

FOR CONSIDERATION By the Committee on Commerce and Tourism

577-03070B-12

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1                   A bill to be entitled  
2           An act relating to the entertainment industry  
3           financial incentive program; amending s. 288.1254,  
4           F.S.; revising definitions; providing that a hurricane  
5           does not disqualify certain high-impact television  
6           series that are off-season certified productions from  
7           eligibility for an additional tax credit; deleting  
8           provisions limiting the amount of tax credits for  
9           high-impact television series and digital media  
10          productions; providing criteria for determining  
11          priority for tax credits that have not yet been  
12          certified; reducing the required percent of certain  
13          production components necessary to qualify for  
14          additional credits; providing for application;  
15          providing an effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19           Section 1. Paragraphs (b), (d), and (f) of subsection (1),  
20           and paragraph (b) of subsection (4) of section 288.1254, Florida  
21           Statutes, are amended, present paragraphs (c) through (o) of  
22           subsection (1) of that section are redesignated as paragraphs  
23           (d) through (p), respectively, and a new paragraph (c) is added  
24           to that subsection, to read:

25           288.1254 Entertainment industry financial incentive  
26           program.—

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

28           (b) "Digital media project" means a production of  
29           interactive entertainment that is produced for distribution in

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30 commercial or educational markets. The term includes a video  
31 game or production intended for Internet or wireless  
32 distribution, digital animation, and visual effects, including,  
33 but not limited to, three-dimensional movie productions and  
34 movie conversions. The term does not include a production that  
35 contains ~~obscene~~ content that is obscene as defined in s.  
36 847.001(10).

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

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

46 (g) ~~(f)~~ "Production" means a theatrical or direct-to-video  
47 motion picture; a made-for-television motion picture; visual  
48 effects or digital animation sequences produced in conjunction  
49 with a motion picture; a commercial; a music video; an  
50 industrial or educational film; an infomercial; a documentary  
51 film; a television pilot program; a presentation for a  
52 television pilot program; a television series, including, but  
53 not limited to, a drama, a reality show, a comedy, a soap opera,  
54 a telenovela, a game show, an awards show, or a miniseries  
55 production; or a digital media project by the entertainment  
56 industry. One season of a television series is considered one  
57 production. The term does not include a weather or market  
58 program; a sporting event or a sporting event broadcast; a

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59 sports show; a gala; a production that solicits funds; a home  
60 shopping program; a political program; a political documentary;  
61 political advertising; a gambling-related project or production;  
62 a concert production; or a local, regional, or Internet-  
63 distributed-only news show or current-events show; a sports  
64 news or sports recap show; a pornographic production; or any  
65 production deemed obscene under chapter 847 ~~current-affairs~~  
66 ~~show~~. A production may be produced on or by film, tape, or  
67 otherwise by means of a motion picture camera; electronic camera  
68 or device; tape device; computer; any combination of the  
69 foregoing; or any other means, method, or device.

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

74 (b) *Tax credit eligibility.*—

75 1. General production queue.—Ninety-four percent of tax  
76 credits authorized pursuant to subsection (6) in any state  
77 fiscal year must be dedicated to the general production queue.  
78 The general production queue consists of all qualified  
79 productions other than those eligible for the commercial and  
80 music video queue or the independent and emerging media  
81 production queue. A qualified production that demonstrates a  
82 minimum of \$625,000 in qualified expenditures is eligible for  
83 tax credits equal to 20 percent of its actual qualified  
84 expenditures, up to a maximum of \$8 million. A qualified  
85 production that incurs qualified expenditures during multiple  
86 state fiscal years may combine those expenditures to satisfy the  
87 \$625,000 minimum threshold.

