

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 a
16 total 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 purchaser 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;

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

(b) "Digital media project" means a production of interactive entertainment, including a video game, simulation, or animation, including a production intended for Internet or

85 wireless distribution, that is produced for commercial or
86 educational distribution. The term "digital media project" does
87 not include a production deemed by the Office of Film and
88 Entertainment to contain obscene content as defined in s.
89 847.001(10).

90 (c) "High-impact television series" means a production
91 created to run multiple production seasons with an estimated
92 order of at least seven episodes per season and qualified
93 expenditures of at least \$625,000 per episode.

94 (d) "Off-season certified production" means a certified
95 production, other than a digital media project or an animated
96 production, that films 75 percent or more of its principal
97 photography days from June 1 through November 30.

98 (e) "Production" means a theatrical or direct-to-video
99 motion picture, a made-for-television motion picture, a
100 commercial, a music video, an industrial or educational film, an
101 infomercial, a documentary film, a television pilot, a
102 presentation for a television pilot, a television series,
103 including, but not limited to, a drama, a reality, a comedy, a
104 soap opera, a telenovela, a game show, miniseries production, or
105 a digital media project by the entertainment industry. One
106 season of a television series is considered one production. The
107 term "production" does not include a weather or market program,
108 a sporting event, a sports show, a gala, a production that
109 solicits funds, a home shopping program, a political program, a
110 political documentary, political advertising, a gambling-related
111 project or production, a concert production, or a local,
112 regional, or Internet-only news show, current events show, or

113 current affairs show. A production may be produced on or by
114 film, tape, or otherwise and produced by means of a motion
115 picture camera, electronic camera or device, tape device,
116 computer, any combination of the foregoing, or any other means,
117 method, or device now used or that may hereafter be adopted.

118 (f) "Production expenditures" means the costs of tangible
119 and intangible property used and services performed primarily
120 and customarily in the production, including pre-production and
121 post-production, excluding development, marketing, and
122 distribution costs. Production expenditures generally include,
123 but are not limited to:

124 1. Wages, salaries, or other compensation, including
125 amounts paid through payroll service companies, for technical
126 and production crews, directors, producers, and performers.

127 2. Expenditures for sound stages, backlots, production
128 editing, digital effects, sound recordings, sets, and set
129 construction.

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

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

133 (g) "Qualified expenditures" means production expenditures
134 incurred in this state by a qualified production for the
135 following:

136 1. Goods purchased or leased from, or services provided
137 by, a Florida vendor or supplier who is registered with the
138 Department of State or the Department of Revenue and doing
139 business in this state.

140 2. Payments to residents of this state in the form of

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141 salary, wages, or other compensation up to a maximum of \$400,000
142 per resident for the general production queue and the
143 independent Florida filmmaker queue and up to a maximum of
144 \$200,000 for the digital media queue.

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146 For a qualified production involving an event, such as an awards
147 show, qualified expenditures exclude expenditures solely
148 associated with the event itself and not directly required by
149 the production. A qualified production's expenditures made prior
150 to certification shall not be considered qualified expenditures,
151 with the exception of those incurred by a commercial, a music
152 video, or the pickup of additional episodes of a television
153 series within a single season.

154 (h) "Qualified production" means a production in this
155 state that meets the requirements of this section and the
156 minimum qualified expenditures and requirements of its
157 appropriate queue. A qualified production's combined production
158 cast and below-the-line production crew positions must be filled
159 by at least 50 percent Florida residents or students enrolled
160 full-time in a film and entertainment-related course of study at
161 a Florida institution of higher education, or a combination
162 thereof. For purposes of this section, proof of Florida
163 residency is a valid Florida driver's license or other state-
164 issued Florida identification confirming residency in the state.
165 Productions that are deemed by the Office of Film and
166 Entertainment to contain obscene content as defined in s.
167 847.001(10) are not qualified productions.

168 (i) "Qualified production company" means a corporation,

169 limited liability company, partnership, or other legal entity
 170 engaged in producing a qualified production.

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

172 (a) Program application.--A qualified production company
 173 in this state producing a qualified production may submit a
 174 program application to the Office of Film and Entertainment for
 175 the purpose of determining qualification for an award of tax
 176 credits authorized by this section no earlier than 1 year before
 177 the anticipated production start date. The office must be
 178 provided information required to determine whether the
 179 production is a qualified production and to determine the
 180 qualified expenditures and other information necessary for the
 181 office to determine eligibility for the tax credits.

