

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Latvala offered the following:

2
3 **Amendment to Amendment (223805) (with title amendment)**

4 Between lines 21 and 22 of the amendment, insert:

5 Section 2. Section 288.127, Florida Statutes, is created
6 to read:

7 288.127 Qualified television revolving loan fund.-

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

9 (a) "Fund administrator" means a private sector
10 organization under contract with the department to manage and
11 administer the qualified television revolving loan fund.

12 (b) "Major broadcaster" means broadcasting organizations
13 that include, but are not limited to, television broadcasting
14 networks, cable television, direct broadcast satellite,

570777

Approved For Filing: 4/20/2015 4:15:14 PM

Amendment No.

15 telecommunications companies, and Internet streaming or other
16 digital media platforms.

17 (c) "Private investment capital" means capital from
18 private, nongovernmental funding sources which will be
19 coinvested with the QTV Fund in segregated accounts.

20 (d) "Qualified lending partner" means a financial
21 institution, as defined in s. 655.005, selected by a fund
22 administrator that has demonstrated capability in providing
23 financing to television production and specialized expertise in
24 intellectual property, tax credit programs, customary broadcast
25 license agreements, advertising inventories, and ancillary
26 revenue sources, and a combined portfolio in film, television,
27 and entertainment media of at least \$500 million.

28 (e) "Qualified television content" means series, mini-
29 series, or made-for-TV content produced by a qualified
30 production company that has in place a distribution contract
31 with a major broadcaster, under a customary broadcaster license
32 agreement, and meets the criteria provided in subsection (7).
33 The term does not include a production that contains content
34 that is obscene, as defined in s. 847.001.

35 (f) "QTV Fund" means the qualified television revolving
36 loan fund.

37 (2) PURPOSE.—The purpose of the QTV Fund is to create a
38 public-private partnership in the form of a revolving loan fund
39 to administer a loan program for television production. The QTV
40 Fund is privately managed under state oversight to incentivize

570777

Approved For Filing: 4/20/2015 4:15:14 PM

Amendment No.

41 the use of this state as a site for producing qualified
42 television content and to develop and sustain the workforce and
43 infrastructure for television content production.

44 (3) CREATION.—The qualified television revolving loan fund
45 is created within the department. The QTV Fund shall be a public
46 fund that is privately managed by the fund administrator under
47 contract with the department. The department shall disburse the
48 funds appropriated for this loan program to the fund
49 administrator to invest in the QTV Fund during the existence of
50 the program pursuant to this section and the contract between
51 the fund administrator and the department. State funds in the
52 QTV Fund may be used only to enter into loan agreements and to
53 pay any administrative costs or other authorized fees under this
54 section.

55 (a) The QTV Fund shall be a revolving loan fund that
56 invests and reinvests the principal and interest of the fund in
57 accordance with s. 617.2104 in a manner so as not to subject the
58 funds to state or federal taxes and to be consistent with the
59 investment policy statement adopted by the fund administrator.
60 As production companies repay the principal and interest to the
61 QTV Fund, state funds, less any QTV Fund expenses, shall be
62 returned to the account to be lent to subsequent borrowers.

63 (b) Funds from the QTV Fund shall be disbursed by the fund
64 administrator through a lending vehicle to make loans not to
65 exceed 36 months in duration pursuant to this section.

66 (4) FUND ADMINISTRATOR.—

570777

Approved For Filing: 4/20/2015 4:15:14 PM

Amendment No.

67 (a) The department shall contract with a fund
68 administrator within 90 days after funds are appropriated for
69 the loan program and shall award the contract in accordance with
70 the competitive bidding requirements in s. 287.057.

71 (b) The department shall select as fund administrator a
72 private sector entity that demonstrates the ability to implement
73 the program under this section and that meets the requirements
74 set forth in this section. Preference shall be given to
75 applicants that are headquartered in this state. Additional
76 consideration may be given to applicants that have experience in
77 the management of economic development or job creation-related
78 funds. The qualifications for the fund administrator must
79 include, but are not limited to:

80 1. A demonstrated track record of managing private sector
81 equity or debt funds in the entertainment and media industries.

82 2. The ability to demonstrate through a partnership
83 agreement that a qualified lending partner is in place which has
84 the capability of providing leverage of a minimum of 2.5 times
85 the capital amount of the QTV Fund, for financing the production
86 cost of qualified television content in the form of senior debt.

