

By Senator Gibson

6-01080B-17

20171576__

1 A bill to be entitled
2 An act relating to the Florida Film Investment
3 Corporation; creating s. 288.1259, F.S.; defining
4 terms; creating the Florida Film Investment
5 Corporation and stating its purpose; authorizing the
6 corporation to make investments in scripted
7 productions in the state subject to certain
8 conditions; requiring the board of directors to
9 establish criteria, bylaws, rules, and policies for
10 making investments; requiring the board to adopt
11 criteria that give preference to certain productions;
12 authorizing the corporation to charge fees subject to
13 certain limits; providing membership requirements for
14 the board; specifying term requirements; providing
15 that board members are subject to the code of ethics
16 for public officers and employees; providing voting
17 and compliance requirements; providing applicability;
18 prohibiting board members from commenting on or
19 discussing certain applications for a specified
20 timeframe; providing that the board serves without
21 compensation; authorizing the board to be reimbursed
22 for specified expenses; requiring the board to adopt
23 rules and hold meetings; requiring the board to create
24 the Florida Film Investment Account for specified
25 purposes; requiring funds appropriated to the
26 corporation to be deposited in the account;
27 authorizing the board to deposit a portion of funds
28 into a bank and invest the remaining portion in
29 specified securities; requiring dividends to be

6-01080B-17

20171576__

30 deposited in the account; providing for the board's
31 operating expenses; requiring claims against the
32 corporation to be paid from the account; requiring the
33 board to appoint a president; specifying that the
34 president serves at the pleasure of the board and is
35 compensated as determined by the board; requiring the
36 president to perform certain duties of the
37 corporation; requiring the president to submit an
38 annual budget to be approved by the board; requiring
39 the corporation to notify the Department of Economic
40 Opportunity upon final execution of certain contracts
41 or agreements; providing notice requirements;
42 providing an effective date.

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

45
46 Section 1. Section 288.1259, Florida Statutes, is created
47 to read:

48 288.1259 Florida Film Investment Corporation.—

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

50 (a) "Account" means the Florida Film Investment Account.

51 (b) "Board" means the corporation's board of directors.

52 (c) "Corporation" means the Florida Film Investment
53 Corporation.

54 (d) "In-state expenditures" means the costs of tangible
55 property used in this state, and services performed by residents
56 of this state, for scripted production, including preproduction
57 and postproduction, but excluding costs for development,
58 marketing, and distribution.

6-01080B-17

20171576__

59 (e) "President" means the chief executive officer of the
60 corporation.

61 (f) "Scripted production" or "production" means a feature
62 film of at least 70 minutes in length, whether produced for
63 theatrical, television, or direct-to-video release; a television
64 series created to run multiple seasons and having an order for
65 distribution of at least five episodes, or a miniseries, which
66 is produced predominantly from a written screenplay or teleplay.
67 The term does not include a commercial, infomercial, or
68 political advertising; a reality show; a game show; an awards
69 show; a music video; an industrial or educational film; a
70 weather or market program; a sporting event or sporting event
71 broadcast; a gala; a production that solicits funds; a home
72 shopping program; a political program; a documentary; a
73 gambling-related production; a concert production; a local,
74 regional, or Internet-distributed-only news show or current-
75 events show; a sports news or sports recap show; a video game; a
76 pornographic production; or any production deemed obscene under
77 chapter 847. A production may be produced on or by film, video
78 tape, or otherwise through the use of a motion picture camera,
79 digital camera or device, video tape device, computer, any
80 combination of the foregoing, or by any other means, method, or
81 device.

82 (g) "Television" includes broadcast, cable, and Internet
83 television.

84 (2) CORPORATION.—The Florida Film Investment Corporation is
85 created as a corporation not for profit, to be incorporated
86 under chapter 617 and approved by the Department of State. The
87 corporation shall be organized on a nonstock basis. The purpose

6-01080B-17

20171576__

88 of the corporation is to encourage this state to be used as a
89 site for scripted productions through equity investment in such
90 productions.

91 (3) POWERS AND LIMITATIONS.-

92 (a) The corporation may make equity investments in scripted
93 productions in this state pursuant to the criteria, bylaws,
94 rules, and policies adopted by the board which must include all
95 of the following:

96 1. The corporation shall make investments in productions
97 that it estimates will generate maximum economic impact to the
98 state by providing high-wage jobs for Florida residents and
99 significant in-state expenditures.

