

By Senator Taddeo

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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       capping the amount of tax credits which may be  
7       certified per fiscal year; deleting the scheduled  
8       repeal of the program; providing an effective date.

9  
10   Be It Enacted by the Legislature of the State of Florida:

11  
12       Section 1. Notwithstanding the scheduled repeal of section  
13   288.1254, Florida Statutes, in section 15 of chapter 2012-32,  
14   Laws of Florida, section 288.1254, Florida Statutes, is revived,  
15   readopted, and amended to read:

16       288.1254 Entertainment industry financial incentive  
17   program.—

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

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

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30 year.

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

40 (c) "High-impact digital media project" means a digital  
41 media project that has qualified expenditures greater than \$4.5  
42 million.

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

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

51 (f) "Principal photography" means the filming of major or  
52 significant components of the qualified production which involve  
53 lead actors.

54 (g) "Production" means a theatrical or direct-to-video  
55 motion picture; a made-for-television motion picture; visual  
56 effects or digital animation sequences produced in conjunction  
57 with a motion picture; a commercial; a music video; an  
58 industrial or educational film; an infomercial; a documentary

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59 film; a television pilot program; a presentation for a  
60 television pilot program; a television series, including, but  
61 not limited to, a drama, a reality show, a comedy, a soap opera,  
62 a telenovela, a game show, an awards show, or a miniseries  
63 production; or a digital media project by the entertainment  
64 industry. One season of a television series is considered one  
65 production. The term does not include a weather or market  
66 program; a sporting event or a sporting event broadcast; a gala;  
67 a production that solicits funds; a home shopping program; a  
68 political program; a political documentary; political  
69 advertising; a gambling-related project or production; a concert  
70 production; a local, regional, or Internet-distributed-only news  
71 show or current-events show; a sports news or sports recap show;  
72 a pornographic production; or any production deemed obscene  
73 under chapter 847. A production may be produced on or by film,  
74 tape, or otherwise by means of a motion picture camera;  
75 electronic camera or device; tape device; computer; any  
76 combination of the foregoing; or any other means, method, or  
77 device.

78 (h) "Production expenditures" means the costs of tangible  
79 and intangible property used for, and services performed  
80 primarily and customarily in, production, including  
81 preproduction and postproduction, but excluding costs for  
82 development, marketing, and distribution. The term includes, but  
83 is not limited to:

84 1. Wages, salaries, or other compensation paid to legal  
85 residents of this state, including amounts paid through payroll  
86 service companies, for technical and production crews,  
87 directors, producers, and performers.

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88           2. Net expenditures for sound stages, backlots, production  
89 editing, digital effects, sound recordings, sets, and set  
90 construction.

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

93           4. Up to \$300,000 of the costs of newly purchased computer  
94 software and hardware unique to the project, including servers,  
95 data processing, and visualization technologies, which are  
96 located in and used exclusively in the state for the production  
97 of digital media.

98           5. Expenditures for meals, travel, and accommodations. For  
99 purposes of this paragraph, the term "net expenditures" means  
100 the actual amount of money a qualified production spent for  
101 equipment or other tangible personal property, after subtracting  
102 any consideration received for reselling or transferring the  
103 item after the qualified production ends, if applicable.

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

106           1. Goods purchased or leased from, or services, including,  
107 but not limited to, insurance costs and bonding, payroll  
108 services, and legal fees, which are provided by, a vendor or  
109 supplier in this state that is registered with the Department of  
110 State or the Department of Revenue, has a physical location in  
111 this state, and employs one or more legal residents of this  
112 state. This does not include rebilled goods or services provided  
113 by an in-state company from out-of-state vendors or suppliers.  
114 When services provided by the vendor or supplier include  
115 personal services or labor, only personal services or labor  
116 provided by residents of this state, evidenced by the required

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117 documentation of residency in this state, qualify.

