

By Senator Haridopolos

26-00275-09

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1 A bill to be entitled
2 An act relating to entertainment industry economic
3 development; amending s. 288.1254, F.S.; revising the
4 entertainment industry financial incentive program to
5 provide corporate income tax and sales and use tax
6 credits to qualified entertainment entities rather
7 than reimbursements from appropriations; revising
8 provisions relating to definitions, creation and
9 scope, application procedures, approval process,
10 eligibility, required documents, qualified and
11 certified productions, and annual reports; providing
12 duties and responsibilities of the Office of Film and
13 Entertainment, the Office of Tourism, Trade, and
14 Economic Development, and the Department of Revenue
15 relating to the tax credits; providing criteria and
16 limitations for awards of tax credits; providing for
17 uses, allocations, election, distributions, and
18 carryforward of the tax credits; providing for
19 withdrawal of tax credit eligibility; providing for
20 use of consolidated returns; providing for partnership
21 and noncorporate distributions of tax credits;
22 providing for succession of tax credits; providing
23 requirements for transfer of tax credits; authorizing
24 the Office of Tourism, Trade, and Economic Development
25 to adopt rules, policies, and procedures; authorizing
26 the Department of Revenue to adopt rules and conduct
27 audits; providing for revocation and forfeiture of tax
28 credits; providing liability for reimbursement of
29 certain costs and fees associated with a fraudulent

26-00275-09

2009350__

30 claim; requiring an annual report to the Governor and
31 the Legislature; providing for future repeal; amending
32 s. 220.02, F.S.; including tax credits enumerated in
33 s. 288.1254, F.S., in the order of application of
34 credits against certain taxes; amending s. 213.053,
35 F.S.; authorizing the Department of Revenue to provide
36 tax credit information to the Office of Film and
37 Entertainment and the Office of Tourism, Trade, and
38 Economic Development; amending s. 212.08, F.S.;

39 requiring electronic funds transfer for the
40 entertainment industry tax credit; providing
41 procedures; providing for severability; providing an
42 effective date.

43
44 Be It Enacted by the Legislature of the State of Florida:

45
46 Section 1. Section 288.1254, Florida Statutes, is amended
47 to read:

48 (Substantial rewording of section. See
49 s. 288.1254, F.S., for present text.)

50 288.1254 Entertainment industry financial incentive
51 program.—

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

53 (a) "Certified production" means a qualified production
54 that has tax credits allocated to it by the Office of Tourism,
55 Trade, and Economic Development based on its estimated qualified
56 expenditures, up to its maximum certified amount of tax credits,
57 by the Office of Tourism, Trade, and Economic Development. The
58 term excludes a production if its first day of principal

26-00275-09

2009350__

59 photography in this state occurred before the production is
60 certified by the Office of Tourism, Trade, and Economic
61 Development.

62 (b) "Digital media project" means a production of
63 interactive entertainment which is produced for distribution in
64 commercial or educational markets, including a video game,
65 simulation, or animation, or a production intended for Internet
66 or wireless distribution. The term excludes a production deemed
67 by the Office of Film and Entertainment to contain obscene
68 content as defined in s. 847.001(10).

69 (c) "Off-season certified production" means a production,
70 other than a digital media project or an animated production,
71 which films 75 percent or more of its principal photography days
72 from June 1 through November 30.

73 (d) "Production" means a theatrical or direct-to-video
74 motion picture; a made-for-television motion picture; a
75 commercial; a music video; an industrial or educational film; an
76 infomercial; a documentary film; a television pilot program; a
77 presentation for a television pilot program; a television
78 series, including, but not limited to, a drama, a reality show,
79 a comedy, a soap opera, a telenovela, a game show, or a
80 miniseries production; or a digital media project by the
81 entertainment industry. One season of a television series is
82 considered one production. The term excludes a weather or market
83 program; a sporting event; a sports show; a gala; a production
84 that solicits funds; a home shopping program; a political
85 program; a political documentary; political advertising; a
86 gambling-related project or production; a concert production; a
87 pornographic production; or a local, regional, or Internet-

26-00275-09

2009350

88 distributed-only news show, current-events show, pornographic
89 production, or current-affairs show. A production may be
90 produced on or by film, tape, or otherwise by means of a motion
91 picture camera; electronic camera or device; tape device;
92 computer; any combination of the foregoing; or any other means,
93 method, or device now used or later adopted.

