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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2010	.	
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	.	

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

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



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13 that has tax credits allocated to it by the Office of Tourism,
14 Trade, and Economic Development based on the production's
15 estimated qualified expenditures, up to the production's maximum
16 certified amount of tax credits, by the Office of Tourism,
17 Trade, and Economic Development. The term does not include a
18 production if its first day of principal photography or project
19 start date in this state occurs before the production is
20 certified by the Office of Tourism, Trade, and Economic
21 Development, unless the production spans more than one fiscal
22 year, was a certified production on its first day of principal
23 photography or project start date in this state, and submits an
24 application for continuing the same production for the
25 subsequent fiscal year.

26 (b) "Digital media project" means a production of
27 interactive entertainment that is produced for distribution in
28 commercial or educational markets. The term includes a video
29 game or production intended for Internet or wireless
30 distribution. The term does not include a production deemed by
31 the Office of Film and Entertainment to contain obscene content
32 as defined in s. 847.001(10).

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

37 (d) "Off-season certified production" means a feature film,
38 independent film, or television series or pilot which films 75
39 percent or more of its principal photography days from June 1
40 through November 30.

41 (e) "Principal photography" means the filming of major or



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42 significant components of the qualified production which involve
43 lead actors.

44 (f) "Production" means a theatrical or direct-to-video
45 motion picture; a made-for-television motion picture; visual
46 effects or digital animation sequences produced in conjunction
47 with a motion picture; a commercial; a music video; an
48 industrial or educational film; an infomercial; a documentary
49 film; a television pilot program; a presentation for a
50 television pilot program; a television series, including, but
51 not limited to, a drama, a reality show, a comedy, a soap opera,
52 a telenovela, a game show, an awards show, or a miniseries
53 production; or a digital media project by the entertainment
54 industry. One season of a television series is considered one
55 production. The term does not include a weather or market
56 program; a sporting event; a sports show; a gala; a production
57 that solicits funds; a home shopping program; a political
58 program; a political documentary; political advertising; a
59 gambling-related project or production; a concert production; or
60 a local, regional, or Internet-distributed-only news show,
61 current-events show, pornographic production, or current-affairs
62 show. A production may be produced on or by film, tape, or
63 otherwise by means of a motion picture camera; electronic camera
64 or device; tape device; computer; any combination of the
65 foregoing; or any other means, method, or device now used or
66 later adopted.

67 (g) "Production expenditures" means the costs of tangible
68 and intangible property used for, and services performed
69 primarily and customarily in, production, including
70 preproduction and postproduction, but excluding costs for



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71 development, marketing, and distribution. The term includes, but
72 is not limited to:

73 1. Wages, salaries, or other compensation paid to legal
74 residents of this state, including amounts paid through payroll
75 service companies, for technical and production crews,
76 directors, producers, and performers.

77 2. Expenditures for sound stages, backlots, production
78 editing, digital effects, sound recordings, sets, and set
79 construction.

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

82 4. Up to \$300,000 of the costs of newly purchased computer
83 software and hardware unique to the project, including servers,
84 data processing, and visualization technologies, which are
85 located in and used exclusively in the state for the production
86 of digital media.

87 5. Expenditures for meals, travel, and accommodations.

88 (h) "Qualified expenditures" means production expenditures
89 incurred in this state by a qualified production for:

90 1. Goods purchased or leased from, or services, including,
91 but not limited to, insurance costs and bonding, payroll
92 services, and legal fees, which are provided by, a vendor or
93 supplier in this state that is registered with the Department of
94 State or the Department of Revenue and has a physical location
95 in this state at which one or more legal Florida residents are
96 employed.

97 2. Payments to legal residents of this state in the form of
98 salary, wages, or other compensation up to a maximum of \$650,000
99 per resident unless otherwise specified in subsection (4).



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100
101 For a qualified production involving an event, such as an awards
102 show, the term does not include expenditures solely associated
103 with the event itself and not directly required by the
104 production. The term does not include expenditures incurred
105 before certification, with the exception of those incurred for a
106 commercial, a music video, or the pickup of additional episodes
107 of a high-impact television series within a single season.

