

445.1513	Pub trst	G	Franchise investment law — illegal offers/sales	7
445.1520	Pub trst	G	Franchise investment law — keeping records	7
445.1521	Pub trst	G	Franchise investment law — false representation	7
445.1523	Pub trst	G	Franchise investment law — false statements of material fact	7
445.1525	Pub trst	G	Franchise investment law — false advertising	7
445.1528	Pub trst	D	Pyramid/chain promotions — offer or sell	7
445.1671	Pub trst	E	Mortgage brokers, lenders — knowingly giving a false statement	15
445.2507(2)	Pub ord	F	Violation of unsolicited commercial e-mail protection act in furtherance of crime	4

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 826.
- (b) Senate Bill No. 828.
- (c) Senate Bill No. 829.
- (d) Senate Bill No. 830.
- (e) Senate Bill No. 831.
- (f) Senate Bill No. 832.
- (g) Senate Bill No. 833.
- (h) House Bill No. 5287.
- (i) House Bill No. 5288.
- (j) House Bill No. 5289.
- (k) House Bill No. 5290.
- (l) House Bill No. 5291.

This act is ordered to take immediate effect.

Approved April 2, 2008.

Filed with Secretary of State April 3, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 826 was filed with the Secretary of State April 3, 2008, and became 2008 PA 64, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 828 was filed with the Secretary of State April 3, 2008, and became 2008 PA 66, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 829 was filed with the Secretary of State April 3, 2008, and became 2008 PA 67, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 830 was filed with the Secretary of State April 3, 2008, and became 2008 PA 68, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 831 was filed with the Secretary of State April 3, 2008, and became 2008 PA 69, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 832 was filed with the Secretary of State April 3, 2008, and became 2008 PA 70, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 833 was filed with the Secretary of State April 3, 2008, and became 2008 PA 71, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5287 was filed with the Secretary of State April 3, 2008, and became 2008 PA 59, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5288 was filed with the Secretary of State April 3, 2008, and became 2008 PA 60, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5289 was filed with the Secretary of State April 3, 2008, and became 2008 PA 61, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5290 was filed with the Secretary of State April 3, 2008, and became 2008 PA 62, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5291 was filed with the Secretary of State April 3, 2008, and became 2008 PA 63, Imd. Eff. Apr. 3, 2008.

[No. 66]**(SB 828)**

AN ACT to amend 1987 PA 173, entitled “An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers; to prescribe the powers and duties of the financial institutions bureau and certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties,” by amending the title and section 1a (MCL 445.1651a), section 1a as amended by 2002 PA 391.

The People of the State of Michigan enact:

TITLE

An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers and their loan officers; to prescribe the powers and duties of certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties.

445.1651a Definitions.

Sec. 1a. As used in this act:

(a) “Affiliate” means a person or group of persons that directly or indirectly through 1 or more intermediaries controls, is controlled by, or is under common control with another person and engaged in a business or transaction regulated by this act.

(b) “Board” means the mortgage industry advisory board created in section 33.

(c) “Commissioner” means the commissioner of the office of financial and insurance services of the department of labor and economic growth or his or her authorized agent.

(d) “Construction loan” means a mortgage loan to construct a 1-to-4 family dwelling, that is approved and closed before completion of the construction of the improvement on the real property.

(e) “Control person” means a director or executive officer of a licensee or registrant or a person who has the authority to participate in the direction, directly or indirectly through 1 or more other persons, of the management or policies of a licensee or registrant.

(f) “Depository financial institution” means a state or nationally chartered bank, a state or federally chartered savings and loan association, savings bank, or credit union, or an entity of the federally chartered farm credit system.

(g) “Executive officer” means an officer, member, or partner of a licensee or registrant. The term includes the chief executive officer, president, vice president, chief financial officer, controller, or compliance officer or an individual holding any other similar position.

(h) “Financial licensing act” means the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072, and any of the acts listed in section 2 of the consumer financial services act, 1988 PA 161, MCL 487.2052.

(i) “Firm commitment” means an underwriting in which a broker-dealer commits to buy the mortgage loan or the entire issue of securities based upon or backed by 1 or more mortgage loans and assumes all financial responsibility for any unsold securities.

