

By the Committee on Commerce; and Senator Saunders

577-2118-07

1 A bill to be entitled
2 An act relating to the entertainment industry;
3 amending s. 212.08, F.S., providing for
4 inclusion of the tax credits granted to certain
5 productions under s. 288.1254, F.S., in
6 exemptions to the sales tax; providing
7 requirements and procedures concerning
8 electronic funds transfer and deduction of the
9 credit; amending s. 288.1254, F.S.; revising
10 the entertainment industry financial incentive
11 program to allow a credit against corporate
12 income taxes and sales and use taxes to
13 qualified entertainment entities rather than
14 reimbursements from appropriations; providing
15 definitions; creating the program within the
16 Office of Film and Entertainment; providing
17 purpose of the program; providing for submittal
18 and approval of an application under the
19 program; providing for review by the Office of
20 Film and Entertainment, the Office of Tourism,
21 Trade, and Economic Development, and the
22 Department of Revenue; providing standards for
23 review; providing for verification of which
24 expenditures concerning an entertainment
25 production qualify for a tax credit under the
26 program; requiring various determinations by
27 the Office of Film and Entertainment, the
28 Office of Tourism, Trade, and Economic
29 Development, and the Department of Revenue
30 concerning the verification or award of the tax
31 credit; requiring inclusion of marketing

1 materials promoting this state as a condition
2 of receiving a tax credit; providing criteria
3 concerning eligibility for the tax credit;
4 providing for the total aggregate amount
5 available for tax credits; providing for use or
6 transfer of the tax credit; providing for
7 carryover of the tax credit in certain
8 circumstances; providing for use of the tax
9 credit in a consolidated return; providing for
10 distribution of the tax credit to partners in
11 certain circumstances; providing for succession
12 of tax credits; providing requirements
13 concerning transfer of tax credits; requiring
14 certain recipients of transferred tax credits
15 to pay a fee; providing for deposit of such
16 fees to the Grants and Donations Trust Fund;
17 providing for use of funds so deposited for
18 grants concerning film education; providing
19 priorities for allocation of tax credits;
20 providing for withdrawal of tax credit
21 eligibility; establishing queues; specifying
22 requirements concerning each queue; authorizing
23 the Office of Tourism, Trade, and Economic
24 Development to adopt rules, policies, and
25 procedures; authorizing the Department of
26 Revenue to adopt rules and conduct audits;
27 providing for revocation and forfeiture of tax
28 credits; providing liability for reimbursement
29 of certain costs and fees associated with a
30 fraudulent claim concerning a tax credit;
31 requiring an annual report to the Governor and

1 the Legislature; providing for future repeal;
2 creating s. 288.1256, F.S.; requiring the
3 Office of Film and Entertainment to use
4 specified funds to award a grant or loan
5 guarantee for films meeting specified criteria;
6 amending s. 213.053, F.S.; providing for
7 disclosure by the Department of Revenue of
8 certain information concerning the tax credits
9 granted under s. 288.1254, F.S., under certain
10 conditions; amending s. 220.02, F.S.; including
11 the corporate income tax credits enumerated in
12 s. 288.1254, F.S., in the order of application
13 of credits against certain taxes; amending s.
14 288.1252, F.S.; providing additional duties of
15 the Florida Film and Entertainment Advisory
16 Council; repealing s. 288.1255, F.S., relating
17 to funding for the entertainment industry
18 financial incentive program; providing an
19 effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Paragraph (q) is added to subsection (5) of
24 section 212.08, Florida Statutes, to read:

25 212.08 Sales, rental, use, consumption, distribution,
26 and storage tax; specified exemptions.--The sale at retail,
27 the rental, the use, the consumption, the distribution, and
28 the storage to be used or consumed in this state of the
29 following are hereby specifically exempt from the tax imposed
30 by this chapter.

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

1 (g) Entertainment industry tax credit; requirement for
2 electronic funds transfer.--

3 1. For the fiscal years beginning July 1, 2007, and
4 ending June 30, 2010, a qualified production, as defined in s.
5 288.1254(1), is eligible for tax credits against its state
6 sales and use tax liabilities as provided in s. 288.1254.

