

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

29 rules, policies, and procedures; authorizing the  
30 Department of Revenue to adopt rules and conduct audits;  
31 providing for revocation and forfeiture of tax credits;  
32 providing liability for reimbursement of certain costs and  
33 fees associated with a fraudulent claim; requiring an  
34 annual report to the Governor and the Legislature;  
35 providing for future repeal; creating s. 288.1256, F.S.;  
36 establishing the Florida Graduate Film Investment Fund;  
37 requiring administration by the Office of Film and  
38 Entertainment; providing for deposit of funds; requiring  
39 that funds be used for certain family-friendly films;  
40 amending s. 288.1252, F.S.; requiring the Florida Film and  
41 Entertainment Advisory Council to advise on films produced  
42 under the Florida Graduate Film Investment Fund; amending  
43 s. 220.02, F.S.; including tax credits enumerated in s.  
44 288.1254, F.S., in the order of application of credits  
45 against certain taxes; amending s. 213.053, F.S.;  
46 authorizing the Department of Revenue to provide tax  
47 credit information to the Office of Film and Entertainment  
48 and the Office of Tourism, Trade, and Economic  
49 Development; amending s. 212.08, F.S.; requiring  
50 electronic funds transfer for the entertainment industry  
51 tax credit; providing procedures; repealing s. 288.1255,  
52 F.S., to remove the requirement that annual funding for  
53 the entertainment industry financial incentive program be  
54 subject to legislative appropriation; providing  
55 severability; providing an effective date.  
56

57 Be It Enacted by the Legislature of the State of Florida:

58

59 Section 1. This act may be cited as the "Don Davis  
60 Entertainment Industry Economic Development Act."

61 Section 2. Section 288.1254, Florida Statutes, is amended  
62 to read:

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

65 288.1254 Entertainment industry financial incentive  
66 program.--

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

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

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

85        (b) "Digital media project" means a production of  
86 interactive entertainment, including a video game, simulation,  
87 or animation, including a production intended for Internet or  
88 wireless distribution, that is produced for commercial or  
89 educational distribution. The term "digital media project" does  
90 not include a production deemed by the Office of Film and  
91 Entertainment to contain obscene content as defined in s.  
92 847.001(10).

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

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

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

113 political documentary, political advertising, a gambling-related  
 114 project or production, a concert production, or a local,  
 115 regional, or Internet-only news show, current events show, or  
 116 current affairs show. A production may be produced on or by  
 117 film, tape, or otherwise and produced by means of a motion  
 118 picture camera, electronic camera or device, tape device,  
 119 computer, any combination of the foregoing, or any other means,  
 120 method, or device now used or that may hereafter be adopted.

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

127 1. Wages, salaries, or other compensation, including  
 128 amounts paid through payroll service companies, for technical  
 129 and production crews, directors, producers, and performers.

130 2. Expenditures for sound stages, backlots, production  
 131 editing, digital effects, sound recordings, sets, and set  
 132 construction.

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

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

136 (g) "Qualified expenditures" means production expenditures  
 137 incurred in this state by a qualified production for the  
 138 following:

139 1. Goods purchased or leased from, or services provided  
 140 by, a Florida vendor or supplier who is registered with the

141 Department of State or the Department of Revenue and doing  
142 business in this state.

143 2. Payments to residents of this state in the form of  
144 salary, wages, or other compensation up to a maximum of \$400,000  
145 per resident for the general production queue and the  
146 independent Florida filmmaker queue and up to a maximum of  
147 \$200,000 for the digital media queue.

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

157 (h) "Qualified production" means a production in this  
158 state that meets the requirements of this section and the  
159 minimum qualified expenditures and requirements of its  
160 appropriate queue. A qualified production's combined production  
161 cast and below-the-line production crew positions must be filled  
162 by at least 50 percent Florida residents or students enrolled  
163 full-time in a film and entertainment-related course of study at  
164 a Florida institution of higher education, or a combination  
165 thereof. For purposes of this section, proof of Florida  
166 residency is a valid Florida driver's license or other state-  
167 issued Florida identification confirming residency in the state.  
168 Productions that are deemed by the Office of Film and

169 Entertainment to contain obscene content as defined in s.  
 170 847.001(10) are not qualified productions.

171 (i) "Qualified production company" means a corporation,  
 172 limited liability company, partnership, or other legal entity  
 173 engaged in producing a qualified production.

