

SUBSTITUTE FOR
HOUSE BILL NO. 5841

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
(MCL 208.1101 to 208.1601) by adding section 455.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 455. (1) THE MICHIGAN FILM OFFICE, WITH THE CONCURRENCE
2 OF THE STATE TREASURER, MAY ENTER INTO AN AGREEMENT WITH AN
3 ELIGIBLE PRODUCTION COMPANY PROVIDING THE COMPANY WITH A CREDIT
4 AGAINST THE TAX IMPOSED BY THIS ACT OR AGAINST TAXES WITHHELD UNDER
5 CHAPTER 7 OF THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.351
6 TO 206.367, AS PROVIDED UNDER THIS SECTION AND SECTION 367 OF THE
7 INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.367. TO QUALIFY FOR
8 THE CREDIT UNDER THIS SECTION, A COMPANY SHALL MEET ALL OF THE
9 FOLLOWING REQUIREMENTS:

10 (A) SPEND AT LEAST \$50,000.00 IN THIS STATE FOR THE

1 DEVELOPMENT, PREPRODUCTION, PRODUCTION, OR POSTPRODUCTION COSTS OF
2 A STATE CERTIFIED QUALIFIED PRODUCTION.

3 (B) ENTER INTO AN AGREEMENT AS PROVIDED IN THIS SECTION.

4 (C) RECEIVE A POSTPRODUCTION CERTIFICATE OF COMPLETION FROM
5 THE OFFICE UNDER SUBSECTION (5).

6 (D) SUBMIT THE POSTPRODUCTION CERTIFICATE OF COMPLETION ISSUED
7 BY THE OFFICE UNDER SUBSECTION (5) TO THE DEPARTMENT UNDER
8 SUBSECTION (7).

9 (E) SHALL NOT BE DELINQUENT IN A TAX OR OTHER OBLIGATION OWED
10 TO THIS STATE OR BE OWNED OR UNDER COMMON CONTROL OF AN ENTITY THAT
11 IS DELINQUENT IN A TAX OR OTHER OBLIGATION OWED TO THIS STATE.

12 (2) FOR DIRECT PRODUCTION EXPENDITURES OR QUALIFIED PERSONNEL
13 EXPENDITURES MADE AFTER FEBRUARY 29, 2008, AN AGREEMENT UNDER THIS
14 SECTION MAY PROVIDE FOR AN ELIGIBLE PRODUCTION COMPANY TO CLAIM A
15 TAX CREDIT EQUAL TO 42% OF DIRECT PRODUCTION EXPENDITURES FOR A
16 STATE CERTIFIED QUALIFIED PRODUCTION IN A CORE COMMUNITY, 40% OF
17 DIRECT PRODUCTION EXPENDITURES FOR A STATE CERTIFIED QUALIFIED
18 PRODUCTION IN PART OF THIS STATE OTHER THAN A CORE COMMUNITY, AND
19 30% FOR QUALIFIED PERSONNEL EXPENDITURES. A TAXPAYER SHALL NOT
20 CLAIM A CREDIT UNDER THIS SECTION FOR ANY OF THE FOLLOWING:

21 (A) A DIRECT EXPENDITURE, OR QUALIFIED PERSONNEL EXPENDITURE,
22 FOR WHICH THE COMPANY CLAIMS A CREDIT UNDER SECTION 459.

23 (B) A DIRECT EXPENDITURE, OR QUALIFIED PERSONNEL EXPENDITURE,
24 FOR WHICH THE COMPANY CLAIMS A CREDIT UNDER SECTION 367 OF THE
25 INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.367.

26 (C) A DIRECT EXPENDITURE, OR QUALIFIED PERSONNEL EXPENDITURE,
27 FOR WHICH ANOTHER TAXPAYER CLAIMS A CREDIT UNDER THIS SECTION, A

1 CREDIT UNDER SECTION 459, OR A CREDIT UNDER SECTION 367 OF THE
2 INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.367.

