

By the Committees on Governmental Oversight and Accountability;
and Commerce and Tourism

585-03269-14

20141640c1

1 A bill to be entitled
2 An act relating to the entertainment industry;
3 amending s. 288.125, F.S.; specifying the application
4 of the term "entertainment industry"; transferring,
5 renumbering, and amending s. 288.1251, F.S.; renaming
6 the Office of Film and Entertainment within the
7 Department of Economic Opportunity as the Division of
8 Film and Entertainment and housing the division within
9 Enterprise Florida, Inc.; requiring Enterprise
10 Florida, Inc., to conduct a national search for a film
11 commissioner; requiring the president of Enterprise
12 Florida, Inc., to hire the film commissioner; revising
13 the requirements of the division's 5-year plan;
14 transferring, renumbering, and amending s. 288.1252,
15 F.S.; revising the powers and duties of the Florida
16 Film and Entertainment Advisory Council; conforming
17 provisions to changes made by the act; transferring,
18 renumbering, and amending s. 288.1253, F.S.;
19 conforming provisions to changes made by the act;
20 amending s. 288.1254, F.S.; redefining and deleting
21 terms; requiring the department, rather than the
22 Office of Film and Entertainment, to be responsible
23 for applications for the entertainment industry
24 financial incentive program; revising provisions
25 relating to the application process, tax credit
26 eligibility, election and distribution of tax credits,
27 annual allocation of tax credits, forfeiture of tax
28 credits, and annual report; extending the repeal date;
29 conforming provisions to changes made by the act;

585-03269-14

20141640c1

30 specifying a date on which the applications on file
31 with the department and not yet certified are deemed
32 denied; amending s. 288.1258, F.S.; conforming
33 provisions to changes made by the act; requiring the
34 department to develop a standardized application form
35 in cooperation with the division and other agencies;
36 amending s. 288.92, F.S.; requiring Enterprise
37 Florida, Inc., to have a division relating to film and
38 entertainment; amending ss. 212.08, 220.1899, and
39 477.0135, F.S.; conforming cross-references and
40 provisions to changes made by the act; providing an
41 effective date.

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

44
45 Section 1. Section 288.125, Florida Statutes, is amended to
46 read:

47 288.125 Definition of "entertainment industry".—For the
48 purposes of ss. 288.1254, 288.1258, 288.924, and 288.9241 ~~ss.~~
49 ~~288.1251–288.1258~~, the term "entertainment industry" means those
50 persons or entities engaged in the operation of motion picture
51 or television studios or recording studios; those persons or
52 entities engaged in the preproduction, production, or
53 postproduction of motion pictures, made-for-television movies,
54 television programming, digital media projects, commercial
55 advertising, music videos, or sound recordings; and those
56 persons or entities providing products or services directly
57 related to the preproduction, production, or postproduction of
58 motion pictures, made-for-television movies, television

585-03269-14

20141640c1

59 programming, digital media projects, commercial advertising,
60 music videos, or sound recordings, including, but not limited
61 to, the broadcast industry.

62 Section 2. Section 288.1251, Florida Statutes, is
63 transferred, renumbered as section 288.924, Florida Statutes,
64 and amended to read:

65 288.924 ~~288.1251~~ Promotion and development of entertainment
66 industry; Division ~~Office~~ of Film and Entertainment; creation;
67 purpose; powers and duties.—

68 (1) CREATION.—

69 ~~(a)~~ The Division of Film and Entertainment is ~~There is~~
70 ~~hereby~~ created within Enterprise Florida, Inc., ~~the department~~
71 ~~the Office of Film and Entertainment~~ for the purpose of
72 developing, marketing, promoting, and providing services to the
73 state's entertainment industry. The division shall serve as a
74 liaison between the entertainment industry and other state and
75 local governmental agencies, local film commissions, and labor
76 organizations.

77 ~~(2)~~ ~~(b)~~ COMMISSIONER.—Enterprise Florida, Inc., ~~The~~
78 ~~department~~ shall conduct a national search for a qualified
79 person to fill the position of Commissioner of Film and
80 Entertainment when the position is vacant. The president of
81 Enterprise Florida, Inc., ~~executive director of the department~~
82 has the responsibility to hire the film commissioner.
83 Qualifications for the film commissioner include, but are not
84 limited to, the following:

85 (a) ~~1.~~ A working knowledge of the equipment, personnel,
86 financial, and day-to-day production operations of the
87 industries to be served by the division ~~Office of Film and~~

585-03269-14

20141640c1

88 Entertainment;

89 (b)2. Marketing and promotion experience related to the
90 film and entertainment industries to be served;

91 (c)3. Experience working with a variety of individuals
92 representing large and small entertainment-related businesses,
93 industry associations, local community entertainment industry
94 liaisons, and labor organizations; and

95 (d)4. Experience working with a variety of state and local
96 governmental agencies.

97 (3)2. POWERS AND DUTIES.—

98 (a) The Division Office of Film and Entertainment, in
99 performance of its duties, shall develop and:

100 1. In consultation with the Florida Film and Entertainment
101 Advisory Council, update a 5-year the strategic plan every 5
102 years to guide the activities of the division Office of Film and
103 Entertainment in the areas of entertainment industry
104 development, marketing, promotion, liaison services, field
105 office administration, and information. The plan shall:

106 a. be annual in construction and ongoing in nature.

107 1. At a minimum, the plan must discuss the following:

108 a.b. Include recommendations relating to The organizational
109 structure of the division, including any field offices outside
110 the state.

111 b. The coordination of the division with local or regional
112 offices maintained by counties and regions of the state, local
113 film commissions, and labor organizations, and the coordination
114 of such entities with each other to facilitate a working
115 relationship office.

116 c. Strategies to identify, solicit, and recruit

585-03269-14

20141640c1

117 entertainment production opportunities for the state, including
118 implementation of programs for rural and urban areas designed to
119 develop and promote the state's entertainment industry.

120 ~~d.e. Include~~ An annual budget projection for the division
121 ~~office~~ for each year of the plan.

122 ~~d. Include an operational model for the office to use in~~
123 ~~implementing programs for rural and urban areas designed to:~~

124 ~~(I) develop and promote the state's entertainment industry.~~

125 ~~(II) Have the office serve as a liaison between the~~
126 ~~entertainment industry and other state and local governmental~~
127 ~~agencies, local film commissions, and labor organizations.~~

128 ~~(III) Gather statistical information related to the state's~~
129 ~~entertainment industry.~~

130 ~~e.(IV) Provision of~~ Provide information and service to
131 businesses, communities, organizations, and individuals engaged
132 in entertainment industry activities.

133 ~~(V) Administer field offices outside the state and~~
134 ~~coordinate with regional offices maintained by counties and~~
135 ~~regions of the state, as described in sub-sub-subparagraph (II),~~
136 ~~as necessary.~~

137 ~~f.e. Include~~ Performance standards and measurable outcomes
138 for the programs to be implemented by the division office.

139 2. The plan shall be annually reviewed and approved by the
140 board of directors of Enterprise Florida, Inc.

141 ~~f. Include an assessment of, and make recommendations on,~~
142 ~~the feasibility of creating an alternative public private~~
143 ~~partnership for the purpose of contracting with such a~~
144 ~~partnership for the administration of the state's entertainment~~
145 ~~industry promotion, development, marketing, and service~~

585-03269-14

20141640c1

146 ~~programs.~~

147 ~~2. Develop, market, and facilitate a working relationship~~
148 ~~between state agencies and local governments in cooperation with~~
149 ~~local film commission offices for out-of-state and indigenous~~
150 ~~entertainment industry production entities.~~

151 ~~3. Implement a structured methodology prescribed for~~
152 ~~coordinating activities of local offices with each other and the~~
153 ~~commissioner's office.~~

154 (b) The division shall also:

155 ~~1.4.~~ Represent the state's indigenous entertainment
156 industry to key decisionmakers within the national and
157 international entertainment industry, and to state and local
158 officials.

159 ~~2.5.~~ Prepare an inventory and analysis of the state's
160 entertainment industry, including, but not limited to,
161 information on crew, related businesses, support services, job
162 creation, talent, and economic impact and coordinate with local
163 offices to develop an information tool for common use.

164 ~~6. Identify, solicit, and recruit entertainment production~~
165 ~~opportunities for the state.~~

166 ~~3.7.~~ Assist rural communities and other small communities
167 in the state in developing the expertise and capacity necessary
168 for such communities to develop, market, promote, and provide
169 services to the state's entertainment industry.

170 ~~(c)(b)~~ The division ~~Office of Film and Entertainment,~~ in
171 the performance of its duties, may:

172 1. Conduct or contract for specific promotion and marketing
173 functions, including, but not limited to, production of a
174 statewide directory, production and maintenance of an Internet

585-03269-14

20141640c1

175 website, establishment and maintenance of a toll-free telephone
176 number, organization of trade show participation, and
177 appropriate cooperative marketing opportunities.