108 (i) "Qualified production" means a production in this state
109 meeting the requirements of this section. The term does not
110 include a production:

111 1. In which, for the first 2 years of the incentive
112 program, less than 50 percent, and thereafter, less than 60
113 percent, of the positions that make up its production cast and
114 below-the-line production crew, or, in the case of digital media
115 projects, less than 75 percent of such positions, are filled by
116 legal residents of this state, whose residency is demonstrated
117 by a valid Florida driver's license or other state-issued
118 identification confirming residency, or students enrolled full-
119 time in a film-and-entertainment-related course of study at an
120 institution of higher education in this state; or

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

123 (j) "Qualified production company" means a corporation,
124 limited liability company, partnership, or other legal entity
125 engaged in one or more productions in this state.

126 (2) CREATION AND PURPOSE OF PROGRAM.—The entertainment
127 industry financial incentive program is created within the
128 Office of Film and Entertainment. The purpose of this program is



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129 to encourage the use of this state as a site for filming, for
130 the digital production of films, and to develop and sustain the
131 workforce and infrastructure for film, digital media, and
132 entertainment production.

133 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.—

134 (a) Program application.—A qualified production company
135 producing a qualified production in this state may submit a
136 program application to the Office of Film and Entertainment for
137 the purpose of determining qualification for an award of tax
138 credits authorized by this section no earlier than 180 days
139 before the first day of principal photography or project start
140 date in this state. The applicant shall provide the Office of
141 Film and Entertainment with information required to determine
142 whether the production is a qualified production and to
143 determine the qualified expenditures and other information
144 necessary for the office to determine eligibility for the tax
145 credit.

146 (b) Required documentation.—The Office of Film and
147 Entertainment shall develop an application form for qualifying
148 an applicant as a qualified production. The form must include,
149 but need not be limited to, production-related information
150 concerning employment of residents in this state, a detailed
151 budget of planned qualified expenditures, and the applicant's
152 signed affirmation that the information on the form has been
153 verified and is correct. The Office of Film and Entertainment
154 and local film commissions shall distribute the form.

155 (c) Application process.—The Office of Film and
156 Entertainment shall establish a process by which an application
157 is accepted and reviewed and by which tax credit eligibility and



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158 award amount are determined. The Office of Film and
159 Entertainment may request assistance from a duly appointed local
160 film commission in determining compliance with this section.

161 (d) Certification.—The Office of Film and Entertainment
162 shall review the application within 15 business days after
163 receipt. Upon its determination that the application contains
164 all the information required by this subsection and meets the
165 criteria set out in this section, the Office of Film and
166 Entertainment shall qualify the applicant and recommend to the
167 Office of Tourism, Trade, and Economic Development that the
168 applicant be certified for the maximum tax credit award amount.
169 Within 5 business days after receipt of the recommendation, the
170 Office of Tourism, Trade, and Economic Development shall reject
171 the recommendation or certify the maximum recommended tax credit
172 award, if any, to the applicant and to the executive director of
173 the Department of Revenue.

174 (e) Grounds for denial.—The Office of Film and
175 Entertainment shall deny an application if it determines that
176 the application is not complete or the production or application
177 does not meet the requirements of this section.

178 (f) Verification of actual qualified expenditures.—

179 1. The Office of Film and Entertainment shall develop a
180 process to verify the actual qualified expenditures of a
181 certified production. The process must require:

182 a. A certified production to submit, in a timely manner
183 after production ends in this state and after making all of its
184 qualified expenditures in this state, data substantiating each
185 qualified expenditure to an independent certified public
186 accountant licensed in this state;



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187 b. Such accountant to conduct a compliance audit, at the
188 certified production's expense, to substantiate each qualified
189 expenditure and submit the results as a report, along with the
190 required substantiating data, to the Office of Film and
191 Entertainment; and

192 c. The Office of Film and Entertainment to review the
193 accountant's submittal and report to the Office of Tourism,
194 Trade, and Economic Development the final verified amount of
195 actual qualified expenditures made by the certified production.

196 2. The Office of Tourism, Trade, and Economic Development
197 shall determine and approve the final tax credit award amount to
198 each certified applicant based on the final verified amount of
199 actual qualified expenditures and shall notify the executive
200 director of the Department of Revenue in writing that the
201 certified production has met the requirements of the incentive
202 program and of the final amount of the tax credit award. The
203 final tax credit award amount may not exceed the maximum tax
204 credit award amount certified under paragraph (d).

