

FOR CONSIDERATION By the Committee on Commerce and Tourism

577-01603C-14

20147056__

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 authorizing the board of directors of Enterprise
15 Florida, Inc., to establish a council to serve as an
16 advisory body to the division for matters relating to
17 the entertainment industry; conforming provisions to
18 changes made by the act; repealing s. 288.1252, F.S.,
19 relating to the Florida Film and Entertainment
20 Advisory Council and its creation, purpose,
21 membership, powers, and duties; transferring,
22 renumbering, and amending s. 288.1253, F.S.;
23 conforming provisions to changes made by the act;
24 amending s. 288.1254, F.S.; redefining and deleting
25 terms; requiring the department, rather than the
26 Office of Film and Entertainment, to be responsible
27 for applications for the entertainment industry
28 financial incentive program; revising provisions
29 relating to the application process, tax credit

577-01603C-14

20147056__

30 eligibility, election and distribution of tax credits,
31 annual allocation of tax credits, forfeiture of tax
32 credits, and annual report; extending the repeal date;
33 conforming provisions to changes made by the act;
34 specifying a date on which the applications on file
35 with the department and not yet certified are deemed
36 denied; amending s. 288.1258, F.S.; conforming
37 provisions to changes made by the act; requiring the
38 department to develop a standardized application form
39 in cooperation with the division and other agencies;
40 amending s. 288.92, F.S.; requiring Enterprise
41 Florida, Inc., to have a division relating to film and
42 entertainment; amending ss. 212.08, 220.13, 220.1899,
43 and 477.0135, F.S.; conforming cross-references and
44 provisions to changes made by the act; providing an
45 effective date.

46
47 Be It Enacted by the Legislature of the State of Florida:

48
49 Section 1. Section 288.125, Florida Statutes, is amended to
50 read:

51 288.125 Definition of "entertainment industry".—For the
52 purposes of ss. 288.1254, 288.1258, 288.924, and 288.9241 ~~ss.~~
53 ~~288.1251–288.1258~~, the term "entertainment industry" means those
54 persons or entities engaged in the operation of motion picture
55 or television studios or recording studios; those persons or
56 entities engaged in the preproduction, production, or
57 postproduction of motion pictures, made-for-television movies,
58 television programming, digital media projects, commercial

577-01603C-14

20147056__

59 advertising, music videos, or sound recordings; and those
60 persons or entities providing products or services directly
61 related to the preproduction, production, or postproduction of
62 motion pictures, made-for-television movies, television
63 programming, digital media projects, commercial advertising,
64 music videos, or sound recordings, including, but not limited
65 to, the broadcast industry.

66 Section 2. Section 288.1251, Florida Statutes, is
67 transferred, renumbered as section 288.924, Florida Statutes,
68 and amended to read:

69 288.924 ~~288.1251~~ Promotion and development of entertainment
70 industry; Division ~~Office~~ of Film and Entertainment; creation;
71 purpose; powers and duties.—

72 (1) CREATION.—

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

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

577-01603C-14

20147056__

88 limited to, the following:

89 (a)1. A working knowledge of the equipment, personnel,
90 financial, and day-to-day production operations of the
91 industries to be served by the division ~~Office of Film and~~
92 ~~Entertainment~~;

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

95 (c)3. Experience working with a variety of individuals
96 representing large and small entertainment-related businesses,
97 industry associations, local community entertainment industry
98 liaisons, and labor organizations; and

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

101 (3)2. POWERS AND DUTIES.—

102 (a) The Division ~~Office~~ of Film and Entertainment, in
103 performance of its duties, shall develop and÷

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

110 ~~a.~~ be annual in construction and ongoing in nature.

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

112 ~~a.b.~~ Include recommendations relating to The organizational
113 structure of the division, including any field offices outside
114 the state.

115 b. The coordination of the division with local or regional
116 offices maintained by counties and regions of the state, local

577-01603C-14

20147056__

117 film commissions, and labor organizations, and the coordination
118 of such entities with each other to facilitate a working
119 relationship office.

120 c. Strategies to identify, solicit, and recruit
121 entertainment production opportunities for the state, including
122 implementation of programs for rural and urban areas designed to
123 develop and promote the state's entertainment industry.

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

126 ~~d. Include an operational model for the office to use in~~
127 ~~implementing programs for rural and urban areas designed to:~~
128 ~~(I) develop and promote the state's entertainment industry.~~
129 ~~(II) Have the office serve as a liaison between the~~
130 ~~entertainment industry and other state and local governmental~~
131 ~~agencies, local film commissions, and labor organizations.~~
132 ~~(III) Gather statistical information related to the state's~~
133 ~~entertainment industry.~~

134 ~~e.(IV) Provision of~~ Provide information and service to
135 businesses, communities, organizations, and individuals engaged
136 in entertainment industry activities.

137 ~~(V) Administer field offices outside the state and~~
138 ~~coordinate with regional offices maintained by counties and~~
139 ~~regions of the state, as described in sub-sub-subparagraph (II),~~
140 ~~as necessary.~~

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

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

145 ~~f. Include an assessment of, and make recommendations on,~~

577-01603C-14

20147056__

146 ~~the feasibility of creating an alternative public private~~
147 ~~partnership for the purpose of contracting with such a~~
148 ~~partnership for the administration of the state's entertainment~~
149 ~~industry promotion, development, marketing, and service~~
150 ~~programs.~~

151 ~~2. Develop, market, and facilitate a working relationship~~
152 ~~between state agencies and local governments in cooperation with~~
153 ~~local film commission offices for out-of-state and indigenous~~
154 ~~entertainment industry production entities.~~

155 ~~3. Implement a structured methodology prescribed for~~
156 ~~coordinating activities of local offices with each other and the~~
157 ~~commissioner's office.~~

158 (b) The division shall also:

159 ~~1.4.~~ Represent the state's indigenous entertainment
160 industry to key decisionmakers within the national and
161 international entertainment industry, and to state and local
162 officials.

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

168 ~~6. Identify, solicit, and recruit entertainment production~~
169 ~~opportunities for the state.~~

170 ~~3.7.~~ Assist rural communities and other small communities
171 in the state in developing the expertise and capacity necessary
172 for such communities to develop, market, promote, and provide
173 services to the state's entertainment industry.

174 (c) ~~(b)~~ The division ~~Office of Film and Entertainment~~, in

577-01603C-14

20147056__

175 the performance of its duties, may:

176 1. Conduct or contract for specific promotion and marketing
177 functions, including, but not limited to, production of a
178 statewide directory, production and maintenance of an Internet
179 website, establishment and maintenance of a toll-free telephone
180 number, organization of trade show participation, and
181 appropriate cooperative marketing opportunities.

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

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

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

197 5. Provide and arrange for reasonable and necessary
198 promotional items and services for such persons as the division
199 ~~office~~ deems proper in connection with the performance of the
200 promotional and other duties of the division ~~office~~.

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

203 7. Request or accept any grant, payment, or gift of funds

577-01603C-14

20147056__

204 or property made by this state, the United States, or any
205 department or agency thereof, or by any individual, firm,
206 corporation, municipality, county, or organization, for any or
207 all of the purposes of the ~~Office of Film and Entertainment's~~ 5-
208 year strategic plan or those permitted activities enumerated in
209 this paragraph. ~~Such funds shall be deposited in the Grants and~~
210 ~~Donations Trust Fund of the Executive Office of the Governor for~~
211 ~~use by the Office of Film and Entertainment in carrying out its~~
212 ~~responsibilities and duties as delineated in law. The division~~
213 ~~office~~ may expend such funds in accordance with the terms and
214 conditions of any such grant, payment, or gift in the pursuit of
215 its administration or in support of fulfilling its duties and
216 responsibilities. The division ~~office~~ shall separately account
217 for the public funds and the private funds ~~deposited into the~~
218 ~~trust fund.~~

219 (4) ADVISORY COUNCIL.—The board of directors of Enterprise
220 Florida, Inc., may establish a council to serve as an advisory
221 body to the division to provide industry insight and expertise
222 related to developing, marketing, promoting, and providing
223 service to the state's entertainment industry, including
224 development of the 5-year strategic plan. The council must
225 consist of individuals who are residents of the state; who are
226 highly knowledgeable of, and active in, the motion picture,
227 television, video, sound recording, or other entertainment
228 industries; and who are recognized leaders in these industries
229 in the state. These individuals may include representatives of
230 local film commissions, representatives of entertainment
231 associations, representatives of the broadcast industry,
232 representatives of labor organizations in the entertainment

577-01603C-14

20147056__

233 industry, and executives of leading or otherwise important
234 entertainment industry businesses and offices.

