

By Senator Torres

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1 A bill to be entitled
2 An act relating to the entertainment industry
3 financial incentive program; reviving, readopting, and
4 amending s. 288.1254, F.S., relating to the
5 entertainment industry financial incentive program;
6 deleting terms; revising the purpose of the
7 entertainment industry financial incentive program;
8 revising the application process for the program;
9 revising the certification process for tax credit
10 awards under the program; requiring that the names of
11 certain cities, towns, and counties be included in
12 certain credits; revising the process for determining
13 the priority of a qualified production for tax credit
14 awards; revising the eligibility requirements for a
15 tax credit award and the amount of tax credits that
16 may be awarded; revising the date on which or after
17 which a certified production company or certain
18 persons may relinquish tax credits; revising the
19 aggregate amount of tax credits that may be certified
20 per fiscal year; requiring that a specified amount of
21 funding be allocated to counties; authorizing a local
22 film commission to negotiate tax credit awards with a
23 potential certified production company; authorizing
24 allocations that are not encumbered by a specified
25 date to be made available to other counties; providing
26 for a scheduled repeal of the act; providing
27 exceptions; providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Notwithstanding the repeal of section 288.1254, Florida Statutes, in section 15 of chapter 2012-32, Laws of Florida, section 288.1254, Florida Statutes, is revived, readopted, and amended to read:

288.1254 Entertainment industry financial incentive program.—

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

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

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

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59 (c) "High-impact digital media project" means a digital
60 media project that has qualified expenditures greater than \$4.5
61 million.

62 (d) "High-impact television series" means a production
63 created to run multiple production seasons and having an
64 estimated order of at least seven episodes per season and
65 qualified expenditures of at least \$625,000 per episode.

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

70 (f) "Principal photography" means the filming of major or
71 significant components of the qualified production which involve
72 lead actors.

73 (g) "Production" means a theatrical or direct-to-video
74 motion picture; a made-for-television motion picture; visual
75 effects or digital animation sequences produced in conjunction
76 with a motion picture; a commercial; a music video; an
77 industrial or educational film; an infomercial; a documentary
78 film; a television pilot program; a presentation for a
79 television pilot program; a television series, including, but
80 not limited to, a drama, a reality show, a comedy, a soap opera,
81 a telenovela, a game show, an awards show, or a miniseries
82 production; or a digital media project by the entertainment
83 industry. One season of a television series is considered one
84 production. The term does not include a weather or market
85 program; a sporting event or a sporting event broadcast; a gala;
86 a production that solicits funds; a home shopping program; a
87 political program; a political documentary; political

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88 advertising; a gambling-related project or production; a concert
89 production; a local, regional, or Internet-distributed-only news
90 show or current-events show; a sports news or sports recap show;
91 a pornographic production; or any production deemed obscene
92 under chapter 847. A production may be produced on or by film,
93 tape, or otherwise by means of a motion picture camera;
94 electronic camera or device; tape device; computer; any
95 combination of the foregoing; or any other means, method, or
96 device.

97 (h) "Production expenditures" means the costs of tangible
98 and intangible property used for, and services performed
99 primarily and customarily in, production, including
100 preproduction and postproduction, but excluding costs for
101 development, marketing, and distribution. The term includes, but
102 is not limited to:

103 1. Wages, salaries, or other compensation paid to legal
104 residents of this state, including amounts paid through payroll
105 service companies, for technical and production crews,
106 directors, producers, and performers.

107 2. Net expenditures for sound stages, backlots, production
108 editing, digital effects, sound recordings, sets, and set
109 construction.

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

112 4. Up to \$300,000 of the costs of newly purchased computer
113 software and hardware unique to the project, including servers,
114 data processing, and visualization technologies, which are
115 located in and used exclusively in the state for the production
116 of digital media.

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117 5. Expenditures for meals, travel, and accommodations. For
118 purposes of this paragraph, the term "net expenditures" means
119 the actual amount of money a qualified production spent for
120 equipment or other tangible personal property, after subtracting
121 any consideration received for reselling or transferring the
122 item after the qualified production ends, if applicable.

