

SUBSTITUTE FOR

SENATE BILL NO. 569

(As amended, November 3, 2011)

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<<A bill to amend 1984 PA 270, entitled
"Michigan strategic fund act,"
by amending sections 9, 29a, and 29d (MCL 125.2009, 125.2029a,
and 125.2029d), section 9 as amended by 1987 PA 278 and sections
29a and 29d as added by 2008 PA 75, and by adding section 29h.>>

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

<<Sec. 9. (1) The fund shall transmit to the legislature ~~an annual~~ **EACH QUARTER A** status report of its activities. The report shall include, but not be limited to, information on name and location of all applicants, amount and type of financial assistance being requested, type of project or product being financed, number of net jobs created or retained, duration of financial assistance, amount of financial support other than state resources, and the status of any loans of the fund, excluding industrial development revenue loans, which are in default. The report shall not include information exempt from disclosure under section 5.

(2) The auditor general or a certified public accountant appointed by the auditor general annually shall conduct and remit to the legislature an audit of the fund and, in the conduct of the audit, shall have access to all records of the fund at any time, whether or not confidential. Each audit required by this section shall include a determination of whether the fund is likely to be able to continue to meet its obligations, including a report on the status of outstanding loans and agreements made by the fund.

(3) THE FUND SHALL ALSO TRANSMIT THE STATUS REPORT DESCRIBED IN SUBSECTION (1) AND AUDIT DESCRIBED IN SUBSECTION (2) TO THE CHAIRPERSON AND MINORITY VICE-CHAIRPERSON OF THE SENATE APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT AND THE HOUSE OF REPRESENTATIVES APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT. THE FUND SHALL MAKE THE STATUS REPORT AND AUDIT AVAILABLE TO THE PUBLIC ON THE FUND'S WEBSITE.>>

Senate Bill No. 569 as amended November 3, 2011

1 Sec. 29a. (1) The Michigan film office is created in the fund.
2 The office shall be the successor to any authority, powers, duties,
3 functions, or responsibilities of the Michigan film office under
4 **FORMER** section 21 of the history, arts, and libraries act, 2001 PA
5 63. , ~~MCL 399.721.~~

6 (2) The office may do all of the following:

7 (a) Promote and market locations, talent, crews, facilities,
8 and technical production and other services related to film,
9 digital media, and television production in this state.

1 (b) Provide to interested persons descriptive and pertinent
2 information on locations, talent, crews, facilities, and technical
3 production and other services related to film, digital media, and
4 television production in this state.

5 (c) Provide technical assistance to the film, television, and
6 digital media industry in locating and securing the use of
7 locations, talent, crews, facilities, and services in this state.

8 (d) Encourage community and Michigan film, digital media, and
9 television production industry participation in, and coordination
10 with, state and local efforts to attract film, digital media, and
11 television production in this state.

12 (e) Serve as this state's chief liaison with the film, digital
13 media, and television production industry and with other
14 governmental units and agencies for the purpose of promoting,
15 encouraging, and facilitating film, digital media, and television
16 production in this state.

17 (f) Explain the benefits and advantages of producing films,
18 digital media, and television productions in this state.

19 (g) Assist film, digital media, and television producers with
20 securing location authorization and other appropriate services
21 connected with film, digital media, and television production in
22 this state.

23 (h) Scout potential film locations for national and
24 international film, digital media, and television prospects.

25 (i) Escort film, digital media, and television producers on
26 location scouting trips.

27 (j) Serve as a liaison between film, digital media, and

1 television producers, state agencies, local agencies, federal
2 agencies, community organizations and leaders, and the film,
3 digital media, and television industry in this state.

4 (k) Assist film, digital media, and television producers in
5 securing permits to film at specific locations in this state and in
6 obtaining needed services related to the production of a film,
7 digital media, or a television program.

8 (l) Represent this state at film, digital media, and television
9 industry trade shows and film festivals.

10 (m) Sponsor workshops or conferences on topics relating to
11 filmmaking, including, but not limited to, screenwriting, film
12 financing, and the preparation of communities to attract and assist
13 film, digital media, and television productions in this state.

14 (n) Encourage cooperation between local, state, and federal
15 government agencies and local film offices in the location and
16 production of films, digital media, and television programming in
17 this state.

18 (o) Coordinate activities with local film offices.

19 (p) Facilitate cooperation from state departments and
20 agencies, local governments, local film offices, federal agencies,
21 and private sector entities in the location and production of
22 films, digital media, and television programming in this state.

23 (q) Prepare, maintain, and distribute a directory of persons,
24 firms, and governmental agencies available to assist in the
25 production of films, digital media, and television programming in
26 this state.

27 (r) Prepare, maintain, and distribute a digital library

1 depicting the variety and extent of the locations within this state
2 for film, digital media, and television productions.

3 (s) Prepare and distribute appropriate promotional and
4 informational materials that do all of the following:

5 (i) Describe desirable locations in this state for film,
6 digital media, and television production.

7 (ii) Explain the benefits and advantages of producing films,
8 digital media, and television productions in this state.

9 (iii) Detail services and assistance available from state
10 government, from local film offices, and from the film, digital
11 media, and television industry in this state.

12 (t) Solicit and accept gifts, grants, labor, loans, and other
13 aid from any person, government, or entity.

14 (u) Employ technical experts, other officers, agents, or
15 employees, permanent or temporary, paid from the funds of the
16 office. The office shall determine the qualifications, duties, and
17 compensation of those the office employs.

18 (v) Contract for goods and services and engage personnel as
19 necessary to perform the duties of the office under this chapter.

20 (w) Study, develop, and prepare reports or plans the office
21 considers necessary to assist the office in the exercise of its
22 powers under this chapter and to monitor and evaluate progress
23 under this chapter.

24 (x) Exercise the duties and responsibilities vested in the
25 office under this chapter and all of the following:

26 (i) Section 88d.

27 (ii) Section 88j(3)(e).

1 (iii) Section 4cc of the general sales tax act, 1933 PA 167, MCL
2 205.54cc.

3 (iv) Sections 455 to 459 of the Michigan business tax act, 2007
4 PA 36, MCL 208.1455 to 208.1459.

5 **(Y) CREATE AND OPERATE A FILM AND DIGITAL MEDIA PRODUCTION**
6 **ASSISTANCE PROGRAM TO ENCOURAGE FILM AND DIGITAL MEDIA PRODUCTION**
7 **THROUGHOUT THIS STATE AS PROVIDED IN SECTION 29H.**

8 **(Z)** ~~(y)~~—All other things necessary or convenient to achieve
9 the objectives and purposes of the office, this chapter, or other
10 laws that relate to the purposes and responsibilities of the
11 office.

12 (3) The enumeration of a power in this chapter shall not be
13 construed as a limitation upon the general powers of the office.
14 The powers granted under this chapter are in addition to those
15 powers granted by any other law.