235 Section 3. Section 288.1252, Florida Statutes, is repealed.

236 Section 4. Section 288.1253, Florida Statutes, is
237 transferred, renumbered as section 288.9241, Florida Statutes,
238 and amended to read:

239 288.9241 ~~288.1253~~ Travel and entertainment expenses.—

240 (1) As used in this section, the term "travel expenses"
241 means the actual, necessary, and reasonable costs of
242 transportation, meals, lodging, and incidental expenses normally
243 incurred by an employee of the Division ~~Office~~ of Film and
244 Entertainment, which costs are defined and prescribed by rules
245 adopted by the department, subject to approval by the Chief
246 Financial Officer.

247 (2) Notwithstanding ~~the provisions of~~ s. 112.061, the
248 department shall adopt rules by which the Division of Film and
249 Entertainment ~~it~~ may make expenditures by reimbursement to: the
250 Governor, the Lieutenant Governor, security staff of the
251 Governor or Lieutenant Governor, the Commissioner of Film and
252 Entertainment, or staff of the Division ~~Office~~ of Film and
253 Entertainment for travel expenses or entertainment expenses
254 incurred by such individuals solely and exclusively in
255 connection with the performance of the statutory duties of the
256 division ~~Office of Film and Entertainment~~. The rules are subject
257 to approval by the Chief Financial Officer before adoption. The
258 rules shall require the submission of paid receipts, or other
259 proof of expenditure prescribed by the Chief Financial Officer,
260 with any claim for reimbursement.

261 (3) The Division ~~Office~~ of Film and Entertainment shall

577-01603C-14

20147056__

262 include in the annual report for the entertainment industry
263 financial incentive program required under s. 288.1254(8) ~~s.~~
264 ~~288.1254(10)~~ a report of the division's ~~office's~~ expenditures
265 for the previous fiscal year. The report must consist of a
266 summary of all travel, entertainment, and incidental expenses
267 incurred within the United States and all travel, entertainment,
268 and incidental expenses incurred outside the United States, as
269 well as a summary of all successful projects that developed from
270 such travel.

271 (4) The Division ~~Office~~ of Film and Entertainment and its
272 employees and representatives, when authorized, may accept and
273 use complimentary travel, accommodations, meeting space, meals,
274 equipment, transportation, and any other goods or services
275 necessary for or beneficial to the performance of the division's
276 ~~office's~~ duties and purposes, so long as such acceptance or use
277 is not in conflict with part III of chapter 112. The department
278 shall, by rule, develop internal controls to ensure that such
279 goods or services accepted or used pursuant to this subsection
280 are limited to those that will assist solely and exclusively in
281 the furtherance of the division's ~~office's~~ goals and are in
282 compliance with part III of chapter 112.

283 (5) Any claim submitted under this section is not required
284 to be sworn to before a notary public or other officer
285 authorized to administer oaths, but any claim authorized or
286 required to be made under any provision of this section shall
287 contain a statement that the expenses were actually incurred as
288 necessary travel or entertainment expenses in the performance of
289 official duties of the Division ~~Office~~ of Film and Entertainment
290 and shall be verified by written declaration that it is true and

577-01603C-14

20147056__

291 correct as to every material matter. Any person who willfully
292 makes and subscribes to any claim which he or she does not
293 believe to be true and correct as to every material matter or
294 who willfully aids or assists in, procures, or counsels or
295 advises with respect to, the preparation or presentation of a
296 claim pursuant to this section that is fraudulent or false as to
297 any material matter, whether such falsity or fraud is with the
298 knowledge or consent of the person authorized or required to
299 present the claim, commits a misdemeanor of the second degree,
300 punishable as provided in s. 775.082 or s. 775.083. Whoever
301 receives a reimbursement by means of a false claim is civilly
302 liable, in the amount of the overpayment, for the reimbursement
303 of the public fund from which the claim was paid.

304 Section 5. Section 288.1254, Florida Statutes, is amended
305 to read:

306 288.1254 Entertainment industry financial incentive
307 program.—

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

309 (a) "Certified production" means a qualified production
310 that has tax credits allocated to it by the department based on
311 the production's estimated qualified expenditures, up to the
312 production's maximum certified amount of tax credits, by the
313 department. The term does not include a production if its first
314 day of principal photography or project start date in this state
315 occurs before the production is certified by the department,
316 unless the production spans more than 1 fiscal year, was a
317 certified production on its first day of principal photography
318 or project start date in this state, and submits an application
319 for continuing the same production for the subsequent fiscal

577-01603C-14

20147056__

320 year.

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

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

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

334 1. A production created to run multiple production seasons
335 which has and having an estimated order of at least seven
336 episodes per season and qualified expenditures of at least
337 \$625,000 per episode; or

338 2. A telenovela that has qualified expenditures of more
339 than \$4.5 million; a minimum of 45 principal photography days
340 filmed in this state; a production cast, including background
341 actors, and crew of which at least 90 percent are legal
342 residents of this state; and at least 90 percent of its
343 production occurring in this state.

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

348 (e)-(f) "Principal photography" means the filming of major

577-01603C-14

20147056__

349 or significant components of the qualified production which
350 involve lead actors.

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

375 (g)~~(h)~~ "Production expenditures" means the costs of
376 tangible and intangible property used for, and services
377 performed primarily and customarily in, production, including

577-01603C-14

20147056__

378 preproduction and postproduction, but excluding costs for
379 development, marketing, and distribution. The term includes, but
380 is not limited to:

381 1. Wages, salaries, or other compensation paid to legal
382 residents of this state, including amounts paid through payroll
383 service companies, for technical and production crews,
384 directors, producers, and performers.

385 2. Net expenditures for sound stages, backlots, production
386 editing, digital effects, sound recordings, sets, and set
387 construction.

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

390 4. Up to \$300,000 of the costs of newly purchased computer
391 software and hardware unique to the project, including servers,
392 data processing, and visualization technologies, which are
393 located in and used exclusively in the state for the production
394 of digital media.

395 5. Expenditures for meals, travel, and accommodations. For
396 purposes of this paragraph, the term "net expenditures" means
397 the actual amount of money a qualified production spent for
398 equipment or other tangible personal property, after subtracting
399 any consideration received for reselling or transferring the
400 item after the qualified production ends, if applicable.

401 (h)~~(i)~~ "Qualified expenditures" means production
402 expenditures incurred in this state by a qualified production
403 for:

404 1. Goods purchased or leased from, or services, including,
405 but not limited to, insurance costs and bonding, payroll
406 services, and legal fees, which are provided by, a vendor or

577-01603C-14

20147056__

407 supplier in this state that is registered with the Department of
408 State or the Department of Revenue, has a physical location in
409 this state, and employs one or more legal residents of this
410 state. This does not include rebilled goods or services provided
411 by an in-state company from out-of-state vendors or suppliers.
412 When services provided by the vendor or supplier include
413 personal services or labor, only personal services or labor
414 provided by residents of this state, evidenced by the required
415 documentation of residency in this state, qualify.

416 2. Payments to legal residents of this state in the form of
417 salary, wages, or other compensation up to a maximum of \$400,000
418 per resident unless otherwise specified in subsection (4). A
419 completed declaration of residency in this state must accompany
420 the documentation submitted to the department ~~office~~ for
421 reimbursement.

422
423 For a qualified production involving an event, such as an awards
424 show, the term does not include expenditures solely associated
425 with the event itself and not directly required by the
426 production. The term does not include expenditures incurred
427 before certification, with the exception of those incurred for a
428 commercial, a music video, or the pickup of additional episodes
429 of a high-impact television series within a single season. Under
430 no circumstances may the qualified production include in the
431 calculation for qualified expenditures the original purchase
432 price for equipment or other tangible property that is later
433 sold or transferred by the qualified production for
434 consideration. In such cases, the qualified expenditure is the
435 net of the original purchase price minus the consideration

577-01603C-14

20147056__

436 received upon sale or transfer.

