

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 credits
6 to qualified entertainment entities rather than
7 reimbursements from appropriations; revising provisions
8 relating to definitions, creation and scope, application
9 procedures, approval process, eligibility, required
10 documents, qualified and certified productions, and annual
11 reports; providing duties and responsibilities of the
12 Office of Film and Entertainment, the Office of Tourism,
13 Trade, and Economic Development, and the Department of
14 Revenue relating to the tax credits; providing criteria
15 and limitations for awards of tax credits; providing for
16 uses, allocations, election, distributions, and
17 carryforward of the tax credits; providing for withdrawal
18 of tax credit eligibility; providing for use of
19 consolidated returns; providing for partnership and
20 noncorporate distributions of tax credits; providing for
21 succession of tax credits; providing requirements for
22 transfer of tax credits; authorizing the Office of
23 Tourism, Trade, and Economic Development to adopt rules,
24 policies, and procedures; authorizing the Department of
25 Revenue to adopt rules and conduct audits; providing for
26 revocation and forfeiture of tax credits; providing
27 liability for reimbursement of certain costs and fees
28 associated with a fraudulent claim; requiring an annual

29 report to the Governor and the Legislature; providing for
 30 future repeal; amending s. 212.08, F.S.; limiting
 31 application of the entertainment industry tax credits;
 32 requiring electronic funds transfer for the tax credits;
 33 providing procedures; amending s. 213.053, F.S.;

34 authorizing the Department of Revenue to provide tax
 35 credit information to the Office of Film and Entertainment
 36 and the Office of Tourism, Trade, and Economic
 37 Development; amending s. 220.02, F.S.; including tax
 38 credits enumerated in s. 220.1899, F.S., in the order of
 39 application of credits against certain taxes; creating s.
 40 220.1899, F.S.; providing for credits against the
 41 corporate income tax in the amounts awarded under the
 42 entertainment industry financial incentive program;
 43 providing for carryforward of the tax credits under
 44 certain circumstances; providing an appropriation and
 45 authorizing an additional position; providing
 46 severability; providing an effective date.

47
 48 Be It Enacted by the Legislature of the State of Florida:

49
 50 Section 1. Section 288.1254, Florida Statutes, is amended
 51 to read:

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

54 288.1254 Entertainment industry financial incentive
 55 program.—

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

57 (a) "Certified production" means a qualified production
58 that has tax credits allocated to it by the Office of Tourism,
59 Trade, and Economic Development based on the production's
60 estimated qualified expenditures, up to the production's maximum
61 certified amount of tax credits, by the Office of Tourism,
62 Trade, and Economic Development. The term does not include a
63 production if its first day of principal photography or project
64 start date in this state occurs before the production is
65 certified by the Office of Tourism, Trade, and Economic
66 Development, unless the production spans more than one fiscal
67 year, was a certified production on its first day of principal
68 photography or project start date in this state, and submits an
69 application for continuing the same production for the
70 subsequent fiscal year.

71 (b) "Digital media project" means a production of
72 interactive entertainment that is produced for distribution in
73 commercial or educational markets. The term includes a video
74 game or production intended for Internet or wireless
75 distribution. The term does not include a production deemed by
76 the Office of Film and Entertainment to contain obscene content
77 as defined in s. 847.001(10).

78 (c) "High-impact television series" means a production
79 created to run multiple production seasons and having an
80 estimated order of at least seven episodes per season and
81 qualified expenditures of at least \$625,000 per episode.

82 (d) "Off-season certified production" means a feature
83 film, independent film, or television series or pilot which
84 films 75 percent or more of its principal photography days from

85 June 1 through November 30.

86 (e) "Principal photography" means the filming of major or
87 significant components of the qualified production which involve
88 lead actors.

