177 in qualifying an applicant as a qualified production. The
 178 program application form for qualifying an applicant as a
 179 qualified production must include, but need not be limited to,
 180 production-related information on Florida resident employment, a
 181 detailed budget of planned qualified expenditures, and a signed
 182 affirmation from the applicant that the information on the
 183 program application form has been verified and is correct. The
 184 program application form shall be distributed to applicants by
 185 the Office of Film and Entertainment or by local film
 186 commissions.

187 (c) Application process.--The Office of Film and
 188 Entertainment shall establish a process by which a program
 189 application is accepted and reviewed and by which tax credit
 190 eligibility and amount are determined. The Office of Film and
 191 Entertainment may request assistance from a duly appointed local
 192 film commission in determining qualification for the tax credit
 193 and compliance with the provisions of this section.

194 (d) Certification.--Within 10 business days after receipt
 195 of a program application, the Office of Film and Entertainment
 196 shall review the application. Upon its determination that the

197 program application contains all the information required by
 198 this subsection and meets the criteria set out in this section,
 199 the Office of Film and Entertainment shall qualify the applicant
 200 and recommend to the Office of Tourism, Trade, and Economic
 201 Development that the applicant be certified for the tax credit
 202 and suggest a maximum tax credit award amount. Within 5 business
 203 days after its receipt of the recommendation, the Office of
 204 Tourism, Trade, and Economic Development shall reject or shall
 205 certify the maximum recommended tax credit award, if any, to the
 206 applicant and to the executive director of the Department of
 207 Revenue.

208 (e) Grounds for denial.--The Office of Film and
 209 Entertainment shall deny an application if it determines that:

- 210 1. The application is not complete or does not meet the
 211 requirements of this section; or
- 212 2. The tax credit sought does not meet the requirements of
 213 this section.

214 (f) Verification of actual qualified expenditures.--The
 215 Office of Film and Entertainment shall develop a process by
 216 which a certified production shall submit, in a timely manner
 217 after production ends and after making all of its qualified
 218 expenditures, data substantiating each qualified expenditure to
 219 an independent Florida-licensed certified public accountant. The
 220 accountant shall conduct an audit, at the certified production's
 221 expense, to substantiate each qualified expenditure and shall
 222 submit the results and all substantiating data to the Office of
 223 Film and Entertainment, which shall review and report to the
 224 Office of Tourism, Trade, and Economic Development the final

225 verified amount of actual qualified expenditures made by the
 226 certified production. The Office of Tourism, Trade, and Economic
 227 Development shall then notify the executive director of the
 228 Department of Revenue that the certified production has met the
 229 requirements of the incentive program and shall recommend the
 230 final amount of the tax credit award.

231 (g) Promoting Florida.--The Office of Film and
 232 Entertainment shall ensure that, as a condition of receiving a
 233 tax credit under this section, appropriate marketing materials,
 234 including, but not limited to, promotions of this state as a
 235 tourist or film and entertainment production destination, are
 236 included in any production when appropriate. The Office of Film
 237 and Entertainment may consult with promotional agencies and
 238 other appropriate entities for the development and
 239 implementation of marketing materials.

240 (4) TAX CREDIT ELIGIBILITY; ELECTION AND DISTRIBUTION;
 241 CARRYFORWARD; CONSOLIDATED RETURNS; PARTNERSHIP AND NONCORPORATE
 242 DISTRIBUTIONS; MERGERS OR ACQUISITIONS.--

243 (a) Tax credit authorization.--For fiscal years beginning
 244 on or after July 1, 2007, and ending June 30, 2010, qualified
 245 production is eligible for a tax credit against taxes due under
 246 chapter 220 or taxes collected or accrued under chapter 212.

247 (b) Total aggregate tax credit.--The aggregate amount of
 248 the tax credits allowed under this section in any state fiscal
 249 year is a minimum of \$75 million.