(j) “Individual investor” means a person that resides in this state or has its principal place of business in this state. The term does not include a bank, savings bank, savings and loan association, credit union, trust company, insurance company, investment company as defined in the investment company act of 1940, 15 USC 80a-1 to 80a-64, pension or profit sharing plan if the assets of the plan are managed by a bank or trust company or other institutional manager, financial institution, institutional manager, broker-dealer that is a member of the

New York stock exchange or registered under the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818, the federal national mortgage association, the government national mortgage association, the federal home loan mortgage corporation, or a mortgage lender or mortgage servicer.

(k) “License” means a license issued under this act.

(l) “Licensee” means a person licensed or required to be licensed under this act.

(m) “Loan officer” means an individual who is an employee or agent of a mortgage broker, mortgage lender, or mortgage servicer; who originates mortgage loans; and who is not an employee or agent of a depository financial institution or a subsidiary or affiliate of a depository financial institution.

(n) “Loan officer registrant” means an individual who is currently registered under section 2a.

(o) “Mortgage broker” means a person who, directly or indirectly, does 1 or both of the following:

(i) Serves or offers to serve as an agent for a person in an attempt to obtain a mortgage loan.

(ii) Serves or offers to serve as an agent for a person who makes or offers to make mortgage loans.

(p) “Mortgage lender” means a person who, directly or indirectly, makes or offers to make mortgage loans.

(q) “Mortgage loan” means a loan secured by a first mortgage on real property located in this state and used, or improved for use, as a dwelling and designed for occupancy by 4 or fewer families or a land contract covering real property located in this state used, or improved for use, as a dwelling and designed for occupancy by 4 or fewer families. A mortgage loan does not include a home improvement installment contract under the home improvement finance act, 1965 PA 332, MCL 445.1101 to 445.1431.

(r) “Mortgage servicer” means a person who, directly or indirectly, services or offers to service mortgage loans.

(s) “Originate” means any of the following:

(i) To negotiate, arrange, or offer to negotiate or arrange a mortgage loan between a mortgage lender and 1 or more individuals.

(ii) To place, assist in placing, or find a mortgage loan for 1 or more individuals.

(t) “Person” means an individual, corporation, limited liability company, partnership, association, governmental entity, or any other legal entity.

(u) “Real estate broker” means a broker or associate broker licensed under article 25 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518.

(v) “Real estate salesperson” means a salesperson licensed under article 25 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518.

(w) “Register” means filing a notice with the commissioner on a form prescribed by the commissioner that notifies the commissioner of the intent to engage in the activities of a mortgage broker, mortgage lender, mortgage servicer, or loan officer in this state and the payment of any fees required under this act, along with the other documents, proofs, and fees required by the commissioner.

(x) “Registrant” means a person that is registered under section 6 or required to register under section 6. The term does not include a loan officer registrant.

(y) “Service” means the collection or remittance, or the right or obligation to collect or remit, for a lender, noteowner, noteholder, mortgage servicer, or the licensee’s or registrant’s own account of 4 or more installment payments of the principal, interest, or an amount placed in escrow under a mortgage loan, mortgage servicing agreement, or an agreement with the mortgagor.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 826.
- (b) Senate Bill No. 827.
- (c) Senate Bill No. 829.
- (d) Senate Bill No. 830.
- (e) Senate Bill No. 831.
- (f) Senate Bill No. 832.
- (g) Senate Bill No. 833.
- (h) House Bill No. 5287.
- (i) House Bill No. 5288.
- (j) House Bill No. 5289.
- (k) House Bill No. 5290.
- (l) House Bill No. 5291.

This act is ordered to take immediate effect.

Approved April 2, 2008.

Filed with Secretary of State April 3, 2008.

Compiler’s note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 826 was filed with the Secretary of State April 3, 2008, and became 2008 PA 64, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 827 was filed with the Secretary of State April 3, 2008, and became 2008 PA 65, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 829 was filed with the Secretary of State April 3, 2008, and became 2008 PA 67, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 830 was filed with the Secretary of State April 3, 2008, and became 2008 PA 68, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 831 was filed with the Secretary of State April 3, 2008, and became 2008 PA 69, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 832 was filed with the Secretary of State April 3, 2008, and became 2008 PA 70, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 833 was filed with the Secretary of State April 3, 2008, and became 2008 PA 71, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5287 was filed with the Secretary of State April 3, 2008, and became 2008 PA 59, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5288 was filed with the Secretary of State April 3, 2008, and became 2008 PA 60, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5289 was filed with the Secretary of State April 3, 2008, and became 2008 PA 61, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5290 was filed with the Secretary of State April 3, 2008, and became 2008 PA 62, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5291 was filed with the Secretary of State April 3, 2008, and became 2008 PA 63, Imd. Eff. Apr. 3, 2008.