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

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

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

197        (c) Application process.--The Office of Film and  
198 Entertainment shall establish a process by which a program  
199 application is accepted and reviewed and by which tax credit  
200 eligibility and amount are determined. The Office of Film and  
201 Entertainment may request assistance from a duly appointed local  
202 film commission in determining qualification for the tax credit  
203 and compliance with the provisions of this section.

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

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

- 220            1. The application is not complete or does not meet the  
221 requirements of this section; or  
222            2. The tax credit sought does not meet the requirements of  
223 this section.

224        (f) Verification of actual qualified expenditures.--The



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

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

253 used, the end credits shall include "Filmed in Florida utilizing  
 254 Florida's Entertainment Industry Financial Incentive" or a  
 255 similar statement preapproved by the Office of Film and  
 256 Entertainment.

257 (4) TAX CREDIT ELIGIBILITY; ELECTION AND DISTRIBUTION;  
 258 CARRYFORWARD; CONSOLIDATED RETURNS; PARTNERSHIP AND NONCORPORATE  
 259 DISTRIBUTIONS; MERGERS OR ACQUISITIONS.--

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

264 (b) Total tax credit.--The total amount of tax credits  
 265 that may be awarded under this section is \$75 million, allocated  
 266 \$25 million each fiscal year the incentive remains in effect. If  
 267 the total amount of allocated credits applied for in any fiscal  
 268 year exceeds the aggregate amount of tax credits allowed for  
 269 such year under this section, such excess shall be treated as  
 270 having been applied for on the first day of the next fiscal year  
 271 in which credits are available. In any fiscal year, tax credits  
 272 that are not awarded or that are forfeited due to withdrawal of  
 273 a certified production or to a production's actual qualified  
 274 expenditures being less than the certified amount shall be  
 275 available for award in subsequent fiscal years.

276 (c) Election and distribution of tax credits.--A certified  
 277 production company receiving a tax credit award under this  
 278 section shall, at the time the credit is awarded by the Office  
 279 of Tourism, Trade, and Economic Development after production is  
 280 completed and all requirements to receive a credit award have

281 been met, make an irrevocable election to apply the credit  
282 against taxes due under chapter 220, against taxes collected or  
283 accrued under chapter 212, or against a stated combination of  
284 the two taxes. The election shall be binding upon any  
285 distributee, successor, transferee, or purchaser. The Office of  
286 Tourism, Trade, and Economic Development shall notify the  
287 Department of Revenue of any election made pursuant to this  
288 paragraph.

289 (d) Tax credit carryforward.--If the certified production  
290 company cannot use the entire tax credit in the taxable year or  
291 reporting period in which the credit is awarded because of  
292 insufficient tax liability on the part of the certified  
293 production, any excess amount may be carried forward to a  
294 succeeding taxable year or reporting period. A tax credit  
295 applied against taxes imposed under chapter 212 may be carried  
296 forward for a maximum of 5 years following the date of award. A  
297 tax credit applied against taxes imposed under chapter 220 may  
298 be carried forward for a maximum of 5 taxable years following  
299 the qualified production company's taxable year in which the  
300 credit was awarded, after which period the credit expires and  
301 may not be used.

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

307 (f) Partnership and noncorporate distributions.--A  
308 qualified production company that is not a corporation as

309 defined in s. 220.03 may elect to distribute tax credits awarded  
310 under this section to its partners or members in proportion to  
311 their respective distributive income or loss in the taxable  
312 fiscal year in which the tax credits were awarded.