3 (3) AN ELIGIBLE PRODUCTION COMPANY INTENDING TO PRODUCE A
4 QUALIFIED PRODUCTION IN THIS STATE, OR THAT INITIATED PRODUCTION OF
5 A QUALIFIED PRODUCTION AFTER FEBRUARY 29, 2008 AND BEFORE THE
6 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, MAY
7 SUBMIT AN APPLICATION TO ENTER INTO AN AGREEMENT UNDER THIS SECTION
8 TO THE MICHIGAN FILM OFFICE. EXCEPT FOR A QUALIFIED PRODUCTION FOR
9 WHICH PRODUCTION WAS INITIATED AFTER FEBRUARY 29, 2008 AND BEFORE
10 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION,
11 DIRECT PRODUCTION EXPENDITURES AND QUALIFIED PERSONNEL EXPENDITURES
12 INCURRED PRIOR TO APPROVAL OF AN AGREEMENT UNDER THIS SECTION ARE
13 NOT ELIGIBLE FOR THE CREDIT UNDER THIS SECTION. THE REQUEST SHALL
14 BE SUBMITTED IN A FORM PRESCRIBED BY THE MICHIGAN FILM OFFICE AND
15 SHALL BE ACCOMPANIED BY A \$100.00 APPLICATION FEE AND ALL OF THE
16 INFORMATION AND RECORDS REQUESTED BY THE OFFICE. AN APPLICATION FEE
17 RECEIVED BY THE OFFICE UNDER THIS SUBSECTION SHALL BE DEPOSITED IN
18 THE MICHIGAN FILM PROMOTION FUND. THE OFFICE SHALL NOT PROCESS THE
19 APPLICATION UNTIL IT IS COMPLETE. AS PART OF THE APPLICATION, THE
20 COMPANY SHALL ESTIMATE DIRECT PRODUCTION EXPENDITURES AND QUALIFIED
21 PERSONNEL EXPENDITURES FOR AN IDENTIFIED QUALIFIED PRODUCTION. IF
22 THE OFFICE, WITH THE CONCURRENCE OF THE STATE TREASURER, DETERMINES
23 TO ENTER INTO AN AGREEMENT UNDER THIS SECTION, THE AGREEMENT SHALL
24 PROVIDE FOR ALL OF THE FOLLOWING:

25 (A) A REQUIREMENT THAT THE ELIGIBLE PRODUCTION COMPANY
26 COMMENCE WORK IN THIS STATE ON THE IDENTIFIED QUALIFIED PRODUCTION
27 WITHIN 90 DAYS OF THE DATE OF THE AGREEMENT OR ELSE THE AGREEMENT

1 SHALL EXPIRE. HOWEVER, UPON REQUEST SUBMITTED BY THE COMPANY BASED
2 ON GOOD CAUSE, THE OFFICE MAY EXTEND THE PERIOD FOR COMMENCEMENT OF
3 WORK IN THIS STATE FOR UP TO AN ADDITIONAL 90 DAYS.

4 (B) A STATEMENT IDENTIFYING THE COMPANY AND THE QUALIFIED
5 PRODUCTION THAT THE COMPANY INTENDS TO PRODUCE IN WHOLE OR IN PART
6 IN THIS STATE.

7 (C) A UNIQUE NUMBER ASSIGNED TO THE QUALIFIED PRODUCTION BY
8 THE OFFICE.

9 (D) A REQUIREMENT THAT THE QUALIFIED PRODUCTION NOT DEPICT
10 OBSCENE MATTER OR AN OBSCENE PERFORMANCE.

11 (E) IF THE QUALIFIED PRODUCTION IS A LONG-FORM NARRATIVE FILM
12 PRODUCTION, A REQUIREMENT THAT THE QUALIFIED PRODUCTION INCLUDE AN
13 ACKNOWLEDGEMENT THAT THE QUALIFIED PRODUCTION WAS FILMED IN THIS
14 STATE.

15 (F) A REQUIREMENT THAT THE COMPANY PROVIDE THE OFFICE WITH THE
16 INFORMATION AND INDEPENDENT CERTIFICATION THE OFFICE AND THE
17 DEPARTMENT DEEM NECESSARY TO VERIFY DIRECT PRODUCTION EXPENDITURES,
18 QUALIFIED PERSONNEL EXPENDITURES, AND ELIGIBILITY FOR THE CREDIT
19 UNDER THIS SECTION.

20 (G) IF DETERMINED TO BE NECESSARY BY THE OFFICE AND THE STATE
21 TREASURER, A PROVISION FOR ADDRESSING EXPENDITURES IN EXCESS OF
22 THOSE IDENTIFIED IN THE AGREEMENT.

23 (4) IN DETERMINING WHETHER TO ENTER INTO AN AGREEMENT UNDER
24 THIS SECTION, THE MICHIGAN FILM OFFICE AND THE STATE TREASURER
25 SHALL CONSIDER ALL OF THE FOLLOWING:

26 (A) THE POTENTIAL THAT IN THE ABSENCE OF THE CREDIT THE
27 QUALIFIED PRODUCTION WILL BE PRODUCED IN A LOCATION OTHER THAN THIS

1 STATE.

2 (B) THE EXTENT TO WHICH THE QUALIFIED PRODUCTION MAY HAVE THE
3 EFFECT OF PROMOTING THIS STATE AS A TOURIST DESTINATION.

4 (C) THE EXTENT TO WHICH THE QUALIFIED PRODUCTION MAY HAVE THE
5 EFFECT OF PROMOTING ECONOMIC DEVELOPMENT OR JOB CREATION IN THIS
6 STATE.

7 (D) THE EXTENT TO WHICH THE CREDIT WILL ATTRACT PRIVATE
8 INVESTMENT FOR THE PRODUCTION OF QUALIFIED PRODUCTIONS IN THIS
9 STATE.