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

440 1. In which, ~~for the first 2 years of the incentive~~
441 ~~program, less than 50 percent, and thereafter, less than 70~~ 60
442 percent, of the positions that make up its production cast and
443 below-the-line production crew, or, in the case of digital media
444 projects, less than 80 ~~75~~ percent of such positions, are filled
445 by legal residents of this state, whose residency is
446 demonstrated by a valid Florida driver ~~driver's~~ license or other
447 state-issued identification confirming residency, or students
448 enrolled full-time in a film-and-entertainment-related course of
449 study at an institution of higher education in this state; or

450 2. That contains obscene content as defined in s.
451 847.001(10).

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

455 ~~(l)~~ "Qualified digital media production facility" means a
456 building or series of buildings and their improvements in which
457 data processing, visualization, and sound synchronization
458 technologies are regularly applied for the production of
459 qualified digital media projects or the digital animation
460 components of qualified productions.

461 ~~(m)~~ "Qualified production facility" means a building or
462 complex of buildings and their improvements and associated
463 backlot facilities in which regular filming activity for film or
464 television has occurred for a period of no less than 1 year and

577-01603C-14

20147056__

465 ~~which contain at least one sound stage of at least 7,800 square~~
466 ~~feet.~~

467 ~~(n) "Regional population ratio" means the ratio of the~~
468 ~~population of a region to the population of this state. The~~
469 ~~regional population ratio applicable to a given fiscal year is~~
470 ~~the regional population ratio calculated by the Office of Film~~
471 ~~and Entertainment using the latest official estimates of~~
472 ~~population certified under s. 186.901, available on the first~~
473 ~~day of that fiscal year.~~

474 ~~(o) "Regional tax credit ratio" means a ratio the numerator~~
475 ~~of which is the sum of tax credits awarded to productions in a~~
476 ~~region to date plus the tax credits certified, but not yet~~
477 ~~awarded, to productions currently in that region and the~~
478 ~~denominator of which is the sum of all tax credits awarded in~~
479 ~~the state to date plus all tax credits certified, but not yet~~
480 ~~awarded, to productions currently in the state. The regional tax~~
481 ~~credit ratio applicable to a given year is the regional tax~~
482 ~~credit ratio calculated by the Office of Film and Entertainment~~
483 ~~using credit award and certification information available on~~
484 ~~the first day of that fiscal year.~~

485 ~~(p) "Underutilized region" for a given state fiscal year~~
486 ~~means a region with a regional tax credit ratio applicable to~~
487 ~~that fiscal year that is lower than its regional population~~
488 ~~ratio applicable to that fiscal year. The following regions are~~
489 ~~established for purposes of making this determination:~~

490 ~~1. North Region, consisting of Alachua, Baker, Bay,~~
491 ~~Bradford, Calhoun, Clay, Columbia, Dixie, Duval, Escambia,~~
492 ~~Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson,~~
493 ~~Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau,~~

577-01603C-14

20147056__

494 ~~Okaloosa, Putnam, Santa Rosa, St. Johns, Suwannee, Taylor,~~
495 ~~Union, Wakulla, Walton, and Washington Counties.~~

496 ~~2. Central East Region, consisting of Brevard, Flagler,~~
497 ~~Indian River, Lake, Okeechobee, Orange, Osceola, Seminole, St.~~
498 ~~Lucie, and Volusia Counties.~~

499 ~~3. Central West Region, consisting of Citrus, Hernando,~~
500 ~~Hillsborough, Manatee, Marion, Polk, Pasco, Pinellas, Sarasota,~~
501 ~~and Sumter Counties.~~

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

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

506 ~~(k)-(q)~~ "Interactive website" means a website or group of
507 websites that includes interactive and downloadable content, and
508 creates 25 new Florida full-time equivalent positions operating
509 from a principal place of business located within Florida. An
510 interactive website or group of websites must provide
511 documentation that those jobs were created to the department
512 ~~before Office of Film and Entertainment~~ prior to the award of
513 tax credits. Each subsequent program application must provide
514 proof that 25 Florida full-time equivalent positions are
515 maintained.

516 (2) CREATION AND PURPOSE OF PROGRAM.—The entertainment
517 industry financial incentive program is created ~~within the~~
518 ~~Office of Film and Entertainment.~~ The purpose of this program is
519 to encourage the use of this state as a site for entertainment
520 production, for filming, and for the digital production of
521 entertainment films, and to develop and sustain the workforce
522 and infrastructure for film, digital media, and entertainment

577-01603C-14

20147056__

523 production.

524 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.—

525 (a) *Program application.*—A qualified production company
526 producing a qualified production in this state may submit a
527 program application to the department ~~Office of Film and~~
528 ~~Entertainment~~ for the purpose of determining qualification for
529 an award of tax credits authorized by this section no earlier
530 than 150 ~~180~~ days before the first day of principal photography
531 or project start date in this state. The applicant shall provide
532 the department ~~Office of Film and Entertainment~~ with information
533 required to determine whether the production is a qualified
534 production and to determine the qualified expenditures and other
535 information necessary for the department ~~office~~ to determine
536 eligibility for the tax credit.

537 (b) *Required documentation.*—The department ~~Office of Film~~
538 ~~and Entertainment~~ shall develop an application form for
539 qualifying an applicant as a qualified production. The form must
540 include, but need not be limited to, production-related
541 information concerning employment of residents in this state, a
542 detailed budget of planned qualified expenditures and aggregate
543 nonqualified expenditures in this state, proof of financing for
544 the production, and the applicant's signed affirmation that the
545 information on the form has been verified and is correct. The
546 Division ~~Office~~ of Film and Entertainment of Enterprise Florida,
547 Inc., and local film commissions shall distribute the form.

548 (c) *Application process.*—The department ~~Office of Film and~~
549 ~~Entertainment~~ shall establish a process by which an application
550 is accepted and reviewed and by which tax credit eligibility and
551 award amount are determined. The department may consult with the

577-01603C-14

20147056__

552 Division ~~Office~~ of Film and Entertainment of Enterprise Florida,
553 Inc., ~~or may request assistance from~~ a duly appointed local film
554 commission in determining compliance with this section.

555 1. Applications may be accepted until, and shall include,
556 the application that causes the amount of tax credit eligibility
557 requested to exceed 125 percent of tax credits allocated for the
558 fiscal year under paragraph (5) (a). Applications received after
559 all tax credits allocated for the fiscal year have been
560 certified shall be assigned a queue number that is determined by
561 the date and time the application was received by the
562 department. Applications in the queue are deemed denied on June
563 30 of each year.

564 2. A ~~certified~~ high-impact television series may submit an
565 initial application for no more than two successive seasons,
566 notwithstanding the fact that the second season has ~~successive~~
567 ~~seasons have~~ not been ordered. The ~~successive season's~~ qualified
568 expenditure amounts for the second season shall be based on the
569 current season's estimated qualified expenditures. Upon the
570 completion of production of each season, a high-impact
571 television series may submit an application for no more than one
572 additional season. To be certified for credits, the applicant
573 must provide proof that the additional season has been ordered
574 as part of the application for the additional season.

575 (d) *Certification.*—

576 1. The ~~department~~ Office of Film and Entertainment shall
577 review the application within 15 business days after receipt.
578 Upon the department's ~~its~~ determination, in consultation with
579 the Division of Film and Entertainment of Enterprise Florida,
580 Inc., that the application contains all the information required

577-01603C-14

20147056__

581 by this subsection and meets the criteria set out in this
582 section, the department ~~Office of Film and Entertainment~~ shall
583 deny ~~qualify the applicant and recommend to the department that~~
584 ~~the applicant be certified for the maximum tax credit award~~
585 ~~amount. Within 5 business days after receipt of the~~
586 ~~recommendation, the department shall reject the~~ application
587 ~~recommendation~~ or certify the maximum ~~recommended~~ tax credit
588 award, if any funds are available, to the applicant and to the
589 executive director of the Department of Revenue.

590 2. In a fiscal year, the department may certify only the
591 amount of tax credits allocated for that fiscal year, as
592 provided under subsection (5). However, the department may
593 certify a high-impact television series for additional tax
594 credits allocated in a future fiscal year if the high-impact
595 television series has an executed contract or order for season
596 renewal effective for the future fiscal year from which tax
597 credits would be allocated. The department may certify one
598 additional ordered season per future fiscal year in which the
599 qualified production would occur.

