

1 A bill to be entitled
2 An act relating to the entertainment industry tax
3 credit program; amending s. 288.1254, F.S.; revising
4 and deleting definitions; requiring additional
5 information in certain applications related to
6 qualified productions; establishing procedures for
7 queuing applications received after a specific period;
8 providing procedures for submitting applications for
9 high-impact production commitments; specifying the
10 period during which applications remain in the queue
11 for tax credits; establishing parameters to be used by
12 the department in certifying tax credits; requiring
13 certified production companies to provide specified
14 workforce data; requiring certified production
15 companies to contribute a specific percentage of
16 awards to certain entities; requiring certain
17 production companies to provide internship
18 opportunities; prohibiting certain production
19 companies from submitting tax credit application under
20 certain circumstances; requiring certain production
21 companies to take specified actions to promote the
22 state; revising provisions related to distributions of
23 tax credits; revising provisions for certification of
24 tax credits in excess of allocated amounts; revising
25 dates for the repeal of certain tax credits; providing
26 an effective date.

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

Section 1. Paragraphs (d), (g), (n), (o), (p), and (q) of subsection (1), paragraphs (b), (c), (d), (e), (f), and (g) of subsection (3), paragraph (b) of subsection (4), paragraphs (d) and (e) of subsection (7), and paragraphs (a) and (c) of subsection (11) of section 288.1254, Florida Statutes, are amended to read:

288.1254 Entertainment industry financial incentive economic development tax credit program.—

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

(d) "High-impact television production series" means:

1. A production series created to run multiple production seasons which has ~~and having~~ an estimated order of at least seven episodes per season and qualified expenditures of at least \$1 million ~~\$625,000~~ per episode; or

2. A telenovela that has qualified expenditures of more than \$4.5 million; a minimum of 45 principal photography days filmed in this state; a production cast, including background actors and crew, of which at least 90 percent are legal residents of the state; and at least 90 percent of the production occurring in this state.

(g) "Production" means a theatrical or direct-to-video motion picture; a made-for-television motion picture; visual effects or digital animation sequences produced in conjunction

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

74 | ~~(n) "Regional population ratio" means the ratio of the~~
75 | ~~population of a region to the population of this state. The~~
76 | ~~regional population ratio applicable to a given fiscal year is~~
77 | ~~the regional population ratio calculated by the Office of Film~~
78 | ~~and Entertainment using the latest official estimates of~~

79 ~~population certified under s. 186.901, available on the first~~
80 ~~day of that fiscal year.~~

81 ~~(o) "Regional tax credit ratio" means a ratio the~~
82 ~~numerator of which is the sum of tax credits awarded to~~
83 ~~productions in a region to date plus the tax credits certified,~~
84 ~~but not yet awarded, to productions currently in that region and~~
85 ~~the denominator of which is the sum of all tax credits awarded~~
86 ~~in the state to date plus all tax credits certified, but not yet~~
87 ~~awarded, to productions currently in the state. The regional tax~~
88 ~~credit ratio applicable to a given year is the regional tax~~
89 ~~credit ratio calculated by the Office of Film and Entertainment~~
90 ~~using credit award and certification information available on~~
91 ~~the first day of that fiscal year.~~

92 ~~(p) "Underutilized region" for a given state fiscal year~~
93 ~~means a region with a regional tax credit ratio applicable to~~
94 ~~that fiscal year that is lower than its regional population~~
95 ~~ratio applicable to that fiscal year. The following regions are~~
96 ~~established for purposes of making this determination:~~

97 ~~1. North Region, consisting of Alachua, Baker, Bay,~~
98 ~~Bradford, Calhoun, Clay, Columbia, Dixie, Duval, Escambia,~~
99 ~~Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson,~~
100 ~~Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau,~~
101 ~~Okaloosa, Putnam, Santa Rosa, St. Johns, Suwannee, Taylor,~~
102 ~~Union, Wakulla, Walton, and Washington Counties.~~

103 ~~2. Central East Region, consisting of Brevard, Flagler,~~
104 ~~Indian River, Lake, Okeechobee, Orange, Osceola, Seminole, St.~~

105 ~~Lucie, and Volusia Counties.~~

106 ~~3. Central West Region, consisting of Citrus, Hernando,~~
 107 ~~Hillsborough, Manatee, Marion, Polk, Pasco, Pinellas, Sarasota,~~
 108 ~~and Sumter Counties.~~

