

Bill No. CS for SB 96

Barcode 654282

CHAMBER ACTION

Senate

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The Committee on Finance and Tax (Haridopolos) recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

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

(a) "Certified production" means a qualified production as determined by the Office of Tourism, Trade, and Economic Development. The term excludes a production if its first day of principal photography in this state occurred before the production is certified by the Office of Tourism, Trade, and Economic Development, unless the production spans more than 1 fiscal year, was a certified production on the

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1 first day of such photography, and is required to submit an  
2 application for continuing the same production in the  
3 subsequent year.

4       (b) "Digital media project" means a production of  
5 interactive entertainment which is produced for distribution  
6 in commercial or educational markets, including a video game,  
7 simulation, or animation, or a production intended for  
8 Internet or wireless distribution. The term excludes a  
9 production deemed by the Office of Film and Entertainment to  
10 contain obscene content as defined in s. 847.001(10).

11       (c) "High-impact television series" means a production  
12 created to run multiple production seasons having an estimated  
13 order of at least seven episodes per season and qualified  
14 expenditures of at least \$625,000 per episode.

15       (d) "Off-season certified production" means a  
16 production, other than a digital media project or an animated  
17 production, which films 75 percent or more of its principal  
18 photography days from June 1 through November 30.

19       (e) "Production" means a theatrical or direct-to-video  
20 motion picture, a made-for-television motion picture, a  
21 commercial, a music video, an industrial or educational film,  
22 an infomercial, a documentary film, a television pilot  
23 program, a presentation for a television pilot program, a  
24 television series, including, but not limited to, a drama, a  
25 reality show, a comedy, a soap opera, a telenovela, a game  
26 show, a miniseries production, or a digital media project by  
27 the entertainment industry. One season of a television series  
28 is considered one production. The term excludes a weather or  
29 market program, a sporting event, a sports show, a gala, a  
30 production that solicits funds, a home shopping program, a  
31 political program, a political documentary, political

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1 advertising, a gambling-related project or production, a  
 2 concert production, a news show, a current-events show, or a  
 3 current-affairs show that is local, regional, or distributed  
 4 only on the Internet. A production may be produced on or by  
 5 film, tape, or otherwise by means of a motion picture camera,  
 6 electronic camera or device, tape device, computer, any  
 7 combination of the foregoing, or any other means, method, or  
 8 device now used or later adopted.

9       (f) "Production expenditures" means the costs of  
 10 tangible and intangible property used and services performed  
 11 primarily and customarily in the production, including  
 12 preproduction and postproduction, excluding costs for  
 13 development, marketing, and distribution. Production  
 14 expenditures include, but are not limited to:

15           1. Wages, salaries, or other compensation, including  
 16 amounts paid through payroll service companies, for technical  
 17 and production crews, directors, producers, and performers.

18           2. Expenditures for sound stages, backlots, production  
 19 editing, digital effects, sound recordings, sets, and set  
 20 construction.

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

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

24       (g) "Qualified expenditures" means production  
 25 expenditures incurred in this state by a qualified production  
 26 for:

27           1. Goods purchased or leased from, or services  
 28 provided by, a vendor or supplier in this state which is  
 29 registered with the Department of State or the Department of  
 30 Revenue and doing business in this state.

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

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1 salary, wages, or other compensation up to a maximum of  
 2 \$400,000 per resident for the general production queue and the  
 3 independent Florida filmmaker queue and up to a maximum of  
 4 \$200,000 for the digital media queue.

5  
 6 For a qualified production involving an event, such as an  
 7 awards show, the term excludes expenditures solely associated  
 8 with the event itself and not directly required by the  
 9 production. The term excludes expenditures prior to  
 10 certification, with the exception of those incurred for a  
 11 commercial, a music video, or the pickup of additional  
 12 episodes of a television series within a single season.

13 (h) "Qualified production" means a production in this  
 14 state meeting the requirements of this section and the minimum  
 15 qualified expenditures and requirements of its appropriate  
 16 queue. The term excludes a production:

17 1. In which less than 50 percent of the positions that  
 18 make up its production cast and below-the-line production crew  
 19 are filled by residents of this state, whose residency is  
 20 demonstrated by a valid Florida driver's license or other  
 21 state-issued identification confirming residency, or students  
 22 enrolled full-time in a film-and-entertainment-related course  
 23 of study at an institution of higher education in this state;  
 24 or

25 2. That is deemed by the Office of Film and  
 26 Entertainment to contain obscene content as defined in s.  
 27 847.001(10).

28 (i) "Qualified production company" means a  
 29 corporation, limited liability company, partnership, or other  
 30 legal entity engaged in producing a qualified production.

31 (2) CREATION AND PURPOSE OF PROGRAM.--The

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1 entertainment industry financial incentive program is created  
 2 within the Office of Film and Entertainment. The purpose of  
 3 this program is to encourage the use of this state as a site  
 4 for filming and to develop and sustain the workforce and  
 5 infrastructure for film and entertainment production.