100 2. The amount of the corporation's investment in a
101 production must not exceed the amount of the production's in-
102 state expenditures for that production.

103 3. The corporation's investment in a production must rank
104 and remain equal with the highest class of ownership in the
105 production, such that, in the event of liquidation or
106 bankruptcy, the corporation's investment share retains the
107 highest priority with other preferred shareholders.

108 4. An equity investment made by the corporation under this
109 section must be less than one-half of the production's total
110 shares or other ownership interest.

111 5. The amount of the corporation's investment in any one
112 production must not exceed 12.5 percent of the sum of the
113 remaining amount of uncommitted funds in the account plus the
114 amounts of all outstanding investments in other productions.

115 6. The corporation must not have any voting rights,
116 creative control, or management authority over a production

6-01080B-17

20171576__

117 receiving an equity investment under this section.

118 7. The corporation shall limit the return on its
119 investments, establishing variable limits on returns that
120 account for time value and reduce returns in exchange for a
121 production's early buyout of investment equity. For a production
122 exercising an early buyout, the corporation shall limit its
123 return on investment to the minimum that is actuarially
124 measurable, credible, and sufficiently related to actual and
125 expected losses to ensure the corporation's self-sufficiency and
126 preservation of the state appropriations provided for
127 investment.

128 8. The corporation shall conduct at least two investment
129 cycles per fiscal year, committing no more than 40 percent of
130 its total investment in productions for the fiscal year in any
131 one investment cycle.

132 (b) The board shall adopt objective criteria for making
133 equity investments in scripted productions in this state. The
134 criteria shall give preference to:

135 1. Productions with the greatest economic impact to the
136 state as demonstrated by the number of high-wage jobs provided
137 for Florida residents and the amount of in-state expenditures as
138 a percentage of total production expenditures.

139 2. Productions in which the proposed investment by the
140 corporation is lowest as a percentage of the production's total
141 shares or other ownership interest.

142 3. Productions with the quickest deployment, in which the
143 production's in-state expenditures will be made soonest after
144 the corporation's investment.

145 4. Productions by companies with a verifiable track record

6-01080B-17

20171576__

146 of producing successful productions.

147 5. Productions by Florida-based production companies or by
148 producers, writers, or directors who are Florida residents.

149 6. Productions estimated to significantly increase tourism
150 to the state by using a screenplay or teleplay based on a
151 Florida story or including recognizable Florida locations.

152 7. Productions whose development demonstrates the
153 likelihood of their success, including, but not limited to,
154 having a recognized director, actor, or other creative talent
155 attached to the production.

156 8. Productions in which the corporation's investment is
157 matched from local sources, such as county or municipal
158 agencies, local film commissions, or other community resources.

159 (c) The corporation may charge fees, such as application
160 fees, from productions seeking equity investment under this
161 section, but such fees may not exceed the reasonable estimated
162 cost of the activity for which the fee is charged, such as the
163 cost of processing an application.

164 (4) BOARD OF DIRECTORS; POWERS AND DUTIES.-

165 (a)1. The corporation shall have a board of directors
166 consisting of seven members who are permanent residents of the
167 state. Minority and gender representation must be considered
168 when making appointments to the board. The board shall be
169 composed of the following members:

170 a. Two members with experience in investment banking and
171 funds management focused on feature film and television
172 production.

173 b. Three members who have recent experience and are
174 recognized leaders in the production of feature films or

6-01080B-17

20171576__

175 television in this state. Such board members may include, but
176 are not limited to, producers, directors, production managers or
177 supervisors, or similar persons in positions of production
178 leadership.

179 c. One member representing businesses that provide supplies
180 for feature film and television production in the state, such as
181 small businesses through which production companies buy or rent
182 equipment, house and feed cast and crew, purchase supplies and
183 raw materials, or build production infrastructure.

184 d. One member representing the state's feature film and
185 television workforce.

186 2. The initial board of directors shall be appointed as
187 follows:

188 a. The Florida Venture Forum and the Florida Chamber of
189 Commerce shall each appoint one member pursuant to sub-
190 subparagraph 1.a.

191 b. The Governor, the President of the Senate, and the
192 Speaker of the House of Representatives shall each appoint one
193 member pursuant to sub-subparagraph 1.b.