178 2. Conduct its affairs, carry on its operations, establish
179 offices, and exercise the powers granted by this act in any
180 state, territory, district, or possession of the United States.

181 3. Carry out any program of information, special events, or
182 publicity designed to attract entertainment industry to Florida.

183 4. Develop relationships and leverage resources with other
184 public and private organizations or groups in their efforts to
185 publicize to the entertainment industry in this state, other
186 states, and other countries the depth of Florida's entertainment
187 industry talent, crew, production companies, production
188 equipment resources, related businesses, and support services,
189 including the establishment of and expenditure for a program of
190 cooperative advertising with these public and private
191 organizations and groups in accordance with the provisions of
192 chapter 120.

193 5. Provide and arrange for reasonable and necessary
194 promotional items and services for such persons as the division
195 ~~office~~ deems proper in connection with the performance of the
196 promotional and other duties of the division ~~office~~.

197 6. Prepare an ~~annual~~ economic impact analysis on
198 entertainment industry-related activities in the state.

199 7. Request or accept any grant, payment, or gift of funds
200 or property made by this state, the United States, or any
201 department or agency thereof, or by any individual, firm,
202 corporation, municipality, county, or organization, for any or
203 all of the purposes of the ~~Office of Film and Entertainment's~~ 5-

585-03269-14

20141640c1

204 year strategic plan or those permitted activities enumerated in
205 this paragraph. ~~Such funds shall be deposited in the Grants and~~
206 ~~Donations Trust Fund of the Executive Office of the Governor for~~
207 ~~use by the Office of Film and Entertainment in carrying out its~~
208 ~~responsibilities and duties as delineated in law.~~ The division
209 ~~office~~ may expend such funds in accordance with the terms and
210 conditions of any such grant, payment, or gift in the pursuit of
211 its administration or in support of fulfilling its duties and
212 responsibilities. The division ~~office~~ shall separately account
213 for the public funds and the private funds ~~deposited into the~~
214 ~~trust fund.~~

215 Section 3. Section 288.1252, Florida Statutes, is
216 transferred, renumbered as section 288.9242, Florida Statutes,
217 and amended to read:

218 288.9242 ~~288.1252~~ Florida Film and Entertainment Advisory
219 Council; ~~creation;~~ purpose; membership; powers and duties.—

220 ~~(1) CREATION. There is created within the department, for~~
221 ~~administrative purposes only, the Florida Film and Entertainment~~
222 ~~Advisory Council.~~

223 ~~(1)(2)~~ PURPOSE.—The purpose of the Florida Film and
224 Entertainment Advisory Council is to serve as an advisory body
225 to the Division of Film and Entertainment ~~department and to the~~
226 ~~Office of Film and Entertainment~~ to provide ~~these offices with~~
227 industry insight and expertise related to developing, marketing,
228 and promoting, ~~and providing service to~~ the state's
229 entertainment industry.

230 ~~(2)(3)~~ MEMBERSHIP.—

231 (a) The council shall consist of 17 members, 7 to be
232 appointed by the Governor, 5 to be appointed by the President of

585-03269-14

20141640c1

233 the Senate, and 5 to be appointed by the Speaker of the House of
234 Representatives.

235 (b) When making appointments to the council, the Governor,
236 the President of the Senate, and the Speaker of the House of
237 Representatives shall appoint persons who are residents of the
238 state and who are highly knowledgeable of, active in, and
239 recognized leaders in Florida's motion picture, television,
240 video, sound recording, or other entertainment industries. These
241 persons shall include, but not be limited to, representatives of
242 local film commissions, representatives of entertainment
243 associations, a representative of the broadcast industry,
244 representatives of labor organizations in the entertainment
245 industry, and board chairs, presidents, chief executive
246 officers, chief operating officers, or persons of comparable
247 executive position or stature of leading or otherwise important
248 entertainment industry businesses and offices. Council members
249 shall be appointed in such a manner as to equitably represent
250 the broadest spectrum of the entertainment industry and
251 geographic areas of the state.

252 (c) Council members shall serve for 4-year terms.

253 (d) Subsequent appointments shall be made by the official
254 who appointed the council member whose expired term is to be
255 filled.

256 (e) ~~A representative of Enterprise Florida, Inc.,~~ A
257 representative of Workforce Florida, Inc., and a representative
258 of VISIT Florida shall serve as ex officio, nonvoting members of
259 the council, and shall be in addition to the 17 appointed
260 members of the council.

261 (f) Absence from three consecutive meetings shall result in

585-03269-14

20141640c1

262 automatic removal from the council.

263 (g) A vacancy on the council shall be filled for the
264 remainder of the unexpired term by the official who appointed
265 the vacating member.

266 (h) No more than one member of the council may be an
267 employee of any one company, organization, or association.

268 (i) Any member shall be eligible for reappointment but may
269 not serve more than two consecutive terms.

270 (3)~~(4)~~ MEETINGS; ORGANIZATION.—

271 (a) The council shall meet no less frequently than once
272 each quarter of the calendar year, but may meet more often as
273 set by the council.

274 (b) The council shall annually elect from its appointed
275 membership one member to serve as chair of the council and one
276 member to serve as vice chair. The Division of Film and
277 Entertainment ~~Office of Film and Entertainment~~ shall provide
278 staff assistance to the council, which shall include, but not be
279 limited to, keeping records of the proceedings of the council,
280 and serving as custodian of all books, documents, and papers
281 filed with the council.

282 (c) A majority of the members of the council shall
283 constitute a quorum.

284 (d) Members of the council shall serve without
285 compensation, but shall be entitled to reimbursement for per
286 diem and travel expenses in accordance with s. 112.061 while in
287 performance of their duties.

288 (4)~~(5)~~ POWERS AND DUTIES.—The Florida Film and
289 Entertainment Advisory Council shall have all the powers
290 necessary or convenient to carry out and effectuate the purposes

585-03269-14

20141640c1

291 and provisions of this act, including, but not limited to, the
292 power to:

293 (a) Adopt bylaws for the governance of its affairs and the
294 conduct of its business.

295 (b) Advise the Division of Film and Entertainment ~~and~~
296 ~~consult with the Office of Film and Entertainment~~ on the
297 content, development, and implementation of the 5-year strategic
298 plan ~~to guide the activities of the office.~~

299 (c) ~~Review the Commissioner of Film and Entertainment's~~
300 ~~administration of the programs related to the strategic plan,~~
301 ~~and~~ Advise the Division of Film and Entertainment ~~commissioner~~
302 on its ~~the~~ programs and any changes that might be made to better
303 meet the strategic plan.

304 (d) Consider and study the needs of the entertainment
305 industry for the purpose of advising the Division of Film and
306 Entertainment ~~film commissioner and the department.~~

307 (e) Identify ~~and make recommendations on~~ state agency and
308 local government actions that may have an impact on the
309 entertainment industry or that may appear to industry
310 representatives as an official state or local action affecting
311 production in the state, and advise the Division of Film and
312 Entertainment of such actions.

313 (f) Consider all matters submitted to it by the Division of
314 Film and Entertainment ~~film commissioner and the department.~~

315 (g) ~~Advise and consult with the film commissioner and the~~
316 ~~department, at their request or upon its own initiative,~~
317 ~~regarding the promulgation, administration, and enforcement of~~
318 ~~all laws and rules relating to the entertainment industry.~~

319 (g) ~~(h)~~ Suggest policies and practices ~~for the conduct of~~

585-03269-14

20141640c1

320 ~~business by the Office of Film and Entertainment or by the~~
321 ~~department~~ that will improve interaction with internal
322 ~~operations affecting~~ the entertainment industry and will enhance
323 the economic development in initiatives of the state for the
324 industry.

325 ~~(i) Appear on its own behalf before boards, commissions,~~
326 ~~departments, or other agencies of municipal, county, or state~~
327 ~~government, or the Federal Government.~~

328 Section 4. Section 288.1253, Florida Statutes, is
329 transferred, renumbered as section 288.9241, Florida Statutes,
330 and amended to read:

331 288.9241 ~~288.1253~~ Travel and entertainment expenses.—

332 (1) As used in this section, the term "travel expenses"
333 means the actual, necessary, and reasonable costs of
334 transportation, meals, lodging, and incidental expenses normally
335 incurred by an employee of the Division Office of Film and
336 Entertainment, which costs are defined and prescribed by rules
337 adopted by the department, subject to approval by the Chief
338 Financial Officer.

339 (2) Notwithstanding ~~the provisions of~~ s. 112.061, the
340 department shall adopt rules by which the Division of Film and
341 Entertainment ~~it~~ may make expenditures by reimbursement to: the
342 Governor, the Lieutenant Governor, security staff of the
343 Governor or Lieutenant Governor, the Commissioner of Film and
344 Entertainment, or staff of the Division Office of Film and
345 Entertainment for travel expenses or entertainment expenses
346 incurred by such individuals solely and exclusively in
347 connection with the performance of the statutory duties of the
348 division Office ~~of Film and Entertainment~~. The rules are subject

585-03269-14

20141640c1

349 to approval by the Chief Financial Officer before adoption. The
350 rules shall require the submission of paid receipts, or other
351 proof of expenditure prescribed by the Chief Financial Officer,
352 with any claim for reimbursement.

