By the Committee on Commerce and Tourism

577-03545-12 20122122__

A bill to be entitled

An act relating to the entertainment industry financial incentive program; amending s. 288.1254, F.S.; revising definitions; providing that a hurricane does not disqualify certain high-impact television series that are off-season certified productions from eligibility for an additional tax credit; deleting provisions limiting the amount of tax credits for high-impact television series and digital media productions; providing criteria for determining priority for tax credits that have not yet been certified; reducing the required percent of certain production components necessary to qualify for additional credits; providing for tax credits for fiscal years 2015-2016 through 2019-2020; providing for applicability of certification of tax credits; providing for repeal; providing for application; providing an effective date.

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

Section 1. Paragraphs (b), (d), and (f) of subsection (1), paragraph (b) of subsection (4), paragraph (a) of subsection (7), and subsection (11) of section 288.1254, Florida Statutes, are amended, present paragraphs (c) through (o) of subsection (1) of that section are redesignated as paragraphs (d) through (p), respectively, and a new paragraph (c) is added to that subsection, to read:

288.1254 Entertainment industry financial incentive program.—

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

(b) "Digital media project" means a production of interactive entertainment that is produced for distribution in commercial or educational markets. The term includes a video game or production intended for Internet or wireless distribution, digital animation, and visual effects, including, but not limited to, three-dimensional movie productions and movie conversions. The term does not include a production that contains ~~obscene~~ content that is obscene as defined in s. 847.001~~(10)~~.

(c) "High-impact digital media" means a digital media project that has qualified expenditures greater than $4.5 million.

(e)~~(d)~~ "Off-season certified production" means a feature film, independent film, or television series or pilot that ~~which~~ films 75 percent or more of its principal photography days from June 1 through November 30, or a high-impact television series that films principal photography during at least 75 percent of the days from June 1 through November 30.

(g)~~(f)~~ "Production" means a theatrical or direct-to-video motion picture; a made-for-television motion picture; visual effects or digital animation sequences produced in conjunction with a motion picture; a commercial; a music video; an industrial or educational film; an infomercial; a documentary film; a television pilot program; a presentation for a television pilot program; a television series, including, but not limited to, a drama, a reality show, a comedy, a soap opera, a telenovela, a game show, an awards show, or a miniseries production; or a digital media project by the entertainment industry. One season of a television series is considered one production. The term does not include a weather or market program; a sporting event or a sporting event broadcast; a sports show; a gala; a production that solicits funds; a home shopping program; a political program; a political documentary; political advertising; a gambling-related project or production; a concert production; or a local, regional, or Internet-distributed-only news show or~~,~~ current-events show; a sports news or sports recap show; a~~,~~ pornographic production;~~,~~ or any production deemed obscene under chapter 847 ~~current-affairs show~~. A production may be produced on or by film, tape, or otherwise by means of a motion picture camera; electronic camera or device; tape device; computer; any combination of the foregoing; or any other means, method, or device.

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

(b) *Tax credit eligibility.*—

1. General production queue.—Ninety-four percent of tax credits authorized pursuant to subsection (6) in any state fiscal year must be dedicated to the general production queue. The general production queue consists of all qualified productions other than those eligible for the commercial and music video queue or the independent and emerging media production queue. A qualified production that demonstrates a minimum of $625,000 in qualified expenditures is eligible for tax credits equal to 20 percent of its actual qualified

expenditures, up to a maximum of $8 million. A qualified production that incurs qualified expenditures during multiple state fiscal years may combine those expenditures to satisfy the $625,000 minimum threshold.

a. An off-season certified production that is a feature film, independent film, or television series or pilot is eligible for an additional 5 percent ~~5-percent~~ tax credit on actual qualified expenditures. An off-season certified production that does not complete 75 percent of principal photography, or a high-impact television series that is an off-season certified production that does not film principal photography during at least 75 percent of the days from June 1 through November 30, due to a disruption caused by a hurricane or tropical storm may not be disqualified from eligibility for the additional 5 percent ~~5-percent~~ credit as a result of the disruption.

~~b. If more than 25 percent of the sum of total tax credits awarded to productions after July 1, 2010, and total tax credits certified, but not yet awarded, to productions currently in this state has been awarded for television series, then no television series or pilot shall be eligible for tax credits under this subparagraph.~~

~~c. The calculations required by this sub-subparagraph shall use only credits available to be certified and awarded on or after July 1, 2011.~~

~~(I) If the provisions of sub-subparagraph b. are not applicable and less than 25 percent of the sum of the total tax credits awarded to productions and the total tax credits certified, but not yet awarded, to productions currently in this~~

~~state has been to high-impact television series, any qualified high-impact television series shall be allowed first position in this queue for tax credit awards not yet certified.~~

~~(II) If less than 20 percent of the sum of the total tax credits awarded to productions and the total tax credits certified, but not yet awarded, to productions currently in this state has been to digital media projects, any digital media project with qualified expenditures of greater than $4,500,000 shall be allowed first position in this queue for tax credit awards not yet certified.~~

b.~~(III)~~ First priority in the queue for tax credit awards not yet certified shall be given to high-impact television series and high-impact digital media projects. For the purposes of determining priority ~~position~~ between a high-impact television series ~~allowed first position~~ and a high-impact digital media project ~~allowed first position under this sub-subparagraph~~, the first position shall go to the first application received. Thereafter, priority shall be determined by alternating between a high-impact television series and a high-impact digital media project ~~tax credits shall be awarded~~ on a first-come, first-served basis. However, if the Office of Film and Entertainment receives an application for a high-impact television series or high-impact digital media project that would be certified but for the alternating priority, the office may certify the project as being in the priority position if an application that would normally be prioritized is not received within 5 business days.

