

## CHAMBER ACTION

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1 The Finance & Tax Committee recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to entertainment industry economic  
7 development; amending s. 212.08, F.S.; providing for an  
8 entertainment industry credit of sales and use taxes paid  
9 on qualified expenditures; providing criteria,  
10 requirements, procedures, and limitations on the credit;  
11 providing for uses of the credit; providing duties and  
12 responsibilities of the Office of Film and Entertainment  
13 and the Department of Revenue; authorizing the Office of  
14 Tourism, Trade, and Economic Development to adopt rules;  
15 providing for liability for fraudulent credit  
16 applications; amending s. 213.053, F.S.; authorizing the  
17 Department of Revenue to provide certain tax credit and  
18 tax refund information to the Office of Film and  
19 Entertainment and the Office of Tourism, Trade, and  
20 Economic Development; amending s. 220.02, F.S.; revising  
21 the order of priority list of applicable credits against  
22 certain taxes; creating s. 220.192, F.S.; providing for an  
23 entertainment industry corporate income tax credit of a

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24 percentage of certain qualified expenditures; providing  
25 criteria, requirements, procedures, and limitations on the  
26 credit; providing for uses and allocations of the credit;  
27 authorizing the Office of Tourism, Trade, and Economic  
28 Development to adopt rules; providing for liability for  
29 fraudulent credit applications; providing for use and  
30 carryforward of the credit; providing for transfers of the  
31 credit; providing for noncorporate distributions of tax  
32 credits; authorizing the Department of Revenue to adopt  
33 rules; amending s. 288.1254, F.S.; revising the  
34 entertainment industry financial incentive program to  
35 provide corporate income tax and sales and use tax credits  
36 to qualified entertainment entities rather than  
37 reimbursements from appropriations; revising provisions  
38 relating to definitions, creation and scope, application  
39 procedures, approval process, eligibility, required  
40 documents, qualified productions, and annual reports;  
41 providing criteria and limitations for awards of tax  
42 credits; providing marketing requirements; requiring the  
43 Office of Tourism, Trade, and Economic Development and  
44 Department of Revenue to adopt rules; providing liability  
45 for reimbursement of certain costs and fees associated  
46 with fraudulent applications; providing for future repeal;  
47 providing an effective date.

48  
49 Be It Enacted by the Legislature of the State of Florida:  
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51 Section 1. Paragraph (r) is added to subsection (5) of  
52 section 212.08, Florida Statutes, to read:

53 212.08 Sales, rental, use, consumption, distribution, and  
54 storage tax; specified exemptions.--The sale at retail, the  
55 rental, the use, the consumption, the distribution, and the  
56 storage to be used or consumed in this state of the following  
57 are hereby specifically exempt from the tax imposed by this  
58 chapter.

59 (5) EXEMPTIONS; ACCOUNT OF USE.--

60 (r) Entertainment industry tax credit; authorization;  
61 eligibility for credits.--

62 1. Beginning July 1, 2006, a qualified production company  
63 is eligible for tax credits of taxes paid on qualified  
64 expenditures as defined in s. 288.1254 as provided in this  
65 paragraph:

66 a. The credit shall be granted as a refund of sales and  
67 use tax paid by a qualifying production company on qualified  
68 expenditures in the fiscal year preceding the date of  
69 application.

70 b. To be eligible to receive the credit, an applicant must  
71 be a qualified production company as defined in s.  
72 288.1258(1)(b).

73 c. A qualified production company may not be awarded more  
74 than \$2 million in tax credits under this paragraph and s.  
75 220.192 per year unless the production is a high-impact  
76 television series, in which case the qualified production shall  
77 be eligible for a maximum tax credit award of \$3 million. The  
78 tax credit available under this paragraph shall only be

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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79 surrendered in satisfaction of the tax owed by a qualified  
80 production company under this chapter and only up to the face  
81 amount of the credit. If the qualified production company cannot  
82 use the entire tax credit in the taxable year in which the  
83 credit is approved, any excess may be carried over to a  
84 succeeding taxable year. A tax credit granted under this  
85 paragraph and applied against taxes imposed under this chapter  
86 may be carried forward only for a maximum of 5 taxable years  
87 following the taxable year in which the credit was approved.  
88 Five years after the date a credit is granted under this  
89 paragraph, the credit expires and may not be used.

90 d. The aggregate amount of tax credits allowed under this  
91 paragraph and s. 220.192 in any state fiscal year is \$25  
92 million. If the total amount of allocated tax credits applied  
93 for in any state fiscal year exceeds the aggregate amount of tax  
94 credits authorized annually under this paragraph, such excess  
95 shall be treated as having been applied for on the first day of  
96 the next state fiscal year in which tax credits remain available  
97 for allocation. However, no more than an aggregate amount of \$30  
98 million in tax credits shall be allocated between July 1, 2006,  
99 and June 30, 2007. The cumulative amount of credits that may be  
100 allocated between July 1, 2006, and June 30, 2009, shall not  
101 exceed \$75 million. At such time as \$75 million of tax credits  
102 have been allocated, no additional tax credits may be allocated.

103 e. The tax credits awarded under this paragraph may only  
104 be used by the qualified production company to whom the credits  
105 were awarded. Credits awarded under this paragraph may not be  
106 sold, assigned, or otherwise transferred, in whole or in part.

