

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 credits  
6           to qualified entertainment entities rather than  
7           reimbursements from appropriations; revising provisions  
8           relating to definitions, creation and scope, application  
9           procedures, approval process, eligibility, required  
10          documents, qualified and certified productions, and annual  
11          reports; providing duties and responsibilities of the  
12          Office of Film and Entertainment, the Office of Tourism,  
13          Trade, and Economic Development, and the Department of  
14          Revenue relating to the tax credits; providing criteria  
15          and limitations for awards of tax credits; providing for  
16          uses, allocations, election, distributions, and  
17          carryforward of the tax credits; providing for withdrawal  
18          of tax credit eligibility; providing for use of  
19          consolidated returns; providing for partnership and  
20          noncorporate distributions of tax credits; providing for  
21          succession of tax credits; providing requirements for  
22          transfer of tax credits; authorizing the Office of  
23          Tourism, Trade, and Economic Development to adopt rules,  
24          policies, and procedures; authorizing the Department of  
25          Revenue to adopt rules and conduct audits; providing for  
26          revocation and forfeiture of tax credits; providing  
27          liability for reimbursement of certain costs and fees  
28          associated with a fraudulent claim; requiring an annual

29 report to the Governor and the Legislature; providing for  
 30 future repeal; amending s. 220.02, F.S.; including tax  
 31 credits enumerated in s. 288.1254, F.S., in the order of  
 32 application of credits against certain taxes; amending s.  
 33 213.053, F.S.; authorizing the Department of Revenue to  
 34 provide tax credit information to the Office of Film and  
 35 Entertainment and the Office of Tourism, Trade, and  
 36 Economic Development; amending s. 212.08, F.S.; limiting  
 37 application of the entertainment industry tax credits;  
 38 requiring electronic funds transfer for the tax credits;  
 39 providing procedures; providing severability; providing an  
 40 effective date.

41

42 Be It Enacted by the Legislature of the State of Florida:

43

44 Section 1. Section 288.1254, Florida Statutes, is amended  
 45 to read:

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

48 288.1254 Entertainment industry financial incentive  
 49 program.—

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

51 (a) "Certified production" means a qualified production  
 52 that has tax credits allocated to it by the Office of Tourism,  
 53 Trade, and Economic Development based on the production's  
 54 estimated qualified expenditures, up to the production's maximum  
 55 certified amount of tax credits, by the Office of Tourism,  
 56 Trade, and Economic Development. The term does not include a

57 production if its first day of principal photography or project  
58 start date in this state occurs before the production is  
59 certified by the Office of Tourism, Trade, and Economic  
60 Development, unless the production spans more than one fiscal  
61 year, was a certified production on its first day of principal  
62 photography or project start date in this state, and submits an  
63 application for continuing the same production for the  
64 subsequent fiscal year.

65 (b) "Digital media project" means a production of  
66 interactive entertainment that is produced for distribution in  
67 commercial or educational markets. The term includes a video  
68 game or production intended for Internet or wireless  
69 distribution. The term does not include a production deemed by  
70 the Office of Film and Entertainment to contain obscene content  
71 as defined in s. 847.001(10).

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

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

80 (e) "Principal photography" means the filming of major or  
81 significant components of the qualified production which involve  
82 lead actors.

83 (f) "Production" means a theatrical or direct-to-video  
84 motion picture; a made-for-television motion picture; visual

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

106 (g) "Production expenditures" means the costs of tangible  
107 and intangible property used for, and services performed  
108 primarily and customarily in, production, including  
109 preproduction and postproduction, but excluding costs for  
110 development, marketing, and distribution. The term includes, but  
111 is not limited to:

112 1. Wages, salaries, or other compensation paid to legal

113 residents of this state, including amounts paid through payroll  
114 service companies, for technical and production crews,  
115 directors, producers, and performers.

116 2. Expenditures for sound stages, backlots, production  
117 editing, digital effects, sound recordings, sets, and set  
118 construction.