10 (E) THE RECORD OF THE ELIGIBLE PRODUCTION COMPANY IN
11 COMPLETING COMMITMENTS TO ENGAGE IN A QUALIFIED PRODUCTION.

12 (5) IF THE MICHIGAN FILM OFFICE DETERMINES THAT AN ELIGIBLE
13 PRODUCTION COMPANY HAS COMPLIED WITH THE TERMS OF AN AGREEMENT
14 ENTERED INTO UNDER THIS SECTION, THE OFFICE SHALL ISSUE A
15 POSTPRODUCTION CERTIFICATE TO THE COMPANY. THE COMPANY SHALL SUBMIT
16 A REQUEST TO THE OFFICE FOR A POSTPRODUCTION CERTIFICATE ON A FORM
17 PRESCRIBED BY THE OFFICE, ALONG WITH ANY INFORMATION OR INDEPENDENT
18 CERTIFICATION THE OFFICE OR THE DEPARTMENT DEEMS NECESSARY. THE
19 OFFICE SHALL PROCESS EACH REQUEST WITHIN 60 DAYS AFTER THE REQUEST
20 IS COMPLETE. HOWEVER, THE OFFICE MAY REQUEST ADDITIONAL INFORMATION
21 OR INDEPENDENT CERTIFICATION BEFORE ISSUING A POSTPRODUCTION
22 CERTIFICATE OF COMPLETION AND NEED NOT ISSUE THE POSTPRODUCTION
23 CERTIFICATE UNTIL SATISFIED THAT DIRECT PRODUCTION EXPENDITURES,
24 QUALIFIED PERSONNEL EXPENDITURES, AND ELIGIBILITY ARE ADEQUATELY
25 ESTABLISHED. THE ADDITIONAL INFORMATION REQUESTED MAY INCLUDE A
26 REPORT OF DIRECT PRODUCTION EXPENDITURES AND QUALIFIED PERSONNEL
27 EXPENDITURES FOR THE QUALIFIED PRODUCTION AUDITED AND CERTIFIED BY

1 AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT. EACH POSTPRODUCTION
2 CERTIFICATE OF COMPLETION SHALL BE SIGNED BY THE MICHIGAN FILM
3 COMMISSIONER AND SHALL INCLUDE THE FOLLOWING INFORMATION:

4 (A) THE NAME OF THE ELIGIBLE PRODUCTION COMPANY.

5 (B) THE NAME OF THE CERTIFIED PRODUCTION PRODUCED IN WHOLE OR
6 IN PART IN THIS STATE.

7 (C) THE ELIGIBLE PRODUCTION COMPANY'S DIRECT PRODUCTION
8 EXPENDITURES AND QUALIFIED PERSONNEL EXPENDITURES FOR THE QUALIFIED
9 PRODUCTION.

10 (D) THE DATE OF COMPLETION FOR THE QUALIFIED PRODUCTION IN
11 THIS STATE.

12 (E) THE UNIQUE NUMBER ASSIGNED TO THE QUALIFIED PRODUCTION
13 PROJECT BY THE MICHIGAN FILM OFFICE UNDER SUBSECTION (3).

14 (F) THE ELIGIBLE PRODUCTION COMPANY'S FEDERAL EMPLOYER
15 IDENTIFICATION NUMBER OR MICHIGAN TREASURY NUMBER.

16 (G) ANY INDEPENDENT CERTIFICATION REQUIRED BY THE DEPARTMENT
17 OR THE MICHIGAN FILM OFFICE.

18 (6) INFORMATION, RECORDS, OR OTHER DATA RECEIVED, PREPARED,
19 USED, OR RETAINED BY THE MICHIGAN FILM OFFICE UNDER THIS SECTION
20 THAT ARE SUBMITTED BY AN ELIGIBLE PRODUCTION COMPANY AND CONSIDERED
21 BY THE TAXPAYER AND ACKNOWLEDGED BY THE OFFICE AS CONFIDENTIAL
22 SHALL NOT BE SUBJECT TO THE DISCLOSURE REQUIREMENTS OF THE FREEDOM
23 OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246. INFORMATION,
24 RECORDS, OR OTHER DATA SHALL ONLY BE CONSIDERED CONFIDENTIAL TO THE
25 EXTENT THAT THE INFORMATION OR RECORDS DESCRIBE THE COMMERCIAL AND
26 FINANCIAL OPERATIONS OR INTELLECTUAL PROPERTY OF THE COMPANY, THE
27 INFORMATION OR RECORDS HAVE NOT BEEN PUBLICLY DISSEMINATED AT ANY