205 (g) Promoting Florida.—The Office of Film and Entertainment
206 shall ensure that, as a condition of receiving a tax credit
207 under this section, marketing materials promoting this state as
208 a tourist destination or film and entertainment production
209 destination are included, when appropriate, at no cost to the
210 state, which must, at a minimum, include placement of a "Filmed
211 in Florida" or "Produced in Florida" logo in the end credits.
212 The placement of a "Filmed in Florida" or "Produced in Florida"
213 logo on all packaging material and hard media is also required,
214 unless such placement is prohibited by licensing or other
215 contractual obligations. The size and placement of such logo



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216 shall be commensurate to other logos used. If no logos are used,
217 the statement "Filmed in Florida using Florida's Entertainment
218 Industry Financial Incentive," or a similar statement approved
219 by the Office of Film and Entertainment, shall be used. The
220 Office of Film and Entertainment shall provide a logo and supply
221 it for the purposes specified in this paragraph. A 30-second
222 "Visit Florida" promotional video must also be included on all
223 optical disc formats of a film, unless such placement is
224 prohibited by licensing or other contractual obligations. The
225 30-second promotional video shall be approved and provided by
226 the Florida Tourism Industry Marketing Corporation in
227 consultation with the Commissioner of Film and Entertainment.

228 (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;
229 ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;
230 PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND
231 ACQUISITIONS.-

232 (a) Priority for tax credit award.-The priority of a
233 qualified production for tax credit awards must be determined on
234 a first-come, first-served basis within its appropriate queue.
235 Each qualified production must be placed into the appropriate
236 queue and is subject to the requirements of that queue.

237 (b) Tax credit eligibility.-

238 1. General production queue.-Ninety-four percent of tax
239 credits authorized in any state fiscal year must be dedicated to
240 the general production queue. The general production queue
241 consists of all qualified productions other than those eligible
242 for the commercial and music video queue or the independent and
243 emerging media production queue. A qualified production that
244 demonstrates a minimum of \$625,000 in qualified expenditures is



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245 eligible for tax credits equal to 20 percent of its actual
246 qualified expenditures, up to a maximum of \$8 million. A
247 qualified production that incurs qualified expenditures during
248 multiple state fiscal years may combine those expenditures to
249 satisfy the \$625,000 minimum threshold.

250 a. An off-season certified production that is a feature
251 film, independent film, or television series or pilot is
252 eligible for an additional 5 percent tax credit on actual
253 qualified expenditures. An off-season certified production that
254 does not complete 75 percent of principal photography due to a
255 disruption caused by a hurricane or tropical storm may not be
256 disqualified from eligibility for the additional 5-percent
257 credit as a result of the disruption.

258 b. A qualified high-impact television series shall be
259 allowed first position in this queue for tax credit awards not
260 yet certified.

261 2. Commercial and music video queue.—Three percent of tax
262 credits authorized in any state fiscal year must be dedicated to
263 the commercial and music video queue. A qualified production
264 company that produces national or regional commercials or music
265 videos may be eligible for a tax credit award if it demonstrates
266 a minimum of \$100,000 in qualified expenditures per national or
267 regional commercial or music video and exceeds a combined
268 threshold of \$500,000 after combining actual qualified
269 expenditures from qualified commercials and music videos during
270 a single state fiscal year. After a qualified production company
271 that produces commercials, music videos, or both reaches the
272 threshold of \$500,000, it is eligible to apply for certification
273 for a tax credit award. The maximum credit award shall be equal



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274 to 20 percent of its actual qualified expenditures up to a
275 maximum of \$500,000. If there is a surplus at the end of a
276 fiscal year after the Office of Film and Entertainment certifies
277 and determines the tax credits for all qualified commercial and
278 video projects, such surplus tax credits shall be carried
279 forward to the following fiscal year and be available to any
280 eligible qualified productions under the general production
281 queue.

282 3. Independent and emerging media production queue.—Three
283 percent of tax credits authorized in any state fiscal year must
284 be dedicated to the independent and emerging media production
285 queue. This queue is intended to encourage Florida independent
286 film and emerging media production as described in paragraph
287 (1) (f). Any qualified production, excluding commercials,
288 infomercials, or music videos, which demonstrates at least
289 \$100,000, but not more than \$625,000, in total qualified
290 expenditures is eligible for tax credits equal to 20 percent of
291 its actual qualified expenditures. If a surplus exists at the
292 end of a fiscal year after the Office of Film and Entertainment
293 certifies and determines the tax credits for all qualified
294 independent and emerging media production projects, such surplus
295 tax credits shall be carried forward to the following fiscal
296 year and be available to any eligible qualified productions
297 under the general production queue.