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

194 (c) Application process.--The Office of Film and
 195 Entertainment shall establish a process by which a program
 196 application is accepted and reviewed and by which tax credit

197 eligibility and amount are determined. The Office of Film and
 198 Entertainment may request assistance from a duly appointed local
 199 film commission in determining qualification for the tax credit
 200 and compliance with the provisions of this section.

201 (d) Certification.--Within 10 business days after receipt
 202 of a program application, the Office of Film and Entertainment
 203 shall review the application and upon its determination that the
 204 program application contains all the information required by
 205 this subsection and meets the criteria set out in this section,
 206 the Office of Film and Entertainment shall qualify the applicant
 207 and recommend to the Office of Tourism, Trade, and Economic
 208 Development that the applicant be certified for the tax credit
 209 and suggest a maximum tax credit award amount. Within 5 business
 210 days after its receipt of the recommendation, the Office of
 211 Tourism, Trade, and Economic Development shall reject or shall
 212 certify the maximum recommended tax credit award, if any, to the
 213 applicant and to the executive director of the Department of
 214 Revenue.

215 (e) Grounds for denial.--The Office of Film and
 216 Entertainment shall deny an application if it determines that:
 217 1. The application is not complete or does not meet the
 218 requirements of this section; or
 219 2. The tax credit sought does not meet the requirements of
 220 this section.

221 (f) Verification of actual qualified expenditures.--The
 222 Office of Film and Entertainment shall develop a process by
 223 which a certified production shall submit, in a timely manner
 224 after production ends and after making all of its qualified

225 expenditures, data substantiating each qualified expenditure to
 226 an independent Florida-licensed certified public accountant. The
 227 accountant shall conduct an audit, at the certified production's
 228 expense, to substantiate each qualified expenditure and shall
 229 submit the results and all substantiating data to the Office of
 230 Film and Entertainment, which shall review and report to the
 231 Office of Tourism, Trade, and Economic Development the final
 232 verified amount of actual qualified expenditures made by the
 233 certified production. The Office of Tourism, Trade, and Economic
 234 Development shall then notify the executive director of the
 235 Department of Revenue that the certified production has met the
 236 requirements of the incentive program and shall approve the
 237 final amount of the tax credit award. The Office of Tourism,
 238 Trade, and Economic Development shall award all tax credits for
 239 the previous fiscal year by September 30.

240 (g) Promoting Florida.--The Office of Film and
 241 Entertainment shall ensure that, as a condition of receiving a
 242 tax credit under this section, marketing materials promoting
 243 this state as a tourist destination or film and entertainment
 244 production destination are included, when appropriate, at no
 245 cost to the state, which shall include, at a minimum, placement
 246 in the end credits of a Filmed in Florida logo, the look and
 247 content of which shall be developed and supplied by the Office
 248 of Film and Entertainment, with size and placement commensurate
 249 to other logos included in the end credits. If no logos are
 250 used, the end credits shall include "Filmed in Florida utilizing
 251 Florida's Entertainment Industry Financial Incentive" or a
 252 similar statement preapproved by the Office of Film and

253 Entertainment.

254 (4) TAX CREDIT ELIGIBILITY; ELECTION AND DISTRIBUTION;
 255 CARRYFORWARD; CONSOLIDATED RETURNS; PARTNERSHIP AND NONCORPORATE
 256 DISTRIBUTIONS; MERGERS OR ACQUISITIONS.--

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

261 (b) Total tax credit.--The total amount of tax credits
 262 allowed under this section is \$75 million. The tax credits
 263 available for each fiscal year shall be as follows: 40 percent
 264 of the total for fiscal year 2007-2008, 50 percent of the total
 265 for fiscal year 2008-2009, and the remainder of the total for
 266 fiscal year 2009-2010. In any fiscal year, tax credits that are
 267 not awarded or that are forfeited due to withdrawal of a
 268 certified production or to a production's actual qualified
 269 expenditures being less than the certified amount shall be
 270 available for award in subsequent fiscal years.

271 (c) Election and distribution of tax credits.--A certified
 272 production company receiving a tax credit award under this
 273 section shall, at the time the credit is awarded by the Office
 274 of Tourism, Trade, and Economic Development after production is
 275 completed and all requirements to receive a credit award have
 276 been met, make an irrevocable election to apply the credit
 277 against taxes due under chapter 220, against taxes collected or
 278 accrued under chapter 212, or against a stated combination of
 279 the two taxes. The election shall be binding upon any
 280 distributee, successor, transferee, or purchaser.

