

By Senator Saunders

37-63-07

1 A bill to be entitled
2 An act relating to entertainment industry
3 economic development; amending s. 212.08, F.S.;
4 providing for an entertainment industry credit
5 of sales and use taxes paid on qualified
6 expenditures; providing criteria, requirements,
7 procedures, and limitations on the credit;
8 providing for uses of the credit; providing
9 duties and responsibilities of the Office of
10 Film and Entertainment and the Department of
11 Revenue; authorizing the Office of Tourism,
12 Trade, and Economic Development to adopt rules;
13 providing for liability for fraudulent credit
14 applications; amending s. 213.053, F.S.;
15 authorizing the Department of Revenue to
16 provide certain tax credit and tax refund
17 information to the Office of Film and
18 Entertainment and the Office of Tourism, Trade,
19 and Economic Development; amending s. 220.02,
20 F.S.; specifying the order in which the
21 entertainment industry tax credit may be
22 applied against certain taxes; creating s.
23 220.194, F.S.; providing for an entertainment
24 industry corporate income tax credit of a
25 percentage of certain qualified expenditures;
26 providing criteria, requirements, procedures,
27 and limitations on the credit; providing for
28 uses and allocations of the credit; authorizing
29 the Office of Tourism, Trade, and Economic
30 Development to adopt rules; providing for
31 liability for fraudulent credit applications;

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

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

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

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

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

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

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

7 1. Beginning July 1, 2007, a qualified production
8 company is eligible for tax credits of taxes paid on qualified
9 expenditures, as defined in s. 288.1254, as provided in this
10 paragraph:

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

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

18 c. A qualified production company may not be awarded
19 more than \$2 million in tax credits under this paragraph and
20 s. 220.194 per year unless the production is a high-impact
21 television series, in which case the qualified production is
22 eligible for a maximum tax credit award of \$3 million. The tax
23 credit available under this paragraph shall be surrendered
24 only in satisfaction of the tax owed by a qualified production
25 company under this chapter and only up to the face amount of
26 the credit. If the qualified production company cannot use the
27 entire tax credit in the taxable year in which the credit is
28 approved, any excess may be carried over to a succeeding
29 taxable year. A tax credit granted under this paragraph and
30 applied against taxes imposed under this chapter may be
31 carried forward only for a maximum of 5 taxable years

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

4 d. The aggregate amount of tax credits allowed under
5 this paragraph and s. 220.194 in any state fiscal year is \$25
6 million. If the total amount of allocated tax credits applied
7 for in any state fiscal year exceeds the aggregate amount of
8 tax credits authorized annually under this paragraph, such
9 excess shall be treated as having been applied for on the
10 first day of the next state fiscal year in which tax credits
11 remain available for allocation. However, no more than an
12 aggregate amount of \$30 million in tax credits shall be
13 allocated between July 1, 2007, and June 30, 2008. The
14 cumulative amount of credits which may be allocated between
15 July 1, 2007, and June 30, 2010, may not exceed \$75 million.
16 After \$75 million of tax credits have been allocated,
17 additional tax credits may not be allocated.

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

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

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

31

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

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

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

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

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

13 Section 2. Paragraph (k) of subsection (8) of section
14 213.053, Florida Statutes, is amended, and paragraph (z) is
15 added to that subsection, to read:

16 213.053 Confidentiality and information sharing.--

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

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

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

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

5 (z) Information relative to tax credits taken under s.
6 220.194 and tax refunds received by a business under s.
7 212.08(5)(q) to the Office of Film and Entertainment and the
8 Office of Tourism, Trade, and Economic Development.

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

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

19 220.02 Legislative intent.--

20 (8) It is the intent of the Legislature that credits
21 against either the corporate income tax or the franchise tax
22 be applied in the following order: those enumerated in s.
23 631.828, those enumerated in s. 220.191, those enumerated in
24 s. 220.181, those enumerated in s. 220.183, those enumerated
25 in s. 220.182, those enumerated in s. 220.1895, those
26 enumerated in s. 221.02, those enumerated in s. 220.184, those
27 enumerated in s. 220.186, those enumerated in s. 220.1845,
28 those enumerated in s. 220.19, those enumerated in s. 220.185,
29 those enumerated in s. 220.187, those enumerated in s.
30 220.192, ~~and~~ those enumerated in s. 220.193, and those
31 enumerated in s. 220.194.

