

HOUSE BILL No. 5841

February 28, 2008, Introduced by Reps. Meisner, Huizenga, Johnson, Miller, Leland, Hammon, Byrnes, Kathleen Law, Griffin, Condino, Robert Jones, Polidori, Gonzales, Corriveau, Espinoza, Brown, Simpson, Donigan, Gillard, Amos, Spade, McDowell, Bauer, Valentine, Hammel, Meadows, Dean, Casperson, Rick Jones, Bieda, Byrum, Ebli, Proos, Angerer, Accavitti, Palsrok, Nofs, Clemente, Hansen, Lemmons, Jackson, Lindberg, Clack, Hildenbrand, Vagnozzi, Sak, Knollenberg, Constan and Young and referred to the Committee on Commerce.

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:**

1 (A) SPEND AT LEAST \$50,000.00 IN THIS STATE FOR THE
2 DEVELOPMENT, PREPRODUCTION, PRODUCTION, AND POSTPRODUCTION COSTS OF
3 A STATE CERTIFIED QUALIFIED PRODUCTION.

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

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

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

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

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

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

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

26 (C) A DIRECT EXPENDITURE FOR WHICH ANOTHER TAXPAYER CLAIMS A
27 CREDIT UNDER THIS SECTION, A CREDIT UNDER SECTION 459, OR A CREDIT

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

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. THE REQUEST SHALL BE SUBMITTED IN A
9 FORM PRESCRIBED BY THE MICHIGAN FILM OFFICE AND SHALL BE
10 ACCOMPANIED BY A \$100.00 APPLICATION FEE AND ALL OF THE INFORMATION
11 AND RECORDS REQUESTED BY THE OFFICE. AN APPLICATION FEE RECEIVED BY
12 THE OFFICE UNDER THIS SUBSECTION SHALL BE DEPOSITED IN THE MICHIGAN
13 FILM PROMOTION FUND. THE OFFICE SHALL NOT PROCESS THE APPLICATION
14 UNTIL IT IS COMPLETE. AS PART OF THE APPLICATION, THE COMPANY SHALL
15 ESTIMATE DIRECT PRODUCTION EXPENDITURES FOR AN IDENTIFIED QUALIFIED
16 PRODUCTION. IF THE OFFICE, WITH THE CONCURRENCE OF THE STATE
17 TREASURER, DETERMINES TO ENTER INTO AN AGREEMENT UNDER THIS
18 SECTION, THE AGREEMENT SHALL PROVIDE FOR ALL OF THE FOLLOWING:

19 (A) A REQUIREMENT THAT THE ELIGIBLE PRODUCTION COMPANY
20 COMMENCE WORK IN THIS STATE ON THE IDENTIFIED QUALIFIED PRODUCTION
21 WITHIN 90 DAYS OF THE DATE OF THE AGREEMENT OR ELSE THE AGREEMENT
22 SHALL EXPIRE. HOWEVER, UPON REQUEST SUBMITTED BY THE COMPANY BASED
23 ON GOOD CAUSE, THE OFFICE MAY EXTEND THE PERIOD FOR COMMENCEMENT OF
24 WORK IN THIS STATE FOR AN ADDITIONAL 90 DAYS.

25 (B) A STATEMENT IDENTIFYING THE COMPANY AND THE QUALIFIED
26 PRODUCTION THAT THE COMPANY INTENDS TO PRODUCE IN WHOLE OR IN PART
27 IN THIS STATE.

1 (C) A UNIQUE NUMBER ASSIGNED TO THE QUALIFIED PRODUCTION BY
2 THE OFFICE.

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

5 (E) IF THE QUALIFIED PRODUCTION IS A LONG-FORM NARRATIVE FILM
6 PRODUCTION, A REQUIREMENT THAT THE QUALIFIED PRODUCTION INCLUDE AN
7 ACKNOWLEDGEMENT THAT THE QUALIFIED PRODUCTION WAS FILMED IN THIS
8 STATE.