353 (3) The Division ~~Office~~ of Film and Entertainment shall
354 include in the annual report for the entertainment industry
355 financial incentive program required under s. 288.1254(10) a
356 report of the division's ~~office's~~ expenditures for the previous
357 fiscal year. The report must consist of a summary of all travel,
358 entertainment, and incidental expenses incurred within the
359 United States and all travel, entertainment, and incidental
360 expenses incurred outside the United States, as well as a
361 summary of all successful projects that developed from such
362 travel.

363 (4) The Division ~~Office~~ of Film and Entertainment and its
364 employees and representatives, when authorized, may accept and
365 use complimentary travel, accommodations, meeting space, meals,
366 equipment, transportation, and any other goods or services
367 necessary for or beneficial to the performance of the division's
368 ~~office's~~ duties and purposes, so long as such acceptance or use
369 is not in conflict with part III of chapter 112. The department
370 shall, by rule, develop internal controls to ensure that such
371 goods or services accepted or used pursuant to this subsection
372 are limited to those that will assist solely and exclusively in
373 the furtherance of the division's ~~office's~~ goals and are in
374 compliance with part III of chapter 112.

375 (5) Any claim submitted under this section is not required
376 to be sworn to before a notary public or other officer
377 authorized to administer oaths, but any claim authorized or

585-03269-14

20141640c1

378 required to be made under any provision of this section shall
379 contain a statement that the expenses were actually incurred as
380 necessary travel or entertainment expenses in the performance of
381 official duties of the Division ~~Office~~ of Film and Entertainment
382 and shall be verified by written declaration that it is true and
383 correct as to every material matter. Any person who willfully
384 makes and subscribes to any claim which he or she does not
385 believe to be true and correct as to every material matter or
386 who willfully aids or assists in, procures, or counsels or
387 advises with respect to, the preparation or presentation of a
388 claim pursuant to this section that is fraudulent or false as to
389 any material matter, whether such falsity or fraud is with the
390 knowledge or consent of the person authorized or required to
391 present the claim, commits a misdemeanor of the second degree,
392 punishable as provided in s. 775.082 or s. 775.083. Whoever
393 receives a reimbursement by means of a false claim is civilly
394 liable, in the amount of the overpayment, for the reimbursement
395 of the public fund from which the claim was paid.

396 Section 5. Section 288.1254, Florida Statutes, is amended
397 to read:

398 288.1254 Entertainment industry financial incentive
399 program.—

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

401 (a) "Certified production" means a qualified production
402 that has tax credits allocated to it by the department based on
403 the production's estimated qualified expenditures, up to the
404 production's maximum certified amount of tax credits, by the
405 department. The term does not include a production if its first
406 day of principal photography or project start date in this state

585-03269-14

20141640c1

407 occurs before the production is certified by the department,
408 unless the production spans more than 1 fiscal year, was a
409 certified production on its first day of principal photography
410 or project start date in this state, and submits an application
411 for continuing the same production for the subsequent fiscal
412 year.

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

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

425 (d) "High-impact television series" means:

426 1. A production created to run multiple production seasons
427 which has ~~and having~~ an estimated order of at least seven
428 episodes per season and qualified expenditures of at least
429 \$625,000 per episode; or

430 2. A telenovela that has qualified expenditures of more
431 than \$4.5 million; a minimum of 45 principal photography days
432 filmed in this state; a production cast, including background
433 actors, and crew of which at least 90 percent are legal
434 residents of this state; and at least 90 percent of its
435 production occurring in this state.

585-03269-14

20141640c1

436 ~~(e) "Off-season certified production" means a feature film,~~
437 ~~independent film, or television series or pilot that films 75~~
438 ~~percent or more of its principal photography days from June 1~~
439 ~~through November 30.~~

440 (e) ~~(f)~~ "Principal photography" means the filming of major
441 or significant components of the qualified production which
442 involve lead actors.

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

585-03269-14

20141640c1

465 computer; any combination of the foregoing; or any other means,
466 method, or device.

467 (g)~~(h)~~ "Production expenditures" means the costs of
468 tangible and intangible property used for, and services
469 performed primarily and customarily in, production, including
470 preproduction and postproduction, but excluding costs for
471 development, marketing, and distribution. The term includes, but
472 is not limited to:

473 1. Wages, salaries, or other compensation paid to legal
474 residents of this state, including amounts paid through payroll
475 service companies, for technical and production crews,
476 directors, producers, and performers.

477 2. Net expenditures for sound stages, backlots, production
478 editing, digital effects, sound recordings, sets, and set
479 construction.

480 3. Net expenditures for rental equipment, including, but
481 not limited to, cameras and grip or electrical equipment.

482 4. Up to \$300,000 of the costs of newly purchased computer
483 software and hardware unique to the project, including servers,
484 data processing, and visualization technologies, which are
485 located in and used exclusively in the state for the production
486 of digital media.

487 5. Expenditures for meals, travel, and accommodations. For
488 purposes of this paragraph, the term "net expenditures" means
489 the actual amount of money a qualified production spent for
490 equipment or other tangible personal property, after subtracting
491 any consideration received for reselling or transferring the
492 item after the qualified production ends, if applicable.

493 (h)~~(i)~~ "Qualified expenditures" means production

585-03269-14

20141640c1

494 expenditures incurred in this state by a qualified production
495 for:

496 1. Goods purchased or leased from, or services, including,
497 but not limited to, insurance costs and bonding, payroll
498 services, and legal fees, which are provided by, a vendor or
499 supplier in this state that is registered with the Department of
500 State or the Department of Revenue, has a physical location in
501 this state, and employs one or more legal residents of this
502 state. This does not include rebilled goods or services provided
503 by an in-state company from out-of-state vendors or suppliers.
504 When services provided by the vendor or supplier include
505 personal services or labor, only personal services or labor
506 provided by residents of this state, evidenced by the required
507 documentation of residency in this state, qualify.

508 2. Payments to legal residents of this state in the form of
509 salary, wages, or other compensation up to a maximum of \$400,000
510 per resident unless otherwise specified in subsection (4). A
511 completed declaration of residency in this state must accompany
512 the documentation submitted to the department ~~office~~ for
513 reimbursement.

514
515 For a qualified production involving an event, such as an awards
516 show, the term does not include expenditures solely associated
517 with the event itself and not directly required by the
518 production. The term does not include expenditures incurred
519 before certification, with the exception of those incurred for a
520 commercial, a music video, or the pickup of additional episodes
521 of a high-impact television series within a single season. Under
522 no circumstances may the qualified production include in the

585-03269-14

20141640c1

523 calculation for qualified expenditures the original purchase
524 price for equipment or other tangible property that is later
525 sold or transferred by the qualified production for
526 consideration. In such cases, the qualified expenditure is the
527 net of the original purchase price minus the consideration
528 received upon sale or transfer.

529 (i)~~(j)~~ "Qualified production" means a production in this
530 state meeting the requirements of this section. The term does
531 not include a production:

532 1. In which, ~~for the first 2 years of the incentive~~
533 ~~program, less than 50 percent, and thereafter, less than 70~~ 60
534 percent, of the positions that make up its production cast and
535 below-the-line production crew, or, in the case of digital media
536 projects, less than 80 ~~75~~ percent of such positions, are filled
537 by legal residents of this state, whose residency is
538 demonstrated by a valid Florida driver ~~driver's~~ license or other
539 state-issued identification confirming residency, or students
540 enrolled full-time in a film-and-entertainment-related course of
541 study at an institution of higher education in this state; or

542 2. That contains obscene content as defined in s.
543 847.001(10).

544 (j)~~(k)~~ "Qualified production company" means a corporation,
545 limited liability company, partnership, or other legal entity
546 engaged in one or more productions in this state.