600 (e) *Employment.*—Upon certification by the department, the
601 production must provide the department and the Division of Film
602 and Entertainment of Enterprise Florida, Inc., with a single
603 point of contact and information related to the production's
604 needs for cast, crew, contractors, and vendors. The division
605 shall publish this information online, including the type of
606 production, the projected start date of the production, the
607 locations in this state for such production, and the e-mail or
608 other contact information for the production's point of contact.
609 The department, in consultation with the division, may adopt

577-01603C-14

20147056__

610 procedures for a production to post such information itself
611 within 7 days after certification.

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

613 1. The department Office of Film and Entertainment shall
614 deny an application if it determines that the application is not
615 complete, or the production or application does not meet the
616 requirements of this section, or there are no additional credits
617 for certification as provided under paragraph (c). Within 90
618 days after submitting a program application, except with respect
619 to applications in the independent and emerging media queue, a
620 production must provide proof of project financing to the Office
621 of Film and Entertainment, otherwise the project is deemed
622 denied and withdrawn. A project that has been denied withdrawn
623 may submit a new application upon providing the Office of Film
624 and Entertainment proof of financing.

625 2. The department shall deny a certified production upon
626 any circumstance affecting the reasonable schedule or timely
627 completion of the certified production, including a break in
628 production, change in the production schedule, or loss of
629 financing for the production. A certified production must notify
630 the department within 5 days after any circumstance affecting
631 its timely completion. A certified production may not be denied
632 if it provides the department with proof of replacement
633 financing within 10 days after the loss of financing for the
634 production. To keep a reasonable schedule, the certified
635 production must begin principal photography or the production
636 project in this state no more than 45 calendar days before or
637 after the principal photography or project start date provided
638 in the production's program application.

577-01603C-14

20147056__

- 639 (g) ~~(f)~~ *Verification of actual qualified expenditures.*—
- 640 1. The department, in consultation with the Division of
- 641 Film and Entertainment, ~~Office of Film and Entertainment~~ shall
- 642 develop a process to verify the actual qualified expenditures of
- 643 a certified production. The process must require:
- 644 a. A certified production to submit, within 180 days ~~in a~~
- 645 ~~timely manner~~ after production ends in this state and after
- 646 making all of its qualified expenditures in this state, data
- 647 substantiating each qualified expenditure, including
- 648 documentation on the net expenditure on equipment and other
- 649 tangible personal property by the qualified production, to an
- 650 independent certified public accountant licensed in this state;
- 651 b. Such accountant to conduct a compliance audit, at the
- 652 certified production's expense, to substantiate each qualified
- 653 expenditure and submit the results as a report, along with the
- 654 required substantiating data, to the department ~~Office of Film~~
- 655 ~~and Entertainment~~; and
- 656 c. The department ~~Office of Film and Entertainment~~ to
- 657 review the accountant's submittal and verify ~~report to the~~
- 658 ~~department~~ the final ~~verified~~ amount of actual qualified
- 659 expenditures made by the certified production.
- 660 2. The department shall determine and approve the final tax
- 661 credit award amount to each certified applicant based on the
- 662 final verified amount of actual qualified expenditures and shall
- 663 notify the executive director of the Department of Revenue in
- 664 writing that the certified production has met the requirements
- 665 of the incentive program and of the final amount of the tax
- 666 credit award. The final tax credit award amount may not exceed
- 667 the maximum tax credit award amount certified under paragraph

577-01603C-14

20147056__

668 (d).

669 (h) ~~(g)~~ *Promoting Florida.*—The department ~~Office of Film and~~
670 ~~Entertainment~~ shall ensure that, as a condition of receiving a
671 tax credit under this section, marketing materials promoting
672 this state as a tourist destination or film and entertainment
673 production destination are included, when appropriate, at no
674 cost to the state, which must, at a minimum, include placement
675 of a “Filmed in Florida” or “Produced in Florida” logo in the
676 opening titles and end credits. The placement of a “Filmed in
677 Florida” or “Produced in Florida” logo on all packaging material
678 and hard media is also required, unless such placement is
679 prohibited by licensing or other contractual obligations. The
680 size and placement of such logo shall be commensurate to other
681 logos used. If no logos are used, the statement “Filmed in
682 Florida using Florida’s Entertainment Industry Financial
683 Incentive,” or a similar statement approved by the Division
684 ~~Office~~ of Film and Entertainment of Enterprise Florida, Inc.,
685 shall be used. The Division ~~Office~~ of Film and Entertainment of
686 Enterprise Florida, Inc., shall provide a logo and supply it for
687 the purposes specified in this paragraph. A 30-second “Visit
688 Florida” promotional video must also be included on all optical
689 disc formats of a film, unless such placement is prohibited by
690 licensing or other contractual obligations. The 30-second
691 promotional video shall be approved and provided by the Florida
692 Tourism Industry Marketing Corporation in consultation with the
693 Division ~~Commissioner~~ of Film and Entertainment of Enterprise
694 Florida, Inc.

695 (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;
696 ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;

577-01603C-14

20147056__

697 PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND
698 ACQUISITIONS.—

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

704 (b) *Tax credit eligibility.*—

705 1. General production queue.—Ninety-four percent of tax
706 credits authorized pursuant to subsection (5) ~~(6)~~ in any state
707 fiscal year must be dedicated to the general production queue.
708 The general production queue consists of all qualified
709 productions other than those eligible for the commercial and
710 music video queue or the independent and emerging media
711 production queue. A qualified production that demonstrates a
712 minimum of \$625,000 in qualified expenditures is eligible for
713 tax credits equal to 20 percent of its actual qualified
714 expenditures, up to a maximum of \$10 million ~~\$8 million~~. A
715 qualified production that incurs qualified expenditures during
716 multiple state fiscal years may combine those expenditures to
717 satisfy the \$625,000 minimum threshold.

718 a. For the first 10 months of each fiscal year, 20 percent
719 of the credits in the general production queue shall be set
720 aside for qualified productions in underutilized counties. A
721 qualified production eligible for these funds is a production
722 for which at least 70 percent of its principal photography days
723 occur within an underutilized county designated as an
724 underutilized county at the time that the production is
725 certified. The term "underutilized county" means a county in

577-01603C-14

20147056__

726 which less than \$500,000 in qualified expenditures were made in
727 the last 2 fiscal years. Any funds not yet certified from this
728 set-aside at the end of the 10-month period may be certified to
729 qualified productions pursuant to this section ~~An off-season~~
730 ~~certified production that is a feature film, independent film,~~
731 ~~or television series or pilot is eligible for an additional 5~~
732 ~~percent tax credit on actual qualified expenditures. An off-~~
733 ~~season certified production that does not complete 75 percent of~~
734 ~~principal photography due to a disruption caused by a hurricane~~
735 ~~or tropical storm may not be disqualified from eligibility for~~
736 ~~the additional 5 percent credit as a result of the disruption.~~

737 ~~b. If more than 45 percent of the sum of total tax credits~~
738 ~~initially certified and awarded after April 1, 2012, total tax~~
739 ~~credits initially certified after April 1, 2012, but not yet~~
740 ~~awarded, and total tax credits available for certification after~~
741 ~~April 1, 2012, but not yet certified has been awarded for high-~~
742 ~~impact television series, then no high-impact television series~~
743 ~~is eligible for tax credits under this subparagraph. Tax credits~~
744 ~~initially certified for a high-impact television series after~~
745 ~~April 1, 2012, may not be awarded if the award will cause the~~
746 ~~percentage threshold in this sub-subparagraph to be exceeded.~~
747 ~~This sub-subparagraph does not prohibit the award of tax credits~~
748 ~~certified before April 1, 2012, for high-impact television~~
749 ~~series.~~

750 ~~b.c.~~ Subject to ~~sub-subparagraph b.~~, First priority in the
751 queue for tax credit awards not yet certified shall be given to
752 high-impact television series and high-impact digital media
753 projects. For the purposes of determining priority between a
754 high-impact television series and a high-impact digital media