107        2.a. To be eligible to receive the credit provided by this  
108 paragraph, a qualified production company shall apply to the  
109 Office of Film and Entertainment prior to September 1 of each  
110 year for a refund of sales and use taxes paid on qualified  
111 expenditures in the preceding fiscal year.

112        b. The Office of Film and Entertainment shall develop,  
113 with the cooperation of the department, a standardized  
114 application form for use in applying for the credit.

115        c. Upon receipt of an application, the Office of Film and  
116 Entertainment shall review the application and information and  
117 determine whether or not the application is complete within 10  
118 working days. An application shall not be considered complete  
119 unless the application includes copies of invoices upon which  
120 Florida sales tax is separately stated, other proof that Florida  
121 tax was paid on the purchase of the qualified expenditures, and  
122 other documentation as required by the department. The Office of  
123 Film and Entertainment shall notify the applicant within 15  
124 calendar days of any deficiencies in the application. Upon  
125 receipt of a completed application, the Office of Film and  
126 Entertainment shall evaluate the application for credit under  
127 this paragraph and issue an approval or a denial to the  
128 applicant within an additional 15 calendar days. The Office of  
129 Film and Entertainment shall provide the department with a copy  
130 of each completed application that has been approved. Within 30  
131 days after receiving a copy of an approval, the department shall  
132 issue a refund directly to the qualified production company in  
133 the amount shown on the approval issued by the Office of Film

134 and Entertainment, notwithstanding the provisions of s. 215.26.  
 135 The provisions of s. 212.095 do not apply to this paragraph.

136 d. The Office of Tourism, Trade, and Economic Development  
 137 may adopt rules pursuant to ss. 120.536(1) and 120.54 to  
 138 implement this paragraph, including, but not limited to, rules  
 139 specifying requirements for the application and approval  
 140 process, records required for substantiation of credit awards,  
 141 and determination of and qualification for credit awards.

142 3.a. Any applicant who submits an application under this  
 143 paragraph that includes fraudulent information is liable for  
 144 reimbursement of the reasonable costs and fees associated with  
 145 the review, processing, investigation, and prosecution of the  
 146 application.

147 b. An eligible entity or company that obtains a credit  
 148 payment under this paragraph through a claim that is fraudulent  
 149 is liable for reimbursement of the credit amount paid plus a  
 150 penalty in an amount double the credit payment and reimbursement  
 151 of reasonable costs, which penalty is in addition to any  
 152 criminal penalty to which the entity or company is liable for  
 153 the same acts, plus interest. The entity or company is also  
 154 liable for costs and fees incurred by the state in investigating  
 155 and prosecuting the fraudulent claim.

156 Section 2. Paragraph (k) of subsection (7) of section  
 157 213.053, Florida Statutes, is amended, and paragraph (y) is  
 158 added to that subsection, to read:

159 213.053 Confidentiality and information sharing.--

160 (7) Notwithstanding any other provision of this section,  
 161 the department may provide:

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162 (k)1. Payment information relative to chapters 199, 201,  
163 212, 220, 221, and 624 to the Office of Tourism, Trade, and  
164 Economic Development, or its employees or agents that are  
165 identified in writing by the office to the department, in the  
166 administration of the tax refund program for qualified defense  
167 contractors authorized by s. 288.1045 and the tax refund program  
168 for qualified target industry businesses authorized by s.  
169 288.106.

170 2. Information relative to tax credits taken by a business  
171 under s. 220.191 and exemptions or tax refunds received by a  
172 business under s. 212.08(5)(j) and (r) to the Office of Tourism,  
173 Trade, and Economic Development, or its employees or agents that  
174 are identified in writing by the office to the department, in  
175 the administration and evaluation of the capital investment tax  
176 credit program authorized in s. 220.191 and the semiconductor,  
177 defense, and space tax exemption program authorized in s.  
178 212.08(5)(j).

179 (y) Information relative to tax credits taken under s.  
180 220.192 and tax refunds received by a business under s.  
181 212.08(5)(r) to the Office of Film and Entertainment and the  
182 Office of Tourism, Trade, and Economic Development.

183  
184 Disclosure of information under this subsection shall be  
185 pursuant to a written agreement between the executive director  
186 and the agency. Such agencies, governmental or nongovernmental,  
187 shall be bound by the same requirements of confidentiality as  
188 the Department of Revenue. Breach of confidentiality is a

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189 | misdemeanor of the first degree, punishable as provided by s.  
190 | 775.082 or s. 775.083.

191 | Section 3. Subsection (8) of section 220.02, Florida  
192 | Statutes, is amended to read:

193 | 220.02 Legislative intent.--

194 | (8) It is the intent of the Legislature that credits  
195 | against either the corporate income tax or the franchise tax be  
196 | applied in the following order: those enumerated in s. 631.828,  
197 | those enumerated in s. 220.191, those enumerated in s. 220.181,  
198 | those enumerated in s. 220.183, those enumerated in s. 220.182,  
199 | those enumerated in s. 220.1895, those enumerated in s. 221.02,  
200 | those enumerated in s. 220.184, those enumerated in s. 220.186,  
201 | those enumerated in s. 220.1845, those enumerated in s. 220.19,  
202 | those enumerated in s. 220.185, ~~and~~ those enumerated in s.  
203 | 220.187, and those enumerated under s. 220.192.