9 (F) A REQUIREMENT THAT THE COMPANY PROVIDE THE OFFICE WITH THE
10 INFORMATION AND INDEPENDENT CERTIFICATION THE OFFICE AND THE
11 DEPARTMENT DEEM NECESSARY TO VERIFY DIRECT PRODUCTION EXPENDITURES
12 AND ELIGIBILITY FOR THE CREDIT UNDER THIS SECTION.

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

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

19 (A) THE POTENTIAL THAT IN THE ABSENCE OF THE CREDIT THE
20 QUALIFIED PRODUCTION WILL BE PRODUCED IN A LOCATION OTHER THAN THIS
21 STATE.

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

24 (C) THE EXTENT TO WHICH THE QUALIFIED PRODUCTION MAY HAVE THE
25 EFFECT OF PROMOTING ECONOMIC DEVELOPMENT OR JOB CREATION IN THIS
26 STATE.

27 (D) THE EXTENT TO WHICH THE CREDIT WILL ATTRACT PRIVATE

1 INVESTMENT FOR THE PRODUCTION OF QUALIFIED PRODUCTIONS IN THIS
2 STATE.

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

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

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

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

26 (C) THE ELIGIBLE PRODUCTION COMPANY'S DIRECT PRODUCTION
27 EXPENDITURES FOR THE QUALIFIED PRODUCTION.

1 (D) THE DATE OF COMPLETION FOR THE QUALIFIED PRODUCTION IN
2 THIS STATE.

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

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

7 (G) ANY INDEPENDENT CERTIFICATION REQUIRED BY THE DEPARTMENT
8 OR THE MICHIGAN FILM OFFICE.

9 (6) INFORMATION AND RECORDS SUBMITTED BY AN ELIGIBLE
10 PRODUCTION COMPANY TO THE MICHIGAN FILM OFFICE UNDER THIS SECTION
11 SHALL BE CONSIDERED CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER
12 THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246,
13 TO THE EXTENT THAT THE INFORMATION OR RECORDS DESCRIBE THE
14 COMMERCIAL AND FINANCIAL OPERATIONS OF THE COMPANY, THE INFORMATION
15 OR RECORDS HAVE NOT BEEN PUBLICLY DISSEMINATED AT ANY TIME, AND
16 DISCLOSURE OF THE INFORMATION OR RECORDS MIGHT PUT THE COMPANY AT A
17 COMPETITIVE DISADVANTAGE. A COMPANY SUBMITTING MATERIALS UNDER THIS
18 SECTION SHALL SPECIFICALLY DESIGNATE ANY INFORMATION AND RECORDS
19 THAT THE COMPANY DEEMS CONFIDENTIAL. THE OFFICE MAY RELEASE ANY
20 INFORMATION AND RECORDS SUBMITTED UNDER THIS SECTION THAT HAVE NOT
21 BEEN DESIGNATED CONFIDENTIAL BY THE COMPANY.

22 (7) AN ELIGIBLE PRODUCTION COMPANY SHALL SUBMIT A
23 POSTPRODUCTION CERTIFICATE OF COMPLETION ISSUED UNDER SUBSECTION
24 (5) TO THE DEPARTMENT. IF THE CREDIT ALLOWED UNDER THIS SECTION
25 EXCEEDS THE TAX LIABILITY OF THE COMPANY FOR THE TAX YEAR OR IF THE
26 COMPANY CLAIMING THE CREDIT DOES NOT HAVE A TAX LIABILITY UNDER
27 THIS ACT FOR THE TAX YEAR, THE DEPARTMENT SHALL REFUND THE EXCESS

1 OR PAY THE AMOUNT OF THE CREDIT TO THE COMPANY. THE CREDIT UNDER
2 THIS SECTION SHALL BE CLAIMED AFTER ALL OTHER CREDITS UNDER THIS
3 ACT.