577-01603C-14

20147056__

755 project, the first position must go to the first application
756 received. Thereafter, priority shall be determined by
757 ~~alternating between a high-impact television series and a high-~~
758 ~~impact digital media project~~ on a first-come, first-served
759 basis. ~~However, if the Office of Film and Entertainment receives~~
760 ~~an application for a high-impact television series or high-~~
761 ~~impact digital media project that would be certified but for the~~
762 ~~alternating priority, the office may certify the project as~~
763 ~~being in the priority position if an application that would~~
764 ~~normally be the priority position is not received within 5~~
765 ~~business days.~~

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

770 ~~c.e.~~ A qualified production is eligible for an additional
771 15 percent tax credit on qualified expenditures that are wages,
772 salaries, or other compensation paid to the following
773 individuals employed by the qualified production: that employs
774 students enrolled full-time in a film and entertainment-related
775 or digital media-related course of study at an institution of
776 higher education in this state, individuals participating in the
777 Road-to-Independence Program under s. 409.1451, individuals with
778 developmental disabilities as defined under s. 393.063 residing
779 in this state, veterans residing in this state, and individuals
780 ~~is eligible for an additional 15 percent tax credit on qualified~~
781 ~~expenditures that are wages, salaries, or other compensation~~
782 ~~paid to such students. The additional 15 percent tax credit is~~
783 ~~also applicable to persons hired within 12 months after~~

577-01603C-14

20147056__

784 graduating from a film and entertainment-related or digital
785 media-related course of study at an institution of higher
786 education in this state. ~~The additional 15 percent tax credit~~
787 ~~applies to qualified expenditures that are wages, salaries, or~~
788 ~~other compensation paid to such recent graduates for 1 year~~
789 ~~after the date of hiring.~~

790 ~~f. A qualified production for which 50 percent or more of~~
791 ~~its principal photography occurs at a qualified production~~
792 ~~facility, or a qualified digital media project or the digital~~
793 ~~animation component of a qualified production for which 50~~
794 ~~percent or more of the project's or component's qualified~~
795 ~~expenditures are related to a qualified digital media production~~
796 ~~facility, is eligible for an additional 5 percent tax credit on~~
797 ~~actual qualified expenditures for production activity at that~~
798 ~~facility.~~

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

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

807 2. Commercial and music video queue.—Three percent of tax
808 credits authorized pursuant to subsection (5) ~~(6)~~ in any state
809 fiscal year must be dedicated to the commercial and music video
810 queue. A qualified production company that produces national or
811 regional commercials or music videos may be eligible for a tax
812 credit award if it demonstrates a minimum of \$100,000 in

577-01603C-14

20147056__

813 qualified expenditures per national or regional commercial or
814 music video and exceeds a combined threshold of \$500,000 after
815 combining actual qualified expenditures from qualified
816 commercials and music videos during a single state fiscal year.
817 After a qualified production company that produces commercials,
818 music videos, or both reaches the threshold of \$500,000, it is
819 eligible to apply for certification for a tax credit award. The
820 maximum credit award shall be equal to 20 percent of its actual
821 qualified expenditures up to a maximum of \$500,000. If there is
822 a surplus at the end of a fiscal year after the department
823 ~~Office of Film and Entertainment~~ certifies and determines the
824 tax credits for all qualified commercial and video projects,
825 such surplus tax credits shall be carried forward to the
826 following fiscal year and are available to any eligible
827 qualified productions under the general production queue.

828 3. Independent and emerging media production queue.—Three
829 percent of tax credits authorized pursuant to subsection (5) ~~(6)~~
830 in any state fiscal year must be dedicated to the independent
831 and emerging media production queue. This queue is intended to
832 encourage independent film and emerging media production in this
833 state. Any qualified production, excluding commercials,
834 infomercials, or music videos, which demonstrates at least
835 \$100,000, but not more than \$625,000, in total qualified
836 expenditures is eligible for tax credits equal to 20 percent of
837 its actual qualified expenditures. If a surplus exists at the
838 end of a fiscal year after the department ~~Office of Film and~~
839 ~~Entertainment~~ certifies and determines the tax credits for all
840 qualified independent and emerging media production projects,
841 such surplus tax credits shall be carried forward to the

577-01603C-14

20147056__

842 following fiscal year and are available to any eligible
843 qualified productions under the general production queue.

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

857 ~~(c) Withdrawal of tax credit eligibility.-A qualified or~~
858 ~~certified production must continue on a reasonable schedule,~~
859 ~~which includes beginning principal photography or the production~~
860 ~~project in this state no more than 45 calendar days before or~~
861 ~~after the principal photography or project start date provided~~
862 ~~in the production's program application. The department shall~~
863 ~~withdraw the eligibility of a qualified or certified production~~
864 ~~that does not continue on a reasonable schedule.~~

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

866 1. A certified production company receiving a tax credit
867 award under this section shall, at the time the credit is
868 awarded by the department after production is completed and all
869 requirements to receive a credit award have been met, make an
870 irrevocable election to apply the credit against taxes due under

577-01603C-14

20147056__

871 chapter 220, against state taxes collected or accrued under
872 chapter 212, or against a stated combination of the two taxes.
873 The election is binding upon any distributee, successor, or
874 transferee, ~~or purchaser~~. The department shall notify the
875 Department of Revenue of any election made pursuant to this
876 paragraph.

877 2. A qualified production company is eligible for tax
878 credits against its sales and use tax liabilities and corporate
879 income tax liabilities as provided in this section. However, tax
880 credits awarded under this section may not be claimed against
881 sales and use tax liabilities or corporate income tax
882 liabilities for any tax period beginning before July 1, 2011,
883 regardless of when the credits are applied for or awarded.

884 (d) ~~(e)~~ *Tax credit carryforward.*—If the certified production
885 company cannot use the entire tax credit in the taxable year or
886 reporting period in which the credit is awarded, any excess
887 amount may be carried forward to a succeeding taxable year or
888 reporting period. A tax credit applied against taxes imposed
889 under chapter 212 or ~~may be carried forward for a maximum of 5~~
890 ~~years after the date the credit is awarded. A tax credit applied~~
891 ~~against taxes imposed under~~ chapter 220 may be carried forward
892 for a maximum of 5 years after the date the credit is awarded,
893 after which the credit expires and may not be used.

894 (e) ~~(f)~~ *Consolidated returns.*—A certified production company
895 that files a Florida consolidated return as a member of an
896 affiliated group under s. 220.131(1) may be allowed the credit
897 on a consolidated return basis up to the amount of the tax
898 imposed upon the consolidated group under chapter 220.

899 (f) ~~(g)~~ *Partnership and noncorporate distributions.*—A

577-01603C-14

20147056__

900 qualified production company that is not a corporation as
901 defined in s. 220.03 may elect to distribute tax credits awarded
902 under this section to its partners or members in proportion to
903 their respective distributive income or loss in the taxable year
904 in which the tax credits were awarded.

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

910 ~~(5) TRANSFER OF TAX CREDITS.—~~

911 ~~(a) Authorization.~~ Upon application to the Office of Film
912 and Entertainment and approval by the department, a certified
913 production company, or a partner or member that has received a
914 distribution under paragraph (4)(g), may elect to transfer, in
915 whole or in part, any unused credit amount granted under this
916 section. An election to transfer any unused tax credit amount
917 under chapter 212 or chapter 220 must be made no later than 5
918 years after the date the credit is awarded, after which period
919 the credit expires and may not be used. The department shall
920 notify the Department of Revenue of the election and transfer.

921 ~~(b) Number of transfers permitted.~~ A certified production
922 company that elects to apply a credit amount against taxes
923 remitted under chapter 212 is permitted a one-time transfer of
924 unused credits to one transferee. A certified production company
925 that elects to apply a credit amount against taxes due under
926 chapter 220 is permitted a one-time transfer of unused credits
927 to no more than four transferees, and such transfers must occur
928 in the same taxable year.