123 (i) "Qualified expenditures" means production expenditures
124 incurred in this state by a qualified production for:

125 1. Goods purchased or leased from, or services, including,
126 but not limited to, insurance costs and bonding, payroll
127 services, and legal fees, which are provided by, a vendor or
128 supplier in this state that is registered with the Department of
129 State or the Department of Revenue, has a physical location in
130 this state, and employs one or more legal residents of this
131 state. This does not include rebilled goods or services provided
132 by an in-state company from out-of-state vendors or suppliers.
133 When services provided by the vendor or supplier include
134 personal services or labor, only personal services or labor
135 provided by residents of this state, evidenced by the required
136 documentation of residency in this state, qualify.

137 2. Payments to legal residents of this state in the form of
138 salary, wages, or other compensation up to a maximum of \$400,000
139 per resident unless otherwise specified in subsection (4). A
140 completed declaration of residency in this state must accompany
141 the documentation submitted to the office for reimbursement.

142
143 For a qualified production involving an event, such as an awards
144 show, the term does not include expenditures solely associated
145 with the event itself and not directly required by the

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146 production. The term does not include expenditures incurred
147 before certification, with the exception of those incurred for a
148 commercial, a music video, or the pickup of additional episodes
149 of a high-impact television series within a single season. Under
150 no circumstances may the qualified production include in the
151 calculation for qualified expenditures the original purchase
152 price for equipment or other tangible property that is later
153 sold or transferred by the qualified production for
154 consideration. In such cases, the qualified expenditure is the
155 net of the original purchase price minus the consideration
156 received upon sale or transfer.

157 (j) "Qualified production" means a production in this state
158 meeting the requirements of this section. The term does not
159 include a production:

160 1. In which, for the first 2 years of the incentive
161 program, less than 50 percent, and thereafter, less than 60
162 percent, of the positions that make up its production cast and
163 below-the-line production crew, or, in the case of digital media
164 projects, less than 75 percent of such positions, are filled by
165 legal residents of this state, whose residency is demonstrated
166 by a valid Florida driver license or other state-issued
167 identification confirming residency, or students enrolled full-
168 time in a film-and-entertainment-related course of study at an
169 institution of higher education in this state; or

170 2. That contains obscene content as defined in s.
171 847.001(10).

172 (k) "Qualified production company" means a corporation,
173 limited liability company, partnership, or other legal entity
174 engaged in one or more productions in this state.

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175 (l) "Qualified digital media production facility" means a
176 building or series of buildings and their improvements in which
177 data processing, visualization, and sound synchronization
178 technologies are regularly applied for the production of
179 qualified digital media projects or the digital animation
180 components of qualified productions.

181 (m) "Qualified production facility" means a building or
182 complex of buildings and their improvements and associated
183 backlot facilities in which regular filming activity for film or
184 television has occurred for a period of no less than 1 year and
185 which contain at least one sound stage of at least 7,800 square
186 feet.

187 ~~(n) "Regional population ratio" means the ratio of the~~
188 ~~population of a region to the population of this state. The~~
189 ~~regional population ratio applicable to a given fiscal year is~~
190 ~~the regional population ratio calculated by the Office of Film~~
191 ~~and Entertainment using the latest official estimates of~~
192 ~~population certified under s. 186.901, available on the first~~
193 ~~day of that fiscal year.~~

194 ~~(o) "Regional tax credit ratio" means a ratio the numerator~~
195 ~~of which is the sum of tax credits awarded to productions in a~~
196 ~~region to date plus the tax credits certified, but not yet~~
197 ~~awarded, to productions currently in that region and the~~
198 ~~denominator of which is the sum of all tax credits awarded in~~
199 ~~the state to date plus all tax credits certified, but not yet~~
200 ~~awarded, to productions currently in the state. The regional tax~~
201 ~~credit ratio applicable to a given year is the regional tax~~
202 ~~credit ratio calculated by the Office of Film and Entertainment~~
203 ~~using credit award and certification information available on~~

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204 ~~the first day of that fiscal year.~~

205 ~~(p) "Underutilized region" for a given state fiscal year~~
206 ~~means a region with a regional tax credit ratio applicable to~~
207 ~~that fiscal year that is lower than its regional population~~
208 ~~ratio applicable to that fiscal year. The following regions are~~
209 ~~established for purposes of making this determination:~~

