

By the Committees on Finance and Tax; and Commerce; and Senators Haridopolos, Justice, Gaetz, and Crist

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1 A bill to be entitled
2 An act relating to entertainment industry economic
3 development; amending s. 288.1254, F.S.; revising the
4 entertainment industry financial incentive program to
5 provide corporate income tax and sales and use tax
6 credits to qualified entertainment entities rather
7 than reimbursements from appropriations; revising
8 provisions relating to definitions, creation and
9 scope, application procedures, approval process,
10 eligibility, required documents, qualified and
11 certified productions, and annual reports; providing
12 duties and responsibilities of the Office of Film and
13 Entertainment, the Office of Tourism, Trade, and
14 Economic Development, and the Department of Revenue
15 relating to the tax credits; providing criteria and
16 limitations for awards of tax credits; providing for
17 uses, allocations, election, distributions, and
18 carryforward of the tax credits; providing for
19 withdrawal of tax credit eligibility; providing for
20 use of consolidated returns; providing for partnership
21 and noncorporate distributions of tax credits;
22 providing for succession of tax credits; providing
23 requirements for transfer of tax credits; authorizing
24 the Office of Tourism, Trade, and Economic Development
25 to adopt rules, policies, and procedures; authorizing
26 the Department of Revenue to adopt rules and conduct
27 audits; providing for revocation and forfeiture of tax
28 credits; providing liability for reimbursement of
29 certain costs and fees associated with a fraudulent

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30 claim; requiring an annual report to the Governor and
31 the Legislature; providing for future repeal; amending
32 s. 212.08, F.S.; limiting application of the
33 entertainment industry tax credits; requiring
34 electronic funds transfer for the tax credits;
35 providing procedures; amending s. 213.053, F.S.;

36 authorizing the Department of Revenue to provide tax
37 credit information to the Office of Film and
38 Entertainment and the Office of Tourism, Trade, and
39 Economic Development; amending s. 220.02, F.S.;

40 including tax credits enumerated in s. 220.1899, F.S.,
41 in the order of application of credits against certain
42 taxes; creating s. 220.1899, F.S.; providing for
43 credits against the corporate income tax in the
44 amounts awarded under the entertainment industry
45 financial incentive program; providing for
46 carryforward of the tax credits under certain
47 circumstances; providing an appropriation and
48 authorizing an additional position; providing for
49 severability; providing an effective date.

50
51 Be It Enacted by the Legislature of the State of Florida:

52
53 Section 1. Section 288.1254, Florida Statutes, is amended
54 to read:

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

57 288.1254 Entertainment industry financial incentive
58 program.-

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59 (1) DEFINITIONS.—As used in this section, the term:

60 (a) "Certified production" means a qualified production
61 that has tax credits allocated to it by the Office of Tourism,
62 Trade, and Economic Development based on the production's
63 estimated qualified expenditures, up to the production's maximum
64 certified amount of tax credits, by the Office of Tourism,
65 Trade, and Economic Development. The term does not include a
66 production if its first day of principal photography or project
67 start date in this state occurs before the production is
68 certified by the Office of Tourism, Trade, and Economic
69 Development, unless the production spans more than one fiscal
70 year, was a certified production on its first day of principal
71 photography or project start date in this state, and submits an
72 application for continuing the same production for the
73 subsequent fiscal year.

74 (b) "Digital media project" means a production of
75 interactive entertainment that is produced for distribution in
76 commercial or educational markets. The term includes a video
77 game or production intended for Internet or wireless
78 distribution. The term does not include a production deemed by
79 the Office of Film and Entertainment to contain obscene content
80 as defined in s. 847.001(10).

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

85 (d) "Off-season certified production" means a feature film,
86 independent film, or television series or pilot which films 75
87 percent or more of its principal photography days from June 1

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88 through November 30.

89 (e) "Principal photography" means the filming of major or
90 significant components of the qualified production which involve
91 lead actors.