89 (f) "Production" means a theatrical or direct-to-video
90 motion picture; a made-for-television motion picture; visual
91 effects or digital animation sequences produced in conjunction
92 with a motion picture; a commercial; a music video; an
93 industrial or educational film; an infomercial; a documentary
94 film; a television pilot program; a presentation for a
95 television pilot program; a television series, including, but
96 not limited to, a drama, a reality show, a comedy, a soap opera,
97 a telenovela, a game show, an awards show, or a miniseries
98 production; or a digital media project by the entertainment
99 industry. One season of a television series is considered one
100 production. The term does not include a weather or market
101 program; a sporting event; a sports show; a gala; a production
102 that solicits funds; a home shopping program; a political
103 program; a political documentary; political advertising; a
104 gambling-related project or production; a concert production; or
105 a local, regional, or Internet-distributed-only news show,
106 current-events show, pornographic production, or current-affairs
107 show. A production may be produced on or by film, tape, or
108 otherwise by means of a motion picture camera; electronic camera
109 or device; tape device; computer; any combination of the
110 foregoing; or any other means, method, or device now used or
111 later adopted.

112 (g) "Production expenditures" means the costs of tangible

113 and intangible property used for, and services performed
114 primarily and customarily in, production, including
115 preproduction and postproduction, but excluding costs for
116 development, marketing, and distribution. The term includes, but
117 is not limited to:

118 1. Wages, salaries, or other compensation paid to legal
119 residents of this state, including amounts paid through payroll
120 service companies, for technical and production crews,
121 directors, producers, and performers.

122 2. Expenditures for sound stages, backlots, production
123 editing, digital effects, sound recordings, sets, and set
124 construction.

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

127 4. Up to \$300,000 of the costs of newly purchased computer
128 software and hardware unique to the project, including servers,
129 data processing, and visualization technologies, which are
130 located in and used exclusively in the state for the production
131 of digital media.

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

133 (h) "Qualified expenditures" means production expenditures
134 incurred in this state by a qualified production for:

135 1. Goods purchased or leased from, or services, including,
136 but not limited to, insurance costs and bonding, payroll
137 services, and legal fees, which are provided by, a vendor or
138 supplier in this state that is registered with the Department of
139 State or the Department of Revenue and has a physical location
140 in this state at which one or more legal Florida residents are

141 employed.

142 2. Payments to legal residents of this state in the form
 143 of salary, wages, or other compensation up to a maximum of
 144 \$650,000 per resident unless otherwise specified in subsection
 145 (4).

146
 147 For a qualified production involving an event, such as an awards
 148 show, the term does not include expenditures solely associated
 149 with the event itself and not directly required by the
 150 production. The term does not include expenditures incurred
 151 before certification, with the exception of those incurred for a
 152 commercial, a music video, or the pickup of additional episodes
 153 of a high-impact television series within a single season.

154 (i) "Qualified production" means a production in this
 155 state meeting the requirements of this section. The term does
 156 not include a production:

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

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

169 (j) "Qualified production company" means a corporation,
170 limited liability company, partnership, or other legal entity
171 engaged in one or more productions in this state.

172 (2) CREATION AND PURPOSE OF PROGRAM.—The entertainment
173 industry financial incentive program is created within the
174 Office of Film and Entertainment. The purpose of this program is
175 to encourage the use of this state as a site for filming, for
176 the digital production of films, and to develop and sustain the
177 workforce and infrastructure for film, digital media, and
178 entertainment production.

179 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.—

180 (a) Program application.—A qualified production company
181 producing a qualified production in this state may submit a
182 program application to the Office of Film and Entertainment for
183 the purpose of determining qualification for an award of tax
184 credits authorized by this section no earlier than 180 days
185 before the first day of principal photography or project start
186 date in this state. The applicant shall provide the Office of
187 Film and Entertainment with information required to determine
188 whether the production is a qualified production and to
189 determine the qualified expenditures and other information
190 necessary for the office to determine eligibility for the tax
191 credit.

192 (b) Required documentation.—The Office of Film and
193 Entertainment shall develop an application form for qualifying
194 an applicant as a qualified production. The form must include,
195 but need not be limited to, production-related information
196 concerning employment of residents in this state, a detailed

197 budget of planned qualified expenditures, and the applicant's
 198 signed affirmation that the information on the form has been
 199 verified and is correct. The Office of Film and Entertainment
 200 and local film commissions shall distribute the form.

201 (c) Application process.—The Office of Film and
 202 Entertainment shall establish a process by which an application
 203 is accepted and reviewed and by which tax credit eligibility and
 204 award amount are determined. The Office of Film and
 205 Entertainment may request assistance from a duly appointed local
 206 film commission in determining compliance with this section.