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

121 4. Up to \$300,000 of the costs of newly purchased computer  
122 software and hardware unique to the project, including servers,  
123 data processing, and visualization technologies, which are  
124 located in and used exclusively in the state for the production  
125 of digital media.

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

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

129 1. Goods purchased or leased from, or services, including,  
130 but not limited to, insurance costs and bonding, payroll  
131 services, and legal fees, which are provided by, a vendor or  
132 supplier in this state that is registered with the Department of  
133 State or the Department of Revenue and has a physical location  
134 in this state at which one or more legal Florida residents are  
135 employed.

136 2. Payments to legal residents of this state in the form  
137 of salary, wages, or other compensation up to a maximum of  
138 \$650,000 per resident unless otherwise specified in subsection  
139 (4).

140

141 For a qualified production involving an event, such as an awards  
142 show, the term does not include expenditures solely associated  
143 with the event itself and not directly required by the  
144 production. The term does not include expenditures incurred  
145 before certification, with the exception of those incurred for a  
146 commercial, a music video, or the pickup of additional episodes  
147 of a high-impact television series within a single season.

148 (i) "Qualified production" means a production in this  
149 state meeting the requirements of this section. The term does  
150 not include a production:

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

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

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

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

169 to encourage the use of this state as a site for filming, for  
170 the digital production of films, and to develop and sustain the  
171 workforce and infrastructure for film, digital media, and  
172 entertainment production.

173 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.—

174 (a) Program application.—A qualified production company  
175 producing a qualified production in this state may submit a  
176 program application to the Office of Film and Entertainment for  
177 the purpose of determining qualification for an award of tax  
178 credits authorized by this section no earlier than 180 days  
179 before the first date that production expenditures are incurred  
180 in this state. The applicant shall provide the Office of Film  
181 and Entertainment with information required to determine whether  
182 the production is a qualified production and to determine the  
183 qualified expenditures and other information necessary for the  
184 office to determine eligibility for the tax credit.

185 (b) Required documentation.—The Office of Film and  
186 Entertainment shall develop an application form for qualifying  
187 an applicant as a qualified production. The form must include,  
188 but need not be limited to, production-related information  
189 concerning employment of residents in this state, a detailed  
190 budget of planned qualified expenditures, and the applicant's  
191 signed affirmation that the information on the form has been  
192 verified and is correct. The Office of Film and Entertainment  
193 and local film commissions shall distribute the form.

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

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

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

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

217 (f) Verification of actual qualified expenditures.—

218 1. The Office of Film and Entertainment shall develop a  
 219 process to verify the actual qualified expenditures of a  
 220 certified production. The process must require:

221 a. A certified production to submit, in a timely manner  
 222 after production ends in this state and after making all of its  
 223 qualified expenditures in this state, data substantiating each  
 224 qualified expenditure to an independent certified public



225 accountant licensed in this state;

226 b. Such accountant to conduct a compliance audit, at the  
227 certified production's expense, to substantiate each qualified  
228 expenditure and submit the results as a report, along with the  
229 required substantiating data, to the Office of Film and  
230 Entertainment; and

231 c. The Office of Film and Entertainment to review the  
232 accountant's submittal and report to the Office of Tourism,  
233 Trade, and Economic Development the final verified amount of  
234 actual qualified expenditures made by the certified production.

235 2. The Office of Tourism, Trade, and Economic Development  
236 shall determine and approve the final tax credit award amount to  
237 each certified applicant based on the final verified amount of  
238 actual qualified expenditures and shall notify the executive  
239 director of the Department of Revenue in writing that the  
240 certified production has met the requirements of the incentive  
241 program and of the final amount of the tax credit award. The  
242 final tax credit award amount may not exceed the maximum tax  
243 credit award amount certified under paragraph (d).