92 (f) "Production" means a theatrical or direct-to-video
93 motion picture; a made-for-television motion picture; visual
94 effects or digital animation sequences produced in conjunction
95 with a motion picture; a commercial; a music video; an
96 industrial or educational film; an infomercial; a documentary
97 film; a television pilot program; a presentation for a
98 television pilot program; a television series, including, but
99 not limited to, a drama, a reality show, a comedy, a soap opera,
100 a telenovela, a game show, an awards show, or a miniseries
101 production; or a digital media project by the entertainment
102 industry. One season of a television series is considered one
103 production. The term does not include a weather or market
104 program; a sporting event; a sports show; a gala; a production
105 that solicits funds; a home shopping program; a political
106 program; a political documentary; political advertising; a
107 gambling-related project or production; a concert production; or
108 a local, regional, or Internet-distributed-only news show,
109 current-events show, pornographic production, or current-affairs
110 show. A production may be produced on or by film, tape, or
111 otherwise by means of a motion picture camera; electronic camera
112 or device; tape device; computer; any combination of the
113 foregoing; or any other means, method, or device now used or
114 later adopted.

115 (g) "Production expenditures" means the costs of tangible
116 and intangible property used for, and services performed

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117 primarily and customarily in, production, including
118 preproduction and postproduction, but excluding costs for
119 development, marketing, and distribution. The term includes, but
120 is not limited to:

121 1. Wages, salaries, or other compensation paid to legal
122 residents of this state, including amounts paid through payroll
123 service companies, for technical and production crews,
124 directors, producers, and performers.

125 2. Expenditures for sound stages, backlots, production
126 editing, digital effects, sound recordings, sets, and set
127 construction.

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

130 4. Up to \$300,000 of the costs of newly purchased computer
131 software and hardware unique to the project, including servers,
132 data processing, and visualization technologies, which are
133 located in and used exclusively in the state for the production
134 of digital media.

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

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

138 1. Goods purchased or leased from, or services, including,
139 but not limited to, insurance costs and bonding, payroll
140 services, and legal fees, which are provided by, a vendor or
141 supplier in this state that is registered with the Department of
142 State or the Department of Revenue and has a physical location
143 in this state at which one or more legal Florida residents are
144 employed.

145 2. Payments to legal residents of this state in the form of

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146 salary, wages, or other compensation up to a maximum of \$650,000
147 per resident unless otherwise specified in subsection (4).

148
149 For a qualified production involving an event, such as an awards
150 show, the term does not include expenditures solely associated
151 with the event itself and not directly required by the
152 production. The term does not include expenditures incurred
153 before certification, with the exception of those incurred for a
154 commercial, a music video, or the pickup of additional episodes
155 of a high-impact television series within a single season.

156 (i) "Qualified production" means a production in this state
157 meeting the requirements of this section. The term does not
158 include a production:

159 1. In which, for the first 2 years of the incentive
160 program, less than 50 percent, and thereafter, less than 60
161 percent, of the positions that make up its production cast and
162 below-the-line production crew, or, in the case of digital media
163 projects, less than 75 percent of such positions, are filled by
164 legal residents of this state, whose residency is demonstrated
165 by a valid Florida driver's license or other state-issued
166 identification confirming residency, or students enrolled full-
167 time in a film-and-entertainment-related course of study at an
168 institution of higher education in this state; or

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

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

174 (2) CREATION AND PURPOSE OF PROGRAM.—The entertainment

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175 industry financial incentive program is created within the
176 Office of Film and Entertainment. The purpose of this program is
177 to encourage the use of this state as a site for filming, for
178 the digital production of films, and to develop and sustain the
179 workforce and infrastructure for film, digital media, and
180 entertainment production.

181 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.—

182 (a) Program application.—A qualified production company
183 producing a qualified production in this state may submit a
184 program application to the Office of Film and Entertainment for
185 the purpose of determining qualification for an award of tax
186 credits authorized by this section no earlier than 180 days
187 before the first day of principal photography or project start
188 date in this state. The applicant shall provide the Office of
189 Film and Entertainment with information required to determine
190 whether the production is a qualified production and to
191 determine the qualified expenditures and other information
192 necessary for the office to determine eligibility for the tax
193 credit.