94 (e) "Production expenditures" means the costs of tangible
95 and intangible property used and services performed primarily
96 and customarily in production, including preproduction and
97 postproduction, excluding costs for development, marketing, and
98 distribution. Production expenditures include, but are not
99 limited to:

100 1. Wages, salaries, or other compensation, including
101 amounts paid through payroll service companies, for technical
102 and production crews, directors, producers, and performers.

103 2. Expenditures for sound stages, backlots, production
104 editing, digital effects, sound recordings, sets, and set
105 construction.

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

108 4. Costs of computer software and hardware, including
109 servers, data processing, and visualization technologies used
110 exclusively in the state for the production of digital media.

111 5. Expenditures for meals, travel, and accommodations.

112 (f) "Qualified expenditures" means production expenditures
113 incurred in this state by a qualified production for:

114 1. Goods purchased or leased from, or services provided by,
115 a vendor or supplier, including a payroll services company, in
116 this state which is registered with the Department of State or

26-00275-09

2009350__

117 the Department of Revenue and doing business in this state.

118 2. Payments to residents of this state in the form of
119 salary, wages, or other compensation up to a maximum of \$1
120 million per resident unless otherwise specified in subsection
121 (4).

122
123 For a qualified production involving an event, such as an awards
124 show, the term excludes expenditures solely associated with the
125 event itself and not directly required by the production. The
126 term excludes expenditures prior to certification, with the
127 exception of those incurred for a commercial, a music video, or
128 the pickup of additional episodes of a television series within
129 a single season.

130 (g) "Qualified production" means a production in this state
131 meeting the requirements of this section. The term excludes a
132 production:

133 1. In which less than 50 percent of the positions that make
134 up its production cast and below-the-line production crew are
135 filled by residents of this state, whose residency is
136 demonstrated by a valid Florida driver's license or other state-
137 issued identification confirming residency, or students enrolled
138 full-time in a film-and-entertainment-related course of study at
139 an institution of higher education in this state; or

140 2. That is deemed by the Office of Film and Entertainment
141 to contain obscene content as defined in s. 847.001(10).

142 (h) "Qualified production company" means a corporation,
143 limited liability company, partnership, or other legal entity
144 engaged in a production or productions.

145 (2) CREATION AND PURPOSE OF PROGRAM.—The entertainment

26-00275-09

2009350__

146 industry financial incentive program is created within the
147 Office of Film and Entertainment. The purpose of this program is
148 to encourage the use of this state as a site for filming and to
149 develop and sustain the workforce and infrastructure for film
150 and entertainment production.

151 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.—

152 (a) Program application.—A qualified production company in
153 this state producing a qualified production may submit a program
154 application to the Office of Film and Entertainment for the
155 purpose of determining qualification for an award of tax credits
156 authorized by this section no earlier than 6 months before the
157 anticipated production start date. The applicant shall provide
158 the office with information required to determine whether the
159 production is a qualified production and to determine the
160 qualified expenditures and other information necessary for the
161 office to determine eligibility for the tax credit.

162 (b) Required documentation.—The Office of Film and
163 Entertainment shall develop an application form for qualifying
164 an applicant as a qualified production. The form must include,
165 but need not be limited to, production-related information
166 concerning employment of residents in this state, a detailed
167 budget of planned qualified expenditures, and the applicant's
168 signed affirmation that the information on the form has been
169 verified and is correct. The Office of Film and Entertainment
170 and local film commissions shall distribute the form.

171 (c) Application process.—The Office of Film and
172 Entertainment shall establish a process by which an application
173 is accepted and reviewed and by which tax credit eligibility and
174 amount are determined. The office may request assistance from a

26-00275-09

2009350

175 duly appointed local film commission in determining compliance
176 with this section.

177 (d) Certification.—The Office of Film and Entertainment
178 shall review the application within 10 business days after
179 receipt. Upon its determination that the application contains
180 all the information required by this subsection and meets the
181 criteria set out in this section, the office shall qualify the
182 applicant and recommend to the Office of Tourism, Trade, and
183 Economic Development that the applicant be certified for the
184 maximum tax credit award amount. Within 5 business days after
185 receipt of the recommendation, the Office of Tourism, Trade, and
186 Economic Development shall reject the recommendation or certify
187 the maximum recommended tax credit award, if any, to the
188 applicant and to the executive director of the Department of
189 Revenue.

190 (e) Grounds for denial.—The Office of Film and
191 Entertainment shall deny an application if it determines that
192 the application is not complete, the production does not meet
193 the requirements of this section, or the tax credit sought does
194 not meet the requirements of this section.