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

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

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

109 ~~(I) If the provisions of sub-subparagraph b. are not~~  
110 ~~applicable and less than 25 percent of the sum of the total tax~~  
111 ~~credits awarded to productions and the total tax credits~~  
112 ~~certified, but not yet awarded, to productions currently in this~~  
113 ~~state has been to high-impact television series, any qualified~~  
114 ~~high-impact television series shall be allowed first position in~~  
115 ~~this queue for tax credit awards not yet certified.~~

116 ~~(II) If less than 20 percent of the sum of the total tax~~

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117 ~~credits awarded to productions and the total tax credits~~  
118 ~~certified, but not yet awarded, to productions currently in this~~  
119 ~~state has been to digital media projects, any digital media~~  
120 ~~project with qualified expenditures of greater than \$4,500,000~~  
121 ~~shall be allowed first position in this queue for tax credit~~  
122 ~~awards not yet certified.~~

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

140 ~~c.d.~~ A qualified production for which ~~that~~ incurs at least  
141 25 ~~85~~ percent of its principal photography days occur ~~qualified~~  
142 ~~expenditures~~ within a region designated as an underutilized  
143 region at the time that the production is certified is eligible  
144 for an additional 5 percent ~~5-percent~~ tax credit.

145 ~~d.e.~~ A Any qualified production that employs students

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146 enrolled full-time in a film and entertainment-related or  
147 digital media-related course of study at an institution of  
148 higher education in this state is eligible for an additional 15  
149 percent ~~15-percent~~ tax credit on qualified expenditures that are  
150 wages, salaries, or other compensation paid to such students.  
151 The additional 15 percent ~~15-percent~~ tax credit is ~~shall~~ also ~~be~~  
152 applicable to persons hired within 12 months after ~~of~~ graduating  
153 from a film and entertainment-related or digital media-related  
154 course of study at an institution of higher education in this  
155 state. The additional 15 percent ~~15-percent~~ tax credit applies  
156 ~~shall apply~~ to qualified expenditures that are wages, salaries,  
157 or other compensation paid to such recent graduates for 1 year  
158 after ~~from~~ the date of hiring.

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

168 ~~f.g.~~ A ~~Not~~ qualified production is not ~~shall be~~ eligible for  
169 tax credits provided under this paragraph totaling more than 30  
170 percent of its actual qualified expenses.

171 2. Commercial and music video queue.—Three percent of tax  
172 credits authorized pursuant to subsection (6) in any state  
173 fiscal year must be dedicated to the commercial and music video  
174 queue. A qualified production company that produces national or

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175 regional commercials or music videos may be eligible for a tax  
176 credit award if it demonstrates a minimum of \$100,000 in  
177 qualified expenditures per national or regional commercial or  
178 music video and exceeds a combined threshold of \$500,000 after  
179 combining actual qualified expenditures from qualified  
180 commercials and music videos during a single state fiscal year.  
181 After a qualified production company that produces commercials,  
182 music videos, or both reaches the threshold of \$500,000, it is  
183 eligible to apply for certification for a tax credit award. The  
184 maximum credit award shall be equal to 20 percent of its actual  
185 qualified expenditures up to a maximum of \$500,000. If there is  
186 a surplus at the end of a fiscal year after the Office of Film  
187 and Entertainment certifies and determines the tax credits for  
188 all qualified commercial and video projects, such surplus tax  
189 credits shall be carried forward to the following fiscal year  
190 and are ~~be~~ available to any eligible qualified productions under  
191 the general production queue.

192 3. Independent and emerging media production queue.—Three  
193 percent of tax credits authorized pursuant to subsection (6) in  
194 any state fiscal year must be dedicated to the independent and  
195 emerging media production queue. This queue is intended to  
196 encourage ~~Florida~~ independent film and emerging media production  
197 in this state. Any qualified production, excluding commercials,  
198 infomercials, or music videos, which ~~that~~ demonstrates at least  
199 \$100,000, but not more than \$625,000, in total qualified  
200 expenditures is eligible for tax credits equal to 20 percent of  
201 its actual qualified expenditures. If a surplus exists at the  
202 end of a fiscal year after the Office of Film and Entertainment  
203 certifies and determines the tax credits for all qualified

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204 independent and emerging media production projects, such surplus  
205 tax credits shall be carried forward to the following fiscal  
206 year and are ~~be~~ available to any eligible qualified productions  
207 under the general production queue.

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

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