

SUBSTITUTE FOR
HOUSE BILL NO. 5849

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
(MCL 208.1101 to 208.1601) by adding section 459.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 SEC. 459. (1) UNTIL SEPTEMBER 30, 2015, THE MICHIGAN FILM
2 OFFICE, WITH THE CONCURRENCE OF THE STATE TREASURER, MAY ENTER INTO
3 AN AGREEMENT WITH AN ELIGIBLE PRODUCTION COMPANY PROVIDING THE
4 COMPANY WITH A CREDIT AGAINST THE TAX IMPOSED BY THIS ACT FOR
5 QUALIFIED JOB TRAINING EXPENDITURES, AS PROVIDED UNDER THIS
6 SECTION. TO QUALIFY FOR THE CREDIT UNDER THIS SECTION, A COMPANY
7 SHALL MEET ALL OF THE FOLLOWING REQUIREMENTS:
- 8 (A) MAKE QUALIFIED JOB TRAINING EXPENDITURES FOR A STATE
9 CERTIFIED QUALIFIED PRODUCTION.
- 10 (B) AFTER COMPLETION OF THE PRODUCTION OF THE STATE CERTIFIED

1 QUALIFIED PRODUCTION IN THIS STATE, SUBMIT TO THE OFFICE AN
2 APPLICATION IN A FORM DETERMINED BY THE OFFICE WITH INFORMATION
3 REGARDING THE QUALIFIED JOB TRAINING EXPENDITURES, INCLUDING
4 EMPLOYMENT, SALARY, AND RELATED INFORMATION REQUIRED BY THE OFFICE.

5 (C) RECEIVE A QUALIFIED JOB TRAINING EXPENDITURES CERTIFICATE
6 FROM THE OFFICE UNDER SUBSECTION (5).

7 (D) SUBMIT THE QUALIFIED JOB TRAINING EXPENDITURE CERTIFICATE
8 ISSUED 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 A QUALIFIED JOB TRAINING EXPENDITURE MADE BY A
14 COMPANY, THE COMPANY MAY CLAIM A TAX CREDIT EQUAL TO 50% OF THE
15 QUALIFIED JOB TRAINING EXPENDITURE. A COMPANY SHALL NOT CLAIM A
16 CREDIT UNDER THIS SECTION FOR ANY OF THE FOLLOWING:

17 (A) A DIRECT EXPENDITURE, OR QUALIFIED PERSONNEL EXPENDITURE,
18 FOR WHICH THE COMPANY CLAIMS A CREDIT UNDER SECTION 455.

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

22 (C) A DIRECT EXPENDITURE, OR QUALIFIED PERSONNEL EXPENDITURE,
23 FOR WHICH ANOTHER TAXPAYER CLAIMS A CREDIT UNDER THIS SECTION, A
24 CREDIT UNDER SECTION 455, OR A CREDIT UNDER SECTION 367 OF THE
25 INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.367.

26 (3) A TAXPAYER SEEKING A CREDIT UNDER THIS SECTION MAY SUBMIT
27 AN APPLICATION TO ENTER INTO AN AGREEMENT UNDER THIS SECTION TO THE

1 MICHIGAN FILM OFFICE. THE APPLICATION SHALL BE SUBMITTED, PRIOR TO
2 MAKING QUALIFIED JOB TRAINING EXPENDITURES, IN A FORM PRESCRIBED BY
3 THE MICHIGAN FILM OFFICE AND SHALL BE ACCOMPANIED BY A \$100.00
4 APPLICATION FEE AND ALL OF THE INFORMATION AND RECORDS REQUESTED BY
5 THE OFFICE. AN APPLICATION FEE RECEIVED BY THE OFFICE UNDER THIS
6 SUBSECTION SHALL BE DEPOSITED IN THE MICHIGAN FILM PROMOTION FUND.
7 THE OFFICE SHALL NOT PROCESS THE APPLICATION UNTIL IT IS COMPLETE.
8 IF THE OFFICE, WITH THE CONCURRENCE OF THE STATE TREASURER,
9 DETERMINES TO ENTER INTO AN AGREEMENT UNDER THIS SECTION, THE
10 AGREEMENT SHALL PROVIDE FOR ALL OF THE FOLLOWING:

11 (A) A UNIQUE NUMBER ASSIGNED TO THE STATE CERTIFIED QUALIFIED
12 PRODUCTION FOR WHICH QUALIFIED JOB TRAINING EXPENDITURES WERE
13 INCURRED BY THE COMPANY.