250 (c) Election and distribution of tax credits.--A certified
 251 production company receiving a tax credit award under this
 252 section shall, at the time the credit is awarded by the

253 Department of Revenue after production is completed and all
254 requirements to receive a credit award have been met, make an
255 irrevocable election to apply the credit against taxes due under
256 chapter 220, against taxes collected or accrued under chapter
257 212, or against a stated combination of the two taxes. The
258 election shall be binding upon any distributee, successor,
259 transferee, or purchaser.

260 (d) Tax credit carryforward.--If the certified production
261 company cannot use the entire tax credit in the taxable year or
262 reporting period in which the credit is awarded because of
263 insufficient tax liability on the part of the certified
264 production, any excess amount may be carried forward to a
265 succeeding taxable year or reporting period. A tax credit
266 awarded under this section and applied against taxes imposed
267 under chapter 212 or chapter 220 may be carried forward only for
268 a maximum of 5 taxable years following the taxable year in which
269 the credit was awarded, after which period the credit expires
270 and may not be used.

271 (e) Consolidated returns.--A certified production company
272 that files a Florida consolidated return as a member of an
273 affiliated group under s. 220.131(1) may be allowed the credit
274 on a consolidated return basis up to the amount of the tax
275 imposed upon the consolidated group under chapter 220.

276 (f) Partnership and noncorporate distributions.--A
277 qualified production company that is not a corporation as
278 defined in s. 220.03 may elect to distribute tax credits awarded
279 under this section to its partners or members in proportion to
280 their respective distributive income or loss in the taxable

281 fiscal year in which the tax credits were awarded.

282 (g) Mergers or acquisitions.--Tax credits available under
 283 this section to a certified production company may succeed to a
 284 surviving or acquiring entity subject to the same conditions and
 285 limitations as described in this section; however, they may not
 286 be transferred again by the surviving or acquiring entity.

287 (5) TRANSFER OF TAX CREDITS.--

288 (a) Authorization.--Upon application to the Office of Film
 289 and Entertainment and approval by the Office of Tourism, Trade,
 290 and Economic Development, a certified production company may
 291 elect to transfer, in whole or in part, any unused credit amount
 292 granted under this section. An election to transfer any unused
 293 tax credit amount under chapter 212 must be made at the time the
 294 tax credit is awarded. An election to transfer any unused tax
 295 credit amount under chapter 220 must be made no later than 5
 296 years from the date the credit was awarded, after which period
 297 the credit expires and may not be used. The Office of Tourism,
 298 Trade, and Economic Development shall notify the Department of
 299 Revenue of the election and transfer.

300 (b) Number of transfers permitted.--A certified production
 301 company that has elected to apply a credit amount against taxes
 302 remitted under chapter 212 is permitted a one-time transfer of
 303 that amount to one transferee. A certified production company
 304 that has elected to apply a credit amount against taxes due
 305 under chapter 220 is permitted a one-time transfer of that
 306 amount to no more than three transferees, and such transfers
 307 shall occur in the same taxable year.

308 (c) Minimum consideration.--The transfer of any amount of

309 the tax credit shall not be exchanged for consideration received
310 by the certified production of less than 75 percent of the
311 transferred amount of the tax credit.

312 (d) Transferee rights and limitations.--The transferee is
313 subject to the same rights and limitations as the certified
314 production company awarded the tax credit, except that the
315 transferee may not sell or otherwise transfer the tax credit.

316 (e) Film education.--

317 1. A recipient of any transferred tax credit under this
318 subsection shall pay an amount equal to 5 percent of the total
319 amount paid for the tax credit as a film education grant,
320 divided equally between the following two programs:

321 a. One-half of the total film education grant shall be
322 paid into the Grants and Donations Trust Fund under s.
323 14.2015(2)(f) administered by the Office of Tourism, Trade, and
324 Economic Development and applied by the Office of Film and
325 Entertainment for the purpose described in s. 288.1256.

