

House Bill No. 1149

An act relating to economic development; amending s. 288.125, F.S.; expanding applicability of the definition of the term “entertainment industry”; creating s. 288.1254, F.S.; creating a program under which certain persons producing, or providing services for the production of, filmed entertainment are eligible for state financial incentives for activities in or relocated to this state; prescribing powers and duties of the Office of Tourism, Trade, and Economic Development and the Office of Film and Entertainment with respect to the program; defining terms; providing an application procedure and approval process; prescribing limits on reimbursement; requiring documentation for requested reimbursement; providing for policies and procedures; providing penalties for fraudulent claims for reimbursement; requiring a report; providing that funding is subject to appropriation; providing an effective date.

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

Section 1. Section 288.125, Florida Statutes, is amended to read:

288.125 Definition of “entertainment industry”.—For the purposes of ~~ss. 288.1251-288.1258~~ ss. 288.1251-288.1253, the term “entertainment industry” means those persons or entities engaged in the operation of motion picture or television studios or recording studios; those persons or entities engaged in the preproduction, production, or postproduction of motion pictures, made-for-TV motion pictures, television series, commercial advertising, music videos, or sound recordings; and those persons or entities providing products or services directly related to the preproduction, production, or postproduction of motion pictures, made-for-TV motion pictures, television series, commercial advertising, music videos, or sound recordings, including, but not limited to, the broadcast industry.

Section 2. Section 288.1254, Florida Statutes, is created to read:

288.1254 Entertainment industry financial incentive program; creation; purpose; definitions; application procedure; approval process; reimbursement eligibility; submission of required documentation; recommendations for payment; policies and procedures; fraudulent claims.—

(1) CREATION AND PURPOSE OF PROGRAM.—Subject to specific appropriation, there is created within the Office of Film and Entertainment an entertainment industry financial incentive program. The purpose of this program is to encourage the use of this state as a site for filming, and for providing production services for, motion pictures, made-for-television movies, commercials, music videos, industrial and educational films, and television programs by the entertainment industry.

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

(a) “Filmed entertainment” means a motion picture, teleproduction, commercial, music video, or digital-media-effects production to be sold or displayed in an electronic medium.

(b) “Production costs” means the total cost of producing filmed entertainment.

(c) “Qualified expenditures” means goods purchased or leased or services purchased, leased, or employed from a resident of this state or a vendor or supplier who is located and doing business in this state.

(d) “Qualified production” means filmed entertainment that makes expenditures in this state for the total or partial production of a motion picture, made-for-television movie with a running time of 90 minutes or more, commercial, music video, industrial and educational film, television series pilot, or television episode. Productions that are deemed by the Office of Film and Entertainment to contain obscene content, as defined by the United States Supreme Court, shall not be considered qualified productions.

(e) “Qualified relocation project” means a corporation, limited liability company, partnership, corporate headquarters, or other private entity that is domiciled in another state or country and relocates its operations to this state, is organized under the laws of this or any other state or country, and includes as one of its primary purposes digital-media-effects or motion picture and television production, or postproduction.

(3) APPLICATION PROCEDURE; APPROVAL PROCESS.—

(a) Any company engaged in this state in producing filmed entertainment may submit an application to the Office of Film and Entertainment for the purpose of determining qualification for receipt of reimbursement provided in this section. The office must be provided information required to determine if the production is a qualified production and to determine the qualified expenditures, production costs, and other information necessary for the office to determine both eligibility for and level of reimbursement.

(b) A digital-media-effects company in the state which furnishes digital material to a qualified production that is certified by the Office of Film and Entertainment may submit an application to the Office of Film and Entertainment for the purpose of determining qualification for receipt of reimbursement authorized by this section. The office must be provided information required to determine if the company is qualified and to determine the amount of reimbursement.

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

(d)1. The Office of Film and Entertainment shall establish a process by which an application is accepted and reviewed and reimbursement eligibility and reimbursement amount are determined. The Office of Film and

Entertainment may request assistance from a duly appointed local film commission in determining qualifications for reimbursement and compliance.

2. Upon determination that all criteria are met for qualification for reimbursement, the office shall notify the applicant of such approval. The office shall also notify the Office of Tourism, Trade, and Economic Development of the applicant approval and amount of reimbursement required. The Office of Tourism, Trade, and Economic Development shall make final determination for actual reimbursement.

3. The Office of Film and Entertainment shall deny an application if it determines that:

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

b. The reimbursement sought does not meet the requirements of this section for such reimbursement.

(e) The Office of Film and Entertainment shall develop a standardized application form for use in approving a qualified production, a qualified relocation project, or a company qualifying under paragraph (b). The application form must include, but is not limited to, production-related information on employment, proposed total production budgets, planned expenditures in this state which are intended for use exclusively as an integral part of preproduction, production, or postproduction activities engaged in primarily in this state, and a signed affirmation from the Office of Film and Entertainment that the information on the application form has been verified and is correct. The application form shall be distributed to applicants by the Office of Film and Entertainment or local film commissions.