87 (c) For overseeing and administering the QTV Fund, the
88 fund administrator shall be reimbursed for the costs that the
89 fund administrator incurs in establishing and operating the fund
90 related to the state's investment, which shall be paid from
91 state funds in the QTV Fund. Any additional private investment
92 capital in the segregated accounts is responsible for its own

570777

Approved For Filing: 4/20/2015 4:15:14 PM

Amendment No.

93 management fees. The fund administrator is entitled to a
94 reasonable profit, but such distribution may not be made from
95 the principal funds from the original appropriation.

96 (d) The fund administrator shall provide services defined
97 under this section for the duration of the QTV Fund term unless
98 removed by the department. The contract between the department
99 and the fund administrator shall set forth the circumstances
100 under which the contract may be terminated.

101 (5) FUND ADMINISTRATOR POWERS AND DUTIES.-

102 (a) Authority to contract.-The fund administrator may
103 enter into agreements with qualified lending partners for
104 concurrent lending through the QTV Fund. A loan made by the
105 qualified lending partner must be accounted for separately from
106 the state funds or other private investment capital. Such loan
107 shall be made as senior debt. The fund administrator may raise
108 private investment capital for mezzanine equity and other equity
109 or raise junior capital for concurrent lending through the QTV
110 Fund. However, loans from private investment capital, which is
111 invested at the same risk profile as the QTV Fund, may not be
112 made at more favorable terms and conditions than the terms and
113 conditions of the state funds in the QTV Fund. The state
114 appropriation must be maintained in a separate account from
115 private investment capital and administered in a separate legal
116 investment entity or entities. Private investment capital and
117 loans shall be segregated from each other, and funds may not be
118 commingled.

570777

Approved For Filing: 4/20/2015 4:15:14 PM

Amendment No.

- 119 (b) General duties.—The fund administrator:
120 1. Shall prudently manage the funds in the QTV Fund as a
121 revolving loan fund.
122 2. Shall contract with one or more qualified lending
123 partners.
124 3. Shall provide improvement of the credit profile of a
125 structured financial transaction for qualified production
126 companies that produce qualified television content meeting the
127 criteria in subsection (7).
128 4. May raise additional private investment capital to be
129 held in separate accounts, in addition to the leverage provided
130 by the qualified lending partner.
131 5. Shall administer the QTV Fund in accordance with this
132 part.
133 6. Shall agree to verify that the recipient's books and
134 records relating to funds received from the department are
135 maintained according to generally accepted accounting principles
136 and in accordance with s. 215.97(7) and to ensure that those
137 books and records will be available to the department for
138 inspection upon reasonable notice. The books and records must be
139 maintained with detailed records showing the use of proceeds
140 from loans to fund qualified television content.
141 7. Shall maintain its registered office in this state
142 throughout the duration of the contract.
143 (c) Financial reporting.—By February 28 of each year, the
144 fund administrator shall submit to the department financial

570777

Approved For Filing: 4/20/2015 4:15:14 PM

Amendment No.

145 statements for the preceding tax year which are audited by an
146 independent certified public accountant after the end of each
147 year in which the fund administrator is under contract with the
148 department. In addition to providing an independent opinion on
149 the annual financial statements, such audit provides a basis for
150 verifying the segregation of state funds from those of any
151 private investment capital.

152 (d) Program reporting.—The fund administrator shall submit
153 a report to the department by February 28 after the end of each
154 year in which the fund administrator is under contract with the
155 department. The report must include information on the loans
156 made in the preceding calendar year, including:

157 1. The name of the qualified television content.

158 2. The names of the counties in which the production
159 occurred.

160 3. The number of jobs created and retained as a result of
161 the production.

162 4. The loan amounts, including the amount of private
163 investment capital and funds provided by a qualified lending
164 partner.

165 5. The loan repayment status for each loan.

166 6. The number and amounts of any loans with payments past
167 due.

168 7. The number and amounts of any loans in default.

169 8. A description of the assets securing the loans.

570777

Approved For Filing: 4/20/2015 4:15:14 PM

Amendment No.

170 9. Other information and documentation required by the
171 department.

172 (e) Plan of accountability.—The fund administrator shall
173 submit an annual plan of accountability of economic development,
174 including a report detailing the job creation resulting from the
175 QTV Fund loans made during the current year and cumulatively
176 since the inception of the program. The fund administrator shall
177 also provide any additional information requested by the
178 department pertaining to economic development and job creation
179 in the state.