326 b. One-half of the total film education grant shall be
327 paid directly to an Office of Film and Entertainment-approved
328 film program at a Florida institution of higher education to be
329 applied as a grant toward production costs for a student-made
330 production.

331 2. The Office of Film and Entertainment shall ensure that
332 the transferee has made full cash payment of the film education
333 grant before the Office of Tourism, Trade, and Economic
334 Development approves the tax credit transfer.

335 3. An affiliated recipient company of a transferred tax
336 credit by a certified production shall not be subject to this

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337 subsection, nor shall certified productions in the independent
338 Florida filmmaker queue.

339 (f) Rulemaking.--The Department of Revenue may adopt rules
340 pursuant to ss. 120.536(1) and 120.54 to administer this
341 subsection, as provided in subsection (7).

342 (6) PRIORITY ALLOCATION OF TAX CREDITS; ELIGIBILITY
343 WITHDRAWAL; QUEUES.--

344 (a) Tax credit priority.--Eligibility of a qualified
345 production for a tax credit award shall be determined on a
346 first-come, first-served basis within its appropriate queue. A
347 qualified production shall be placed into the appropriate queue
348 and subject to the requirements of that queue.

349 (b) Withdrawal of tax credit eligibility.--A qualified or
350 certified production shall continue on a reasonable schedule,
351 which means opening its production office in the state no sooner
352 than 30 calendar days before and no later than 30 days after the
353 date provided in the production's program application, and
354 beginning principal photography in the state no sooner than 30
355 calendar days before and no later than 30 days after the date
356 provided in the production's program application. The Office of
357 Tourism, Trade, and Economic Development shall withdraw the
358 eligibility of a qualified or certified production that does not
359 continue on a reasonable schedule and recertify the tax credits
360 to the next qualified or certified production or productions in
361 the respective queue that have not been certified for their full
362 maximum award and have not started principal photography before
363 the tax credits become available.

364 (c) Queues.--

365 1. General production queue.--

366 a. A qualified production, excluding commercials, music
367 videos, and digital media projects, that demonstrates a minimum
368 of \$625,000 in total qualified expenditures shall be eligible
369 for tax credits equal to 15 percent of its actual qualified
370 expenditures up to a maximum of \$8 million. A qualified
371 production spanning state fiscal years may combine qualified
372 expenditures from both state fiscal years to satisfy the
373 threshold.

374 b. A qualified production company that produces national
375 or regional commercials, music videos, or both may be eligible
376 for a tax credit award if it demonstrates a minimum of \$100,000
377 in qualified expenditures per national or regional commercial or
378 music video and exceeds a combined threshold of \$500,000 after
379 combining actual qualified expenditures from qualified
380 commercials, music videos, or both during a single state fiscal
381 year. The maximum tax credit award shall be equal to 15 percent
382 of its actual qualified expenditures up to a maximum of
383 \$500,000. After a qualified production company that produces
384 commercials, music videos, or both reaches the threshold of
385 \$500,000, it shall be eligible to apply for certification for a
386 tax credit award.

387 c. At least 85 percent of all tax credits available under
388 this section in any state fiscal year shall be dedicated to this
389 queue.

390 d. An off-season certified production in this queue shall
391 be eligible for an additional 5-percent tax credit on actual
392 qualified expenditures. An off-season certified production that

393 does not complete 75 percent of principal photography as a
394 result of a hurricane or tropical storm disruption shall not be
395 disqualified from eligibility for the additional 5-percent
396 credit as a result of the disruption.

397 e. If the total amount of tax credits certified to this
398 queue exceeds the aggregate amount of the tax credits authorized
399 annually, such excess shall be treated as having been applied
400 for on the first day of the next state fiscal year in which tax
401 credits remain available for allocation to this queue.

402 f. A certified production within this queue that spans
403 state fiscal years shall have all qualified expenditures
404 certified for the state fiscal year in which the last actual
405 qualified expenditure is anticipated to be made.