194 c. The Department of Economic Opportunity shall appoint one
195 member pursuant to sub-subparagraph 1.c.

196 d. The Congress of Motion Picture Associations of Florida
197 shall appoint one member pursuant to sub-subparagraph 1.d.

198
199 To establish staggered terms, three of the initial board members
200 shall be appointed to 1-year terms, two initial board members
201 shall be appointed to 2-year terms, and two initial board
202 members shall be appointed to 3-year terms.

203 3. Board members shall serve for a term of 3 years and be

6-01080B-17

20171576__

204 eligible for reappointment. Vacancies shall be filled by the
205 board within 30 days after the vacancy occurs.

206 (b) Board members are subject to the code of ethics for
207 public officers and employees as set forth in part III of
208 chapter 112. A board member must abstain from voting and must
209 comply with the disclosure requirements of s. 112.3143 if there
210 appears to be a possible conflict under s. 112.311, s. 112.313,
211 or s. 112.3143. This paragraph does not prohibit any principal
212 by whom a board member is retained, as described in s.
213 112.3143(1)(a), from applying for or receiving an equity
214 investment under this section.

215 (c) A board member must, with respect to an application for
216 an equity investment which is pending before the corporation or
217 an application the board member knows or reasonably expects will
218 be submitted to the corporation within 180 days, refrain from
219 commenting on or discussing the application outside of a board
220 meeting with the applicant or any person retained by the
221 applicant.

222 (d) Board members shall serve without compensation but may
223 be reimbursed in accordance with s. 112.061 for all necessary
224 expenses in the performance of their duties, including attending
225 board meetings and conducting board business.

226 (e) The board shall:

227 1. Before the expenditure of funds from the Florida Film
228 Investment Account, adopt bylaws, rules, and policies necessary
229 to carry out the corporation's responsibilities under this
230 section.

231 2. Hold regularly scheduled meetings, at least once per
232 investment cycle, in order to carry out the objectives and

6-01080B-17

20171576__

233 responsibilities of the board.

234 (5) ACCOUNT.—

235 (a) The board shall create the Florida Film Investment
236 Account for the purpose of receiving state, federal, county,
237 municipal, and private financial resources, and the return from
238 investments of those resources, and for the purposes of this
239 section. The account shall be under the exclusive control of the
240 board.

241 (b) Appropriations provided to the corporation for making
242 equity investments shall be deposited into the account.

243 (c) The board may deposit the funds of the account with
244 state or federally chartered financial institutions in this
245 state and may invest the remaining portion in permissible
246 investments as described in s. 560.210(1).

247 (d) Dividend payments received from the investments made by
248 the corporation shall be redeposited in the account to be used
249 to support the purposes of this section.

250 (e) The corporation shall keep its operating expenses to
251 the minimum amount necessary. Such operating expenses shall be
252 funded by appropriations provided for that purpose and from net
253 returns on investments made under this section.

254 (f) Any claims against the account shall be paid solely
255 from the account. Under no circumstances shall the credit of the
256 state be pledged, other than funds appropriated by law to the
257 account, nor shall the state be liable or obligated in any way
258 for claims on the account or against the corporation.

259 (6) PRESIDENT OF THE CORPORATION.—

260 (a) The board shall appoint a president. The president must
261 be knowledgeable about private and public financing of feature

6-01080B-17

20171576__

262 film and television projects.

263 (b) The president shall serve at the pleasure of the board
264 and shall receive a salary and benefits as determined by the
265 board.

266 (c) The president shall administer the programs of the
267 corporation and perform such duties as are delegated by the
268 board.

269 (d) The president shall provide staff to the board as
270 requested.

271 (e) The president shall submit an annual budget to be
272 approved by the board.

273 (7) PUBLIC NOTICE OF INVESTMENTS.—The corporation shall
274 notify the Department of Economic Opportunity upon final
275 execution of each contract or agreement by which the corporation
276 makes an equity investment in a production. The corporation
277 shall also publish and maintain a copy of the notice on the
278 corporation's website while the investment remains outstanding.
279 To provide adequate notice to the businesses and workforce that
280 provide supplies for feature film and television production in
281 the state, the notice shall include, but need not be limited to,
282 a brief description of the production, the name of the
283 production company, and, to the extent available, the names of
284 the director, cinematographer, production designer, costume
285 designer, and transportation coordinator.

286 Section 2. This act shall take effect July 1, 2017.