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

123  
124 For a qualified production involving an event, such as an awards  
125 show, the term does not include expenditures solely associated  
126 with the event itself and not directly required by the  
127 production. The term does not include expenditures incurred  
128 before certification, with the exception of those incurred for a  
129 commercial, a music video, or the pickup of additional episodes  
130 of a high-impact television series within a single season. Under  
131 no circumstances may the qualified production include in the  
132 calculation for qualified expenditures the original purchase  
133 price for equipment or other tangible property that is later  
134 sold or transferred by the qualified production for  
135 consideration. In such cases, the qualified expenditure is the  
136 net of the original purchase price minus the consideration  
137 received upon sale or transfer.

138       (j) "Qualified production" means a production in this state  
139 meeting the requirements of this section. The term does not  
140 include a production:

141       1. In which, for the first 2 years of the incentive  
142 program, less than 50 percent, and thereafter, less than 60  
143 percent, of the positions that make up its production cast and  
144 below-the-line production crew, or, in the case of digital media  
145 projects, less than 75 percent of such positions, are filled by

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146 legal residents of this state, whose residency is demonstrated  
147 by a valid Florida driver license or other state-issued  
148 identification confirming residency, or students enrolled full-  
149 time in a film-and-entertainment-related course of study at an  
150 institution of higher education in this state; or

151 2. That contains obscene content as defined in s.  
152 847.001(10).

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

156 (l) "Qualified digital media production facility" means a  
157 building or series of buildings and their improvements in which  
158 data processing, visualization, and sound synchronization  
159 technologies are regularly applied for the production of  
160 qualified digital media projects or the digital animation  
161 components of qualified productions.

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

168 (n) "Regional population ratio" means the ratio of the  
169 population of a region to the population of this state. The  
170 regional population ratio applicable to a given fiscal year is  
171 the regional population ratio calculated by the Office of Film  
172 and Entertainment using the latest official estimates of  
173 population certified under s. 186.901, available on the first  
174 day of that fiscal year.

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175 (o) "Regional tax credit ratio" means a ratio the numerator  
176 of which is the sum of tax credits awarded to productions in a  
177 region to date plus the tax credits certified, but not yet  
178 awarded, to productions currently in that region and the  
179 denominator of which is the sum of all tax credits awarded in  
180 the state to date plus all tax credits certified, but not yet  
181 awarded, to productions currently in the state. The regional tax  
182 credit ratio applicable to a given year is the regional tax  
183 credit ratio calculated by the Office of Film and Entertainment  
184 using credit award and certification information available on  
185 the first day of that fiscal year.

186 (p) "Underutilized region" for a given state fiscal year  
187 means a region with a regional tax credit ratio applicable to  
188 that fiscal year that is lower than its regional population  
189 ratio applicable to that fiscal year. The following regions are  
190 established for purposes of making this determination:

191 1. North Region, consisting of Alachua, Baker, Bay,  
192 Bradford, Calhoun, Clay, Columbia, Dixie, Duval, Escambia,  
193 Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson,  
194 Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau,  
195 Okaloosa, Putnam, Santa Rosa, St. Johns, Suwannee, Taylor,  
196 Union, Wakulla, Walton, and Washington Counties.

197 2. Central East Region, consisting of Brevard, Flagler,  
198 Indian River, Lake, Okeechobee, Orange, Osceola, Seminole, St.  
199 Lucie, and Volusia Counties.

200 3. Central West Region, consisting of Citrus, Hernando,  
201 Hillsborough, Manatee, Marion, Polk, Pasco, Pinellas, Sarasota,  
202 and Sumter Counties.

203 4. Southwest Region, consisting of Charlotte, Collier,

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204 DeSoto, Glades, Hardee, Hendry, Highlands, and Lee Counties.

205 5. Southeast Region, consisting of Broward, Martin, Miami-  
206 Dade, Monroe, and Palm Beach Counties.