406 g. A qualified production in this queue shall make a good
407 faith effort to utilize Florida's existing infrastructure of
408 equipment providers, including camera gear, grip and lighting
409 equipment, vehicle providers, and post-production services when
410 available in-state.

411 2. Independent Florida filmmaker queue.--An independent
412 Florida film that meets the criteria of this queue and
413 demonstrates a minimum of \$100,000, but not more than \$625,000,
414 in total qualified expenditures shall be eligible for tax
415 credits equal to 15 percent of its actual qualified
416 expenditures. Five percent of all tax credits available under
417 this section in any state fiscal year shall be dedicated to this
418 queue, but not more than \$2 million in any state fiscal year. To
419 qualify for this queue, a qualified production must:

420 a. Be planned as a feature film or documentary of no less

421 than 70 minutes in length.

422 b. Provide evidence of 50 percent of the financing for its
 423 total budget in an escrow account or other form dedicated to the
 424 production.

425 c. Do all major post-production in this state.

426 d. Employ Florida workers in at least six of the following
 427 eight key positions:

428 (I) Writer.

429 (II) Director.

430 (III) Producer.

431 (IV) Director of Photography.

432 (V) Star or one of the lead actors.

433 (VI) Unit Production Manager.

434 (VII) Editor.

435 (VIII) Production Designer.

436
 437 For purposes of this sub-subparagraph, a "Florida worker" means
 438 a person who has been a resident of this state for at least 1
 439 year prior to a production's application or a person who is
 440 attending a Florida film school or Florida college, university,
 441 or community college full-time or has graduated from such
 442 school, college, university, or community college within 5 years
 443 prior to the production's application.

444 3. Digital media projects queue.--A qualified production
 445 that is a digital media project that demonstrates a minimum of
 446 \$300,000 in total qualified expenditures shall be eligible for a
 447 tax credit equal to 10 percent of its actual qualified
 448 expenditures up to a maximum of \$1 million. Ten percent of all

449 tax credits available under this section in any state fiscal
450 year shall be dedicated to this queue.

451 a. For purposes of this subparagraph, "qualified
452 expenditures" are the wages or salaries paid to Florida resident
453 labor working on a single qualified digital media project, up to
454 a maximum of \$200,000 in wages or salaries paid per resident of
455 this state.

456 b. A qualified production company producing digital media
457 projects may not qualify for more than three projects in any one
458 fiscal year. Projects that extend beyond a fiscal year must
459 reapply each fiscal year in order to be eligible for a tax
460 credit award for that year.

461 (7) RULES, POLICIES, AND PROCEDURES.--

462 (a) The Office of Tourism, Trade, and Economic Development
463 may adopt rules pursuant to ss. 120.536(1) and 120.54 and
464 develop policies and procedures to implement and administer this
465 section, including, but not limited to, rules specifying
466 requirements for the application and approval process, records
467 required for substantiation for tax credits, procedures for
468 making the election in paragraph (4)(c), and the manner and form
469 of documentation required to claim tax credits awarded or
470 transferred under this section, determination of, qualification
471 for, and certification for tax credits, implementation of the
472 Florida Graduate Film Investment Fund in s. 288.1256, and
473 marketing requirements for tax credit recipients.

474 (b) The Department of Revenue may adopt rules pursuant to
475 ss. 120.536(1) and 120.54 to administer this section, including
476 rules governing the examination and audit procedures required to

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477 administer this section and the manner and form of documentation
478 required to claim tax credits awarded or transferred under this
479 section.

480 (8) AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX
481 CREDITS; FRAUDULENT CLAIMS.--

482 (a) Audit authority.--The Department of Revenue may
483 conduct examinations and audits as provided in s. 213.34 to
484 verify that tax credits under this section have been received,
485 transferred, and applied according to the requirements of this
486 section. This information is subject to the confidentiality
487 requirements of chapter 213. If the Department of Revenue
488 determines that tax credits have not been received, transferred,
489 or applied as required by this section, it may, in addition to
490 the remedies provided in this subsection, pursue recovery of
491 such funds pursuant to the laws and rules governing the
492 assessment of taxes.