1 Section 4. Section 220.194, Florida Statutes, is
2 created to read:

3 220.194 Entertainment industry tax credit;
4 authorization; eligibility for credits.--

5 (1) TAX CREDITS; ELIGIBILITY; AWARD;
6 ALLOCATION.--Beginning July 1, 2007, a qualified production
7 company is eligible for tax credits in the amount of 15
8 percent of qualified expenditures, as defined in s. 288.1254.

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

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

16 (c) A qualified production company may not be awarded
17 more than a total of \$2 million in tax credits under this
18 section and s. 212.08 per year unless the production is a
19 high-impact television series, in which case the production is
20 eligible for a maximum total tax credit award of \$3 million
21 per year.

22 (2) AGGREGATE TAX CREDIT AVAILABLE.--The aggregate
23 amount of tax credits allowed under this section and s.
24 212.08(5)(g) in any state fiscal year is \$25 million. If the
25 total amount of allocated tax credits applied for in any state
26 fiscal year exceeds the aggregate amount of tax credits
27 authorized annually under this section, such excess shall be
28 treated as having been applied for on the first day of the
29 next state fiscal year in which tax credits remain available
30 for allocation. However, no more than an aggregate amount of
31 \$30 million in tax credits shall be allocated between July 1,

1 2007, and June 30, 2008. The cumulative amount of credits
2 which may be allocated between July 1, 2007, and June 30,
3 2010, may not exceed \$75 million. After \$75 million of tax
4 credits have been allocated, additional tax credits may not be
5 allocated.

6 (3) RULES.--The Office of Tourism, Trade, and Economic
7 Development may adopt rules pursuant to ss. 120.536(1) and
8 120.54 to administer this section, including, but not limited
9 to, rules specifying requirements for the application and
10 approval process, records required for substantiating credit
11 awards, and the determination of and qualification for credit
12 awards.

13 (4) FRAUDULENT CLAIMS.--

14 (a) Any applicant who submits an application under
15 this section which includes fraudulent information is liable
16 for reimbursement of the reasonable costs and fees associated
17 with the review, processing, investigation, and prosecution of
18 the application.

19 (b) An eligible entity or company that obtains a
20 credit payment under this section through a claim that is
21 fraudulent is liable for reimbursement of the credit amount
22 paid plus a penalty in an amount double the credit payment and
23 reimbursement of reasonable costs, which penalty is in
24 addition to any criminal penalty to which the entity or
25 company is liable for the same acts, plus interest. The entity
26 or company is also liable for costs and fees incurred by the
27 state in investigating and prosecuting the fraudulent claim.

28 (5) USE OF TAX CREDIT; CARRYFORWARD.--The tax credit
29 available under this section shall be surrendered only in
30 satisfaction of the tax owed by a qualified production company
31 under this chapter and only up to the face amount of the

1 credit. If the qualified production company cannot use the
2 entire tax credit in the taxable year in which the credit is
3 approved, any excess may be carried over to a succeeding
4 taxable year. A tax credit granted under this section and
5 applied against taxes imposed under this chapter may be
6 carried forward only for a maximum of 5 taxable years
7 following the taxable year in which the credit was approved.
8 Five years after the date a credit is granted under this
9 section, the credit expires and may not be used.

10 (6) TRANSFER OF TAX CREDITS.--Upon application to and
11 approval by the Department of Revenue, a qualified production
12 company may sell, in whole or in part, a tax credit granted
13 under this section. The sale or assignment of any amount of
14 the tax credit may not be exchanged for consideration received
15 by the qualified production company of less than 85 percent of
16 the transferred amount of tax credit. The qualified production
17 company must transfer at least 10 percent of the remaining
18 credits to each purchaser and may not conduct more than three
19 transfers. The purchaser of the tax credit granted under s.
20 288.1254 shall use the tax credit in the state fiscal year the
21 tax credit is acquired from the qualified production company
22 and otherwise may carry the tax credit over subject to the
23 same limitations on tax credit usage as the qualified
24 production company awarded the tax credit. The purchaser of
25 the tax credit may not sell or otherwise transfer the tax
26 credit. The Department of Revenue may adopt rules pursuant to
27 ss. 120.536(1) and 120.54 to administer this subsection.

