

SUBSTITUTE FOR
HOUSE BILL NO. 5842

A bill to amend 1933 PA 167, entitled
"General sales tax act,"
by amending section 4cc (MCL 205.54cc), as added by 2006 PA 657;
and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4cc. (1) For tax years that begin after December 31, 2006
2 through ~~December 31, 2010~~ **FEBRUARY 29, 2008**, the Michigan film
3 office, ~~in the department of history, arts, and libraries,~~ with the
4 concurrence of the state treasurer, may enter into an agreement
5 with a motion picture production company providing a credit against
6 the tax imposed by this act as provided under subsection (2). To
7 qualify for the credit under this section, a motion picture
8 production company shall meet all of the following requirements:

1 (a) Shall spend at least \$200,000.00 in this state for
2 purposes related to the filming or production of a single motion
3 picture.

4 (b) Shall enter into an agreement as provided in this section.

5 (c) Shall receive a postproduction certificate of completion
6 under subsection (5).

7 (d) Shall submit a postproduction certificate of completion
8 issued under subsection (5) to the department of treasury 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) An agreement under this section may provide for a motion
14 picture production company to claim a tax credit under this section
15 as follows:

16 (a) If the company incurs between \$200,000.00 and
17 \$1,000,000.00 in production spending, up to 12% of its production
18 spending.

19 (b) If the company incurs between \$1,000,000.01 and
20 \$5,000,000.00 in production spending, up to 16% of its production
21 spending.

22 (c) If the company incurs between \$5,000,000.01 and
23 \$10,000,000.00 in production spending, up to 20% of its production
24 spending. However, if a company incurs more than \$10,000,000.00 in
25 production spending, the agreement may provide tax credits based
26 only on the first \$10,000,000.00 of its production spending.

27 (3) A motion picture production company intending to engage in

1 motion picture production in this state may submit an application
2 to enter into an agreement under this section to the Michigan film
3 office. The request shall be submitted in a form prescribed by the
4 ~~department of history, arts, and libraries~~ **MICHIGAN FILM OFFICE** and
5 shall be accompanied by all of the information and records
6 requested by the Michigan film office. The ~~department~~ **MICHIGAN FILM**
7 **OFFICE** shall not process the application until it is complete. As
8 part of the application, the motion picture production company
9 shall estimate its expected production spending for an identified
10 motion picture. If the Michigan film office with the concurrence of
11 the state treasurer determines to enter into an agreement under
12 this section, the agreement shall provide for all of the following:

13 (a) A requirement that the motion picture production company
14 shall commence work in this state on the identified motion picture
15 within 90 days of the date of the agreement or else the agreement
16 shall expire. However, upon request submitted by the motion picture
17 production company based on good cause, the Michigan film office
18 may extend the period for commencement of production for an
19 additional 90 days.

20 (b) A statement identifying the motion picture production
21 company and the motion picture that the company intends to produce
22 in whole or in part in this state.

23 (c) The maximum amount of the credit under this section
24 available to the motion picture production company for the motion
25 picture it plans to produce in whole or in part in this state.

26 (d) A unique number assigned to the motion picture production
27 project by the Michigan film office.

1 (e) A requirement that the motion picture not depict obscene
2 matter or an obscene performance.

3 (4) The film office and the state treasurer shall not enter
4 into an agreement with any motion picture production company
5 providing credits for more than 4 motion pictures for any 1 tax
6 year. In determining whether to enter into an agreement under this
7 section, the film office and the state treasurer shall consider all
8 of the following:

9 (a) The likelihood that in the absence of the credit the
10 filming will take place in a location other than this state.

11 (b) The extent to which the filming may have the effect of
12 promoting this state as a tourist destination.

13 (c) The motion picture production company's record in
14 completing commitments to engage in motion picture production.

15 (5) If the Michigan film office determines that a motion
16 picture production company has complied with the terms of an
17 agreement entered into under this section, the office shall issue a
18 postproduction certificate to that motion picture production
19 company. The motion picture production company shall submit a
20 request to the Michigan film office on a form prescribed by the
21 ~~department of history, arts, and libraries~~ **MICHIGAN FILM OFFICE** for
22 a postproduction certificate, along with any documentation the
23 Michigan film office requires. The office shall process each
24 request within 60 days after it is complete. However, the office
25 may request additional information and documentation before issuing
26 a postproduction certificate of completion and need not issue the
27 postproduction certificate until satisfied that production spending

1 is adequately established. Each postproduction certificate of
2 completion shall be signed by the ~~director~~ **MICHIGAN FILM**
3 **COMMISSIONER** or his or her designee and shall include the following
4 information:

5 (a) The name of the motion picture production company.

6 (b) The name of the motion picture produced in whole or in
7 part in this state.

8 (c) The motion picture production company's production
9 spending for the motion picture and the amount of the tax credit
10 the company is entitled to claim under this section.

11 (d) The date of completion for the motion picture production
12 in this state.

13 (e) The unique number assigned to the motion picture
14 production project by the Michigan film office under subsection
15 (3).

16 (f) The motion picture production company's federal employer
17 identification number or Michigan treasury number.

