

HOUSE BILL No. 5206

September 21, 2005, Introduced by Reps. Sheen, Huizenga, Virgil Smith, Stahl, Ball, Bieda, Miller, Zelenko, Meisner, Gleason, Stewart, Stakoe, Schuitmaker, Proos, Gosselin, Amos, Vander Veen, Brandenburg, Taub, Rocca, Tobocman, Condino, Marleau and Kolb and referred to the Committee on Tax Policy.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 35D. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2),
2 FOR TAX YEARS THAT BEGIN BEFORE JANUARY 1, 2007, A TAXPAYER THAT IS
3 A MOTION PICTURE PRODUCTION COMPANY THAT HAS SPENT \$250,000.00 OR
4 MORE IN THIS STATE FOR PURPOSES RELATED TO THE FILMING OR
5 PRODUCTION OF A SINGLE MOTION PICTURE MAY CLAIM A CREDIT AGAINST
6 THE TAX IMPOSED BY THIS ACT EQUAL TO 130% OF THE TAX LIABILITY
7 ATTRIBUTABLE TO BUSINESS ACTIVITY IN THIS STATE THAT IS
8 ATTRIBUTABLE TO THE FILMING OR PRODUCTION OF THAT MOTION PICTURE.

9 (2) A TAXPAYER THAT IS A MOTION PICTURE PRODUCTION COMPANY
10 SHALL NOT INCLUDE IN BUSINESS ACTIVITY FOR PURPOSES OF DETERMINING

1 THE CREDIT UNDER SUBSECTION (1) BUSINESS ACTIVITY ATTRIBUTABLE TO
2 THE FILMING OF A MOTION PICTURE THAT DEPICTS OBSCENE MATTER OR AN
3 OBSCENE PERFORMANCE.

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

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

1 SAME TAX YEAR.

2 (5) THIS SECTION APPLIES ONLY TO THE TAX LIABILITY OF A MOTION
3 PICTURE PRODUCTION COMPANY ATTRIBUTABLE TO THE PRODUCTION OF A
4 MOTION PICTURE THAT BEGINS AFTER THE EFFECTIVE DATE OF THE
5 AMENDATORY ACT THAT ADDED THIS SECTION.

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

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

12 (a) Senate Bill No.____ or House Bill No. 5204(request no.
13 00229'05 *).

14 (b) Senate Bill No.____ or House Bill No. 5205(request no.
15 00230'05 *).

16 (c) Senate Bill No.____ or House Bill No. 5207(request no.
17 00231'05 *).