210 ~~1. North Region, consisting of Alachua, Baker, Bay,~~
211 ~~Bradford, Calhoun, Clay, Columbia, Dixie, Duval, Escambia,~~
212 ~~Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson,~~
213 ~~Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau,~~
214 ~~Okaloosa, Putnam, Santa Rosa, St. Johns, Suwannee, Taylor,~~
215 ~~Union, Wakulla, Walton, and Washington Counties.~~

216 ~~2. Central East Region, consisting of Brevard, Flagler,~~
217 ~~Indian River, Lake, Okeechobee, Orange, Osceola, Seminole, St.~~
218 ~~Lucie, and Volusia Counties.~~

219 ~~3. Central West Region, consisting of Citrus, Hernando,~~
220 ~~Hillsborough, Manatee, Marion, Polk, Pasco, Pinellas, Sarasota,~~
221 ~~and Sumter Counties.~~

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

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

226 ~~(n)-(q)~~ (n) "Interactive website" means a website or group of
227 websites that includes interactive and downloadable content, and
228 creates 25 new Florida full-time equivalent positions operating
229 from a principal place of business located within Florida. An
230 interactive website or group of websites must provide
231 documentation that those jobs were created to the Office of Film
232 and Entertainment prior to the award of tax credits. Each

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233 subsequent program application must provide proof that 25
234 Florida full-time equivalent positions are maintained.

235 (2) CREATION AND PURPOSE OF PROGRAM.—The entertainment
236 industry financial incentive program is created within the
237 Office of Film and Entertainment. The purpose of this program is
238 to encourage the use of this state and all of the counties in
239 this state as a site for filming, for the digital production of
240 films, and to develop and sustain the workforce and
241 infrastructure for film, digital media, and entertainment
242 production.

243 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.—

244 (a) *Program application.*—A qualified production company
245 producing a qualified production in this state may submit a
246 program application to the Office of Film and Entertainment for
247 the purpose of determining qualification for an award of tax
248 credits authorized by this section no earlier than 180 days
249 before the first day of principal photography or project start
250 date in this state. The applicant shall provide the Office of
251 Film and Entertainment with information required to determine
252 whether the production is a qualified production and to
253 determine the qualified expenditures and other information
254 necessary for the office to determine eligibility for the tax
255 credit.

256 (b) *Required documentation.*—The Office of Film and
257 Entertainment shall develop an application form for qualifying
258 an applicant as a qualified production. The form must include,
259 but need not be limited to, production-related information
260 concerning employment of residents in this state, a detailed
261 budget of planned qualified expenditures, and the applicant's

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262 signed affirmation that the information on the form has been
263 verified and is correct. The Office of Film and Entertainment
264 and local film commissions shall distribute the form.

265 (c) *Application process.*—The Office of Film and
266 Entertainment shall establish a process by which an application
267 is accepted and reviewed and by which tax credit eligibility and
268 the award amount are determined in conjunction with county
269 allocations. The Office of Film and Entertainment shall ~~may~~
270 request assistance from a duly appointed local film commission
271 in determining compliance with this section. A certified high-
272 impact television series may submit an initial application for
273 no more than two successive seasons, notwithstanding the fact
274 that the successive seasons have not been ordered. The
275 successive season's qualified expenditure amounts shall be based
276 on the current season's estimated qualified expenditures. Upon
277 the completion of production of each season, a high-impact
278 television series may submit an application for no more than one
279 additional season.

280 (d) *Certification.*—The Office of Film and Entertainment
281 shall review the application within 15 business days after
282 receipt. Upon its determination that the application contains
283 all the information required by this subsection and meets the
284 criteria set out in this section, the Office of Film and
285 Entertainment shall qualify the applicant and recommend to the
286 department that the applicant be certified for the maximum tax
287 credit award amount per qualifying county. Within 5 business
288 days after receipt of the recommendation, the department shall
289 reject the recommendation or certify the maximum recommended tax
290 credit award, if any, to the applicant, to the applicable local

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291 film commissions, and to the executive director of the
292 Department of Revenue.

293 (e) *Grounds for denial.*—The Office of Film and
294 Entertainment shall deny an application if it determines that
295 the application is not complete or the production or application
296 does not meet the requirements of this section. Within 90 days
297 after submitting a program application, except with respect to
298 applications in the independent and emerging media queue, a
299 production must provide proof of project financing to the Office
300 of Film and Entertainment, otherwise the project is deemed
301 denied and withdrawn. A project that has been withdrawn may
302 submit a new application upon providing the Office of Film and
303 Entertainment proof of financing.