204 | Section 4. Section 220.192, Florida Statutes, is created  
205 | to read:

206 | 220.192 Entertainment industry tax credit; authorization;  
207 | eligibility for credits.--

208 | (1) TAX CREDITS; ELIGIBILITY; AWARD;  
209 | ALLOCATION.--Beginning July 1, 2006, a qualified production  
210 | company is eligible for tax credits in the amount of 15 percent  
211 | of qualified expenditures, as defined in s. 288.1254.

212 | (a) The credit shall be granted against the tax imposed  
213 | and owing under this chapter by a qualifying production company  
214 | for the taxable year in which the application was granted.



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215        (b) To be eligible to receive the credit, an applicant  
216 must be a qualified production company as defined in s.  
217 288.1258(1) (b).

218        (c) A qualified production company may not be awarded more  
219 than a total of \$2 million in tax credits under this section and  
220 s. 212.08 per year unless the production is a high-impact  
221 television series, in which case the production shall be  
222 eligible for a maximum total tax credit award of \$3 million. The  
223 tax credit available under this section shall only be  
224 surrendered in satisfaction of the tax owed under this chapter  
225 by a qualified production company under this chapter and only up  
226 to the face amount of the credit. If the qualified production  
227 company cannot use the entire tax credit in the taxable year in  
228 which the credit is approved, any excess may be carried over to  
229 a succeeding taxable year. A tax credit granted under this  
230 section and applied against taxes imposed under this chapter may  
231 be carried forward only for a maximum of 5 taxable years  
232 following the taxable year in which the credit was approved.  
233 Five years after the date a credit is granted under this  
234 section, the credit expires and may not be used.

235        (d) The aggregate amount of tax credits allowed under this  
236 section and s. 212.08(5) (r) in any state fiscal year is \$25  
237 million. If the total amount of allocated tax credits applied  
238 for in any state fiscal year exceeds the aggregate amount of tax  
239 credits authorized annually under this section, such excess  
240 shall be treated as having been applied for on the first day of  
241 the next state fiscal year in which tax credits remain available  
242 for allocation. However, no more than an aggregate amount of \$30

243 million in tax credits shall be allocated between July 1, 2006,  
244 and June 30, 2007. The cumulative amount of credits that may be  
245 allocated between July 1, 2006, and June 30, 2009, shall not  
246 exceed \$75 million. At such time as \$75 million of tax credits  
247 have been allocated, no additional tax credits may be allocated.

248 (2) RULES.--The Office of Tourism, Trade, and Economic  
249 Development may adopt rules pursuant to ss. 120.536(1) and  
250 120.54 to implement this section, including, but not limited to,  
251 rules specifying requirements for the application and approval  
252 process, records required for substantiation of credit awards,  
253 and determination of and qualification for credit awards.

254 (3) FRAUDULENT CLAIMS.--

255 (a) Any applicant who submits an application under this  
256 section that includes fraudulent information is liable for  
257 reimbursement of the reasonable costs and fees associated with  
258 the review, processing, investigation, and prosecution of the  
259 application.

260 (b) An eligible entity or company that obtains a credit  
261 payment under this section through a claim that is fraudulent is  
262 liable for reimbursement of the credit amount paid plus a  
263 penalty in an amount double the credit payment and reimbursement  
264 of reasonable costs, which penalty is in addition to any  
265 criminal penalty to which the entity or company is liable for  
266 the same acts, plus interest. The entity or company is also  
267 liable for costs and fees incurred by the state in investigating  
268 and prosecuting the fraudulent claim.

269 (4) USE OF TAX CREDIT; CARRY FORWARD.--The tax credit  
270 available under this section shall only be surrendered in

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271 satisfaction of the tax owed by a qualified production company  
272 under this chapter and only up to the face amount of the credit.  
273 If the qualified production company cannot use the entire tax  
274 credit in the taxable year in which the credit is approved, any  
275 excess may be carried over to a succeeding taxable year. A tax  
276 credit granted under this section and applied against taxes  
277 imposed under this chapter may be carried forward only for a  
278 maximum of 5 taxable years following the taxable year in which  
279 the credit was approved. Five years after the date a credit is  
280 granted under this section, the credit expires and may not be  
281 used.

282 (5) TRANSFER OF TAX CREDITS.--Upon application to and  
283 approval by the Department of Revenue, a qualified production  
284 company may sell, in whole or in part, a tax credit granted  
285 under this section. The sale or assignment of any amount of the  
286 tax credit shall not be exchanged for consideration received by  
287 the qualified production company of less than 85 percent of the  
288 transferred amount of tax credit. The qualified production  
289 company must transfer at least 10 percent of the remaining  
290 credits to each purchaser and may not conduct more than three  
291 transfers. The purchaser of the tax credit granted under s.  
292 288.1254 shall use the tax credit in the state fiscal year the  
293 tax credit is acquired from the qualified production company and  
294 otherwise may carry the tax credit over subject to the same  
295 limitations on tax credit usage as the qualified production  
296 company awarded the tax credit. The purchaser of the tax credit  
297 may not sell or otherwise transfer the tax credit. The

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298 Department of Revenue may adopt rules pursuant to ss. 120.536(1)  
299 and 120.54 to administer this subsection.

300 (6) NONCORPORATE DISTRIBUTIONS OF TAX CREDITS.--A  
301 qualified production company that is not a corporation as  
302 defined in s. 220.03 shall elect to make an application to the  
303 Department of Revenue to distribute tax credits awarded under  
304 this section to its partners or members in proportion to the  
305 respective distributive share of such partners' or members'  
306 income or loss in the taxable fiscal year in which such tax  
307 credits were approved. A tax credit granted under this section  
308 and applied against taxes imposed under this chapter may be  
309 carried forward only for a maximum of 5 taxable years following  
310 the state fiscal year in which the credit was approved.