[No. 67]

(SB 829)

AN ACT to amend 1987 PA 173, entitled “An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers; to prescribe the powers and duties of the financial institutions bureau and certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties,” (MCL 445.1651 to 445.1684) by adding section 2b.

The People of the State of Michigan enact:

445.1652b Loan officer registration; validity; duration; termination; application for renewal; fee; form; process for submission of renewal; information to be included; affidavit disclosing criminal conviction of or plea of no contest; renewal prohibited; conditions; application as new applicant; license or registration from another state.

Sec. 2b. (1) A loan officer registration is valid for 1 calendar year and terminates on December 31 unless it is renewed on or before that date.

(2) Subject to subsection (6), to renew the loan officer registrations of the loan officer registrants who are employees or agents of a licensee or registrant, the licensee or registrant shall submit an application for renewal before December 1 of the year of the current loan officer registrations. The licensee or registrant shall include with the application the annual operating fee established in section 8(3) for each loan officer registrant included in the application.

(3) The commissioner shall prescribe the form of the application for renewal of loan officer registrations under subsection (2) and the process for submitting an application for renewal. The application form shall require that an applicant provide at least all of the following information about each loan officer registrant included in the application for renewal:

- (a) The name, address, and current license or registration number of the applicant.
- (b) The name and home address of the loan officer registrant.
- (c) The current registration number of the loan officer registrant.

(d) A statement as to whether the loan officer registrant has had an application denied, or a license, registration, or similar authority revoked or suspended, to practice any profession or occupation in any jurisdiction, including, but not limited to, licensure or registration as a mortgage broker, mortgage lender, or mortgage servicer in which the loan officer registrant held more than 25% of the ownership interest or as a loan officer.

(e) Except as provided in subsection (7), proof acceptable to the commissioner that the loan officer registrant has in the immediately preceding calendar year completed at least 6 hours of instruction in a course or courses relevant to the residential mortgage lending industry, the content of which has been approved by the commissioner. The 6 hours of instruction shall include at least 1.5 hours related to legal and regulatory compliance and at least 1 hour related to ethics and fraud prevention. All of the following apply to the course or courses described in this subdivision:

(i) A course may utilize a live instructor or be conducted by electronic means, including, but not limited to, the internet, digital broadcast, or satellite network. However, a course conducted by electronic means must include a method of confirming a loan officer registrant's completion of the course.

(ii) The course must be provided by a person approved by the commissioner.

(f) Any other information required by the commissioner.

(4) Before a licensee or registrant submits an application for renewal of a loan officer registration for a loan officer registrant under subsection (2), the loan officer registrant shall provide an affidavit to the licensee or registrant that discloses any criminal conviction of or plea of no contest by the loan officer registrant occurring between 1 of the following, as applicable, and the date of the affidavit:

(a) If the renewal application is for the loan officer registrant's first renewal of his or her loan officer registration, the date of the background records check provided at the time of his or her initial registration.

(b) If the renewal application is for the loan officer registrant's second or subsequent renewal of his or her loan officer registration, the date of the most recent affidavit provided by the loan officer registrant to the licensee or registrant under this subsection.

(5) The commissioner shall not renew the loan officer registration of any loan officer who has ever been convicted of, or pled no contest to, any of the following:

(a) A felony or misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities.

(b) Within the 10-year period preceding the date of the application for renewal, a felony other than a felony described in subdivision (a).

(6) If an individual included in an application for renewal under subsection (2) is not currently registered and his or her loan officer registration has not been renewed for a period of more than 5 consecutive calendar years, the individual must apply for a loan officer registration under section 2a as a new applicant. However, the applicant may include in a renewal application under subsection (2) a request to renew the loan officer registration for a loan officer registrant who is not currently registered if his or her loan officer registration has not been renewed for a period of fewer than 5 consecutive years.