304 (f) *Verification of actual qualified expenditures.*—

305 1. The Office of Film and Entertainment shall develop a
306 process to verify the actual qualified expenditures of a
307 certified production. The process must require:

308 a. A certified production to submit, in a timely manner
309 after production ends in this state and after making all of its
310 qualified expenditures in this state, data substantiating each
311 qualified expenditure, including documentation on the net
312 expenditure on equipment and other tangible personal property by
313 the qualified production, to an independent certified public
314 accountant licensed in this state;

315 b. Such accountant to conduct a compliance audit, at the
316 certified production's expense, to substantiate each qualified
317 expenditure and submit the results as a report, along with the
318 required substantiating data, to the Office of Film and
319 Entertainment; and

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320 c. The Office of Film and Entertainment to review the
321 accountant's submittal and report to the department the final
322 verified amount of actual qualified expenditures made by the
323 certified production.

324 2. The department shall determine and approve the final tax
325 credit award amount to each certified applicant based on the
326 final verified amount of actual qualified expenditures and shall
327 notify the executive director of the Department of Revenue in
328 writing that the certified production has met the requirements
329 of the incentive program and of the final amount of the tax
330 credit award. The final tax credit award amount may not exceed
331 the maximum tax credit award amount certified under paragraph
332 (d).

333 (g) *Promoting Florida*.—The Office of Film and Entertainment
334 shall ensure that, as a condition of receiving a tax credit
335 under this section, marketing materials promoting this state as
336 a tourist destination or film and entertainment production
337 destination are included, when appropriate, at no cost to the
338 state, which must, at a minimum, include placement of a "Filmed
339 in Florida" or "Produced in Florida" logo in the end credits and
340 a list of the cities, towns, and counties where filming
341 occurred. The placement of a "Filmed in Florida" or "Produced in
342 Florida" logo on all packaging material and hard media is also
343 required, unless such placement is prohibited by licensing or
344 other contractual obligations. The size and placement of such
345 logo shall be commensurate to other logos used. If no logos are
346 used, the statement "Filmed in Florida using Florida's
347 Entertainment Industry Financial Incentive," or a similar
348 statement approved by the Office of Film and Entertainment,

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349 shall be used. The Office of Film and Entertainment shall
350 provide a logo and supply it for the purposes specified in this
351 paragraph. A 30-second "Visit Florida" promotional video must
352 also be included on all optical disc formats of a film, unless
353 such placement is prohibited by licensing or other contractual
354 obligations. The 30-second promotional video shall be approved
355 and provided by the Florida Tourism Industry Marketing
356 Corporation in consultation with the Commissioner of Film and
357 Entertainment.

358 (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;
359 ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;
360 PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND
361 ACQUISITIONS.—

362 (a) *Priority for tax credit award.*—The priority of a
363 qualified production for tax credit awards must be determined
364 by:

365 1. The highest percentage of production filmed and produced
366 in this state or the highest projected positive fiscal impact
367 for this state; and

368 2. The availability of unencumbered funds ~~on a first-come,~~
369 ~~first-served basis within its appropriate queue. Each qualified~~
370 ~~production must be placed into the appropriate queue and is~~
371 ~~subject to the requirements of that queue.~~

372 (b) *Tax credit eligibility.*—

373 1. General production queue.—Ninety-four percent of tax
374 credits authorized pursuant to subsection (6) in any state
375 fiscal year must be dedicated to the general production queue.
376 The general production queue consists of all qualified
377 productions other than those eligible for the commercial and

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378 music video queue or the independent and emerging media
379 production queue. A qualified production that demonstrates a
380 minimum of \$625,000 in qualified expenditures is eligible for
381 tax credits equal to up to 35 percent ~~20 percent~~ of its actual
382 qualified expenditures or \$8 million, whichever is less,
383 determined by film commission offices in the counties where
384 production will take place ~~up to a maximum of \$8 million~~. A
385 qualified production that incurs qualified expenditures during
386 multiple state fiscal years may combine those expenditures to
387 satisfy the \$625,000 minimum threshold.