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

318 (5) TRANSFER OF TAX CREDITS.--

319 (a) Authorization.--Upon application to the Office of Film  
320 and Entertainment and approval by the Office of Tourism, Trade,  
321 and Economic Development, a certified production company, or a  
322 partner or member that has received a distribution under  
323 paragraph (4)(f), may elect to transfer, in whole or in part,  
324 any unused credit amount granted under this section. An election  
325 to transfer any unused tax credit amount under chapter 212 or  
326 chapter 220 must be made no later than 5 years from the date the  
327 credit was awarded, after which period the credit expires and  
328 may not be used. The Office of Tourism, Trade, and Economic  
329 Development shall notify the Department of Revenue of the  
330 election and transfer.

331 (b) Number of transfers permitted.--A certified production  
332 company that has elected to apply a credit amount against taxes  
333 remitted under chapter 212 is permitted a one-time transfer of  
334 unused credits to one transferee. A certified production company  
335 that has elected to apply a credit amount against taxes due  
336 under chapter 220 is permitted a one-time transfer of unused

337 credits to no more than four transferees, and such transfers  
338 shall occur in the same taxable year.

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

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

346 (e) Written contractual notice.--No less than 3 business  
347 days prior to the certified production company's election to  
348 transfer its awarded tax credit, the Office of Film and  
349 Entertainment shall receive written contractual notice, on a  
350 form approved by the Office of Tourism, Trade, and Economic  
351 Development and signed by both the certified production and the  
352 transferee, describing the terms of the transfer and the  
353 intention of any purchaser to allocate payment for the film  
354 education program under paragraph (f) at the time the transfer  
355 is made.

356 (f) Film education fee.--

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

364 a. Fifty percent of the fee collected under this paragraph

365 shall be made available to the Office of Film and Entertainment  
366 for the purpose described in s. 288.1256.

367 b. Fifty percent of the fee collected under this paragraph  
368 shall be transferred and provided to film and digital media  
369 programs at Florida institutions of higher education approved by  
370 the Office of Film and Entertainment to be applied as a grant  
371 toward production costs for a student-made production. To be  
372 eligible for this grant, a student-made production may not  
373 contain obscene content as defined in s. 847.001(10). The  
374 recipient of the transfer may choose the approved film or  
375 digital media program to receive these funds.

376 2. This paragraph shall not apply to the transfer of tax  
377 credits to an affiliated company of the certified production.

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

381 (6) PRIORITY ALLOCATION OF TAX CREDITS; ELIGIBILITY  
382 WITHDRAWAL; QUEUES.--

383 (a) Tax credit priority.--Eligibility of a qualified  
384 production for a tax credit award shall be determined on a  
385 first-come, first-served basis within its appropriate queue. A  
386 qualified production shall be placed into the appropriate queue  
387 and subject to the requirements of that queue.

388 (b) Withdrawal of tax credit eligibility.--A qualified or  
389 certified production shall continue on a reasonable schedule,  
390 which means beginning principal photography in the state no  
391 sooner than 45 calendar days before and no later than 45  
392 calendar days after the date provided in the production's

393 program application. The Office of Tourism, Trade, and Economic  
394 Development shall withdraw the eligibility of a qualified or  
395 certified production that does not continue on a reasonable  
396 schedule and recertify the tax credits to the next qualified or  
397 certified production or productions in the respective queue that  
398 have not been certified for their full maximum award and have  
399 not started principal photography before the tax credits become  
400 available.

401 (c) Queues.--

402 1. General production queue.--

403 a. A qualified production, excluding commercials, music  
404 videos, and digital media projects, that demonstrates a minimum  
405 of \$625,000 in total qualified expenditures shall be eligible  
406 for tax credits equal to 15 percent of its actual qualified  
407 expenditures up to a maximum of \$8 million. A qualified  
408 production spanning state fiscal years may combine qualified  
409 expenditures from state fiscal years to satisfy the threshold.

410 b. A qualified production company that produces national  
411 or regional commercials, music videos, or both may be eligible  
412 for a tax credit award if it demonstrates a minimum of \$100,000  
413 in qualified expenditures per national or regional commercial or  
414 music video and exceeds a combined threshold of \$500,000 after  
415 combining actual qualified expenditures from qualified  
416 commercials, music videos, or both during a single state fiscal  
417 year. After a qualified production company that produces  
418 commercials, music videos, or both reaches the threshold of  
419 \$500,000, it shall be eligible to apply for certification for a  
420 tax credit award. The maximum tax credit award shall be equal to

421 15 percent of its actual qualified expenditures up to a maximum  
422 of \$500,000.