194 (b) Required documentation.—The Office of Film and
195 Entertainment shall develop an application form for qualifying
196 an applicant as a qualified production. The form must include,
197 but need not be limited to, production-related information
198 concerning employment of residents in this state, a detailed
199 budget of planned qualified expenditures, and the applicant's
200 signed affirmation that the information on the form has been
201 verified and is correct. The Office of Film and Entertainment
202 and local film commissions shall distribute the form.

203 (c) Application process.—The Office of Film and

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204 Entertainment shall establish a process by which an application
205 is accepted and reviewed and by which tax credit eligibility and
206 award amount are determined. The Office of Film and
207 Entertainment may request assistance from a duly appointed local
208 film commission in determining compliance with this section.

209 (d) Certification.—The Office of Film and Entertainment
210 shall review the application within 15 business days after
211 receipt. Upon its determination that the application contains
212 all the information required by this subsection and meets the
213 criteria set out in this section, the Office of Film and
214 Entertainment shall qualify the applicant and recommend to the
215 Office of Tourism, Trade, and Economic Development that the
216 applicant be certified for the maximum tax credit award amount.
217 Within 5 business days after receipt of the recommendation, the
218 Office of Tourism, Trade, and Economic Development shall reject
219 the recommendation or certify the maximum recommended tax credit
220 award, if any, to the applicant and to the executive director of
221 the Department of Revenue.

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

226 (f) Verification of actual qualified expenditures.—

227 1. The Office of Film and Entertainment shall develop a
228 process to verify the actual qualified expenditures of a
229 certified production. The process must require:

230 a. A certified production to submit, in a timely manner
231 after production ends in this state and after making all of its
232 qualified expenditures in this state, data substantiating each

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233 qualified expenditure to an independent certified public
234 accountant licensed in this state;

235 b. Such accountant to conduct a compliance audit, at the
236 certified production's expense, to substantiate each qualified
237 expenditure and submit the results as a report, along with the
238 required substantiating data, to the Office of Film and
239 Entertainment; and

240 c. The Office of Film and Entertainment to review the
241 accountant's submittal and report to the Office of Tourism,
242 Trade, and Economic Development the final verified amount of
243 actual qualified expenditures made by the certified production.

244 2. The Office of Tourism, Trade, and Economic Development
245 shall determine and approve the final tax credit award amount to
246 each certified applicant based on the final verified amount of
247 actual qualified expenditures and shall notify the executive
248 director of the Department of Revenue in writing that the
249 certified production has met the requirements of the incentive
250 program and of the final amount of the tax credit award. The
251 final tax credit award amount may not exceed the maximum tax
252 credit award amount certified under paragraph (d).

253 (g) Promoting Florida.—The Office of Film and Entertainment
254 shall ensure that, as a condition of receiving a tax credit
255 under this section, marketing materials promoting this state as
256 a tourist destination or film and entertainment production
257 destination are included, when appropriate, at no cost to the
258 state, which must, at a minimum, include placement of a "Filmed
259 in Florida" or "Produced in Florida" logo in the end credits.
260 The placement of a "Filmed in Florida" or "Produced in Florida"
261 logo on all packaging material and hard media is also required,

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262 unless such placement is prohibited by licensing or other
263 contractual obligations. The size and placement of such logo
264 shall be commensurate to other logos used. If no logos are used,
265 the statement "Filmed in Florida using Florida's Entertainment
266 Industry Financial Incentive," or a similar statement approved
267 by the Office of Film and Entertainment, shall be used. The
268 Office of Film and Entertainment shall provide a logo and supply
269 it for the purposes specified in this paragraph. A 30-second
270 "Visit Florida" promotional video must also be included on all
271 optical disc formats of a film, unless such placement is
272 prohibited by licensing or other contractual obligations. The
273 30-second promotional video shall be approved and provided by
274 the Florida Tourism Industry Marketing Corporation in
275 consultation with the Commissioner of Film and Entertainment.