195 (f) Verification of actual qualified expenditures.—

196 1. The Office of Film and Entertainment shall develop a
197 process to verify the actual qualified expenditures of a
198 certified production. The process must require:

199 a. A certified production to submit, in a timely manner
200 after production ends and after making all of its qualified
201 expenditures, data substantiating each qualified expenditure to
202 an independent certified public accountant licensed in this
203 state;

26-00275-09

2009350__

204 b. Such accountant to conduct an audit, at the certified
205 production's expense, to substantiate each qualified expenditure
206 and submit the results as a report, along with all
207 substantiating data, to the Office of Film and Entertainment;
208 and

209 c. The Office of Film and Entertainment to review the
210 accountant's submittal and report to the Office of Tourism,
211 Trade, and Economic Development the final verified amount of
212 actual qualified expenditures made by the certified production.

213 2. The Office of Tourism, Trade, and Economic Development
214 shall determine and approve the final tax credit award amount to
215 each certified applicant based on the final verified amount of
216 actual qualified expenditures and shall then notify the
217 executive director of the Department of Revenue that the
218 certified production has met the requirements of the incentive
219 program and of the final amount of the tax credit award.

220 (g) Promoting Florida.—The Office of Film and Entertainment
221 shall ensure that, as a condition of receiving a tax credit
222 under this section, marketing materials promoting this state as
223 a tourist destination or film and entertainment production
224 destination are included, when appropriate, at no cost to the
225 state, which must, at a minimum, include placement in the end
226 credits of a "Filmed in Florida" logo with size and placement
227 commensurate to other logos included in the end credits or, if
228 no logos are used, the statement "Filmed in Florida using
229 Florida's Entertainment Industry Financial Incentive," or a
230 similar statement approved by the Office of Film and
231 Entertainment before such placement. The Office of Film and
232 Entertainment shall develop a "Filmed in Florida" logo and

26-00275-09

2009350__

233 supply it for the purposes specified in this paragraph.

234 (4) TAX CREDIT ELIGIBILITY; ELECTION AND DISTRIBUTION;
235 CARRYFORWARD; CONSOLIDATED RETURNS; PARTNERSHIP AND NONCORPORATE
236 DISTRIBUTIONS; MERGERS AND ACQUISITIONS.-

237 (a) Tax credit award.-Tax credits awarded under this
238 section in a fiscal year shall be made to qualified productions
239 according to the principal photography start date of the
240 productions, except for digital media projects, which shall be
241 based on the start date of the productions.

242 (b) Tax credit eligibility.-

243 1. A qualified production, excluding commercials, music
244 videos, digital media projects, and independent Florida films,
245 that demonstrates a minimum of \$500,000 in qualified
246 expenditures is eligible for tax credits equal to 20 percent of
247 its actual qualified expenditures.

248 2. An off-season certified production is eligible for an
249 additional 5 percent tax credit on actual qualified
250 expenditures. An off-season certified production that does not
251 complete 75 percent of principal photography due to disruption
252 caused by a hurricane or tropical storm may not be disqualified
253 from eligibility for the additional 5 percent credit as a result
254 of the disruption.

255 3. A qualified production company that produces national or
256 regional commercials or music videos may be eligible for a tax
257 credit award if it demonstrates a minimum of \$100,000 in
258 qualified expenditures per national or regional commercial or
259 music video and exceeds a combined threshold of \$500,000 after
260 combining actual qualified expenditures from qualified
261 commercials and music videos during a single state fiscal year.

26-00275-09

2009350

262 After a qualified production company that produces commercials,
263 music videos, or both reaches the threshold of \$500,000, it is
264 eligible to apply for certification for a tax credit award. The
265 maximum credit award shall be equal to 10 percent of its actual
266 qualified expenditures up to a maximum of \$500,000.

267 4. A qualified production that is a digital media project
268 that demonstrates a minimum of \$300,000 in total qualified
269 expenditures is eligible for a tax credit equal to 20 percent of
270 its actual qualified expenditures. As used in this subparagraph,
271 the term "qualified expenditures" means the wages or salaries
272 paid to a resident of this state for working on a single
273 qualified digital media project, up to a maximum of \$200,000 in
274 wages or salaries paid per resident. A qualified production
275 company producing digital media projects may not qualify for
276 more than three projects in a fiscal year. A project that
277 extends beyond a fiscal year must reapply each fiscal year in
278 order to be eligible for a tax credit award for that year.