207 (d) Certification.—The Office of Film and Entertainment
 208 shall review the application within 15 business days after
 209 receipt. Upon its determination that the application contains
 210 all the information required by this subsection and meets the
 211 criteria set out in this section, the Office of Film and
 212 Entertainment shall qualify the applicant and recommend to the
 213 Office of Tourism, Trade, and Economic Development that the
 214 applicant be certified for the maximum tax credit award amount.
 215 Within 5 business days after receipt of the recommendation, the
 216 Office of Tourism, Trade, and Economic Development shall reject
 217 the recommendation or certify the maximum recommended tax credit
 218 award, if any, to the applicant and to the executive director of
 219 the Department of Revenue.

220 (e) Grounds for denial.—The Office of Film and
 221 Entertainment shall deny an application if it determines that
 222 the application is not complete or the production or application
 223 does not meet the requirements of this section.

224 (f) Verification of actual qualified expenditures.—

225 1. The Office of Film and Entertainment shall develop a
 226 process to verify the actual qualified expenditures of a
 227 certified production. The process must require:

228 a. A certified production to submit, in a timely manner
 229 after production ends in this state and after making all of its
 230 qualified expenditures in this state, data substantiating each
 231 qualified expenditure to an independent certified public
 232 accountant licensed in this state;

233 b. Such accountant to conduct a compliance audit, at the
 234 certified production's expense, to substantiate each qualified
 235 expenditure and submit the results as a report, along with the
 236 required substantiating data, to the Office of Film and
 237 Entertainment; and

238 c. The Office of Film and Entertainment to review the
 239 accountant's submittal and report to the Office of Tourism,
 240 Trade, and Economic Development the final verified amount of
 241 actual qualified expenditures made by the certified production.

242 2. The Office of Tourism, Trade, and Economic Development
 243 shall determine and approve the final tax credit award amount to
 244 each certified applicant based on the final verified amount of
 245 actual qualified expenditures and shall notify the executive
 246 director of the Department of Revenue in writing that the
 247 certified production has met the requirements of the incentive
 248 program and of the final amount of the tax credit award. The
 249 final tax credit award amount may not exceed the maximum tax
 250 credit award amount certified under paragraph (d).

251 (g) Promoting Florida.—The Office of Film and
 252 Entertainment shall ensure that, as a condition of receiving a

253 tax credit under this section, marketing materials promoting
 254 this state as a tourist destination or film and entertainment
 255 production destination are included, when appropriate, at no
 256 cost to the state, which must, at a minimum, include placement
 257 of a "Filmed in Florida" or "Produced in Florida" logo in the
 258 end credits. The placement of a "Filmed in Florida" or "Produced
 259 in Florida" logo on all packaging material and hard media is
 260 also required, unless such placement is prohibited by licensing
 261 or other contractual obligations. The size and placement of such
 262 logo shall be commensurate to other logos used. If no logos are
 263 used, the statement "Filmed in Florida using Florida's
 264 Entertainment Industry Financial Incentive," or a similar
 265 statement approved by the Office of Film and Entertainment,
 266 shall be used. The Office of Film and Entertainment shall
 267 provide a logo and supply it for the purposes specified in this
 268 paragraph. A 30-second "Visit Florida" promotional video must
 269 also be included on all optical disc formats of a film, unless
 270 such placement is prohibited by licensing or other contractual
 271 obligations. The 30-second promotional video shall be approved
 272 and provided by the Florida Tourism Industry Marketing
 273 Corporation in consultation with the Commissioner of Film and
 274 Entertainment.

275 (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;
 276 ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;
 277 PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND
 278 ACQUISITIONS.—

279 (a) Priority for tax credit award.—The priority of a
 280 qualified production for tax credit awards must be determined on

281 a first-come, first-served basis within its appropriate queue.
282 Each qualified production must be placed into the appropriate
283 queue and is subject to the requirements of that queue.