1 TIME, AND DISCLOSURE OF THE INFORMATION OR RECORDS MAY PUT THE
2 COMPANY AT A COMPETITIVE DISADVANTAGE.

3 (7) AN ELIGIBLE PRODUCTION COMPANY SHALL SUBMIT A
4 POSTPRODUCTION CERTIFICATE OF COMPLETION ISSUED UNDER SUBSECTION
5 (5) TO THE DEPARTMENT. IF THE CREDIT ALLOWED UNDER THIS SECTION
6 EXCEEDS THE TAX LIABILITY OF THE COMPANY FOR THE TAX YEAR OR IF THE
7 COMPANY CLAIMING THE CREDIT DOES NOT HAVE A TAX LIABILITY UNDER
8 THIS ACT FOR THE TAX YEAR, THE DEPARTMENT SHALL REFUND THE EXCESS
9 OR PAY THE AMOUNT OF THE CREDIT TO THE COMPANY. THE CREDIT UNDER
10 THIS SECTION SHALL BE CLAIMED AFTER ALL OTHER CREDITS UNDER THIS
11 ACT.

12 (8) AN ELIGIBLE PRODUCTION COMPANY MAY ASSIGN ALL OR A PORTION
13 OF A CREDIT UNDER THIS SECTION TO ANY ASSIGNEE. AN ASSIGNEE MAY
14 SUBSEQUENTLY ASSIGN A CREDIT OR ANY PORTION OF A CREDIT ASSIGNED
15 UNDER THIS SUBSECTION TO 1 OR MORE ASSIGNEES. A COMPANY MAY CLAIM A
16 PORTION OF A CREDIT AND ASSIGN THE REMAINING CREDIT AMOUNT. A
17 CREDIT ASSIGNMENT UNDER THIS SUBSECTION IS IRREVOCABLE. THE CREDIT
18 ASSIGNMENT UNDER THIS SUBSECTION SHALL BE MADE ON A FORM PRESCRIBED
19 BY THE DEPARTMENT. THE QUALIFIED TAXPAYER SHALL SEND A COPY OF THE
20 COMPLETED ASSIGNMENT FORM TO THE DEPARTMENT IN THE TAX YEAR IN
21 WHICH THE ASSIGNMENT IS MADE AND SHALL ATTACH A COPY OF THE FORM TO
22 THE RETURN ON WHICH THE CREDIT IS CLAIMED.

23 (9) THE AMOUNT OF THE CREDIT UNDER THIS SECTION SHALL BE
24 REDUCED BY A CREDIT APPLICATION AND REDEMPTION FEE EQUAL TO 0.5% OF
25 THE CREDIT CLAIMED, WHICH SHALL BE DEDUCTED FROM THE CREDIT
26 OTHERWISE PAYABLE TO THE TAXPAYER CLAIMING THE CREDIT AND BE
27 DEPOSITED BY THE DEPARTMENT IN THE MICHIGAN FILM PROMOTION FUND.

1 (10) A TAXPAYER THAT WILLFULLY SUBMITS INFORMATION UNDER THIS
2 SECTION THAT THE TAXPAYER KNOWS TO BE FRAUDULENT OR FALSE SHALL, IN
3 ADDITION TO ANY OTHER PENALTIES PROVIDED BY LAW, BE LIABLE FOR A
4 CIVIL PENALTY EQUAL TO THE AMOUNT OF THE TAXPAYER'S CREDIT UNDER
5 THIS SECTION. A PENALTY COLLECTED UNDER THIS SECTION SHALL BE
6 DEPOSITED IN THE MICHIGAN FILM PROMOTION FUND.

7 (11) NOT LATER THAN MARCH 1 OF EACH YEAR AFTER 2008, THE
8 MICHIGAN FILM OFFICE SHALL SUBMIT TO THE GOVERNOR, THE PRESIDENT OF
9 THE MICHIGAN STRATEGIC FUND, THE CHAIRPERSON OF THE SENATE FINANCE
10 COMMITTEE, AND THE HOUSE TAX POLICY COMMITTEE AN ANNUAL REPORT
11 CONCERNING THE OPERATION AND EFFECTIVENESS OF THE CREDIT UNDER THIS
12 SECTION. THE REQUIREMENTS OF SECTION 28(1)(F) OF 1941 PA 122, MCL
13 205.28, DO NOT APPLY TO DISCLOSURE OF TAX INFORMATION REQUIRED BY
14 THIS SUBSECTION. THE REPORT SHALL INCLUDE ALL OF THE FOLLOWING:

15 (A) A BRIEF ASSESSMENT OF THE OVERALL EFFECTIVENESS OF THE
16 CREDIT UNDER THIS SECTION AT ATTRACTING QUALIFIED PRODUCTIONS TO
17 THIS STATE DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR.