207 (q) "Interactive website" means a website or group of  
208 websites that includes interactive and downloadable content, and  
209 creates 25 new Florida full-time equivalent positions operating  
210 from a principal place of business located within Florida. An  
211 interactive website or group of websites must provide  
212 documentation that those jobs were created to the Office of Film  
213 and Entertainment prior to the award of tax credits. Each  
214 subsequent program application must provide proof that 25  
215 Florida full-time equivalent positions are maintained.

216 (2) CREATION AND PURPOSE OF PROGRAM.—The entertainment  
217 industry financial incentive program is created within the  
218 Office of Film and Entertainment. The purpose of this program is  
219 to encourage the use of this state as a site for filming, for  
220 the digital production of films, and to develop and sustain the  
221 workforce and infrastructure for film, digital media, and  
222 entertainment production.

223 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.—

224 (a) *Program application*.—A qualified production company  
225 producing a qualified production in this state may submit a  
226 program application to the Office of Film and Entertainment for  
227 the purpose of determining qualification for an award of tax  
228 credits authorized by this section no earlier than 180 days  
229 before the first day of principal photography or project start  
230 date in this state. The applicant shall provide the Office of  
231 Film and Entertainment with information required to determine  
232 whether the production is a qualified production and to

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233 determine the qualified expenditures and other information  
234 necessary for the office to determine eligibility for the tax  
235 credit.

236 (b) *Required documentation.*—The Office of Film and  
237 Entertainment shall develop an application form for qualifying  
238 an applicant as a qualified production. The form must include,  
239 but need not be limited to, production-related information  
240 concerning employment of residents in this state, a detailed  
241 budget of planned qualified expenditures, and the applicant's  
242 signed affirmation that the information on the form has been  
243 verified and is correct. The Office of Film and Entertainment  
244 and local film commissions shall distribute the form.

245 (c) *Application process.*—The Office of Film and  
246 Entertainment shall establish a process by which an application  
247 is accepted and reviewed and by which tax credit eligibility and  
248 award amount are determined. The Office of Film and  
249 Entertainment may request assistance from a duly appointed local  
250 film commission in determining compliance with this section. A  
251 certified high-impact television series may submit an initial  
252 application for no more than two successive seasons,  
253 notwithstanding the fact that the successive seasons have not  
254 been ordered. The successive season's qualified expenditure  
255 amounts shall be based on the current season's estimated  
256 qualified expenditures. Upon the completion of production of  
257 each season, a high-impact television series may submit an  
258 application for no more than one additional season.

259 (d) *Certification.*—The Office of Film and Entertainment  
260 shall review the application within 15 business days after  
261 receipt. Upon its determination that the application contains

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262 all the information required by this subsection and meets the  
263 criteria set out in this section, the Office of Film and  
264 Entertainment shall qualify the applicant and recommend to the  
265 department that the applicant be certified for the maximum tax  
266 credit award amount. Within 5 business days after receipt of the  
267 recommendation, the department shall reject the recommendation  
268 or certify the maximum recommended tax credit award, if any, to  
269 the applicant and to the executive director of the Department of  
270 Revenue.

271 (e) *Grounds for denial.*—The Office of Film and  
272 Entertainment shall deny an application if it determines that  
273 the application is not complete or the production or application  
274 does not meet the requirements of this section. Within 90 days  
275 after submitting a program application, except with respect to  
276 applications in the independent and emerging media queue, a  
277 production must provide proof of project financing to the Office  
278 of Film and Entertainment, otherwise the project is deemed  
279 denied and withdrawn. A project that has been withdrawn may  
280 submit a new application upon providing the Office of Film and  
281 Entertainment proof of financing.