16 (4) The commissioner and the president of the fund shall
17 cooperate in administering the budget, procurement, and related
18 management functions of the office. The fund may provide the office
19 with staff support and other services to assist the office in
20 performing the functions and duties of the office.

21 (5) State departments, agencies, boards, commissions, and
22 officers and local film offices shall cooperate with the office in
23 the performance of the office's duties under this chapter.

24 Sec. 29d. (1) The Michigan film promotion fund is created
25 within the state treasury.

26 (2) The state treasurer may receive money or other assets from
27 any source for deposit into the promotion fund, including federal

1 funds, other state revenues, gifts, bequests, and other donations,
2 including, but not limited to, all of the following:

3 (a) Fees deposited in the promotion fund under sections 455 to
4 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1455 to
5 208.1459.

6 (b) Fees deposited in the promotion fund under section 367 of
7 the income tax act of 1967, 1967 PA 281, MCL 206.367.

8 (c) Proceeds deposited in the promotion fund under section
9 88d.

10 **(D) FUNDS APPROPRIATED TO CREATE AND OPERATE THE FILM AND**
11 **DIGITAL MEDIA PRODUCTION ASSISTANCE PROGRAM.**

12 (3) The state treasurer shall direct the investment of the
13 promotion fund and shall credit to the promotion fund interest and
14 earnings from promotion fund investments.

15 (4) Money in the promotion fund at the close of a fiscal year
16 shall remain in the promotion fund and shall not lapse to the
17 general fund.

18 (5) Money in the promotion fund may be expended, upon
19 appropriation, to support the functions of the office under this
20 chapter and other applicable law and for purposes authorized under
21 this chapter.

22 **(6) BEGINNING OCTOBER 1, 2011, THE FUND SHALL TRANSFER TO AND**
23 **DEPOSIT IN THE PROMOTION FUND ALL MONEY APPROPRIATED FOR MICHIGAN**
24 **STRATEGIC FUND - FILM INCENTIVE FUNDING UNDER SECTION 1201 OF 2011**
25 **PA 63.**

26 **SEC. 29H. (1) THE MICHIGAN FILM OFFICE SHALL CREATE AND**
27 **OPERATE THE FILM AND DIGITAL MEDIA PRODUCTION ASSISTANCE PROGRAM.**

1 THE FILM AND DIGITAL MEDIA PRODUCTION ASSISTANCE PROGRAM MAY
2 PROVIDE FUNDS TO ELIGIBLE PRODUCTION COMPANIES FOR DIRECT
3 PRODUCTION EXPENDITURES, MICHIGAN PERSONNEL EXPENDITURES, CREW
4 PERSONNEL EXPENDITURES, OR QUALIFIED PERSONNEL EXPENDITURES FOR
5 STATE CERTIFIED QUALIFIED PRODUCTIONS.

6 (2) IF THE OFFICE RECEIVES APPLICATIONS THAT WOULD EXCEED WHAT
7 THE OFFICE CAN AWARD IN ANY YEAR, THE OFFICE MAY PRIORITIZE THAT
8 APPLICATION FOR FUNDING IN THE SUBSEQUENT YEAR.

9 (3) THE FILM AND DIGITAL MEDIA PRODUCTION ASSISTANCE PROGRAM
10 SHALL PROVIDE FOR ALL OF THE FOLLOWING:

11 (A) FUNDING SHALL BE PROVIDED ONLY TO REIMBURSE DIRECT
12 PRODUCTION EXPENDITURES, MICHIGAN PERSONNEL EXPENDITURES, CREW
13 PERSONNEL EXPENDITURES, OR QUALIFIED PERSONNEL EXPENDITURES.

14 (B) TO BE ELIGIBLE TO APPLY FOR FUNDING, THE ELIGIBLE
15 PRODUCTION COMPANY SHALL HAVE DIRECT PRODUCTION EXPENDITURES,
16 MICHIGAN PERSONNEL EXPENDITURES, OR A COMBINATION OF DIRECT
17 PRODUCTION EXPENDITURES AND MICHIGAN PERSONNEL EXPENDITURES, OF
18 \$100,000.00 OR MORE.

19 (C) TO BE ELIGIBLE TO APPLY FOR FUNDING, THE ELIGIBLE
20 PRODUCTION COMPANY SHALL NOT BE DELINQUENT IN A TAX OR OTHER
21 OBLIGATION OWED TO THIS STATE OR BE OWNED OR UNDER COMMON CONTROL
22 OF AN ENTITY THAT IS DELINQUENT IN A TAX OR OTHER OBLIGATION OWED
23 TO THIS STATE.

24 (D) FOR STATE CERTIFIED QUALIFIED PRODUCTION EXPENDITURES
25 AFTER SEPTEMBER 30, 2011, AN AGREEMENT UNDER THIS SECTION SHALL
26 PROVIDE FOR FUNDING EQUAL TO THE SUM OF THE FOLLOWING:

27 (i) 27% OF DIRECT PRODUCTION EXPENDITURES.

1 (ii) MICHIGAN PERSONNEL EXPENDITURES AS FOLLOWS:

2 (A) 32% AFTER SEPTEMBER 30, 2011 AND BEFORE JANUARY 1, 2015.

3 (B) 27% AFTER DECEMBER 31, 2014.

4 (iii) CREW PERSONNEL EXPENDITURES AS FOLLOWS:

5 (A) 25% AFTER SEPTEMBER 30, 2011 AND BEFORE JANUARY 1, 2013.

6 (B) 20% AFTER DECEMBER 31, 2012 AND BEFORE JANUARY 1, 2014.

7 (C) 15% AFTER DECEMBER 31, 2013 AND BEFORE JANUARY 1, 2015.

8 (D) 10% AFTER DECEMBER 31, 2014.

9 (iv) QUALIFIED PERSONNEL EXPENDITURES AS FOLLOWS:

10 (A) 27% AFTER SEPTEMBER 30, 2011 AND BEFORE JANUARY 1, 2015.

11 (B) 12% AFTER DECEMBER 31, 2014.