279 5. An independent Florida film that meets the criteria of
280 this subparagraph and demonstrates a minimum of \$100,000, but
281 not more than \$625,000, in total qualified expenditures is
282 eligible for tax credits equal to 15 percent of its actual
283 qualified expenditures. To qualify for this tax credit, a
284 qualified production must:

285 a. Be planned as a feature film or documentary of no less
286 than 70 minutes in length.

287 b. Provide evidence of 50 percent of the financing for its
288 total budget in an escrow account or other form dedicated to the
289 production.

290 c. Do all major postproduction in this state.

26-00275-09

2009350

291 d. Employ Florida workers in at least six of the following
292 key positions: writer, director, producer, director of
293 photography, star or one of the lead actors, unit production
294 manager, editor, or production designer. As used in this sub-
295 subparagraph, the term "Florida worker" means a person who has
296 been a resident of this state for at least 1 year before a
297 production's application under subsection (3) was submitted or a
298 person who graduated from a film school, college, university, or
299 community college in this state no more than 5 years before such
300 submittal or who is enrolled full time in such a school,
301 college, or university.

302 6. A certified production determined by the Commissioner of
303 Film and Entertainment, with the advice of the Florida Film and
304 Entertainment Advisory Council, to be family friendly, based on
305 the review of the script and an interview with the director, is
306 eligible for an additional tax credit equal to 2 percent of its
307 actual qualified expenditures. Family friendly productions are
308 those that have cross-generational appeal; would be considered
309 suitable for viewing by children age 5 or older; are appropriate
310 in theme, content, and language for a broad family audience;
311 embody a responsible resolution of issues; and do not exhibit
312 any act of smoking, sex, nudity, or vulgar or profane language.

313
314 Each qualified production under this paragraph shall make a good
315 faith effort to use existing providers of infrastructure or
316 equipment in this state, including, but not limited to,
317 providers of camera gear, grip and lighting equipment, vehicle
318 providers, and postproduction services when available in-state.

319 (c) *Withdrawal of tax credit eligibility.*—A qualified or

26-00275-09

2009350

320 certified production shall continue on a reasonable schedule,
321 which means beginning principal photography or in the case of a
322 digital media project the start date of the production, in this
323 state no more than 45 calendar days before or after the date
324 provided in the production's program application. The Office of
325 Tourism, Trade, and Economic Development shall withdraw the
326 eligibility of a qualified or certified production that does not
327 continue on a reasonable schedule.

328 (d) Election and distribution of tax credits.—A certified
329 production company receiving a tax credit award under this
330 section shall, at the time the credit is awarded by the Office
331 of Tourism, Trade, and Economic Development after production is
332 completed and all requirements to receive a credit award have
333 been met, make an irrevocable election to apply the credit
334 against taxes due under chapter 220, against taxes collected or
335 accrued under chapter 212, or against a stated combination of
336 the two taxes. The election shall be binding upon any
337 distributee, successor, transferee, or purchaser. The Office of
338 Tourism, Trade, and Economic Development shall notify the
339 Department of Revenue of any election made pursuant to this
340 paragraph.

341 (e) Tax credit carryforward.—If the certified production
342 company cannot use the entire tax credit in the taxable year or
343 reporting period in which the credit is awarded, any excess
344 amount may be carried forward to a succeeding taxable year or
345 reporting period. A tax credit applied against taxes imposed
346 under chapter 212 may be carried forward for a maximum of 5
347 years following the date of award. A tax credit applied against
348 taxes imposed under chapter 220 may be carried forward for a

26-00275-09

2009350

349 maximum of 5 years following the year in which the credit was
350 awarded, after which the credit expires and may not be used.

351 (f) Consolidated returns.—A certified production company
352 that files a Florida consolidated return as a member of an
353 affiliated group under s. 220.131(1) may be allowed the credit
354 on a consolidated return basis up to the amount of the tax
355 imposed upon the consolidated group under chapter 220.

356 (g) Partnership and noncorporate distributions.—A qualified
357 production company that is not a corporation as defined in s.
358 220.03 may elect to distribute tax credits awarded under this
359 section to its partners or members in proportion to their
360 respective distributive income or loss in the taxable fiscal
361 year in which the tax credits were awarded.

362 (h) Mergers or acquisitions.—Tax credits available under
363 this section to a certified production company may succeed to a
364 surviving or acquiring entity subject to the same conditions and
365 limitations as described in this section; however, they may not
366 be transferred again by the surviving or acquiring entity.