244 (g) Promoting Florida.—The Office of Film and  
245 Entertainment shall ensure that, as a condition of receiving a  
246 tax credit under this section, marketing materials promoting  
247 this state as a tourist destination or film and entertainment  
248 production destination are included, when appropriate, at no  
249 cost to the state, which must, at a minimum, include placement  
250 of a "Filmed in Florida" or "Produced in Florida" logo in the  
251 end credits. The placement of a "Filmed in Florida" or "Produced  
252 in Florida" logo on all packaging material and hard media is

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

268 (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;  
 269 ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;  
 270 PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND  
 271 ACQUISITIONS.—

272 (a) Priority for tax credit award.—The priority of a  
 273 qualified production for tax credit awards must be determined on  
 274 a first-come, first-served basis within its appropriate queue.  
 275 Each qualified production must be placed into the appropriate  
 276 queue and is subject to the requirements of that queue.

277 (b) Tax credit eligibility.—

278 1. General production queue.—Ninety-four percent of tax  
 279 credits authorized in any state fiscal year must be dedicated to  
 280 the general production queue. The general production queue

281 consists of all qualified productions other than those eligible  
282 for the commercial and music video queue or the independent and  
283 emerging media production queue. A qualified production that  
284 demonstrates a minimum of \$625,000 in qualified expenditures is  
285 eligible for tax credits equal to 20 percent of its actual  
286 qualified expenditures, up to a maximum of \$8 million. A  
287 qualified production that incurs qualified expenditures during  
288 multiple state fiscal years may combine those expenditures to  
289 satisfy the \$625,000 minimum threshold.

290 a. An off-season certified production that is a feature  
291 film, independent film, or television series or pilot is  
292 eligible for an additional 5-percent tax credit on actual  
293 qualified expenditures. An off-season certified production that  
294 does not complete 75 percent of principal photography due to a  
295 disruption caused by a hurricane or tropical storm may not be  
296 disqualified from eligibility for the additional 5-percent  
297 credit as a result of the disruption.

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

301 2. Commercial and music video queue.—Three percent of tax  
302 credits authorized in any state fiscal year must be dedicated to  
303 the commercial and music video queue. A qualified production  
304 company that produces national or regional commercials or music  
305 videos may be eligible for a tax credit award if it demonstrates  
306 a minimum of \$100,000 in qualified expenditures per national or  
307 regional commercial or music video and exceeds a combined  
308 threshold of \$500,000 after combining actual qualified

309 expenditures from qualified commercials and music videos during  
310 a single state fiscal year. After a qualified production company  
311 that produces commercials, music videos, or both reaches the  
312 threshold of \$500,000, it is eligible to apply for certification  
313 for a tax credit award. The maximum credit award shall be equal  
314 to 20 percent of its actual qualified expenditures up to a  
315 maximum of \$500,000. If there is a surplus at the end of a  
316 fiscal year after the Office of Film and Entertainment certifies  
317 and determines the tax credits for all qualified commercial and  
318 video projects, such surplus tax credits shall be carried  
319 forward to the following fiscal year and be available to any  
320 eligible qualified productions under the general production  
321 queue.

322 3. Independent and emerging media production queue.—Three  
323 percent of tax credits authorized in any state fiscal year must  
324 be dedicated to the independent and emerging media production  
325 queue. This queue is intended to encourage Florida independent  
326 film and emerging media production as described in paragraph  
327 (1) (f). Any qualified production, excluding commercials,  
328 infomercials, or music videos, that demonstrates at least  
329 \$100,000, but not more than \$625,000, in total qualified  
330 expenditures is eligible for tax credits equal to 20 percent of  
331 its actual qualified expenditures. If a surplus exists at the  
332 end of a fiscal year after the Office of Film and Entertainment  
333 certifies and determines the tax credits for all qualified  
334 independent and emerging media production projects, such surplus  
335 tax credits shall be carried forward to the following fiscal  
336 year and be available to any eligible qualified productions

337 under the general production queue.