284 (b) Tax credit eligibility.—

285 1. General production queue.—Ninety-four percent of tax
286 credits authorized in any state fiscal year must be dedicated to
287 the general production queue. The general production queue
288 consists of all qualified productions other than those eligible
289 for the commercial and music video queue or the independent and
290 emerging media production queue. A qualified production that
291 demonstrates a minimum of \$625,000 in qualified expenditures is
292 eligible for tax credits equal to 20 percent of its actual
293 qualified expenditures, up to a maximum of \$8 million. A
294 qualified production that incurs qualified expenditures during
295 multiple state fiscal years may combine those expenditures to
296 satisfy the \$625,000 minimum threshold.

297 a. An off-season certified production that is a feature
298 film, independent film, or television series or pilot is
299 eligible for an additional 5-percent tax credit on actual
300 qualified expenditures. An off-season certified production that
301 does not complete 75 percent of principal photography due to a
302 disruption caused by a hurricane or tropical storm may not be
303 disqualified from eligibility for the additional 5-percent
304 credit as a result of the disruption.

305 b. A qualified high-impact television series shall be
306 allowed first position in this queue for tax credit awards not
307 yet certified.

308 2. Commercial and music video queue.—Three percent of tax

309 credits authorized in any state fiscal year must be dedicated to
310 the commercial and music video queue. A qualified production
311 company that produces national or regional commercials or music
312 videos may be eligible for a tax credit award if it demonstrates
313 a minimum of \$100,000 in qualified expenditures per national or
314 regional commercial or music video and exceeds a combined
315 threshold of \$500,000 after combining actual qualified
316 expenditures from qualified commercials and music videos during
317 a single state fiscal year. After a qualified production company
318 that produces commercials, music videos, or both reaches the
319 threshold of \$500,000, it is eligible to apply for certification
320 for a tax credit award. The maximum credit award shall be equal
321 to 20 percent of its actual qualified expenditures up to a
322 maximum of \$500,000. If there is a surplus at the end of a
323 fiscal year after the Office of Film and Entertainment certifies
324 and determines the tax credits for all qualified commercial and
325 video projects, such surplus tax credits shall be carried
326 forward to the following fiscal year and be available to any
327 eligible qualified productions under the general production
328 queue.

329 3. Independent and emerging media production queue.—Three
330 percent of tax credits authorized in any state fiscal year must
331 be dedicated to the independent and emerging media production
332 queue. This queue is intended to encourage Florida independent
333 film and emerging media production as described in paragraph
334 (1) (f). Any qualified production, excluding commercials,
335 infomercials, or music videos, that demonstrates at least
336 \$100,000, but not more than \$625,000, in total qualified

337 expenditures is eligible for tax credits equal to 20 percent of
338 its actual qualified expenditures. If a surplus exists at the
339 end of a fiscal year after the Office of Film and Entertainment
340 certifies and determines the tax credits for all qualified
341 independent and emerging media production projects, such surplus
342 tax credits shall be carried forward to the following fiscal
343 year and be available to any eligible qualified productions
344 under the general production queue.

345 4. Family-friendly productions.—A certified theatrical or
346 direct-to-video motion picture production or video game
347 determined by the Commissioner of Film and Entertainment, with
348 the advice of the Florida Film and Entertainment Advisory
349 Council, to be family-friendly, based on the review of the
350 script and the review of the final release version, is eligible
351 for an additional tax credit equal to 5 percent of its actual
352 qualified expenditures. Family-friendly productions are those
353 that have cross-generational appeal; would be considered
354 suitable for viewing by children age 5 or older; do not contain
355 any theme, language, nudity, sex, violence, or other matter that
356 would offend the parent of a 5-year-old child that views the
357 motion picture or game; are appropriate in theme, content, and
358 language for a broad family audience; embody a responsible
359 resolution of issues; and do not exhibit or imply any act of
360 smoking, sex, nudity, gratuitous violence, or vulgar or profane
361 language.

362 (c) Withdrawal of tax credit eligibility.—A qualified or
363 certified production must continue on a reasonable schedule,
364 which includes beginning principal photography or the production

365 project in this state no more than 45 calendar days before or
366 after the principal photography or project start date provided
367 in the production's program application. The Office of Tourism,
368 Trade, and Economic Development shall withdraw the eligibility
369 of a qualified or certified production that does not continue on
370 a reasonable schedule.