547 ~~(l) "Qualified digital media production facility" means a~~
548 ~~building or series of buildings and their improvements in which~~
549 ~~data processing, visualization, and sound synchronization~~
550 ~~technologies are regularly applied for the production of~~
551 ~~qualified digital media projects or the digital animation~~

585-03269-14

20141640c1

552 ~~components of qualified productions.~~

553 ~~(m) "Qualified production facility" means a building or~~
554 ~~complex of buildings and their improvements and associated~~
555 ~~backlot facilities in which regular filming activity for film or~~
556 ~~television has occurred for a period of no less than 1 year and~~
557 ~~which contain at least one sound stage of at least 7,800 square~~
558 ~~feet.~~

559 ~~(n) "Regional population ratio" means the ratio of the~~
560 ~~population of a region to the population of this state. The~~
561 ~~regional population ratio applicable to a given fiscal year is~~
562 ~~the regional population ratio calculated by the Office of Film~~
563 ~~and Entertainment using the latest official estimates of~~
564 ~~population certified under s. 186.901, available on the first~~
565 ~~day of that fiscal year.~~

566 ~~(o) "Regional tax credit ratio" means a ratio the numerator~~
567 ~~of which is the sum of tax credits awarded to productions in a~~
568 ~~region to date plus the tax credits certified, but not yet~~
569 ~~awarded, to productions currently in that region and the~~
570 ~~denominator of which is the sum of all tax credits awarded in~~
571 ~~the state to date plus all tax credits certified, but not yet~~
572 ~~awarded, to productions currently in the state. The regional tax~~
573 ~~credit ratio applicable to a given year is the regional tax~~
574 ~~credit ratio calculated by the Office of Film and Entertainment~~
575 ~~using credit award and certification information available on~~
576 ~~the first day of that fiscal year.~~

577 ~~(p) "Underutilized region" for a given state fiscal year~~
578 ~~means a region with a regional tax credit ratio applicable to~~
579 ~~that fiscal year that is lower than its regional population~~
580 ~~ratio applicable to that fiscal year. The following regions are~~

585-03269-14

20141640c1

581 ~~established for purposes of making this determination:~~

582 ~~1. North Region, consisting of Alachua, Baker, Bay,~~
583 ~~Bradford, Calhoun, Clay, Columbia, Dixie, Duval, Escambia,~~
584 ~~Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson,~~
585 ~~Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau,~~
586 ~~Okaloosa, Putnam, Santa Rosa, St. Johns, Suwannee, Taylor,~~
587 ~~Union, Wakulla, Walton, and Washington Counties.~~

588 ~~2. Central East Region, consisting of Brevard, Flagler,~~
589 ~~Indian River, Lake, Okeechobee, Orange, Osceola, Seminole, St.~~
590 ~~Lucie, and Volusia Counties.~~

591 ~~3. Central West Region, consisting of Citrus, Hernando,~~
592 ~~Hillsborough, Manatee, Marion, Polk, Pasco, Pinellas, Sarasota,~~
593 ~~and Sumter Counties.~~

594 ~~4. Southwest Region, consisting of Charlotte, Collier,~~
595 ~~DeSoto, Glades, Hardee, Hendry, Highlands, and Lee Counties.~~

596 ~~5. Southeast Region, consisting of Broward, Martin, Miami-~~
597 ~~Dade, Monroe, and Palm Beach Counties.~~

598 ~~(k)~~ (q) "Interactive website" means a website or group of
599 websites that includes interactive and downloadable content, and
600 creates 25 new Florida full-time equivalent positions operating
601 from a principal place of business located within Florida. An
602 interactive website or group of websites must provide
603 documentation that those jobs were created to the department
604 ~~before Office of Film and Entertainment prior to~~ the award of
605 tax credits. Each subsequent program application must provide
606 proof that 25 Florida full-time equivalent positions are
607 maintained.

608 (2) CREATION AND PURPOSE OF PROGRAM.—The entertainment
609 industry financial incentive program is created ~~within the~~

585-03269-14

20141640c1

610 ~~Office of Film and Entertainment. The purpose of this program is~~
611 to encourage the use of this state as a site for entertainment
612 production, for filming, and for the digital production of
613 entertainment films, and to develop and sustain the workforce
614 and infrastructure for film, digital media, and entertainment
615 production.

616 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.—

617 (a) *Program application.*—A qualified production company
618 producing a qualified production in this state may submit a
619 program application to the department ~~Office of Film and~~
620 ~~Entertainment~~ for the purpose of determining qualification for
621 an award of tax credits authorized by this section no earlier
622 than 150 ~~180~~ days before the first day of principal photography
623 or project start date in this state. The applicant shall provide
624 the department ~~Office of Film and Entertainment~~ with information
625 required to determine whether the production is a qualified
626 production and to determine the qualified expenditures and other
627 information necessary for the department ~~office~~ to determine
628 eligibility for the tax credit.

629 (b) *Required documentation.*—The department ~~Office of Film~~
630 ~~and Entertainment~~ shall develop an application form for
631 qualifying an applicant as a qualified production. The form must
632 include, but need not be limited to, production-related
633 information concerning employment of residents in this state, a
634 detailed budget of planned qualified expenditures and aggregate
635 nonqualified expenditures in this state, proof of financing for
636 the production, and the applicant's signed affirmation that the
637 information on the form has been verified and is correct. The
638 Division ~~Office~~ of Film and Entertainment of Enterprise Florida,

585-03269-14

20141640c1

639 Inc., and local film commissions shall distribute the form.

640 (c) *Application process.*—The department ~~Office of Film and~~
641 ~~Entertainment~~ shall establish a process by which an application
642 is accepted and reviewed and by which tax credit eligibility and
643 award amount are determined. The department may consult with the
644 Division ~~Office~~ of Film and Entertainment of Enterprise Florida,
645 Inc., or ~~may request assistance from~~ a duly appointed local film
646 commission in determining compliance with this section.

647 1. Applications may be accepted until, and shall include,
648 the application that causes the amount of tax credit eligibility
649 requested to exceed 125 percent of tax credits allocated for the
650 fiscal year under paragraph (7) (a). Applications received after
651 all tax credits allocated for the fiscal year have been
652 certified shall be assigned a queue number that is determined by
653 the date and time the application was received by the
654 department. Applications in the queue are deemed denied on June
655 30 of each year.

656 2. A ~~certified~~ high-impact television series may submit an
657 initial application for no more than two successive seasons,
658 notwithstanding the fact that the second season has ~~successive~~
659 ~~seasons have~~ not been ordered. The ~~successive season's~~ qualified
660 expenditure amounts for the second season shall be based on the
661 current season's estimated qualified expenditures. Upon the
662 completion of production of each season, a high-impact
663 television series may submit an application for no more than one
664 additional season. To be certified for credits, the applicant
665 must provide proof that the additional season has been ordered
666 as part of the application for the additional season.

667 (d) *Certification.*—

585-03269-14

20141640c1

668 1. The department ~~Office of Film and Entertainment~~ shall
669 review the application within 15 business days after receipt.
670 Upon the department's ~~its~~ determination, in consultation with
671 the Division of Film and Entertainment of Enterprise Florida,
672 Inc., that the application contains all the information required
673 by this subsection and meets the criteria set out in this
674 section, the ~~department Office of Film and Entertainment~~ shall
675 deny ~~qualify the applicant and recommend to the department that~~
676 ~~the applicant be certified for the maximum tax credit award~~
677 ~~amount. Within 5 business days after receipt of the~~
678 ~~recommendation, the department shall reject the application~~
679 ~~recommendation~~ or certify the maximum ~~recommended~~ tax credit
680 award, if any funds are available, to the applicant and to the
681 executive director of the Department of Revenue.

682 2. In a fiscal year, the department may certify only the
683 amount of tax credits allocated for that fiscal year, as
684 provided under subsection (7). However, the department may
685 certify a high-impact television series for additional tax
686 credits allocated in a future fiscal year if the high-impact
687 television series has an executed contract or order for season
688 renewal effective for the future fiscal year from which tax
689 credits would be allocated. The department may certify one
690 additional ordered season per future fiscal year in which the
691 qualified production would occur.

692 (e) Employment.—Upon certification by the department, the
693 production must provide the department and the Division of Film
694 and Entertainment of Enterprise Florida, Inc., with a single
695 point of contact and information related to the production's
696 needs for cast, crew, contractors, and vendors. The division

585-03269-14

20141640c1

697 shall publish this information online, including the type of
698 production, the projected start date of the production, the
699 locations in this state for such production, and the e-mail or
700 other contact information for the production's point of contact.
701 The department, in consultation with the division, may adopt
702 procedures for a production to post such information itself
703 within 7 days after certification.

704 (f)(e) Grounds for denial.-

705 1. The department Office of Film and Entertainment shall
706 deny an application if it determines that the application is not
707 complete, or the production or application does not meet the
708 requirements of this section, or there are no additional credits
709 for certification as provided under paragraph (c). Within 90
710 days after submitting a program application, except with respect
711 to applications in the independent and emerging media queue, a
712 production must provide proof of project financing to the Office
713 of Film and Entertainment, otherwise the project is deemed
714 denied and withdrawn. A project that has been denied withdrawn
715 may submit a new application upon providing the Office of Film
716 and Entertainment proof of financing.

717 2. The department shall deny a certified production upon
718 any circumstance affecting the reasonable schedule or timely
719 completion of the certified production, including a break in
720 production, change in the production schedule, or loss of
721 financing for the production. A certified production must notify
722 the department within 5 days after any circumstance affecting
723 its timely completion. A certified production may not be denied
724 if it provides the department with proof of replacement
725 financing within 10 days after the loss of financing for the

585-03269-14

20141640c1

726 production. To keep a reasonable schedule, the certified
727 production must begin principal photography or the production
728 project in this state no more than 45 calendar days before or
729 after the principal photography or project start date provided
730 in the production's program application.