7 2. The credit shall be deducted from any sales and use
8 tax remitted by the dealer to the department by electronic
9 funds transfer and may be deducted only on a tax return
10 initiated through electronic data interchange. The dealer must
11 separately state the credit on the electronic return. The net
12 amount of tax due and payable must be remitted by electronic
13 funds transfer. If the credit for the qualified expenditure is
14 larger than the amount owed on the sales and use tax return,
15 the amount of the credit may be carried forward to a
16 succeeding reporting period. A dealer may obtain a credit only
17 using the method described in this subparagraph. A dealer may
18 not obtain a credit by applying for a refund.

19 Section 2. Section 288.1254, Florida Statutes, is
20 amended to read:

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

23 288.1254 Entertainment industry financial incentive
24 program.--

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

26 (a) "Certified production" means a qualified
27 production that has tax credits allocated to it based on its
28 estimated qualified expenditures, up to its maximum certified
29 amount of tax credits, by the Office of Tourism, Trade, and
30 Economic Development. The term excludes a production if its
31 first day of principal photography in this state occurred

1 before the production is certified by the Office of Tourism,
2 Trade, and Economic Development, unless the production spans
3 more than 1 fiscal year, was a certified production on the
4 first day of such photography, and is required to submit an
5 application for continuing the same production in the
6 subsequent year.

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

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

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

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

1 market program, a sporting event, a sports show, a gala, a
2 production that solicits funds, a home shopping program, a
3 political program, a political documentary, political
4 advertising, a gambling-related project or production, a
5 concert production, a news show, a current-events show, or a
6 current-affairs show that is local, regional, or distributed
7 only on the Internet. A production may be produced on or by
8 film, tape, or otherwise by means of a motion picture camera,
9 electronic camera or device, tape device, computer, any
10 combination of the foregoing, or any other means, method, or
11 device now used or later adopted.

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

18 1. Wages, salaries, or other compensation, including
19 amounts paid through payroll service companies, for technical
20 and production crews, directors, producers, and performers.

21 2. Expenditures for sound stages, backlots, production
22 editing, digital effects, sound recordings, sets, and set
23 construction.

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

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

27 (g) "Qualified expenditures" means production
28 expenditures incurred in this state by a qualified production
29 for:

30 1. Goods purchased or leased from, or services
31 provided by, a vendor or supplier in this state which is

1 registered with the Department of State or the Department of
2 Revenue and doing business in this state.

3 2. Payments to residents of this state in the form of
4 salary, wages, or other compensation up to a maximum of
5 \$400,000 per resident for the general production queue and the
6 independent Florida filmmaker queue and up to a maximum of
7 \$200,000 for the digital media queue.

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

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

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

28 2. That is deemed by the Office of Film and
29 Entertainment to contain obscene content as defined in s.
30 847.001(10).

31

1 (i) "Qualified production company" means a
2 corporation, limited liability company, partnership, or other
3 legal entity engaged in producing a qualified production.

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

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

11 (a) A qualified production company in this state
12 producing a qualified production may submit a program
13 application to the Office of Film and Entertainment for the
14 purpose of determining qualification for an award of the tax
15 credit. The application must be submitted no earlier than 1
16 year before the date the production is anticipated to start.
17 The applicant shall provide the office with information
18 required to determine whether the production is a qualified
19 production and to determine the qualified expenditures and
20 other information necessary for the office to determine
21 eligibility for the tax credit.

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

31

1 (c) The Office of Film and Entertainment shall
2 establish a process by which an application is accepted and
3 reviewed and by which tax credit eligibility and amount are
4 determined. The office may request assistance from a duly
5 appointed local film commission in determining qualification
6 for the tax credit and compliance with this section.

7 (d) The Office of Film and Entertainment shall review
8 the application within 10 business days after receipt. Upon
9 its determination that the application contains all the
10 information required by this subsection and meets the criteria
11 set out in this section, the office shall qualify the
12 applicant and recommend to the Office of Tourism, Trade, and
13 Economic Development that the applicant be certified for the
14 tax credit and suggest a maximum tax credit award amount.
15 Within 5 business days after receipt of the recommendation,
16 the Office of Tourism, Trade, and Economic Development shall
17 reject the recommendation or certify the maximum recommended
18 tax credit award, if any, to the applicant and to the
19 executive director of the Department of Revenue.

