

House Bill No. 1129

An act relating to economic development; amending s. 288.125, F.S.; changing the term “television series” to “television programming” for purposes of the definition of the term “entertainment industry” in provisions establishing the Office of Film and Entertainment within the Office of Tourism, Trade, and Economic Development; amending s. 288.1254, F.S.; revising 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; revising definitions; revising application procedures and requirements; revising application approval provisions; revising reimbursement eligibility criteria and requirements; revising limits on reimbursement; revising the due date for the annual report to be submitted to the Governor and the Legislature; 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, 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-television movies ~~made-for-TV motion pictures~~, television programming 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-television movies ~~made-for-TV motion pictures~~, television programming series, commercial advertising, music videos, or sound recordings, including, but not limited to, the broadcast industry.

Section 2. Subsections (1), (2), (3), (4), and (7) of section 288.1254, Florida Statutes, are amended 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 filmed entertainment, ~~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 theatrical or direct-to-video motion picture, a made-for-television motion picture teleproduction, a commercial, a music video, an industrial or educational film, a promotional video or film, a documentary film, a television pilot, a presentation for a television pilot, a television series, including, but not limited to, a drama, a reality, a comedy, a soap opera, a telenovella, a game show, and a miniseries production, or a digital-media-effects production by the entertainment industry to be sold or displayed in an electronic medium. As used in this paragraph, the term “motion picture” means a motion picture made on or by film, tape, or otherwise and produced by means of a motion picture camera, electronic camera or device, tape device, any combination of the foregoing, or any other means, method, or device now used or which may hereafter be adopted. As used in this paragraph, the term “digital-media-effects” means visual elements created through the modification of already existing or newly created visual elements for film, video, or animated media through the use of digital 2D/3D animation or painting, motion capture, or compositing technologies. For purposes of this section, the term “filmed entertainment” does not include the electronic gaming industry or sporting events.

(b) “Production costs” means the costs of real, tangible, and intangible property used and services performed in the production, including preproduction and postproduction, of qualified filmed entertainment. Production costs generally include, but are not limited to:

1. Wages, salaries, or other compensation for technical and production crews, directors, producers, and performers who are residents of this state.

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

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

4. Expenditures for meals, travel, accommodations, and goods used in producing filmed entertainment that is located and doing business in this state total cost of producing filmed entertainment.

(c) “Qualified expenditures” means production costs for 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, but excluding wages, salaries, or other compensation paid to the two highest-paid employees.

(d) “Qualified production” means filmed entertainment that makes expenditures in this state for the total or partial production of filmed entertainment 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, are shall not be considered qualified productions. Also, a production is not a qualified production if it

is determined that the first day of principal photography in this state occurred on or before the date of submitting its application to the Office of Film and Entertainment or prior to certification by the Office of Tourism, Trade, and Economic Development.

(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 ~~filmed entertainment 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. 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 (a), paragraph (b), or paragraph (c). The application form must include, but need not be 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 post-production activities engaged 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.

3. 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.

4.2. Upon determination that all criteria are met for qualification for reimbursement, the Office of Film and Entertainment 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.

5.3. 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 qualified certified by the Office of Film and Entertainment and is certified by the Office of Tourism, Trade, and Economic Development 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 a filmed entertainment program 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 for the entire run of the project, versus the budget on a single episode, within the fiscal year from July 1 to June 30. However, the maximum reimbursement that may be made with respect to any filmed entertainment program 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 under this section are subject to appropriation. Payments under this section in a fiscal year shall be made to qualified productions according to a production's principal photography start date, for those qualified productions having entered into the first queue as cited in subparagraph 1. or the second queue cited in subparagraph 2. within the first 2 weeks after the queue's opening. All other qualified productions entering into either queue after the initial 2-week openings shall be on a first-come, first-served basis until the appropriation for that fiscal year is exhausted. On February 1 of each year, the remaining funds within both queues shall be combined into a single queue and distributed based on a project's principal photography start date. Subject to subsequent appropriations, The eligibility of qualified productions may ~~not shall~~ carry over from year to year but such productions may reapply for eligibility under the guidelines established for doing so. 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 the next other qualified productions already in the queue that have yet to receive their full maximum or 15-percent financial reimbursement, if they have not started principal photography by the time the funds become available.

1. Theatrical or direct-to-video motion pictures, made-for-television movies, commercials, music videos, industrial and educational films, promotional videos or films, documentary films, television specials, and digital-media-effects productions by the entertainment industry to be sold or displayed in an electronic medium shall have their own separate queue established, and such queue shall have dedicated to it 60 percent of all of the state incentive money.

2. Television pilots, presentations for television pilots, or television series, including, but not limited to, drama, reality, comedy, soap opera, telenovella, game show, or miniseries productions, by the entertainment industry to be sold or displayed in an electronic medium shall have their own separate queue established, and such queue shall have dedicated to it 40 percent of all of the state incentive money. ~~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 filmed entertainment ~~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 as defined listed in paragraph (2)(c) 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.

(7) ANNUAL REPORT.—The Office of Film and Entertainment shall provide an annual report for the previous fiscal year, ~~due October 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. This act shall take effect July 1, 2005.

Approved by the Governor June 14, 2005.

Filed in Office Secretary of State June 14, 2005.