

By the Committee on Commerce and Tourism; and Senator Gibson

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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

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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.

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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 (h) "Tier one sales agency" means an agency that has sold
85 at least \$50 million in feature films.

86 (2) CORPORATION.—The Florida Film Investment Corporation is
87 created as a corporation not for profit, to be incorporated

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88 under chapter 617 and approved by the Department of State. The
89 corporation shall be organized on a nonstock basis. The purpose
90 of the corporation is to encourage this state to be used as a
91 site for scripted productions through equity investment in such
92 productions.

93 (3) POWERS AND LIMITATIONS.—

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

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

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

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

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

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

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117 6. The corporation must not have any voting rights,
118 creative control, or management authority over a production
119 receiving an equity investment under this section.

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

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

134 (b) The board shall adopt objective criteria for making
135 equity investments in scripted productions in this state.

136 1. The criteria must require:

137 a. The production to use a bonded third-party collection
138 account management firm to ensure that the corporation receives
139 all funds due from sales proceeds in accordance with a waterfall
140 agreement included in the corporation's investment terms.

141 b. Presales or sales estimates based on the cast and script
142 of the production from a tier one sales agency which reflect a
143 value of at least 1.5 times the exposure of the corporation.

144 c. The production to carry an insurance package from an
145 insurance company rated "A" or higher by A.M. Best Company which

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146 must include general liability insurance, workers' compensation,
147 and key cast and director insurance that covers the costs of
148 disruption or replacement downtime in the event of illness or
149 other loss of services from such individuals. If at least 75
150 percent of the production's filming schedule occurs after June 1
151 and before November 30, the production's insurance package must
152 include hurricane coverage.

153 d. The production to provide proof of funds for the
154 remaining budget within 60 days after tentative approval and
155 place the remaining budget in escrow before the release of
156 corporation funds.

157 e. That the lead producer or production company has
158 completed, sold, and delivered at least five feature films, or
159 the production must provide a completion bond.

160 f. That the production's budget, script, and filming
161 schedule have been evaluated and approved by a production expert
162 selected by the board.

163 g. The production budget to include contingency funds in an
164 amount equal to at least 5 percent of the total budget. Up to 40
165 percent of the contingency funds may be expended during
166 production without the approval of the board. The remaining
167 contingency funds may only be expended with prior approval of
168 the board.

169 h. The board to release corporation funds to a production
170 in the following manner:

171 (I) Fifty percent of corporation funds shall be released on
172 the first day of principal photography.

173 (II) Twenty-five percent of corporation funds shall be
174 released upon completion of principal photography.

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175 (III) Twenty-five percent of corporation funds shall be
176 released after final picture lock, as that term is generally
177 understood in the production industry.

178 i. The production company to provide the board with the
179 right to inspect and audit the weekly cost reports and general
180 ledger of the production throughout preproduction, production,
181 and postproduction.

182 2. The criteria shall give preference to:

183 a. Productions with the greatest economic impact to the
184 state as demonstrated by the greatest number of high-wage jobs
185 provided for state residents and the greatest amount of in-state
186 expenditures as a percentage of total production expenditures.

187 b. Productions in which the proposed investment by the
188 corporation is lowest as a percentage of the production's total
189 shares or other ownership interests.

190 c. Productions with the quickest deployment, in which the
191 production's in-state expenditures will be made soonest after
192 the corporation's investment.

193 d. Productions by companies with a verifiable track record
194 of producing successful productions.

195 e. Productions by state-based production companies or by
196 producers, writers, or directors who are state residents.

197 f. Productions estimated to significantly increase tourism
198 to the state by using a screenplay or teleplay based on a
199 Florida story or including recognizable state locations.

200 g. Productions whose development demonstrates the
201 likelihood of their success, including, but not limited to,
202 having a recognized director, actor, or other creative talent
203 attached to the production.

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204 h. Productions in which the corporation's investment is
205 matched from local sources, such as county or municipal
206 agencies, local film commissions, or other community resources.

207 (c) The corporation may charge fees, such as application
208 fees, from productions seeking equity investment under this
209 section, but such fees may not exceed the reasonable estimated
210 cost of the activity for which the fee is charged, such as the
211 cost of processing an application.