18 (B) THE NUMBER OF QUALIFIED PRODUCTIONS FOR WHICH THE ELIGIBLE
19 PRODUCTION COMPANY APPLIED FOR A TAX CREDIT UNDER THIS SECTION
20 DURING THE IMMEDIATELY PRECEDING YEAR, THE NAMES OF THE QUALIFIED
21 PRODUCTIONS PRODUCED IN THIS STATE FOR WHICH CREDITS WERE BEGUN OR
22 COMPLETED IN THE IMMEDIATELY PRECEDING YEAR, AND THE LOCATIONS IN
23 THIS STATE THAT WERE USED IN THE PRODUCTION OF QUALIFIED
24 PRODUCTIONS IN THE IMMEDIATELY PRECEDING CALENDAR YEAR.

25 (C) THE AMOUNT OF MONEY SPENT BY EACH ELIGIBLE PRODUCTION
26 COMPANY IDENTIFIED IN SUBDIVISION (B) TO PRODUCE EACH QUALIFIED
27 PRODUCTION IN THIS STATE AND A BREAKDOWN OF ALL PRODUCTION SPENDING

1 BY ALL COMPANIES CLASSIFIED AS GOODS, SERVICES, OR SALARIES AND
2 WAGES IN THE IMMEDIATELY PRECEDING CALENDAR YEAR.

3 (D) AN ESTIMATE OF THE NUMBER OF PERSONS EMPLOYED IN THIS
4 STATE BY ELIGIBLE PRODUCTION COMPANIES THAT QUALIFIED FOR THE
5 CREDIT UNDER THIS SECTION IN THE IMMEDIATELY PRECEDING CALENDAR
6 YEAR.

7 (E) THE VALUE OF ALL TAX CREDIT CERTIFICATES OF COMPLETION
8 ISSUED UNDER THIS SECTION IN THE IMMEDIATELY PRECEDING CALENDAR
9 YEAR.

10 (12) AS USED IN THIS SECTION:

11 (A) "BELOW THE LINE CREW" MEANS THAT TERM AS DEFINED UNDER
12 SECTION 459.

13 (B) "CORE COMMUNITY" MEANS A QUALIFIED LOCAL GOVERNMENTAL UNIT
14 AS DEFINED UNDER SECTION 2 OF THE OBSOLETE PROPERTY REHABILITATION
15 ACT, 2000 PA 146, MCL 125.2782.

16 (C) "DIRECT PRODUCTION EXPENDITURE" MEANS A DEVELOPMENT,
17 PREPRODUCTION, PRODUCTION, OR POSTPRODUCTION EXPENDITURE MADE IN
18 THIS STATE THAT IS NOT A QUALIFIED PERSONNEL EXPENDITURE DIRECTLY
19 ATTRIBUTABLE TO THE PRODUCTION OR DISTRIBUTION OF A QUALIFIED
20 PRODUCTION THAT IS A TRANSACTION SUBJECT TO TAXATION IN THIS STATE,
21 INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING:

22 (i) PAYMENTS TO VENDORS DOING BUSINESS IN THIS STATE TO
23 PURCHASE OR USE TANGIBLE PERSONAL PROPERTY IN PRODUCING OR
24 DISTRIBUTING THE QUALIFIED PRODUCTION OR TO PURCHASE SERVICES
25 RELATING TO THE PRODUCTION OR DISTRIBUTION OF THE QUALIFIED
26 PRODUCTION, INCLUDING ALL OF THE FOLLOWING:

27 (A) EXPENDITURES FOR OPTIONING OR PURCHASING INTELLECTUAL

1 PROPERTY INCLUDING, BUT NOT LIMITED TO, BOOKS, SCRIPTS, MUSIC, OR
2 TRADEMARKS RELATING TO THE DEVELOPMENT OR PURCHASE OF A SCRIPT,
3 STORY, SCENARIO, SCREENPLAY, OR FORMAT, INCLUDING ALL EXPENDITURES
4 GENERALLY ASSOCIATED WITH THE OPTIONING OR PURCHASE OF INTELLECTUAL
5 PROPERTY, INCLUDING OPTION MONEY, AGENT FEES, AND ATTORNEY FEES
6 RELATING TO THE TRANSACTION, BUT NOT INCLUDING DEFERRALS,
7 DEFERMENTS, ROYALTIES, PROFIT PARTICIPATION, OR RECOURSE OR
8 NONRECOURSE LOANS NEGOTIATED BY THE ELIGIBLE PRODUCTION COMPANY TO
9 OBTAIN THE RIGHTS TO THE INTELLECTUAL PROPERTY.

10 (B) PRODUCTION WORK, PRODUCTION EQUIPMENT, PRODUCTION
11 SOFTWARE, DEVELOPMENT WORK, POSTPRODUCTION WORK, POSTPRODUCTION
12 EQUIPMENT, POSTPRODUCTION SOFTWARE, SET DESIGN, SET CONSTRUCTION,
13 SET OPERATIONS, PROPS, LIGHTING, WARDROBE, MAKEUP, MAKEUP
14 ACCESSORIES, PHOTOGRAPHY, SOUND SYNCHRONIZATION, SPECIAL EFFECTS,
15 VISUAL EFFECTS, AUDIO EFFECTS, FILM PROCESSING, MUSIC, SOUND
16 MIXING, EDITING, AND RELATED SERVICES AND MATERIALS.