14 (B) A DETAILED DESCRIPTION OF THE STATE CERTIFIED QUALIFIED
15 PRODUCTION AND THE QUALIFIED JOB TRAINING EXPENDITURES.

16 (C) A REQUIREMENT THAT THE COMPANY PROVIDE THE OFFICE WITH THE
17 INFORMATION AND INDEPENDENT CERTIFICATION THE OFFICE AND THE
18 DEPARTMENT DEEM NECESSARY TO VERIFY QUALIFIED JOB TRAINING
19 EXPENDITURES AND ELIGIBILITY FOR THE CREDIT UNDER THIS SECTION.

20 (4) IN DETERMINING WHETHER TO AUTHORIZE A CREDIT UNDER THIS
21 SECTION, THE MICHIGAN FILM OFFICE AND THE STATE TREASURER SHALL
22 CONSIDER ALL OF THE FOLLOWING:

23 (A) THE EXTENT TO WHICH THE STATE CERTIFIED QUALIFIED
24 PRODUCTION AND QUALIFIED JOB TRAINING EXPENDITURE MAY HAVE THE
25 EFFECT OF PROMOTING ECONOMIC DEVELOPMENT OR JOB CREATION IN THIS
26 STATE.

27 (B) THE EXTENT TO WHICH THE CREDIT MAY ASSIST IN ATTRACTING

1 ADDITIONAL PRIVATE INVESTMENT FOR THE PRODUCTION OF MOTION
2 PICTURES, VIDEOS, TELEVISION PROGRAMS, AND DIGITAL MEDIA IN THIS
3 STATE.

4 (C) THE EXTENT TO WHICH THE CREDIT WILL ENCOURAGE THE
5 DEVELOPMENT OF FILM, VIDEO, TELEVISION, AND DIGITAL MEDIA
6 PRODUCTION AND POSTPRODUCTION EXPERTISE IN THIS STATE.

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

25 (A) THE NAME OF THE TAXPAYER.

26 (B) A DESCRIPTION OF THE STATE CERTIFIED QUALIFIED PRODUCTION
27 AND THE QUALIFIED JOB TRAINING EXPENDITURES.

1 (C) THE AMOUNT OF THE COMPANY'S QUALIFIED JOB TRAINING
2 EXPENDITURES FOR THE STATE CERTIFIED QUALIFIED PRODUCTION.

3 (D) THE DATE ON WHICH PRODUCTION OF THE STATE CERTIFIED
4 QUALIFIED PRODUCTION BEGAN IN THIS STATE, THE DATE ON WHICH
5 PRODUCTION OF THE STATE CERTIFIED QUALIFIED PRODUCTION ENDED IN
6 THIS STATE, THE TOTAL NUMBER OF PRODUCTION DAYS IN THIS STATE, AND
7 THE APPROXIMATE TOTAL CREW SIZE FOR THE STATE CERTIFIED QUALIFIED
8 PRODUCTION.

9 (E) THE UNIQUE NUMBER ASSIGNED TO THE STATE CERTIFIED
10 QUALIFIED PRODUCTION BY THE OFFICE UNDER SUBSECTION (3).

11 (F) THE COMPANY'S FEDERAL EMPLOYER IDENTIFICATION NUMBER OR
12 MICHIGAN TREASURY NUMBER.