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

213 (a)1. The corporation shall have a board of directors
214 consisting of seven members who are permanent residents of the
215 state. Minority and gender representation must be considered
216 when making appointments to the board. The board shall be
217 composed of the following members:

218 a. Two members with experience in investment banking and
219 funds management focused on feature film and television
220 production.

221 b. Three members who have recent experience and are
222 recognized leaders in the production of feature films or
223 television in this state. Such board members may include, but
224 are not limited to, producers, directors, production managers or
225 supervisors, or similar persons in positions of production
226 leadership.

227 c. One member representing businesses that provide supplies
228 for feature film and television production in the state, such as
229 small businesses through which production companies buy or rent
230 equipment, house and feed cast and crew, purchase supplies and
231 raw materials, or build production infrastructure.

232 d. One member representing the state's feature film and

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233 television workforce.

234 2. The initial board of directors shall be appointed as
235 follows:

236 a. The Florida Venture Forum and the Florida Chamber of
237 Commerce shall each appoint one member pursuant to sub-
238 subparagraph 1.a.

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

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

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

246
247 To establish staggered terms, three of the initial board members
248 shall be appointed to 1-year terms, two initial board members
249 shall be appointed to 2-year terms, and two initial board
250 members shall be appointed to 3-year terms.

251 3. Board members shall serve for a term of 3 years and be
252 eligible for reappointment. Vacancies shall be filled by the
253 board within 30 days after the vacancy occurs.

254 (b) Board members are subject to the code of ethics for
255 public officers and employees as set forth in part III of
256 chapter 112. A board member must abstain from voting and must
257 comply with the disclosure requirements of s. 112.3143 if there
258 appears to be a possible conflict under s. 112.311, s. 112.313,
259 or s. 112.3143. This paragraph does not prohibit any principal
260 by whom a board member is retained, as described in s.
261 112.3143(1) (a), from applying for or receiving an equity

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262 investment under this section.

263 (c) A board member must, with respect to an application for
264 an equity investment which is pending before the corporation or
265 an application the board member knows or reasonably expects will
266 be submitted to the corporation within 180 days, refrain from
267 commenting on or discussing the application outside of a board
268 meeting with the applicant or any person retained by the
269 applicant.

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

274 (e) The board shall:

275 1. Before the expenditure of funds from the Florida Film
276 Investment Account, adopt bylaws, rules, and policies necessary
277 to carry out the corporation's responsibilities under this
278 section.

279 2. Hold regularly scheduled meetings, at least once per
280 investment cycle, in order to carry out the objectives and
281 responsibilities of the board.

282 (5) ACCOUNT.—

283 (a) The board shall create the Florida Film Investment
284 Account for the purpose of receiving state, federal, county,
285 municipal, and private financial resources, and the return from
286 investments of those resources, and for the purposes of this
287 section. The account shall be under the exclusive control of the
288 board.

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

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

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

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

302 (f) Any claims against the account shall be paid solely
303 from the account. Under no circumstances shall the credit of the
304 state be pledged, other than funds appropriated by law to the
305 account, nor shall the state be liable or obligated in any way
306 for claims on the account or against the corporation.

307 (6) PRESIDENT OF THE CORPORATION.—

308 (a) The board shall appoint a president. The president must
309 be knowledgeable about private and public financing of feature
310 film and television projects.

311 (b) The president shall serve at the pleasure of the board
312 and shall receive a salary and benefits as determined by the
313 board.

314 (c) The president shall administer the programs of the
315 corporation and perform such duties as are delegated by the
316 board.

317 (d) The president shall provide staff to the board as
318 requested.

319 (e) The president shall submit an annual budget to be

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320 approved by the board.

321 (7) PUBLIC NOTICE OF INVESTMENTS.—The corporation shall
322 notify the Department of Economic Opportunity upon final
323 execution of each contract or agreement by which the corporation
324 makes an equity investment in a production. The corporation
325 shall also publish and maintain a copy of the notice on the
326 corporation's website while the investment remains outstanding.
327 To provide adequate notice to the businesses and workforce that
328 provide supplies for feature film and television production in
329 the state, the notice shall include, but need not be limited to,
330 a brief description of the production, the name of the
331 production company, and, to the extent available, the names of
332 the director, cinematographer, production designer, costume
333 designer, and transportation coordinator.

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