

SUBSTITUTE FOR
HOUSE BILL NO. 5206

A bill to amend 1975 PA 228, entitled
"Single business tax act,"
(MCL 208.1 to 208.145) by adding section 35e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 35E. (1) A TAXPAYER THAT IS A MOTION PICTURE PRODUCTION
2 COMPANY THAT HAS SPENT \$250,000.00 OR MORE IN THIS STATE FOR
3 PURPOSES RELATED TO THE FILMING OR PRODUCTION OF A SINGLE MOTION
4 PICTURE MAY CLAIM A CREDIT AGAINST THE TAX IMPOSED BY THIS ACT
5 EQUAL TO THE SUM OF THE FOLLOWING:

6 (A) 130% OF THE TAX LIABILITY ATTRIBUTABLE TO BUSINESS
7 ACTIVITY IN THIS STATE BEGINNING ON AND AFTER JULY 1, 2005 THAT IS
8 ATTRIBUTABLE TO THE FILMING OR PRODUCTION OF THAT MOTION PICTURE.

9 (B) THE AMOUNT CALCULATED UNDER SECTION 4CC OF THE GENERAL
10 SALES TAX ACT, 1933 PA 167, MCL 205.54CC.

11 (C) THE AMOUNT CALCULATED UNDER SECTION 4Z OF THE USE TAX ACT,

1 1937 PA 94, MCL 205.94Z.

2 (2) A TAXPAYER THAT IS A MOTION PICTURE PRODUCTION COMPANY
3 SHALL NOT INCLUDE IN BUSINESS ACTIVITY FOR PURPOSES OF DETERMINING
4 THE CREDIT UNDER SUBSECTION (1)(A) BUSINESS ACTIVITY ATTRIBUTABLE
5 TO THE FILMING OF A MOTION PICTURE THAT DEPICTS OBSCENE MATTER OR
6 AN OBSCENE PERFORMANCE.

7 (3) IF THE CREDIT ALLOWED UNDER THIS SECTION FOR THE TAX YEAR
8 AND ANY UNUSED CARRYFORWARD OF THE CREDIT ALLOWED UNDER THIS
9 SECTION EXCEED THE TAX LIABILITY OF THE TAXPAYER FOR THE TAX YEAR,
10 THE EXCESS SHALL NOT BE REFUNDED, BUT MAY BE CARRIED FORWARD AS AN
11 OFFSET TO THE TAX LIABILITY IN SUBSEQUENT TAX YEARS FOR 10 TAX
12 YEARS OR UNTIL THE EXCESS CREDIT IS USED UP, WHICHEVER OCCURS
13 FIRST.

14 (4) A TAXPAYER MAY ASSIGN ALL OR A PORTION OF THE CREDIT
15 ALLOWED UNDER THIS SECTION. A CREDIT ASSIGNMENT UNDER THIS
16 SUBSECTION IS IRREVOCABLE AND SHALL BE MADE IN THE TAX YEAR IN
17 WHICH BUSINESS ACTIVITY ON WHICH THE CREDIT IS BASED OCCURS. A
18 TAXPAYER MAY CLAIM A PORTION OF THE CREDIT AND ASSIGN A PORTION OF
19 THE REMAINING CREDIT AMOUNT. IF THE TAXPAYER BOTH CLAIMS AND
20 ASSIGNS PORTIONS OF THE CREDIT, THE TAXPAYER SHALL CLAIM THE
21 PORTION IT CLAIMS IN THE TAX YEAR IN WHICH THE BUSINESS ACTIVITY
22 OCCURS. AN ASSIGNEE SHALL NOT SUBSEQUENTLY ASSIGN A CREDIT OR ANY
23 PORTION OF A CREDIT ASSIGNED UNDER THIS SUBSECTION. THE CREDIT
24 ASSIGNMENT UNDER THIS SUBSECTION SHALL BE MADE ON A FORM PRESCRIBED
25 BY THE DEPARTMENT. THE TAXPAYER THAT ASSIGNS THE CREDIT SHALL SEND
26 A COPY OF THE COMPLETED ASSIGNMENT FORM TO THE DEPARTMENT IN THE
27 TAX YEAR IN WHICH THE ASSIGNMENT IS MADE. THE ASSIGNEE SHALL ATTACH

1 A COPY OF THE COMPLETED ASSIGNMENT FORM TO ITS ANNUAL RETURN
2 REQUIRED UNDER THIS ACT, FOR THE TAX YEAR IN WHICH THE ASSIGNMENT
3 IS MADE AND THE ASSIGNEE FIRST CLAIMS A CREDIT, WHICH SHALL BE THE
4 SAME TAX YEAR.

5 (5) THIS SECTION APPLIES ONLY TO THE TAX LIABILITY OF A MOTION
6 PICTURE PRODUCTION COMPANY ATTRIBUTABLE TO THE PRODUCTION OF A
7 MOTION PICTURE THAT BEGINS ON AND AFTER JULY 1, 2005.

8 (6) AS USED IN THIS SECTION, "MOTION PICTURE", "MOTION PICTURE
9 PRODUCTION COMPANY", AND "OBSCENE MATTER OR AN OBSCENE PERFORMANCE"
10 MEAN THOSE TERMS AS DEFINED IN SECTION 35F.

11 Enacting section 1. This amendatory act does not take effect
12 unless all of the following bills of the 93rd Legislature are
13 enacted into law:

- 14 (a) House Bill No. 5204.
15 (b) House Bill No. 5205.
16 (c) House Bill No. 5207.
17 (d) House Bill No. 5209.