20 (e) The Office of Film and Entertainment shall deny an
21 application if it determines that the application is not
22 complete, the production does not meet the requirements of
23 this section, or the tax credit sought does not meet the
24 requirements of this section.

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

28 1. A certified production to submit, in a timely
29 manner after production ends and after making all of its
30 qualified expenditures, data substantiating each qualified
31

1 expenditure to an independent certified public accountant
2 licensed in this state;

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

7 3. The Office of Film and Entertainment to review the
8 accountant's submittal and report to the Office of Tourism,
9 Trade, and Economic Development the final verified amount of
10 actual qualified expenditures made by the certified
11 production;

12 4. The Office of Tourism, Trade, and Economic
13 Development to thereafter notify the executive director of the
14 Department of Revenue that the certified production has met
15 the requirements of the incentive program;

16 5. The Department of Revenue to approve the final
17 amount of the tax credit award; and

18 6. The Office of Tourism, Trade, and Economic
19 Development to award all tax credits for the previous fiscal
20 year by September 30.

21 (g) The Office of Film and Entertainment shall ensure
22 that, as a condition of receiving a tax credit under this
23 section, marketing materials promoting this state as a tourist
24 destination or film and entertainment production destination
25 are included, when appropriate, at no cost to the state, which
26 must, at a minimum, include placement in the end credits of a
27 "Filmed in Florida" logo with size and placement commensurate
28 to other logos included in the end credits or, if no logos are
29 used, the statement "Filmed in Florida using Florida's
30 Entertainment Industry Financial Incentive," or a similar
31 statement approved by the Office of Film and Entertainment

1 before such placement. The Office of Film and Entertainment
2 shall develop a "Filmed in Florida" logo and supply it for the
3 purposes specified in this paragraph.

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

7 (a) For fiscal years beginning on or after July 1,
8 2007, and ending June 30, 2010, a qualified production is
9 eligible for a tax credit against taxes due under chapter 220
10 or taxes collected or accrued under chapter 212.

11 (b) The total aggregate amount of the tax credits
12 allowed under this section in any state fiscal year is a
13 minimum of \$75 million.

14 (c) A certified production company receiving a tax
15 credit award under this section shall, at the time the credit
16 is awarded by the Office of Tourism, Trade, and Economic
17 Development after production is completed and all requirements
18 to receive a credit award have been met, make an irrevocable
19 election to apply the credit against taxes due under chapter
20 220, against taxes collected or accrued under chapter 212, or
21 against a stated combination of the two taxes. The election is
22 binding upon any distributee, successor, transferee, or
23 purchaser.

24 (d) If the certified production company cannot use the
25 entire tax credit in the taxable year or reporting period in
26 which the credit is awarded because of insufficient tax
27 liability on the part of the certified production, any excess
28 amount may be carried forward to a succeeding taxable year or
29 reporting period. A tax credit awarded under this section and
30 applied against taxes imposed under chapter 212 or chapter 220
31 may be carried forward for a maximum of 5 taxable years after

1 the taxable year in which the credit was awarded, after which
2 period the credit expires and may not be used.

3 (e) A certified production company that files a
4 Florida consolidated return as a member of an affiliated group
5 under s. 220.131(1) may be allowed the credit on a
6 consolidated return basis up to the amount of the tax imposed
7 upon the consolidated group under chapter 220.

8 (f) A qualified production company that is not a
9 corporation as defined in s. 220.03 may elect to distribute
10 tax credits awarded under this section to its partners or
11 members in proportion to their respective distributive income
12 or loss in the taxable fiscal year in which the tax credits
13 were awarded.

14 (g) Tax credits available under this section to a
15 certified production company may succeed to a surviving or
16 acquiring entity subject to the same conditions and
17 limitations as this section would apply to the transferring
18 company; however, the surviving or acquiring entity may not
19 transfer the credits again.