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

283 1. The Office of Film and Entertainment shall develop a  
284 process to verify the actual qualified expenditures of a  
285 certified production. The process must require:

286 a. A certified production to submit, in a timely manner  
287 after production ends in this state and after making all of its  
288 qualified expenditures in this state, data substantiating each  
289 qualified expenditure, including documentation on the net  
290 expenditure on equipment and other tangible personal property by

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291 the qualified production, to an independent certified public  
292 accountant licensed in this state;

293 b. Such accountant to conduct a compliance audit, at the  
294 certified production's expense, to substantiate each qualified  
295 expenditure and submit the results as a report, along with the  
296 required substantiating data, to the Office of Film and  
297 Entertainment; and

298 c. The Office of Film and Entertainment to review the  
299 accountant's submittal and report to the department the final  
300 verified amount of actual qualified expenditures made by the  
301 certified production.

302 2. The department shall determine and approve the final tax  
303 credit award amount to each certified applicant based on the  
304 final verified amount of actual qualified expenditures and shall  
305 notify the executive director of the Department of Revenue in  
306 writing that the certified production has met the requirements  
307 of the incentive program and of the final amount of the tax  
308 credit award. The final tax credit award amount may not exceed  
309 the maximum tax credit award amount certified under paragraph  
310 (d).

311 (g) *Promoting Florida.*—The Office of Film and Entertainment  
312 shall ensure that, as a condition of receiving a tax credit  
313 under this section, marketing materials promoting this state as  
314 a tourist destination or film and entertainment production  
315 destination are included, when appropriate, at no cost to the  
316 state, which must, at a minimum, include placement of a "Filmed  
317 in Florida" or "Produced in Florida" logo in the end credits.  
318 The placement of a "Filmed in Florida" or "Produced in Florida"  
319 logo on all packaging material and hard media is also required,

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320 unless such placement is prohibited by licensing or other  
321 contractual obligations. The size and placement of such logo  
322 shall be commensurate to other logos used. If no logos are used,  
323 the statement "Filmed in Florida using Florida's Entertainment  
324 Industry Financial Incentive," or a similar statement approved  
325 by the Office of Film and Entertainment, shall be used. The  
326 Office of Film and Entertainment shall provide a logo and supply  
327 it for the purposes specified in this paragraph. A 30-second  
328 "Visit Florida" promotional video must also be included on all  
329 optical disc formats of a film, unless such placement is  
330 prohibited by licensing or other contractual obligations. The  
331 30-second promotional video shall be approved and provided by  
332 the Florida Tourism Industry Marketing Corporation in  
333 consultation with the Commissioner of Film and Entertainment.

334 (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;  
335 ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;  
336 PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND  
337 ACQUISITIONS.—

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

343 (b) *Tax credit eligibility.*—

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

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349 music video queue or the independent and emerging media  
350 production queue. A qualified production that demonstrates a  
351 minimum of \$625,000 in qualified expenditures is eligible for  
352 tax credits equal to 20 percent of its actual qualified  
353 expenditures, up to a maximum of \$8 million. A qualified  
354 production that incurs qualified expenditures during multiple  
355 state fiscal years may combine those expenditures to satisfy the  
356 \$625,000 minimum threshold.

357 a. An off-season certified production that is a feature  
358 film, independent film, or television series or pilot is  
359 eligible for an additional 5 percent tax credit on actual  
360 qualified expenditures. An off-season certified production that  
361 does not complete 75 percent of principal photography due to a  
362 disruption caused by a hurricane or tropical storm may not be  
363 disqualified from eligibility for the additional 5 percent  
364 credit as a result of the disruption.

365 b. If more than 45 percent of the sum of total tax credits  
366 initially certified and awarded after April 1, 2012, total tax  
367 credits initially certified after April 1, 2012, but not yet  
368 awarded, and total tax credits available for certification after  
369 April 1, 2012, but not yet certified has been awarded for high-  
370 impact television series, then no high-impact television series  
371 is eligible for tax credits under this subparagraph. Tax credits  
372 initially certified for a high-impact television series after  
373 April 1, 2012, may not be awarded if the award will cause the  
374 percentage threshold in this sub-subparagraph to be exceeded.  
375 This sub-subparagraph does not prohibit the award of tax credits  
376 certified before April 1, 2012, for high-impact television  
377 series.