180 (f) Conflict-of-interest statement.—The fund administrator
181 shall provide a conflict-of-interest statement from its
182 governing board certifying that no board member, director,
183 employee, or agent, or immediate family member thereof, or other
184 person connected to or affiliated with the fund administrator is
185 receiving or will receive any type of compensation or
186 remuneration from a production company that has received or will
187 receive funds from the loan program or from a qualified lending
188 partner. The department may waive this requirement for good
189 cause shown.

190 (6) LOAN STRUCTURE.—

191 (a) The QTV Fund may be used to make loans to production
192 companies to fund production costs or provide improvement of the
193 credit profile of a structured financial transaction for
194 qualified television content that meets the criteria
195 requirements of subsection (7). To make a loan, the fund

570777

Approved For Filing: 4/20/2015 4:15:14 PM

Amendment No.

196 administrator shall consider the types of eligible collateral,
197 the credit worthiness of the project, the producer's track
198 record, the possibility that the project will encourage,
199 enhance, or create economic benefits, and the extent to which
200 assistance would foster innovative public-private partnerships
201 and attract private debt or equity investment.

202 (b) The QTV Fund loan package shall be secured by
203 anticipated receivables from domestic and international
204 broadcaster license agreements and other ancillary revenues that
205 are derived from media content rights. Unsecured loans may not
206 be made.

207 (c) The loans shall be made on the basis of a second lien
208 or primary security rights on the media assets listed in
209 paragraph (b).

210 (d) The QTV Fund shall provide funding only in conjunction
211 with senior loans provided by a qualified lending partner. Loans
212 from the fund may be subordinated to senior debt from the
213 qualified lending partner and may not exceed 30 percent of the
214 total production funding cost of any particular project.

215 (e) The production company's repayment of a loan shall be
216 in accordance with the license fee payment schedule agreement
217 and the delivery of qualified television content to the major
218 broadcaster and shall be within 60 days after such delivery.

219 (f) Loans made by the QTV Fund may not exceed 36 months in
220 duration, except for extenuating circumstances for which the
221 fund administrator may grant an extension upon making written

570777

Approved For Filing: 4/20/2015 4:15:14 PM

Amendment No.

222 findings to the department specifying the conditions requiring
223 the extension.

224 (g) The fund administrator, or a board member, employee,
225 or agent thereof, or an immediate family member of a board
226 member, employee, or agent, may not have a financial interest in
227 an entity that is awarded a loan under the loan program and may
228 not benefit directly or indirectly from the making of such loan.
229 A loan may not be made to a person if it violates this
230 paragraph. As used in this section, the term "immediate family"
231 means a parent, child, or spouse, or other relative by blood,
232 marriage, or adoption, of the fund administrator, or a board
233 member, employee, or agent thereof.

234 (h) Except for funds appropriated to the department for
235 the loan program, the credit of the state may not be pledged.
236 The state is not liable or obligated in any way for claims
237 against the QTV Fund or against the fund administrator, the
238 qualified lending partner, or the department.

239 (7) QUALIFIED TELEVISION CONTENT CRITERIA.—The fund
240 administrator must, at a minimum, consider the following
241 criteria for evaluating the qualifying television content:

242 (a) The content is intended for broadcast by a major
243 broadcaster on a major network, cable, or streaming channel.

244 (b) The content is produced in this state, or a minimum of
245 80 percent of the production budget must be spent in this state.
246 This requirement may be amended by the fund administrator upon
247 notice to the department. Such notice must include a specific

570777

Approved For Filing: 4/20/2015 4:15:14 PM

Amendment No.

248 justification for the change and must be transmitted to the
249 department in writing. The department has 10 business days to
250 object to the change. If the department does not object within
251 10 business days, the change is deemed acceptable by the
252 department, and the fund administrator may grant the amendment.

253 (c) If the content is a series:

254 1. It is a production created to run multiple seasons
255 which has an estimated order of at least seven episodes per
256 season and qualified expenditures of at least \$1 million per
257 episode; or

258 2. A telenovela that has qualified expenditures of more
259 than \$6 million; a minimum of 45 principal photography days
260 filmed in this state; and a production cast, including
261 background production occurring in this state.

262
263 These requirements may be amended by the fund administrator upon
264 notice to the department. Such notice must include a specific
265 justification for the change and must be transmitted to the
266 department in writing. The department has 10 business days to
267 object to the change. If the department does not object within
268 10 business days, the change is deemed acceptable by the
269 department.

270 (d) The producer must have a contract in place with a
271 major broadcaster to acquire content programming under a
272 customary broadcast license agreement, and the contract must
273 cover at least 60 percent of the budget.