17 (C) USE OF FACILITIES OR EQUIPMENT, USE OF SOUNDSTAGES OR
18 STUDIOS, LOCATION FEES, AND RELATED SERVICES AND MATERIALS.

19 (D) CATERING, FOOD, LODGING, AND RELATED SERVICES AND
20 MATERIALS.

21 (E) USE OF VEHICLES, WHICH MAY INCLUDE CHARTERED AIRCRAFT
22 BASED IN THIS STATE USED FOR TRANSPORTATION IN THIS STATE DIRECTLY
23 ATTRIBUTABLE TO PRODUCTION OF A QUALIFIED PRODUCTION, BUT MAY NOT
24 INCLUDE THE CHARTERING OF AIRCRAFT FOR TRANSPORTATION OUTSIDE OF
25 THIS STATE.

26 (F) COMMERCIAL AIRFARE IF PURCHASED THROUGH A TRAVEL AGENCY OR
27 TRAVEL COMPANY BASED IN THIS STATE FOR TRAVEL TO AND FROM THIS

1 STATE OR WITHIN THIS STATE DIRECTLY ATTRIBUTABLE TO PRODUCTION OR
2 DISTRIBUTION OF A QUALIFIED PRODUCTION.

3 (G) INSURANCE COVERAGE OR BONDING IF PURCHASED FROM AN
4 INSURANCE AGENT BASED IN THIS STATE.

5 (H) EXPENDITURES FOR DISTRIBUTION, INCLUDING, BUT NOT LIMITED
6 TO, BOTH OF THE FOLLOWING:

7 (I) PREPRODUCTION, PRODUCTION, OR POSTPRODUCTION COSTS
8 RELATING TO THE CREATION OF TRAILERS, MARKETING VIDEOS,
9 COMMERCIALS, POINT-OF-PURCHASE VIDEOS, AND CONTENT CREATED ON FILM
10 OR DIGITAL MEDIA, INCLUDING, BUT NOT LIMITED TO, THE DUPLICATION OF
11 FILMS, VIDEOS, COMPACT DISCS, DIGITAL VIDEO DISCS, AND DIGITAL
12 FILES OR OTHER DIGITAL MEDIA CREATED FOR CONSUMER CONSUMPTION.

13 (II) PURCHASE OF EQUIPMENT RELATING TO THE DUPLICATION OR
14 MARKET DISTRIBUTION OF ANY CONTENT CREATED OR PRODUCED IN THIS
15 STATE.

16 (I) OTHER EXPENDITURES FOR PRODUCTION OF A QUALIFIED
17 PRODUCTION IN ACCORDANCE WITH GENERALLY ACCEPTED ENTERTAINMENT
18 INDUSTRY PRACTICES.

19 (ii) PAYMENTS AND COMPENSATION, NOT TO EXCEED \$2,000,000.00 FOR
20 ANY 1 EMPLOYEE OR CONTRACTUAL OR SALARIED EMPLOYEE WHO PERFORMS
21 SERVICES IN THIS STATE FOR THE PRODUCTION OR DISTRIBUTION OF A
22 QUALIFIED PRODUCTION, INCLUDING ALL OF THE FOLLOWING:

23 (A) PAYMENT OF WAGES, BENEFITS, OR FEES FOR TALENT,
24 MANAGEMENT, OR LABOR.

25 (B) PAYMENT TO A PERSONAL SERVICES CORPORATION OR PROFESSIONAL
26 EMPLOYER ORGANIZATION FOR THE SERVICES OF A PERFORMING ARTIST OR
27 CREW MEMBER IF THE PERSONAL SERVICES CORPORATION OR PROFESSIONAL

House Bill No. 5841 (H-1) as amended March 12, 2008

1 EMPLOYER ORGANIZATION IS SUBJECT TO THE TAX LEVIED UNDER THIS ACT
2 ON THE PORTION OF THE PAYMENT QUALIFYING FOR THE TAX CREDIT UNDER
3 THIS SECTION AND THE PAYMENTS RECEIVED BY THE PERFORMING ARTIST OR
4 CREW MEMBER [THAT] ARE SUBJECT TO TAXATION UNDER THE INCOME TAX ACT OF
5 1967, 1967 PA 281, MCL 206.1 TO 206.532[, AND ARE WITHHELD AND PAID TO
THIS STATE IN THE AMOUNT PROVIDED UNDER SECTION 351 OF THE INCOME TAX
ACT OF 1967, 1967 PA 281, MCL 206.351].