28 (7) NONCORPORATE DISTRIBUTIONS OF TAX CREDITS.--A
29 qualified production company that is not a corporation as
30 defined in s. 220.03 shall elect to make an application to the
31 Department of Revenue to distribute tax credits awarded under

1 this section to its partners or members in proportion to the
2 respective distributive share of such partners' or members'
3 income or loss in the taxable fiscal year in which such tax
4 credits were approved. A tax credit granted under this section
5 and applied against taxes imposed under this chapter may be
6 carried forward only for a maximum of 5 taxable years
7 following the state fiscal year in which the credit was
8 approved.

9 (8) USE OF TAX CREDITS.--A qualified production
10 company may use the tax credit against the tax liability
11 imposed under this chapter, in whole or in part, or against
12 the sales tax paid on qualified expenditures as defined in s.
13 288.1254.

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

22 Section 5. Section 288.1254, Florida Statutes, is
23 amended to read:

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

30 (1) CREATION AND PURPOSE OF PROGRAM.--~~Subject to~~
31 ~~specific appropriation,~~ There is created within the Office of

1 Film and Entertainment an entertainment industry financial
2 incentive program. The purpose of this program is to encourage
3 the use of this state as a site for filming and developing and
4 sustaining the workforce and infrastructure ~~providing~~
5 ~~production services~~ for filmed entertainment.

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

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

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

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

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

11 1. **Wages, salaries, or other compensation, including**
12 **amounts paid through payroll service companies, for technical**
13 **and production crews, directors, producers, and performers ~~who~~**
14 **are residents of this state.**

15 2. **Expenditures for sound stages, backlots, production**
16 **editing, digital effects, sound recordings, sets, and set**
17 **construction.**

18 3. **Expenditures for rental equipment, including, but**
19 **not limited to, cameras and grip or electrical equipment.**

20 4. **Expenditures for meals, travel, and accommodations,**
21 **and goods used in producing filmed entertainment that is**
22 **located and doing business in this state.**

23 5. **Expenditures for goods and services used in**
24 **producing filmed entertainment.**

25 **(d)(c) "Qualified expenditures" means production costs**
26 **incurred in this state within the current state fiscal year**
27 **for goods purchased or leased from or services provided by**
28 **~~purchased, leased, or employed from a resident of this state~~**
29 **~~or~~ a vendor or supplier who is located and doing business in**
30 **this state or payments to residents of this state in the form**
31 **of salary, wages, or other compensation, ~~but~~ excluding wages,**

1 salaries, or other compensation paid to the two highest-paid
2 residents of this state participating in the qualified
3 production employees.

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

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

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

26 (a) Any company engaged in this state in producing
27 filmed entertainment may submit an application to the Office
28 of Film and Entertainment for the purpose of determining
29 qualification for an award of credits against the taxes by the
30 sales tax paid on qualified expenditures as defined in s.
31 288.1254 and the corporate income tax imposed by chapter 220

1 ~~receipt of reimbursement provided in this section.~~ The office
2 must be provided information required to determine if the
3 production is a qualified production and to determine the
4 qualified expenditures, production costs, and other
5 information necessary for the office to determine ~~both~~
6 eligibility for the tax credit and level of reimbursement.