12 (v) IN ADDITION TO THE EXPENDITURES DESCRIBED IN SUBPARAGRAPHS

13 (i), (ii), (iii), AND (iv), 3% OF DIRECT PRODUCTION EXPENDITURES AND

14 MICHIGAN PERSONNEL EXPENDITURES AT A QUALIFIED FACILITY OR

15 POSTPRODUCTION FACILITY FOR A QUALIFIED PRODUCTION PRODUCED AT THE

16 FACILITY.

17 (E) PAYMENTS AND COMPENSATION FOR ALL PRODUCERS OF A QUALIFIED

18 PRODUCTION RESIDING IN THIS STATE SHALL NOT EXCEED 10% OF THE

19 DIRECT PRODUCTION EXPENDITURES AND MICHIGAN PERSONNEL EXPENDITURES

20 FOR THE QUALIFIED PRODUCTION.

21 (F) PAYMENTS AND COMPENSATION FOR ALL PRODUCERS OF A QUALIFIED

22 PRODUCTION WHO ARE NOT RESIDENTS OF THIS STATE SHALL NOT EXCEED 5%

23 OF THE DIRECT PRODUCTION EXPENDITURES AND MICHIGAN PERSONNEL

24 EXPENDITURES FOR THE QUALIFIED PRODUCTION.

25 (G) A TELEVISION SHOW MAY SUBMIT AN APPLICATION FOR NO MORE

26 THAN 2 SUCCESSIVE SEASONS, NOTWITHSTANDING THE FACT THAT THE

27 SUCCESSIVE SEASONS HAVE NOT BEEN ORDERED. THE SUCCESSIVE SEASON'S

1 DIRECT PRODUCTION EXPENDITURE, MICHIGAN PERSONNEL EXPENDITURE,
2 NONRESIDENT ABOVE THE LINE PERSONNEL EXPENDITURE, AND NONRESIDENT
3 BELOW THE LINE CREW EXPENDITURE AMOUNTS SHALL BE BASED ON THE
4 CURRENT SEASON'S ESTIMATED EXPENDITURES. UPON THE COMPLETION OF
5 PRODUCTION OF EACH SEASON, A TELEVISION SHOW MAY SUBMIT AN
6 APPLICATION FOR NO MORE THAN 1 ADDITIONAL SEASON.

7 (H) AS A SEPARATE AND DISTINCT PART OF THE FILM AND DIGITAL
8 MEDIA PRODUCTION ASSISTANCE PROGRAM, THE OFFICE MAY CREATE A
9 PROGRAM TO DIRECTLY SUPPORT AND PROMOTE QUALIFIED FACILITIES AND
10 OTHER INFRASTRUCTURE THROUGHOUT THIS STATE.

11 (4) AN ELIGIBLE PRODUCTION COMPANY INTENDING TO PRODUCE A
12 QUALIFIED PRODUCTION IN THIS STATE MAY SUBMIT AN APPLICATION FOR
13 FUNDING UNDER THIS SECTION TO THE MICHIGAN FILM OFFICE. THE REQUEST
14 SHALL BE SUBMITTED IN A FORM PRESCRIBED BY THE OFFICE AND SHALL BE
15 ACCOMPANIED BY AN APPLICATION FEE EQUAL TO 0.2% OF THE FUNDING
16 REQUESTED BUT NOT LESS THAN \$200.00 AND NOT MORE THAN \$5,000.00 AND
17 ALL OF THE INFORMATION AND RECORDS REQUESTED BY THE OFFICE. AN
18 APPLICATION FEE RECEIVED BY THE OFFICE UNDER THIS SUBSECTION SHALL
19 BE DEPOSITED IN THE MICHIGAN FILM PROMOTION FUND. THE OFFICE SHALL
20 NOT PROCESS THE APPLICATION UNTIL IT IS COMPLETE. THE OFFICE SHALL
21 PROCESS EACH APPLICATION WITHIN 21 DAYS AFTER THE APPLICATION IS
22 COMPLETE AS DETERMINED BY THE OFFICE. AS PART OF THE APPLICATION,
23 THE COMPANY SHALL ESTIMATE DIRECT PRODUCTION EXPENDITURES, MICHIGAN
24 PERSONNEL EXPENDITURES, CREW PERSONNEL EXPENDITURES, AND QUALIFIED
25 PERSONNEL EXPENDITURES FOR AN IDENTIFIED QUALIFIED PRODUCTION. IF
26 THE OFFICE DETERMINES TO AWARD FUNDING UNDER THIS SECTION TO AN
27 ELIGIBLE PRODUCTION COMPANY, THE OFFICE WITH THE CONCURRENCE OF THE

1 FUND PRESIDENT SHALL ENTER INTO AN AGREEMENT UNDER THIS SECTION.
2 THE AGREEMENT SHALL INCLUDE, BUT IS NOT LIMITED TO, ALL OF THE
3 FOLLOWING:

4 (A) A REQUIREMENT THAT THE ELIGIBLE PRODUCTION COMPANY
5 COMMENCE WORK IN THIS STATE ON THE IDENTIFIED QUALIFIED PRODUCTION
6 WITHIN 90 DAYS OF THE DATE OF THE AGREEMENT OR ELSE THE AGREEMENT
7 SHALL EXPIRE. HOWEVER, UPON REQUEST SUBMITTED BY THE COMPANY BASED
8 ON GOOD CAUSE, THE OFFICE MAY EXTEND THE PERIOD FOR COMMENCEMENT OF
9 WORK IN THIS STATE FOR UP TO AN ADDITIONAL 90 DAYS.

10 (B) A STATEMENT IDENTIFYING THE COMPANY AND THE QUALIFIED
11 PRODUCTION THAT THE COMPANY INTENDS TO PRODUCE IN WHOLE OR IN PART
12 IN THIS STATE.

13 (C) A UNIQUE NUMBER ASSIGNED TO THE QUALIFIED PRODUCTION BY
14 THE OFFICE.

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

17 (E) IF THE QUALIFIED PRODUCTION IS A LONG-FORM NARRATIVE FILM
18 PRODUCTION, A REQUIREMENT THAT THE QUALIFIED PRODUCTION INCLUDE
19 WITHIN ITS PRESENTATION WORLDWIDE FOR THE LIFE OF THE QUALIFIED
20 PRODUCTION AN ACKNOWLEDGEMENT AS PROVIDED BY THE OFFICE THAT
21 PROMOTES THE PURE MICHIGAN TOURISM CAMPAIGN OR ANY SUCCESSOR
22 CAMPAIGN. IF THE QUALIFIED PRODUCTION IS A TELEVISION SHOW, A
23 REQUIREMENT THAT THE QUALIFIED PRODUCTION INCLUDE WITHIN EACH
24 BROADCAST OF 30 MINUTES OR LONGER AN ACKNOWLEDGEMENT AS PROVIDED BY
25 THE OFFICE THAT PROMOTES THE PURE MICHIGAN TOURISM CAMPAIGN OR ANY
26 SUCCESSOR CAMPAIGN. IF THE QUALIFIED PRODUCTION IS A MUSIC VIDEO, A
27 REQUIREMENT THAT THE MUSIC VIDEO INCLUDE AN ACKNOWLEDGEMENT AS

1 PROVIDED BY THE OFFICE THAT PROMOTES THE PURE MICHIGAN TOURISM
2 CAMPAIGN OR ANY SUCCESSOR CAMPAIGN. IF THE QUALIFIED PRODUCTION IS
3 AN INTERACTIVE GAME, A REQUIREMENT THAT THE QUALIFIED PRODUCTION
4 INCLUDE WITH EACH UNIT DISTRIBUTED AND ONLINE PROMOTIONS AN
5 ACKNOWLEDGEMENT AS PROVIDED BY THE OFFICE THAT PROMOTES THE PURE
6 MICHIGAN TOURISM CAMPAIGN OR ANY SUCCESSOR CAMPAIGN. IF THE
7 QUALIFIED PRODUCTION IS A LONG-FORM NARRATIVE FILM PRODUCTION, THE
8 OFFICE ALSO MAY REQUIRE THAT, IF THE QUALIFIED PRODUCTION IS
9 DISTRIBUTED BY DIGITAL VIDEO DISC OR OTHER DIGITAL MEDIA FOR THE
10 SECONDARY MARKET, THE QUALIFIED PRODUCTION INCLUDE A VIDEO BETWEEN
11 30 AND 60 SECONDS LONG IN A FORM APPROVED BY THE OFFICE THAT
12 PROMOTES THE PURE MICHIGAN TOURISM CAMPAIGN OR ANY SUCCESSOR
13 CAMPAIGN.