731 (g) ~~(f)~~ *Verification of actual qualified expenditures.*—

732 1. The department, in consultation with the Division of
733 Film and Entertainment, ~~Office of Film and Entertainment~~ shall
734 develop a process to verify the actual qualified expenditures of
735 a certified production. The process must require:

736 a. A certified production to submit, within 180 days ~~in a~~
737 ~~timely manner~~ after production ends in this state and after
738 making all of its qualified expenditures in this state, data
739 substantiating each qualified expenditure, including
740 documentation on the net expenditure on equipment and other
741 tangible personal property by the qualified production, to an
742 independent certified public accountant licensed in this state;

743 b. Such accountant to conduct a compliance audit, at the
744 certified production's expense, to substantiate each qualified
745 expenditure and submit the results as a report, along with the
746 required substantiating data, to the department ~~Office of Film~~
747 ~~and Entertainment~~; and

748 c. The department ~~Office of Film and Entertainment~~ to
749 review the accountant's submittal and verify ~~report to the~~
750 ~~department~~ the final ~~verified~~ amount of actual qualified
751 expenditures made by the certified production.

752 2. The department shall determine and approve the final tax
753 credit award amount to each certified applicant based on the
754 final verified amount of actual qualified expenditures and shall

585-03269-14

20141640c1

755 notify the executive director of the Department of Revenue in
756 writing that the certified production has met the requirements
757 of the incentive program and of the final amount of the tax
758 credit award. The final tax credit award amount may not exceed
759 the maximum tax credit award amount certified under paragraph
760 (d).

761 (h) ~~(g)~~ *Promoting Florida.*—The department ~~Office of Film and~~
762 ~~Entertainment~~ shall ensure that, as a condition of receiving a
763 tax credit under this section, marketing materials promoting
764 this state as a tourist destination or film and entertainment
765 production destination are included, when appropriate, at no
766 cost to the state, which must, at a minimum, include placement
767 of a “Filmed in Florida” or “Produced in Florida” logo in the
768 opening titles and end credits. The placement of a “Filmed in
769 Florida” or “Produced in Florida” logo on all packaging material
770 and hard media is also required, unless such placement is
771 prohibited by licensing or other contractual obligations. The
772 size and placement of such logo shall be commensurate to other
773 logos used. If no logos are used, the statement “Filmed in
774 Florida using Florida’s Entertainment Industry Financial
775 Incentive,” or a similar statement approved by the Division
776 ~~Office~~ of Film and Entertainment of Enterprise Florida, Inc.,
777 shall be used. The Division ~~Office~~ of Film and Entertainment of
778 Enterprise Florida, Inc., shall provide a logo and supply it for
779 the purposes specified in this paragraph. A 30-second “Visit
780 Florida” promotional video must also be included on all optical
781 disc formats of a film, unless such placement is prohibited by
782 licensing or other contractual obligations. The 30-second
783 promotional video shall be approved and provided by the Florida

585-03269-14

20141640c1

784 Tourism Industry Marketing Corporation in consultation with the
785 Division Commissioner of Film and Entertainment of Enterprise
786 Florida, Inc.

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

791 (a) *Priority for tax credit award.*—The priority of a
792 qualified production for tax credit awards must be determined on
793 a first-come, first-served basis within its appropriate queue.
794 Each qualified production must be placed into the appropriate
795 queue and is subject to the requirements of that queue.

796 (b) *Tax credit eligibility.*—

797 1. General production queue.—Ninety-four percent of tax
798 credits authorized pursuant to subsection (7) ~~(6)~~ in any state
799 fiscal year must be dedicated to the general production queue.
800 The general production queue consists of all qualified
801 productions other than those eligible for the commercial and
802 music video queue or the independent and emerging media
803 production queue. A qualified production that demonstrates a
804 minimum of \$625,000 in qualified expenditures is eligible for
805 tax credits equal to 20 percent of its actual qualified
806 expenditures, up to a maximum of \$8 million. A qualified
807 production that incurs qualified expenditures during multiple
808 state fiscal years may combine those expenditures to satisfy the
809 \$625,000 minimum threshold.

810 a. For the first 10 months of each fiscal year, 20 percent
811 of the credits in the general production queue shall be set
812 aside for qualified productions in underutilized counties. A

585-03269-14

20141640c1

813 qualified production eligible for these funds is a production
814 for which at least 70 percent of its principal photography days
815 occur within an underutilized county designated as an
816 underutilized county at the time that the production is
817 certified. The term "underutilized county" means a county in
818 which less than \$500,000 in qualified expenditures were made in
819 the last 2 fiscal years. Any funds not yet certified from this
820 set-aside at the end of the 10-month period may be certified to
821 qualified productions pursuant to this section ~~An off-season~~
822 ~~certified production that is a feature film, independent film,~~
823 ~~or television series or pilot is eligible for an additional 5~~
824 ~~percent tax credit on actual qualified expenditures. An off-~~
825 ~~season certified production that does not complete 75 percent of~~
826 ~~principal photography due to a disruption caused by a hurricane~~
827 ~~or tropical storm may not be disqualified from eligibility for~~
828 ~~the additional 5 percent credit as a result of the disruption.~~
829 ~~b. If more than 45 percent of the sum of total tax credits~~
830 ~~initially certified and awarded after April 1, 2012, total tax~~
831 ~~credits initially certified after April 1, 2012, but not yet~~
832 ~~awarded, and total tax credits available for certification after~~
833 ~~April 1, 2012, but not yet certified has been awarded for high-~~
834 ~~impact television series, then no high-impact television series~~
835 ~~is eligible for tax credits under this subparagraph. Tax credits~~
836 ~~initially certified for a high-impact television series after~~
837 ~~April 1, 2012, may not be awarded if the award will cause the~~
838 ~~percentage threshold in this sub-subparagraph to be exceeded.~~
839 ~~This sub-subparagraph does not prohibit the award of tax credits~~
840 ~~certified before April 1, 2012, for high-impact television~~
841 ~~series.~~

585-03269-14

20141640c1

842 ~~b.e.~~ Subject to ~~sub-subparagraph b.~~, First priority in the
843 queue for tax credit awards not yet certified shall be given to
844 high-impact television series and high-impact digital media
845 projects. For the purposes of determining priority between a
846 high-impact television series and a high-impact digital media
847 project, the first position must go to the first application
848 received. Thereafter, priority shall be determined by
849 ~~alternating between a high-impact television series and a high-~~
850 ~~impact digital media project~~ on a first-come, first-served
851 basis. ~~However, if the Office of Film and Entertainment receives~~
852 ~~an application for a high-impact television series or high-~~
853 ~~impact digital media project that would be certified but for the~~
854 ~~alternating priority, the office may certify the project as~~
855 ~~being in the priority position if an application that would~~
856 ~~normally be the priority position is not received within 5~~
857 ~~business days.~~

858 ~~d.~~ A ~~qualified production for which at least 67 percent of~~
859 ~~its principal photography days occur within a region designated~~
860 ~~as an underutilized region at the time that the production is~~
861 ~~certified is eligible for an additional 5 percent tax credit.~~

862 ~~c.e.~~ A qualified production is eligible for an additional
863 15 percent tax credit on qualified expenditures that are wages,
864 salaries, or other compensation paid to the following
865 individuals employed by the qualified production: ~~that employs~~
866 students enrolled full-time in a film and entertainment-related
867 or digital media-related course of study at an institution of
868 higher education in this state, individuals participating in the
869 Road-to-Independence Program under s. 409.1451, individuals with
870 developmental disabilities as defined under s. 393.063 residing

585-03269-14

20141640c1

871 in this state, veterans residing in this state, and individuals
872 ~~is eligible for an additional 15 percent tax credit on qualified~~
873 ~~expenditures that are wages, salaries, or other compensation~~
874 ~~paid to such students. The additional 15 percent tax credit is~~
875 ~~also applicable to persons~~ hired within 12 months after
876 graduating from a film and entertainment-related or digital
877 media-related course of study at an institution of higher
878 education in this state. ~~The additional 15 percent tax credit~~
879 ~~applies to qualified expenditures that are wages, salaries, or~~
880 ~~other compensation paid to such recent graduates for 1 year~~
881 ~~after the date of hiring.~~

882 ~~f. A qualified production for which 50 percent or more of~~
883 ~~its principal photography occurs at a qualified production~~
884 ~~facility, or a qualified digital media project or the digital~~
885 ~~animation component of a qualified production for which 50~~
886 ~~percent or more of the project's or component's qualified~~
887 ~~expenditures are related to a qualified digital media production~~
888 ~~facility, is eligible for an additional 5 percent tax credit on~~
889 ~~actual qualified expenditures for production activity at that~~
890 ~~facility.~~

891 d. A qualified production that completes a capital
892 investment of at least \$2 million before the completion of the
893 qualified production is eligible for an additional 5 percent tax
894 credit. The capital investment must be permanent and must remain
895 in this state after the production ends in this state.

896 ~~e.g.~~ A qualified production is not eligible for tax credits
897 provided under this paragraph totaling more than 25 percent ~~30~~
898 ~~percent~~ of its actual qualified expenses.