298 4. Family friendly productions.—A certified production
299 determined by the Commissioner of Film and Entertainment, with
300 the advice of the Florida Film and Entertainment Advisory
301 Council, to be family friendly based on the review of the script
302 and an interview with the director is eligible for an additional



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303 reimbursement equal to 5 percent of its actual qualified
304 expenditures. Family friendly productions are those that have
305 cross-generational appeal; would be considered suitable for
306 viewing by children age 5 and older; are appropriate in theme,
307 content, and language for a broad family audience; embody a
308 responsible resolution of issues; and do not exhibit any act of
309 smoking, sex, nudity, or vulgar or profane language.

310 (c) *Withdrawal of tax credit eligibility.*—A qualified or
311 certified production must continue on a reasonable schedule,
312 which includes beginning principal photography or the production
313 project in this state no more than 45 calendar days before or
314 after the principal photography or project start date provided
315 in the production's program application. The Office of Tourism,
316 Trade, and Economic Development shall withdraw the eligibility
317 of a qualified or certified production that does not continue on
318 a reasonable schedule.

319 (d) *Election and distribution of tax credits.*—

320 1. A certified production company receiving a tax credit
321 award under this section shall, at the time the credit is
322 awarded by the Office of Tourism, Trade, and Economic
323 Development after production is completed and all requirements
324 to receive a credit award have been met, make an irrevocable
325 election to apply the credit against taxes due under chapter
326 220, against state taxes collected or accrued under chapter 212,
327 or against a stated combination of the two taxes. The election
328 is binding upon any distributee, successor, transferee, or
329 purchaser. The Office of Tourism, Trade, and Economic
330 Development shall notify the Department of Revenue of any
331 election made pursuant to this paragraph.



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332 2. For the fiscal years beginning July 1, 2010, and ending
333 June 30, 2015, a qualified production company is eligible for
334 tax credits against its sales and use tax liabilities and
335 corporate income tax liabilities as provided in this section.
336 However, tax credits awarded under this section may not be
337 claimed against sales and use tax liabilities or corporate
338 income tax liabilities for any tax period beginning before July
339 1, 2011, regardless of when the credits are applied for or
340 awarded.

341 (e) Tax credit carryforward.—If the certified production
342 company cannot use the entire tax credit in the taxable year or
343 reporting period in which the credit is awarded, any excess
344 amount may be carried forward to a succeeding taxable year or
345 reporting period. A tax credit applied against taxes imposed
346 under chapter 212 may be carried forward for a maximum of 5
347 years after the date the credit is awarded. A tax credit applied
348 against taxes imposed under chapter 220 may be carried forward
349 for a maximum of 5 years after the date the credit is awarded,
350 after which the credit expires and may not be used.

351 (f) Consolidated returns.—A certified production company
352 that files a Florida consolidated return as a member of an
353 affiliated group under s. 220.131(1) may be allowed the credit
354 on a consolidated return basis up to the amount of the tax
355 imposed upon the consolidated group under chapter 220.

356 (g) Partnership and noncorporate distributions.—A qualified
357 production company that is not a corporation as defined in s.
358 220.03 may elect to distribute tax credits awarded under this
359 section to its partners or members in proportion to their
360 respective distributive income or loss in the taxable fiscal



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361 year in which the tax credits were awarded.

362 (h) Mergers or acquisitions.—Tax credits available under
363 this section to a certified production company may succeed to a
364 surviving or acquiring entity subject to the same conditions and
365 limitations as described in this section; however, they may not
366 be transferred again by the surviving or acquiring entity.

367 (5) TRANSFER OF TAX CREDITS.—

368 (a) Authorization.—Upon application to the Office of Film
369 and Entertainment and approval by the Office of Tourism, Trade,
370 and Economic Development, a certified production company, or a
371 partner or member that has received a distribution under
372 paragraph (4) (g), may elect to transfer, in whole or in part,
373 any unused credit amount granted under this section. An election
374 to transfer any unused tax credit amount under chapter 212 or
375 chapter 220 must be made no later than 5 years after the date
376 the credit is awarded, after which period the credit expires and
377 may not be used. The Office of Tourism, Trade, and Economic
378 Development shall notify the Department of Revenue of the
379 election and transfer.

