

HOUSE BILL NO. 6204

November 26, 2024, Introduced by Rep. Skaggs and referred to the Committee on Economic Development and Small Business.

A bill to amend 2007 PA 36, entitled
"Michigan business tax act,"
by amending section 455 (MCL 208.1455), as amended by 2011 PA 77.

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 as provided under this section.
5 To qualify for the credit under this section, a company shall meet

1 all of the following requirements:

2 (a) Spend at least \$50,000.00 in this state for the
3 development, preproduction, production, or postproduction costs of
4 a state certified qualified production.

5 (b) Enter into an agreement as provided in this section.

6 (c) Receive a postproduction certificate of completion from
7 the office under subsection (5).

8 (d) Submit the postproduction certificate of completion issued
9 by the office under subsection (5) to the department under
10 subsection (8).

11 (e) Shall not be delinquent in a tax or other obligation owed
12 to this state or be owned or under common control of an entity that
13 is delinquent in a tax or other obligation owed to this state.

14 (2) For direct production expenditures or qualified personnel
15 expenditures made after February 29, 2008 and before ~~the effective~~
16 ~~date of the amendatory act that added this language, July 12, 2011,~~
17 an agreement under this section may provide for an eligible
18 production company to claim a tax credit equal to 42% of direct
19 production expenditures for a state certified qualified production
20 in a core community, 40% of direct production expenditures for a
21 state certified qualified production in part of this state other
22 than a core community, and 30% for qualified personnel
23 expenditures. For direct production expenditures or qualified
24 personnel expenditures made on and after ~~the effective date of the~~
25 ~~amendatory act that added this language, July 12, 2011,~~ an
26 agreement under this section may provide for an eligible production
27 company to claim a tax credit as determined by the Michigan film
28 office, with the concurrence of the state treasurer, of up to 42%
29 for each separate direct production expenditure for a state

1 certified qualified production in a core community, up to 40% for
2 each separate direct production expenditure for a state certified
3 qualified production in part of this state other than a core
4 community, and up to 30% for each separate qualified personnel
5 expenditure. A taxpayer shall not claim a credit under this section
6 for any of the following:

7 (a) A direct expenditure, or qualified personnel expenditure,
8 for which the company claims a credit under section 459.

9 (b) A direct expenditure, or qualified personnel expenditure,
10 for which the company claims a credit under **former** section 367 of
11 the income tax act of 1967, 1967 PA 281. ~~, MCL 206.367.~~

12 (c) A direct expenditure, or qualified personnel expenditure,
13 for which another taxpayer claims a credit under this section, a
14 credit under section 459, or a credit under **former** section 367 of
15 the income tax act of 1967, 1967 PA 281. ~~, MCL 206.367.~~

16 (3) An eligible production company intending to produce a
17 qualified production in this state, or that initiated production of
18 a qualified production after February 29, 2008 and before April 8,
19 2008, may submit an application to enter into an agreement under
20 this section to the Michigan film office. Except for a qualified
21 production for which production was initiated after February 29,
22 2008 and before April 8, 2008, direct production expenditures and
23 qualified personnel expenditures incurred ~~prior to~~ **before** approval
24 of an agreement under this section are not eligible for the credit
25 under this section. The request ~~shall~~ **must** be submitted in a form
26 prescribed by the Michigan film office and ~~shall~~ **must** be
27 accompanied by a \$100.00 application fee and all of the information
28 and records requested by the office. An application fee received by
29 the office under this subsection ~~shall~~ **must** be deposited in the

1 Michigan film promotion fund. The office shall not process the
2 application until it is complete. As part of the application, the
3 company shall estimate direct production expenditures and qualified
4 personnel expenditures for an identified qualified production. If
5 the office, with the concurrence of the state treasurer, determines
6 to enter into an agreement under this section, the agreement shall
7 provide for all of the following:

8 (a) A requirement that the eligible production company
9 commence work in this state on the identified qualified production
10 within 90 days of the date of the agreement or else the agreement
11 shall expire. However, ~~upon~~**on** request submitted by the company
12 based on good cause, the office may extend the period for
13 commencement of work in this state for up to an additional 90 days.