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

7 (a) A qualified production company in this state  
 8 producing a qualified production may submit a program  
 9 application to the Office of Film and Entertainment for the  
 10 purpose of determining certification. The application must be  
 11 submitted no earlier than 1 year before the date the  
 12 production is anticipated to start. The applicant shall  
 13 provide the office with information required to determine  
 14 whether the production is a qualified production and to  
 15 determine the qualified expenditures and other information  
 16 necessary for the office to determine certification.

17 (b) The Office of Film and Entertainment shall develop  
 18 a application form for use in qualifying an applicant as a  
 19 qualified production. The form must include, but need not be  
 20 limited to, production-related information concerning  
 21 employment of residents in this state, a detailed budget of  
 22 planned qualified expenditures, and the applicant's signed  
 23 affirmation that the information on the form has been verified  
 24 and is correct. The Office of Film and Entertainment and local  
 25 film commissions shall distribute the form.

26 (c) The Office of Film and Entertainment shall  
 27 establish a process by which an application is accepted and  
 28 reviewed for certification. The office may request assistance  
 29 from a duly appointed local film commission in determining  
 30 compliance with this section.

31 (d) The Office of Film and Entertainment shall review

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1 the application within 10 business days after receipt. Upon  
 2 its determination that the application contains all the  
 3 information required by this subsection and meets the criteria  
 4 set out in this section, the office shall qualify the  
 5 applicant and recommend to the Office of Tourism, Trade, and  
 6 Economic Development that the applicant be certified. Within 5  
 7 business days after receipt of the recommendation, the Office  
 8 of Tourism, Trade, and Economic Development shall reject the  
 9 recommendation or certify the applicant.

10       (e) The Office of Film and Entertainment shall deny an  
 11 application if it determines that the application is not  
 12 complete or the production does not meet the requirements of  
 13 this section.

14       (f) The Office of Film and Entertainment shall develop  
 15 a process to verify the actual qualified expenditures of a  
 16 certified production. The process must require:

17           1. A certified production to submit, in a timely  
 18 manner after production ends and after making all of its  
 19 qualified expenditures, data substantiating each qualified  
 20 expenditure to an independent certified public accountant  
 21 licensed in this state;

22           2. Such accountant to conduct an audit, at the  
 23 certified production's expense, to substantiate each qualified  
 24 expenditure and submit the results as a report, along with all  
 25 substantiating data, to the Office of Film and Entertainment;  
 26 and

27           3. The Office of Film and Entertainment to review the  
 28 accountant's submittal and report to the Office of Tourism,  
 29 Trade, and Economic Development the final verified amount of  
 30 actual qualified expenditures made by the certified  
 31 production.

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1       (g) The Office of Film and Entertainment shall ensure  
2 that, as a condition of receiving incentive funding under this  
3 section, marketing materials promoting this state as a tourist  
4 destination or film and entertainment production destination  
5 are included, when appropriate, at no cost to the state, which  
6 must, at a minimum, include placement in the end credits of a  
7 "Filmed in Florida" logo with size and placement commensurate  
8 to other logos included in the end credits or, if no logos are  
9 used, the statement "Filmed in Florida using Florida's  
10 Entertainment Industry Financial Incentive," or a similar  
11 statement approved by the Office of Film and Entertainment  
12 before such placement. The Office of Film and Entertainment  
13 shall develop a "Filmed in Florida" logo and supply it for the  
14 purposes specified in this paragraph.

15       (4) PRIORITY FOR INCENTIVE FUNDING; WITHDRAWAL OF  
16 ELIGIBILITY; QUEUES.--

17       (a) The priority of a qualified production for  
18 incentive funding must be determined on a first-come,  
19 first-served basis within its appropriate queue. Each  
20 qualified production must be placed into the appropriate queue  
21 and is subject to the requirements of that queue.

22       (b) Each qualified production or certified production  
23 shall continue on a reasonable schedule, which means beginning  
24 principal photography in this state no more than 45 calendar  
25 days before or after the date for such commencement which was  
26 provided in the program's application under subsection (3).  
27 The Office of Tourism, Trade, and Economic Development shall  
28 withdraw the eligibility of a qualified production or a  
29 certified production for incentive funding if any such  
30 production does not continue on a reasonable schedule.

31       (c) At least 85 percent of incentive funding available

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1 under this section in any state fiscal year must be dedicated  
2 to the general production queue. Within this queue:

3 1. A qualified production, excluding commercials,  
4 music videos, and digital media projects, which demonstrates a  
5 minimum of \$625,000 in qualified expenditures is eligible for  
6 incentive funding. A qualified production spanning multiple  
7 state fiscal years may combine qualified expenditures from  
8 such fiscal years to satisfy the threshold.

9 2. A qualified production company that produces  
10 national, international, or regional commercials, or music  
11 videos may be eligible for incentive funding if it  
12 demonstrates a minimum of \$100,000 in qualified expenditures  
13 per national, international, or regional commercial or music  
14 video and exceeds a combined threshold of \$500,000 after  
15 combining actual qualified expenditures from qualified  
16 commercials and music videos during a single state fiscal  
17 year. After a qualified production company that produces  
18 commercials, music videos, or both reaches the threshold of  
19 \$500,000, it is eligible to apply for certification for  
20 incentive funding.