13 (G) ANY INDEPENDENT CERTIFICATION REQUIRED BY THE DEPARTMENT
14 OR THE MICHIGAN FILM OFFICE.

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

27 (7) TO CLAIM A CREDIT UNDER THIS SECTION, A COMPANY SHALL

1 SUBMIT A QUALIFIED JOB TRAINING EXPENDITURE CERTIFICATE ISSUED
2 UNDER SUBSECTION (5) TO THE DEPARTMENT. IF THE CREDIT ALLOWED UNDER
3 THIS SECTION EXCEEDS THE AMOUNT OF TAXES OWED BY THE COMPANY UNDER
4 THIS ACT FOR A TAX YEAR, THAT PORTION OF THE CREDIT THAT EXCEEDS
5 THE TAX LIABILITY OF THE COMPANY FOR THE TAX YEAR SHALL NOT BE
6 REFUNDED BUT MAY BE CARRIED FORWARD AS A CREDIT AGAINST TAX
7 LIABILITY UNDER THIS ACT IN SUBSEQUENT TAX YEARS FOR A PERIOD NOT
8 TO EXCEED 10 TAX YEARS.

9 (8) THE CREDIT UNDER THIS SECTION SHALL BE CLAIMED AFTER ALL
10 OTHER CREDITS UNDER THIS ACT. THE AMOUNT OF THE CREDIT UNDER THIS
11 SECTION SHALL BE REDUCED BY A CREDIT APPLICATION AND REDEMPTION FEE
12 EQUAL TO 0.5% OF THE CREDIT CLAIMED, WHICH SHALL BE DEDUCTED FROM
13 THE CREDIT OTHERWISE PAYABLE TO THE TAXPAYER CLAIMING THE CREDIT
14 AND BE DEPOSITED BY THE DEPARTMENT IN THE MICHIGAN FILM PROMOTION
15 FUND.

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

22 (10) AS USED IN THIS SECTION:

23 (A) "BELOW THE LINE CREW" MEANS PERSONS EMPLOYED BY AN
24 ELIGIBLE PRODUCTION COMPANY FOR STATE CERTIFIED QUALIFIED
25 PRODUCTION EXPENDITURES MADE AFTER PRODUCTION BEGINS AND BEFORE
26 PRODUCTION IS COMPLETED, INCLUDING, BUT NOT LIMITED TO, A BEST BOY,
27 BOOM OPERATOR, CAMERA LOADER, CAMERA OPERATOR, ASSISTANT CAMERA

1 OPERATOR, COMPOSITOR, DIALOGUE EDITOR, FILM EDITOR, ASSISTANT FILM
2 EDITOR, FOCUS PULLER, FOLEY OPERATOR, FOLEY EDITOR, GAFFER, GRIP,
3 KEY GRIP, LIGHTING CREW, LIGHTING BOARD OPERATOR, LIGHTING
4 TECHNICIAN, MUSIC EDITOR, SOUND EDITOR, SOUND EFFECTS EDITOR, SOUND
5 MIXER, STEADICAM OPERATOR, FIRST ASSISTANT CAMERA OPERATOR, SECOND
6 ASSISTANT CAMERA OPERATOR, DIGITAL IMAGING TECHNICIAN, CAMERA
7 OPERATOR WORKING WITH A DIRECTOR OF PHOTOGRAPHY, ELECTRIC BEST BOY,
8 GRIP BEST BOY, DOLLY GRIP, RIGGING GRIP, ASSISTANT KEY FOR MAKEUP,
9 ASSISTANT KEY FOR HAIR, ASSISTANT SCRIPT SUPERVISOR, SET
10 CONSTRUCTION FOREPERSON, LEAD SET DRESSER, ASSISTANT KEY FOR
11 WARDROBE, SCENIC FOREPERSON, ASSISTANT PROPMaster, ASSISTANT AUDIO
12 MIXER, ASSISTANT BOOM PERSON, ASSISTANT KEY FOR SPECIAL EFFECTS,
13 AND OTHER SIMILAR PERSONNEL. BELOW THE LINE CREW DOES NOT INCLUDE A
14 PRODUCER, DIRECTOR, WRITER, ACTOR, OR OTHER SIMILAR PERSONNEL.