14 (F) A REQUIREMENT THAT THE COMPANY PROVIDE THE OFFICE WITH THE
15 INFORMATION AND INDEPENDENT CERTIFICATION THE OFFICE DEEMS
16 NECESSARY TO VERIFY DIRECT PRODUCTION EXPENDITURES, MICHIGAN
17 PERSONNEL EXPENDITURES, CREW PERSONNEL EXPENDITURES, QUALIFIED
18 PERSONNEL EXPENDITURES, AND ELIGIBILITY FOR FUNDING UNDER THIS
19 SECTION, WHICH MAY INCLUDE A REPORT OF DIRECT PRODUCTION
20 EXPENDITURES, MICHIGAN PERSONNEL EXPENDITURES, CREW PERSONNEL
21 EXPENDITURES, AND QUALIFIED PERSONNEL EXPENDITURES FOR THE
22 QUALIFIED PRODUCTION AUDITED AND CERTIFIED BY AN INDEPENDENT
23 CERTIFIED PUBLIC ACCOUNTANT.

24 (G) IF DETERMINED TO BE NECESSARY BY THE OFFICE, A PROVISION
25 FOR ADDRESSING EXPENDITURES IN EXCESS OF THOSE IDENTIFIED IN THE
26 AGREEMENT.

27 (5) IN DETERMINING WHETHER TO AWARD FUNDING UNDER THIS

1 SECTION, THE MICHIGAN FILM OFFICE SHALL CONSIDER ALL OF THE
2 FOLLOWING:

3 (A) THE POTENTIAL THAT, IN THE ABSENCE OF FUNDING, THE
4 QUALIFIED PRODUCTION WILL BE PRODUCED IN A LOCATION OTHER THAN THIS
5 STATE.

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

8 (C) THE EXTENT TO WHICH THE QUALIFIED PRODUCTION MAY HAVE THE
9 EFFECT OF PROMOTING ECONOMIC DEVELOPMENT OR JOB CREATION IN THIS
10 STATE.

11 (D) THE EXTENT TO WHICH STATE FUNDING WILL ATTRACT PRIVATE
12 INVESTMENT FOR THE PRODUCTION OF QUALIFIED PRODUCTIONS IN THIS
13 STATE.

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

16 (F) THE EXTENT TO WHICH THE QUALIFIED PRODUCTION WILL EMPLOY
17 MICHIGAN RESIDENTS.

18 (6) IF THE MICHIGAN FILM OFFICE DETERMINES THAT AN ELIGIBLE
19 PRODUCTION COMPANY HAS COMPLIED WITH THE TERMS OF AN AGREEMENT
20 ENTERED INTO UNDER THIS SECTION, THE OFFICE SHALL AWARD FUNDING AS
21 PROVIDED IN THIS SECTION. A PERSON THAT WILLFULLY SUBMITS
22 INFORMATION UNDER THIS SECTION THAT THE PERSON KNOWS TO BE
23 FRAUDULENT OR FALSE SHALL, IN ADDITION TO ANY OTHER PENALTIES
24 PROVIDED BY LAW, BE LIABLE FOR A CIVIL PENALTY EQUAL TO THE AMOUNT
25 OF FUNDING PROVIDED TO THE PERSON UNDER THIS SECTION. A PENALTY
26 COLLECTED UNDER THIS SECTION SHALL BE DEPOSITED IN THE MICHIGAN
27 FILM PROMOTION FUND.

1 (7) INFORMATION, RECORDS, OR OTHER DATA RECEIVED, PREPARED,
2 USED, OR RETAINED BY THE MICHIGAN FILM OFFICE UNDER THIS SECTION
3 THAT ARE SUBMITTED BY AN ELIGIBLE PRODUCTION COMPANY AND CONSIDERED
4 BY THE APPLICANT AND ACKNOWLEDGED BY THE OFFICE AS CONFIDENTIAL
5 SHALL NOT BE SUBJECT TO THE DISCLOSURE REQUIREMENTS OF THE FREEDOM
6 OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246. INFORMATION,
7 RECORDS, OR OTHER DATA SHALL ONLY BE CONSIDERED CONFIDENTIAL TO THE
8 EXTENT THAT THE INFORMATION OR RECORDS DESCRIBE THE COMMERCIAL AND
9 FINANCIAL OPERATIONS OR INTELLECTUAL PROPERTY OF THE COMPANY, THE
10 INFORMATION OR RECORDS HAVE NOT BEEN PUBLICLY DISSEMINATED AT ANY
11 TIME, AND DISCLOSURE OF THE INFORMATION OR RECORDS MAY PUT THE
12 COMPANY AT A COMPETITIVE DISADVANTAGE. FOR PURPOSES OF THIS
13 SUBSECTION, INFORMATION OR RECORDS THAT DESCRIBE COMMERCIAL AND
14 FINANCIAL OPERATIONS DO NOT INCLUDE THAT PORTION OF INFORMATION OR
15 RECORDS THAT INCLUDE ANY EXPENSES THAT QUALIFY UNDER THIS SECTION
16 AS DIRECT PRODUCTION EXPENDITURES OR PERSONNEL EXPENDITURES.

17 (8) NOT LATER THAN MARCH 1, 2012, THE OFFICE SHALL PRODUCE A
18 PERFORMANCE DASHBOARD FOR THE ASSISTANCE AUTHORIZED BY THIS
19 SECTION. THE PERFORMANCE DASHBOARD SHALL BE MADE AVAILABLE BY THE
20 OFFICE ON THE FUND'S WEBSITE AND SHALL BE UPDATED AT LEAST
21 ANNUALLY. THE PERFORMANCE DASHBOARD SHALL INCLUDE THE FOLLOWING
22 MEASURES:

23 (A) DIRECT AND INDIRECT ECONOMIC IMPACTS IN THIS STATE OF THE
24 ASSISTANCE AUTHORIZED BY THIS SECTION.

25 (B) DIRECT AND INDIRECT JOB CREATION ATTRIBUTABLE TO THE
26 ASSISTANCE AUTHORIZED BY THIS SECTION.