109 ~~4. Southwest Region, consisting of Charlotte, Collier,~~
 110 ~~DeSoto, Glades, Hardee, Hendry, Highlands, and Lee Counties.~~

111 ~~5. Southeast Region, consisting of Broward, Martin, Miami-~~
 112 ~~Dade, Monroe, and Palm Beach Counties.~~

113 (n)(q) "Interactive website" means a website or group of
 114 websites that includes interactive and downloadable content, and
 115 creates 25 new Florida full-time equivalent positions operating
 116 from a principal place of business located within Florida. An
 117 interactive website or group of websites must provide
 118 documentation that those jobs were created to the Office of Film
 119 and Entertainment prior to the award of tax credits. Each
 120 subsequent program application must provide proof that 25
 121 Florida full-time equivalent positions are maintained.

122 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.—

123 (b) Required documentation.—The Office of Film and
 124 Entertainment shall develop an application form for qualifying
 125 an applicant as a qualified production. The form must include,
 126 but need not be limited to, production-related information
 127 concerning employment of residents in this state, a detailed
 128 budget of planned qualified expenditures, aggregate nonqualified
 129 expenditures in this state, proof of financing for the
 130 production, and the applicant's signed affirmation that the

131 information on the form has been verified and is correct. The
132 Office of Film and Entertainment and local film commissions
133 shall distribute the form.

134 (c) Application process.—The Office of Film and
135 Entertainment shall establish a process by which an application
136 is accepted and reviewed and by which tax credit eligibility and
137 award amount are determined. The Office of Film and
138 Entertainment may request assistance from a duly appointed local
139 film commission in determining compliance with this section.

140 1. Applications received after all tax credits for the
141 fiscal year are certified shall be assigned a queue number that
142 is determined by the date and time that the application is
143 received by the Office of Film and Entertainment.

144 2. A certified high-impact television series may submit an
145 initial application for no more than two successive seasons,
146 notwithstanding the fact that the successive seasons have not
147 been ordered. The successive season's qualified expenditure
148 amounts shall be based on the current season's estimated
149 qualified expenditures. Upon the completion of production of
150 each season, a high-impact television series may submit an
151 application for no more than one additional season.

152 3. A production company submitting an application for a
153 high-impact production commitment shall base the qualified
154 expenditure amounts for future fiscal years on the current
155 fiscal year's estimated qualified expenditures. Upon the
156 completion of production in each fiscal year, a production

157 company applying under this subparagraph may submit an
158 application for a subsequent fiscal year.

159 (d) Certification.—

160 1. The Office of Film and Entertainment shall review the
161 application within 15 business days after receipt. Upon its
162 determination that the application contains all the information
163 required by this subsection and meets the criteria set out in
164 this section, the Office of Film and Entertainment shall qualify
165 the applicant and recommend to the department that the applicant
166 be certified for the maximum tax credit award amount. Within 5
167 business days after receipt of the recommendation, the
168 department shall reject the recommendation or certify the
169 maximum recommended tax credit award, if any, to the applicant
170 and to the executive director of the Department of Revenue.

171 2. If the tax credit amounts allocated for the fiscal year
172 have been certified and the application is assigned a queue
173 number under paragraph (c), such application is deemed withdrawn
174 6 months after the date the queue number is assigned, unless the
175 applicant requests in writing to remain in the queue for another
176 3 months. A further extension may be granted at the discretion
177 of the Office of Film and Entertainment.

178 3. In any fiscal year, the department may only certify the
179 amount of tax credits allocated for that fiscal year, except for
180 the following:

181 a. The department may certify a high-impact television
182 production for credits from the next fiscal year if the

183 production is a series that has a renewal order or is a
184 telenovela with an order contract.

185 b. A production company that commits to the production of
186 one or more high-impact television or digital media productions
187 in 3 successive fiscal years shall be certified for tax credits.
188 The successive fiscal years' tax credit awards shall be based on
189 the current season's estimated qualified expenditures.

190 (e) Employment.—

191 1. Upon certification by the department, the production
192 company must provide the department with a single point of
193 contact and information related to the production's need for
194 Florida workforce, goods, and services. The department shall
195 publish this information on its website, including the type of
196 production, the project's anticipated start date, and
197 anticipated principal photography locations. The department may
198 adopt rules to implement this paragraph.