388 a. An off-season certified production that is a feature
389 film, independent film, or television series or pilot is
390 eligible for an additional 5 percent tax credit on actual
391 qualified expenditures, but such tax credit may not cause the
392 qualified production to exceed the 35 percent tax credit cap
393 prescribed in subparagraph 1. An off-season certified production
394 that does not complete 75 percent of principal photography due
395 to a disruption caused by a hurricane or tropical storm may not
396 be disqualified from eligibility for the additional 5 percent
397 credit as a result of the disruption.

398 b. If more than 45 percent of the sum of total tax credits
399 initially certified and awarded after April 1, 2012, total tax
400 credits initially certified after April 1, 2012, but not yet
401 awarded, and total tax credits available for certification after
402 April 1, 2012, but not yet certified has been awarded for high-
403 impact television series, then no high-impact television series
404 is eligible for tax credits under this subparagraph. Tax credits
405 initially certified for a high-impact television series after
406 April 1, 2012, may not be awarded if the award will cause the

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407 percentage threshold in this sub-subparagraph to be exceeded.
408 This sub-subparagraph does not prohibit the award of tax credits
409 certified before April 1, 2012, for high-impact television
410 series.

411 c. Subject to sub-subparagraph b., first priority in the
412 queue for tax credit awards not yet certified shall be given to
413 high-impact television series and high-impact digital media
414 projects. For the purposes of determining priority between a
415 high-impact television series and a high-impact digital media
416 project, the first position must go to the first application
417 received. Thereafter, priority shall be determined by
418 alternating between a high-impact television series and a high-
419 impact digital media project on a first-come, first-served
420 basis. However, if the Office of Film and Entertainment receives
421 an application for a high-impact television series or high-
422 impact digital media project that would be certified but for the
423 alternating priority, the office may certify the project as
424 being in the priority position if an application that would
425 normally be the priority position is not received within 5
426 business days.

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

431 d.e. A qualified production that employs students enrolled
432 full-time in a film and entertainment-related or digital media-
433 related course of study at an institution of higher education in
434 this state is eligible for an additional 45 ~~15~~ percent tax
435 credit on qualified expenditures that are wages, salaries, or

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436 other compensation paid to such students, not to exceed a
437 combined total of 38 percent of all qualified expenditures. The
438 additional 45 ~~15~~ percent tax credit is also applicable to
439 persons hired within 12 months after graduating from a film and
440 entertainment-related or digital media-related course of study
441 at an institution of higher education in this state. The
442 additional 45 ~~15~~ percent tax credit applies to qualified
443 expenditures that are wages, salaries, or other compensation
444 paid to such recent graduates for 1 year after the date of
445 hiring.

446 ~~e.f.~~ A qualified production for which 50 percent or more of
447 its principal photography occurs at a qualified production
448 facility, or a qualified digital media project or the digital
449 animation component of a qualified production for which 50
450 percent or more of the project's or component's qualified
451 expenditures are related to a qualified digital media production
452 facility, is eligible for an additional 5 percent tax credit on
453 actual qualified expenditures, not to exceed a combined total of
454 38 percent of all qualified expenditures for production activity
455 at that facility.

456 ~~f.g.~~ A qualified production is not eligible for tax credits
457 provided under this paragraph totaling more than 38 ~~30~~ percent
458 of its actual qualified expenses.

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

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465 qualified expenditures per national or regional commercial or
466 music video and exceeds a combined threshold of \$500,000 after
467 combining actual qualified expenditures from qualified
468 commercials and music videos during a single state fiscal year.
469 After a qualified production company that produces commercials,
470 music videos, or both reaches the threshold of \$500,000, it is
471 eligible to apply for certification for a tax credit award. The
472 maximum credit award shall be equal to 20 percent of its actual
473 qualified expenditures up to a maximum of \$500,000. If there is
474 a surplus at the end of a fiscal year after the Office of Film
475 and Entertainment certifies and determines the tax credits for
476 all qualified commercial and video projects, such surplus tax
477 credits shall be carried forward to the following fiscal year
478 and are available to any eligible qualified productions under
479 the general production queue.