281 (d) Tax credit carryforward.--If the certified production
282 company cannot use the entire tax credit in the taxable year or
283 reporting period in which the credit is awarded because of
284 insufficient tax liability on the part of the certified
285 production, any excess amount may be carried forward to a
286 succeeding taxable year or reporting period. A tax credit
287 awarded under this section and applied against taxes imposed
288 under chapter 212 or chapter 220 may be carried forward for a
289 maximum of 5 taxable years following the taxable year in which
290 the credit was awarded, after which period the credit expires
291 and may not be used.

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

297 (f) Partnership and noncorporate distributions.--A
298 qualified production company that is not a corporation as
299 defined in s. 220.03 may elect to distribute tax credits awarded
300 under this section to its partners or members in proportion to
301 their respective distributive income or loss in the taxable
302 fiscal year in which the tax credits were awarded.

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

308 (5) TRANSFER OF TAX CREDITS.--

309 (a) Authorization.--Upon application to the Office of Film
310 and Entertainment and approval by the Office of Tourism, Trade,
311 and Economic Development, a certified production company may
312 elect to transfer, in whole or in part, any unused credit amount
313 granted under this section. An election to transfer any unused
314 tax credit amount under chapter 212 or chapter 220 must be made
315 no later than 5 years from the date the credit was awarded,
316 after which period the credit expires and may not be used. The
317 Office of Tourism, Trade, and Economic Development shall notify
318 the Department of Revenue of the election and transfer.

319 (b) Number of transfers permitted.--A certified production
320 company that has elected to apply a credit amount against taxes
321 remitted under chapter 212 is permitted a one-time transfer of
322 unused credits to one transferee. A certified production company
323 that has elected to apply a credit amount against taxes due
324 under chapter 220 is permitted a one-time transfer of unused
325 credits to no more than four transferees, and such transfers
326 shall occur in the same taxable year.

327 (c) Minimum consideration.--The transfer or purchase of
328 any amount of the tax credit shall not be exchanged for less
329 than 75 percent of the credit's value.

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

334 (e) Written contractual notice.--No more than 5 business
335 days prior to the certified production company's election to
336 transfer its awarded tax credit, the Office of Film and

337 Entertainment shall receive written contractual notice, on a
338 form approved by the Office of Tourism, Trade, and Economic
339 Development and signed by both the certified production and the
340 transferee, describing the terms of the transfer and the
341 intention of any purchaser to allocate payment for the film
342 education program under paragraph (f) at the time the transfer
343 is made.

344 (f) Film education fee.--

345 1. A purchaser of any transferred tax credit under this
346 subsection shall pay an amount equal to 5 percent of the total
347 amount paid for the tax credit into the Grants and Donations
348 Trust Fund under s. 14.2015(2)(f) administered by the Office of
349 Tourism, Trade, and Economic Development for film education
350 programs. The fees collected under this paragraph shall be
351 subject to specific appropriation by the Legislature.

352 a. Fifty percent of the fee collected under this paragraph
353 shall be made available to the Office of Film and Entertainment
354 for the purpose described in s. 288.1256.

355 b. Fifty percent of the fee collected under this paragraph
356 shall be transferred and provided to film and digital media
357 programs at Florida institutions of higher education approved by
358 the Office of Film and Entertainment to be applied as a grant
359 toward production costs for a student-made production. To be
360 eligible for this grant, a student-made production may not
361 contain obscene content as defined in s. 847.001(10). The
362 recipient of the transfer may choose the approved film or
363 digital media program to receive these funds.

364 2. This paragraph shall not apply to the transfer of tax

365 credits to an investor, an investment company, or an affiliated
 366 company of the certified production.

367 (g) Rulemaking.--The Department of Revenue may adopt rules
 368 pursuant to ss. 120.536(1) and 120.54 to administer this
 369 subsection, as provided in subsection (7).

370 (6) PRIORITY ALLOCATION OF TAX CREDITS; ELIGIBILITY
 371 WITHDRAWAL; QUEUES.--

372 (a) Tax credit priority.--Eligibility of a qualified
 373 production for a tax credit award shall be determined on a
 374 first-come, first-served basis within its appropriate queue. A
 375 qualified production shall be placed into the appropriate queue
 376 and subject to the requirements of that queue.