c.~~d.~~ A qualified production for which ~~that incurs~~ at least 25 ~~85~~ percent of its principal photography days occur ~~qualified~~

~~expenditures~~ within a region designated as an underutilized region at the time that the production is certified is eligible for an additional 5 percent ~~5-percent~~ tax credit.

d.~~c.~~ A ~~Any~~ qualified production that employs students enrolled full-time in a film and entertainment-related or digital media-related course of study at an institution of higher education in this state is eligible for an additional 15 percent ~~15-percent~~ tax credit on qualified expenditures that are wages, salaries, or other compensation paid to such students. The additional 15 percent ~~15-percent~~ tax credit is ~~shall~~ also ~~be~~ applicable to persons hired within 12 months after ~~of~~ graduating from a film and entertainment-related or digital media-related course of study at an institution of higher education in this state. The additional 15 percent ~~15-percent~~ tax credit applies ~~shall apply~~ to qualified expenditures that are wages, salaries, or other compensation paid to such recent graduates for 1 year after ~~from~~ the date of hiring.

e.~~f.~~ A qualified production for which 25 ~~50~~ percent or more of its principal photography occurs at a qualified production facility, or a qualified digital media project or the digital animation component of a qualified production for which 25 ~~50~~ percent or more of the project’s or component’s qualified expenditures are related to a qualified digital media production facility, is ~~shall be~~ eligible for an additional 5 percent ~~5-percent~~ tax credit ~~on actual qualified expenditures for production activity at that facility~~.

f.~~g.~~ A ~~No~~ qualified production is not ~~shall be~~ eligible for tax credits provided under this paragraph totaling more than 30 percent of its actual qualified expenses.

2. Commercial and music video queue.—Three percent of tax credits authorized pursuant to subsection (6) in any state fiscal year must be dedicated to the commercial and music video queue. A qualified production company that produces national or regional commercials or music videos may be eligible for a tax credit award if it demonstrates a minimum of $100,000 in qualified expenditures per national or regional commercial or music video and exceeds a combined threshold of $500,000 after combining actual qualified expenditures from qualified commercials and music videos during a single state fiscal year. After a qualified production company that produces commercials, music videos, or both reaches the threshold of $500,000, it is eligible to apply for certification for a tax credit award. The maximum credit award shall be equal to 20 percent of its actual qualified expenditures up to a maximum of $500,000. If there is a surplus at the end of a fiscal year after the Office of Film and Entertainment certifies and determines the tax credits for all qualified commercial and video projects, such surplus tax credits shall be carried forward to the following fiscal year and are ~~be~~ available to any eligible qualified productions under the general production queue.

3. Independent and emerging media production queue.—Three percent of tax credits authorized pursuant to subsection (6) in any state fiscal year must be dedicated to the independent and emerging media production queue. This queue is intended to encourage ~~Florida~~ independent film and emerging media production in this state. Any qualified production, excluding commercials, infomercials, or music videos, which ~~that~~ demonstrates at least $100,000, but not more than $625,000, in total qualified

expenditures is eligible for tax credits equal to 20 percent of its actual qualified expenditures. If a surplus exists at the end of a fiscal year after the Office of Film and Entertainment certifies and determines the tax credits for all qualified independent and emerging media production projects, such surplus tax credits shall be carried forward to the following fiscal year and <u>are</u> ~~be~~ available to any eligible qualified productions under the general production queue.

4. Family-friendly productions.—A certified theatrical or direct-to-video motion picture production or video game determined by the Commissioner of Film and Entertainment, with the advice of the Florida Film and Entertainment Advisory Council, to be family-friendly, based on ~~the~~ review of the script and ~~the~~ review of the final release version, is eligible for an additional tax credit equal to 5 percent of its actual qualified expenditures. Family-friendly productions are those that have cross-generational appeal; would be considered suitable for viewing by children age 5 or older; are appropriate in theme, content, and language for a broad family audience; embody a responsible resolution of issues; and do not exhibit or imply any act of smoking, sex, nudity, or vulgar or profane language.

(7) ANNUAL ALLOCATION OF TAX CREDITS.—

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

1. For fiscal year 2010-2011, $53.5 million.

2. For fiscal year 2011-2012, $74.5 million.

3. For fiscal years 2012-2013, 2013-2014, and 2014-2015, $42 million per fiscal year.

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4. For fiscal year 2015-2016, $53.5 million.

5. For fiscal year 2016-2017, $74.5 million.

6. For fiscal years 2017-2018, 2018-2019, and 2019-2020, $42 million per fiscal year.

(11) REPEAL.—This section is repealed July 1, 2020 ~~July 1, 2015~~, except that:

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

(b) Tax credits for fiscal years 2015-2016 through 2019-2020 may not be certified until July 1, 2015.

(c) Tax credits certified under paragraph (3)(d) before July 1, 2020, may be awarded under paragraph (3)(f) on or after July 1, 2020, if the other requirements of this section are met.

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

(e) ~~(c)~~ Subsections (5), (8), and (9) shall remain in effect until July 1, 2025 ~~July 1, 2020~~.

Section 2. This act shall take effect upon becoming a law, and applies to credits awarded on or after that date.