

By the Committee on Commerce and Tourism

577-03545-12

20122122

1 A bill to be entitled
2 An act relating to the entertainment industry
3 financial incentive program; amending s. 288.1254,
4 F.S.; revising definitions; providing that a hurricane
5 does not disqualify certain high-impact television
6 series that are off-season certified productions from
7 eligibility for an additional tax credit; deleting
8 provisions limiting the amount of tax credits for
9 high-impact television series and digital media
10 productions; providing criteria for determining
11 priority for tax credits that have not yet been
12 certified; reducing the required percent of certain
13 production components necessary to qualify for
14 additional credits; providing for tax credits for
15 fiscal years 2015-2016 through 2019-2020; providing
16 for applicability of certification of tax credits;
17 providing for repeal; providing for application;
18 providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Paragraphs (b), (d), and (f) of subsection (1),
23 paragraph (b) of subsection (4), paragraph (a) of subsection
24 (7), and subsection (11) of section 288.1254, Florida Statutes,
25 are amended, present paragraphs (c) through (o) of subsection
26 (1) of that section are redesignated as paragraphs (d) through
27 (p), respectively, and a new paragraph (c) is added to that
28 subsection, to read:

29 288.1254 Entertainment industry financial incentive

577-03545-12

20122122

30 program.—

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

32 (b) "Digital media project" means a production of
33 interactive entertainment that is produced for distribution in
34 commercial or educational markets. The term includes a video
35 game or production intended for Internet or wireless
36 distribution, digital animation, and visual effects, including,
37 but not limited to, three-dimensional movie productions and
38 movie conversions. The term does not include a production that
39 contains ~~obscene~~ content that is obscene as defined in s.
40 847.001~~(10)~~.

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

44 (e)~~(d)~~ "Off-season certified production" means a feature
45 film, independent film, or television series or pilot that which
46 films 75 percent or more of its principal photography days from
47 June 1 through November 30, or a high-impact television series
48 that films principal photography during at least 75 percent of
49 the days from June 1 through November 30.

50 (g)~~(f)~~ "Production" means a theatrical or direct-to-video
51 motion picture; a made-for-television motion picture; visual
52 effects or digital animation sequences produced in conjunction
53 with a motion picture; a commercial; a music video; an
54 industrial or educational film; an infomercial; a documentary
55 film; a television pilot program; a presentation for a
56 television pilot program; a television series, including, but
57 not limited to, a drama, a reality show, a comedy, a soap opera,
58 a telenovela, a game show, an awards show, or a miniseries

577-03545-12

20122122

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

74 (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;
75 ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;
76 PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND
77 ACQUISITIONS.—

78 (b) *Tax credit eligibility.*—

79 1. General production queue.—Ninety-four percent of tax
80 credits authorized pursuant to subsection (6) in any state
81 fiscal year must be dedicated to the general production queue.
82 The general production queue consists of all qualified
83 productions other than those eligible for the commercial and
84 music video queue or the independent and emerging media
85 production queue. A qualified production that demonstrates a
86 minimum of \$625,000 in qualified expenditures is eligible for
87 tax credits equal to 20 percent of its actual qualified

577-03545-12

20122122

88 expenditures, up to a maximum of \$8 million. A qualified
89 production that incurs qualified expenditures during multiple
90 state fiscal years may combine those expenditures to satisfy the
91 \$625,000 minimum threshold.

92 a. An off-season certified production that is a feature
93 film, independent film, or television series or pilot is
94 eligible for an additional 5 percent ~~5-percent~~ tax credit on
95 actual qualified expenditures. An off-season certified
96 production that does not complete 75 percent of principal
97 photography, or a high-impact television series that is an off-
98 season certified production that does not film principal
99 photography during at least 75 percent of the days from June 1
100 through November 30, due to a disruption caused by a hurricane
101 or tropical storm may not be disqualified from eligibility for
102 the additional 5 percent ~~5-percent~~ credit as a result of the
103 disruption.