899 2. Commercial and music video queue.—Three percent of tax

585-03269-14

20141640c1

900 credits authorized pursuant to subsection (7) ~~(6)~~ in any state
901 fiscal year must be dedicated to the commercial and music video
902 queue. A qualified production company that produces national or
903 regional commercials or music videos may be eligible for a tax
904 credit award if it demonstrates a minimum of \$100,000 in
905 qualified expenditures per national or regional commercial or
906 music video and exceeds a combined threshold of \$500,000 after
907 combining actual qualified expenditures from qualified
908 commercials and music videos during a single state fiscal year.
909 After a qualified production company that produces commercials,
910 music videos, or both reaches the threshold of \$500,000, it is
911 eligible to apply for certification for a tax credit award. The
912 maximum credit award shall be equal to 20 percent of its actual
913 qualified expenditures up to a maximum of \$500,000. If there is
914 a surplus at the end of a fiscal year after the department
915 ~~Office of Film and Entertainment~~ certifies and determines the
916 tax credits for all qualified commercial and video projects,
917 such surplus tax credits shall be carried forward to the
918 following fiscal year and are available to any eligible
919 qualified productions under the general production queue.

920 3. Independent and emerging media production queue.—Three
921 percent of tax credits authorized pursuant to subsection (7) ~~(6)~~
922 in any state fiscal year must be dedicated to the independent
923 and emerging media production queue. This queue is intended to
924 encourage independent film and emerging media production in this
925 state. Any qualified production, excluding commercials,
926 infomercials, or music videos, which demonstrates at least
927 \$100,000, but not more than \$625,000, in total qualified
928 expenditures is eligible for tax credits equal to 20 percent of

585-03269-14

20141640c1

929 its actual qualified expenditures. If a surplus exists at the
930 end of a fiscal year after the department ~~Office of Film and~~
931 ~~Entertainment~~ certifies and determines the tax credits for all
932 qualified independent and emerging media production projects,
933 such surplus tax credits shall be carried forward to the
934 following fiscal year and are available to any eligible
935 qualified productions under the general production queue.

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

949 ~~(c) Withdrawal of tax credit eligibility. A qualified or~~
950 ~~certified production must continue on a reasonable schedule,~~
951 ~~which includes beginning principal photography or the production~~
952 ~~project in this state no more than 45 calendar days before or~~
953 ~~after the principal photography or project start date provided~~
954 ~~in the production's program application. The department shall~~
955 ~~withdraw the eligibility of a qualified or certified production~~
956 ~~that does not continue on a reasonable schedule.~~

957 (c) ~~(d)~~ *Election and distribution of tax credits.-*

585-03269-14

20141640c1

958 1. A certified production company receiving a tax credit
959 award under this section shall, at the time the credit is
960 awarded by the department after production is completed and all
961 requirements to receive a credit award have been met, make an
962 irrevocable election to apply the credit against taxes due under
963 chapter 220, against state taxes collected or accrued under
964 chapter 212, or against a stated combination of the two taxes.
965 The election is binding upon any distributee, successor,
966 transferee, or purchaser. The department shall notify the
967 Department of Revenue of any election made pursuant to this
968 paragraph.

969 2. A qualified production company is eligible for tax
970 credits against its sales and use tax liabilities and corporate
971 income tax liabilities as provided in this section. However, tax
972 credits awarded under this section may not be claimed against
973 sales and use tax liabilities or corporate income tax
974 liabilities for any tax period beginning before July 1, 2011,
975 regardless of when the credits are applied for or awarded.

976 (d)~~(e)~~ *Tax credit carryforward.*—If the certified production
977 company cannot use the entire tax credit in the taxable year or
978 reporting period in which the credit is awarded, any excess
979 amount may be carried forward to a succeeding taxable year or
980 reporting period. A tax credit applied against taxes imposed
981 under chapter 212 or ~~may be carried forward for a maximum of 5~~
982 ~~years after the date the credit is awarded. A tax credit applied~~
983 ~~against taxes imposed under~~ chapter 220 may be carried forward
984 for a maximum of 5 years after the date the credit is awarded,
985 after which the credit expires and may not be used.

986 (e)~~(f)~~ *Consolidated returns.*—A certified production company

585-03269-14

20141640c1

987 that files a Florida consolidated return as a member of an
 988 affiliated group under s. 220.131(1) may be allowed the credit
 989 on a consolidated return basis up to the amount of the tax
 990 imposed upon the consolidated group under chapter 220.

991 (f)~~(g)~~ *Partnership and noncorporate distributions.*—A
 992 qualified production company that is not a corporation as
 993 defined in s. 220.03 may elect to distribute tax credits awarded
 994 under this section to its partners or members in proportion to
 995 their respective distributive income or loss in the taxable year
 996 in which the tax credits were awarded.

997 (g)~~(h)~~ *Mergers or acquisitions.*—Tax credits available under
 998 this section to a certified production company may succeed to a
 999 surviving or acquiring entity subject to the same conditions and
 1000 limitations as described in this section; however, they may not
 1001 be transferred again by the surviving or acquiring entity.

1002 (5) TRANSFER OF TAX CREDITS.—

1003 (a) *Authorization.*—Upon application to ~~the Office of Film~~
 1004 ~~and Entertainment~~ and approval by the department, a certified
 1005 production company, or a partner or member that has received a
 1006 distribution under paragraph (4)(f) ~~(4)(g)~~, may elect to
 1007 transfer, in whole or in part, any unused credit amount granted
 1008 under this section. An election to transfer any unused tax
 1009 credit amount under chapter 212 or chapter 220 must be made no
 1010 later than 5 years after the date the credit is awarded, after
 1011 which period the credit expires and may not be used. The
 1012 department shall notify the Department of Revenue of the
 1013 election and transfer.

1014 (b) *Number of transfers permitted.*—A certified production
 1015 company that elects to apply a credit amount against taxes

585-03269-14

20141640c1

1016 remitted under chapter 212 is permitted a one-time transfer of
1017 unused credits to one transferee. A certified production company
1018 that elects to apply a credit amount against taxes due under
1019 chapter 220 is permitted a one-time transfer of unused credits
1020 to no more than four transferees, and such transfers must occur
1021 in the same taxable year.

1022 (c) *Transferee rights and limitations.*—The transferee is
1023 subject to the same rights and limitations as the certified
1024 production company awarded the tax credit, except that the
1025 initial transferee shall be permitted a one-time transfer of
1026 unused credits to no more than two subsequent transferees, and
1027 such transfers must occur in the same taxable year as the
1028 credits were received by the initial transferee, after which the
1029 subsequent transferees may not sell or otherwise transfer the
1030 tax credit.

1031 (6) RELINQUISHMENT OF TAX CREDITS.—

1032 (a) Beginning July 1, 2011, a certified production company,
1033 or any person who has acquired a tax credit from a certified
1034 production company pursuant to subsections (4) and (5), may
1035 elect to relinquish the tax credit to the Department of Revenue
1036 in exchange for 90 percent of the amount of the relinquished tax
1037 credit.

1038 (b) The Department of Revenue may approve payments to
1039 persons relinquishing tax credits pursuant to this subsection.

1040 (c) Subject to legislative appropriation, the Department of
1041 Revenue shall request the Chief Financial Officer to issue
1042 warrants to persons relinquishing tax credits. Payments under
1043 this subsection shall be made from the funds from which the
1044 proceeds from the taxes against which the tax credits could have

585-03269-14

20141640c1

1045 been applied pursuant to the irrevocable election made by the
1046 certified production company under subsection (4) are deposited.

1047 (7) ANNUAL ALLOCATION OF TAX CREDITS.—

1048 (a) The aggregate amount of the tax credits that may be
1049 certified pursuant to paragraph (3) (d) may not exceed:

1050 1. For fiscal year 2010-2011, \$53.5 million.

1051 2. For fiscal year 2011-2012, \$74.5 million.

1052 3. For fiscal years 2012-2013, 2013-2014, 2014-2015, and
1053 2015-2016, \$42 million per fiscal year.

1054 4. Beginning July 1, 2014, for fiscal years 2014-2015 and
1055 2015-2016, an additional \$50 million per fiscal year.

1056 5. Beginning July 1, 2016, for fiscal years 2016-2017,
1057 2017-2018, 2018-2019, and 2019-2020, \$50 million per fiscal
1058 year.

1059 (b) Any portion of the maximum amount of tax credits
1060 established per fiscal year in paragraph (a) that is not
1061 certified as of the end of a fiscal year shall be carried
1062 forward and made available for certification during the
1063 following 2 fiscal years in addition to the amounts available
1064 for certification under paragraph (a) for those fiscal years.

1065 (c) Upon approval of the final tax credit award amount
1066 pursuant to subparagraph (3) (g) 2. ~~(3) (f) 2.~~, an amount equal to
1067 the difference between the maximum tax credit award amount
1068 previously certified under paragraph (3) (d) and the approved
1069 final tax credit award amount shall immediately be available for
1070 recertification during the current and following fiscal years in
1071 addition to the amounts available for certification under
1072 paragraph (a) for those fiscal years.