493 (b) Revocation of tax credits.--The Office of Tourism,
494 Trade, and Economic Development may revoke or modify any written
495 decision qualifying, certifying, or otherwise granting
496 eligibility for tax credits under this section if it is
497 discovered that the tax credit applicant submitted any false
498 statement, representation, or certification in any application,
499 record, report, plan, or other document filed in an attempt to
500 receive tax credits under this section. The Office of Film and
501 Entertainment shall immediately notify the Department of Revenue
502 of any revoked or modified orders affecting previously granted
503 tax credits. Additionally, the taxpayer must notify the
504 Department of Revenue of any change in its tax credit claimed.

505 (c) Forfeiture of tax credits.--A determination by the
506 Department of Revenue, as a result of an audit or examination by
507 the Department of Revenue or from information received from the
508 Office of Film and Entertainment, that a taxpayer received tax
509 credits pursuant to this section to which the taxpayer was not
510 entitled is grounds for forfeiture of previously claimed and
511 received tax credits. The taxpayer is responsible for returning
512 forfeited tax credits to the Department of Revenue, and such
513 funds shall be paid into the General Revenue Fund of the state.
514 In the event the credit provided for under this section is
515 reduced as a result of an examination or audit by the Department
516 of Revenue, the tax deficiency shall be recovered from the first
517 entity or the surviving or acquiring entity to have claimed the
518 credit up to the amount of the credit taken. Any subsequent
519 deficiencies shall be assessed against any entity acquiring and
520 claiming the credit or, in the case of multiple succeeding
521 entities, in the order of tax credit succession.

522 (d) Fraudulent claims.--Any applicant who submits
523 information under this section that includes fraudulent
524 information is liable for reimbursement of the reasonable costs
525 and fees associated with the review, processing, investigation,
526 and prosecution of the fraudulent claim. An eligible entity,
527 qualified production company, or certified production that
528 obtains a credit payment under this section through a claim that
529 is fraudulent is liable for reimbursement of the credit amount
530 claimed plus a penalty in an amount double the credit amount
531 claimed and reimbursement of reasonable costs, which penalty is
532 in addition to any criminal penalty to which the eligible

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533 entity, qualified production company, or certified production is
534 liable for the same acts. The entity or company is also liable
535 for costs and fees incurred by the state in investigating and
536 prosecuting the fraudulent claim.

537 (9) ANNUAL REPORT.--The Office of Film and Entertainment
538 shall provide an annual report for the previous fiscal year, due
539 October 1, to the Governor, the President of the Senate, and the
540 Speaker of the House of Representatives outlining the return on
541 investment to the state on funds expended pursuant to this
542 section.

543 (10) REPEAL.--This section is repealed July 1, 2010,
544 except that the tax credit carryforward provided in this section
545 shall continue to be valid for the period specified.

546 Section 2. Section 288.1256, Florida Statutes, is created
547 to read:

548 288.1256 Florida Graduate Film Investment Fund.--

549 (1) The Office of Film and Entertainment shall create and
550 administer a program, using moneys deposited into the Office of
551 Tourism, Trade, and Economic Development's Grants and Donations
552 Trust Fund pursuant to s. 288.1254(5)(e), to award either a
553 grant or a loan guarantee for films that are:

554 (a) Written, produced, and directed by Florida residents
555 who are graduates of an Office of Film and Entertainment
556 approved film program at a Florida institution of higher
557 education; and

558 (b) Determined by the Commissioner of Film and
559 Entertainment, with the advice of the Florida Film and
560 Entertainment Advisory Council, to be family friendly based on

561 the review of the script and a personal interview with the
 562 director.