18 (6) Information and records submitted by a motion picture
19 production company to the Michigan film office under this section
20 shall be considered confidential and exempt from disclosure under
21 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246,
22 to the extent that they describe the commercial and financial
23 operations of the company, they have not been publicly disseminated
24 at any time, and their disclosure might put the company at a
25 competitive disadvantage. A company submitting materials under this
26 section shall specifically designate any information and records
27 that the company deems confidential. The ~~department~~ **MICHIGAN FILM**

1 **OFFICE** may release any information and records submitted under this
2 section that have not been designated confidential by the company.

3 (7) A motion picture production company shall submit a
4 postproduction certificate of completion issued under subsection
5 (5) to the department of treasury. Subject to subsection (8), if
6 the credit allowed under this section exceeds the tax liability of
7 the motion picture production company for the tax year or if the
8 motion picture production company does not have a tax liability
9 under this act for the tax year, the department of treasury shall
10 refund the excess or pay the amount of the credit to that motion
11 picture production company.

12 (8) The total amount of tax credits available for all motion
13 picture production companies and their assignees under this section
14 shall not exceed \$7,000,000.00 for any 1 tax year.

15 (9) The state school aid fund established in section 11 of
16 article IX of the state constitution of 1963 and all local units of
17 government shall be held harmless for any credit or refund paid
18 under this section. Any credit or refund paid under this section
19 shall be paid from the general fund in the state treasury.

20 (10) Not later than March 1 of each year, the ~~department of~~
21 ~~history, arts, and libraries~~ **MICHIGAN FILM OFFICE** shall submit to
22 the governor, the chairperson of the senate finance committee, and
23 the house tax policy committee an annual report concerning the
24 operation and effectiveness of the credit under this section. The
25 requirements of section 28(1)(f) of 1941 PA 122, MCL 205.28, do not
26 apply to disclosure of tax information required by this subsection.
27 The report shall include all of the following:

1 (a) A brief assessment of the overall effectiveness of the
2 credit under this section at attracting motion picture productions
3 to this state during the immediately preceding year.

4 (b) The number of motion picture productions requesting tax
5 credit ~~preproduction-approval letters~~ during the immediately
6 preceding year, the names of the motion pictures produced in this
7 state for which credits were begun or completed in the immediately
8 preceding year, and the locations in this state that were used in
9 the production of approved motion pictures in the immediately
10 preceding year.

11 (c) The amount of money spent by each motion picture
12 production company identified in subdivision (b) to produce the
13 motion pictures in this state and a breakdown of all production
14 spending by all companies classified as goods, services, or
15 salaries and wages.

16 (d) An estimate of the number of persons employed in this
17 state by motion picture production companies that qualify for the
18 credit under this section.

19 (e) The value of all tax credit certificates of completion
20 issued under this section.

21 (f) An estimate of the cost to the general fund resulting from
22 the tax credits claimed under this section and an estimate of
23 increased direct and indirect spending in this state due to motion
24 picture production.

25 ~~— (g) A brief review of the practices and experiences of other~~
26 ~~states and provinces with similar incentive programs.~~

27 ~~— (h) Any other information deemed important by the department~~

1 ~~to include in the report.~~

2 (11) As used in this section:

3 ~~(a) "Department" means the department of history, arts, and~~
4 ~~libraries.~~

5 ~~(b) "Director" means the director of the department of~~
6 ~~history, arts, and libraries.~~

7 (A) ~~(e)~~ "Michigan film office" or "office" means the Michigan
8 film office housed within the department of history, arts, and
9 libraries **BEFORE MAY 4, 2008, AND HOUSED WITHIN THE MICHIGAN**
10 **STRATEGIC FUND AFTER MAY 3, 2008.**

11 (B) ~~(d)~~ "Motion picture" means a feature-length film produced
12 for distribution in 2 or more states that is a production for which
13 records are not required to be maintained with respect to any
14 performer in the production under 18 USC 2257, or a television
15 series or a commercial or series of commercials made in this state
16 in whole or in part for theatrical or television viewing or as a
17 television pilot. Motion picture does not include the production of
18 any of the following:

19 (i) Televised news or current events programs.

20 (ii) Live sporting events.

21 (iii) Political advertising.

22 (iv) Radio programs.

23 (v) Weather shows.

24 (vi) Financial market reports.

25 (vii) Talk shows.

26 (viii) Game shows.

27 (ix) Product or service marketing.

1 (x) Awards shows or other events.

2 (C) ~~(e)~~—"Motion picture production company" or "company" means
3 an entity in the business of producing motion pictures. However,
4 motion picture production company does not include an entity that
5 is more than 30% owned, affiliated, or controlled by an entity or
6 individual who is in default on a loan made by this state, a loan
7 guaranteed by this state, or a loan made or guaranteed by any other
8 state.

9 (D) ~~(f)~~—"Obscene matter or an obscene performance" means
10 matter described in 1984 PA 343, MCL 752.361 to 752.374.

11 (E) ~~(g)~~—"Production spending" means the following expenditures
12 made in this state to film or produce a single motion picture:

13 (i) Payments to vendors in this state to purchase tangible
14 personal property that is used in making the motion picture.

15 (ii) Payments to vendors doing business in this state for
16 services relating to motion picture production, editing, and
17 processing.

18 (iii) Payments and compensation, not to exceed \$100,000.00 for
19 any 1 employee, for contractual or salaried employees who are
20 residents of this state who perform services with respect to the
21 production.

22 Enacting section 1. Section 4cc of general sales tax act, 1933
23 PA 167, MCL 205.54cc, is repealed effective December 31, 2009.