4 (8) AN ELIGIBLE PRODUCTION COMPANY MAY ASSIGN ALL OR A PORTION
5 OF A CREDIT UNDER THIS SECTION TO ANY ASSIGNEE. AN ASSIGNEE MAY
6 SUBSEQUENTLY ASSIGN A CREDIT OR ANY PORTION OF A CREDIT ASSIGNED
7 UNDER THIS SUBSECTION TO 1 OR MORE ASSIGNEES. A COMPANY MAY CLAIM A
8 PORTION OF A CREDIT AND ASSIGN THE REMAINING CREDIT AMOUNT. A
9 CREDIT ASSIGNMENT UNDER THIS SUBSECTION IS IRREVOCABLE. THE CREDIT
10 ASSIGNMENT UNDER THIS SUBSECTION SHALL BE MADE ON A FORM PRESCRIBED
11 BY THE DEPARTMENT. THE QUALIFIED TAXPAYER SHALL SEND A COPY OF THE
12 COMPLETED ASSIGNMENT FORM TO THE DEPARTMENT IN THE TAX YEAR IN
13 WHICH THE ASSIGNMENT IS MADE AND SHALL ATTACH A COPY OF THE FORM TO
14 THE RETURN ON WHICH THE CREDIT IS CLAIMED.

15 (9) THE AMOUNT OF THE CREDIT UNDER THIS SECTION SHALL BE
16 REDUCED BY A CREDIT APPLICATION AND REDEMPTION FEE EQUAL TO 0.5% OF
17 THE CREDIT CLAIMED, WHICH SHALL BE PAID BY THE TAXPAYER CLAIMING
18 THE CREDIT AND BE DEPOSITED BY THE DEPARTMENT IN THE MICHIGAN FILM
19 PROMOTION FUND.

20 (10) A TAXPAYER THAT WILLFULLY SUBMITS INFORMATION UNDER THIS
21 SECTION THAT THE TAXPAYER KNOWS TO BE FRAUDULENT OR FALSE SHALL, IN
22 ADDITION TO ANY OTHER PENALTIES PROVIDED BY LAW, BE LIABLE FOR A
23 CIVIL PENALTY EQUAL TO THE AMOUNT OF THE TAXPAYER'S CREDIT UNDER
24 THIS SECTION. A PENALTY COLLECTED UNDER THIS SECTION SHALL BE
25 DEPOSITED IN THE MICHIGAN FILM PROMOTION FUND.

26 (11) NOT LATER THAN MARCH 1 OF EACH YEAR AFTER 2008, THE
27 MICHIGAN FILM OFFICE SHALL SUBMIT TO THE GOVERNOR, THE CHAIRPERSON

1 OF THE SENATE FINANCE COMMITTEE, AND THE HOUSE TAX POLICY COMMITTEE
2 AN ANNUAL REPORT CONCERNING THE OPERATION AND EFFECTIVENESS OF THE
3 CREDIT UNDER THIS SECTION. THE REQUIREMENTS OF SECTION 28(1)(F) OF
4 1941 PA 122, MCL 205.28, DO NOT APPLY TO DISCLOSURE OF TAX
5 INFORMATION REQUIRED BY THIS SUBSECTION. THE REPORT SHALL INCLUDE
6 ALL OF THE FOLLOWING:

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

10 (B) THE NUMBER OF QUALIFIED PRODUCTIONS FOR WHICH THE ELIGIBLE
11 PRODUCTION COMPANY APPLIED FOR A TAX CREDIT UNDER THIS SECTION
12 DURING THE IMMEDIATELY PRECEDING YEAR, THE NAMES OF THE QUALIFIED
13 PRODUCTIONS PRODUCED IN THIS STATE FOR WHICH CREDITS WERE BEGUN OR
14 COMPLETED IN THE IMMEDIATELY PRECEDING YEAR, AND THE LOCATIONS IN
15 THIS STATE THAT WERE USED IN THE PRODUCTION OF QUALIFIED
16 PRODUCTIONS IN THE IMMEDIATELY PRECEDING CALENDAR YEAR.