311 (7) USE OF TAX CREDITS.--A qualified production company  
312 may use the tax credit against the tax liability imposed under  
313 this chapter, in whole or in part, or against the sales tax paid  
314 on qualified expenditures as defined in s. 288.1254.

315 (8) AGGREGATE TAX CREDIT AVAILABLE.--The aggregate amount  
316 of tax credits allowed under this section in any state fiscal  
317 year is \$25 million. If the total amount of allocated tax  
318 credits applied for in any state fiscal year exceeds the  
319 aggregate amount of tax credits authorized annually under this  
320 section, such excess shall be treated as having been applied for  
321 on the first day of the next state fiscal year in which tax  
322 credits remain available for allocation. However, no more than  
323 an aggregate amount of \$30 million in tax credits granted under  
324 this section or s. 212.08(5)(r) shall be allocated between July  
325 1, 2006, and June 30, 2007. The cumulative amount of credits

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326 that may be allocated between July 1, 2006, and June 30, 2009,  
 327 may not exceed \$75 million. At such time as \$75 million of tax  
 328 credits granted under this section or s. 212.08(5)(r) have been  
 329 allocated, no additional tax credits shall be allocated.

330 (9) RULES.--The Department of Revenue may adopt rules  
 331 pursuant to ss. 120.536(1) and 120.54 to administer the  
 332 provisions of this section, including rules governing the manner  
 333 and form of documentation required to claim tax credits granted  
 334 or transferred under this section, and may establish guidelines  
 335 as to the requirements for an affirmative showing of  
 336 qualification for tax credits granted or transferred under this  
 337 section.

338 Section 5. Section 288.1254, Florida Statutes, is amended  
 339 to read:

340 288.1254 Entertainment industry financial incentive  
 341 program; creation; purpose; definitions; application procedure;  
 342 approval process; ~~reimbursement~~ eligibility; submission of  
 343 required documentation; recommendations for credit award  
 344 ~~payment~~; policies and procedures; fraudulent claims.--

345 (1) CREATION AND PURPOSE OF PROGRAM.--~~Subject to specific~~  
 346 ~~appropriation,~~ There is created within the Office of Film and  
 347 Entertainment an entertainment industry financial incentive  
 348 program. The purpose of this program is to encourage the use of  
 349 this state as a site for filming and developing and sustaining  
 350 the workforce and infrastructure ~~providing production services~~  
 351 for filmed entertainment.

352 (2) DEFINITIONS.--As used in this section, the term:

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353 (a) "Filmed entertainment" means a theatrical or direct-  
354 to-video motion picture, a made-for-television motion picture  
355 teleproduction, a commercial, a music video, an industrial or  
356 educational film, a promotional video or film, a documentary  
357 film, a television pilot, a television special, a presentation  
358 for a television pilot, a television series, including, but not  
359 limited to, a drama, a reality, a comedy, a soap opera, a  
360 telenovela, a game show, and a miniseries production, or a  
361 digital-media-effects production by the entertainment industry  
362 to be sold or displayed in an electronic medium, excluding news  
363 shows and sporting events. As used in this paragraph, the term  
364 "motion picture" means a motion picture made on or by film,  
365 tape, or otherwise and produced by means of a motion picture  
366 camera, electronic camera or device, tape device, any  
367 combination of the foregoing, or any other means, method, or  
368 device now used or which may hereafter be adopted. As used in  
369 this paragraph, the term "digital-media-effects" means visual  
370 elements created through the modification of already existing or  
371 newly created visual elements for film, video, or animated media  
372 through the use of digital 2D/3D animation or painting, motion  
373 capture, or compositing technologies. ~~For purposes of this~~  
374 ~~section, the term "filmed entertainment" does not include the~~  
375 ~~electronic gaming industry or sporting events.~~

376 (b) "High-impact television series" means a production  
377 created to run multiple production seasons with an estimated  
378 order of at least seven episodes per season and qualified  
379 expenditures of at least \$625,000 per episode.

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380        (c)-(b) "Production costs" means the costs of ~~real,~~  
381        tangible, and intangible property used and services performed  
382        primarily or customarily in the production, including  
383        preproduction and postproduction, of qualified filmed  
384        entertainment. Production costs generally include, but are not  
385        limited to:

386            1. Wages, salaries, or other compensation, including  
387        amounts paid through payroll service companies, for technical  
388        and production crews, directors, producers, and performers ~~who~~  
389        ~~are residents of this state.~~

390            2. Expenditures for sound stages, backlots, production  
391        editing, digital effects, sound recordings, sets, and set  
392        construction.

393            3. Expenditures for rental equipment, including, but not  
394        limited to, cameras and grip or electrical equipment.

395            4. Expenditures for meals, travel, and accommodations, ~~and~~  
396        ~~goods used in producing filmed entertainment that is located and~~  
397        ~~doing business in this state.~~

398            5. Expenditures for goods and services used in producing  
399        filmed entertainment.