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

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

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

29 1.2. The Office of Film and Entertainment shall
30 develop a standardized application form for use in qualifying
31 an applicant as approving a qualified production, ~~a qualified~~

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

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

1 ~~3.4.~~ Within 10 business days after receiving notice
2 from the Office of Film and Entertainment of qualification of
3 an applicant as a qualified production and a recommended
4 approval of the maximum amount of tax credit to be awarded,
5 the Office of Tourism, Trade, and Economic Development shall
6 certify the maximum tax credit award, if any. The
7 certification shall be transmitted to the applicant and to the
8 executive director of the Department of Revenue. The applicant
9 shall be responsible for forwarding a certified application to
10 the Department of Revenue. Upon determination that all
11 criteria are met for qualification for reimbursement, the
12 Office of Film and Entertainment shall notify the applicant of
13 such approval. The office shall also notify the Office of
14 Tourism, Trade, and Economic Development of the applicant
15 approval and amount of reimbursement required. The Office of
16 Tourism, Trade, and Economic Development shall make final
17 determination for actual reimbursement.

18 ~~4.5.~~ The Office of Film and Entertainment shall deny
19 an application if the office ~~it~~ determines that:

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

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

24 (4) CREDIT REIMBURSEMENT ELIGIBILITY; SUBMISSION OF
25 REQUIRED DOCUMENTATION; APPLICATION RECOMMENDATIONS FOR
26 TRANSFER PAYMENT.--

27 (a) Tax credit award.--A production of filmed
28 entertainment that is qualified by the Office of Film and
29 Entertainment and is certified by the Office of Tourism,
30 Trade, and Economic Development is eligible for corporate tax
31 credits granted pursuant to s. 220.194 and credits against

1 sales tax paid on qualified expenditures pursuant to s.
2 212.08(5)(g) in an amount equal a reimbursement of up to 15
3 percent of its ~~qualified~~ ~~qualifying~~ expenditures.

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

11 (c) Aggregate tax credit available.--The aggregate
12 amount of tax credits allowed under this section in any state
13 fiscal year is \$25 million. If the total amount of allocated
14 tax credits applied for in any state fiscal year exceeds the
15 aggregate amount of tax credits authorized annually under this
16 section, such excess shall be treated as having been applied
17 for on the first day of the next state fiscal year in which
18 tax credits remain available for allocation. However, no more
19 than an aggregate amount of \$30 million in tax credits granted
20 pursuant to this section and ss. 212.08(5)(g) and 220.194
21 shall be allocated between July 1, 2007, and June 30, 2008.
22 The cumulative amount of credits which may be allocated
23 between July 1, 2007, and June 30, 2010, may not exceed \$75
24 million. After \$75 million of tax credits granted pursuant to
25 this section and ss. 212.08(5)(g) and 220.194 have been
26 allocated, additional tax credits may not be allocated in this
27 state on a filmed entertainment program that demonstrates a
28 minimum of \$850,000 in total qualified expenditures for the
29 entire run of the project, versus the budget on a single
30 episode, within the fiscal year from July 1 to June 30.
31 However, the maximum reimbursement that may be made with

1 ~~respect to any filmed entertainment program is \$2 million. All~~
2 ~~reimbursements under this section are subject to~~
3 ~~appropriation.~~

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

29 1. Film, television, and episodic queue.--Theatrical
30 or direct-to-video motion pictures, made-for-television
31 movies, ~~commercials, music videos,~~ industrial and educational

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

1 eligible to receive the credit, unless otherwise provided in
2 this section of the state incentive money.

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

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

1 credits within this queue shall be merged into a general queue
2 and may be used for other purposes of this section as
3 determined by the Office of Film and Entertainment.

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

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

30 ~~(b) A digital media effects company in the state which~~
31 ~~furnishes digital material to filmed entertainment may be~~

1 ~~eligible for a payment in an amount not to exceed 5 percent of~~
2 ~~its annual gross revenues on qualified expenditures as defined~~
3 ~~in paragraph (2)(c) before taxes or \$100,000, whichever is~~
4 ~~less. A company applying for payment must submit documentation~~
5 ~~annually as required by the Office of Film and Entertainment~~
6 ~~for determination of eligibility of claimed billing and~~
7 ~~determination of the amount of payment for which the company~~
8 ~~is eligible.~~