371 (d) Election and distribution of tax credits.-

372 1. A certified production company receiving a tax credit
373 award under this section shall, at the time the credit is
374 awarded by the Office of Tourism, Trade, and Economic
375 Development after production is completed and all requirements
376 to receive a credit award have been met, make an irrevocable
377 election to apply the credit against taxes due under chapter
378 220, against state taxes collected or accrued under chapter 212,
379 or against a stated combination of the two taxes. The election
380 is binding upon any distributee, successor, transferee, or
381 purchaser. The Office of Tourism, Trade, and Economic
382 Development shall notify the Department of Revenue of any
383 election made pursuant to this paragraph.

384 2. For the fiscal years beginning July 1, 2010, and ending
385 June 30, 2015, a qualified production company is eligible for
386 tax credits against its sales and use tax liabilities and
387 corporate income tax liabilities as provided in this section.
388 However, tax credits awarded under this section may not be
389 claimed against sales and use tax liabilities or corporate
390 income tax liabilities for any tax period beginning before July
391 1, 2011, regardless of when the credits are applied for or
392 awarded.

393 (e) Tax credit carryforward.—If the certified production
394 company cannot use the entire tax credit in the taxable year or
395 reporting period in which the credit is awarded, any excess
396 amount may be carried forward to a succeeding taxable year or
397 reporting period. A tax credit applied against taxes imposed
398 under chapter 212 may be carried forward for a maximum of 5
399 years after the date the credit is awarded. A tax credit applied
400 against taxes imposed under chapter 220 may be carried forward
401 for a maximum of 5 years after the date the credit is awarded,
402 after which the credit expires and may not be used.

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

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

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

419 (5) TRANSFER OF TAX CREDITS.—

420 (a) Authorization.—Upon application to the Office of Film

421 and Entertainment and approval by the Office of Tourism, Trade,
 422 and Economic Development, a certified production company, or a
 423 partner or member that has received a distribution under
 424 paragraph (4) (g), may elect to transfer, in whole or in part,
 425 any unused credit amount granted under this section. An election
 426 to transfer any unused tax credit amount under chapter 212 or
 427 chapter 220 must be made no later than 5 years after the date
 428 the credit is awarded, after which period the credit expires and
 429 may not be used. The Office of Tourism, Trade, and Economic
 430 Development shall notify the Department of Revenue of the
 431 election and transfer.

432 (b) Number of transfers permitted.—A certified production
 433 company that elects to apply a credit amount against taxes
 434 remitted under chapter 212 is permitted a one-time transfer of
 435 unused credits to one transferee. A certified production company
 436 that elects to apply a credit amount against taxes due under
 437 chapter 220 is permitted a one-time transfer of unused credits
 438 to no more than four transferees, and such transfers must occur
 439 in the same taxable year.

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

444 (d) Rulemaking.—The Department of Revenue may adopt rules
 445 to administer this subsection, as provided in subsection (7).

446 (6) ANNUAL ALLOCATION OF TAX CREDITS.—

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

- 449 1. For fiscal year 2010-2011, \$55 million.
 450 2. For fiscal year 2011-2012, \$50 million.
 451 3. For fiscal years 2012-2013, 2013-2014, and 2014-2015,
 452 \$27 million per fiscal year.

453 (b) Any portion of the maximum amount of tax credits
 454 established per fiscal year in paragraph (a) that is not
 455 certified as of the end of a fiscal year shall be carried
 456 forward and made available for certification during the
 457 following two fiscal years in addition to the amounts available
 458 for certification under paragraph (a) for those fiscal years.

459 (c) Upon approval of the final tax credit award amount
 460 pursuant to subparagraph (3)(f)2., an amount equal to the
 461 difference between the maximum tax credit award amount
 462 previously certified under paragraph (3)(d) and the approved
 463 final tax credit award amount shall immediately be available for
 464 recertification during the current and following fiscal years in
 465 addition to the amounts available for certification under
 466 paragraph (a) for those fiscal years.

467 (d) Notwithstanding paragraph (a), if, during a fiscal
 468 year, the total amount of credits applied for, pursuant to
 469 paragraph (3)(a), exceeds the amount of credits available for
 470 certification in that fiscal year, such excess shall be treated
 471 as having been applied for on the first day of the next fiscal
 472 year in which credits remain available for certification.