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378 c. Subject to sub-subparagraph b., first priority in the  
379 queue for tax credit awards not yet certified shall be given to  
380 high-impact television series and high-impact digital media  
381 projects. For the purposes of determining priority between a  
382 high-impact television series and a high-impact digital media  
383 project, the first position must go to the first application  
384 received. Thereafter, priority shall be determined by  
385 alternating between a high-impact television series and a high-  
386 impact digital media project on a first-come, first-served  
387 basis. However, if the Office of Film and Entertainment receives  
388 an application for a high-impact television series or high-  
389 impact digital media project that would be certified but for the  
390 alternating priority, the office may certify the project as  
391 being in the priority position if an application that would  
392 normally be the priority position is not received within 5  
393 business days.

394 d. A qualified production for which at least 67 percent of  
395 its principal photography days occur within a region designated  
396 as an underutilized region at the time that the production is  
397 certified is eligible for an additional 5 percent tax credit.

398 e. A qualified production that employs students enrolled  
399 full-time in a film and entertainment-related or digital media-  
400 related course of study at an institution of higher education in  
401 this state is eligible for an additional 15 percent tax credit  
402 on qualified expenditures that are wages, salaries, or other  
403 compensation paid to such students. The additional 15 percent  
404 tax credit is also applicable to persons hired within 12 months  
405 after graduating from a film and entertainment-related or  
406 digital media-related course of study at an institution of

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407 higher education in this state. The additional 15 percent tax  
408 credit applies to qualified expenditures that are wages,  
409 salaries, or other compensation paid to such recent graduates  
410 for 1 year after the date of hiring.

411 f. A qualified production for which 50 percent or more of  
412 its principal photography occurs at a qualified production  
413 facility, or a qualified digital media project or the digital  
414 animation component of a qualified production for which 50  
415 percent or more of the project's or component's qualified  
416 expenditures are related to a qualified digital media production  
417 facility, is eligible for an additional 5 percent tax credit on  
418 actual qualified expenditures for production activity at that  
419 facility.

420 g. A qualified production is not eligible for tax credits  
421 provided under this paragraph totaling more than 30 percent of  
422 its actual qualified expenses.

423 2. Commercial and music video queue.—Three percent of tax  
424 credits authorized pursuant to subsection (6) in any state  
425 fiscal year must be dedicated to the commercial and music video  
426 queue. A qualified production company that produces national or  
427 regional commercials or music videos may be eligible for a tax  
428 credit award if it demonstrates a minimum of \$100,000 in  
429 qualified expenditures per national or regional commercial or  
430 music video and exceeds a combined threshold of \$500,000 after  
431 combining actual qualified expenditures from qualified  
432 commercials and music videos during a single state fiscal year.  
433 After a qualified production company that produces commercials,  
434 music videos, or both reaches the threshold of \$500,000, it is  
435 eligible to apply for certification for a tax credit award. The

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436 maximum credit award shall be equal to 20 percent of its actual  
437 qualified expenditures up to a maximum of \$500,000. If there is  
438 a surplus at the end of a fiscal year after the Office of Film  
439 and Entertainment certifies and determines the tax credits for  
440 all qualified commercial and video projects, such surplus tax  
441 credits shall be carried forward to the following fiscal year  
442 and are available to any eligible qualified productions under  
443 the general production queue.

444 3. Independent and emerging media production queue.—Three  
445 percent of tax credits authorized pursuant to subsection (6) in  
446 any state fiscal year must be dedicated to the independent and  
447 emerging media production queue. This queue is intended to  
448 encourage independent film and emerging media production in this  
449 state. Any qualified production, excluding commercials,  
450 infomercials, or music videos, which demonstrates at least  
451 \$100,000, but not more than \$625,000, in total qualified  
452 expenditures is eligible for tax credits equal to 20 percent of  
453 its actual qualified expenditures. If a surplus exists at the  
454 end of a fiscal year after the Office of Film and Entertainment  
455 certifies and determines the tax credits for all qualified  
456 independent and emerging media production projects, such surplus  
457 tax credits shall be carried forward to the following fiscal  
458 year and are available to any eligible qualified productions  
459 under the general production queue.