1073 (d) Amounts available on and after July 1, 2014, for

585-03269-14

20141640c1

1074 certification may not be certified before the fiscal year in
1075 which the amounts are listed in paragraph (a), except as
1076 provided in subparagraph (3)(d)2. If, during a fiscal year, the
1077 ~~total amount of credits applied for, pursuant to paragraph~~
1078 ~~(3)(a), exceeds the amount of credits available for~~
1079 ~~certification in that fiscal year, such excess shall be treated~~
1080 ~~as having been applied for on the first day of the next fiscal~~
1081 ~~year in which credits remain available for certification.~~

1082 (8) RULES, POLICIES, AND PROCEDURES.—

1083 (a) The department may adopt rules pursuant to ss.
1084 120.536(1) and 120.54 and develop policies and procedures to
1085 implement and administer this section, including, but not
1086 limited to, rules specifying requirements for the application
1087 and approval process, records required for substantiation for
1088 tax credits, procedures for making the election in paragraph
1089 (4)(c) ~~(4)(d)~~, the manner and form of documentation required to
1090 claim tax credits awarded or transferred under this section, and
1091 marketing requirements for tax credit recipients.

1092 (b) The Department of Revenue may adopt rules pursuant to
1093 ss. 120.536(1) and 120.54 to administer this section, including
1094 rules governing the examination and audit procedures required to
1095 administer this section and the manner and form of documentation
1096 required to claim tax credits awarded, transferred, or
1097 relinquished under this section.

1098 (9) AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX
1099 CREDITS; FRAUDULENT CLAIMS.—

1100 (a) *Audit authority.*—The Department of Revenue may conduct
1101 examinations and audits as provided in s. 213.34 to verify that
1102 tax credits under this section are received, transferred, and

585-03269-14

20141640c1

1103 applied according to the requirements of this section. If the
1104 Department of Revenue determines that tax credits are not
1105 received, transferred, or applied as required by this section,
1106 it may, in addition to the remedies provided in this subsection,
1107 pursue recovery of such funds pursuant to the laws and rules
1108 governing the assessment of taxes.

1109 (b) *Revocation of tax credits.*—The department may revoke or
1110 modify any written decision qualifying, certifying, or otherwise
1111 granting eligibility for tax credits under this section if it is
1112 discovered that the tax credit applicant submitted any false
1113 statement, representation, or certification in any application,
1114 record, report, plan, or other document filed in an attempt to
1115 receive tax credits under this section. The department shall
1116 immediately notify the Department of Revenue of any revoked or
1117 modified orders affecting previously granted tax credits.
1118 Additionally, the applicant must notify the Department of
1119 Revenue of any change in its tax credit claimed.

1120 (c) *Forfeiture of tax credits.*—A determination by the
1121 Department of Revenue, as a result of an audit pursuant to
1122 paragraph (a) or from information received from the department
1123 or the Division ~~Office~~ of Film and Entertainment of Enterprise
1124 Florida, Inc., that an applicant received tax credits pursuant
1125 to this section to which the applicant was not entitled is
1126 grounds for forfeiture of previously claimed and received tax
1127 credits. The applicant is responsible for returning forfeited
1128 tax credits to the Department of Revenue, and such funds shall
1129 be paid into the General Revenue Fund of the state. Tax credits
1130 purchased in good faith are not subject to forfeiture unless the
1131 transferee submitted fraudulent information in the purchase or

585-03269-14

20141640c1

1132 failed to meet the requirements in subsection (5).

1133 (d) *Fraudulent claims.*—Any applicant that submits
1134 fraudulent information under this section is liable for
1135 reimbursement of the reasonable costs and fees associated with
1136 the review, processing, investigation, and prosecution of the
1137 fraudulent claim. An applicant that obtains a credit payment
1138 under this section through a claim that is fraudulent is liable
1139 for reimbursement of the credit amount plus a penalty in an
1140 amount double the credit amount. The penalty is in addition to
1141 any criminal penalty to which the applicant is liable for the
1142 same acts. The applicant is also liable for costs and fees
1143 incurred by the state in investigating and prosecuting the
1144 fraudulent claim.

1145 (10) ANNUAL REPORT.—Each November 1, the department ~~Office~~
1146 ~~of Film and Entertainment~~ shall submit an annual report for the
1147 previous fiscal year to the Governor, the President of the
1148 Senate, and the Speaker of the House of Representatives which
1149 outlines the incentive program's return on investment and
1150 economic benefits to the state. The report must also include an
1151 estimate of the full-time equivalent positions created by each
1152 production that received tax credits under this section and
1153 information relating to the distribution of productions
1154 receiving credits by geographic region and type of production.
1155 The report must also include the expenditures report required
1156 under s. 288.9241 ~~s. 288.1253(3)~~ and the information describing
1157 the relationship between tax exemptions and incentives to
1158 industry growth required under s. 288.1258(5). The department
1159 may work with the Division of Film and Entertainment of
1160 Enterprise Florida, Inc., to develop the annual report.

585-03269-14

20141640c1

1161 (11) REPEAL.—This section is repealed July 1, 2020 ~~July 1,~~
1162 ~~2016~~, except that:

1163 (a) Tax credits certified under paragraph (3) (d) before
1164 July 1, 2020 ~~July 1, 2016~~, may be awarded under paragraph (3) (g)
1165 ~~(3) (f)~~ on or after July 1, 2020 ~~July 1, 2016~~, if the other
1166 requirements of this section are met.

1167 (b) Tax credits carried forward under paragraph (4) (d)
1168 ~~(4) (e)~~ remain valid for the period specified.

1169 (c) Subsections (5), (8), and (9) shall remain in effect
1170 until July 1, 2025 ~~July 1, 2021~~.

1171 Section 6. Beginning July 1, 2014, applications on file
1172 with the Department of Economic Opportunity to receive a tax
1173 credit through the entertainment industry financial incentive
1174 program under s. 288.1254, Florida Statutes, which are not yet
1175 certified are deemed denied.

1176 Section 7. Section 288.1258, Florida Statutes, is amended
1177 to read:

1178 288.1258 Entertainment industry qualified production
1179 companies; application procedure; categories; duties of the
1180 Department of Revenue; records and reports.—

1181 (1) PRODUCTION COMPANIES AUTHORIZED TO APPLY.—

1182 (a) Any production company engaged in this state in the
1183 production of motion pictures, made-for-TV motion pictures,
1184 television series, commercial advertising, music videos, or
1185 sound recordings may submit an application to the Department of
1186 Revenue to be approved by the department ~~Office of Film and~~
1187 ~~Entertainment~~ as a qualified production company for the purpose
1188 of receiving a sales and use tax certificate of exemption from
1189 the Department of Revenue.

585-03269-14

20141640c1

1190 (b) As used in ~~For the purposes of~~ this section, the term
1191 "qualified production company" means any production company that
1192 has submitted a properly completed application to the Department
1193 of Revenue and that is subsequently qualified by the department
1194 ~~Office of Film and Entertainment~~.

1195 (2) APPLICATION PROCEDURE.—

1196 (a) The Department of Revenue will review all submitted
1197 applications for the required information. Within 10 working
1198 days after the receipt of a properly completed application, the
1199 Department of Revenue will forward the completed application to
1200 the department ~~Office of Film and Entertainment~~ for approval.

1201 (b)1. The department ~~Office of Film and Entertainment~~ shall
1202 establish a process by which an entertainment industry
1203 production company may be approved by the department ~~office~~ as a
1204 qualified production company and may receive a certificate of
1205 exemption from the Department of Revenue for the sales and use
1206 tax exemptions under ss. 212.031, 212.06, and 212.08.

1207 2. Upon determination by the department ~~Office of Film and~~
1208 ~~Entertainment~~ that a production company meets the established
1209 approval criteria and qualifies for exemption, the department
1210 ~~Office of Film and Entertainment~~ shall return the approved
1211 application or application renewal or extension to the
1212 Department of Revenue, which shall issue a certificate of
1213 exemption.

1214 3. The department ~~Office of Film and Entertainment~~ shall
1215 deny an application or application for renewal or extension from
1216 a production company if it determines that the production
1217 company does not meet the established approval criteria.

1218 (c) The department ~~Office of Film and Entertainment~~ shall

585-03269-14

20141640c1

1219 develop, with the cooperation of the Department of Revenue, the
1220 Division of Film and Entertainment of Enterprise Florida, Inc.,
1221 and local government entertainment industry promotion agencies,
1222 a standardized application form for use in approving qualified
1223 production companies.