21 3. An off-season certified production is eligible for  
22 an additional 5-percent incentive funding on actual qualified  
23 expenditures. An off-season certified production that does not  
24 complete 75 percent of principal photography due to disruption  
25 caused by a hurricane or tropical storm may not be  
26 disqualified from eligibility for the additional 5-percent  
27 incentive as a result of the disruption.

28 4. Each qualified production shall make a good faith  
29 effort to the existing providers of infrastructure or  
30 equipment in this state, including providers of camera gear,  
31 grip and lighting equipment, vehicle providers, and



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1 postproduction services when available in-state.

2 (d) Five percent of incentive funding available in any  
3 state fiscal year must be dedicated to the independent Florida  
4 filmmaker queue. An independent Florida film that meets the  
5 criteria of this queue and demonstrates a minimum of \$100,000,  
6 but not more than \$625,000, in total qualified expenditures is  
7 eligible for incentive funding. To qualify for this queue, a  
8 qualified production must:

9 1. Be planned as a feature film or documentary of no  
10 less than 70 minutes in length.

11 2. Provide evidence of 50 percent of the financing for  
12 its total budget in an escrow account or other form dedicated  
13 to the production.

14 3. Do all major postproduction in this state.

15 4. Employ Florida workers in at least six of the  
16 following key positions: writer, director, producer, director  
17 of photography, star or one of the lead actors, unit  
18 production manager, editor, or production designer. As used in  
19 this subparagraph, the term "Florida worker" means a person  
20 who has been a resident of this state for at least 1 year  
21 before a production's application under subsection (3) was  
22 submitted or a person who graduated from a film school,  
23 college, university, or community college in this state no  
24 more than 5 years before such submittal or who is enrolled  
25 full-time in such a school, college, or university.

26 (e) Ten percent of incentive funding available under  
27 this section in any state fiscal year shall be dedicated to  
28 the digital media projects queue. A qualified production that  
29 is a digital media project that demonstrates a minimum of  
30 \$300,000 in total qualified expenditures is eligible for  
31 incentive funding. As used in this paragraph, the term

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1 "qualified expenditures" means the wages or salaries paid to a  
 2 resident of this state for working on a single qualified  
 3 digital media project, up to a maximum of \$200,000 in wages or  
 4 salaries paid per resident. A qualified production company  
 5 producing digital media projects may not qualify for more than  
 6 three projects in any 1 fiscal year. Projects that extend  
 7 beyond a fiscal year must reapply each fiscal year in order to  
 8 be eligible for incentive funding for that year.

9       (5) RULES, POLICIES, AND PROCEDURES.--The Office of  
 10 Tourism, Trade, and Economic Development may adopt rules under  
 11 ss. 120.536(1) and 120.54 and develop policies and procedures  
 12 to administer this section, including, but not limited to,  
 13 rules specifying requirements for the application and approval  
 14 process.

15       (6) ANNUAL REPORT.--Each October 1, the Office of Film  
 16 and Entertainment shall provide an annual report for the  
 17 previous fiscal year to the Governor, the President of the  
 18 Senate, and the Speaker of the House of Representatives which  
 19 outlines the return on investment to the state on funds  
 20 appropriated by this act.

21       (7) REPEAL.--This section is repealed July 1, 2010.

22       Section 2. For the 2007-2008 fiscal year, the sum of  
 23 \$10 million is appropriated from the General Revenue Fund on a  
 24 nonrecurring basis to the Office of Tourism, Trade, and  
 25 Economic Development for the Office of Film and Entertainment  
 26 for purposes of implementing s. 288.1254, Florida Statutes.  
 27 Notwithstanding s. 216.301, Florida Statutes, to the contrary,  
 28 the unexpended balance of this appropriation shall not revert  
 29 until June 30, 2009.

30       Section 3. This act shall take effect July 1, 2007.

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

2 And the title is amended as follows:

3           Delete everything before the enacting clause

4

5 and insert:

6                                   A bill to be entitled

7           An act relating to the entertainment industry;

8           amending s. 288.1254, F.S.; revising the

9           entertainment industry financial incentive

10          program; providing purpose of the program;

11          providing for submittal and approval of an

12          application under the program; providing for

13          review by the Office of Film and Entertainment

14          and the Office of Tourism, Trade, and Economic

15          Development; providing standards for review;

16          providing for verification of which

17          expenditures concerning an entertainment

18          production qualify for incentive funding under

19          the program; requiring inclusion of marketing

20          materials promoting this state as a condition

21          of receiving incentive funding; establishing

22          queues; specifying requirements concerning each

23          queue; authorizing the Office of Tourism,

24          Trade, and Economic Development to adopt rules,

25          policies, and procedures; requiring an annual

26          report to the Governor and the Legislature;

27          providing for future repeal; providing an

28          appropriation; providing an effective date.

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