20 (5) TRANSFER OF TAX CREDITS.--

21 (a) After application to the Office of Film and
22 Entertainment and approval by the Office of Tourism, Trade,
23 and Economic Development, a certified production company may
24 elect to transfer, in whole or in part, any unused credit
25 amount granted under this section. An election to transfer any
26 unused tax credit amount under chapter 212 must be made at the
27 time the tax credit is awarded. An election to transfer any
28 unused tax credit amount under chapter 220 must be made no
29 later than 5 years after the date the credit was awarded,
30 after which period the credit expires and may not be used. The
31

1 Office of Tourism, Trade, and Economic Development shall
2 notify the Department of Revenue of the election and transfer.

3 (b) A certified production company that has elected to
4 apply a credit amount against taxes:

5 1. Remitted under chapter 212 may make a one-time
6 transfer of a tax credit in that amount to one transferee.

7 2. Due under chapter 220 is permitted a one-time
8 transfer of that amount to no more than four transferees, and
9 such transfers must occur in the same taxable year.

10 (c) The transfer or purchase of any amount of the tax
11 credit may not be exchanged for any less than 75 percent of
12 the credit's value.

13 (d) The transferee is subject to the same rights and
14 limitations as the certified production company awarded the
15 tax credit, except that the transferee may not sell or
16 otherwise transfer the tax credit.

17 (e) A company that has entered into a contract to
18 transfer a credit under this section shall provide the Office
19 of Film and Entertainment with written notice of the transfer
20 on a form approved by the Office of Tourism, Trade, and
21 Economic Development and signed by the certified production
22 and the transferee. The notice must be received by the office
23 no more than 5 business days before the company transfers the
24 credit and must describe the terms of the transfer and the
25 intention of any purchaser to allocate payment for the film
26 education program under paragraph (f) at the time the transfer
27 is made.

28 (f) Fees collected under this paragraph are subject to
29 specific appropriation by the Legislature. Each purchaser of a
30 tax credit transferred under this subsection, except when the
31 purchaser is an investor, investment company, or a company

1 that is affiliated with the certified production, shall pay a
2 fee equal to 5 percent of the total amount paid for the tax
3 credit into the Grants and Donations Trust Fund administered
4 by the Office of Tourism, Trade, and Economic Development for
5 film education programs. Fifty percent of the fees collected
6 under this paragraph must be made available to the Office of
7 Film and Entertainment for the purpose described in s.
8 288.1256. The remaining 50 percent of the fees collected under
9 this paragraph must be provided to film and digital media
10 programs at institutes of higher education in this state which
11 programs are approved by the Office of Film and Entertainment.
12 A purchaser who pays fees under this paragraph may choose the
13 approved film or digital media program to receive the funds. A
14 program receiving funds under this paragraph shall use the
15 funds to provide a grant toward production costs for a
16 student-made production that does not contain obscene content
17 as defined in s. 847.001(10).

18 (6) PRIORITY FOR ALLOCATION OF TAX CREDITS; WITHDRAWAL
19 OF ELIGIBILITY; QUEUES.--

20 (a) The priority of a qualified production for a tax
21 credit award must be determined on a first-come, first-served
22 basis within its appropriate queue. Each qualified production
23 must be placed into the appropriate queue and is subject to
24 the requirements of that queue.

25 (b) Each qualified production or certified production
26 shall continue on a reasonable schedule, which means beginning
27 principal photography in this state no more than 45 calendar
28 days before or after the date for such commencement which was
29 provided in the program's application under subsection (3).
30 The Office of Tourism, Trade, and Economic Development shall
31 withdraw the eligibility of a qualified production or a

1 certified production for a tax credit under this section if
2 any such production does not continue on a reasonable
3 schedule. The office shall recertify the tax credits within
4 the queue of any production from which eligibility is
5 withdrawn under this paragraph.