380 (b) Number of transfers permitted.—A certified production
381 company that elects to apply a credit amount against taxes
382 remitted under chapter 212 is permitted a one-time transfer of
383 unused credits to one transferee. A certified production company
384 that elects to apply a credit amount against taxes due under
385 chapter 220 is permitted a one-time transfer of unused credits
386 to no more than four transferees, and such transfers must occur
387 in the same taxable year.

388 (c) Transferee rights and limitations.—The transferee is
389 subject to the same rights and limitations as the certified



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390 production company awarded the tax credit, except that the
391 transferee may not sell or otherwise transfer the tax credit.

392 (d) Rulemaking.—The Department of Revenue may adopt rules
393 to administer this subsection, as provided in subsection (7).

394 (6) ANNUAL ALLOCATION OF TAX CREDITS.—

395 (a) The aggregate amount of the tax credits that may be
396 certified pursuant to paragraph (3) (d) may not exceed \$75
397 million per fiscal year.

398 (b) Any portion of the maximum amount of tax credits
399 established per fiscal year in paragraph (a) that is not
400 certified as of the end of a fiscal year shall be carried
401 forward and made available for certification during the
402 following two fiscal years in addition to the amounts available
403 for certification under paragraph (a) for those fiscal years.

404 (c) Upon approval of the final tax credit award amount
405 pursuant to subparagraph (3) (f)2., an amount equal to the
406 difference between the maximum tax credit award amount
407 previously certified under paragraph (3) (d) and the approved
408 final tax credit award amount shall immediately be available for
409 recertification during the current and following fiscal years in
410 addition to the amounts available for certification under
411 paragraph (a) for those fiscal years.

412 (d) Notwithstanding paragraph (a), if, during a fiscal
413 year, the total amount of credits applied for, pursuant to
414 paragraph (3) (a), exceeds the amount of credits available for
415 certification in that fiscal year, such excess shall be treated
416 as having been applied for on the first day of the next fiscal
417 year in which credits remain available for certification.

418 (7) RULES, POLICIES, AND PROCEDURES.—



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419 (a) The Office of Tourism, Trade, and Economic Development
420 may adopt rules pursuant to ss. 120.536(1) and 120.54 and
421 develop policies and procedures to implement and administer this
422 section, including, but not limited to, rules specifying
423 requirements for the application and approval process, records
424 required for substantiation for tax credits, procedures for
425 making the election in paragraph (4) (d), the manner and form of
426 documentation required to claim tax credits awarded or
427 transferred under this section, and marketing requirements for
428 tax credit recipients.

429 (b) The Department of Revenue may adopt rules pursuant to
430 ss. 120.536(1) and 120.54 to administer this section, including
431 rules governing the examination and audit procedures required to
432 administer this section and the manner and form of documentation
433 required to claim tax credits awarded or transferred under this
434 section.

435 (8) AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX
436 CREDITS; FRAUDULENT CLAIMS.—

437 (a) Audit authority.—The Department of Revenue may conduct
438 examinations and audits as provided in s. 213.34 to verify that
439 tax credits under this section are received, transferred, and
440 applied according to the requirements of this section. If the
441 Department of Revenue determines that tax credits are not
442 received, transferred, or applied as required by this section,
443 it may, in addition to the remedies provided in this subsection,
444 pursue recovery of such funds pursuant to the laws and rules
445 governing the assessment of taxes.

446 (b) Revocation of tax credits.—The Office of Tourism,
447 Trade, and Economic Development may revoke or modify any written



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448 decision qualifying, certifying, or otherwise granting
449 eligibility for tax credits under this section if it is
450 discovered that the tax credit applicant submitted any false
451 statement, representation, or certification in any application,
452 record, report, plan, or other document filed in an attempt to
453 receive tax credits under this section. The Office of Tourism,
454 Trade, and Economic Development shall immediately notify the
455 Department of Revenue of any revoked or modified orders
456 affecting previously granted tax credits. Additionally, the
457 applicant must notify the Department of Revenue of any change in
458 its tax credit claimed.