(7) An applicant under subsection (2) for renewal of the loan officer registration of a loan officer registrant who has a valid, similar license or registration from another state that has instructional procedures and requirements for loan officers approved by the commissioner may satisfy subsection (3)(e) by submitting proof that he or she is in compliance with the instructional requirements of that state at the time of application.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 826.
- (b) Senate Bill No. 827.
- (c) Senate Bill No. 828.
- (d) Senate Bill No. 830.
- (e) Senate Bill No. 831.
- (f) Senate Bill No. 832.
- (g) Senate Bill No. 833.
- (h) House Bill No. 5287.
- (i) House Bill No. 5288.
- (j) House Bill No. 5289.
- (k) House Bill No. 5290.
- (l) House Bill No. 5291.

This act is ordered to take immediate effect.

Approved April 2, 2008.

Filed with Secretary of State April 3, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 826 was filed with the Secretary of State April 3, 2008, and became 2008 PA 64, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 827 was filed with the Secretary of State April 3, 2008, and became 2008 PA 65, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 828 was filed with the Secretary of State April 3, 2008, and became 2008 PA 66, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 830 was filed with the Secretary of State April 3, 2008, and became 2008 PA 68, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 831 was filed with the Secretary of State April 3, 2008, and became 2008 PA 69, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 832 was filed with the Secretary of State April 3, 2008, and became 2008 PA 70, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 833 was filed with the Secretary of State April 3, 2008, and became 2008 PA 71, Imd. Eff. Apr. 3, 2008.
House Bill No. 5287 was filed with the Secretary of State April 3, 2008, and became 2008 PA 59, Imd. Eff. Apr. 3, 2008.
House Bill No. 5288 was filed with the Secretary of State April 3, 2008, and became 2008 PA 60, Imd. Eff. Apr. 3, 2008.
House Bill No. 5289 was filed with the Secretary of State April 3, 2008, and became 2008 PA 61, Imd. Eff. Apr. 3, 2008.
House Bill No. 5290 was filed with the Secretary of State April 3, 2008, and became 2008 PA 62, Imd. Eff. Apr. 3, 2008.
House Bill No. 5291 was filed with the Secretary of State April 3, 2008, and became 2008 PA 63, Imd. Eff. Apr. 3, 2008.

[No. 68]**(SB 830)**

AN ACT to amend 1987 PA 173, entitled “An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers; to prescribe the powers and duties of the financial institutions bureau and certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties,” by amending section 8 (MCL 445.1658), as amended by 1996 PA 210.

The People of the State of Michigan enact:

445.1658 Payment of investigation and annual operating fees; establishment of annual fee schedule; limitations; fees nonrefundable; action for delinquent payment; licensee or registrant report; penalties; establishment and administration of MBLSLA fund; basis for setting operating fee.

Sec. 8. (1) At the time of making an initial application for a license under this act, and at the time of making the first application for a license after the suspension or revocation of a license, an applicant for licensure under this act shall pay to the commissioner a fee for investigating the applicant and the minimum annual operating fee established by the commissioner in subsection (3). To renew a license that is not suspended or revoked, the applicant shall only pay to the commissioner the annual operating fee established in subsection (3). At the time of filing a registration or a renewal of a registration, a registrant shall pay to the commissioner an annual operating fee established in subsection (3).

(2) If an initial or renewed license or registration described in subsection (1) will have an effective date within 6 months of the expiration date described in section 7, the initial or renewal annual operating fee for that license or registration is 1/2 of the annual operating fee.

(3) The commissioner shall annually establish a schedule of fees that are sufficient to pay, but not to exceed, the office of financial and insurance services' reasonably anticipated costs of administering and enforcing this act. Subject to subsection (2), the fees are as follows:

(a) For the investigation of an applicant for a license, a fee of not less than \$400.00 or more than \$1,000.00.

(b) Except as set forth in subdivision (c), a licensee or registrant annually shall pay an operating fee based upon the number of closed mortgage loans the licensee or registrant brokered to other parties, the number of mortgage loans closed by the licensee or registrant during the previous calendar year, and the dollar volume of loans serviced by the licensee or registrant as of December 31 of the previous calendar year. In the 1-year period beginning July 2, 1996, the operating fee shall be not less than \$250.00 and not more than \$2,500.00. Beginning July 2, 1997, in the discretion of the commissioner, subject to the limitation set forth in this subsection, the commissioner may increase the maximum operating fee at an annual rate of not more than 10% in the second, third, and fourth 1-year periods after the 1-year period beginning July 2, 1996, and in the fifth and subsequent years, at an annual rate of not more than the annual increase for the immediately preceding 12-month period in the Detroit consumer price index as reported by the United States department of labor. For purposes of this subdivision, “mortgage loan” includes only mortgage loans subject to this act.