338 4. Family-friendly productions.—A certified theatrical or  
339 direct-to-video motion picture production or video game  
340 determined by the Commissioner of Film and Entertainment, with  
341 the advice of the Florida Film and Entertainment Advisory  
342 Council, to be family-friendly, based on the review of the  
343 script and the review of the final release version, is eligible  
344 for an additional tax credit equal to 5 percent of its actual  
345 qualified expenditures. Family-friendly productions are those  
346 that have cross-generational appeal; would be considered  
347 suitable for viewing by children age 5 or older; do not contain  
348 any theme, language, nudity, sex, violence, or other matter that  
349 would offend the parent of a 5-year-old child that views the  
350 motion picture or game; are appropriate in theme, content, and  
351 language for a broad family audience; embody a responsible  
352 resolution of issues; and do not exhibit or imply any act of  
353 smoking, sex, nudity, gratuitous violence, or vulgar or profane  
354 language.

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

364 (d) Election and distribution of tax credits.—

365       1. A certified production company receiving a tax credit  
366 award under this section shall, at the time the credit is  
367 awarded by the Office of Tourism, Trade, and Economic  
368 Development after production is completed and all requirements  
369 to receive a credit award have been met, make an irrevocable  
370 election to apply the credit against taxes due under chapter  
371 220, against taxes collected or accrued under chapter 212, or  
372 against a stated combination of the two taxes, except that the  
373 credit authorized under this section may not be applied against  
374 discretionary sales surtaxes authorized under s. 212.055. The  
375 election is binding upon any distributee, successor, transferee,  
376 or purchaser. The Office of Tourism, Trade, and Economic  
377 Development shall notify the Department of Revenue of any  
378 election made pursuant to this paragraph.

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

388       (e) Tax credit carryforward.—If the certified production  
389 company cannot use the entire tax credit in the taxable year or  
390 reporting period in which the credit is awarded, any excess  
391 amount may be carried forward to a succeeding taxable year or  
392 reporting period. A tax credit applied against taxes imposed

393 under chapter 212 may be carried forward for a maximum of 5  
 394 years after the date the credit is awarded. A tax credit applied  
 395 against taxes imposed under chapter 220 may be carried forward  
 396 for a maximum of 5 years after the date the credit is awarded,  
 397 after which the credit expires and may not be used.

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

403 (g) Partnership and noncorporate distributions.—A  
 404 qualified production company that is not a corporation as  
 405 defined in s. 220.03 may elect to distribute tax credits awarded  
 406 under this section to its partners or members in proportion to  
 407 their respective distributive income or loss in the taxable  
 408 fiscal year in which the tax credits were awarded.

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

414 (5) TRANSFER OF TAX CREDITS.—

415 (a) Authorization.—Upon application to the Office of Film  
 416 and Entertainment and approval by the Office of Tourism, Trade,  
 417 and Economic Development, a certified production company, or a  
 418 partner or member that has received a distribution under  
 419 paragraph (4) (g), may elect to transfer, in whole or in part,  
 420 any unused credit amount granted under this section. An election

421 to transfer any unused tax credit amount under chapter 212 or  
 422 chapter 220 must be made no later than 5 years after the date  
 423 the credit is awarded, after which period the credit expires and  
 424 may not be used. The Office of Tourism, Trade, and Economic  
 425 Development shall notify the Department of Revenue of the  
 426 election and transfer.

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

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

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

441 (6) ANNUAL ALLOCATION OF TAX CREDITS.—

442 (a) The aggregate amount of the tax credits that may be  
 443 certified pursuant to paragraph (3) (d) may not exceed:

- 444 1. For fiscal year 2010-2011, \$55 million.
- 445 2. For fiscal year 2011-2012, \$50 million.
- 446 3. For fiscal years 2012-2013, 2013-2014, and 2014-2015,  
 447 \$27 million per fiscal year.

448 (b) Any portion of the maximum amount of tax credits



449 established per fiscal year in paragraph (a) that is not  
450 certified as of the end of a fiscal year shall be carried  
451 forward and made available for certification during the  
452 following two fiscal years in addition to the amounts available  
453 for certification under paragraph (a) for those fiscal years.

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

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

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

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

477 transferred under this section, and marketing requirements for  
478 tax credit recipients.

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

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

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

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

505 Department of Revenue of any revoked or modified orders  
 506 affecting previously granted tax credits. Additionally, the  
 507 applicant must notify the Department of Revenue of any change in  
 508 its tax credit claimed.