14 (b) A statement identifying the company and the qualified
15 production that the company intends to produce in whole or in part
16 in this state.

17 (c) A unique number assigned to the qualified production by
18 the office.

19 (d) A requirement that the qualified production not depict
20 obscene matter or an obscene performance.

21 (e) If the qualified production is a long-form narrative film
22 production, a requirement that the qualified production include an
23 acknowledgement that the qualified production was filmed in this
24 state.

25 (f) A requirement that the company provide the office with the
26 information and independent certification the office and the
27 department deem necessary to verify direct production expenditures,
28 qualified personnel expenditures, and eligibility for the credit
29 under this section.

1 (g) If determined to be necessary by the office and the state
2 treasurer, a provision for addressing expenditures in excess of
3 those identified in the agreement.

4 (4) In determining whether to enter into an agreement under
5 this section, the Michigan film office and the state treasurer
6 shall consider all of the following:

7 (a) The potential that in the absence of the credit the
8 qualified production will be produced in a location other than this
9 state.

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

12 (c) The extent to which the qualified production may have the
13 effect of promoting economic development or job creation in this
14 state.

15 (d) The extent to which the credit will attract private
16 investment for the production of qualified productions in this
17 state.

18 (e) The record of the eligible production company in
19 completing commitments to engage in a qualified production.

20 (5) If the Michigan film office determines that an eligible
21 production company has complied with the terms of an agreement
22 entered into under this section, the office shall issue a
23 postproduction certificate of completion to the company. The
24 company shall submit a request to the office for a postproduction
25 certificate of completion on a form prescribed by the office, along
26 with any information or independent certification the office or the
27 department deems necessary. The office shall process each request
28 within 60 days after the request is complete. However, the office
29 may request additional information or independent certification

1 before issuing a postproduction certificate of completion and need
2 not issue the postproduction certificate of completion until
3 satisfied that direct production expenditures, qualified personnel
4 expenditures, and eligibility are adequately established. The
5 additional information requested may include a report of direct
6 production expenditures and qualified personnel expenditures for
7 the qualified production audited and certified by an independent
8 certified public accountant. Each postproduction certificate of
9 completion ~~shall~~**must** be signed by the Michigan film commissioner
10 and ~~shall~~**must** include the following information:

11 (a) The name of the eligible production company.

12 (b) The name of the certified production produced in whole or
13 in part in this state.

14 (c) The eligible production company's direct production
15 expenditures and qualified personnel expenditures for the qualified
16 production.

17 (d) The eligible production company's credit amount.

18 (e) The date of completion for the qualified production in
19 this state.

20 (f) The unique number assigned to the qualified production
21 project by the Michigan film office under subsection (3).

22 (g) The eligible production company's federal employer
23 identification number or Michigan treasury number.

24 (h) Any independent certification required by the department
25 or the Michigan film office.

26 (6) Information, records, or other data received, prepared,
27 used, or retained by the Michigan film office under this section
28 that are submitted by an eligible production company and considered
29 by the taxpayer and acknowledged by the office as confidential

1 ~~shall is~~ not ~~be~~ subject to the disclosure requirements of the
2 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
3 Information, records, or other data ~~shall may~~ only be considered
4 confidential to the extent that the information or records describe
5 the commercial and financial operations or intellectual property of
6 the company, the information or records have not been publicly
7 disseminated at any time, and disclosure of the information or
8 records may put the company at a competitive disadvantage. For
9 purposes of this subsection, information or records that describe
10 commercial and financial operations do not include that portion of
11 information or records that include any expenses that qualify under
12 this section as qualified personnel expenditures or direct
13 production expenditures and for which a credit may be claimed.

14 (7) The Michigan film office shall, on January 15 and July 15
15 in each year, make available on its website a detailed semiannual
16 report that includes, at a minimum, all of the following:

17 (a) The number of applications received for a credit under
18 this section in the immediately preceding 6 months, including the
19 name of the eligible production company that submitted the
20 application and a brief description of the proposed qualified
21 production, including the locations in this state to be used in the
22 production and the proposed amount of money to be expended by the
23 eligible production company to produce the qualified production in
24 this state.