104 ~~b. If more than 25 percent of the sum of total tax credits~~
105 ~~awarded to productions after July 1, 2010, and total tax credits~~
106 ~~certified, but not yet awarded, to productions currently in this~~
107 ~~state has been awarded for television series, then no television~~
108 ~~series or pilot shall be eligible for tax credits under this~~
109 ~~subparagraph.~~

110 ~~c. The calculations required by this sub-subparagraph shall~~
111 ~~use only credits available to be certified and awarded on or~~
112 ~~after July 1, 2011.~~

113 ~~(I) If the provisions of sub-subparagraph b. are not~~
114 ~~applicable and less than 25 percent of the sum of the total tax~~
115 ~~credits awarded to productions and the total tax credits~~
116 ~~certified, but not yet awarded, to productions currently in this~~

577-03545-12

20122122

117 ~~state has been to high-impact television series, any qualified~~
118 ~~high-impact television series shall be allowed first position in~~
119 ~~this queue for tax credit awards not yet certified.~~

120 ~~(II) If less than 20 percent of the sum of the total tax~~
121 ~~credits awarded to productions and the total tax credits~~
122 ~~certified, but not yet awarded, to productions currently in this~~
123 ~~state has been to digital media projects, any digital media~~
124 ~~project with qualified expenditures of greater than \$4,500,000~~
125 ~~shall be allowed first position in this queue for tax credit~~
126 ~~awards not yet certified.~~

127 b.(III) First priority in the queue for tax credit awards
128 not yet certified shall be given to high-impact television
129 series and high-impact digital media projects. For the purposes
130 of determining priority position between a high-impact
131 television series allowed first position and a high-impact
132 digital media project allowed first position under this sub-
133 subparagraph, the first position shall go to the first
134 application received. Thereafter, priority shall be determined
135 by alternating between a high-impact television series and a
136 high-impact digital media project ~~tax credits shall be awarded~~
137 on a first-come, first-served basis. However, if the Office of
138 Film and Entertainment receives an application for a high-impact
139 television series or high-impact digital media project that
140 would be certified but for the alternating priority, the office
141 may certify the project as being in the priority position if an
142 application that would normally be prioritized is not received
143 within 5 business days.

144 ~~c.d.~~ A qualified production for which that incurs at least
145 25 85 percent of its principal photography days occur ~~qualified~~

577-03545-12

20122122

146 ~~expenditures~~ within a region designated as an underutilized
147 region at the time that the production is certified is eligible
148 for an additional 5 percent ~~5-percent~~ tax credit.

149 ~~d.e.~~ A Any qualified production that employs students
150 enrolled full-time in a film and entertainment-related or
151 digital media-related course of study at an institution of
152 higher education in this state is eligible for an additional 15
153 percent ~~15-percent~~ tax credit on qualified expenditures that are
154 wages, salaries, or other compensation paid to such students.
155 The additional 15 percent ~~15-percent~~ tax credit is ~~shall~~ also be
156 applicable to persons hired within 12 months after ~~of~~ graduating
157 from a film and entertainment-related or digital media-related
158 course of study at an institution of higher education in this
159 state. The additional 15 percent ~~15-percent~~ tax credit applies
160 ~~shall apply~~ to qualified expenditures that are wages, salaries,
161 or other compensation paid to such recent graduates for 1 year
162 after ~~from~~ the date of hiring.

163 ~~e.f.~~ A qualified production for which 25 ~~50~~ percent or more
164 of its principal photography occurs at a qualified production
165 facility, or a qualified digital media project or the digital
166 animation component of a qualified production for which 25 ~~50~~
167 percent or more of the project's or component's qualified
168 expenditures are related to a qualified digital media production
169 facility, is ~~shall be~~ eligible for an additional 5 percent ~~5-~~
170 ~~percent~~ tax credit ~~on actual qualified expenditures for~~
171 ~~production activity at that facility.~~

172 ~~f.g.~~ A No qualified production is not ~~shall be~~ eligible for
173 tax credits provided under this paragraph totaling more than 30
174 percent of its actual qualified expenses.