473 (7) RULES, POLICIES, AND PROCEDURES.—

474 (a) The Office of Tourism, Trade, and Economic Development
 475 may adopt rules pursuant to ss. 120.536(1) and 120.54 and
 476 develop policies and procedures to implement and administer this

477 section, including, but not limited to, rules specifying
 478 requirements for the application and approval process, records
 479 required for substantiation for tax credits, procedures for
 480 making the election in paragraph (4)(d), the manner and form of
 481 documentation required to claim tax credits awarded or
 482 transferred under this section, and marketing requirements for
 483 tax credit recipients.

484 (b) The Department of Revenue may adopt rules pursuant to
 485 ss. 120.536(1) and 120.54 to administer this section, including
 486 rules governing the examination and audit procedures required to
 487 administer this section and the manner and form of documentation
 488 required to claim tax credits awarded or transferred under this
 489 section.

490 (8) AUDIT AUTHORITY; REVOCATION AND FORFEITURE OF TAX
 491 CREDITS; FRAUDULENT CLAIMS.—

492 (a) Audit authority.—The Department of Revenue may conduct
 493 examinations and audits as provided in s. 213.34 to verify that
 494 tax credits under this section are received, transferred, and
 495 applied according to the requirements of this section. If the
 496 Department of Revenue determines that tax credits are not
 497 received, transferred, or applied as required by this section,
 498 it may, in addition to the remedies provided in this subsection,
 499 pursue recovery of such funds pursuant to the laws and rules
 500 governing the assessment of taxes.

501 (b) Revocation of tax credits.—The Office of Tourism,
 502 Trade, and Economic Development may revoke or modify any written
 503 decision qualifying, certifying, or otherwise granting
 504 eligibility for tax credits under this section if it is

505 discovered that the tax credit applicant submitted any false
 506 statement, representation, or certification in any application,
 507 record, report, plan, or other document filed in an attempt to
 508 receive tax credits under this section. The Office of Tourism,
 509 Trade, and Economic Development shall immediately notify the
 510 Department of Revenue of any revoked or modified orders
 511 affecting previously granted tax credits. Additionally, the
 512 applicant must notify the Department of Revenue of any change in
 513 its tax credit claimed.

514 (c) Forfeiture of tax credits.—A determination by the
 515 Department of Revenue, as a result of an audit pursuant to
 516 paragraph (a) or from information received from the Office of
 517 Film and Entertainment, that an applicant received tax credits
 518 pursuant to this section to which the applicant was not entitled
 519 is grounds for forfeiture of previously claimed and received tax
 520 credits. The applicant is responsible for returning forfeited
 521 tax credits to the Department of Revenue, and such funds shall
 522 be paid into the General Revenue Fund of the state. Tax credits
 523 purchased in good faith are not subject to forfeiture unless the
 524 transferee submitted fraudulent information in the purchase or
 525 failed to meet the requirements in subsection (5).

526 (d) Fraudulent claims.—Any applicant that submits
 527 fraudulent information under this section is liable for
 528 reimbursement of the reasonable costs and fees associated with
 529 the review, processing, investigation, and prosecution of the
 530 fraudulent claim. An applicant that obtains a credit payment
 531 under this section through a claim that is fraudulent is liable
 532 for reimbursement of the credit amount plus a penalty in an

533 amount double the credit amount. The penalty is in addition to
 534 any criminal penalty to which the applicant is liable for the
 535 same acts. The applicant is also liable for costs and fees
 536 incurred by the state in investigating and prosecuting the
 537 fraudulent claim.

538 (9) ANNUAL REPORT.—Each October 1, the Office of Film and
 539 Entertainment shall provide an annual report for the previous
 540 fiscal year to the Governor, the President of the Senate, and
 541 the Speaker of the House of Representatives which outlines the
 542 return on investment and economic benefits to the state.

543 (10) REPEAL.—This section is repealed July 1, 2015, except
 544 that:

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

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

550 Section 2. Paragraph (q) is added to subsection (5) of
 551 section 212.08, Florida Statutes, to read:

552 212.08 Sales, rental, use, consumption, distribution, and
 553 storage tax; specified exemptions.—The sale at retail, the
 554 rental, the use, the consumption, the distribution, and the
 555 storage to be used or consumed in this state of the following
 556 are hereby specifically exempt from the tax imposed by this
 557 chapter.