377 (b) Withdrawal of tax credit eligibility.--A qualified or
 378 certified production shall continue on a reasonable schedule,
 379 which means beginning principal photography in the state no
 380 sooner than 45 calendar days before and no later than 45
 381 calendar days after the date provided in the production's
 382 program application. The Office of Tourism, Trade, and Economic
 383 Development shall withdraw the eligibility of a qualified or
 384 certified production that does not continue on a reasonable
 385 schedule and recertify the tax credits to the next qualified or
 386 certified production or productions in the respective queue that
 387 have not been certified for their full maximum award and have
 388 not started principal photography before the tax credits become
 389 available.

390 (c) Queues.--

391 1. General production queue.--

392 a. A qualified production, excluding commercials, music

393 videos, and digital media projects, that demonstrates a minimum
394 of \$625,000 in total qualified expenditures shall be eligible
395 for tax credits equal to 15 percent of its actual qualified
396 expenditures up to a maximum of \$8 million. A qualified
397 production spanning state fiscal years may combine qualified
398 expenditures from state fiscal years to satisfy the threshold.

399 b. A qualified production company that produces national
400 or regional commercials, music videos, or both may be eligible
401 for a tax credit award if it demonstrates a minimum of \$100,000
402 in qualified expenditures per national or regional commercial or
403 music video and exceeds a combined threshold of \$500,000 after
404 combining actual qualified expenditures from qualified
405 commercials, music videos, or both during a single state fiscal
406 year. After a qualified production company that produces
407 commercials, music videos, or both reaches the threshold of
408 \$500,000, it shall be eligible to apply for certification for a
409 tax credit award. The maximum tax credit award shall be equal to
410 15 percent of its actual qualified expenditures up to a maximum
411 of \$500,000.

412 c. Eighty-five percent of all tax credits available under
413 this section in any state fiscal year shall be dedicated to this
414 queue.

415 d. An off-season certified production in this queue shall
416 be eligible for an additional 5-percent tax credit on actual
417 qualified expenditures. An off-season certified production that
418 does not complete 75 percent of principal photography as a
419 result of a hurricane or tropical storm disruption shall not be
420 disqualified from eligibility for the additional 5-percent

421 credit as a result of the disruption.

422 e. A certified production within this queue that spans
 423 state fiscal years shall have all qualified expenditures
 424 certified for the state fiscal year in which the last actual
 425 qualified expenditure is anticipated to be made.

426 f. A qualified production in this queue shall make a good
 427 faith effort to utilize Florida's existing infrastructure of
 428 equipment providers, including camera gear, grip and lighting
 429 equipment, vehicle providers, and post-production services when
 430 available in-state.

431 g. A qualified high-impact television series shall be
 432 allowed first position in this queue for tax credits not yet
 433 certified.

434 2. Independent Florida filmmaker queue.--An independent
 435 Florida film that meets the criteria of this queue and
 436 demonstrates a minimum of \$100,000, but not more than \$625,000,
 437 in total qualified expenditures shall be eligible for tax
 438 credits equal to 15 percent of its actual qualified
 439 expenditures. Five percent of all tax credits available under
 440 this section in any state fiscal year shall be dedicated to this
 441 queue. To qualify for this queue, a qualified production must:

442 a. Be planned as a feature film or documentary of no less
 443 than 70 minutes in length.

444 b. Provide evidence of 50 percent of the financing for its
 445 total budget in an escrow account or other form dedicated to the
 446 production.

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

448 d. Employ Florida workers in at least six of the following

449 eight key positions:

450 (I) Writer.

451 (II) Director.

452 (III) Producer.

453 (IV) Director of Photography.

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

455 (VI) Unit Production Manager.

456 (VII) Editor.

457 (VIII) Production Designer.

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459 For purposes of this sub-subparagraph, a "Florida worker" means
460 a person who has been a resident of this state for at least 1
461 year prior to a production's application or a person who is
462 attending a Florida film school or Florida college, university,
463 or community college full-time or has graduated from such
464 school, college, university, or community college within 5 years
465 prior to the production's application. Projects that extend
466 beyond a fiscal year must reapply each fiscal year in order to
467 be eligible for a tax credit award for that year.