27 (C) DIRECT AND INDIRECT PRIVATE INVESTMENT IN THIS STATE

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1 ATTRIBUTABLE TO THE ASSISTANCE AUTHORIZED BY THIS SECTION.

2 (D) ANY OTHER MEASURES CONSIDERED RELEVANT BY THE OFFICE OR
3 THE MICHIGAN FILM ADVISORY COUNCIL.

<<(E) THE NAME OF EACH ELIGIBLE PRODUCTION COMPANY AND THE
AMOUNT OF EACH INCENTIVE DISPERSED FOR EACH STATE CERTIFIED
QUALIFIED PRODUCTION.>>

4 (9) THE MICHIGAN FILM OFFICE SHALL NOT AWARD FUNDING AFTER
5 SEPTEMBER 30, 2017.

6 (10) THE LEGISLATURE FINDS AND DECLARES THAT FUNDING
7 AUTHORIZED UNDER THIS SECTION TO ENCOURAGE DIVERSIFICATION OF THE
8 ECONOMY, TO ENCOURAGE FILM PRODUCTION, TO ENCOURAGE INVESTMENT, AND
9 TO ENCOURAGE THE CREATION OF JOBS IN THIS STATE IS A PUBLIC PURPOSE
10 AND OF PARAMOUNT CONCERN IN THE INTEREST OF THE HEALTH, SAFETY, AND
11 GENERAL WELFARE OF THE CITIZENS OF THIS STATE. IT IS THE INTENT OF
12 THE LEGISLATURE THAT THE ECONOMIC BENEFITS, FILM PRODUCTION,
13 INVESTMENT, AND THE CREATION OF JOBS RESULTING FROM THIS SECTION
14 SHALL ACCRUE SUBSTANTIALLY WITHIN THIS STATE.

15 (11) THE FUND BOARD MAY AUTHORIZE THE USE OF MONEY
16 APPROPRIATED FOR THE PROGRAM AUTHORIZED BY THIS SECTION FOR
17 ADMINISTRATION OF THE PROGRAM. HOWEVER, THE FUND BOARD SHALL NOT
18 USE MORE THAN 4% OF THE ANNUAL APPROPRIATION FOR ADMINISTERING THE
19 PROGRAM AUTHORIZED UNDER THIS SECTION.

20 (12) BEGINNING ON SEPTEMBER 30, 2011 AND AT THE END OF EACH
21 FISCAL YEAR THEREAFTER, THE COMMISSIONER SHALL CERTIFY THE TOTAL
22 AMOUNT OF UNCLAIMED CERTIFICATES OF COMPLETION, AGREEMENTS WHERE
23 WORK HAS NOT COMMENCED AS REQUIRED IN SUBSECTION (4), AND
24 AGREEMENTS FOR QUALIFIED PRODUCTIONS THE COMMISSIONER REASONABLY
25 BELIEVES WILL NOT BE COMPLETED. FUNDING ALLOCATED FOR QUALIFIED
26 PRODUCTIONS DESCRIBED IN THE PRECEDING SENTENCE MAY BE REALLOCATED.

27 (13) AS USED IN THIS SECTION:

1 (A) "ABOVE THE LINE PERSONNEL" MEANS A PRODUCER, DIRECTOR,
2 WRITER, ACTOR, OTHER THAN EXTRAS, OR OTHER SIMILAR PERSONNEL WHOSE
3 COMPENSATION IS NEGOTIATED PRIOR TO THE START OF THE PRODUCTION.

4 (B) "BELOW THE LINE CREW" MEANS PERSONS EMPLOYED BY AN
5 ELIGIBLE PRODUCTION COMPANY FOR STATE CERTIFIED QUALIFIED
6 PRODUCTION EXPENDITURES MADE AFTER PRODUCTION BEGINS AND BEFORE
7 PRODUCTION IS COMPLETED, INCLUDING, BUT NOT LIMITED TO, A BEST BOY,
8 BOOM OPERATOR, CAMERA LOADER, CAMERA OPERATOR, ASSISTANT CAMERA
9 OPERATOR, COMPOSITOR, DIALOGUE EDITOR, FILM EDITOR, ASSISTANT FILM
10 EDITOR, FOCUS PULLER, FOLEY OPERATOR, FOLEY EDITOR, GAFFER, GRIP,
11 KEY GRIP, LIGHTING CREW, LIGHTING BOARD OPERATOR, LIGHTING
12 TECHNICIAN, MUSIC EDITOR, SOUND EDITOR, SOUND EFFECTS EDITOR, SOUND
13 MIXER, STEADICAM OPERATOR, FIRST ASSISTANT CAMERA OPERATOR, SECOND
14 ASSISTANT CAMERA OPERATOR, DIGITAL IMAGING TECHNICIAN, CAMERA
15 OPERATOR WORKING WITH A DIRECTOR OF PHOTOGRAPHY, ELECTRIC BEST BOY,
16 GRIP BEST BOY, DOLLY GRIP, RIGGING GRIP, ASSISTANT KEY FOR MAKEUP,
17 ASSISTANT KEY FOR HAIR, ASSISTANT SCRIPT SUPERVISOR, SET
18 CONSTRUCTION FOREPERSON, LEAD SET DRESSER, ASSISTANT KEY FOR
19 WARDROBE, SCENIC FOREPERSON, ASSISTANT PROPMASTER, ASSISTANT AUDIO
20 MIXER, ASSISTANT BOOM PERSON, ASSISTANT KEY FOR SPECIAL EFFECTS,
21 AND OTHER SIMILAR PERSONNEL. BELOW THE LINE CREW DOES NOT INCLUDE A
22 PRODUCER, DIRECTOR, WRITER, ACTOR, OR OTHER SIMILAR PERSONNEL.

23 (C) "CREW PERSONNEL EXPENDITURE" MEANS AN EXPENDITURE MADE IN
24 THIS STATE DIRECTLY ATTRIBUTABLE TO THE PRODUCTION OR DEVELOPMENT
25 OF A QUALIFIED PRODUCTION THAT IS A TRANSACTION SUBJECT TO TAXATION
26 IN THIS STATE AND IS A PAYMENT OR COMPENSATION FOR NONRESIDENT
27 BELOW THE LINE CREW, TALENT, MANAGEMENT, OR LABOR, NOT TO EXCEED

1 \$2,000,000.00 FOR ANY 1 EMPLOYEE OR CONTRACTUAL OR SALARIED
2 EMPLOYEE OF A QUALIFIED PRODUCTION, INCLUDING BOTH OF THE
3 FOLLOWING:

4 (i) PAYMENT OF WAGES, BENEFITS, OR FEES FOR TALENT, MANAGEMENT,
5 OR LABOR.