276 (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;
277 ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;
278 PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND
279 ACQUISITIONS.-

280 (a) Priority for tax credit award.-The priority of a
281 qualified production for tax credit awards must be determined on
282 a first-come, first-served basis within its appropriate queue.
283 Each qualified production must be placed into the appropriate
284 queue and is subject to the requirements of that queue.

285 (b) Tax credit eligibility.-

286 1. General production queue.-Ninety-four percent of tax
287 credits authorized in any state fiscal year must be dedicated to
288 the general production queue. The general production queue
289 consists of all qualified productions other than those eligible
290 for the commercial and music video queue or the independent and

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291 emerging media production queue. A qualified production that
292 demonstrates a minimum of \$625,000 in qualified expenditures is
293 eligible for tax credits equal to 20 percent of its actual
294 qualified expenditures, up to a maximum of \$8 million. A
295 qualified production that incurs qualified expenditures during
296 multiple state fiscal years may combine those expenditures to
297 satisfy the \$625,000 minimum threshold.

298 a. An off-season certified production that is a feature
299 film, independent film, or television series or pilot is
300 eligible for an additional 5 percent tax credit on actual
301 qualified expenditures. An off-season certified production that
302 does not complete 75 percent of principal photography due to a
303 disruption caused by a hurricane or tropical storm may not be
304 disqualified from eligibility for the additional 5-percent
305 credit as a result of the disruption.

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

309 2. Commercial and music video queue.—Three percent of tax
310 credits authorized in any state fiscal year must be dedicated to
311 the commercial and music video queue. A qualified production
312 company that produces national or regional commercials or music
313 videos may be eligible for a tax credit award if it demonstrates
314 a minimum of \$100,000 in qualified expenditures per national or
315 regional commercial or music video and exceeds a combined
316 threshold of \$500,000 after combining actual qualified
317 expenditures from qualified commercials and music videos during
318 a single state fiscal year. After a qualified production company
319 that produces commercials, music videos, or both reaches the

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320 threshold of \$500,000, it is eligible to apply for certification
321 for a tax credit award. The maximum credit award shall be equal
322 to 20 percent of its actual qualified expenditures up to a
323 maximum of \$500,000. If there is a surplus at the end of a
324 fiscal year after the Office of Film and Entertainment certifies
325 and determines the tax credits for all qualified commercial and
326 video projects, such surplus tax credits shall be carried
327 forward to the following fiscal year and be available to any
328 eligible qualified productions under the general production
329 queue.

330 3. Independent and emerging media production queue.—Three
331 percent of tax credits authorized in any state fiscal year must
332 be dedicated to the independent and emerging media production
333 queue. This queue is intended to encourage Florida independent
334 film and emerging media production as described in paragraph
335 (1) (f). Any qualified production, excluding commercials,
336 infomercials, or music videos, which demonstrates at least
337 \$100,000, but not more than \$625,000, in total qualified
338 expenditures is eligible for tax credits equal to 20 percent of
339 its actual qualified expenditures. If a surplus exists at the
340 end of a fiscal year after the Office of Film and Entertainment
341 certifies and determines the tax credits for all qualified
342 independent and emerging media production projects, such surplus
343 tax credits shall be carried forward to the following fiscal
344 year and be available to any eligible qualified productions
345 under the general production queue.

346 4. Family friendly productions.—A certified production
347 determined by the Commissioner of Film and Entertainment, with
348 the advice of the Florida Film and Entertainment Advisory

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349 Council, to be family friendly based on the review of the script
350 and an interview with the director is eligible for an additional
351 reimbursement equal to 5 percent of its actual qualified
352 expenditures. Family friendly productions are those that have
353 cross-generational appeal; would be considered suitable for
354 viewing by children age 5 and older; are appropriate in theme,
355 content, and language for a broad family audience; embody a
356 responsible resolution of issues; and do not exhibit any act of
357 smoking, sex, nudity, or vulgar or profane language.