577-01603C-14

20147056__

929 ~~(c) Transferee rights and limitations. The transferee is~~
930 ~~subject to the same rights and limitations as the certified~~
931 ~~production company awarded the tax credit, except that the~~
932 ~~initial transferee shall be permitted a one-time transfer of~~
933 ~~unused credits to no more than two subsequent transferees, and~~
934 ~~such transfers must occur in the same taxable year as the~~
935 ~~credits were received by the initial transferee, after which the~~
936 ~~subsequent transferees may not sell or otherwise transfer the~~
937 ~~tax credit.~~

938 ~~(6) RELINQUISHMENT OF TAX CREDITS.—~~

939 ~~(a) Beginning July 1, 2011, a certified production company,~~
940 ~~or any person who has acquired a tax credit from a certified~~
941 ~~production company pursuant to subsections (4) and (5), may~~
942 ~~elect to relinquish the tax credit to the Department of Revenue~~
943 ~~in exchange for 90 percent of the amount of the relinquished tax~~
944 ~~credit.~~

945 ~~(b) The Department of Revenue may approve payments to~~
946 ~~persons relinquishing tax credits pursuant to this subsection.~~

947 ~~(c) Subject to legislative appropriation, the Department of~~
948 ~~Revenue shall request the Chief Financial Officer to issue~~
949 ~~warrants to persons relinquishing tax credits. Payments under~~
950 ~~this subsection shall be made from the funds from which the~~
951 ~~proceeds from the taxes against which the tax credits could have~~
952 ~~been applied pursuant to the irrevocable election made by the~~
953 ~~certified production company under subsection (4) are deposited.~~

954 ~~(5)(7) ANNUAL ALLOCATION OF TAX CREDITS.—~~

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

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

577-01603C-14

20147056__

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

959 3. For fiscal years 2012-2013, 2013-2014, 2014-2015, and
960 2015-2016, \$42 million per fiscal year.

961 4. Beginning July 1, 2014, for fiscal years 2014-2015 and
962 2015-2016, an additional \$50 million.

963 5. Beginning July 1, 2016, for fiscal years 2016-2017,
964 2017-2018, 2018-2019, and 2019-2020, \$50 million.

965 (b) Any portion of the maximum amount of tax credits
966 established per fiscal year in paragraph (a) that is not
967 certified as of the end of a fiscal year shall be carried
968 forward and made available for certification during the
969 following 2 fiscal years in addition to the amounts available
970 for certification under paragraph (a) for those fiscal years.

971 (c) Upon approval of the final tax credit award amount
972 pursuant to subparagraph (3)(g)2. ~~(3)(f)2.~~, an amount equal to
973 the difference between the maximum tax credit award amount
974 previously certified under paragraph (3)(d) and the approved
975 final tax credit award amount shall immediately be available for
976 recertification during the current and following fiscal years in
977 addition to the amounts available for certification under
978 paragraph (a) for those fiscal years.

979 (d) Amounts available on and after July 1, 2014, for
980 certification may not be certified before the fiscal year in
981 which the amounts are listed in paragraph (a), except as
982 provided in subparagraph (3)(d)2. ~~If, during a fiscal year, the~~
983 ~~total amount of credits applied for, pursuant to paragraph~~
984 ~~(3)(a), exceeds the amount of credits available for~~
985 ~~certification in that fiscal year, such excess shall be treated~~
986 ~~as having been applied for on the first day of the next fiscal~~

577-01603C-14

20147056__

987 ~~year in which credits remain available for certification.~~

988 (6)~~(8)~~ RULES, POLICIES, AND PROCEDURES.—

989 (a) The department may adopt rules pursuant to ss.
 990 120.536(1) and 120.54 and develop policies and procedures to
 991 implement and administer this section, including, but not
 992 limited to, rules specifying requirements for the application
 993 and approval process, records required for substantiation for
 994 tax credits, procedures for making the election in paragraph
 995 (4)(c) ~~(4)(d)~~, the manner and form of documentation required to
 996 claim tax credits awarded or transferred under this section, and
 997 marketing requirements for tax credit recipients.

998 (b) The Department of Revenue may adopt rules pursuant to
 999 ss. 120.536(1) and 120.54 to administer this section, including
 1000 rules governing the examination and audit procedures required to
 1001 administer this section and the manner and form of documentation
 1002 required to claim tax credits awarded or transferred, ~~or~~
 1003 ~~relinquished~~ under this section.

1004 (7)~~(9)~~ AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX
 1005 CREDITS; FRAUDULENT CLAIMS.—

1006 (a) *Audit authority.*—The Department of Revenue may conduct
 1007 examinations and audits as provided in s. 213.34 to verify that
 1008 tax credits under this section are received, transferred, and
 1009 applied according to the requirements of this section. If the
 1010 Department of Revenue determines that tax credits are not
 1011 received, transferred, or applied as required by this section,
 1012 it may, in addition to the remedies provided in this subsection,
 1013 pursue recovery of such funds pursuant to the laws and rules
 1014 governing the assessment of taxes.

1015 (b) *Revocation of tax credits.*—The department may revoke or

577-01603C-14

20147056__

1016 modify any written decision qualifying, certifying, or otherwise
1017 granting eligibility for tax credits under this section if it is
1018 discovered that the tax credit applicant submitted any false
1019 statement, representation, or certification in any application,
1020 record, report, plan, or other document filed in an attempt to
1021 receive tax credits under this section. The department shall
1022 immediately notify the Department of Revenue of any revoked or
1023 modified orders affecting previously granted tax credits.
1024 Additionally, the applicant must notify the Department of
1025 Revenue of any change in its tax credit claimed.

1026 (c) *Forfeiture of tax credits.*—A determination by the
1027 Department of Revenue, as a result of an audit pursuant to
1028 paragraph (a) or from information received from the department
1029 or Division ~~Office~~ of Film and Entertainment of Enterprise
1030 Florida, Inc., that an applicant received tax credits pursuant
1031 to this section to which the applicant was not entitled is
1032 grounds for forfeiture of previously claimed and received tax
1033 credits. The applicant is responsible for returning forfeited
1034 tax credits to the Department of Revenue, and such funds shall
1035 be paid into the General Revenue Fund of the state. ~~Tax credits~~
1036 ~~purchased in good faith are not subject to forfeiture unless the~~
1037 ~~transferee submitted fraudulent information in the purchase or~~
1038 ~~failed to meet the requirements in subsection (5).~~

1039 (d) *Fraudulent claims.*—Any applicant that submits
1040 fraudulent information under this section is liable for
1041 reimbursement of the reasonable costs and fees associated with
1042 the review, processing, investigation, and prosecution of the
1043 fraudulent claim. An applicant that obtains a credit payment
1044 under this section through a claim that is fraudulent is liable

577-01603C-14

20147056__

1045 for reimbursement of the credit amount plus a penalty in an
1046 amount double the credit amount. The penalty is in addition to
1047 any criminal penalty to which the applicant is liable for the
1048 same acts. The applicant is also liable for costs and fees
1049 incurred by the state in investigating and prosecuting the
1050 fraudulent claim.

1051 (8) ~~(10)~~ ANNUAL REPORT.—Each November 1, the department
1052 ~~Office of Film and Entertainment~~ shall submit an annual report
1053 for the previous fiscal year to the Governor, the President of
1054 the Senate, and the Speaker of the House of Representatives
1055 which outlines the incentive program's return on investment and
1056 economic benefits to the state. The report must also include an
1057 estimate of the full-time equivalent positions created by each
1058 production that received tax credits under this section and
1059 information relating to the distribution of productions
1060 receiving credits by geographic region and type of production.
1061 The report must also include the expenditures report required
1062 under s. 288.9241 ~~s. 288.1253(3)~~ and the information describing
1063 the relationship between tax exemptions and incentives to
1064 industry growth required under s. 288.1258(5). The department
1065 may work with the Division of Film and Entertainment of
1066 Enterprise Florida, Inc., to develop the annual report.

1067 (9) ~~(11)~~ REPEAL.—This section is repealed July 1, 2020 ~~July~~
1068 ~~1, 2016~~, except that:

1069 (a) Tax credits certified under paragraph (3) (d) before
1070 July 1, 2020 ~~July 1, 2016~~, may be awarded under paragraph (3) (g)
1071 ~~(3) (f)~~ on or after July 1, 2020 ~~July 1, 2016~~, if the other
1072 requirements of this section are met.

1073 (b) Tax credits carried forward under paragraph (4) (d)

577-01603C-14

20147056__

1074 ~~(4)(e)~~ remain valid for the period specified.

1075 (c) Subsections (6) and (7) ~~(5), (8) and (9)~~ shall remain
1076 in effect until July 1, 2025 ~~July 1, 2021~~.