459 (c) Forfeiture of tax credits.—A determination by the
460 Department of Revenue, as a result of an audit pursuant to
461 paragraph (a) or from information received from the Office of
462 Film and Entertainment, that an applicant received tax credits
463 pursuant to this section to which the applicant was not entitled
464 is grounds for forfeiture of previously claimed and received tax
465 credits. The applicant is responsible for returning forfeited
466 tax credits to the Department of Revenue, and such funds shall
467 be paid into the General Revenue Fund of the state. Tax credits
468 purchased in good faith are not subject to forfeiture unless the
469 transferee submitted fraudulent information in the purchase or
470 failed to meet the requirements in subsection (5).

471 (d) Fraudulent claims.—Any applicant that submits
472 fraudulent information under this section is liable for
473 reimbursement of the reasonable costs and fees associated with
474 the review, processing, investigation, and prosecution of the
475 fraudulent claim. An applicant that obtains a credit payment
476 under this section through a claim that is fraudulent is liable



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477 for reimbursement of the credit amount plus a penalty in an
478 amount double the credit amount. The penalty is in addition to
479 any criminal penalty to which the applicant is liable for the
480 same acts. The applicant is also liable for costs and fees
481 incurred by the state in investigating and prosecuting the
482 fraudulent claim.

483 (9) ANNUAL REPORT.—Each October 1, the Office of Film and
484 Entertainment shall provide an annual report for the previous
485 fiscal year to the Governor, the President of the Senate, and
486 the Speaker of the House of Representatives which outlines the
487 return on investment and economic benefits to the state.

488 (10) REPEAL.—This section is repealed July 1, 2015, except
489 that:

490 (a) Tax credits certified under paragraph (3) (d) before
491 July 1, 2015, may be awarded under paragraph (3) (f) on or after
492 July 1, 2015, if the other requirements of this section are met.

493 (b) Tax credits carried forward under paragraph (4) (e)
494 remain valid for the period specified.

495 Section 2. Paragraph (q) is added to subsection (5) of
496 section 212.08, Florida Statutes, to read:

497 212.08 Sales, rental, use, consumption, distribution, and
498 storage tax; specified exemptions.—The sale at retail, the
499 rental, the use, the consumption, the distribution, and the
500 storage to be used or consumed in this state of the following
501 are hereby specifically exempt from the tax imposed by this
502 chapter.

503 (5) EXEMPTIONS; ACCOUNT OF USE.—

504 (q) Entertainment industry tax credit; authorization;
505 eligibility for credits.—The credits against sales tax



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506 authorized under s. 288.1254 shall be deducted from any sales
507 and use tax remitted by the dealer to the department by
508 electronic funds transfer and may only be deducted on a sales
509 and use tax return initiated through electronic data
510 interchange. The dealer shall separately state the credit on the
511 electronic return. The net amount of tax due and payable must be
512 remitted by electronic funds transfer. If the credit for the
513 qualified expenditures is larger than the amount owed on the
514 sales and use tax return that is eligible for the credit, the
515 unused amount of the credit may be carried forward to a
516 succeeding reporting period as provided in s. 288.1254(4)(e). A
517 dealer may only obtain a credit using the method described in
518 this subparagraph. A dealer is not authorized to obtain a credit
519 by applying for a refund.

520 Section 3. Paragraph (z) is added to subsection (8) of
521 section 213.053, Florida Statutes, to read:

522 213.053 Confidentiality and information sharing.—

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

525 (z) Information relative to tax credits taken under s.
526 288.1254 to the Office of Film and Entertainment and the Office
527 of Tourism, Trade, and Economic Development.

528
529 Disclosure of information under this subsection shall be
530 pursuant to a written agreement between the executive director
531 and the agency. Such agencies, governmental or nongovernmental,
532 shall be bound by the same requirements of confidentiality as
533 the Department of Revenue. Breach of confidentiality is a
534 misdemeanor of the first degree, punishable as provided by s.



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535 775.082 or s. 775.083.

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

538 220.02 Legislative intent.—

539 (8) It is the intent of the Legislature that credits
540 against either the corporate income tax or the franchise tax be
541 applied in the following order: those enumerated in s. 631.828,
542 those enumerated in s. 220.191, those enumerated in s. 220.181,
543 those enumerated in s. 220.183, those enumerated in s. 220.182,
544 those enumerated in s. 220.1895, those enumerated in s. 221.02,
545 those enumerated in s. 220.184, those enumerated in s. 220.186,
546 those enumerated in s. 220.1845, those enumerated in s. 220.19,
547 those enumerated in s. 220.185, those enumerated in s. 220.187,
548 those enumerated in s. 220.192, those enumerated in s. 220.193,
549 ~~and~~ those enumerated in s. 288.9916, and those enumerated in s.
550 220.1899.