358 (c) *Withdrawal of tax credit eligibility.*—A qualified or
359 certified production must continue on a reasonable schedule,
360 which includes beginning principal photography or the production
361 project in this state no more than 45 calendar days before or
362 after the principal photography or project start date provided
363 in the production's program application. The Office of Tourism,
364 Trade, and Economic Development shall withdraw the eligibility
365 of a qualified or certified production that does not continue on
366 a reasonable schedule.

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

368 1. A certified production company receiving a tax credit
369 award under this section shall, at the time the credit is
370 awarded by the Office of Tourism, Trade, and Economic
371 Development after production is completed and all requirements
372 to receive a credit award have been met, make an irrevocable
373 election to apply the credit against taxes due under chapter
374 220, against state taxes collected or accrued under chapter 212,
375 or against a stated combination of the two taxes. The election
376 is binding upon any distributee, successor, transferee, or
377 purchaser. The Office of Tourism, Trade, and Economic

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378 Development shall notify the Department of Revenue of any
379 election made pursuant to this paragraph.

380 2. For the fiscal years beginning July 1, 2010, and ending
381 June 30, 2015, a qualified production company is eligible for
382 tax credits against its sales and use tax liabilities and
383 corporate income tax liabilities as provided in this section.
384 However, tax credits awarded under this section may not be
385 claimed against sales and use tax liabilities or corporate
386 income tax liabilities for any tax period beginning before July
387 1, 2011, regardless of when the credits are applied for or
388 awarded.

389 (e) Tax credit carryforward.—If the certified production
390 company cannot use the entire tax credit in the taxable year or
391 reporting period in which the credit is awarded, any excess
392 amount may be carried forward to a succeeding taxable year or
393 reporting period. A tax credit applied against taxes imposed
394 under chapter 212 may be carried forward for a maximum of 5
395 years after the date the credit is awarded. A tax credit applied
396 against taxes imposed under chapter 220 may be carried forward
397 for a maximum of 5 years after the date the credit is awarded,
398 after which the credit expires and may not be used.

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

404 (g) Partnership and noncorporate distributions.—A qualified
405 production company that is not a corporation as defined in s.
406 220.03 may elect to distribute tax credits awarded under this

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407 section to its partners or members in proportion to their
408 respective distributive income or loss in the taxable fiscal
409 year in which the tax credits were awarded.

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

415 (5) TRANSFER OF TAX CREDITS.—

416 (a) Authorization.—Upon application to the Office of Film
417 and Entertainment and approval by the Office of Tourism, Trade,
418 and Economic Development, a certified production company, or a
419 partner or member that has received a distribution under
420 paragraph (4) (g), may elect to transfer, in whole or in part,
421 any unused credit amount granted under this section. An election
422 to transfer any unused tax credit amount under chapter 212 or
423 chapter 220 must be made no later than 5 years after the date
424 the credit is awarded, after which period the credit expires and
425 may not be used. The Office of Tourism, Trade, and Economic
426 Development shall notify the Department of Revenue of the
427 election and transfer.

428 (b) Number of transfers permitted.—A certified production
429 company that elects to apply a credit amount against taxes
430 remitted under chapter 212 is permitted a one-time transfer of
431 unused credits to one transferee. A certified production company
432 that elects to apply a credit amount against taxes due under
433 chapter 220 is permitted a one-time transfer of unused credits
434 to no more than four transferees, and such transfers must occur
435 in the same taxable year.

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436 (c) Transferee rights and limitations.—The transferee is
437 subject to the same rights and limitations as the certified
438 production company awarded the tax credit, except that the
439 transferee may not sell or otherwise transfer the tax credit.

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

442 (6) ANNUAL ALLOCATION OF TAX CREDITS.—

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

446 (b) Any portion of the maximum amount of tax credits
447 established per fiscal year in paragraph (a) that is not
448 certified as of the end of a fiscal year shall be carried
449 forward and made available for certification during the
450 following two fiscal years in addition to the amounts available
451 for certification under paragraph (a) for those fiscal years.