(f) The Office of Film and Entertainment must complete its review of each application within 5 days after receipt of the completed application, including all required information, and it must notify the applicant of its determination within 10 business days after receipt of the completed application and required information.

(4) REIMBURSEMENT ELIGIBILITY; SUBMISSION OF REQUIRED DOCUMENTATION; RECOMMENDATIONS FOR PAYMENT.—

(a) A qualified production that is certified by the Office of Film and Entertainment is eligible for the following financial incentives from the state:

1. A reimbursement of up to 15 percent of its qualifying expenditures in this state on that motion picture, made-for-television movie with a running time of 90 minutes or more, commercial, music video, industrial film, educational film, television series pilot, or television episode that demonstrates a minimum of \$850,000 in total qualified expenditures. However, the maximum reimbursement that may be made with respect to a motion picture is \$2 million, the maximum reimbursement that may be made with respect to a made-for-television movie or television series pilot with a running time of

90 minutes or more is \$450,000, the maximum reimbursement that may be made with respect to any single television series pilot or television episode is \$150,000, the maximum reimbursement that may be made with respect to a music video or commercial is \$25,000, and the maximum reimbursement that may be made with respect to an industrial film or an educational film is \$15,000. All noted reimbursements are subject to appropriation. Payments under this section in a fiscal year shall be made on a first-come, first-served basis until the appropriation for that fiscal year is exhausted. Subject to subsequent appropriations, the eligibility of qualified productions shall carry over from year to year. The Office of Film and Entertainment shall develop a procedure to ensure that qualified productions continue on a reasonable schedule until completion. If a qualified production is not continued according to a reasonable schedule, the office shall withdraw its eligibility and reallocate the funds to other qualified productions.

2. Qualified expenditures for which reimbursement shall be made include salaries and employment benefits paid for services rendered in this state; rents for real and personal property used in the production; payments for preproduction, production, postproduction, and digital-media-effects services rendered in this state; and cost of set construction. Reimbursement may not be authorized for salaries of the two highest-paid actors. Salaries of other actors are reimbursable.

(b) A digital-media-effects company in the state which furnishes digital material to a qualified production that is certified by the Office of Film and Entertainment may be eligible for a payment in an amount not to exceed 5 percent of its annual gross revenues on qualified expenditures listed in subparagraph(a)2. before taxes or \$100,000, whichever is less. A company applying for payment must submit documentation annually as required by the Office of Film and Entertainment for determination of eligibility of claimed billing and determination of the amount of payment for which the company is eligible.

(c) A qualified relocation project that is certified by the Office of Film and Entertainment is eligible for a one-time incentive payment in an amount equal to 5 percent of its annual gross revenues before taxes for the first 12 months of conducting business in its Florida domicile or \$200,000, whichever is less. A company applying for payment must submit documentation as required by the Office of Film and Entertainment for determination of eligibility of claimed billing and determination of the amount of payment for which the company is eligible.

(d) A qualified production, a digital-media-effects company, or a qualified relocation project applying for a payment under this section must submit documentation for claimed qualified expenditures to the Office of Film and Entertainment.

(e) The Office of Film and Entertainment shall notify the Office of Tourism, Trade, and Economic Development whether an applicant meets the criteria for reimbursement and shall recommend the reimbursement amount. The Office of Tourism, Trade, and Economic Development shall make the final determination for actual reimbursement.

(5) POLICIES AND PROCEDURES.—The Office of Tourism, Trade, and Economic Development shall adopt policies and procedures to implement this section, including, but not limited to, requirements for the application and approval process, records required for submission for substantiation for reimbursement, and determination of and qualification for reimbursement.

(6) FRAUDULENT CLAIMS.—An eligible entity or company that obtains a payment under this section through a claim that it knows is fraudulent is liable for reimbursement of the amount paid plus a penalty in an amount double the payment and reimbursement of reasonable costs, which penalty is in addition to any criminal penalty to which the entity or company is liable for the same acts. The entity or company is also liable for costs and fees incurred by the state in investigating and prosecuting the fraudulent claim.

(7) ANNUAL REPORT.—The Office of Film and Entertainment shall provide an annual report, due January 1, to the Governor, the President of the Senate, and the Speaker of the House of Representatives outlining the return on investment to the state on funds expended pursuant to this section.

Section 3. Annual funding for the entertainment industry financial incentive program is subject to legislative appropriation.

Section 4. This act shall take effect July 1, 2003.

Approved by the Governor June 2, 2003.

Filed in Office Secretary of State June 2, 2003.