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

426 d. An off-season certified production in this queue shall  
427 be eligible for an additional 5-percent tax credit on actual  
428 qualified expenditures. An off-season certified production that  
429 does not complete 75 percent of principal photography as a  
430 result of a hurricane or tropical storm disruption shall not be  
431 disqualified from eligibility for the additional 5-percent  
432 credit as a result of the disruption.

433 e. A certified production within this queue that spans  
434 state fiscal years shall have all qualified expenditures  
435 certified for the state fiscal year in which the last actual  
436 qualified expenditure is anticipated to be made.

437 f. A qualified production in this queue shall make a good  
438 faith effort to utilize Florida's existing infrastructure of  
439 equipment providers, including camera gear, grip and lighting  
440 equipment, vehicle providers, and post-production services when  
441 available in-state.

442 g. A qualified high-impact television series shall be  
443 allowed first position in this queue for tax credits not yet  
444 certified.

445 2. Independent Florida filmmaker queue.--An independent  
446 Florida film that meets the criteria of this queue and  
447 demonstrates a minimum of \$100,000, but not more than \$625,000,  
448 in total qualified expenditures shall be eligible for tax



449 credits equal to 15 percent of its actual qualified  
 450 expenditures. Five percent of all tax credits available under  
 451 this section in any state fiscal year shall be dedicated to this  
 452 queue. To qualify for this queue, a qualified production must:

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

455 b. Provide evidence of 50 percent of the financing for its  
 456 total budget in an escrow account or other form dedicated to the  
 457 production.

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

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

461 (I) Writer.

462 (II) Director.

463 (III) Producer.

464 (IV) Director of Photography.

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

466 (VI) Unit Production Manager.

467 (VII) Editor.

468 (VIII) Production Designer.

469  
 470 For purposes of this sub-subparagraph, a "Florida worker" means  
 471 a person who has been a resident of this state for at least 1  
 472 year prior to a production's application or a person who is  
 473 attending a Florida film school or Florida college, university,  
 474 or community college full-time or has graduated from such  
 475 school, college, university, or community college within 5 years  
 476 prior to the production's application. Projects that extend

477 beyond a fiscal year must reapply each fiscal year in order to  
478 be eligible for a tax credit award for that year.

479 3. Digital media projects queue.--A qualified production  
480 that is a digital media project that demonstrates a minimum of  
481 \$300,000 in total qualified expenditures shall be eligible for a  
482 tax credit equal to 10 percent of its actual qualified  
483 expenditures up to a maximum of \$1 million. Ten percent of all  
484 tax credits available under this section in any state fiscal  
485 year shall be dedicated to this queue.

486 a. For purposes of this subparagraph, "qualified  
487 expenditures" are the wages or salaries paid to Florida resident  
488 labor working on a single qualified digital media project.

489 b. A qualified production company producing digital media  
490 projects may not qualify for more than three projects in any one  
491 fiscal year. Projects that extend beyond a fiscal year must  
492 reapply each fiscal year in order to be eligible for a tax  
493 credit award for that year.

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

495 (a) The Office of Tourism, Trade, and Economic Development  
496 may adopt rules pursuant to ss. 120.536(1) and 120.54 and  
497 develop policies and procedures to implement and administer this  
498 section, including, but not limited to, rules specifying  
499 requirements for the application and approval process, records  
500 required for substantiation for tax credits, procedures for  
501 making the election in paragraph (4)(c), and the manner and form  
502 of documentation required to claim tax credits awarded or  
503 transferred under this section, determination of, qualification  
504 for, and certification for tax credits, implementation of the

505 Florida Graduate Film Investment Fund in s. 288.1256, and  
506 marketing requirements for tax credit recipients.

507 (b) The Department of Revenue may adopt rules pursuant to  
508 ss. 120.536(1) and 120.54 to administer this section, including  
509 rules governing the examination and audit procedures required to  
510 administer this section and the manner and form of documentation  
511 required to claim tax credits awarded or transferred under this  
512 section.