199 2. A certified production company, upon receiving the tax
200 credit award, shall contribute 5 percent of the award to a
201 workforce training program or an institution of higher education
202 in this state that is designated by the department as an
203 approved recipient of workforce development funds under this
204 paragraph.

205 3. A production company that makes a high-impact
206 production commitment shall provide internship opportunities for
207 five Florida residents from an approved recipient of workforce
208 development funds under this paragraph.

209 (f) Grounds for denial.—The Office of Film and
210 Entertainment shall deny an application if it determines that
211 the application is not complete or the production or application
212 does not meet the requirements of this section. Within 90 days
213 after submitting a program application, except with respect to
214 applications in the independent and emerging media queue, a
215 production must provide proof of project financing to the Office
216 of Film and Entertainment, otherwise the project is deemed
217 denied and withdrawn. A project that has been withdrawn may
218 submit a new application upon providing the Office of Film and
219 Entertainment proof of financing.

220 (g)~~(f)~~ Verification of actual qualified expenditures.—

221 1. The Office of Film and Entertainment shall develop a
222 process to verify the actual qualified expenditures of a
223 certified production. The process must require:

224 a. A certified production to submit, in a timely manner
225 after production ends in this state and after making all of its
226 qualified expenditures in this state, data substantiating each
227 qualified expenditure, including documentation on the net
228 expenditure on equipment and other tangible personal property by
229 the qualified production, to an independent certified public
230 accountant licensed in this state;

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

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235 Entertainment; and

236 c. The Office of Film and Entertainment to review the
237 accountant's submittal and report to the department the final
238 verified amount of actual qualified expenditures made by the
239 certified production.

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

249 3. If a production company fails to meet its high-impact
250 production commitment for a particular fiscal year, the
251 production company, as well as the company's affiliates,
252 partners, members, or any other related party are precluded from
253 submitting an application under this program the next 2 fiscal
254 years.

255 (h) ~~(g)~~ Promoting Florida.—The Office of Film and
256 Entertainment shall ensure that, as a condition of receiving a
257 tax credit under this section, marketing materials promoting
258 this state as a tourist destination or film and entertainment
259 production destination are included, when appropriate, at no
260 cost to the state, which must, at a minimum, include placement

261 of a "Filmed in Florida" or "Produced in Florida" logo in the
262 end credits. The placement of a "Filmed in Florida" or "Produced
263 in Florida" logo on all packaging material and hard media is
264 also required, unless such placement is prohibited by licensing
265 or other contractual obligations. The size and placement of such
266 logo shall be commensurate to other logos used. If no logos are
267 used, the statement "Filmed in Florida using Florida's
268 Entertainment Industry Financial Incentive," or a similar
269 statement approved by the Office of Film and Entertainment,
270 shall be used. The Office of Film and Entertainment shall
271 provide a logo and supply it for the purposes specified in this
272 paragraph. A 30-second "Visit Florida" promotional video must
273 also be included on all optical disc formats of a film, unless
274 such placement is prohibited by licensing or other contractual
275 obligations. The 30-second promotional video shall be approved
276 and provided by the Florida Tourism Industry Marketing
277 Corporation in consultation with the Commissioner of Film and
278 Entertainment. A production company that is certified under a
279 high-end production commitment shall include, at no additional
280 cost to the state, a link to the Florida Tourism Industry
281 Marketing Corporation website or another website designated by
282 the department on the company's website or the website of the
283 high-impact production or productions for the entire term of the
284 commitment. If the company is unable to comply with this
285 requirement, it must provide a promotional opportunity of equal
286 or greater value as approved by and at the sole discretion of

287 | the department.

288 | (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;
 289 | ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;
 290 | PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND
 291 | ACQUISITIONS.—

292 | (b) Tax credit eligibility.—

293 | 1. General production queue.—Ninety-four percent of tax
 294 | credits authorized pursuant to subsection (6) in any state
 295 | fiscal year must be dedicated to the general production queue.
 296 | The general production queue consists of all qualified
 297 | productions other than those eligible for the commercial and
 298 | music video queue or the independent and emerging media
 299 | production queue. A qualified production that demonstrates a
 300 | minimum of \$625,000 in qualified expenditures is eligible for
 301 | tax credits equal to 20 percent of its actual qualified
 302 | expenditures, up to a maximum of \$8 million. A qualified
 303 | production that incurs qualified expenditures during multiple
 304 | state fiscal years may combine those expenditures to satisfy the
 305 | \$625,000 minimum threshold.