25 (b) The number of applications approved during the immediately
26 preceding 6 months.

27 (c) The number of postproduction certificates of completion
28 issued during the immediately preceding 6 months and the total
29 amount of credits certified under those postproduction certificates

1 of completion.

2 (8) An eligible production company shall submit a
3 postproduction certificate of completion issued under subsection
4 (5) to the department. The Michigan film office shall forward a
5 copy of each postproduction certificate of completion issued
6 pursuant to this subsection to the governor, the president of the
7 Michigan strategic fund, the chairperson of the senate finance
8 committee, the chairperson of the house tax policy committee, the
9 director of the senate fiscal agency, and the director of the house
10 fiscal agency. If the credit allowed under this section exceeds the
11 tax liability of the company for the tax year or if the company
12 claiming the credit does not have a tax liability under this act
13 for the tax year, the department shall refund the excess or pay the
14 amount of the credit to the company. The department shall, as soon
15 as the information is available, annually report to the governor,
16 the president of the Michigan strategic fund, the chairperson of
17 the senate finance committee, the chairperson of the house tax
18 policy committee, the director of the senate fiscal agency, and the
19 director of the house fiscal agency the total amount of the credits
20 certified under this section that exceed the taxpayer's tax
21 liability for the most recent year that tax information is
22 available and for which returns have cleared and been processed.
23 The credit under this section ~~shall~~**must** be claimed after all other
24 credits under this act.

25 (9) An eligible production company may assign all or a portion
26 of a credit under this section to any assignee. An assignee may
27 subsequently assign a credit or any portion of a credit assigned
28 under this subsection to 1 or more assignees. A company may claim a
29 portion of a credit and assign the remaining credit amount. A

1 credit assignment under this subsection is irrevocable. The credit
2 assignment under this subsection ~~shall~~**must** be made on a form
3 prescribed by the department. The qualified taxpayer shall send a
4 copy of the completed assignment form to the department in the tax
5 year in which the assignment is made and shall attach a copy of the
6 form to the return on which the credit is claimed.

7 (10) The amount of the credit under this section ~~shall~~**must** be
8 reduced by a credit application and redemption fee equal to 0.5% of
9 the credit claimed, which ~~shall~~**must** be deducted from the credit
10 otherwise payable to the taxpayer claiming the credit and be
11 deposited by the department in the Michigan film promotion fund.

12 (11) A taxpayer that willfully submits information under this
13 section that the taxpayer knows to be fraudulent or false shall, in
14 addition to any other penalties provided by law, be liable for a
15 civil penalty equal to the amount of the taxpayer's credit under
16 this section. A penalty collected under this section ~~shall~~**must** be
17 deposited in the Michigan film promotion fund.

18 (12) Not later than March 1 of each year after 2008, the
19 Michigan film office shall submit to the governor, the president of
20 the Michigan strategic fund, the chairperson of the senate finance
21 committee, the chairperson of the house tax policy committee, the
22 director of the senate fiscal agency, and the director of the house
23 fiscal agency an annual report concerning the operation and
24 effectiveness of the credit under this section. The requirements of
25 section 28(1)(f) of 1941 PA 122, MCL 205.28, do not apply to
26 disclosure of tax information required by this subsection. The
27 report ~~shall~~**must** include all of the following:

28 (a) A brief assessment of the overall effectiveness of the
29 credit under this section at attracting qualified productions to

1 this state during the immediately preceding calendar year.

2 (b) The number of qualified productions for which the eligible
3 production company applied for a tax credit under this section
4 during the immediately preceding year, the names of the qualified
5 productions produced in this state for which credits were begun or
6 completed in the immediately preceding year, and the locations in
7 this state that were used in the production of qualified
8 productions in the immediately preceding calendar year.

9 (c) The amount of money spent by each eligible production
10 company identified in subdivision (b) to produce each qualified
11 production in this state and a breakdown of all production spending
12 by all companies classified as goods, services, or salaries and
13 wages in the immediately preceding calendar year.

14 (d) The number of below the line crew employed in this state
15 by eligible production companies that qualified for the credit
16 under this section in the immediately preceding calendar year, how
17 many of those persons employed were residents of this state and not
18 included in qualified personnel expenditures, and the total number
19 of hours worked on the qualified production for which a credit is
20 granted.