577-03545-12

20122122

175 2. Commercial and music video queue.—Three percent of tax
176 credits authorized pursuant to subsection (6) in any state
177 fiscal year must be dedicated to the commercial and music video
178 queue. A qualified production company that produces national or
179 regional commercials or music videos may be eligible for a tax
180 credit award if it demonstrates a minimum of \$100,000 in
181 qualified expenditures per national or regional commercial or
182 music video and exceeds a combined threshold of \$500,000 after
183 combining actual qualified expenditures from qualified
184 commercials and music videos during a single state fiscal year.
185 After a qualified production company that produces commercials,
186 music videos, or both reaches the threshold of \$500,000, it is
187 eligible to apply for certification for a tax credit award. The
188 maximum credit award shall be equal to 20 percent of its actual
189 qualified expenditures up to a maximum of \$500,000. If there is
190 a surplus at the end of a fiscal year after the Office of Film
191 and Entertainment certifies and determines the tax credits for
192 all qualified commercial and video projects, such surplus tax
193 credits shall be carried forward to the following fiscal year
194 and are ~~be~~ available to any eligible qualified productions under
195 the general production queue.

196 3. Independent and emerging media production queue.—Three
197 percent of tax credits authorized pursuant to subsection (6) in
198 any state fiscal year must be dedicated to the independent and
199 emerging media production queue. This queue is intended to
200 encourage ~~Florida~~ independent film and emerging media production
201 in this state. Any qualified production, excluding commercials,
202 infomercials, or music videos, which ~~that~~ demonstrates at least
203 \$100,000, but not more than \$625,000, in total qualified

577-03545-12

20122122

204 expenditures is eligible for tax credits equal to 20 percent of
205 its actual qualified expenditures. If a surplus exists at the
206 end of a fiscal year after the Office of Film and Entertainment
207 certifies and determines the tax credits for all qualified
208 independent and emerging media production projects, such surplus
209 tax credits shall be carried forward to the following fiscal
210 year and are ~~be~~ available to any eligible qualified productions
211 under the general production queue.

212 4. Family-friendly productions.—A certified theatrical or
213 direct-to-video motion picture production or video game
214 determined by the Commissioner of Film and Entertainment, with
215 the advice of the Florida Film and Entertainment Advisory
216 Council, to be family-friendly, based on ~~the~~ review of the
217 script and ~~the~~ review of the final release version, is eligible
218 for an additional tax credit equal to 5 percent of its actual
219 qualified expenditures. Family-friendly productions are those
220 that have cross-generational appeal; would be considered
221 suitable for viewing by children age 5 or older; are appropriate
222 in theme, content, and language for a broad family audience;
223 embody a responsible resolution of issues; and do not exhibit or
224 imply any act of smoking, sex, nudity, or vulgar or profane
225 language.

226 (7) ANNUAL ALLOCATION OF TAX CREDITS.—

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

- 229 1. For fiscal year 2010-2011, \$53.5 million.
- 230 2. For fiscal year 2011-2012, \$74.5 million.
- 231 3. For fiscal years 2012-2013, 2013-2014, and 2014-2015,
232 \$42 million per fiscal year.

577-03545-12

20122122

233 4. For fiscal year 2015-2016, \$53.5 million.

234 5. For fiscal year 2016-2017, \$74.5 million.

235 6. For fiscal years 2017-2018, 2018-2019, and 2019-2020,
236 \$42 million per fiscal year.

237 (11) REPEAL.—This section is repealed July 1, 2020 ~~July 1,~~
238 ~~2015~~, except that:

239 (a) Tax credits certified under paragraph (3) (d) before
240 July 1, 2015, may be awarded under paragraph (3) (f) on or after
241 July 1, 2015, if the other requirements of this section are met.

242 (b) Tax credits for fiscal years 2015-2016 through 2019-
243 2020 may not be certified until July 1, 2015.

244 (c) Tax credits certified under paragraph (3) (d) before
245 July 1, 2020, may be awarded under paragraph (3) (f) on or after
246 July 1, 2020, if the other requirements of this section are met.

247 (d) ~~(b)~~ Tax credits carried forward under paragraph (4) (e)
248 remain valid for the period specified.

249 (e) ~~(e)~~ Subsections (5), (8), and (9) shall remain in effect
250 until July 1, 2025 ~~July 1, 2020~~.

251 Section 2. This act shall take effect upon becoming a law,
252 and applies to credits awarded on or after that date.