(c) For amending or reissuing a license, registration, or loan officer registration, a fee of not less than \$15.00 or more than \$200.00.

(d) A licensee or registrant shall pay the actual travel, lodging, and meal expenses incurred by employees of the office of financial and insurance services who travel out of state to examine the records of the licensee or investigate the licensee or registrant and the cost of independent investigators employed under section 20(1)(e).

(e) A loan officer registrant shall pay an annual fee established by the commissioner. For purposes of this subdivision, the commissioner shall establish an amount for the annual fee that is sufficient to defray the estimated cost of administering and enforcing the loan officer registration provisions of this act.

(4) Fees received under this act are not refundable.

(5) If any fees or penalties provided for in this act are not paid when required, the attorney general may maintain an action against the delinquent licensee or registrant for the recovery of the fees or penalties together with interest and costs.

(6) A licensee or registrant who fails to submit to the commissioner a report required under section 7 or section 21 is subject to a penalty of \$25.00 for each day the report is delinquent or \$1,000.00, whichever is less.

(7) A licensee or registrant whose license or registration renewal fee is not received on or before June 30 is subject to a penalty of \$25.00 for each day the fee is delinquent or \$1,000.00, whichever is less.

(8) The department of treasury shall establish and administer a restricted account in the general fund named the MBLSLA fund. The department of treasury shall credit to the account all fees collected under this act or under the commissioner's authority under this act and money appropriated or received from any source. The department of treasury shall use the money in the account only to provide money to the commissioner, to administer and enforce this act and other costs associated with the commissioner's regulatory obligations. Money in the account at the end of a state fiscal year shall not revert to the general fund but shall be carried over in the account to the next state fiscal year.

(9) The annual operating fee set by the commissioner under subsection (3)(b) shall be based upon information in reports filed under section 21.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 826.
- (b) Senate Bill No. 827.
- (c) Senate Bill No. 828.
- (d) Senate Bill No. 829.
- (e) Senate Bill No. 831.
- (f) Senate Bill No. 832.
- (g) Senate Bill No. 833.
- (h) House Bill No. 5287.
- (i) House Bill No. 5288.
- (j) House Bill No. 5289.
- (k) House Bill No. 5290.

(l) House Bill No. 5291.

This act is ordered to take immediate effect.

Approved April 2, 2008.

Filed with Secretary of State April 3, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 826 was filed with the Secretary of State April 3, 2008, and became 2008 PA 64, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 827 was filed with the Secretary of State April 3, 2008, and became 2008 PA 65, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 828 was filed with the Secretary of State April 3, 2008, and became 2008 PA 66, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 829 was filed with the Secretary of State April 3, 2008, and became 2008 PA 67, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 831 was filed with the Secretary of State April 3, 2008, and became 2008 PA 69, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 832 was filed with the Secretary of State April 3, 2008, and became 2008 PA 70, Imd. Eff. Apr. 3, 2008.

Senate Bill No. 833 was filed with the Secretary of State April 3, 2008, and became 2008 PA 71, Imd. Eff. Apr. 3, 2008.

House Bill No. 5287 was filed with the Secretary of State April 3, 2008, and became 2008 PA 59, Imd. Eff. Apr. 3, 2008.

House Bill No. 5288 was filed with the Secretary of State April 3, 2008, and became 2008 PA 60, Imd. Eff. Apr. 3, 2008.

House Bill No. 5289 was filed with the Secretary of State April 3, 2008, and became 2008 PA 61, Imd. Eff. Apr. 3, 2008.

House Bill No. 5290 was filed with the Secretary of State April 3, 2008, and became 2008 PA 62, Imd. Eff. Apr. 3, 2008.

House Bill No. 5291 was filed with the Secretary of State April 3, 2008, and became 2008 PA 63, Imd. Eff. Apr. 3, 2008.

[No. 69]

(SB 831)

AN ACT to amend 1987 PA 173, entitled “An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers; to prescribe the powers and duties of the financial institutions bureau and certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties,” by amending section 10 (MCL 445.1660), as amended by 1996 PA 210.

The People of the State of Michigan enact:

445.1660 Surrender, revocation, or suspension of license, registration, or loan officer registration; loss or destruction; affidavit.