21 (e) For requests for postproduction certificates of completion
22 submitted after January 2, 2011, the number of above the line
23 personnel employed in this state by the eligible production
24 companies that qualified for the credit under this section in the
25 immediately preceding calendar year and how many of those personnel
26 employed were residents of this state. For purposes of this
27 subdivision, above the line personnel means personnel who are not
28 below the line crew.

29 (f) For requests for postproduction certificates of completion

1 submitted after January 2, 2011, the number of persons employed in
2 this state by the eligible production companies that qualified for
3 the credit under this section in the immediately preceding calendar
4 year that earned more than \$250,000.00 on a qualified production
5 and how many of those persons were residents of this state.

6 (g) The value of all tax credit certificates of completion
7 issued under this section in the immediately preceding calendar
8 year.

9 (h) The amount known by the Michigan film office of other
10 state and local assistance provided to eligible production
11 companies in addition to the tax credit under this section.

12 (13) As used in this section:

13 (a) "Below the line crew" means that term as defined under
14 section 459.

15 (b) "Core community" means a qualified local governmental
16 unit. ~~as defined under section 2 of the obsolete property~~
17 ~~rehabilitation act, 2000 PA 146, MCL 125.2782.~~

18 (c) "Direct production expenditure" means a development,
19 preproduction, production, or postproduction expenditure made in
20 this state that is not a qualified personnel expenditure directly
21 attributable to the production or distribution of a qualified
22 production that is a transaction subject to taxation in this state,
23 including, but not limited to, all of the following:

24 (i) Payments to vendors doing business in this state to
25 purchase or use tangible personal property in producing or
26 distributing the qualified production or to purchase services
27 relating to the production or distribution of the qualified
28 production, including all of the following:

29 (A) Expenditures for optioning or purchasing intellectual

1 property including, but not limited to, books, scripts, music, or
2 trademarks relating to the development or purchase of a script,
3 story, scenario, screenplay, or format, including all expenditures
4 generally associated with the optioning or purchase of intellectual
5 property, including option money, agent fees, and attorney fees
6 relating to the transaction, but not including deferrals,
7 deferments, royalties, profit participation, or recourse or
8 nonrecourse loans negotiated by the eligible production company to
9 obtain the rights to the intellectual property.

10 (B) Production work, production equipment, production
11 software, development work, postproduction work, postproduction
12 equipment, postproduction software, set design, set construction,
13 set operations, props, lighting, wardrobe, makeup, makeup
14 accessories, photography, sound synchronization, special effects,
15 visual effects, audio effects, film processing, music, sound
16 mixing, editing, and related services and materials.

17 (C) Use of facilities or equipment, use of soundstages or
18 studios, location fees, and related services and materials.

19 (D) Catering, food, lodging, and related services and
20 materials.

21 (E) Use of vehicles, ~~which may include~~ **including** chartered
22 aircraft based in this state **and** used for transportation in this
23 state directly attributable to production of a qualified
24 production, but ~~may not include~~ **including** the chartering of
25 aircraft for transportation outside of this state.

26 (F) Commercial airfare if purchased through a travel agency or
27 travel company based in this state for travel to and from this
28 state or within this state directly attributable to production or
29 distribution of a qualified production.

1 (G) Insurance coverage or bonding if purchased from an
2 insurance agent based in this state.

3 (H) Expenditures for distribution, including, but not limited
4 to, both of the following:

5 (I) Preproduction, production, or postproduction costs
6 relating to the creation of trailers, marketing videos,
7 commercials, point-of-purchase videos, and content created on film
8 or digital media, including, but not limited to, the duplication of
9 films, videos, compact discs, digital video discs, and digital
10 files or other digital media created for consumer consumption.

11 (II) Purchase of equipment relating to the duplication or
12 market distribution of any content created or produced in this
13 state.

14 (I) Other expenditures for production of a qualified
15 production in accordance with generally accepted entertainment
16 industry practices.