551 Section 5. Section 220.1899, Florida Statutes, is created
552 to read:

553 220.1899 Entertainment industry tax credit.—

554 (1) There shall be a credit allowed against the tax imposed
555 by this chapter in the amounts awarded by the Office of Tourism,
556 Trade, and Economic Development under the entertainment industry
557 financial incentive program in s. 288.1254.

558 (2) A qualified production company as defined in s.
559 288.1254 that is awarded a tax credit under s. 288.1254 may not
560 claim the credit before July 1, 2011, regardless of when the
561 credit is awarded.

562 (3) To the extent that the amount of a tax credit exceeds
563 the amount due on a return, the balance of the credit may be



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564 carried forward to a succeeding reporting period pursuant to s.
565 288.1254(4) (e) .

566 Section 6. The sums of \$94,250 in recurring funds and
567 \$3,877 in nonrecurring funds are appropriated from the General
568 Revenue Fund to the Office of Tourism, Trade, and Economic
569 Development, and one additional full-time equivalent position
570 and the associated salary rate of \$67,001 is authorized, for the
571 purpose of administering the entertainment industry financial
572 incentive program pursuant to s. 288.1254, Florida Statutes,
573 during the 2010-2011 fiscal year.

574 Section 7. If any provision of this act or the application
575 thereof to any person or circumstance is held invalid, the
576 invalidity shall not affect other provisions or applications of
577 the act which can be given effect without the invalid provision
578 or application, and to this end the provisions of this act are
579 severable.

580 Section 8. This act shall take effect July 1, 2010.

581
582 ===== T I T L E A M E N D M E N T =====

583 And the title is amended as follows:

584 Delete everything before the enacting clause
585 and insert:

586 A bill to be entitled
587 An act relating to entertainment industry economic
588 development; amending s. 288.1254, F.S.; revising the
589 entertainment industry financial incentive program to
590 provide corporate income tax and sales and use tax
591 credits to qualified entertainment entities rather
592 than reimbursements from appropriations; revising



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593 provisions relating to definitions, creation and
594 scope, application procedures, approval process,
595 eligibility, required documents, qualified and
596 certified productions, and annual reports; providing
597 duties and responsibilities of the Office of Film and
598 Entertainment, the Office of Tourism, Trade, and
599 Economic Development, and the Department of Revenue
600 relating to the tax credits; providing criteria and
601 limitations for awards of tax credits; providing for
602 uses, allocations, election, distributions, and
603 carryforward of the tax credits; providing for
604 withdrawal of tax credit eligibility; providing for
605 use of consolidated returns; providing for partnership
606 and noncorporate distributions of tax credits;
607 providing for succession of tax credits; providing
608 requirements for transfer of tax credits; authorizing
609 the Office of Tourism, Trade, and Economic Development
610 to adopt rules, policies, and procedures; authorizing
611 the Department of Revenue to adopt rules and conduct
612 audits; providing for revocation and forfeiture of tax
613 credits; providing liability for reimbursement of
614 certain costs and fees associated with a fraudulent
615 claim; requiring an annual report to the Governor and
616 the Legislature; providing for future repeal; amending
617 s. 212.08, F.S.; limiting application of the
618 entertainment industry tax credits; requiring
619 electronic funds transfer for the tax credits;
620 providing procedures; amending s. 213.053, F.S.;

621 authorizing the Department of Revenue to provide tax



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622 credit information to the Office of Film and
623 Entertainment and the Office of Tourism, Trade, and
624 Economic Development; amending s. 220.02, F.S.;
625 including tax credits enumerated in s. 220.1899, F.S.,
626 in the order of application of credits against certain
627 taxes; creating s. 220.1899, F.S.; providing for
628 credits against the corporate income tax in the
629 amounts awarded under the entertainment industry
630 financial incentive program; providing for
631 carryforward of the tax credits under certain
632 circumstances; providing an appropriation and
633 authorizing an additional position; providing for
634 severability; providing an effective date.