570777

Approved For Filing: 4/20/2015 4:15:14 PM

Amendment No.

274 (e) The producer must retain a foreign sales agent and
275 must be able to provide the fund administrator with the foreign
276 sales agent's official estimates of foreign and ancillary sales.

277 (f) The project must be bonded and secured by an industry-
278 approved completion guarantor if the production cost per episode
279 exceeds \$1 million. This requirement may be waived if the loan
280 applicant provides the fund administrator with evidence of
281 adequate structure to protect the state's funds.

282 (8) AUDITOR GENERAL AUDIT.—The Auditor General may conduct
283 operational audits, as defined in s. 11.45, of the QTV Fund and
284 fund administrator. The scope of the audit must include, but is
285 not limited to, internal controls evaluations, internal audit
286 functions, reporting and performance requirements for the use of
287 the funds, and compliance with state and federal law. The fund
288 administrator shall provide to the Auditor General any detail or
289 supplemental data required.

290 (9) RULEMAKING AUTHORITY.—The department may adopt rules
291 to administer this section.

292 (10) EXPIRATION.—This section expires December 31, 2025,
293 at which point all funds remaining in the QTV Fund revert to the
294 General Revenue Fund.

295 (11) EMERGENCY RULES.—

296 (a) The executive director of the department is
297 authorized, and all conditions are deemed met, to adopt
298 emergency rules pursuant to ss. 120.536(1) and 120.54(4) for the
299 purpose of implementing this section.

570777

Approved For Filing: 4/20/2015 4:15:14 PM

Amendment No.

300 (b) Notwithstanding any other law, the emergency rules
301 adopted pursuant to paragraph (a) remain in effect for 6 months
302 after adoption and may be renewed during the pendency of
303 procedures to adopt permanent rules addressing the subject of
304 the emergency rules.

305 (c) This subsection expires October 1, 2016.

306 Section 3. Paragraph (b) of subsection (2) of section
307 288.0001, Florida Statutes, is amended to read:

308 288.0001 Economic Development Programs Evaluation.—The
309 Office of Economic and Demographic Research and the Office of
310 Program Policy Analysis and Government Accountability (OPPAGA)
311 shall develop and present to the Governor, the President of the
312 Senate, the Speaker of the House of Representatives, and the
313 chairs of the legislative appropriations committees the Economic
314 Development Programs Evaluation.

315 (2) The Office of Economic and Demographic Research and
316 OPPAGA shall provide a detailed analysis of economic development
317 programs as provided in the following schedule:

318 (b) By January 1, 2018 ~~2015~~, and every 3 years thereafter,
319 an analysis of the following:

320 1. The entertainment industry financial incentive program
321 established under s. 288.1254.

322 2. The entertainment industry sales tax exemption program
323 established under s. 288.1258.

570777

Approved For Filing: 4/20/2015 4:15:14 PM

Amendment No.

324 3. The ~~VISIT~~ Florida Tourism Industry Marketing
325 Corporation and its programs established or funded under ss.
326 288.122, 288.1226, 288.12265, and 288.124.

327 4. The Florida Sports Foundation and related programs
328 established under ss. 288.1162, 288.11621, 288.1166, 288.1167,
329 288.1168, 288.1169, and 288.1171.

330 5. The qualified television revolving loan fund
331 established under s. 288.127.

332
333 -----

T I T L E A M E N D M E N T

335 Remove line 1813 of the amendment and insert:
336 of the term "entertainment industry"; creating s.
337 288.127, F.S.; defining terms; providing a purpose;
338 creating the qualified television revolving loan fund;
339 requiring the Department of Economic Opportunity to
340 contract with a fund administrator; providing fund
341 administrator qualifications; providing for the fund
342 administrator's compensation and removal; specifying
343 the fund administrator's powers and duties; providing
344 the structure of the loans; providing qualified
345 television content criteria; authorizing the Auditor
346 General to conduct an operational audit of the fund
347 and the fund administrator; authorizing the department
348 to adopt rules; providing for expiration of the loan
349 program; providing emergency rulemaking authority;

570777

Approved For Filing: 4/20/2015 4:15:14 PM

Amendment No.

350 providing for expiration of the emergency rulemaking
351 authority; amending s. 288.0001, F.S.; requiring an
352 analysis of the qualified television revolving loan
353 fund in the Economic Development Programs Evaluation;
354 transferring,

570777

Approved For Filing: 4/20/2015 4:15:14 PM