17 (ii) Payments and compensation, not to exceed \$2,000,000.00 for
18 any 1 employee or contractual or salaried employee who performs
19 services in this state for the production or distribution of a
20 qualified production, including all of the following:

21 (A) Payment of wages, benefits, or fees for talent,
22 management, or labor.

23 (B) Payment to a personal services corporation or professional
24 employer organization for the services of a performing artist or
25 crew member if the personal services corporation or professional
26 employer organization is subject to the tax levied under this act
27 on the portion of the payment qualifying for the tax credit under
28 this section and the payments received by the performing artist or
29 crew member that are subject to taxation under the income tax act

1 of 1967, 1967 PA 281, MCL 206.1 to ~~206.713~~, **206.847**, and are
2 withheld and paid to this state in the amount provided under **former**
3 section 351 of the income tax act of 1967, 1967 PA 281. ~~MCL~~
4 ~~206.351~~.

5 (d) "Eligible production company" or "company" means an entity
6 in the business of producing qualified productions, but does not
7 include an entity that is more than 30% owned, affiliated, or
8 controlled by an entity or individual who is in default on a loan
9 made by this state, a loan guaranteed by this state, or a loan made
10 or guaranteed by any other state.

11 (e) "Interactive website" means a website, the production
12 costs of which exceed \$500,000.00 in an annual period and primarily
13 includes interactive games, end user applications, animation,
14 simulation, sound, graphics, story lines, or video created or
15 repurposed for distribution over the internet. Interactive website
16 does not include a website primarily used for institutional,
17 private, industrial, retail, or wholesale marketing or promotional
18 purposes, or which contains obscene matter or an obscene
19 performance.

20 (f) "Michigan film office" or "office" means the Michigan film
21 office created under chapter 2A of the Michigan strategic fund act,
22 1984 PA 270, MCL 125.2029 to ~~125.2029g~~, **125.2029h**.

23 (g) "Michigan film promotion fund" means the fund created
24 under chapter 2A of the Michigan strategic fund act, 1984 PA 270,
25 MCL 125.2029 to ~~125.2029g~~, **125.2029h**.

26 (h) "Obscene matter or an obscene performance" means matter
27 described in 1984 PA 343, MCL 752.361 to 752.374.

28 (i) "Postproduction expenditure" means a direct expenditure
29 for editing, Foley recording, automatic dialogue replacement, sound

1 editing, special or visual effects including computer-generated
2 imagery or other effects, scoring and music editing, beginning and
3 end credits, negative cutting, soundtrack production, dubbing,
4 subtitling, or addition of sound or visual effects. Postproduction
5 expenditure includes direct expenditures for advertising,
6 marketing, distribution, or related expenses.

7 (j) "Qualified local governmental unit" means 1 or more of the
8 following:

9 (i) A city with a median family income of 150% or less of the
10 statewide median family income as reported in the 1990 federal
11 decennial census that meets 1 or more of the following criteria:

12 (A) Contains or has within its borders an eligible distressed
13 area as that term is defined in section 11(u) (ii) and (iii) of the
14 state housing development authority act of 1966, 1966 PA 346, MCL
15 125.1411.

16 (B) Is contiguous to a city with a population of 500,000 or
17 more.

18 (C) Has a population of 10,000 or more that is located outside
19 of an urbanized area as delineated by the United States Bureau of
20 the Census.

21 (D) Is the central city of a metropolitan area designated by
22 the United States Office of Management and Budget.

23 (E) Has a population of 100,000 or more that is located in a
24 county with a population of 2,000,000 or more according to the 1990
25 federal decennial census.

26 (ii) A township with a median family income of 150% or less of
27 the statewide median family income as reported in the 1990 federal
28 decennial census that meets 1 or more of the following criteria:

29 (A) Is contiguous to a city with a population of 500,000 or

1 more.

2 (B) All of the following:

3 (I) Contains or has within its borders an eligible distressed
4 area as that term is defined in section 11(u) (ii) of the state
5 housing development authority act of 1966, 1966 PA 346, MCL
6 125.1411.

7 (II) Has a population of 10,000 or more.