480 3. Independent and emerging media production queue.—Three
481 percent of tax credits authorized pursuant to subsection (6) in
482 any state fiscal year must be dedicated to the independent and
483 emerging media production queue. This queue is intended to
484 encourage independent film and emerging media production in this
485 state. Any qualified production, excluding commercials,
486 infomercials, or music videos, which demonstrates at least
487 \$20,000 ~~\$100,000~~, but not more than \$625,000, in total qualified
488 expenditures is eligible for tax credits equal to up to 30 percent ~~equal~~
489 ~~to 20 percent of its actual qualified expenditures, determined~~
490 by the local film commission in the county where the production
491 takes place. If a surplus exists at the end of a fiscal year
492 after the Office of Film and Entertainment certifies and
493 determines the tax credits for all qualified independent and

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494 emerging media production projects, such surplus tax credits
495 shall be carried forward to the following fiscal year and are
496 available to any eligible qualified productions under the
497 general production queue.

498 4. Family-friendly productions.—A certified theatrical or
499 direct-to-video motion picture production or video game
500 determined by the Commissioner of Film and Entertainment, with
501 the advice of the Florida Film and Entertainment Advisory
502 Council, to be family-friendly, based on review of the script
503 and review of the final release version, is eligible for an
504 additional tax credit equal to 5 percent of its actual qualified
505 expenditures. Family-friendly productions are those that have
506 cross-generational appeal; would be considered suitable for
507 viewing by children age 5 or older; are appropriate in theme,
508 content, and language for a broad family audience; embody a
509 responsible resolution of issues; and do not exhibit or imply
510 any act of smoking, sex, nudity, or vulgar or profane language.

511 (c) *Withdrawal of tax credit eligibility.*—A qualified or
512 certified production must continue on a reasonable schedule,
513 which includes beginning principal photography or the production
514 project in this state no more than 45 calendar days before or
515 after the principal photography or project start date provided
516 in the production's program application. The department shall
517 withdraw the eligibility of a qualified or certified production
518 that does not continue on a reasonable schedule.

519 (d) *Election and distribution of tax credits.*—

520 1. A certified production company receiving a tax credit
521 award under this section shall, at the time the credit is
522 awarded by the department after production is completed and all

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523 requirements to receive a credit award have been met, make an
524 irrevocable election to apply the credit against taxes due under
525 chapter 220, against state taxes collected or accrued under
526 chapter 212, or against a stated combination of the two taxes.
527 The election is binding upon any distributee, successor,
528 transferee, or purchaser. The department shall notify the
529 Department of Revenue of any election made pursuant to this
530 paragraph.

531 2. A qualified production company is eligible for tax
532 credits against its sales and use tax liabilities and corporate
533 income tax liabilities as provided in this section. However, tax
534 credits awarded under this section may not be claimed against
535 sales and use tax liabilities or corporate income tax
536 liabilities for any tax period beginning before July 1, 2011,
537 regardless of when the credits are applied for or awarded.

538 (e) *Tax credit carryforward.*—If the certified production
539 company cannot use the entire tax credit in the taxable year or
540 reporting period in which the credit is awarded, any excess
541 amount may be carried forward to a succeeding taxable year or
542 reporting period. A tax credit applied against taxes imposed
543 under chapter 212 may be carried forward for a maximum of 5
544 years after the date the credit is awarded. A tax credit applied
545 against taxes imposed under chapter 220 may be carried forward
546 for a maximum of 5 years after the date the credit is awarded,
547 after which the credit expires and may not be used.

548 (f) *Consolidated returns.*—A certified production company
549 that files a Florida consolidated return as a member of an
550 affiliated group under s. 220.131(1) may be allowed the credit
551 on a consolidated return basis up to the amount of the tax

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552 imposed upon the consolidated group under chapter 220.

553 (g) *Partnership and noncorporate distributions.*—A qualified
554 production company that is not a corporation as defined in s.
555 220.03 may elect to distribute tax credits awarded under this
556 section to its partners or members in proportion to their
557 respective distributive income or loss in the taxable year in
558 which the tax credits were awarded.

559 (h) *Mergers or acquisitions.*—Tax credits available under
560 this section to a certified production company may succeed to a
561 surviving or acquiring entity subject to the same conditions and
562 limitations as described in this section; however, they may not
563 be transferred again by the surviving or acquiring entity.