1224 1. The application form shall include, but not be limited
1225 to, production-related information on employment, proposed
1226 budgets, planned purchases of items exempted from sales and use
1227 taxes under ss. 212.031, 212.06, and 212.08, a signed
1228 affirmation from the applicant that any items purchased for
1229 which the applicant is seeking a tax exemption are intended for
1230 use exclusively as an integral part of entertainment industry
1231 preproduction, production, or postproduction activities engaged
1232 in primarily in this state, and a signed affirmation from the
1233 department ~~Office of Film and Entertainment~~ that the information
1234 on the application form has been verified and is correct. In
1235 lieu of information on projected employment, proposed budgets,
1236 or planned purchases of exempted items, a production company
1237 seeking a 1-year certificate of exemption may submit summary
1238 historical data on employment, production budgets, and purchases
1239 of exempted items related to production activities in this
1240 state. Any information gathered from production companies for
1241 the purposes of this section shall be considered confidential
1242 taxpayer information and shall be disclosed only as provided in
1243 s. 213.053.

1244 2. The application form may be distributed to applicants by
1245 the department, the Division ~~Office~~ of Film and Entertainment of
1246 Enterprise Florida, Inc., or local film commissions.

1247 (d) All applications, renewals, and extensions for

585-03269-14

20141640c1

1248 designation as a qualified production company shall be processed
1249 by the department ~~Office of Film and Entertainment~~.

1250 (e) ~~If In the event that~~ the Department of Revenue
1251 determines that a production company no longer qualifies for a
1252 certificate of exemption, or has used a certificate of exemption
1253 for purposes other than those authorized by this section and
1254 chapter 212, the Department of Revenue shall revoke the
1255 certificate of exemption of that production company, and any
1256 sales or use taxes exempted on items purchased or leased by the
1257 production company during the time such company did not qualify
1258 for a certificate of exemption or improperly used a certificate
1259 of exemption shall become immediately due to the Department of
1260 Revenue, along with interest and penalty as provided by s.
1261 212.12. In addition to the other penalties imposed by law, any
1262 person who knowingly and willfully falsifies an application, or
1263 uses a certificate of exemption for purposes other than those
1264 authorized by this section and chapter 212, commits a felony of
1265 the third degree, punishable as provided in ss. 775.082,
1266 775.083, and 775.084.

1267 (3) CATEGORIES.—

1268 (a)1. A production company may be qualified for designation
1269 as a qualified production company for a period of 1 year if the
1270 company has operated a business in Florida at a permanent
1271 address for a period of 12 consecutive months. Such a qualified
1272 production company shall receive a single 1-year certificate of
1273 exemption from the Department of Revenue for the sales and use
1274 tax exemptions under ss. 212.031, 212.06, and 212.08, which
1275 certificate shall expire 1 year after issuance or upon the
1276 cessation of business operations in the state, at which time the

585-03269-14

20141640c1

1277 certificate shall be surrendered to the Department of Revenue.

1278 2. The department ~~Office of Film and Entertainment~~ shall
1279 develop a method by which a qualified production company may
1280 annually renew a 1-year certificate of exemption for a period of
1281 up to 5 years without requiring the production company to
1282 resubmit a new application during that 5-year period.

1283 3. Any qualified production company may submit a new
1284 application for a 1-year certificate of exemption upon the
1285 expiration of that company's certificate of exemption.

1286 (b)1. A production company may be qualified for designation
1287 as a qualified production company for a period of 90 days. Such
1288 production company shall receive a single 90-day certificate of
1289 exemption from the Department of Revenue for the sales and use
1290 tax exemptions under ss. 212.031, 212.06, and 212.08, which
1291 certificate shall expire 90 days after issuance, with extensions
1292 contingent upon approval of the department ~~Office of Film and~~
1293 ~~Entertainment~~. The certificate shall be surrendered to the
1294 Department of Revenue upon its expiration.

1295 2. Any production company may submit a new application for
1296 a 90-day certificate of exemption upon the expiration of that
1297 company's certificate of exemption.

1298 (4) DUTIES OF THE DEPARTMENT OF REVENUE.—

1299 (a) The Department of Revenue shall review the initial
1300 application and notify the applicant of any omissions and
1301 request additional information if needed. An application shall
1302 be complete upon receipt of all requested information. The
1303 Department of Revenue shall forward all complete applications to
1304 the department ~~Office of Film and Entertainment~~ within 10
1305 working days.

585-03269-14

20141640c1

1306 (b) The Department of Revenue shall issue a numbered
1307 certificate of exemption to a qualified production company
1308 within 5 working days of the receipt of an approved application,
1309 application renewal, or application extension from the
1310 department ~~Office of Film and Entertainment~~.

1311 (c) The Department of Revenue may adopt ~~promulgate~~ such
1312 rules and shall prescribe and publish such forms as may be
1313 necessary to effectuate the purposes of this section or any of
1314 the sales tax exemptions which are reasonably related to the
1315 provisions of this section.

1316 (d) The Department of Revenue may ~~is authorized to~~
1317 establish audit procedures in accordance with the provisions of
1318 ss. 212.12, 212.13, and 213.34 which relate to the sales tax
1319 exemption provisions of this section.

1320 (5) RELATIONSHIP OF TAX EXEMPTIONS AND INCENTIVES TO
1321 INDUSTRY GROWTH; REPORT TO THE LEGISLATURE.—The department
1322 ~~Office of Film and Entertainment~~ shall keep annual records from
1323 the information provided on taxpayer applications for tax
1324 exemption certificates ~~beginning January 1, 2001~~. These records
1325 also must reflect a ratio of the annual amount of sales and use
1326 tax exemptions under this section, plus the incentives awarded
1327 pursuant to s. 288.1254 to the estimated amount of funds
1328 expended by certified productions. In addition, the department
1329 ~~office~~ shall maintain data showing annual growth in Florida-
1330 based entertainment industry companies and entertainment
1331 industry employment and wages. The employment information must
1332 include an estimate of the full-time equivalent positions
1333 created by each production that received tax credits pursuant to
1334 s. 288.1254. The department ~~Office of Film and Entertainment~~

585-03269-14

20141640c1

1335 shall include this information in the annual report for the
1336 entertainment industry financial incentive program required
1337 under s. 288.1254(10).

1338 Section 8. Subsection (1) of section 288.92, Florida
1339 Statutes, is amended to read:

1340 288.92 Divisions of Enterprise Florida, Inc.—

1341 (1) Enterprise Florida, Inc., may create and dissolve
1342 divisions as necessary to carry out its mission. Each division
1343 shall have distinct responsibilities and complementary missions.
1344 At a minimum, Enterprise Florida, Inc., shall have divisions
1345 related to the following areas:

1346 (a) International Trade and Business Development;

1347 (b) Business Retention and Recruitment;

1348 (c) Tourism Marketing;

1349 (d) Minority Business Development; ~~and~~

1350 (e) Sports Industry Development; and

1351 (f) Film and Entertainment.

1352 Section 9. Paragraph (q) of subsection (5) of section
1353 212.08, Florida Statutes, is amended to read:

1354 212.08 Sales, rental, use, consumption, distribution, and
1355 storage tax; specified exemptions.—The sale at retail, the
1356 rental, the use, the consumption, the distribution, and the
1357 storage to be used or consumed in this state of the following
1358 are hereby specifically exempt from the tax imposed by this
1359 chapter.

1360 (5) EXEMPTIONS; ACCOUNT OF USE.—

1361 (q) *Entertainment industry tax credit; authorization;*
1362 *eligibility for credits.*—The credits against the state sales tax
1363 authorized pursuant to s. 288.1254 shall be deducted from any

585-03269-14

20141640c1

1364 sales and use tax remitted by the dealer to the department by
1365 electronic funds transfer and may only be deducted on a sales
1366 and use tax return initiated through electronic data
1367 interchange. The dealer shall separately state the credit on the
1368 electronic return. The net amount of tax due and payable must be
1369 remitted by electronic funds transfer. If the credit for the
1370 qualified expenditures is larger than the amount owed on the
1371 sales and use tax return that is eligible for the credit, the
1372 unused amount of the credit may be carried forward to a
1373 succeeding reporting period as provided in s. 288.1254(4)(d) ~~s.~~
1374 ~~288.1254(4)(e)~~. A dealer may only obtain a credit using the
1375 method described in this subparagraph. A dealer is not
1376 authorized to obtain a credit by applying for a refund.

1377 Section 10. Subsection (3) of section 220.1899, Florida
1378 Statutes, is amended to read:

1379 220.1899 Entertainment industry tax credit.—

1380 (3) To the extent that the amount of a tax credit exceeds
1381 the amount due on a return, the balance of the credit may be
1382 carried forward to a succeeding taxable year pursuant to s.
1383 288.1254(4)(d) ~~s. 288.1254(4)(e)~~.

1384 Section 11. Subsection (5) of section 477.0135, Florida
1385 Statutes, is amended to read:

1386 477.0135 Exemptions.—

1387 (5) A license is not required of any individual providing
1388 makeup, special effects, or cosmetology services to an actor,
1389 stunt person, musician, extra, or other talent during a
1390 production recognized by the Department of Economic Opportunity
1391 ~~the Office of Film and Entertainment~~ as a qualified production
1392 as defined in s. 288.1254(1). Such services are not required to

585-03269-14

20141640c1

1393 be performed in a licensed salon. Individuals exempt under this
1394 subsection may not provide such services to the general public.

1395 Section 12. This act shall take effect July 1, 2014.