8 (iii) A village with a population of 500 or more as reported in
9 the 1990 federal decennial census located in an area designated as
10 a rural enterprise community before 1998 under title XIII of the
11 omnibus budget reconciliation act of 1993, Public Law 103-66.

12 (iv) A city that meets all of the following criteria:

13 (A) Has a population of more than 20,000 or less than 5,000
14 and is located in a county with a population of 2,000,000 or more
15 according to the 1990 federal decennial census.

16 (B) As of January 1, 2000, has an overall increase in the
17 state equalized valuation of real and personal property of less
18 than 65% of the statewide average increase since 1972 as determined
19 for the designation of eligible distressed areas under section
20 11(u) (ii) (B) of the state housing development authority act of 1966,
21 1966 PA 346, MCL 125.1411.

22 (k) ~~(j)~~—"Qualified personnel expenditure" means an expenditure
23 made in this state directly attributable to the production or
24 distribution of a qualified production that is a transaction
25 subject to taxation in this state and is a payment or compensation
26 payable to below the line crew for below the line crew members who
27 were not residents of this state for at least 60 days before
28 approval of the agreement for the qualified production under
29 subsection (3), not to exceed \$2,000,000.00 for any 1 employee or

1 contractual or salaried employee who performs service in this state
 2 for the production of a qualified production, including both of the
 3 following:

4 (i) Payment of wages, benefits, or fees.

5 (ii) Payment to a personal services corporation or professional
 6 employer organization for the services of a performing artist or
 7 crew member if the personal services corporation or professional
 8 employer organization is subject to the tax levied under this act
 9 on the portion of the payment qualifying for the tax credit under
 10 this section and the payments received by the performing artist or
 11 crew member that are subject to taxation under the income tax act
 12 of 1967, 1967 PA 281, MCL 206.1 to ~~206.713~~, **206.847**, and are
 13 withheld and paid to this state in the amount provided under **former**
 14 section 351 of the income tax act of 1967, 1967 PA 281. ~~MCL~~
 15 ~~206.351~~.

16 (l) ~~(k)~~—"State certified qualified production" or "qualified
 17 production" means single media or multimedia entertainment content
 18 created in whole or in part in this state for distribution or
 19 exhibition to the general public in 2 or more states by any means
 20 and media in any digital media format, film, or video tape,
 21 including, but not limited to, a motion picture, a documentary, a
 22 television series, a television miniseries, a television special,
 23 interstitial television programming, long-form television,
 24 interactive television, music videos, interactive games, video
 25 games, commercials, internet programming, an internet video, a
 26 sound recording, a video, digital animation, or an interactive
 27 website. Qualified production also includes any trailer, pilot,
 28 video teaser, or demo created primarily to stimulate the sale,
 29 marketing, promotion, or exploitation of future investment in a

1 production. Qualified production does not include any of the
2 following:

3 (i) A production for which records are required to be
4 maintained with respect to any performer in the production under 18
5 USC 2257.

6 (ii) A production that includes obscene matter or an obscene
7 performance.

8 (iii) A production that primarily consists of televised news or
9 current events.

10 (iv) A production that primarily consists of a live sporting
11 event.

12 (v) A production that primarily consists of political
13 advertising.

14 (vi) A radio program.

15 (vii) A weather show.

16 (viii) A financial market report.

17 (ix) A talk show.

18 (x) A game show.

19 (xi) A production that primarily markets a product or service
20 other than a state certified qualified production.

21 (xii) An awards show or other gala event production.

22 (xiii) A production with the primary purpose of fund-raising.

23 (xiv) A production that primarily is for employee training or
24 in-house corporate advertising or other similar production.

25 (m) ~~(l)~~ "Sound recording" means a recording of music, poetry,
26 or spoken-word performance, but does not include the audio portions
27 spoken and recorded as part of a motion picture, video, theatrical
28 production, television news coverage, or athletic event.

1 **(n)** ~~(m)~~ "State certified qualified production" means a
2 qualified production for which a postproduction certificate of
3 completion has been issued by the office under subsection (5).

4 Enacting section 1. This amendatory act does not take effect
5 unless Senate Bill No. ____ or House Bill No. ____ (request no.
6 04434'23) of the 102nd Legislature is enacted into law.