6 (D) "ELIGIBLE PRODUCTION COMPANY" OR "COMPANY" MEANS AN ENTITY
7 IN THE BUSINESS OF PRODUCING QUALIFIED PRODUCTIONS, BUT DOES NOT
8 INCLUDE AN ENTITY THAT IS MORE THAN 30% OWNED, AFFILIATED, OR
9 CONTROLLED BY AN ENTITY OR INDIVIDUAL WHO IS IN DEFAULT ON A LOAN
10 MADE BY THIS STATE, A LOAN GUARANTEED BY THIS STATE, OR A LOAN MADE
11 OR GUARANTEED BY ANY OTHER STATE.

12 (E) "INTERACTIVE WEBSITE" MEANS A WEBSITE, THE PRODUCTION
13 COSTS OF WHICH EXCEED \$500,000.00 IN AN ANNUAL PERIOD AND PRIMARILY
14 INCLUDES INTERACTIVE GAMES, END USER APPLICATIONS, ANIMATION,
15 SIMULATION, SOUND, GRAPHICS, STORY LINES, OR VIDEO CREATED OR
16 REPURPOSED FOR DISTRIBUTION OVER THE INTERNET. INTERACTIVE WEBSITE
17 DOES NOT INCLUDE A WEBSITE PRIMARILY USED FOR INSTITUTIONAL,
18 PRIVATE, INDUSTRIAL, RETAIL, OR WHOLESALE MARKETING OR PROMOTIONAL
19 PURPOSES, OR WHICH CONTAINS OBSCENE MATTER OR AN OBSCENE
20 PERFORMANCE.

21 (F) "MICHIGAN FILM OFFICE" OR "OFFICE" MEANS THE MICHIGAN FILM
22 OFFICE CREATED UNDER CHAPTER 2A OF THE MICHIGAN STRATEGIC FUND ACT,
23 1984 PA 270, MCL 125.2029 TO 125.2029G.

24 (G) "MICHIGAN FILM PROMOTION FUND" MEANS THE FUND CREATED
25 UNDER CHAPTER 2A OF THE MICHIGAN STRATEGIC FUND ACT, 1984 PA 270,
26 MCL 125.2029 TO 125.2029G.

27 (H) "OBSCENE MATTER OR AN OBSCENE PERFORMANCE" MEANS MATTER

1 DESCRIBED IN 1984 PA 343, MCL 752.361 TO 752.374.

2 (I) "POSTPRODUCTION EXPENDITURE" MEANS A DIRECT EXPENDITURE
3 FOR EDITING, FOLEY RECORDING, AUTOMATIC DIALOGUE REPLACEMENT, SOUND
4 EDITING, SPECIAL OR VISUAL EFFECTS INCLUDING COMPUTER-GENERATED
5 IMAGERY OR OTHER EFFECTS, SCORING AND MUSIC EDITING, BEGINNING AND
6 END CREDITS, NEGATIVE CUTTING, SOUNDTRACK PRODUCTION, DUBBING,
7 SUBTITLING, OR ADDITION OF SOUND OR VISUAL EFFECTS. POSTPRODUCTION
8 EXPENDITURE INCLUDES DIRECT EXPENDITURES FOR ADVERTISING,
9 MARKETING, DISTRIBUTION, OR RELATED EXPENSES.

10 (J) "QUALIFIED PERSONNEL EXPENDITURE" MEANS AN EXPENDITURE
11 MADE IN THIS STATE DIRECTLY ATTRIBUTABLE TO THE PRODUCTION OR
12 DISTRIBUTION OF A QUALIFIED PRODUCTION THAT IS A TRANSACTION
13 SUBJECT TO TAXATION IN THIS STATE AND IS A PAYMENT OR COMPENSATION
14 PAYABLE TO BELOW THE LINE CREW FOR BELOW THE LINE CREW MEMBERS WHO
15 WERE NOT RESIDENTS OF THIS STATE FOR AT LEAST 60 DAYS BEFORE
16 APPROVAL OF THE AGREEMENT FOR THE QUALIFIED PRODUCTION UNDER
17 SUBSECTION (3), NOT TO EXCEED \$2,000,000.00 FOR ANY 1 EMPLOYEE OR
18 CONTRACTUAL OR SALARIED EMPLOYEE WHO PERFORMS SERVICE IN THIS STATE
19 FOR THE PRODUCTION OF A QUALIFIED PRODUCTION, INCLUDING BOTH OF THE
20 FOLLOWING:

21 (i) PAYMENT OF WAGES, BENEFITS, OR FEES.