460 4. Family-friendly productions.—A certified theatrical or  
461 direct-to-video motion picture production or video game  
462 determined by the Commissioner of Film and Entertainment, with  
463 the advice of the Florida Film and Entertainment Advisory  
464 Council, to be family-friendly, based on review of the script

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465 and review of the final release version, is eligible for an  
466 additional tax credit equal to 5 percent of its actual qualified  
467 expenditures. Family-friendly productions are those that have  
468 cross-generational appeal; would be considered suitable for  
469 viewing by children age 5 or older; are appropriate in theme,  
470 content, and language for a broad family audience; embody a  
471 responsible resolution of issues; and do not exhibit or imply  
472 any act of smoking, sex, nudity, or vulgar or profane language.

473 (c) *Withdrawal of tax credit eligibility.*—A qualified or  
474 certified production must continue on a reasonable schedule,  
475 which includes beginning principal photography or the production  
476 project in this state no more than 45 calendar days before or  
477 after the principal photography or project start date provided  
478 in the production's program application. The department shall  
479 withdraw the eligibility of a qualified or certified production  
480 that does not continue on a reasonable schedule.

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

482 1. A certified production company receiving a tax credit  
483 award under this section shall, at the time the credit is  
484 awarded by the department after production is completed and all  
485 requirements to receive a credit award have been met, make an  
486 irrevocable election to apply the credit against taxes due under  
487 chapter 220, against state taxes collected or accrued under  
488 chapter 212, or against a stated combination of the two taxes.  
489 The election is binding upon any distributee, successor,  
490 transferee, or purchaser. The department shall notify the  
491 Department of Revenue of any election made pursuant to this  
492 paragraph.

493 2. A qualified production company is eligible for tax

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494 credits against its sales and use tax liabilities and corporate  
495 income tax liabilities as provided in this section. However, tax  
496 credits awarded under this section may not be claimed against  
497 sales and use tax liabilities or corporate income tax  
498 liabilities for any tax period beginning before July 1, 2011,  
499 regardless of when the credits are applied for or awarded.

500 (e) *Tax credit carryforward.*—If the certified production  
501 company cannot use the entire tax credit in the taxable year or  
502 reporting period in which the credit is awarded, any excess  
503 amount may be carried forward to a succeeding taxable year or  
504 reporting period. A tax credit applied against taxes imposed  
505 under chapter 212 may be carried forward for a maximum of 5  
506 years after the date the credit is awarded. A tax credit applied  
507 against taxes imposed under chapter 220 may be carried forward  
508 for a maximum of 5 years after the date the credit is awarded,  
509 after which the credit expires and may not be used.

510 (f) *Consolidated returns.*—A certified production company  
511 that files a Florida consolidated return as a member of an  
512 affiliated group under s. 220.131(1) may be allowed the credit  
513 on a consolidated return basis up to the amount of the tax  
514 imposed upon the consolidated group under chapter 220.

515 (g) *Partnership and noncorporate distributions.*—A qualified  
516 production company that is not a corporation as defined in s.  
517 220.03 may elect to distribute tax credits awarded under this  
518 section to its partners or members in proportion to their  
519 respective distributive income or loss in the taxable year in  
520 which the tax credits were awarded.

521 (h) *Mergers or acquisitions.*—Tax credits available under  
522 this section to a certified production company may succeed to a

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523 surviving or acquiring entity subject to the same conditions and  
524 limitations as described in this section; however, they may not  
525 be transferred again by the surviving or acquiring entity.