9 ~~(g)(c)~~ Transfer of tax credits.--Upon application and
10 approval by the Department of Revenue, a qualified production
11 company may sell, in whole or in part, a tax credit granted
12 pursuant to this section and s. 220.194. The sale of any
13 amount of the tax credit may not be exchanged for
14 consideration received by the qualified production company of
15 less than 85 percent of the transferred amount of tax credit.
16 The qualified production company must transfer at least 10
17 percent of the remaining credits to each purchaser and may not
18 conduct more than three transfers. The purchaser shall
19 surrender the tax credit in the state fiscal year acquired
20 from the qualified production company and otherwise may carry
21 the tax credit forward subject to the same limitations on tax
22 credit usage as the qualified production company awarded the
23 tax credit. The purchaser may not sell or otherwise transfer
24 the tax credit. The Department of Revenue may adopt rules
25 pursuant to ss. 120.536(1) and 120.54 to administer this
26 paragraph, as provided in paragraph (6)(b). A qualified
27 ~~relocation project that is certified by the Office of Film and~~
28 ~~Entertainment is eligible for a one time incentive payment in~~
29 ~~an amount equal to 5 percent of its annual gross revenues~~
30 ~~before taxes for the first 12 months of conducting business in~~
31 ~~its Florida domicile or \$200,000, whichever is less. A company~~

1 ~~applying for payment must submit documentation as required by~~
2 ~~the Office of Film and Entertainment for determination of~~
3 ~~eligibility of claimed billing and determination of the amount~~
4 ~~of payment for which the company is eligible.~~

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

23 (i)(e) Use of tax credits.--A qualified production
24 company may use the tax credit against the tax liability
25 imposed under s. 220.194, in whole or in part, or against the
26 sales tax paid under chapter 212 in whole or in part The
27 ~~Office of Film and Entertainment shall notify the Office of~~
28 ~~Tourism, Trade, and Economic Development whether an applicant~~
29 ~~meets the criteria for reimbursement and shall recommend the~~
30 ~~reimbursement amount. The Office of Tourism, Trade, and~~
31

1 ~~Economic Development shall make the final determination for~~
2 ~~actual reimbursement.~~

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

12 ~~(6)(5)~~ ~~RULES POLICIES AND PROCEDURES.--~~

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

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

29 ~~(7)(6)~~ ~~FRAUDULENT CLAIMS.--~~

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

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

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

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

19 (9) REPEAL.--This section is repealed July 1, 2010.

20 Section 6. This act shall take effect July 1, 2007.
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SENATE SUMMARY

Provides for an entertainment industry credit of sales and use taxes paid on qualified expenditures. Provides criteria, requirements, procedures, and limitations on the credit. Provides for uses of the credit. Provides duties and responsibilities of the Office of Film and Entertainment and the Department of Revenue. Authorizes the Office of Tourism, Trade, and Economic Development to adopt rules. Provides for liability for fraudulent credit applications. Authorizes the Department of Revenue to provide certain tax credit and tax refund information to the Office of Film and Entertainment and the Office of Tourism, Trade, and Economic Development. Revises the order of priority list of applicable credits against certain taxes. Provides for an entertainment industry corporate income tax credit of a percentage of certain qualified expenditures. Provides criteria, requirements, procedures, and limitations on the credit. Provides for uses and allocations of the credit. Authorizes the Office of Tourism, Trade, and Economic Development to adopt rules. Provides for liability for fraudulent credit applications. Provides for use and carryforward of the credit. Provides for transfers of the credit. Provides for noncorporate distributions of tax credits. Authorizes the Department of Revenue to adopt rules. Revises the entertainment industry financial incentive program to provide corporate income tax and sales and use tax credits to qualified entertainment entities rather than reimbursements from appropriations. Revises provisions relating to definitions, creation and scope, application procedures, approval process, eligibility, required documents, qualified productions, and annual reports. Provides criteria and limitations for awards of tax credits. Provides marketing requirements. Requires the Office of Tourism, Trade, and Economic Development and the Department of Revenue to adopt rules. Provides liability for reimbursement of certain costs and fees associated with fraudulent applications. Provides for future repeal.