468 3. Digital media projects queue.--A qualified production
469 that is a digital media project that demonstrates a minimum of
470 \$300,000 in total qualified expenditures shall be eligible for a
471 tax credit equal to 10 percent of its actual qualified
472 expenditures up to a maximum of \$1 million. Ten percent of all
473 tax credits available under this section in any state fiscal
474 year shall be dedicated to this queue.

475 a. For purposes of this subparagraph, "qualified
476 expenditures" are the wages or salaries paid to Florida resident

477 labor working on a single qualified digital media project.

478 b. A qualified production company producing digital media
479 projects may not qualify for more than three projects in any one
480 fiscal year. Projects that extend beyond a fiscal year must
481 reapply each fiscal year in order to be eligible for a tax
482 credit award for that year.

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

484 (a) The Office of Tourism, Trade, and Economic Development
485 may adopt rules pursuant to ss. 120.536(1) and 120.54 and
486 develop policies and procedures to implement and administer this
487 section, including, but not limited to, rules specifying
488 requirements for the application and approval process, records
489 required for substantiation for tax credits, procedures for
490 making the election in paragraph (4)(c), and the manner and form
491 of documentation required to claim tax credits awarded or
492 transferred under this section, determination of, qualification
493 for, and certification for tax credits, implementation of the
494 Florida Graduate Film Investment Fund in s. 288.1256, and
495 marketing requirements for tax credit recipients.

496 (b) The Department of Revenue may adopt rules pursuant to
497 ss. 120.536(1) and 120.54 to administer this section, including
498 rules governing the examination and audit procedures required to
499 administer this section and the manner and form of documentation
500 required to claim tax credits awarded or transferred under this
501 section.

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

504 (a) Audit authority.--The Department of Revenue may

505 conduct examinations and audits as provided in s. 213.34 to
506 verify that tax credits under this section have been received,
507 transferred, and applied according to the requirements of this
508 section. This information is subject to the confidentiality
509 requirements of chapter 213. If the Department of Revenue
510 determines that tax credits have not been received, transferred,
511 or applied as required by this section, it may, in addition to
512 the remedies provided in this subsection, pursue recovery of
513 such funds pursuant to the laws and rules governing the
514 assessment of taxes.

515 (b) Revocation of tax credits.--The Office of Tourism,
516 Trade, and Economic Development may revoke or modify any written
517 decision qualifying, certifying, or otherwise granting
518 eligibility for tax credits under this section if it is
519 discovered that the tax credit applicant submitted any false
520 statement, representation, or certification in any application,
521 record, report, plan, or other document filed in an attempt to
522 receive tax credits under this section. The Office of Film and
523 Entertainment shall immediately notify the Department of Revenue
524 of any revoked or modified orders affecting previously granted
525 tax credits. Additionally, the applicant must notify the
526 Department of Revenue of any change in its tax credit claimed.

527 (c) Forfeiture of tax credits.--A determination by the
528 Department of Revenue, as a result of an audit or examination by
529 the Department of Revenue or from information received from the
530 Office of Film and Entertainment, that an applicant received tax
531 credits pursuant to this section to which the applicant was not
532 entitled is grounds for forfeiture of previously claimed and

533 received tax credits. The applicant is responsible for returning
534 forfeited tax credits to the Department of Revenue, and such
535 funds shall be paid into the General Revenue Fund of the state.
536 Tax credits purchased in good faith are not subject to
537 forfeiture unless the transferee submitted fraudulent
538 information in the purchase or failed to meet the requirements
539 in subsection (5).

540 (d) Fraudulent claims.--Any applicant that submits
541 information under this section that includes fraudulent
542 information is liable for reimbursement of the reasonable costs
543 and fees associated with the review, processing, investigation,
544 and prosecution of the fraudulent claim. An applicant that
545 obtains a credit payment under this section through a claim that
546 is fraudulent is liable for reimbursement of the credit amount
547 claimed plus a penalty in an amount double the credit amount
548 claimed and reimbursement of reasonable costs, which penalty is
549 in addition to any criminal penalty to which the applicant is
550 liable for the same acts. The applicant is also liable for costs
551 and fees incurred by the state in investigating and prosecuting
552 the fraudulent claim.

553 (9) ANNUAL REPORT.--The Office of Film and Entertainment
554 shall provide an annual report for the previous fiscal year, due
555 October 1, to the Governor, the President of the Senate, and the
556 Speaker of the House of Representatives outlining the return on
557 investment to the state on funds expended pursuant to this
558 section.