452 (c) Upon approval of the final tax credit award amount
453 pursuant to subparagraph (3) (f)2., an amount equal to the
454 difference between the maximum tax credit award amount
455 previously certified under paragraph (3) (d) and the approved
456 final tax credit award amount shall immediately be available for
457 recertification during the current and following fiscal years in
458 addition to the amounts available for certification under
459 paragraph (a) for those fiscal years.

460 (d) Notwithstanding paragraph (a), if, during a fiscal
461 year, the total amount of credits applied for, pursuant to
462 paragraph (3) (a), exceeds the amount of credits available for
463 certification in that fiscal year, such excess shall be treated
464 as having been applied for on the first day of the next fiscal

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465 year in which credits remain available for certification.

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

467 (a) The Office of Tourism, Trade, and Economic Development
468 may adopt rules pursuant to ss. 120.536(1) and 120.54 and
469 develop policies and procedures to implement and administer this
470 section, including, but not limited to, rules specifying
471 requirements for the application and approval process, records
472 required for substantiation for tax credits, procedures for
473 making the election in paragraph (4)(d), the manner and form of
474 documentation required to claim tax credits awarded or
475 transferred under this section, and marketing requirements for
476 tax credit recipients.

477 (b) The Department of Revenue may adopt rules pursuant to
478 ss. 120.536(1) and 120.54 to administer this section, including
479 rules governing the examination and audit procedures required to
480 administer this section and the manner and form of documentation
481 required to claim tax credits awarded or transferred under this
482 section.

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

485 (a) Audit authority.—The Department of Revenue may conduct
486 examinations and audits as provided in s. 213.34 to verify that
487 tax credits under this section are received, transferred, and
488 applied according to the requirements of this section. If the
489 Department of Revenue determines that tax credits are not
490 received, transferred, or applied as required by this section,
491 it may, in addition to the remedies provided in this subsection,
492 pursue recovery of such funds pursuant to the laws and rules
493 governing the assessment of taxes.

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494 (b) Revocation of tax credits.—The Office of Tourism,
495 Trade, and Economic Development may revoke or modify any written
496 decision qualifying, certifying, or otherwise granting
497 eligibility for tax credits under this section if it is
498 discovered that the tax credit applicant submitted any false
499 statement, representation, or certification in any application,
500 record, report, plan, or other document filed in an attempt to
501 receive tax credits under this section. The Office of Tourism,
502 Trade, and Economic Development shall immediately notify the
503 Department of Revenue of any revoked or modified orders
504 affecting previously granted tax credits. Additionally, the
505 applicant must notify the Department of Revenue of any change in
506 its tax credit claimed.

507 (c) Forfeiture of tax credits.—A determination by the
508 Department of Revenue, as a result of an audit pursuant to
509 paragraph (a) or from information received from the Office of
510 Film and Entertainment, that an applicant received tax credits
511 pursuant to this section to which the applicant was not entitled
512 is grounds for forfeiture of previously claimed and received tax
513 credits. The applicant is responsible for returning forfeited
514 tax credits to the Department of Revenue, and such funds shall
515 be paid into the General Revenue Fund of the state. Tax credits
516 purchased in good faith are not subject to forfeiture unless the
517 transferee submitted fraudulent information in the purchase or
518 failed to meet the requirements in subsection (5).

519 (d) Fraudulent claims.—Any applicant that submits
520 fraudulent information under this section is liable for
521 reimbursement of the reasonable costs and fees associated with
522 the review, processing, investigation, and prosecution of the

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523 fraudulent claim. An applicant that obtains a credit payment
524 under this section through a claim that is fraudulent is liable
525 for reimbursement of the credit amount plus a penalty in an
526 amount double the credit amount. The penalty is in addition to
527 any criminal penalty to which the applicant is liable for the
528 same acts. The applicant is also liable for costs and fees
529 incurred by the state in investigating and prosecuting the
530 fraudulent claim.