526 (5) TRANSFER OF TAX CREDITS.—

527 (a) *Authorization.*—Upon application to the Office of Film  
528 and Entertainment and approval by the department, a certified  
529 production company, or a partner or member that has received a  
530 distribution under paragraph (4)(g), may elect to transfer, in  
531 whole or in part, any unused credit amount granted under this  
532 section. An election to transfer any unused tax credit amount  
533 under chapter 212 or chapter 220 must be made no later than 5  
534 years after the date the credit is awarded, after which period  
535 the credit expires and may not be used. The department shall  
536 notify the Department of Revenue of the election and transfer.

537 (b) *Number of transfers permitted.*—A certified production  
538 company that elects to apply a credit amount against taxes  
539 remitted under chapter 212 is permitted a one-time transfer of  
540 unused credits to one transferee. A certified production company  
541 that elects to apply a credit amount against taxes due under  
542 chapter 220 is permitted a one-time transfer of unused credits  
543 to no more than four transferees, and such transfers must occur  
544 in the same taxable year.

545 (c) *Transferee rights and limitations.*—The transferee is  
546 subject to the same rights and limitations as the certified  
547 production company awarded the tax credit, except that the  
548 initial transferee shall be permitted a one-time transfer of  
549 unused credits to no more than two subsequent transferees, and  
550 such transfers must occur in the same taxable year as the  
551 credits were received by the initial transferee, after which the

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552 subsequent transferees may not sell or otherwise transfer the  
553 tax credit.

554 (6) RELINQUISHMENT OF TAX CREDITS.—

555 (a) Beginning July 1, 2011, a certified production company,  
556 or any person who has acquired a tax credit from a certified  
557 production company pursuant to subsections (4) and (5), may  
558 elect to relinquish the tax credit to the Department of Revenue  
559 in exchange for 90 percent of the amount of the relinquished tax  
560 credit.

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

563 (c) Subject to legislative appropriation, the Department of  
564 Revenue shall request the Chief Financial Officer to issue  
565 warrants to persons relinquishing tax credits. Payments under  
566 this subsection shall be made from the funds from which the  
567 proceeds from the taxes against which the tax credits could have  
568 been applied pursuant to the irrevocable election made by the  
569 certified production company under subsection (4) are deposited.

570 (7) ANNUAL ALLOCATION OF TAX CREDITS.—

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

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

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

575 ~~3. For fiscal years 2012-2013, 2013-2014, 2014-2015, and~~  
576 ~~2015-2016, \$42 million per fiscal year.~~

577 (b) Any portion of the maximum amount of tax credits  
578 established per fiscal year in paragraph (a) that is not  
579 certified as of the end of a fiscal year shall be carried  
580 forward and made available for certification during the

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581 following 2 fiscal years in addition to the amounts available  
582 for certification under paragraph (a) for those fiscal years.

583 (c) Upon approval of the final tax credit award amount  
584 pursuant to subparagraph (3)(f)2., an amount equal to the  
585 difference between the maximum tax credit award amount  
586 previously certified under paragraph (3)(d) and the approved  
587 final tax credit award amount shall immediately be available for  
588 recertification during the current and following fiscal years in  
589 addition to the amounts available for certification under  
590 paragraph (a) for those fiscal years.

591 (d) If, during a fiscal year, the total amount of credits  
592 applied for, pursuant to paragraph (3)(a), exceeds the amount of  
593 credits available for certification in that fiscal year, such  
594 excess shall be treated as having been applied for on the first  
595 day of the next fiscal year in which credits remain available  
596 for certification.

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

598 (a) The department may adopt rules pursuant to ss.  
599 120.536(1) and 120.54 and develop policies and procedures to  
600 implement and administer this section, including, but not  
601 limited to, rules specifying requirements for the application  
602 and approval process, records required for substantiation for  
603 tax credits, procedures for making the election in paragraph  
604 (4)(d), the manner and form of documentation required to claim  
605 tax credits awarded or transferred under this section, and  
606 marketing requirements for tax credit recipients.