1077 Section 6. Beginning July 1, 2014, applications on file
1078 with the Department of Economic Opportunity to receive a tax
1079 credit through the entertainment industry financial incentive
1080 program under s. 288.1254, Florida Statutes, which are not yet
1081 certified are deemed denied.

1082 Section 7. Section 288.1258, Florida Statutes, is amended
1083 to read:

1084 288.1258 Entertainment industry qualified production
1085 companies; application procedure; categories; duties of the
1086 Department of Revenue; records and reports.—

1087 (1) PRODUCTION COMPANIES AUTHORIZED TO APPLY.—

1088 (a) Any production company engaged in this state in the
1089 production of motion pictures, made-for-TV motion pictures,
1090 television series, commercial advertising, music videos, or
1091 sound recordings may submit an application to the Department of
1092 Revenue to be approved by the department ~~Office of Film and~~
1093 ~~Entertainment~~ as a qualified production company for the purpose
1094 of receiving a sales and use tax certificate of exemption from
1095 the Department of Revenue.

1096 (b) As used in ~~For the purposes of~~ this section, the term
1097 "qualified production company" means any production company that
1098 has submitted a properly completed application to the Department
1099 of Revenue and that is subsequently qualified by the department
1100 ~~Office of Film and Entertainment~~.

1101 (2) APPLICATION PROCEDURE.—

1102 (a) The Department of Revenue will review all submitted

577-01603C-14

20147056__

1103 applications for the required information. Within 10 working
1104 days after the receipt of a properly completed application, the
1105 Department of Revenue will forward the completed application to
1106 the department ~~Office of Film and Entertainment~~ for approval.

1107 (b)1. The department ~~Office of Film and Entertainment~~ shall
1108 establish a process by which an entertainment industry
1109 production company may be approved by the department ~~office~~ as a
1110 qualified production company and may receive a certificate of
1111 exemption from the Department of Revenue for the sales and use
1112 tax exemptions under ss. 212.031, 212.06, and 212.08.

1113 2. Upon determination by the department ~~Office of Film and~~
1114 ~~Entertainment~~ that a production company meets the established
1115 approval criteria and qualifies for exemption, the department
1116 ~~Office of Film and Entertainment~~ shall return the approved
1117 application or application renewal or extension to the
1118 Department of Revenue, which shall issue a certificate of
1119 exemption.

1120 3. The department ~~Office of Film and Entertainment~~ shall
1121 deny an application or application for renewal or extension from
1122 a production company if it determines that the production
1123 company does not meet the established approval criteria.

1124 (c) The department ~~Office of Film and Entertainment~~ shall
1125 develop, with the cooperation of the Department of Revenue, the
1126 Division of Film and Entertainment of Enterprise Florida, Inc.,
1127 and local government entertainment industry promotion agencies,
1128 a standardized application form for use in approving qualified
1129 production companies.

1130 1. The application form shall include, but not be limited
1131 to, production-related information on employment, proposed

577-01603C-14

20147056__

1132 budgets, planned purchases of items exempted from sales and use
1133 taxes under ss. 212.031, 212.06, and 212.08, a signed
1134 affirmation from the applicant that any items purchased for
1135 which the applicant is seeking a tax exemption are intended for
1136 use exclusively as an integral part of entertainment industry
1137 preproduction, production, or postproduction activities engaged
1138 in primarily in this state, and a signed affirmation from the
1139 department ~~Office of Film and Entertainment~~ that the information
1140 on the application form has been verified and is correct. In
1141 lieu of information on projected employment, proposed budgets,
1142 or planned purchases of exempted items, a production company
1143 seeking a 1-year certificate of exemption may submit summary
1144 historical data on employment, production budgets, and purchases
1145 of exempted items related to production activities in this
1146 state. Any information gathered from production companies for
1147 the purposes of this section shall be considered confidential
1148 taxpayer information and shall be disclosed only as provided in
1149 s. 213.053.

1150 2. The application form may be distributed to applicants by
1151 the department, the Division ~~Office~~ of Film and Entertainment of
1152 Enterprise Florida, Inc., or local film commissions.

1153 (d) All applications, renewals, and extensions for
1154 designation as a qualified production company shall be processed
1155 by the department ~~Office of Film and Entertainment~~.

1156 (e) If ~~In the event that~~ the Department of Revenue
1157 determines that a production company no longer qualifies for a
1158 certificate of exemption, or has used a certificate of exemption
1159 for purposes other than those authorized by this section and
1160 chapter 212, the Department of Revenue shall revoke the

577-01603C-14

20147056__

1161 certificate of exemption of that production company, and any
1162 sales or use taxes exempted on items purchased or leased by the
1163 production company during the time such company did not qualify
1164 for a certificate of exemption or improperly used a certificate
1165 of exemption shall become immediately due to the Department of
1166 Revenue, along with interest and penalty as provided by s.
1167 212.12. In addition to the other penalties imposed by law, any
1168 person who knowingly and willfully falsifies an application, or
1169 uses a certificate of exemption for purposes other than those
1170 authorized by this section and chapter 212, commits a felony of
1171 the third degree, punishable as provided in ss. 775.082,
1172 775.083, and 775.084.

1173 (3) CATEGORIES.—

1174 (a)1. A production company may be qualified for designation
1175 as a qualified production company for a period of 1 year if the
1176 company has operated a business in Florida at a permanent
1177 address for a period of 12 consecutive months. Such a qualified
1178 production company shall receive a single 1-year certificate of
1179 exemption from the Department of Revenue for the sales and use
1180 tax exemptions under ss. 212.031, 212.06, and 212.08, which
1181 certificate shall expire 1 year after issuance or upon the
1182 cessation of business operations in the state, at which time the
1183 certificate shall be surrendered to the Department of Revenue.

1184 2. The department ~~Office of Film and Entertainment~~ shall
1185 develop a method by which a qualified production company may
1186 annually renew a 1-year certificate of exemption for a period of
1187 up to 5 years without requiring the production company to
1188 resubmit a new application during that 5-year period.

1189 3. Any qualified production company may submit a new

577-01603C-14

20147056__

1190 application for a 1-year certificate of exemption upon the
1191 expiration of that company's certificate of exemption.

1192 (b)1. A production company may be qualified for designation
1193 as a qualified production company for a period of 90 days. Such
1194 production company shall receive a single 90-day certificate of
1195 exemption from the Department of Revenue for the sales and use
1196 tax exemptions under ss. 212.031, 212.06, and 212.08, which
1197 certificate shall expire 90 days after issuance, with extensions
1198 contingent upon approval of the department ~~Office of Film and~~
1199 ~~Entertainment~~. The certificate shall be surrendered to the
1200 Department of Revenue upon its expiration.

1201 2. Any production company may submit a new application for
1202 a 90-day certificate of exemption upon the expiration of that
1203 company's certificate of exemption.

1204 (4) DUTIES OF THE DEPARTMENT OF REVENUE.—

1205 (a) The Department of Revenue shall review the initial
1206 application and notify the applicant of any omissions and
1207 request additional information if needed. An application shall
1208 be complete upon receipt of all requested information. The
1209 Department of Revenue shall forward all complete applications to
1210 the department ~~Office of Film and Entertainment~~ within 10
1211 working days.

1212 (b) The Department of Revenue shall issue a numbered
1213 certificate of exemption to a qualified production company
1214 within 5 working days of the receipt of an approved application,
1215 application renewal, or application extension from the
1216 department ~~Office of Film and Entertainment~~.

1217 (c) The Department of Revenue may adopt ~~promulgate~~ such
1218 rules and shall prescribe and publish such forms as may be

577-01603C-14

20147056__

1219 necessary to effectuate the purposes of this section or any of
1220 the sales tax exemptions which are reasonably related to the
1221 provisions of this section.

1222 (d) The Department of Revenue may ~~is authorized to~~
1223 establish audit procedures in accordance with the provisions of
1224 ss. 212.12, 212.13, and 213.34 which relate to the sales tax
1225 exemption provisions of this section.