400        (d)-(e) "Qualified expenditures" means production costs  
401        incurred in this state within the current state fiscal year for  
402        goods purchased or leased from or services provided by  
403        ~~purchased, leased, or employed from a resident of this state or~~  
404        a vendor or supplier who is located and doing business in this  
405        state or payments to residents of this state in the form of  
406        salary, wages, or other compensation, ~~but~~ excluding wages,  
407        salaries, or other compensation paid to the two highest-paid

408 residents of this state participating in the qualified  
409 production employees.

410 (e)~~(d)~~ "Qualified production" means filmed entertainment  
411 that meets or exceeds minimum qualified ~~makes~~ expenditures  
412 required in this state for the total or partial production of  
413 filmed entertainment. Productions that are deemed by the Office  
414 of Film and Entertainment to contain obscene content, as defined  
415 by the United States Supreme Court, are not qualified  
416 productions. ~~Also, a production is not a qualified production if~~  
417 ~~it is determined that the first day of principal photography in~~  
418 ~~this state occurred on or before the date of submitting its~~  
419 ~~application to the Office of Film and Entertainment or prior to~~  
420 ~~certification by the Office of Tourism, Trade, and Economic~~  
421 ~~Development.~~

422 (f)~~(e)~~ "Qualified production company relocation project"  
423 means a corporation, limited liability company, partnership,  
424 ~~corporate headquarters,~~ or other legal private entity engaged in  
425 the production of filmed entertainment that is domiciled in  
426 ~~another state or country and relocates its operations to this~~  
427 ~~state, is organized under the laws of this or any other state or~~  
428 ~~country, and includes as one of its primary purposes digital-~~  
429 ~~media effects or motion picture and television production, or~~  
430 ~~postproduction.~~

431 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.--

432 (a) Any company engaged in this state in producing filmed  
433 entertainment may submit an application to the Office of Film  
434 and Entertainment for the purpose of determining qualification  
435 for an award of credits against the taxes by the sales tax paid



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436 on qualified expenditures as defined in s. 288.1254 and the  
437 corporate income tax imposed by chapter 220 ~~receipt of~~  
438 ~~reimbursement provided in this section.~~ The office must be  
439 provided information required to determine if the production is  
440 a qualified production and to determine the qualified  
441 expenditures, production costs, and other information necessary  
442 for the office to determine both eligibility for the tax credit  
443 ~~and level of reimbursement.~~

444 (b) ~~A digital media effects company in the state which~~  
445 ~~furnishes digital material to filmed entertainment may submit an~~  
446 ~~application to the Office of Film and Entertainment for the~~  
447 ~~purpose of determining qualification for receipt of~~  
448 ~~reimbursement authorized by this section. The office must be~~  
449 ~~provided information required to determine if the company is~~  
450 ~~qualified and to determine the amount of reimbursement.~~

451 (c) ~~Any corporation, limited liability company,~~  
452 ~~partnership, corporate headquarters, or other private entity~~  
453 ~~domiciled in another state which includes as one of its primary~~  
454 ~~purposes digital media effects or motion picture and television~~  
455 ~~production and which is considering relocation to this state may~~  
456 ~~submit an application to the Office of Film and Entertainment~~  
457 ~~for the purpose of determining qualification for reimbursement~~  
458 ~~under this section.~~

459 (d)1. ~~The Office of Film and Entertainment shall establish~~  
460 ~~a process by which an application is accepted and reviewed and~~  
461 ~~reimbursement eligibility and reimbursement amount are~~  
462 ~~determined. The Office of Film and Entertainment may request~~

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463 ~~assistance from a duly appointed local film commission in~~  
464 ~~determining qualifications for reimbursement and compliance.~~

465 1.2. The Office of Film and Entertainment shall develop a  
466 standardized application form for use in qualifying an applicant  
467 as approving a qualified production, a qualified relocation  
468 project, or a company qualifying under paragraph (a), paragraph  
469 (b), or paragraph (c). The application form for qualifying an  
470 applicant as a qualified production must include, but need not  
471 be limited to, production-related information on employment,  
472 proposed total production budgets, planned expenditures in this  
473 state ~~which are intended for use exclusively as an integral part~~  
474 ~~of preproduction, production, or postproduction activities~~  
475 ~~engaged primarily in this state,~~ and a signed affirmation from  
476 the applicant ~~Office of Film and Entertainment~~ that the  
477 information on the application form has been verified and is  
478 correct. The application form shall be distributed to applicants  
479 by the Office of Film and Entertainment or local film  
480 commissions.

481 2.3. Within 10 business days after receipt of an  
482 application, the Office of Film and Entertainment shall review  
483 the application to determine if the application contains all the  
484 information required by this subsection and meets the criteria  
485 set out in this section. The office shall qualify all  
486 applications that contain the information and meet the criteria  
487 set out in this section as eligible to receive a tax credit or  
488 shall notify the applicant that the requirements for  
489 qualification have not been met. If the application is  
490 qualified, the office shall recommend to the Office of Tourism,

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491 Trade, and Economic Development approval of the maximum amount  
492 of the tax credit to be awarded. ~~The Office of Film and~~  
493 ~~Entertainment must complete its review of each application~~  
494 ~~within 5 days after receipt of the completed application,~~  
495 ~~including all required information, and it must notify the~~  
496 ~~applicant of its determination within 10 business days after~~  
497 ~~receipt of the completed application and required information.~~