607 (b) The Department of Revenue may adopt rules pursuant to  
608 ss. 120.536(1) and 120.54 to administer this section, including  
609 rules governing the examination and audit procedures required to

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610 administer this section and the manner and form of documentation  
611 required to claim tax credits awarded, transferred, or  
612 relinquished under this section.

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

615 (a) *Audit authority.*—The Department of Revenue may conduct  
616 examinations and audits as provided in s. 213.34 to verify that  
617 tax credits under this section are received, transferred, and  
618 applied according to the requirements of this section. If the  
619 Department of Revenue determines that tax credits are not  
620 received, transferred, or applied as required by this section,  
621 it may, in addition to the remedies provided in this subsection,  
622 pursue recovery of such funds pursuant to the laws and rules  
623 governing the assessment of taxes.

624 (b) *Revocation of tax credits.*—The department may revoke or  
625 modify any written decision qualifying, certifying, or otherwise  
626 granting eligibility for tax credits under this section if it is  
627 discovered that the tax credit applicant submitted any false  
628 statement, representation, or certification in any application,  
629 record, report, plan, or other document filed in an attempt to  
630 receive tax credits under this section. The department shall  
631 immediately notify the Department of Revenue of any revoked or  
632 modified orders affecting previously granted tax credits.  
633 Additionally, the applicant must notify the Department of  
634 Revenue of any change in its tax credit claimed.

635 (c) *Forfeiture of tax credits.*—A determination by the  
636 Department of Revenue, as a result of an audit pursuant to  
637 paragraph (a) or from information received from the Office of  
638 Film and Entertainment, that an applicant received tax credits

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639 pursuant to this section to which the applicant was not entitled  
640 is grounds for forfeiture of previously claimed and received tax  
641 credits. The applicant is responsible for returning forfeited  
642 tax credits to the Department of Revenue, and such funds shall  
643 be paid into the General Revenue Fund of the state. Tax credits  
644 purchased in good faith are not subject to forfeiture unless the  
645 transferee submitted fraudulent information in the purchase or  
646 failed to meet the requirements in subsection (5).

647 (d) *Fraudulent claims.*—Any applicant that submits  
648 fraudulent information under this section is liable for  
649 reimbursement of the reasonable costs and fees associated with  
650 the review, processing, investigation, and prosecution of the  
651 fraudulent claim. An applicant that obtains a credit payment  
652 under this section through a claim that is fraudulent is liable  
653 for reimbursement of the credit amount plus a penalty in an  
654 amount double the credit amount. The penalty is in addition to  
655 any criminal penalty to which the applicant is liable for the  
656 same acts. The applicant is also liable for costs and fees  
657 incurred by the state in investigating and prosecuting the  
658 fraudulent claim.

659 (10) ANNUAL REPORT.—Each November 1, the Office of Film and  
660 Entertainment shall submit an annual report for the previous  
661 fiscal year to the Governor, the President of the Senate, and  
662 the Speaker of the House of Representatives which outlines the  
663 incentive program's return on investment and economic benefits  
664 to the state. The report must also include an estimate of the  
665 full-time equivalent positions created by each production that  
666 received tax credits under this section and information relating  
667 to the distribution of productions receiving credits by

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668 geographic region and type of production. The report must also  
669 include the expenditures report required under s. 288.1253(3)  
670 and the information describing the relationship between tax  
671 exemptions and incentives to industry growth required under s.  
672 288.1258(5).

673 ~~(11) REPEAL. This section is repealed July 1, 2016, except~~  
674 ~~that:~~

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

678 ~~(b) Tax credits carried forward under paragraph (4)(e)~~  
679 ~~remain valid for the period specified.~~

680 ~~(c) Subsections (5), (8) and (9) shall remain in effect~~  
681 ~~until July 1, 2021.~~

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