367 (5) TRANSFER OF TAX CREDITS.—

368 (a) Authorization.—Upon application to the Office of Film
369 and Entertainment and approval by the Office of Tourism, Trade,
370 and Economic Development, a certified production company, or a
371 partner or member that has received a distribution under
372 paragraph (4) (g), may elect to transfer, in whole or in part,
373 any unused credit amount granted under this section. An election
374 to transfer any unused tax credit amount under chapter 212 or
375 chapter 220 must be made no later than 5 years from the date the
376 credit was awarded, after which period the credit expires and
377 may not be used. The Office of Tourism, Trade, and Economic

26-00275-09

2009350

378 Development shall notify the Department of Revenue of the
379 election and transfer.

380 (b) Number of transfers permitted.—A certified production
381 company that has elected to apply a credit amount against taxes
382 remitted under chapter 212 is permitted a one-time transfer of
383 unused credits to one transferee. A certified production company
384 that has elected to apply a credit amount against taxes due
385 under chapter 220 is permitted a one-time transfer of unused
386 credits to no more than four transferees, and such transfers
387 shall occur in the same taxable year.

388 (c) Transferee rights and limitations.—The transferee is
389 subject to the same rights and limitations as the certified
390 production company awarded the tax credit, except that the
391 transferee may not sell or otherwise transfer the tax credit.

392 (d) Rulemaking.—The Department of Revenue may adopt rules
393 pursuant to ss. 120.536(1) and 120.54 to administer this
394 subsection, as provided in subsection (6).

395 (6) RULES, POLICIES, AND PROCEDURES.—

396 (a) The Office of Tourism, Trade, and Economic Development
397 may adopt rules pursuant to ss. 120.536(1) and 120.54 and
398 develop policies and procedures to implement and administer this
399 section, including, but not limited to, rules specifying
400 requirements for the application and approval process, records
401 required for substantiation for tax credits, procedures for
402 making the election in paragraph (4)(d), the manner and form of
403 documentation required to claim tax credits awarded or
404 transferred under this section, and marketing requirements for
405 tax credit recipients.

406 (b) The Department of Revenue may adopt rules pursuant to

26-00275-09

2009350__

407 ss. 120.536(1) and 120.54 to administer this section, including
408 rules governing the examination and audit procedures required to
409 administer this section and the manner and form of documentation
410 required to claim tax credits awarded or transferred under this
411 section.

412 (7) AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX
413 CREDITS; FRAUDULENT CLAIMS.—

414 (a) *Audit authority.*—The Department of Revenue may conduct
415 examinations and audits as provided in s. 213.34 to verify that
416 tax credits under this section have been received, transferred,
417 and applied according to the requirements of this section. If
418 the Department of Revenue determines that tax credits have not
419 been received, transferred, or applied as required by this
420 section, it may, in addition to the remedies provided in this
421 subsection, pursue recovery of such funds pursuant to the laws
422 and rules governing the assessment of taxes.

423 (b) *Revocation of tax credits.*—The Office of Tourism,
424 Trade, and Economic Development may revoke or modify any written
425 decision qualifying, certifying, or otherwise granting
426 eligibility for tax credits under this section if it is
427 discovered that the tax credit applicant submitted any false
428 statement, representation, or certification in any application,
429 record, report, plan, or other document filed in an attempt to
430 receive tax credits under this section. The Office of Tourism,
431 Trade, and Economic Development shall immediately notify the
432 Department of Revenue of any revoked or modified orders
433 affecting previously granted tax credits. Additionally, the
434 applicant must notify the Department of Revenue of any change in
435 its tax credit claimed.

26-00275-09

2009350__

436 (c) Forfeiture of tax credits.—A determination by the
437 Department of Revenue, as a result of an audit or examination by
438 the Department of Revenue or from information received from the
439 Office of Film and Entertainment, that an applicant received tax
440 credits pursuant to this section to which the applicant was not
441 entitled is grounds for forfeiture of previously claimed and
442 received tax credits. The applicant is responsible for returning
443 forfeited tax credits to the Department of Revenue, and such
444 funds shall be paid into the General Revenue Fund of the state.
445 Tax credits purchased in good faith are not subject to
446 forfeiture unless the transferee submitted fraudulent
447 information in the purchase or failed to meet the requirements
448 in subsection (5).