498 3.4. Within 10 business days after receiving notice from  
499 the Office of Film and Entertainment of qualification of an  
500 applicant as a qualified production and a recommended approval  
501 of the maximum amount of tax credit to be awarded, the Office of  
502 Tourism, Trade, and Economic Development shall certify the  
503 maximum tax credit award, if any. The certification shall be  
504 transmitted to the applicant and to the executive director of  
505 the Department of Revenue. The applicant shall be responsible  
506 for forwarding a certified application to the Department of  
507 Revenue. ~~Upon determination that all criteria are met for~~  
508 ~~qualification for reimbursement, the Office of Film and~~  
509 ~~Entertainment shall notify the applicant of such approval. The~~  
510 ~~office shall also notify the Office of Tourism, Trade, and~~  
511 ~~Economic Development of the applicant approval and amount of~~  
512 ~~reimbursement required. The Office of Tourism, Trade, and~~  
513 ~~Economic Development shall make final determination for actual~~  
514 ~~reimbursement.~~

515 4.5. ~~The Office of Film and Entertainment shall deny an~~  
516 ~~application if the office ~~it~~ determines that:~~

517 a. ~~The application is not complete or does not meet the~~  
518 ~~requirements of this section; or~~

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519           b. The tax credit amount ~~reimbursement~~ sought does not  
520 meet the requirements of this section ~~for such reimbursement~~.

521           (4) CREDIT REIMBURSEMENT ELIGIBILITY; SUBMISSION OF  
522 REQUIRED DOCUMENTATION; APPLICATION RECOMMENDATIONS FOR TRANSFER  
523 PAYMENT.--

524           (a) Tax credit award.--A production of filmed  
525 entertainment that is qualified by the Office of Film and  
526 Entertainment and is certified by the Office of Tourism, Trade,  
527 and Economic Development is eligible for corporate tax credits  
528 granted pursuant to s. 220.192 and credits against sales tax  
529 paid on qualified expenditures pursuant to s. 212.08(5)(r) in an  
530 amount equal a reimbursement of up to 15 percent of its  
531 qualified qualifying expenditures.

532           (b) Production spanning 2 state fiscal years.--A qualified  
533 production that starts in one state fiscal year and finishes in  
534 the next state fiscal year shall have all qualified expenditures  
535 from both state fiscal years certified for the latter state  
536 fiscal year. This requirement does not apply to the commercials  
537 and music video queue described in subparagraph (d)3.

538           (c) Aggregate tax credit available.--The aggregate amount  
539 of tax credits allowed under this section in any state fiscal  
540 year is \$25 million. If the total amount of allocated tax  
541 credits applied for in any state fiscal year exceeds the  
542 aggregate amount of tax credits authorized annually under this  
543 section, such excess shall be treated as having been applied for  
544 on the first day of the next state fiscal year in which tax  
545 credits remain available for allocation. However, no more than  
546 an aggregate amount of \$30 million in tax credits granted

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547 pursuant to this section and ss. 212.08(5)(r) and 220.192 shall  
548 be allocated between July 1, 2006, and June 30, 2007. The  
549 cumulative amount of credits that may be allocated between July  
550 1, 2006, and June 30, 2009, may not exceed \$75 million. At such  
551 time as \$75 million of tax credits granted pursuant to this  
552 section and ss. 212.08(5)(r) and 220.192 have been allocated, no  
553 additional tax credits may be allocated in this state on a  
554 filmed entertainment program that demonstrates a minimum of  
555 \$850,000 in total qualified expenditures for the entire run of  
556 the project, versus the budget on a single episode, within the  
557 fiscal year from July 1 to June 30. However, the maximum  
558 reimbursement that may be made with respect to any filmed  
559 entertainment program is \$2 million. All reimbursements under  
560 this section are subject to appropriation.

561 (d) Filmed entertainment queues.--Tax credits awarded  
562 Payments under this section in a state fiscal year shall be made  
563 to qualified productions according to a production's principal  
564 photography start date, for those qualified productions having  
565 entered into the first queue as cited in subparagraph 1. or the  
566 second queue cited in subparagraph 2. within the first 2 weeks  
567 after the queue's opening. All other qualified productions  
568 entering into either queue after the initial 2-week openings  
569 shall be on a first-come, first-served basis until the  
570 appropriation for that fiscal year is exhausted. On February 1  
571 of each year, the remaining funds within both queues shall be  
572 combined into a single queue and distributed based on a  
573 project's principal photography start date. The eligibility of  
574 qualified productions may not carry over from year to year, but

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575 ~~such productions may reapply for eligibility under the~~  
576 ~~guidelines established for doing so. The Office of Film and~~  
577 ~~Entertainment shall develop a procedure to ensure that qualified~~  
578 ~~productions continue on a reasonable schedule until completion.~~  
579 ~~If a qualified production is not continued according to a~~  
580 ~~reasonable schedule, the office shall withdraw its eligibility~~  
581 ~~and reallocate the funds to the next qualified productions~~  
582 ~~already in the queue that have yet to receive their full maximum~~  
583 ~~or 15 percent financial reimbursement, if they have not started~~  
584 ~~principal photography by the time the funds become available.~~