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

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

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

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

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

545 212.08 Sales, rental, use, consumption, distribution, and
546 storage tax; specified exemptions.—The sale at retail, the
547 rental, the use, the consumption, the distribution, and the
548 storage to be used or consumed in this state of the following
549 are hereby specifically exempt from the tax imposed by this
550 chapter.

551 (5) EXEMPTIONS; ACCOUNT OF USE.—

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552 (q) Entertainment industry tax credit; authorization;
553 eligibility for credits.—The credits against sales tax
554 authorized under s. 288.1254 shall be deducted from any sales
555 and use tax remitted by the dealer to the department by
556 electronic funds transfer and may only be deducted on a sales
557 and use tax return initiated through electronic data
558 interchange. The dealer shall separately state the credit on the
559 electronic return. The net amount of tax due and payable must be
560 remitted by electronic funds transfer. If the credit for the
561 qualified expenditures is larger than the amount owed on the
562 sales and use tax return that is eligible for the credit, the
563 unused amount of the credit may be carried forward to a
564 succeeding reporting period as provided in s. 288.1254(4)(e). A
565 dealer may only obtain a credit using the method described in
566 this subparagraph. A dealer is not authorized to obtain a credit
567 by applying for a refund.

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

570 213.053 Confidentiality and information sharing.—

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

573 (z) Information relative to tax credits taken under s.
574 288.1254 to the Office of Film and Entertainment and the Office
575 of Tourism, Trade, and Economic Development.

576

577 Disclosure of information under this subsection shall be
578 pursuant to a written agreement between the executive director
579 and the agency. Such agencies, governmental or nongovernmental,
580 shall be bound by the same requirements of confidentiality as

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581 the Department of Revenue. Breach of confidentiality is a
582 misdemeanor of the first degree, punishable as provided by s.
583 775.082 or s. 775.083.

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

586 220.02 Legislative intent.—

587 (8) It is the intent of the Legislature that credits
588 against either the corporate income tax or the franchise tax be
589 applied in the following order: those enumerated in s. 631.828,
590 those enumerated in s. 220.191, those enumerated in s. 220.181,
591 those enumerated in s. 220.183, those enumerated in s. 220.182,
592 those enumerated in s. 220.1895, those enumerated in s. 221.02,
593 those enumerated in s. 220.184, those enumerated in s. 220.186,
594 those enumerated in s. 220.1845, those enumerated in s. 220.19,
595 those enumerated in s. 220.185, those enumerated in s. 220.187,
596 those enumerated in s. 220.192, those enumerated in s. 220.193,
597 ~~and~~ those enumerated in s. 288.9916, and those enumerated in s.
598 220.1899.

599 Section 5. Section 220.1899, Florida Statutes, is created
600 to read:

601 220.1899 Entertainment industry tax credit.—

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

606 (2) A qualified production company as defined in s.
607 288.1254 that is awarded a tax credit under s. 288.1254 may not
608 claim the credit before July 1, 2011, regardless of when the
609 credit is awarded.

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610 (3) To the extent that the amount of a tax credit exceeds
611 the amount due on a return, the balance of the credit may be
612 carried forward to a succeeding reporting period pursuant to s.
613 288.1254(4) (e) .

614 Section 6. The sums of \$94,250 in recurring funds and
615 \$3,877 in nonrecurring funds are appropriated from the General
616 Revenue Fund to the Office of Tourism, Trade, and Economic
617 Development, and one additional full-time equivalent position
618 and the associated salary rate of \$67,001 is authorized, for the
619 purpose of administering the entertainment industry financial
620 incentive program pursuant to s. 288.1254, Florida Statutes,
621 during the 2010-2011 fiscal year.

622 Section 7. If any provision of this act or the application
623 thereof to any person or circumstance is held invalid, the
624 invalidity shall not affect other provisions or applications of
625 the act which can be given effect without the invalid provision
626 or application, and to this end the provisions of this act are
627 severable.

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