449 (d) Fraudulent claims.—Any applicant that submits
450 information under this section that includes fraudulent
451 information is liable for reimbursement of the reasonable costs
452 and fees associated with the review, processing, investigation,
453 and prosecution of the fraudulent claim. An applicant that
454 obtains a credit payment under this section through a claim that
455 is fraudulent is liable for reimbursement of the credit amount
456 plus a penalty in an amount double the credit amount. The
457 penalty is in addition to any criminal penalty to which the
458 applicant is liable for the same acts. The applicant is also
459 liable for costs and fees incurred by the state in investigating
460 and prosecuting the fraudulent claim.

461 (8) ANNUAL REPORT.—Each October 1, the Office of Film and
462 Entertainment shall provide an annual report for the previous
463 fiscal year to the Governor, the President of the Senate, and
464 the Speaker of the House of Representatives which outlines the

26-00275-09

2009350

465 return on investment and economic benefits to the state.

466 (9) REPEAL.—This section is repealed July 1, 2014, except
467 that the tax credit carryforward provided in this section shall
468 continue to be valid for the period specified.

469 Section 2. Subsection (8) of section 220.02, Florida
470 Statutes, is amended to read:

471 220.02 Legislative intent.—

472 (8) It is the intent of the Legislature that credits
473 against either the corporate income tax or the franchise tax be
474 applied in the following order: those enumerated in s. 631.828,
475 those enumerated in s. 220.191, those enumerated in s. 220.181,
476 those enumerated in s. 220.183, those enumerated in s. 220.182,
477 those enumerated in s. 220.1895, those enumerated in s. 221.02,
478 those enumerated in s. 220.184, those enumerated in s. 220.186,
479 those enumerated in s. 220.1845, those enumerated in s. 220.19,
480 those enumerated in s. 220.185, those enumerated in s. 220.187,
481 those enumerated in s. 220.192, ~~and~~ those enumerated in s.
482 220.193, and those enumerated in s. 288.1254.

483 Section 3. Paragraph (z) is added to subsection (8) of
484 section 213.053, Florida Statutes, to read:

485 213.053 Confidentiality and information sharing.—

486 (8) Notwithstanding any other provision of this section,
487 the department may provide:

488 (z) Information relative to tax credits taken under s.
489 288.1254 to the Office of Film and Entertainment and the Office
490 of Tourism, Trade, and Economic Development.

491
492 Disclosure of information under this subsection shall be
493 pursuant to a written agreement between the executive director

26-00275-09

2009350

494 and the agency. Such agencies, governmental or nongovernmental,
495 shall be bound by the same requirements of confidentiality as
496 the Department of Revenue. Breach of confidentiality is a
497 misdemeanor of the first degree, punishable as provided by s.
498 775.082 or s. 775.083.

499 Section 4. Paragraph (q) is added to subsection (5) of
500 section 212.08, Florida Statutes, to read:

501 212.08 Sales, rental, use, consumption, distribution, and
502 storage tax; specified exemptions.—The sale at retail, the
503 rental, the use, the consumption, the distribution, and the
504 storage to be used or consumed in this state of the following
505 are hereby specifically exempt from the tax imposed by this
506 chapter.

507 (5) EXEMPTIONS; ACCOUNT OF USE.—

508 (q) Entertainment industry tax credit; authorization;
509 eligibility for credits.—

510 1. For the fiscal years beginning July 1, 2009, and ending
511 June 30, 2014, a qualified production company as defined in s.
512 288.1254(1)(g), is eligible for tax credits against its sales
513 and use tax liabilities as provided in s. 288.1254.

514 2. The credit shall be deducted from any sales and use tax
515 remitted by the dealer to the department by electronic funds
516 transfer and can only be deducted on a sales and use tax return
517 initiated through electronic data interchange. The dealer shall
518 separately state the credit on the electronic return. The net
519 amount of tax due and payable must be remitted by electronic
520 funds transfer. If the credit for the qualified expenditures is
521 larger than the amount owed on the sales and use tax return, the
522 amount of the credit may be carried forward to a succeeding

26-00275-09

2009350__

523 reporting period. A dealer may obtain a credit using only the
524 method described in this subparagraph. A dealer is not
525 authorized to obtain a credit by applying for a refund.

526 Section 5. If any provision of this act or the application
527 thereof to any person or circumstance is held invalid, the
528 invalidity shall not affect other provisions or applications of
529 the act which can be given effect without the invalid provision
530 or application, and to this end the provisions of this act are
531 declared severable.

532 Section 6. This act shall take effect July 1, 2009.