585       1. Film, television, and episodic queue.--Theatrical or  
586 direct-to-video motion pictures, made-for-television movies,  
587 commercials, music videos, industrial and educational films,  
588 promotional videos or films, documentary films, television  
589 specials, television series, including, but not limited to,  
590 miniseries and telenovelas, and digital-media-effects  
591 productions by the entertainment industry to be sold or  
592 displayed in an electronic medium that demonstrate a minimum of  
593 \$625,000 in total qualified expenditures for the entire run of  
594 the project, which, for a television series, means a season even  
595 if the season is not completed in the same state fiscal year in  
596 which principal photography began, shall have their own separate  
597 queue established, and such queue shall have dedicated to it 60  
598 percent of all available tax credits in any state fiscal year  
599 for which this section applies. The maximum tax credit award  
600 that may be made from this queue for any single production is \$2  
601 million unless the production is a high-impact television  
602 series, in which case the production shall be eligible for a

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603 maximum tax credit award of \$3 million, provided such production  
604 meets the other criteria of this section. On March 1 of each  
605 year, the remaining tax credits within this queue shall be  
606 merged into a general queue and may be used for other purposes  
607 of this section as determined by the Office of Film and  
608 Entertainment. A television series, including, but not limited  
609 to, a qualified high-impact television series, is not eligible  
610 for a tax credit award under this section after its fifth  
611 production season in this state. A qualified high-impact  
612 television series shall be allowed first position in this queue  
613 for its first five production seasons in this state if the  
614 application is received by the Office of Film and Entertainment  
615 within the first 2 weeks after the queue's opening. A qualified  
616 high-impact television series must file an application for each  
617 state fiscal year in which it is eligible to receive the credit,  
618 unless otherwise provided in this section ~~of the state incentive~~  
619 ~~money.~~

620 2. Television pilot queue.--Television pilots and,  
621 presentations for television pilots for television series  
622 intended to be shot in this state and, or television series,  
623 ~~including, but not limited to, drama, reality, comedy, soap~~  
624 ~~opera, telenovela, game show, or miniseries productions, by the~~  
625 ~~entertainment industry to be sold or displayed in an electronic~~  
626 medium that demonstrate a minimum of \$625,000 in total qualified  
627 expenditures for the pilot episode or presentation shall have  
628 their own separate queue established, and such queue shall have  
629 dedicated to it 20 40 percent of all available tax credits in  
630 any given state fiscal year for which this section applies. The

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631 maximum tax credit award that may be made from this queue for  
632 any single pilot episode or presentation is \$2 million. On March  
633 1 of each year, the remaining tax credits within this queue  
634 shall be merged into a general queue and may be used for other  
635 purposes of this section as determined by the Office of Film and  
636 Entertainment.

637 3. Commercials and music video queue.--Commercials and  
638 music videos by the entertainment industry to be sold or  
639 displayed in an electronic medium that demonstrate a minimum of  
640 \$500,000 in combined total qualified expenditures from a  
641 production company during the state fiscal year with a minimum  
642 of \$75,000 in qualified expenditures for each production shall  
643 have their own separate queue established. Such queue shall have  
644 dedicated to it 20 percent of available tax credits in any given  
645 state fiscal year for which this section applies. The maximum  
646 tax credit award that may be made from this queue for any single  
647 production company is \$500,000 for a state fiscal year. On April  
648 1 of each year, the remaining tax credits within this queue  
649 shall be merged into a general queue and may be used for other  
650 purposes of this section as determined by the Office of Film and  
651 Entertainment.

652 (e) Loss of eligibility; reallocation of tax credits.--If  
653 a qualified production is not continued according to a  
654 reasonable schedule or the Office of Film and Entertainment is  
655 notified that a qualified production will no longer be produced,  
656 the office shall withdraw the production's eligibility for tax  
657 credits and reallocate the tax credits to the next qualified  
658 productions already in the queue that have yet to receive a full



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659 tax credit if such next qualified productions have not started  
660 principal photography by the time the tax credits become  
661 available.

662 (f) Verification of tax credit award.--The Office of Film  
663 and Entertainment shall develop a process by which a qualified  
664 production that has been certified by the Office of Tourism,  
665 Trade, and Economic Development shall submit to the Office of  
666 Film and Entertainment, in a timely manner after production ends  
667 and after making all of its qualified expenditures, verifying  
668 data to substantiate each qualified expenditure. The Office of  
669 Film and Entertainment shall report to the Office of Tourism,  
670 Trade, and Economic Development the final verified amount of  
671 actual qualified expenditures made by the qualified production.  
672 The Office of Tourism, Trade, and Economic Development shall  
673 then notify the executive director of the Department of Revenue  
674 that the qualified production has met all requirements of the  
675 incentive program and shall recommend the final amount of the  
676 tax credit of the state incentive money.

677 ~~(b) A digital media effects company in the state which~~  
678 ~~furnishes digital material to filmed entertainment may be~~  
679 ~~eligible for a payment in an amount not to exceed 5 percent of~~  
680 ~~its annual gross revenues on qualified expenditures as defined~~  
681 ~~in paragraph (2)(c) before taxes or \$100,000, whichever is less.~~  
682 ~~A company applying for payment must submit documentation~~  
683 ~~annually as required by the Office of Film and Entertainment for~~  
684 ~~determination of eligibility of claimed billing and~~  
685 ~~determination of the amount of payment for which the company is~~  
686 ~~eligible.~~