22 (ii) PAYMENT TO A PERSONAL SERVICES CORPORATION OR PROFESSIONAL
23 EMPLOYER ORGANIZATION FOR THE SERVICES OF A PERFORMING ARTIST OR
24 CREW MEMBER IF THE PERSONAL SERVICES CORPORATION OR PROFESSIONAL
25 EMPLOYER ORGANIZATION IS SUBJECT TO THE TAX LEVIED UNDER THIS ACT
26 ON THE PORTION OF THE PAYMENT QUALIFYING FOR THE TAX CREDIT UNDER
27 THIS SECTION AND THE PAYMENTS RECEIVED BY THE PERFORMING ARTIST OR

House Bill No. 5841 (H-1) as amended March 12, 2008

1 CREW MEMBER [THAT] ARE SUBJECT TO TAXATION UNDER THE INCOME TAX ACT OF
2 1967, 1967 PA 281, MCL 206.1 TO 206.532[, AND ARE WITHHELD AND PAID TO
THIS STATE IN THE AMOUNT PROVIDED UNDER SECTION 351 OF THE INCOME TAX
ACT OF 1967, 1967 PA 281, MCL 206.351].

3 (K) "STATE CERTIFIED QUALIFIED PRODUCTION" OR "QUALIFIED
4 PRODUCTION" MEANS SINGLE MEDIA OR MULTIMEDIA ENTERTAINMENT CONTENT
5 CREATED IN WHOLE OR IN PART IN THIS STATE FOR DISTRIBUTION OR
6 EXHIBITION TO THE GENERAL PUBLIC IN 2 OR MORE STATES BY ANY MEANS
7 AND MEDIA IN ANY DIGITAL MEDIA FORMAT, FILM, OR VIDEO TAPE,
8 INCLUDING, BUT NOT LIMITED TO, A MOTION PICTURE, A DOCUMENTARY, A
9 TELEVISION SERIES, A TELEVISION MINISERIES, A TELEVISION SPECIAL,
10 INTERSTITIAL TELEVISION PROGRAMMING, LONG-FORM TELEVISION,
11 INTERACTIVE TELEVISION, MUSIC VIDEOS, INTERACTIVE GAMES, VIDEO
12 GAMES, COMMERCIALS, INTERNET PROGRAMMING, AN INTERNET VIDEO, A
13 SOUND RECORDING, A VIDEO, DIGITAL ANIMATION, OR AN INTERACTIVE
14 WEBSITE. QUALIFIED PRODUCTION ALSO INCLUDES ANY TRAILER, PILOT,
15 VIDEO TEASER, OR DEMO CREATED PRIMARILY TO STIMULATE THE SALE,
16 MARKETING, PROMOTION, OR EXPLOITATION OF FUTURE INVESTMENT IN A
17 PRODUCTION. QUALIFIED PRODUCTION DOES NOT INCLUDE ANY OF THE
18 FOLLOWING:

19 (i) A PRODUCTION FOR WHICH RECORDS ARE REQUIRED TO BE
20 MAINTAINED WITH RESPECT TO ANY PERFORMER IN THE PRODUCTION UNDER 18
21 USC 2257.

22 (ii) A PRODUCTION THAT INCLUDES OBSCENE MATTER OR AN OBSCENE
23 PERFORMANCE.

24 (iii) A PRODUCTION THAT PRIMARILY CONSISTS OF TELEVISED NEWS OR
25 CURRENT EVENTS.

26 (iv) A PRODUCTION THAT PRIMARILY CONSISTS OF A LIVE SPORTING
27 EVENT.

1 (v) A PRODUCTION THAT PRIMARILY CONSISTS OF POLITICAL
2 ADVERTISING.

3 (vi) A RADIO PROGRAM.

4 (vii) A WEATHER SHOW.

5 (viii) A FINANCIAL MARKET REPORT.

6 (ix) A TALK SHOW.

7 (x) A GAME SHOW.

8 (xi) A PRODUCTION THAT PRIMARILY MARKETS A PRODUCT OR SERVICE
9 OTHER THAN A STATE CERTIFIED QUALIFIED PRODUCTION.

10 (xii) AN AWARDS SHOW OR OTHER GALA EVENT PRODUCTION.

11 (xiii) A PRODUCTION WITH THE PRIMARY PURPOSE OF FUND-RAISING.

12 (xiv) A PRODUCTION THAT PRIMARILY IS FOR EMPLOYEE TRAINING OR
13 IN-HOUSE CORPORATE ADVERTISING OR OTHER SIMILAR PRODUCTION.

14 (l) "SOUND RECORDING" MEANS A RECORDING OF MUSIC, POETRY, OR
15 SPOKEN-WORD PERFORMANCE, BUT DOES NOT INCLUDE THE AUDIO PORTIONS
16 SPOKEN AND RECORDED AS PART OF A MOTION PICTURE, VIDEO, THEATRICAL
17 PRODUCTION, TELEVISION NEWS COVERAGE, OR ATHLETIC EVENT.

18 (m) "STATE CERTIFIED QUALIFIED PRODUCTION" MEANS A QUALIFIED
19 PRODUCTION FOR WHICH A POSTPRODUCTION CERTIFICATE HAS BEEN ISSUED
20 BY THE OFFICE UNDER SUBSECTION (5).