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

515 (a) Audit authority.--The Department of Revenue may  
516 conduct examinations and audits as provided in s. 213.34 to  
517 verify that tax credits under this section have been received,  
518 transferred, and applied according to the requirements of this  
519 section. If the Department of Revenue determines that tax  
520 credits have not been received, transferred, or applied as  
521 required by this section, it may, in addition to the remedies  
522 provided in this subsection, pursue recovery of such funds  
523 pursuant to the laws and rules governing the assessment of  
524 taxes.

525 (b) Revocation of tax credits.--The Office of Tourism,  
526 Trade, and Economic Development may revoke or modify any written  
527 decision qualifying, certifying, or otherwise granting  
528 eligibility for tax credits under this section if it is  
529 discovered that the tax credit applicant submitted any false  
530 statement, representation, or certification in any application,  
531 record, report, plan, or other document filed in an attempt to  
532 receive tax credits under this section. The Office of Tourism,

533 Trade, and Economic Development shall immediately notify the  
534 Department of Revenue of any revoked or modified orders  
535 affecting previously granted tax credits. Additionally, the  
536 applicant must notify the Department of Revenue of any change in  
537 its tax credit claimed.

538 (c) Forfeiture of tax credits.--A determination by the  
539 Department of Revenue, as a result of an audit or examination by  
540 the Department of Revenue or from information received from the  
541 Office of Film and Entertainment, that an applicant received tax  
542 credits pursuant to this section to which the applicant was not  
543 entitled is grounds for forfeiture of previously claimed and  
544 received tax credits. The applicant is responsible for returning  
545 forfeited tax credits to the Department of Revenue, and such  
546 funds shall be paid into the General Revenue Fund of the state.  
547 Tax credits purchased in good faith are not subject to  
548 forfeiture unless the transferee submitted fraudulent  
549 information in the purchase or failed to meet the requirements  
550 in subsection (5).

551 (d) Fraudulent claims.--Any applicant that submits  
552 information under this section that includes fraudulent  
553 information is liable for reimbursement of the reasonable costs  
554 and fees associated with the review, processing, investigation,  
555 and prosecution of the fraudulent claim. An applicant that  
556 obtains a credit payment under this section through a claim that  
557 is fraudulent is liable for reimbursement of the credit amount  
558 claimed plus a penalty in an amount double the credit amount  
559 claimed and reimbursement of reasonable costs, which penalty is  
560 in addition to any criminal penalty to which the applicant is

561 liable for the same acts. The applicant is also liable for costs  
 562 and fees incurred by the state in investigating and prosecuting  
 563 the fraudulent claim.

564 (9) ANNUAL REPORT.--The Office of Film and Entertainment  
 565 shall provide an annual report for the previous fiscal year, due  
 566 October 1, to the Governor, the President of the Senate, and the  
 567 Speaker of the House of Representatives outlining the return on  
 568 investment to the state on funds expended pursuant to this  
 569 section.

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

573 Section 3. Section 288.1256, Florida Statutes, is created  
 574 to read:

575 288.1256 Florida Graduate Film Investment Fund.--

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

581 (a) Written, produced, and directed by Florida residents  
 582 who are graduates of an Office of Film and Entertainment  
 583 approved film program at a Florida institution of higher  
 584 education; and

585 (b) Determined by the Commissioner of Film and  
 586 Entertainment, with the advice of the Florida Film and  
 587 Entertainment Advisory Council, to be family friendly based on  
 588 the review of the script and a personal interview with the

589 director. Family-friendly productions are those that have cross-  
 590 generational appeal; would be considered suitable for viewing by  
 591 children age 5 and older; are appropriate in theme, content, and  
 592 language for a broad family audience; embody a responsible  
 593 resolution of issues; and do not exhibit any act of smoking,  
 594 sex, nudity, or vulgar or profane language.

595 (2) Films that are deemed by the Office of Film and  
 596 Entertainment to contain obscene content as defined in s.  
 597 847.001(10) are not eligible for this program.