558 (5) EXEMPTIONS; ACCOUNT OF USE.—

559 (q) Entertainment industry tax credit; authorization;
 560 eligibility for credits.—The credits against sales tax

561 authorized under s. 288.1254 shall be deducted from any sales
 562 and use tax remitted by the dealer to the department by
 563 electronic funds transfer and may only be deducted on a sales
 564 and use tax return initiated through electronic data
 565 interchange. The dealer shall separately state the credit on the
 566 electronic return. The net amount of tax due and payable must be
 567 remitted by electronic funds transfer. If the credit for the
 568 qualified expenditures is larger than the amount owed on the
 569 sales and use tax return that is eligible for the credit, the
 570 unused amount of the credit may be carried forward to a
 571 succeeding reporting period as provided in s. 288.1254(4)(e). A
 572 dealer may only obtain a credit using the method described in
 573 this subparagraph. A dealer is not authorized to obtain a credit
 574 by applying for a refund.

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

577 213.053 Confidentiality and information sharing.—

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

580 (z) Information relative to tax credits taken under s.
 581 288.1254 to the Office of Film and Entertainment and the Office
 582 of Tourism, Trade, and Economic Development.

583
 584 Disclosure of information under this subsection shall be
 585 pursuant to a written agreement between the executive director
 586 and the agency. Such agencies, governmental or nongovernmental,
 587 shall be bound by the same requirements of confidentiality as
 588 the Department of Revenue. Breach of confidentiality is a

589 | misdemeanor of the first degree, punishable as provided by s.
590 | 775.082 or s. 775.083.

591 | Section 4. Subsection (8) of section 220.02, Florida
592 | Statutes, is amended to read:

593 | 220.02 Legislative intent.—

594 | (8) It is the intent of the Legislature that credits
595 | against either the corporate income tax or the franchise tax be
596 | applied in the following order: those enumerated in s. 631.828,
597 | those enumerated in s. 220.191, those enumerated in s. 220.181,
598 | those enumerated in s. 220.183, those enumerated in s. 220.182,
599 | those enumerated in s. 220.1895, those enumerated in s. 221.02,
600 | those enumerated in s. 220.184, those enumerated in s. 220.186,
601 | those enumerated in s. 220.1845, those enumerated in s. 220.19,
602 | those enumerated in s. 220.185, those enumerated in s. 220.187,
603 | those enumerated in s. 220.192, those enumerated in s. 220.193,
604 | ~~and~~ those enumerated in s. 288.9916, and those enumerated in s.
605 | 220.1899.

606 | Section 5. Section 220.1899, Florida Statutes, is created
607 | to read:

608 | 220.1899 Entertainment industry tax credit.—

609 | (1) There shall be a credit allowed against the tax
610 | imposed by this chapter in the amounts awarded by the Office of
611 | Tourism, Trade, and Economic Development under the entertainment
612 | industry financial incentive program in s. 288.1254.

613 | (2) A qualified production company as defined in s.
614 | 288.1254 that is awarded a tax credit under s. 288.1254 may not
615 | claim the credit before July 1, 2011, regardless of when the
616 | credit is awarded.

617 (3) To the extent that the amount of a tax credit exceeds
618 the amount due on a return, the balance of the credit may be
619 carried forward to a succeeding reporting period pursuant to s.
620 288.1254(4) (e) .

621 Section 6. The sums of \$94,250 in recurring funds and
622 \$3,877 in nonrecurring funds are appropriated from the General
623 Revenue Fund to the Office of Tourism, Trade, and Economic
624 Development, and one additional full-time equivalent position
625 and the associated salary rate of \$67,001 is authorized, for the
626 purpose of administering the entertainment industry financial
627 incentive program pursuant to s. 288.1254, Florida Statutes,
628 during the 2010-2011 fiscal year.

629 Section 7. If any provision of this act or the application
630 thereof to any person or circumstance is held invalid, the
631 invalidity shall not affect other provisions or applications of
632 the act which can be given effect without the invalid provision
633 or application, and to this end the provisions of this act are
634 declared severable.

635 Section 8. This act shall take effect July 1, 2010.