6 (ii) PAYMENT TO A PERSONAL SERVICES CORPORATION OR PROFESSIONAL
7 EMPLOYER ORGANIZATION FOR THE SERVICES OF A PERFORMING ARTIST OR
8 CREW MEMBER IF THE PERSONAL SERVICES CORPORATION OR PROFESSIONAL
9 EMPLOYER ORGANIZATION IS SUBJECT TO TAXATION IN THIS STATE ON THE
10 PORTION OF THE PAYMENT QUALIFYING FOR FUNDING UNDER THIS SECTION
11 AND THE PAYMENTS RECEIVED BY THE PERFORMING ARTIST OR CREW MEMBER
12 THAT ARE SUBJECT TO TAXATION UNDER THE INCOME TAX ACT OF 1967, 1967
13 PA 281, MCL 206.1 TO 206.713, AND ARE WITHHELD AND PAID TO THIS
14 STATE IN THE AMOUNT PROVIDED UNDER SECTION 351 OR 703 OF THE INCOME
15 TAX ACT OF 1967, 1967 PA 281, MCL 206.351 AND 206.703.

16 (D) "DIRECT PRODUCTION EXPENDITURE" MEANS A DEVELOPMENT,
17 PREPRODUCTION, PRODUCTION, OR POSTPRODUCTION EXPENDITURE MADE IN
18 THIS STATE DIRECTLY ATTRIBUTABLE TO THE PRODUCTION OR DEVELOPMENT
19 OF A QUALIFIED PRODUCTION THAT IS A TRANSACTION SUBJECT TO TAXATION
20 IN THIS STATE. DIRECT PRODUCTION EXPENDITURE DOES NOT INCLUDE OUT-
21 OF-STATE PRODUCTION COSTS THAT ARE MADE IN THIS STATE EVEN IF THE
22 COSTS ARE PASSED THROUGH A THIRD-PARTY COMPANY IN THIS STATE OR
23 PAYMENTS MADE BY AN ELIGIBLE PRODUCTION COMPANY TO ITS PARENT
24 COMPANY, AFFILIATE, SUBSIDIARY, OR JOINT VENTURE PARTNER EXCEPT
25 WHERE THE PAYMENTS ARE FOR TRANSACTIONS ENTERED INTO PURSUANT TO
26 ARM'S-LENGTH NEGOTIATIONS AND WHICH REFLECT A COMMERCIALY
27 REASONABLE PRICE FOR THE GOODS AND SERVICES PURCHASED. A DIRECT

1 PRODUCTION EXPENDITURE MUST HAVE TRUE ECONOMIC SUBSTANCE WITHIN THE
2 STATE. DIRECT PRODUCTION EXPENDITURE DOES NOT INCLUDE A PRIZE
3 PAYABLE TO PARTICIPANTS IN A GAME SHOW; AN EXPENDITURE FOR
4 ENTERTAINMENT, AMUSEMENT, OR RECREATION; OR AN EXPENDITURE OF MORE
5 THAN \$2,500.00 FOR THE PURCHASE OF ARTWORK OR JEWELRY USED IN A
6 PRODUCTION. DIRECT PRODUCTION EXPENDITURE DOES NOT INCLUDE A
7 MICHIGAN PERSONNEL EXPENDITURE, A QUALIFIED PERSONNEL EXPENDITURE,
8 OR A CREW PERSONNEL EXPENDITURE. DIRECT PRODUCTION EXPENDITURE
9 INCLUDES PAYMENTS TO VENDORS DOING BUSINESS IN THIS STATE TO
10 PURCHASE OR USE TANGIBLE PERSONAL PROPERTY IN PRODUCING THE
11 QUALIFIED PRODUCTION OR TO PURCHASE SERVICES RELATING TO THE
12 PRODUCTION OR DEVELOPMENT OF THE QUALIFIED PRODUCTION, INCLUDING
13 ALL OF THE FOLLOWING:

14 (i) PRODUCTION WORK, PRODUCTION EQUIPMENT, PRODUCTION SOFTWARE,
15 DEVELOPMENT WORK, POSTPRODUCTION WORK, POSTPRODUCTION EQUIPMENT,
16 POSTPRODUCTION SOFTWARE, SET DESIGN, SET CONSTRUCTION, SET
17 OPERATIONS, PROPS, LIGHTING, WARDROBE, MAKEUP, MAKEUP ACCESSORIES,
18 PHOTOGRAPHY, SOUND SYNCHRONIZATION, SPECIAL EFFECTS, VISUAL
19 EFFECTS, AUDIO EFFECTS, DIGITAL EFFECTS, FILM PROCESSING, MUSIC,
20 SOUND MIXING, EDITING, INTERACTIVE GAME DEVELOPMENT AND
21 PROGRAMMING, AND RELATED SERVICES AND MATERIALS.

22 (ii) USE OF FACILITIES OR EQUIPMENT, USE OF SOUNDSTAGES OR
23 STUDIOS, LOCATION FEES, AND RELATED SERVICES AND MATERIALS.

24 (iii) CATERING, FOOD, LODGING, AND RELATED SERVICES AND
25 MATERIALS.

26 (iv) USE OF VEHICLES, WHICH MAY INCLUDE CHARTERED AIRCRAFT
27 BASED IN THIS STATE USED FOR TRANSPORTATION IN THIS STATE DIRECTLY

1 ATTRIBUTABLE TO PRODUCTION OF A QUALIFIED PRODUCTION, BUT MAY NOT
2 INCLUDE THE CHARTERING OF AIRCRAFT FOR TRANSPORTATION OUTSIDE OF
3 THIS STATE.

4 (v) COMMERCIAL AIRFARE IF PURCHASED THROUGH A TRAVEL AGENCY OR
5 TRAVEL COMPANY BASED IN THIS STATE FOR TRAVEL TO THIS STATE OR
6 WITHIN THIS STATE DIRECTLY ATTRIBUTABLE TO PRODUCTION OR
7 DEVELOPMENT OF A QUALIFIED PRODUCTION.

8 (vi) INSURANCE COVERAGE OR BONDING IF PURCHASED FROM AN
9 INSURANCE AGENT BASED IN THIS STATE.

10 (vii) INTEREST ON A LOAN, IF THE ENTITY FROM WHICH THE
11 FINANCING IS OBTAINED IS A PUBLIC, PRIVATE, OR INSTITUTIONAL ENTITY
12 WITH THE REQUISITE LEVEL OF PHYSICAL PRESENCE IN THIS STATE THAT IS
13 NOT RELATED TO OR AFFILIATED WITH THE ELIGIBLE PRODUCTION COMPANY
14 OR ANY ABOVE THE LINE PERSONNEL OR CAST MEMBERS, AND WHOSE
15 PRINCIPAL BUSINESS ACTIVITY IS THE LENDING OF MONEY TO INDIVIDUALS
16 AND BUSINESSES. IN ADDITION, THE FINANCING SHALL BE A GOOD FAITH
17 LOAN, PAYABLE BY THE ELIGIBLE PRODUCTION COMPANY, EVIDENCED BY AN
18 ENFORCEABLE PROMISSORY NOTE OR OTHER DEBT INSTRUMENT WITH CLEAR
19 REPAYMENT OBLIGATIONS AND BEARING A MARKET-RELATED RATE OF
20 INTEREST.