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

521 (d) Fraudulent claims.—Any applicant that submits  
 522 fraudulent information under this section is liable for  
 523 reimbursement of the reasonable costs and fees associated with  
 524 the review, processing, investigation, and prosecution of the  
 525 fraudulent claim. An applicant that obtains a credit payment  
 526 under this section through a claim that is fraudulent is liable  
 527 for reimbursement of the credit amount plus a penalty in an  
 528 amount double the credit amount. The penalty is in addition to  
 529 any criminal penalty to which the applicant is liable for the  
 530 same acts. The applicant is also liable for costs and fees  
 531 incurred by the state in investigating and prosecuting the  
 532 fraudulent claim.

CS/CS/HB 697

2010

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

538 (10) REPEAL.—This section is repealed July 1, 2015, except  
539 that the tax credit carryforward provided in this section shall  
540 continue to be valid for the period specified.

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

543 220.02 Legislative intent.—

544 (8) It is the intent of the Legislature that credits  
545 against either the corporate income tax or the franchise tax be  
546 applied in the following order: those enumerated in s. 631.828,  
547 those enumerated in s. 220.191, those enumerated in s. 220.181,  
548 those enumerated in s. 220.183, those enumerated in s. 220.182,  
549 those enumerated in s. 220.1895, those enumerated in s. 221.02,  
550 those enumerated in s. 220.184, those enumerated in s. 220.186,  
551 those enumerated in s. 220.1845, those enumerated in s. 220.19,  
552 those enumerated in s. 220.185, those enumerated in s. 220.187,  
553 those enumerated in s. 220.192, those enumerated in s. 220.193,  
554 ~~and~~ those enumerated in s. 288.9916, and those enumerated in s.  
555 288.1254.

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

558 213.053 Confidentiality and information sharing.—

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

561 (z) Information relative to tax credits taken under s.  
 562 288.1254 to the Office of Film and Entertainment and the Office  
 563 of Tourism, Trade, and Economic Development.

564  
 565 Disclosure of information under this subsection shall be  
 566 pursuant to a written agreement between the executive director  
 567 and the agency. Such agencies, governmental or nongovernmental,  
 568 shall be bound by the same requirements of confidentiality as  
 569 the Department of Revenue. Breach of confidentiality is a  
 570 misdemeanor of the first degree, punishable as provided by s.  
 571 775.082 or s. 775.083.

572 Section 4. Paragraph (q) is added to subsection (5) of  
 573 section 212.08, Florida Statutes, to read:

574 212.08 Sales, rental, use, consumption, distribution, and  
 575 storage tax; specified exemptions.—The sale at retail, the  
 576 rental, the use, the consumption, the distribution, and the  
 577 storage to be used or consumed in this state of the following  
 578 are hereby specifically exempt from the tax imposed by this  
 579 chapter.

580 (5) EXEMPTIONS; ACCOUNT OF USE.—

581 (q) Entertainment industry tax credit; authorization;  
 582 eligibility for credits.—The credit shall be deducted from any  
 583 sales and use tax remitted by the dealer to the department by  
 584 electronic funds transfer and may only be deducted on a sales  
 585 and use tax return initiated through electronic data  
 586 interchange. The dealer shall separately state the credit on the  
 587 electronic return. The net amount of tax due and payable must be  
 588 remitted by electronic funds transfer. If the credit for the

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589 qualified expenditures is larger than the amount owed on the  
590 sales and use tax return that is eligible for the credit, the  
591 unused amount of the credit may be carried forward to a  
592 succeeding reporting period as provided in s. 288.1254(4) (e). A  
593 dealer may only obtain a credit using the method described in  
594 this subparagraph. A dealer is not authorized to obtain a credit  
595 by applying for a refund.

596 Section 5. If any provision of this act or the application  
597 thereof to any person or circumstance is held invalid, the  
598 invalidity shall not affect other provisions or applications of  
599 the act which can be given effect without the invalid provision  
600 or application, and to this end the provisions of this act are  
601 declared severable.

602 Section 6. This act shall take effect July 1, 2010.