6 (c) At least 85 percent of all tax credits available
7 under this section in any state fiscal year must be dedicated
8 to the general production queue. Within this queue:

9 1. A qualified production, excluding commercials,
10 music videos, and digital media projects, which demonstrates a
11 minimum of \$625,000 in qualified expenditures is eligible for
12 tax credits equal to 15 percent of its actual qualified
13 expenditures up to a maximum of \$8 million. A qualified
14 production spanning multiple state fiscal years may combine
15 qualified expenditures from such fiscal years to satisfy the
16 threshold.

17 2. A qualified production company that produces
18 national, international, or regional commercials, or music
19 videos may be eligible for a tax credit award if it
20 demonstrates a minimum of \$100,000 in qualified expenditures
21 per national, international, or regional commercial or music
22 video and exceeds a combined threshold of \$500,000 after
23 combining actual qualified expenditures from qualified
24 commercials and music videos during a single state fiscal
25 year. After a qualified production company that produces
26 commercials, music videos, or both reaches the threshold of
27 \$500,000, it is eligible to apply for certification for a tax
28 credit award. The maximum tax credit award is an amount that
29 is equal to the greater of 15 percent of its actual qualified
30 expenditures or \$500,000.

1 3. An off-season certified production is eligible for
2 an additional 5-percent tax credit on actual qualified
3 expenditures. An off-season certified production that does not
4 complete 75 percent of principal photography due to disruption
5 caused by a hurricane or tropical storm may not be
6 disqualified from eligibility for the additional 5-percent
7 credit as a result of the disruption.

8 4. All qualified expenditures of a certified
9 production that spans multiple state fiscal years must be
10 certified for the fiscal year in which the making of the last
11 actual qualified expenditure is anticipated.

12 5. Each qualified production shall make a good faith
13 effort to the existing providers of infrastructure or
14 equipment in this state, including providers of camera gear,
15 grip and lighting equipment, vehicle providers, and
16 postproduction services when available in-state.

17 6. A qualified high-impact television series must be
18 given first position in this queue for tax credits not yet
19 certified.

20 (d) Five percent of all tax credits available under
21 this section in any state fiscal year, but not more than \$2
22 million in any state fiscal year, must be dedicated to the
23 independent Florida filmmaker queue. An independent Florida
24 film that meets the criteria of this queue and demonstrates a
25 minimum of \$100,000, but not more than \$625,000, in total
26 qualified expenditures is eligible for tax credits equal to 15
27 percent of its actual qualified expenditures. Within this
28 queue, all qualified expenditures of a certified production
29 that spans multiple state fiscal years must be certified for
30 the fiscal year in which the making of the last actual
31

1 qualified expenditure is anticipated. To qualify for this
2 queue, a qualified production must:
3 1. Be planned as a feature film or documentary of no
4 less than 70 minutes in length.
5 2. Provide evidence of 50 percent of the financing for
6 its total budget in an escrow account or other form dedicated
7 to the production.
8 3. Do all major postproduction in this state.
9 4. Employ Florida workers in at least six of the
10 following key positions: writer, director, producer, director
11 of photography, star or one of the lead actors, unit
12 production manager, editor, or production designer. As used in
13 this subparagraph, the term "Florida worker" means a person
14 who has been a resident of this state for at least 1 year
15 before a production's application under subsection (3) was
16 submitted or a person who graduated from a film school,
17 college, university, or community college in this state no
18 more than 5 years before such submittal or who is enrolled
19 full-time in such a school, college, or university.
20 (e) Ten percent of all tax credits available under
21 this section in any state fiscal year shall be dedicated to
22 the digital media projects queue. A qualified production that
23 is a digital media project that demonstrates a minimum of
24 \$300,000 in total qualified expenditures is eligible for a tax
25 credit equal to 10 percent of its actual qualified
26 expenditures up to a maximum of \$1 million. As used in this
27 paragraph, the term "qualified expenditures" means the wages
28 or salaries paid to a resident of this state for working on a
29 single qualified digital media project, up to a maximum of
30 \$200,000 in wages or salaries paid per resident. A qualified
31 production company producing digital media projects may not

1 qualify for more than three projects in any 1 fiscal year.
2 Projects that extend beyond a fiscal year must reapply each
3 fiscal year in order to be eligible for a tax credit award for
4 that year.