21 (viii) OTHER EXPENDITURES FOR PRODUCTION OF A QUALIFIED
22 PRODUCTION IN ACCORDANCE WITH GENERALLY ACCEPTED ENTERTAINMENT
23 INDUSTRY PRACTICES.

24 (E) "ELIGIBLE PRODUCTION COMPANY" OR "COMPANY" MEANS AN ENTITY
25 IN THE BUSINESS OF PRODUCING QUALIFIED PRODUCTIONS OR FOR
26 INTERACTIVE GAMES IN THE BUSINESS OF DEVELOPING INTERACTIVE GAMES,
27 BUT DOES NOT INCLUDE AN ENTITY THAT IS MORE THAN 30% OWNED,

1 AFFILIATED, OR CONTROLLED BY AN ENTITY OR INDIVIDUAL WHO IS IN
2 DEFAULT ON A LOAN MADE BY THIS STATE, A LOAN GUARANTEED BY THIS
3 STATE, OR A LOAN MADE OR GUARANTEED BY ANY OTHER STATE. FOR AN
4 INTERACTIVE GAME, AN ELIGIBLE PRODUCTION COMPANY NEED NOT POSSESS
5 OWNERSHIP OF OR LEGAL CONTROL OVER ALL OF THE INTELLECTUAL PROPERTY
6 RIGHTS OR OTHER RIGHTS NECESSARY TO COMPLETE THE QUALIFIED
7 PRODUCTION IN ITS ENTIRETY NOR BE THE SAME ENTITY THAT DISTRIBUTES
8 OR PUBLISHES THE INTERACTIVE GAME.

9 (F) "MADE IN THIS STATE" MEANS, FOR PURPOSES OF SUBDIVISION
10 (C) ONLY, ALL OF THE FOLLOWING:

11 (i) TANGIBLE PERSONAL PROPERTY AND SERVICES ACQUIRED BY THE
12 ELIGIBLE PRODUCTION COMPANY FROM A SOURCE WITHIN THIS STATE. IF AN
13 ITEM OF TANGIBLE PERSONAL PROPERTY IS NOT AVAILABLE FROM A SOURCE
14 WITHIN THIS STATE AND A VENDOR WITH THE REQUISITE PHYSICAL PRESENCE
15 IN THIS STATE THAT REGULARLY SELLS OR LEASES PROPERTY OF THAT KIND
16 OBTAINS THE PROPERTY FROM AN OUT-OF-STATE VENDOR AND SELLS OR
17 LEASES IT TO AN ELIGIBLE PRODUCTION COMPANY, THAT EXPENDITURE IS
18 CONSIDERED MADE IN THIS STATE AND IS A DIRECT PRODUCTION
19 EXPENDITURE AND NOT AN OUT-OF-STATE PRODUCTION COST.

20 (ii) SERVICES WHOLLY PERFORMED WITHIN THIS STATE.

21 (G) "MICHIGAN PERSONNEL EXPENDITURE" MEANS AN EXPENDITURE MADE
22 IN THIS STATE DIRECTLY ATTRIBUTABLE TO THE PRODUCTION OR
23 DEVELOPMENT OF A QUALIFIED PRODUCTION THAT IS A TRANSACTION SUBJECT
24 TO TAXATION IN THIS STATE AND IS A PAYMENT OR COMPENSATION PAYABLE
25 TO BELOW THE LINE CREW FOR BELOW THE LINE CREW MEMBERS WHO ARE
26 RESIDENTS OF THIS STATE AND ABOVE THE LINE PERSONNEL FOR ABOVE THE
27 LINE PERSONNEL WHO ARE RESIDENTS OF THIS STATE, NOT TO EXCEED

1 \$2,000,000.00 FOR ANY 1 EMPLOYEE OR CONTRACTUAL OR SALARIED
2 EMPLOYEE WHO PERFORMS SERVICE IN THIS STATE FOR THE PRODUCTION OF A
3 QUALIFIED PRODUCTION, INCLUDING BOTH OF THE 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 TAXATION IN THIS STATE ON THE
9 PORTION OF THE PAYMENT QUALIFYING FOR FUNDING UNDER THIS SECTION
10 AND THE PAYMENTS RECEIVED BY THE PERFORMING ARTIST OR CREW MEMBER
11 THAT ARE SUBJECT TO TAXATION UNDER THE INCOME TAX ACT OF 1967, 1967
12 PA 281, MCL 206.1 TO 206.713, ARE WITHHELD AND PAID TO THIS STATE
13 IN THE AMOUNT PROVIDED UNDER SECTION 351 OR 703 OF THE INCOME TAX
14 ACT OF 1967, 1967 PA 281, MCL 206.351 AND 206.703.

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

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

25 (J) "POSTPRODUCTION FACILITY" MEANS A PERMANENT FACILITY
26 WITHIN THIS STATE EQUIPPED FOR THE POSTPRODUCTION OF MOTION
27 PICTURES, TELEVISION SHOWS, OR DIGITAL MEDIA PRODUCTION THAT MEETS

1 ALL OF THE FOLLOWING REQUIREMENTS:

2 (i) INCLUDES AT LEAST 3,000 SQUARE FEET OF CONTIGUOUS SPACE.

3 (ii) INCLUDES AT LEAST 8 WORK STATIONS.

4 (iii) HAS BEEN A QUALIFIED FILM AND DIGITAL MEDIA INFRASTRUCTURE
5 PROJECT FROM WHICH AN INVESTMENT EXPENDITURE CERTIFICATE WAS ISSUED
6 UNDER SECTION 457 OF THE MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL
7 208.1457, OR HAS BEEN THE LOCATION OF A STATE CERTIFIED QUALIFIED
8 PRODUCTION FOR WHICH A POSTPRODUCTION CERTIFICATE OF COMPLETION WAS
9 ISSUED UNDER SECTION 455 OF THE MICHIGAN BUSINESS TAX ACT, 2007 PA
10 36, MCL 208.1455, OR BOTH.

11 (K) "PRODUCER" MEANS AN INDIVIDUAL WITHOUT REGARD TO HIS OR
12 HER ACTUAL TITLE OR SCREEN CREDIT INVOLVED IN OR RESPONSIBLE FOR
13 ANY OF THE FOLLOWING:

14 (i) FUNDING FOR FINANCING IN WHOLE OR IN PART, OR ARRANGING FOR
15 THE FUNDING, OR FINANCING, OF THE QUALIFIED PRODUCTION.

16 (ii) OBTAINING THE CREATIVE RIGHTS TO OR THE INTELLECTUAL
17 PROPERTY FOR DEVELOPMENT OR PRODUCTION OF THE QUALIFIED PRODUCTION.

18 (iii) HIRING ABOVE THE LINE PERSONNEL.

19 (iv) SUPERVISING THE OVERALL PRODUCTION OF THE QUALIFIED
20 PRODUCTION.