564 (5) TRANSFER OF TAX CREDITS.—

565 (a) *Authorization.*—Upon application to the Office of Film
566 and Entertainment and approval by the department, a certified
567 production company, or a partner or member that has received a
568 distribution under paragraph (4)(g), may elect to transfer, in
569 whole or in part, any unused credit amount granted under this
570 section. An election to transfer any unused tax credit amount
571 under chapter 212 or chapter 220 must be made no later than 5
572 years after the date the credit is awarded, after which period
573 the credit expires and may not be used. The department shall
574 notify the Department of Revenue of the election and transfer.

575 (b) *Number of transfers permitted.*—A certified production
576 company that elects to apply a credit amount against taxes
577 remitted under chapter 212 is permitted a one-time transfer of
578 unused credits to one transferee. A certified production company
579 that elects to apply a credit amount against taxes due under
580 chapter 220 is permitted a one-time transfer of unused credits

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581 to no more than four transferees, and such transfers must occur
582 in the same taxable year.

583 (c) *Transferee rights and limitations.*—The transferee is
584 subject to the same rights and limitations as the certified
585 production company awarded the tax credit, except that the
586 initial transferee shall be permitted a one-time transfer of
587 unused credits to no more than two subsequent transferees, and
588 such transfers must occur in the same taxable year as the
589 credits were received by the initial transferee, after which the
590 subsequent transferees may not sell or otherwise transfer the
591 tax credit.

592 (6) RELINQUISHMENT OF TAX CREDITS.—

593 (a) Beginning July 1, 2019 ~~2011~~, a certified production
594 company, or any person who has acquired a tax credit from a
595 certified production company pursuant to subsections (4) and
596 (5), may elect to relinquish the tax credit to the Department of
597 Revenue in exchange for 90 percent of the amount of the
598 relinquished tax credit.

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

601 (c) Subject to legislative appropriation, the Department of
602 Revenue shall request the Chief Financial Officer to issue
603 warrants to persons relinquishing tax credits. Payments under
604 this subsection shall be made from the funds from which the
605 proceeds from the taxes against which the tax credits could have
606 been applied pursuant to the irrevocable election made by the
607 certified production company under subsection (4) are deposited.

608 (7) ANNUAL ALLOCATION OF TAX CREDITS.—

609 (a) The aggregate amount of the tax credits that may be

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610 certified pursuant to paragraph (3) (d) may not exceed \$36
611 million per fiscal year.†

612 1. The county for each House of Representatives district
613 must be allocated \$300,000 on a pro rata basis based on the
614 percentage of the district located within the county ~~For fiscal~~
615 ~~year 2010-2011, \$53.5 million.~~

616 2. A county film commission office may negotiate with a
617 potential certified production company as to the percentage of
618 the total tax credits awarded it receives, pending approval from
619 the Office of Film and Entertainment and not to exceed 35
620 percent of the production company's qualified expenditures ~~For~~
621 ~~fiscal year 2011-2012, \$74.5 million.~~

622 3. ~~For fiscal years 2012-2013, 2013-2014, 2014-2015, and~~
623 ~~2015-2016, \$42 million per fiscal year.~~

624 (b) Any portion of the maximum amount of tax credits
625 established per fiscal year in paragraph (a) which ~~that~~ is not
626 certified as of the end of a fiscal year must ~~shall~~ be carried
627 forward and made available for certification during the
628 following 2 fiscal years, in addition to the amounts available
629 for certification under paragraph (a) for those fiscal years.
630 Any allocations assigned to a county which are not encumbered by
631 March 1 of the year in which the allocations were assigned may
632 be available to all counties with priority based on a project
633 rating decided by the Office of Film and Entertainment.

634 (c) Upon approval of the final tax credit award amount
635 pursuant to subparagraph (3) (f)2., an amount equal to the
636 difference between the maximum tax credit award amount
637 previously certified under paragraph (3) (d) and the approved
638 final tax credit award amount shall immediately be available for

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639 recertification during the current and following fiscal years in
640 addition to the amounts available for certification under
641 paragraph (a) for those fiscal years.

642 (d) If, during a fiscal year, the total amount of credits
643 applied for, pursuant to paragraph (3) (a), exceeds the amount of
644 credits available for certification in that fiscal year, such
645 excess shall be treated as having been applied for on the first
646 day of the next fiscal year in which credits remain available
647 for certification.