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

6 (a) The Office of Tourism, Trade, and Economic
7 Development may adopt rules under ss. 120.536(1) and 120.54
8 and develop policies and procedures to administer this
9 section, including, but not limited to, rules specifying
10 requirements for the application and approval process, records
11 required for substantiation for tax credits, procedures for
12 making the election in paragraph (4)(c), the manner and form
13 of documentation required to claim tax credits awarded or
14 transferred under this section, determination of,
15 qualification for, and certification for tax credits,
16 implementation of the Florida Graduate Film Investment Fund in
17 s. 288.1256, and marketing requirements for tax credit
18 recipients.

19 (b) The Department of Revenue may adopt rules under
20 ss. 120.536(1) and 120.54 to administer this section,
21 including rules governing the examination and audit procedures
22 required to administer this section and the manner and form of
23 documentation required to claim tax credits awarded or
24 transferred under this section.

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

27 (a) The Department of Revenue may conduct examinations
28 and audits as provided in s. 213.34 to verify that tax credits
29 under this section have been received, transferred, and
30 applied according to the requirements of this section. This
31 information is subject to the confidentiality requirements of

1 chapter 213. If the Department of Revenue determines that tax
2 credits have not been received, transferred, or applied as
3 required by this section, it may, in addition to the remedies
4 provided in this subsection, pursue recovery of such funds
5 under laws and rules governing the assessment of taxes.

6 (b) The Office of Tourism, Trade, and Economic
7 Development may revoke or modify any written decision
8 qualifying, certifying, or otherwise granting eligibility for
9 tax credits under this section if it is discovered that the
10 applicant submitted any false statement, representation, or
11 certification in any application, record, report, plan, or
12 other document filed in an attempt to receive tax credits
13 under this section. The Office of Film and Entertainment shall
14 immediately notify the Department of Revenue of any revoked or
15 modified orders affecting previously granted tax credits.
16 Additionally, the applicant shall notify the Department of
17 Revenue of any change in a claim it has filed for a tax credit
18 under this section.

19 (c) A determination by the Department of Revenue, as a
20 result of an audit or examination by the Department of Revenue
21 or from information received from the Office of Film and
22 Entertainment, that an applicant received tax credits under
23 this section to which the applicant was not entitled is
24 grounds for forfeiture of previously claimed and received tax
25 credits. The applicant shall return any forfeited tax credits
26 to the Department of Revenue, and such funds shall be
27 deposited into the General Revenue Fund. Tax credits purchased
28 in good faith are not subject to forfeiture, unless the
29 transferee submitted fraudulent information in the purchase or
30 if the transferee failed to meet the requirements in
31 subsection (5).

1 (d) Any applicant who submits information under this
2 section which includes fraudulent information is liable for
3 reimbursement of the reasonable costs and fees associated with
4 the review, processing, investigation, and prosecution of the
5 fraudulent claim. An applicant that obtains a credit payment
6 under this section through a claim that is fraudulent is
7 liable for reimbursement of the credit amount claimed plus a
8 penalty in an amount double the credit amount claimed and
9 reimbursement of reasonable costs, which penalty is in
10 addition to any criminal penalty to which the applicant is
11 liable for the same acts. The applicant is also liable for
12 costs and fees incurred by the state in investigating and
13 prosecuting the fraudulent claim.

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

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

23 Section 3. Section 288.1256, Florida Statutes, is
24 created to read:

25 288.1256 Florida Graduate Film Investment Fund.--The
26 Office of Film and Entertainment shall create and administer a
27 program, using moneys deposited into the Grants and Donations
28 Trust Fund under s. 288.1254(5)(f), to award a grant or a loan
29 guarantee for films that are:

30 (1) Written, produced, and directed by residents of
31 this state who are graduates of a film program at an

1 institution of higher education in this state which is
2 approved by the Office of Film and Entertainment;

3 (2) Determined by the Commissioner of Film and
4 Entertainment, with the advice of the Florida Film and
5 Entertainment Advisory Council, to be family friendly based on
6 the review of the script and a personal interview with the
7 director. A family friendly production has cross-generational
8 appeal; is suitable for viewing by children age 5 and older;
9 is appropriate in theme, content, and language for a broad
10 family audience; embody a responsible resolution of issues;
11 and does not exhibit any act of smoking, sex, nudity, or
12 vulgar or profane language; and

13 (3) Determined by the Office of Film and Entertainment
14 as not containing obscene content as defined by s.
15 847.001(10).