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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687 (g)(e) Transfer of tax credits.--Upon application and  
688 approval by the Department of Revenue, a qualified production  
689 company may sell, in whole or in part, a tax credit granted  
690 pursuant to this section and s. 220.192. The sale of any amount  
691 of the tax credit shall not be exchanged for consideration  
692 received by the qualified production company of less than 85  
693 percent of the transferred amount of tax credit. The qualified  
694 production company must transfer at least 10 percent of the  
695 remaining credits to each purchaser and may not conduct more  
696 than three transfers. The purchaser shall surrender the tax  
697 credit in the state fiscal year acquired from the qualified  
698 production company and otherwise may carry the tax credit over  
699 subject to the same limitations on tax credit usage as the  
700 qualified production company awarded the tax credit. The  
701 purchaser may not sell or otherwise transfer the tax credit. The  
702 Department of Revenue may adopt rules pursuant to ss. 120.536(1)  
703 and 120.54 to administer this paragraph, as provided in  
704 paragraph (6)(b). A qualified relocation project that is  
705 certified by the Office of Film and Entertainment is eligible  
706 for a one time incentive payment in an amount equal to 5 percent  
707 of its annual gross revenues before taxes for the first 12  
708 months of conducting business in its Florida domicile or  
709 \$200,000, whichever is less. A company applying for payment must  
710 submit documentation as required by the Office of Film and  
711 Entertainment for determination of eligibility of claimed  
712 billing and determination of the amount of payment for which the  
713 company is eligible.

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714 (h)-(d) Noncorporate distribution of tax credits.--A  
715 qualified production company that is not a corporation as  
716 defined in s. 220.03 shall elect to make an application to the  
717 Department of Revenue as provided in paragraph (g) or distribute  
718 tax credits awarded under this section to its partners or  
719 members in proportion to the respective distributive share of  
720 such partners' or members' income or loss in the state fiscal  
721 year in which such tax credits were approved. A tax credit  
722 granted under this section and applied against taxes imposed  
723 under this chapter shall be carried forward only for a maximum  
724 of 5 taxable years following the state fiscal year in which the  
725 credit was approved. The Department of Revenue may adopt rules  
726 pursuant to ss. 120.536(1) and 120.54 to administer this  
727 paragraph, as provided in paragraph (6) (b), a digital media-  
728 effects company, or a qualified relocation project applying for  
729 a payment under this section must submit documentation for  
730 claimed qualified expenditures to the Office of Film and  
731 Entertainment.

732 (i)-(e) Use of tax credits.--A qualified production company  
733 may use the tax credit against the tax liability imposed under  
734 s. 220.192, in whole or in part, or against the sales tax paid  
735 under chapter 212 in whole or in part ~~The Office of Film and~~  
736 ~~Entertainment shall notify the Office of Tourism, Trade, and~~  
737 ~~Economic Development whether an applicant meets the criteria for~~  
738 ~~reimbursement and shall recommend the reimbursement amount. The~~  
739 ~~Office of Tourism, Trade, and Economic Development shall make~~  
740 ~~the final determination for actual reimbursement.~~

741           (5) MARKETING REQUIREMENTS.--The Office of Film and  
 742 Entertainment shall ensure appropriate marketing materials,  
 743 including, but not limited to, promotions of this state as a  
 744 tourist or filming destination, are required when appropriate  
 745 to be included on any filmed entertainment as a condition of  
 746 receiving a tax credit under this section. The Office of Film  
 747 and Entertainment shall consult with appropriate entities for  
 748 the development and implementation of marketing materials.

749           ~~(6)-(5) RULES POLICIES AND PROCEDURES.--~~

750           (a) The Office of Tourism, Trade, and Economic Development  
 751 shall adopt rules pursuant to ss. 120.536(1) and 120.54 ~~policies~~  
 752 ~~and procedures~~ to implement this section, including, but not  
 753 limited to, rules specifying requirements for the application  
 754 and approval process, records required for ~~submission for~~  
 755 substantiation of credit awards for reimbursement, and  
 756 determination of and qualification for credit awards, and  
 757 marketing requirements for credit recipients ~~reimbursement.~~

758           (b) The Department of Revenue may adopt rules pursuant to  
 759 ss. 120.536(1) and 120.54 to administer the provisions of this  
 760 section, including rules governing the manner and form of  
 761 documentation required to claim tax credits granted or  
 762 transferred under this section, and may establish guidelines as  
 763 to the requisites for an affirmative showing of qualification  
 764 for tax credits granted or transferred under this section.

765           ~~(7)-(6) FRAUDULENT CLAIMS.--~~

766           (a) Any applicant who submits an application under this  
 767 section that includes fraudulent information is liable for

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768 | reimbursement of the reasonable costs and fees associated with  
769 | the review, processing, investigation, and prosecution.

770 |       (b) An eligible entity or company that obtains a credit  
771 | ~~payment~~ under this section through a claim that it knows is  
772 | fraudulent is liable for reimbursement of the credit amount paid  
773 | plus a penalty in an amount double the credit payment and  
774 | reimbursement of reasonable costs, which penalty is in addition  
775 | to any criminal penalty to which the entity or company is liable  
776 | for the same acts, plus interest. The entity or company is also  
777 | liable for costs and fees incurred by the state in investigating  
778 | and prosecuting the fraudulent claim.

779 |       (8) (7) ANNUAL REPORT.--The Office of Film and  
780 | Entertainment shall provide an annual report for the previous  
781 | state fiscal year, due October 1, to the Governor, the President  
782 | of the Senate, and the Speaker of the House of Representatives  
783 | outlining the return on investment to the state on tax credits  
784 | awarded funds expended pursuant to this section.

785 |       (9) REPEAL.--This section is repealed July 1, 2009.

786 |       Section 6. This act shall take effect July 1, 2006.