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

649 (a) The department may adopt rules pursuant to ss.
650 120.536(1) and 120.54 and develop policies and procedures to
651 implement and administer this section, including, but not
652 limited to, rules specifying requirements for the application
653 and approval process, records required for substantiation for
654 tax credits, procedures for making the election in paragraph
655 (4) (d), the manner and form of documentation required to claim
656 tax credits awarded or transferred under this section, and
657 marketing requirements for tax credit recipients.

658 (b) The Department of Revenue may adopt rules pursuant to
659 ss. 120.536(1) and 120.54 to administer this section, including
660 rules governing the examination and audit procedures required to
661 administer this section and the manner and form of documentation
662 required to claim tax credits awarded, transferred, or
663 relinquished under this section.

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

666 (a) *Audit authority.*—The Department of Revenue may conduct
667 examinations and audits as provided in s. 213.34 to verify that

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668 tax credits under this section are received, transferred, and
669 applied according to the requirements of this section. If the
670 Department of Revenue determines that tax credits are not
671 received, transferred, or applied as required by this section,
672 it may, in addition to the remedies provided in this subsection,
673 pursue recovery of such funds pursuant to the laws and rules
674 governing the assessment of taxes.

675 (b) *Revocation of tax credits.*—The department may revoke or
676 modify any written decision qualifying, certifying, or otherwise
677 granting eligibility for tax credits under this section if it is
678 discovered that the tax credit applicant submitted any false
679 statement, representation, or certification in any application,
680 record, report, plan, or other document filed in an attempt to
681 receive tax credits under this section. The department shall
682 immediately notify the Department of Revenue of any revoked or
683 modified orders affecting previously granted tax credits.
684 Additionally, the applicant must notify the Department of
685 Revenue of any change in its tax credit claimed.

686 (c) *Forfeiture of tax credits.*—A determination by the
687 Department of Revenue, as a result of an audit pursuant to
688 paragraph (a) or from information received from the Office of
689 Film and Entertainment, that an applicant received tax credits
690 pursuant to this section to which the applicant was not entitled
691 is grounds for forfeiture of previously claimed and received tax
692 credits. The applicant is responsible for returning forfeited
693 tax credits to the Department of Revenue, and such funds shall
694 be paid into the General Revenue Fund of the state. Tax credits
695 purchased in good faith are not subject to forfeiture unless the
696 transferee submitted fraudulent information in the purchase or

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

698 (d) *Fraudulent claims.*—Any applicant that submits
699 fraudulent information under this section is liable for
700 reimbursement of the reasonable costs and fees associated with
701 the review, processing, investigation, and prosecution of the
702 fraudulent claim. An applicant that obtains a credit payment
703 under this section through a claim that is fraudulent is liable
704 for reimbursement of the credit amount plus a penalty in an
705 amount double the credit amount. The penalty is in addition to
706 any criminal penalty to which the applicant is liable for the
707 same acts. The applicant is also liable for costs and fees
708 incurred by the state in investigating and prosecuting the
709 fraudulent claim.

710 (10) ANNUAL REPORT.—Each November 1, the Office of Film and
711 Entertainment shall submit an annual report for the previous
712 fiscal year to the Governor, the President of the Senate, and
713 the Speaker of the House of Representatives which outlines the
714 incentive program's return on investment and economic benefits
715 to the state. The report must also include an estimate of the
716 full-time equivalent positions created by each production that
717 received tax credits under this section and information relating
718 to the distribution of productions receiving credits by
719 geographic region and type of production. The report must also
720 include the expenditures report required under s. 288.1253(3)
721 and the information describing the relationship between tax
722 exemptions and incentives to industry growth required under s.
723 288.1258(5).

724 (11) REPEAL.—This section is repealed July 1, 2024 ~~2016~~,
725 except that:

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726 (a) Tax credits certified under paragraph (3) (d) before
727 July 1, 2024 ~~2016~~, may be awarded under paragraph (3) (f) on or
728 after July 1, 2024 ~~2016~~, if the other requirements of this
729 section are met.

730 (b) Tax credits carried forward under paragraph (4) (e)
731 remain valid for the period specified.

732 (c) Subsections (5), (8) and (9) shall remain in effect
733 until July 1, 2029 ~~2021~~.

734 Section 2. This act shall take effect July 1, 2019.