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

562 Section 2. Section 288.1256, Florida Statutes, is created
563 to read:

564 288.1256 Florida Graduate Film Investment Fund.--

565 (1) The Office of Film and Entertainment shall create and
566 administer a program, using moneys deposited into the Office of
567 Tourism, Trade, and Economic Development's Grants and Donations
568 Trust Fund pursuant to s. 288.1254(5)(f), to award either a
569 grant or a loan guarantee for films that are:

570 (a) Written, produced, and directed by Florida residents
571 who are graduates of an Office of Film and Entertainment
572 approved film program at a Florida institution of higher
573 education; and

574 (b) Determined by the Commissioner of Film and
575 Entertainment, with the advice of the Florida Film and
576 Entertainment Advisory Council, to be family friendly based on
577 the review of the script and a personal interview with the
578 director. Family-friendly productions are those that have cross-
579 generational appeal; would be considered suitable for viewing by
580 children age 5 and older; are appropriate in theme, content, and
581 language for a broad family audience; embody a responsible
582 resolution of issues; and do not exhibit any act of smoking,
583 sex, nudity, or vulgar or profane language.

584 (2) Films that are deemed by the Office of Film and
585 Entertainment to contain obscene content as defined in s.
586 847.001(10) are not eligible for this program.

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

589 288.1252 Florida Film and Entertainment Advisory Council;
 590 creation; purpose; membership; powers and duties.--

591 (5) POWERS AND DUTIES.--The Florida Film and Entertainment
 592 Advisory Council shall have all the powers necessary or
 593 convenient to carry out and effectuate the purposes and
 594 provisions of this act, including, but not limited to, the power
 595 to:

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

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

600 220.02 Legislative intent.--

601 (8) It is the intent of the Legislature that credits
 602 against either the corporate income tax or the franchise tax be
 603 applied in the following order: those enumerated in s. 631.828,
 604 those enumerated in s. 220.191, those enumerated in s. 220.181,
 605 those enumerated in s. 220.183, those enumerated in s. 220.182,
 606 those enumerated in s. 220.1895, those enumerated in s. 221.02,
 607 those enumerated in s. 220.184, those enumerated in s. 220.186,
 608 those enumerated in s. 220.1845, those enumerated in s. 220.19,
 609 those enumerated in s. 220.185, those enumerated in s. 220.187,
 610 those enumerated in s. 220.192, ~~and~~ those enumerated in s.
 611 220.193, and those enumerated in s. 288.1254.

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

614 213.053 Confidentiality and information sharing.--

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

617 (z) Information relative to tax credits taken under s.
 618 288.1254 to the Office of Film and Entertainment and the Office
 619 of Tourism, Trade, and Economic Development.

620
 621 Disclosure of information under this subsection shall be
 622 pursuant to a written agreement between the executive director
 623 and the agency. Such agencies, governmental or nongovernmental,
 624 shall be bound by the same requirements of confidentiality as
 625 the Department of Revenue. Breach of confidentiality is a
 626 misdemeanor of the first degree, punishable as provided by s.
 627 775.082 or s. 775.083.

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

630 212.08 Sales, rental, use, consumption, distribution, and
 631 storage tax; specified exemptions.--The sale at retail, the
 632 rental, the use, the consumption, the distribution, and the
 633 storage to be used or consumed in this state of the following
 634 are hereby specifically exempt from the tax imposed by this
 635 chapter.

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

637 (q) Entertainment industry tax credit; requirement for
 638 electronic funds transfer.--

639 1. For the fiscal years beginning July 1, 2007, and ending
 640 June 30, 2010, a qualified production, as defined in s.
 641 288.1254(2)(h), is eligible for tax credits against its state
 642 sales and use tax liabilities as provided in s. 288.1254.

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643 2. The credit shall be deducted from any sales and use tax
644 remitted by the dealer to the department by electronic funds
645 transfer and can only be deducted on a sales and use tax return
646 initiated through electronic data interchange. The dealer shall
647 separately state the credit on the electronic return. The net
648 amount of tax due and payable must be remitted by electronic
649 funds transfer. If the credit for the qualified expenditures is
650 larger than the amount owed on the sales and use tax return, the
651 amount of the credit may be carried forward to a succeeding
652 reporting period. A dealer may only obtain a credit using the
653 method described in this subparagraph. A dealer is not
654 authorized to obtain a credit by applying for a refund.

655 Section 7. Section 288.1255, Florida Statutes, is
656 repealed.

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