1226 (5) RELATIONSHIP OF TAX EXEMPTIONS AND INCENTIVES TO
1227 INDUSTRY GROWTH; REPORT TO THE LEGISLATURE.—The department
1228 ~~Office of Film and Entertainment~~ shall keep annual records from
1229 the information provided on taxpayer applications for tax
1230 exemption certificates ~~beginning January 1, 2001~~. These records
1231 also must reflect a ratio of the annual amount of sales and use
1232 tax exemptions under this section, plus the incentives awarded
1233 pursuant to s. 288.1254 to the estimated amount of funds
1234 expended by certified productions. In addition, the department
1235 ~~office~~ shall maintain data showing annual growth in Florida-
1236 based entertainment industry companies and entertainment
1237 industry employment and wages. The employment information must
1238 include an estimate of the full-time equivalent positions
1239 created by each production that received tax credits pursuant to
1240 s. 288.1254. The department ~~Office of Film and Entertainment~~
1241 shall include this information in the annual report for the
1242 entertainment industry financial incentive program required
1243 under s. 288.1254(8) ~~s. 288.1254(10)~~.

1244 Section 8. Subsection (1) of section 288.92, Florida
1245 Statutes, is amended to read:

1246 288.92 Divisions of Enterprise Florida, Inc.—

1247 (1) Enterprise Florida, Inc., may create and dissolve

577-01603C-14

20147056__

1248 divisions as necessary to carry out its mission. Each division
1249 shall have distinct responsibilities and complementary missions.
1250 At a minimum, Enterprise Florida, Inc., shall have divisions
1251 related to the following areas:

- 1252 (a) International Trade and Business Development;
- 1253 (b) Business Retention and Recruitment;
- 1254 (c) Tourism Marketing;
- 1255 (d) Minority Business Development; ~~and~~
- 1256 (e) Sports Industry Development; and
- 1257 (f) Film and Entertainment.

1258 Section 9. Paragraph (q) of subsection (5) of section
1259 212.08, Florida Statutes, is amended to read:

1260 212.08 Sales, rental, use, consumption, distribution, and
1261 storage tax; specified exemptions.—The sale at retail, the
1262 rental, the use, the consumption, the distribution, and the
1263 storage to be used or consumed in this state of the following
1264 are hereby specifically exempt from the tax imposed by this
1265 chapter.

1266 (5) EXEMPTIONS; ACCOUNT OF USE.—

1267 (q) *Entertainment industry tax credit; authorization;*
1268 *eligibility for credits.*—The credits against the state sales tax
1269 authorized pursuant to s. 288.1254 shall be deducted from any
1270 sales and use tax remitted by the dealer to the department by
1271 electronic funds transfer and may only be deducted on a sales
1272 and use tax return initiated through electronic data
1273 interchange. The dealer shall separately state the credit on the
1274 electronic return. The net amount of tax due and payable must be
1275 remitted by electronic funds transfer. If the credit for the
1276 qualified expenditures is larger than the amount owed on the

577-01603C-14

20147056__

1277 sales and use tax return that is eligible for the credit, the
1278 unused amount of the credit may be carried forward to a
1279 succeeding reporting period as provided in s. 288.1254(4)(d) ~~s.~~
1280 ~~288.1254(4)(e)~~. A dealer may only obtain a credit using the
1281 method described in this subparagraph. A dealer is not
1282 authorized to obtain a credit by applying for a refund.

1283 Section 10. Paragraph (a) of subsection (1) of section
1284 220.13, Florida Statutes, is amended to read:

1285 220.13 "Adjusted federal income" defined.—

1286 (1) The term "adjusted federal income" means an amount
1287 equal to the taxpayer's taxable income as defined in subsection
1288 (2), or such taxable income of more than one taxpayer as
1289 provided in s. 220.131, for the taxable year, adjusted as
1290 follows:

1291 (a) *Additions*.—There shall be added to such taxable income:

1292 1. The amount of any tax upon or measured by income,
1293 excluding taxes based on gross receipts or revenues, paid or
1294 accrued as a liability to the District of Columbia or any state
1295 of the United States which is deductible from gross income in
1296 the computation of taxable income for the taxable year.

1297 2. The amount of interest which is excluded from taxable
1298 income under s. 103(a) of the Internal Revenue Code or any other
1299 federal law, less the associated expenses disallowed in the
1300 computation of taxable income under s. 265 of the Internal
1301 Revenue Code or any other law, excluding 60 percent of any
1302 amounts included in alternative minimum taxable income, as
1303 defined in s. 55(b)(2) of the Internal Revenue Code, if the
1304 taxpayer pays tax under s. 220.11(3).

1305 3. In the case of a regulated investment company or real

577-01603C-14

20147056__

1306 estate investment trust, an amount equal to the excess of the
1307 net long-term capital gain for the taxable year over the amount
1308 of the capital gain dividends attributable to the taxable year.

1309 4. That portion of the wages or salaries paid or incurred
1310 for the taxable year which is equal to the amount of the credit
1311 allowable for the taxable year under s. 220.181. This
1312 subparagraph shall expire on the date specified in s. 290.016
1313 for the expiration of the Florida Enterprise Zone Act.

1314 5. That portion of the ad valorem school taxes paid or
1315 incurred for the taxable year which is equal to the amount of
1316 the credit allowable for the taxable year under s. 220.182. This
1317 subparagraph shall expire on the date specified in s. 290.016
1318 for the expiration of the Florida Enterprise Zone Act.

1319 6. The amount taken as a credit under s. 220.195 which is
1320 deductible from gross income in the computation of taxable
1321 income for the taxable year.

1322 7. That portion of assessments to fund a guaranty
1323 association incurred for the taxable year which is equal to the
1324 amount of the credit allowable for the taxable year.

1325 8. In the case of a nonprofit corporation which holds a
1326 pari-mutuel permit and which is exempt from federal income tax
1327 as a farmers' cooperative, an amount equal to the excess of the
1328 gross income attributable to the pari-mutuel operations over the
1329 attributable expenses for the taxable year.

1330 9. The amount taken as a credit for the taxable year under
1331 s. 220.1895.

1332 10. Up to nine percent of the eligible basis of any
1333 designated project which is equal to the credit allowable for
1334 the taxable year under s. 220.185.

577-01603C-14

20147056__

1335 11. The amount taken as a credit for the taxable year under
1336 s. 220.1875. The addition in this subparagraph is intended to
1337 ensure that the same amount is not allowed for the tax purposes
1338 of this state as both a deduction from income and a credit
1339 against the tax. This addition is not intended to result in
1340 adding the same expense back to income more than once.

1341 12. The amount taken as a credit for the taxable year under
1342 s. 220.192.

1343 13. The amount taken as a credit for the taxable year under
1344 s. 220.193.

1345 14. Any portion of a qualified investment, as defined in s.
1346 288.9913, which is claimed as a deduction by the taxpayer and
1347 taken as a credit against income tax pursuant to s. 288.9916.

1348 ~~15. The costs to acquire a tax credit pursuant to s.
1349 288.1254(5) that are deducted from or otherwise reduce federal
1350 taxable income for the taxable year.~~

1351 15.16. The amount taken as a credit for the taxable year
1352 pursuant to s. 220.194.

1353 ~~16.17.~~ The amount taken as a credit for the taxable year
1354 under s. 220.196. The addition in this subparagraph is intended
1355 to ensure that the same amount is not allowed for the tax
1356 purposes of this state as both a deduction from income and a
1357 credit against the tax. The addition is not intended to result
1358 in adding the same expense back to income more than once.

1359 Section 11. Subsection (3) of section 220.1899, Florida
1360 Statutes, is amended to read:

1361 220.1899 Entertainment industry tax credit.—

1362 (3) To the extent that the amount of a tax credit exceeds
1363 the amount due on a return, the balance of the credit may be

577-01603C-14

20147056__

1364 carried forward to a succeeding taxable year pursuant to s.
1365 288.1254(4)(d) ~~s. 288.1254(4)(e)~~.

1366 Section 12. Subsection (5) of section 477.0135, Florida
1367 Statutes, is amended to read:

1368 477.0135 Exemptions.—

1369 (5) A license is not required of any individual providing
1370 makeup, special effects, or cosmetology services to an actor,
1371 stunt person, musician, extra, or other talent during a
1372 production recognized by the Department of Economic Opportunity
1373 ~~the Office of Film and Entertainment~~ as a qualified production
1374 as defined in s. 288.1254(1). Such services are not required to
1375 be performed in a licensed salon. Individuals exempt under this
1376 subsection may not provide such services to the general public.

1377 Section 13. This act shall take effect July 1, 2014.