21 (v) ARRANGING FOR THE EXHIBITION OF THE QUALIFIED PRODUCTION.

22 (L) "QUALIFIED FACILITY" MEANS A PERMANENT FACILITY WITHIN THIS
23 STATE EQUIPPED FOR THE PRODUCTION OF MOTION PICTURES, TELEVISION
24 SHOWS, OR DIGITAL MEDIA PRODUCTION THAT MEETS ALL OF THE FOLLOWING
25 REQUIREMENTS:

26 (i) INCLUDES MORE THAN 1 SOUNDSTAGE.

27 (ii) INCLUDES NOT LESS THAN 3,000 SQUARE FEET OF CONTIGUOUS,

1 COLUMN-FREE SPACE FOR PRODUCTION ACTIVITIES WITH A HEIGHT OF AT
2 LEAST 12 FEET.

3 (iii) INCLUDES ANY GRID AND SUFFICIENT BUILT-IN ELECTRIC SERVICE
4 FOR SHOOTING WITHOUT THE NEED OF PORTABLE ELECTRIC GENERATORS.

5 (iv) HAS BEEN A QUALIFIED FILM AND DIGITAL MEDIA INFRASTRUCTURE
6 PROJECT FOR WHICH AN INVESTMENT EXPENDITURE CERTIFICATE WAS ISSUED
7 UNDER SECTION 457 OF THE MICHIGAN BUSINESS TAX ACT, 2007 PA 36, MCL
8 208.1457, OR HAS BEEN THE LOCATION OF A STATE CERTIFIED QUALIFIED
9 PRODUCTION FOR WHICH A POSTPRODUCTION CERTIFICATE OF COMPLETION WAS
10 ISSUED UNDER SECTION 455 OF THE MICHIGAN BUSINESS TAX ACT, 2007 PA
11 36, MCL 208.1455, OR BOTH.

12 (M) "QUALIFIED PERSONNEL EXPENDITURE" MEANS AN EXPENDITURE
13 MADE IN THIS STATE DIRECTLY ATTRIBUTABLE TO THE PRODUCTION OR
14 DEVELOPMENT OF A QUALIFIED PRODUCTION THAT IS A TRANSACTION SUBJECT
15 TO TAXATION IN THIS STATE AND IS A PAYMENT OR COMPENSATION FOR
16 NONRESIDENT ABOVE THE LINE PERSONNEL, TALENT, MANAGEMENT, OR LABOR,
17 NOT TO EXCEED \$2,000,000.00 FOR ANY 1 EMPLOYEE OR CONTRACTUAL OR
18 SALARIED EMPLOYEE OF A QUALIFIED PRODUCTION, INCLUDING BOTH OF THE
19 FOLLOWING:

20 (i) PAYMENT OF WAGES, BENEFITS, OR FEES FOR TALENT, MANAGEMENT,
21 OR LABOR.

22 (ii) PAYMENT TO A PERSONAL SERVICES CORPORATION OR PROFESSIONAL
23 EMPLOYER ORGANIZATION FOR THE SERVICES OF A PERFORMING ARTIST OR
24 CREW MEMBER IF THE PERSONAL SERVICES CORPORATION OR PROFESSIONAL
25 EMPLOYER ORGANIZATION IS SUBJECT TO TAXATION IN THIS STATE ON THE
26 PORTION OF THE PAYMENT QUALIFYING FOR FUNDING UNDER THIS SECTION
27 AND THE PAYMENTS RECEIVED BY THE PERFORMING ARTIST OR CREW MEMBER

1 THAT ARE SUBJECT TO TAXATION UNDER THE INCOME TAX ACT OF 1967, 1967
2 PA 281, MCL 206.1 TO 206.713, AND ARE WITHHELD AND PAID TO THIS
3 STATE IN THE AMOUNT PROVIDED UNDER SECTION 351 OR 703 OF THE INCOME
4 TAX ACT OF 1967, 1967 PA 281, MCL 206.351 AND 206.703.

5 (N) "STATE CERTIFIED QUALIFIED PRODUCTION" OR "QUALIFIED
6 PRODUCTION" MEANS SINGLE MEDIA OR MULTIMEDIA ENTERTAINMENT CONTENT
7 CREATED IN WHOLE OR IN PART IN THIS STATE FOR DISTRIBUTION OR
8 EXHIBITION TO THE GENERAL PUBLIC IN 2 OR MORE STATES BY ANY MEANS
9 AND MEDIA IN ANY DIGITAL MEDIA FORMAT, FILM, OR VIDEO TAPE,
10 INCLUDING, BUT NOT LIMITED TO, A MOTION PICTURE, A DOCUMENTARY, A
11 TELEVISION SERIES, A TELEVISION MINISERIES, A TELEVISION SPECIAL,
12 INTERSTITIAL TELEVISION PROGRAMMING, LONG-FORM TELEVISION,
13 INTERACTIVE TELEVISION, MUSIC VIDEOS, INTERACTIVE GAMES SUCH AS
14 VIDEO GAMES OR WIRELESS GAMES, INCLUDING CONSOLE, COMPUTER, MOBILE,
15 AND ONLINE GAMES, COMMERCIALS, INTERNET PROGRAMMING, AN INTERNET
16 VIDEO, A SOUND RECORDING, A VIDEO, DIGITAL ANIMATION, OR AN
17 INTERACTIVE WEBSITE. QUALIFIED PRODUCTION ALSO INCLUDES ANY
18 TRAILER, PILOT, VIDEO TEASER, OR DEMO CREATED PRIMARILY TO
19 STIMULATE THE SALE, MARKETING, PROMOTION, OR EXPLOITATION OF FUTURE
20 INVESTMENT IN A PRODUCTION. QUALIFIED PRODUCTION DOES NOT INCLUDE
21 ANY OF THE FOLLOWING:

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

25 (ii) A PRODUCTION THAT INCLUDES OBSCENE MATTER OR AN OBSCENE
26 PERFORMANCE.

27 (iii) A PRODUCTION THAT PRIMARILY CONSISTS OF TELEVISED NEWS OR

1 CURRENT EVENTS.

2 (iv) A PRODUCTION THAT PRIMARILY CONSISTS OF A LIVE SPORTING
3 EVENT.

4 (v) A PRODUCTION THAT PRIMARILY CONSISTS OF POLITICAL
5 ADVERTISING.

6 (vi) A RADIO PROGRAM.

7 (vii) A WEATHER SHOW.

8 (viii) A FINANCIAL MARKET REPORT.

9 (ix) AN AWARDS SHOW OR OTHER GALA EVENT PRODUCTION.

10 (x) A PRODUCTION WITH THE PRIMARY PURPOSE OF FUND-RAISING.

11 (xi) A PRODUCTION THAT PRIMARILY IS FOR EMPLOYEE TRAINING OR
12 IN-HOUSE CORPORATE ADVERTISING OR OTHER SIMILAR PRODUCTION.