563 (2) Films that are deemed by the Office of Film and
 564 Entertainment to contain obscene content as defined by the
 565 United States Supreme Court are not eligible for this program.

566 Section 3. Paragraph (j) is added to subsection (5) of
 567 section 288.1252, Florida Statutes, to read:

568 288.1252 Florida Film and Entertainment Advisory Council;
 569 creation; purpose; membership; powers and duties.--

570 (5) POWERS AND DUTIES.--The Florida Film and Entertainment
 571 Advisory Council shall have all the powers necessary or
 572 convenient to carry out and effectuate the purposes and
 573 provisions of this act, including, but not limited to, the power
 574 to:

575 (j) Advise whether a film produced under s. 288.1256 meets
 576 the criteria delineated in that section.

577 Section 4. Subsection (8) of section 220.02, Florida
 578 Statutes, is amended to read:

579 220.02 Legislative intent.--

580 (8) It is the intent of the Legislature that credits
 581 against either the corporate income tax or the franchise tax be
 582 applied in the following order: those enumerated in s. 631.828,
 583 those enumerated in s. 220.191, those enumerated in s. 220.181,
 584 those enumerated in s. 220.183, those enumerated in s. 220.182,
 585 those enumerated in s. 220.1895, those enumerated in s. 221.02,
 586 those enumerated in s. 220.184, those enumerated in s. 220.186,
 587 those enumerated in s. 220.1845, those enumerated in s. 220.19,
 588 those enumerated in s. 220.185, those enumerated in s. 220.187,

589 those enumerated in s. 220.192, ~~and~~ those enumerated in s.
 590 220.193, and those enumerated in s. 288.1254.

591 Section 5. Paragraph (z) is added to subsection (8) of
 592 section 213.053, Florida Statutes, to read:

593 213.053 Confidentiality and information sharing.--

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

596 (z) Information relative to tax credits taken under s.
 597 288.1254 to the Office of Film and Entertainment and the Office
 598 of Tourism, Trade, and Economic Development.

599
 600 Disclosure of information under this subsection shall be
 601 pursuant to a written agreement between the executive director
 602 and the agency. Such agencies, governmental or nongovernmental,
 603 shall be bound by the same requirements of confidentiality as
 604 the Department of Revenue. Breach of confidentiality is a
 605 misdemeanor of the first degree, punishable as provided by s.
 606 775.082 or s. 775.083.

607 Section 6. Paragraph (q) is added to subsection (5) of
 608 section 212.08, Florida Statutes, to read:

609 212.08 Sales, rental, use, consumption, distribution, and
 610 storage tax; specified exemptions.--The sale at retail, the
 611 rental, the use, the consumption, the distribution, and the
 612 storage to be used or consumed in this state of the following
 613 are hereby specifically exempt from the tax imposed by this
 614 chapter.

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

616 (g) Entertainment industry tax credit; requirement for
617 electronic funds transfer.--

618 1. For the fiscal years beginning July 1, 2007, and ending
619 June 30, 2010, a qualified production, as defined in s.
620 288.1254(2)(e), is eligible for tax credits against its state
621 sales and use tax liabilities as provided in s. 288.1254.

622 2. The credit shall be deducted from any sales and use tax
623 remitted by the dealer to the department by electronic funds
624 transfer and can only be deducted on a sales and use tax return
625 initiated through electronic data interchange. The dealer shall
626 separately state the credit on the electronic return. The net
627 amount of tax due and payable must be remitted by electronic
628 funds transfer. If the credit for the qualified expenditures is
629 larger than the amount owed on the sales and use tax return, the
630 amount of the credit may be carried forward to a succeeding
631 reporting period. A dealer may only obtain a credit using the
632 method described in this subparagraph. A dealer is not
633 authorized to obtain a credit by applying for a refund.

634 Section 7. Section 288.1255, Florida Statutes, is
635 repealed.

636 Section 8. This act shall take effect July 1, 2007.