17 (C) THE AMOUNT OF MONEY SPENT BY EACH ELIGIBLE PRODUCTION
18 COMPANY IDENTIFIED IN SUBDIVISION (B) TO PRODUCE EACH QUALIFIED
19 PRODUCTION IN THIS STATE AND A BREAKDOWN OF ALL PRODUCTION SPENDING
20 BY ALL COMPANIES CLASSIFIED AS GOODS, SERVICES, OR SALARIES AND
21 WAGES IN THE IMMEDIATELY PRECEDING CALENDAR YEAR.

22 (D) AN ESTIMATE OF THE NUMBER OF PERSONS EMPLOYED IN THIS
23 STATE BY ELIGIBLE PRODUCTION COMPANIES THAT QUALIFIED FOR THE
24 CREDIT UNDER THIS SECTION IN THE IMMEDIATELY PRECEDING CALENDAR
25 YEAR.

26 (E) THE VALUE OF ALL TAX CREDIT CERTIFICATES OF COMPLETION
27 ISSUED UNDER THIS SECTION IN THE IMMEDIATELY PRECEDING CALENDAR

1 YEAR.

2 (12) AS USED IN THIS SECTION:

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

6 (B) "DIRECT PRODUCTION EXPENDITURE" MEANS A DEVELOPMENT,
7 PREPRODUCTION, PRODUCTION, OR POSTPRODUCTION EXPENDITURE MADE IN
8 THIS STATE DIRECTLY ATTRIBUTABLE TO THE PRODUCTION OR DISTRIBUTION
9 OF A QUALIFIED PRODUCTION THAT IS A TRANSACTION SUBJECT TO TAXATION
10 IN THIS STATE, INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING:

11 (i) PAYMENTS TO VENDORS DOING BUSINESS IN THIS STATE TO
12 PURCHASE OR USE TANGIBLE PERSONAL PROPERTY IN PRODUCING OR
13 DISTRIBUTING THE QUALIFIED PRODUCTION OR TO PURCHASE SERVICES
14 RELATING TO THE PRODUCTION OR DISTRIBUTION OF THE QUALIFIED
15 PRODUCTION, INCLUDING ALL OF THE FOLLOWING:

16 (A) EXPENDITURES FOR OPTIONING OR PURCHASING INTELLECTUAL
17 PROPERTY INCLUDING, BUT NOT LIMITED TO, BOOKS, SCRIPTS, MUSIC, OR
18 TRADEMARKS RELATING TO THE DEVELOPMENT OR PURCHASE OF A SCRIPT,
19 STORY, SCENARIO, SCREENPLAY, OR FORMAT, INCLUDING ALL EXPENDITURES
20 GENERALLY ASSOCIATED WITH THE OPTIONING OR PURCHASE OF INTELLECTUAL
21 PROPERTY, INCLUDING OPTION MONEY, AGENT FEES, AND ATTORNEY FEES
22 RELATING TO THE TRANSACTION, BUT NOT INCLUDING DEFERRALS,
23 DEFERMENTS, ROYALTIES, PROFIT PARTICIPATION, OR RECOURSE OR
24 NONRECOURSE LOANS NEGOTIATED BY THE ELIGIBLE PRODUCTION COMPANY TO
25 OBTAIN THE RIGHTS TO THE INTELLECTUAL PROPERTY.

26 (B) PRODUCTION WORK, PRODUCTION EQUIPMENT, PRODUCTION
27 SOFTWARE, DEVELOPMENT WORK, POSTPRODUCTION WORK, POSTPRODUCTION

1 EQUIPMENT, POSTPRODUCTION SOFTWARE, SET DESIGN, SET CONSTRUCTION,
2 SET OPERATIONS, PROPS, LIGHTING, WARDROBE, MAKEUP, MAKEUP
3 ACCESSORIES, PHOTOGRAPHY, SOUND SYNCHRONIZATION, SPECIAL EFFECTS,
4 VISUAL EFFECTS, AUDIO EFFECTS, FILM PROCESSING, MUSIC, SOUND
5 MIXING, EDITING, AND RELATED SERVICES AND MATERIALS.

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

8 (D) CATERING, FOOD, LODGING, AND RELATED SERVICES AND
9 MATERIALS.