16 Section 4. Paragraph (z) is added to subsection (8) of
17 section 213.053, Florida Statutes, to read:

18 213.053 Confidentiality and information sharing.--

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

21 (z) Information relative to tax credits taken under s.
22 288.1254 to the Office of Film and Entertainment and the
23 Office of Tourism, Trade, and Economic Development.

24
25 Disclosure of information under this subsection shall be
26 pursuant to a written agreement between the executive director
27 and the agency. Such agencies, governmental or
28 nongovernmental, shall be bound by the same requirements of
29 confidentiality as the Department of Revenue. Breach of
30 confidentiality is a misdemeanor of the first degree,
31 punishable as provided by s. 775.082 or s. 775.083.

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

3 220.02 Legislative intent.--

4 (8) It is the intent of the Legislature that credits
5 against either the corporate income tax or the franchise tax
6 be applied in the following order: those enumerated in s.
7 631.828, those enumerated in s. 220.191, those enumerated in
8 s. 220.181, those enumerated in s. 220.183, those enumerated
9 in s. 220.182, those enumerated in s. 220.1895, those
10 enumerated in s. 221.02, those enumerated in s. 220.184, those
11 enumerated in s. 220.186, those enumerated in s. 220.1845,
12 those enumerated in s. 220.19, those enumerated in s. 220.185,
13 those enumerated in s. 220.187, those enumerated in s.
14 220.192, ~~and~~ those enumerated in s. 220.193, and those
15 enumerated in s. 288.1254.

16 Section 6. Paragraph (j) is added to subsection (5) of
17 section 288.1252, Florida Statutes, to read:

18 288.1252 Florida Film and Entertainment Advisory
19 Council; creation; purpose; membership; powers and duties.--

20 (5) POWERS AND DUTIES.--The Florida Film and
21 Entertainment Advisory Council shall have all the powers
22 necessary or convenient to carry out and effectuate the
23 purposes and provisions of this act, including, but not
24 limited to, the power to:

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

27 Section 7. Section 288.1255, Florida Statutes, is
28 repealed.

29 Section 8. This act shall take effect July 1, 2007.
30
31

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 96

4 The Committee Substitute for Senate Bill 96 is similar to the
5 bill as filed, with the following changes:

- 6 - Provides a minimum of \$75 million in tax credits each
7 fiscal year, beginning 7/1/07 through 7/1/10;
- 8 - Provides that the tax credits are transferable, can be
9 sold at no less than 75 percent of their face value, and
10 may be carried forward for a maximum of 5 years;
- 11 - Requires the Office of Film & Entertainment, the Office
12 of Tourism, Trade, & Economic Development (OTTED), and
13 the Department of Revenue to develop criteria and
14 procedures governing the awarding, claiming,
15 transferring, and tracking of credits;
- 16 - Creates three queues or categories of production: a
17 General Production Queue that includes TV, film,
18 commercials, and music videos; an Independent Florida
19 Filmmaker Queue; and a Digital Media Project Queue. Each
20 queue has specific guidelines on the amount of tax
21 credits available and the criteria for obtaining them;
- 22 - Provides that general productions are eligible for a 5
23 percent additional tax credit if they film during
24 Florida's hurricane season, June-November; and
- 25 - Requires recipients of transferred tax credits to donate
26 5 percent of the total amount they paid for the tax
27 credits to OTTED to fund newly created film education
28 programs. One-half of these funds will be distributed as
29 grants and loan guarantees to films that are written,
30 produced, and directed by Florida residents who are
31 graduates of approved Florida film programs and are
determined to be "family-friendly" based on the review of
the script and personal interview of the director. The
other one-half of funds will be awarded as grants by OFE
to assist film students attending Florida institutions
with student-made production.