306 | a. An off-season certified production that is a feature
 307 | film, independent film, or television series or pilot is
 308 | eligible for an additional 5 percent tax credit on actual
 309 | qualified expenditures. An off-season certified production that
 310 | does not complete 75 percent of principal photography due to a
 311 | disruption caused by a hurricane or tropical storm may not be
 312 | disqualified from eligibility for the additional 5 percent

313 credit as a result of the disruption.

314 ~~b. If more than 45 percent of the sum of total tax credits~~
315 ~~initially certified and awarded after April 1, 2012, total tax~~
316 ~~credits initially certified after April 1, 2012, but not yet~~
317 ~~awarded, and total tax credits available for certification after~~
318 ~~April 1, 2012, but not yet certified has been awarded for high-~~
319 ~~impact television series, then no high-impact television series~~
320 ~~is eligible for tax credits under this subparagraph. Tax credits~~
321 ~~initially certified for a high-impact television series after~~
322 ~~April 1, 2012, may not be awarded if the award will cause the~~
323 ~~percentage threshold in this sub-subparagraph to be exceeded.~~
324 ~~This sub-subparagraph does not prohibit the award of tax credits~~
325 ~~certified before April 1, 2012, for high-impact television~~
326 ~~series.~~

327 b.e. ~~Subject to sub-subparagraph b.,~~ First priority in the
328 queue for tax credit awards not yet certified shall be given to
329 high-impact television series and high-impact digital media
330 projects. For the purposes of determining priority between a
331 high-impact television series and a high-impact digital media
332 project, the first position must go to the first application
333 received. Thereafter, priority shall be determined by
334 alternating between a high-impact television series and a high-
335 impact digital media project on a first-come, first-served
336 basis. However, if the Office of Film and Entertainment receives
337 an application for a high-impact television series or high-
338 impact digital media project that would be certified but for the

339 alternating priority, the office may certify the project as
340 being in the priority position if an application that would
341 normally be the priority position is not received within 5
342 business days.

343 ~~d. A qualified production for which at least 67 percent of~~
344 ~~its principal photography days occur within a region designated~~
345 ~~as an underutilized region at the time that the production is~~
346 ~~certified is eligible for an additional 5 percent tax credit.~~

347 c.e. A qualified production may receive an additional 15-
348 percent tax credit on qualified expenditures on wages, salaries,
349 or other compensation paid to the following individuals employed
350 by the qualified production: that employs students enrolled
351 full-time in a film and entertainment-related or digital media-
352 related course of study at an institution of higher education in
353 this state, individuals participating in the road-to-
354 independence program under s. 409.1451, individuals with
355 developmental disabilities as defined in s. 393.063 who reside
356 in the state, and veterans residing in the state, and
357 ~~individuals hired is eligible for an additional 15 percent tax~~
358 ~~credit on qualified expenditures that are wages, salaries, or~~
359 ~~other compensation paid to such students.~~ The additional 15
360 percent tax credit is also applicable to persons hired within 12
361 months after graduating from a film and entertainment-related or
362 digital media-related course of study at an institution of
363 higher education in this state. The additional 15 percent tax
364 credit applies to qualified expenditures that are wages,

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365 salaries, or other compensation paid to such recent graduates
366 for 1 year after the date of hiring.

367 d.(I)f. A qualified production for which 50 percent or
368 more of its principal photography occurs at a qualified
369 production facility, or a qualified digital media project or the
370 digital animation component of a qualified production for which
371 50 percent or more of the project's or component's qualified
372 expenditures are related to a qualified digital media production
373 facility, is eligible for an additional 5 percent tax credit on
374 actual qualified expenditures for production activity at that
375 facility.

376 (II) A qualified production company that makes a Florida
377 capital investment of more than \$10 million may elect to be
378 treated as a production company making a high-impact production
379 commitment in the first year such capital costs are incurred,
380 notwithstanding the budgets of the projects applied for, so long
381 as the production otherwise meets the requirements of this
382 section. The capital improvements must be permanent and must
383 remain in this state as part of a qualified production facility
384 after the election period ends.

385 e.g. A qualified production is not eligible for tax
386 credits provided under this paragraph totaling more than 25 ~~30~~
387 percent of its actual qualified expenses.