10 (E) USE OF VEHICLES, WHICH MAY INCLUDE CHARTERED AIRCRAFT
11 BASED IN THIS STATE USED FOR TRANSPORTATION IN THIS STATE DIRECTLY
12 ATTRIBUTABLE TO PRODUCTION OF A QUALIFIED PRODUCTION, BUT MAY NOT
13 INCLUDE THE CHARTERING OF AIRCRAFT FOR TRANSPORTATION OUTSIDE OF
14 THIS STATE.

15 (F) COMMERCIAL AIRFARE IF PURCHASED THROUGH A TRAVEL AGENCY OR
16 TRAVEL COMPANY BASED IN THIS STATE FOR TRAVEL TO AND FROM THIS
17 STATE OR WITHIN THIS STATE DIRECTLY ATTRIBUTABLE TO PRODUCTION OR
18 DISTRIBUTION OF A QUALIFIED PRODUCTION.

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

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

23 (I) PREPRODUCTION, PRODUCTION, OR POSTPRODUCTION COSTS
24 RELATING TO THE CREATION OF TRAILERS, MARKETING VIDEOS,
25 COMMERCIALS, POINT-OF-PURCHASE VIDEOS, AND CONTENT CREATED ON FILM
26 OR DIGITAL MEDIA, INCLUDING, BUT NOT LIMITED TO, THE DUPLICATION OF
27 FILMS, VIDEOS, COMPACT DISCS, DIGITAL VIDEO DISCS, AND DIGITAL

1 FILES OR OTHER DIGITAL MEDIA CREATED FOR CONSUMER CONSUMPTION.

2 (II) PURCHASE OF EQUIPMENT RELATING TO THE DUPLICATION OR
3 MARKET DISTRIBUTION OF ANY CONTENT CREATED OR PRODUCED IN THIS
4 STATE.

5 (I) OTHER EXPENDITURES FOR PRODUCTION OF A QUALIFIED
6 PRODUCTION IN ACCORDANCE WITH GENERALLY ACCEPTED ENTERTAINMENT
7 INDUSTRY PRACTICES.

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

12 (A) PAYMENT OF WAGES, BENEFITS, OR FEES FOR TALENT,
13 MANAGEMENT, OR LABOR.

14 (B) PAYMENT TO A PERSONAL SERVICES CORPORATION OR PROFESSIONAL
15 EMPLOYER ORGANIZATION FOR THE SERVICES OF A PERFORMING ARTIST IF
16 THE PERSONAL SERVICES CORPORATION OR PROFESSIONAL EMPLOYER
17 ORGANIZATION PAYS THE TAX LEVIED UNDER THIS ACT ON THE PORTION OF
18 THE PAYMENT QUALIFYING FOR THE TAX CREDIT UNDER THIS SECTION AND
19 THE PAYMENTS RECEIVED BY THE PERFORMING ARTIST ARE SUBJECT TO
20 TAXATION UNDER THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.1
21 TO 206.532.

22 (C) "ELIGIBLE PRODUCTION COMPANY" OR "COMPANY" MEANS AN ENTITY
23 IN THE BUSINESS OF PRODUCING QUALIFIED PRODUCTIONS, BUT DOES NOT
24 INCLUDE AN ENTITY THAT IS MORE THAN 30% OWNED, AFFILIATED, OR
25 CONTROLLED BY AN ENTITY OR INDIVIDUAL WHO IS IN DEFAULT ON A LOAN
26 MADE BY THIS STATE, A LOAN GUARANTEED BY THIS STATE, OR A LOAN MADE
27 OR GUARANTEED BY ANY OTHER STATE.