598 Section 4. Paragraph (j) is added to subsection (5) of  
 599 section 288.1252, Florida Statutes, to read:

600 288.1252 Florida Film and Entertainment Advisory Council;  
 601 creation; purpose; membership; powers and duties.--

602 (5) POWERS AND DUTIES.--The Florida Film and Entertainment  
 603 Advisory Council shall have all the powers necessary or  
 604 convenient to carry out and effectuate the purposes and  
 605 provisions of this act, including, but not limited to, the power  
 606 to:

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

609 Section 5. Subsection (8) of section 220.02, Florida  
 610 Statutes, is amended to read:

611 220.02 Legislative intent.--

612 (8) It is the intent of the Legislature that credits  
 613 against either the corporate income tax or the franchise tax be  
 614 applied in the following order: those enumerated in s. 631.828,  
 615 those enumerated in s. 220.191, those enumerated in s. 220.181,  
 616 those enumerated in s. 220.183, those enumerated in s. 220.182,

617 those enumerated in s. 220.1895, those enumerated in s. 221.02,  
 618 those enumerated in s. 220.184, those enumerated in s. 220.186,  
 619 those enumerated in s. 220.1845, those enumerated in s. 220.19,  
 620 those enumerated in s. 220.185, those enumerated in s. 220.187,  
 621 those enumerated in s. 220.192, ~~and~~ those enumerated in s.  
 622 220.193, and those enumerated in s. 288.1254.

623 Section 6. Paragraph (z) is added to subsection (8) of  
 624 section 213.053, Florida Statutes, to read:

625 213.053 Confidentiality and information sharing.--

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

628 (z) Information relative to tax credits taken under s.  
 629 288.1254 to the Office of Film and Entertainment and the Office  
 630 of Tourism, Trade, and Economic Development.

631  
 632 Disclosure of information under this subsection shall be  
 633 pursuant to a written agreement between the executive director  
 634 and the agency. Such agencies, governmental or nongovernmental,  
 635 shall be bound by the same requirements of confidentiality as  
 636 the Department of Revenue. Breach of confidentiality is a  
 637 misdemeanor of the first degree, punishable as provided by s.  
 638 775.082 or s. 775.083.

639 Section 7. Paragraph (q) is added to subsection (5) of  
 640 section 212.08, Florida Statutes, to read:

641 212.08 Sales, rental, use, consumption, distribution, and  
 642 storage tax; specified exemptions.--The sale at retail, the  
 643 rental, the use, the consumption, the distribution, and the  
 644 storage to be used or consumed in this state of the following

645 are hereby specifically exempt from the tax imposed by this  
646 chapter.

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

648 (q) Entertainment industry tax credit; requirement for  
649 electronic funds transfer.--

650 1. For the fiscal years beginning July 1, 2007, and ending  
651 June 30, 2010, a qualified production, as defined in s.  
652 288.1254(2)(h), is eligible for tax credits against its state  
653 sales and use tax liabilities as provided in s. 288.1254.

654 2. The credit shall be deducted from any sales and use tax  
655 remitted by the dealer to the department by electronic funds  
656 transfer and can only be deducted on a sales and use tax return  
657 initiated through electronic data interchange. The dealer shall  
658 separately state the credit on the electronic return. The net  
659 amount of tax due and payable must be remitted by electronic  
660 funds transfer. If the credit for the qualified expenditures is  
661 larger than the amount owed on the sales and use tax return, the  
662 amount of the credit may be carried forward to a succeeding  
663 reporting period. A dealer may only obtain a credit using the  
664 method described in this subparagraph. A dealer is not  
665 authorized to obtain a credit by applying for a refund.

666 Section 8. Section 288.1255, Florida Statutes, is  
667 repealed.

668 Section 9. If any provision of this act or the application  
669 thereof to any person or circumstance is held invalid, the  
670 invalidity shall not affect other provisions or applications of  
671 the act which can be given effect without the invalid provision  
672 or application, and to this end the provisions of this act are



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673 | declared severable.

674 | Section 10. This act shall take effect July 1, 2007.