388 2. Commercial and music video queue.—Three percent of tax
389 credits authorized pursuant to subsection (6) in any state
390 fiscal year must be dedicated to the commercial and music video

391 queue. A qualified production company that produces national or
392 regional commercials or music videos may be eligible for a tax
393 credit award if it demonstrates a minimum of \$100,000 in
394 qualified expenditures per national or regional commercial or
395 music video and exceeds a combined threshold of \$500,000 after
396 combining actual qualified expenditures from qualified
397 commercials and music videos during a single state fiscal year.
398 After a qualified production company that produces commercials,
399 music videos, or both reaches the threshold of \$500,000, it is
400 eligible to apply for certification for a tax credit award. The
401 maximum credit award shall be equal to 20 percent of its actual
402 qualified expenditures up to a maximum of \$500,000. If there is
403 a surplus at the end of a fiscal year after the Office of Film
404 and Entertainment certifies and determines the tax credits for
405 all qualified commercial and video projects, such surplus tax
406 credits shall be carried forward to the following fiscal year
407 and are available to any eligible qualified productions under
408 the general production queue.

409 3. Independent and emerging media production queue.—Three
410 percent of tax credits authorized pursuant to subsection (6) in
411 any state fiscal year must be dedicated to the independent and
412 emerging media production queue. This queue is intended to
413 encourage independent film and emerging media production in this
414 state. Any qualified production, excluding commercials,
415 infomercials, or music videos, which demonstrates at least
416 \$100,000, but not more than \$625,000, in total qualified

417 expenditures is eligible for tax credits equal to 20 percent of
418 its actual qualified expenditures. If a surplus exists at the
419 end of a fiscal year after the Office of Film and Entertainment
420 certifies and determines the tax credits for all qualified
421 independent and emerging media production projects, such surplus
422 tax credits shall be carried forward to the following fiscal
423 year and are available to any eligible qualified productions
424 under the general production queue.

425 4. Family-friendly productions.—A certified theatrical or
426 direct-to-video motion picture production or video game
427 determined by the Commissioner of Film and Entertainment, with
428 the advice of the Florida Film and Entertainment Advisory
429 Council, to be family-friendly, based on review of the script
430 and review of the final release version, is eligible for an
431 additional tax credit equal to 5 percent of its actual qualified
432 expenditures. Family-friendly productions are those that have
433 cross-generational appeal; would be considered suitable for
434 viewing by children age 5 or older; are appropriate in theme,
435 content, and language for a broad family audience; embody a
436 responsible resolution of issues; and do not exhibit or imply
437 any act of smoking, sex, nudity, or vulgar or profane language.

438 (7) ANNUAL ALLOCATION OF TAX CREDITS.—

439 (d) Notwithstanding any limitations in paragraph (a), the
440 department shall certify credits in excess of the amounts
441 allocated in paragraph (c) only to production companies that
442 have made a high-impact production commitment. The credits

443 authorized under this paragraph to companies making high-impact
444 production commitments may be carried forward under paragraph
445 (2) (d) or transferred to a third party as authorized under
446 subsection (5) but may only apply to taxes due under chapter 220
447 or against sales taxes collected or accrued under chapter 212 by
448 the production company or its affiliates, partners, or members.
449 ~~If, during a fiscal year, the total amount of credits applied~~
450 ~~for, pursuant to paragraph (3) (a), exceeds the amount of credits~~
451 ~~available for certification in that fiscal year, such excess~~
452 ~~shall be treated as having been applied for on the first day of~~
453 ~~the next fiscal year in which credits remain available for~~
454 ~~certification.~~

455 (e) Tax credits allocated for certification on or after
456 July 1, 2015, may not be certified before the first day of the
457 fiscal year in which the amounts are authorized under paragraph
458 (a), except as provided in subparagraph (3) (d) 3.

459 (11) REPEAL.—This section is repealed July 1, 2016, except
460 that:

461 (a) Tax credits certified under paragraph (3) (d) before
462 July 1, 2021 ~~2016~~, may be awarded under paragraph (3) (f) on or
463 after July 1, 2021 ~~2016~~, if the other requirements of this
464 section are met.

465 (c) Subsections (5), (8), and (9) shall remain in effect
466 until July 1, 2026 ~~2021~~.

467 Section 2. This act shall take effect July 1, 2015.