1 (D) "INTERACTIVE WEBSITE" MEANS A WEBSITE, THE PRODUCTION
2 COSTS OF WHICH EXCEED \$500,000.00 IN AN ANNUAL PERIOD AND PRIMARILY
3 INCLUDES INTERACTIVE GAMES, END USER APPLICATIONS, ANIMATION,
4 SIMULATION, SOUND, GRAPHICS, STORY LINES, OR VIDEO CREATED OR
5 REPURPOSED FOR DISTRIBUTION OVER THE INTERNET. INTERACTIVE WEBSITE
6 DOES NOT INCLUDE A WEBSITE PRIMARILY USED FOR INSTITUTIONAL,
7 PRIVATE, INDUSTRIAL, RETAIL, OR WHOLESALE MARKETING OR PROMOTIONAL
8 PURPOSES, OR WHICH CONTAINS OBSCENE MATTER OR AN OBSCENE
9 PERFORMANCE.

10 (E) "MICHIGAN FILM OFFICE" OR "OFFICE" MEANS THE MICHIGAN FILM
11 OFFICE CREATED UNDER CHAPTER 2A OF THE MICHIGAN STRATEGIC FUND ACT,
12 1984 PA 270, MCL 125.2029 TO 125.2029G.

13 (F) "MICHIGAN FILM PROMOTION FUND" MEANS THE FUND CREATED
14 UNDER CHAPTER 2A OF THE MICHIGAN STRATEGIC FUND ACT, 1984 PA 270,
15 MCL 125.2029 TO 125.2029G.

16 (G) "OBSCENE MATTER OR AN OBSCENE PERFORMANCE" MEANS MATTER
17 DESCRIBED IN 1984 PA 343, MCL 752.361 TO 752.374.

18 (H) "POSTPRODUCTION EXPENDITURE" MEANS A DIRECT EXPENDITURE
19 FOR EDITING, FOLEY RECORDING, AUTOMATIC DIALOGUE REPLACEMENT, SOUND
20 EDITING, SPECIAL OR VISUAL EFFECTS INCLUDING COMPUTER-GENERATED
21 IMAGERY OR OTHER EFFECTS, SCORING AND MUSIC EDITING, BEGINNING AND
22 END CREDITS, NEGATIVE CUTTING, SOUNDTRACK PRODUCTION, DUBBING,
23 SUBTITLING, OR ADDITION OF SOUND OR VISUAL EFFECTS. POSTPRODUCTION
24 EXPENDITURE INCLUDES DIRECT EXPENDITURES FOR ADVERTISING,
25 MARKETING, DISTRIBUTION, OR RELATED EXPENSES.

26 (I) "STATE CERTIFIED QUALIFIED PRODUCTION" OR "QUALIFIED
27 PRODUCTION" MEANS SINGLE MEDIA OR MULTIMEDIA ENTERTAINMENT CONTENT

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

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

18 (ii) A PRODUCTION THAT INCLUDES OBSCENE MATTER OR AN OBSCENE
19 PERFORMANCE.

20 (iii) A PRODUCTION THAT PRIMARILY CONSISTS OF TELEVISED NEWS OR
21 CURRENT EVENTS.

22 (iv) A PRODUCTION THAT PRIMARILY CONSISTS OF A LIVE SPORTING
23 EVENT.

24 (v) A PRODUCTION THAT PRIMARILY CONSISTS OF POLITICAL
25 ADVERTISING.

26 (vi) A RADIO PROGRAM.

27 (vii) A WEATHER SHOW.

1 (viii) A FINANCIAL MARKET REPORT.

2 (ix) A TALK SHOW.

3 (x) A GAME SHOW.

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

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

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

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

10 (J) "SOUND RECORDING" MEANS A RECORDING OF MUSIC, POETRY, OR
11 SPOKEN-WORD PERFORMANCE, BUT DOES NOT INCLUDE THE AUDIO PORTIONS
12 SPOKEN AND RECORDED AS PART OF A MOTION PICTURE, VIDEO, THEATRICAL
13 PRODUCTION, TELEVISION NEWS COVERAGE, OR ATHLETIC EVENT.

14 (K) "STATE CERTIFIED QUALIFIED PRODUCTION" MEANS A QUALIFIED
15 PRODUCTION FOR WHICH A POSTPRODUCTION CERTIFICATE HAS BEEN ISSUED
16 BY THE OFFICE UNDER SUBSECTION (5).