15 (B) "ELIGIBLE PRODUCTION COMPANY" MEANS THAT TERM AS DEFINED
16 IN SECTION 455.

17 (C) "MICHIGAN FILM OFFICE" OR "OFFICE" MEANS THE MICHIGAN FILM
18 OFFICE CREATED UNDER CHAPTER 2A OF THE MICHIGAN STRATEGIC FUND ACT,
19 1984 PA 270, MCL 125.2029 TO 125.2029G.

20 (D) "MICHIGAN FILM PROMOTION FUND" MEANS THE FUND CREATED
21 UNDER CHAPTER 2A OF THE MICHIGAN STRATEGIC FUND ACT, 1984 PA 270,
22 MCL 125.2029 TO 125.2029G.

23 (E) "QUALIFIED JOB TRAINING EXPENDITURE" MEANS SALARY AND
24 OTHER EXPENDITURES PAID BY AN ELIGIBLE PRODUCTION COMPANY TO
25 PROVIDE QUALIFIED PERSONNEL WITH ON-THE-JOB TRAINING AS A MEMBER OF
26 THE BELOW THE LINE CREW FOR A STATE CERTIFIED QUALIFIED PRODUCTION
27 THAT IS INTENDED TO UPGRADE OR ENHANCE THE SKILLS OF THE QUALIFIED

1 PERSONNEL AND ADDRESS DEFICIENCIES IN SKILLS AMONG RESIDENTS OF
2 THIS STATE AS DETERMINED BY THE OFFICE.

3 (F) "QUALIFIED PERSONNEL" MEANS A PERSON WHO HAS RESIDED IN
4 THIS STATE FOR NOT LESS THAN 12 MONTHS, WHO HAS LEGAL STATUS FOR
5 EMPLOYMENT, AND WHO DEMONSTRATES SUFFICIENT PRIOR EXPERIENCE OR
6 TRAINING IN THE FILM AND DIGITAL MEDIA INDUSTRY, AS CERTIFIED BY
7 THE MICHIGAN FILM OFFICE. QUALIFIED PERSONNEL INCLUDES, BUT IS NOT
8 LIMITED TO, A PERSON WHO HAS COMPLETED A TRAINING PROGRAM AT A
9 MICHIGAN PROPRIETARY SCHOOL LICENSED BY THE DEPARTMENT OF LABOR AND
10 ECONOMIC GROWTH THAT OFFERS A PROGRAM OF INSTRUCTION IN FILM AND
11 VIDEO PRODUCTION AND HAS BEEN DESIGNATED WITH A CLASSIFICATION OF
12 INSTRUCTIONAL PROGRAMS CODE OF 50 BY THE DEPARTMENT OF LABOR AND
13 ECONOMIC GROWTH AND A PERSON IN AN ADVANCED CREW POSITION THAT
14 MEETS THE RESIDENCY REQUIREMENTS OF THIS SUBDIVISION AND IS HIRED
15 AND MENTORED BY A KEY OR SUPERVISOR. QUALIFIED PERSONNEL DO NOT
16 INCLUDE A PERSON WITH FEWER THAN 1 OR MORE THAN 4 FILM CREDITS IN
17 THE SAME BELOW THE LINE CREW POSITION FOR WHICH THE ELIGIBLE
18 PRODUCTION COMPANY CLAIMED A CREDIT UNDER THIS SECTION.

19 (G) "QUALIFIED PERSONNEL EXPENDITURE" MEANS THAT TERM AS
20 DEFINED UNDER SECTION 455.

21 (H) "STATE CERTIFIED QUALIFIED PRODUCTION" MEANS THAT TERM AS
22 DEFINED IN SECTION 455.