Sec. 10. (1) A licensee, registrant, or loan officer registrant may surrender a license, registration, or loan officer registration by delivering to the commissioner the license, registration, or loan officer registration with written notice that the licensee, registrant, or loan officer registrant surrenders the license, registration, or loan officer registration. The surrender, revocation, or suspension of a license, registration, or loan officer registration under this act does not affect the licensee's, registrant's, or loan officer registrant's civil or criminal liability for acts committed before the surrender, revocation, or suspension. The surrender of a license, registration, or loan officer registration does not affect a proceeding to suspend or revoke a license, registration, or loan officer registration.

(2) Except as otherwise provided by law, a revocation, suspension, or surrender of a license, registration, or loan officer registration does not impair or affect the obligation of a preexisting contract between the licensee, registrant, or loan officer registrant and another person.

(3) A licensee, registrant, or loan officer registrant whose license, registration, or loan officer registration has been destroyed or lost may comply with this section by submitting to the commissioner a notarized affidavit of the loss accompanied by written notice that the licensee, registrant, or loan officer registrant surrenders the license, registration, or loan officer registration.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 826.
- (b) Senate Bill No. 827.
- (c) Senate Bill No. 828.
- (d) Senate Bill No. 829.
- (e) Senate Bill No. 830.
- (f) Senate Bill No. 832.
- (g) Senate Bill No. 833.
- (h) House Bill No. 5287.
- (i) House Bill No. 5288.
- (j) House Bill No. 5289.
- (k) House Bill No. 5290.
- (l) House Bill No. 5291.

This act is ordered to take immediate effect.

Approved April 2, 2008.

Filed with Secretary of State April 3, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 826 was filed with the Secretary of State April 3, 2008, and became 2008 PA 64, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 827 was filed with the Secretary of State April 3, 2008, and became 2008 PA 65, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 828 was filed with the Secretary of State April 3, 2008, and became 2008 PA 66, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 829 was filed with the Secretary of State April 3, 2008, and became 2008 PA 67, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 830 was filed with the Secretary of State April 3, 2008, and became 2008 PA 68, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 832 was filed with the Secretary of State April 3, 2008, and became 2008 PA 70, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 833 was filed with the Secretary of State April 3, 2008, and became 2008 PA 71, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5287 was filed with the Secretary of State April 3, 2008, and became 2008 PA 59, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5288 was filed with the Secretary of State April 3, 2008, and became 2008 PA 60, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5289 was filed with the Secretary of State April 3, 2008, and became 2008 PA 61, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5290 was filed with the Secretary of State April 3, 2008, and became 2008 PA 62, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5291 was filed with the Secretary of State April 3, 2008, and became 2008 PA 63, Imd. Eff. Apr. 3, 2008.

[No. 70]

(SB 832)

AN ACT to amend 1987 PA 173, entitled “An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers; to prescribe the powers and duties of the financial institutions bureau and certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties,” by amending section 22a (MCL 445.1672a), as added by 1996 PA 210, and by adding section 22b.

The People of the State of Michigan enact:

445.1672a Mortgage loans; prohibited advertising.

Sec. 22a. (1) A licensee or registrant shall not, directly or indirectly, make a false, misleading, or deceptive advertisement regarding mortgage loans or the availability of mortgage loans.

(2) A licensee or registrant shall not advertise any size of loan, security required for a loan, rate of charge, or other condition of lending except with the full intent of making loans at those rates, or lower rates, and under those conditions, to mortgage loan applicants who meet the standards or qualifications prescribed by the licensee or registrant.

445.1672b Loan officer registrant; prohibited conduct.

Sec. 22b. A loan officer registrant shall not do any of the following:

(a) Engage in fraud, deceit, or material misrepresentation in connection with any transaction governed by this act.

(b) Intentionally, or due to gross or wanton negligence, repeatedly fail to provide borrowers with any material disclosures of information required by law.

(c) Directly or indirectly make a false, misleading, or deceptive advertisement regarding mortgage loans or the availability of mortgage loans.

(d) Suppress or withhold from the commissioner any information that the loan officer possesses and that, if submitted, would have made the loan officer ineligible for registration or renewal of his or her loan officer registration under this act at the time of application and would have allowed the commissioner to refuse to register the loan officer.

(e) Be convicted of, or plead no contest to, any of the following:

(i) A misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities.

(ii) A felony.

(f) Refuse or fail to furnish any information or make any report required by the commissioner to issue or renew a loan officer registration, or otherwise required by the commissioner, within a reasonable period of time, as determined by the commissioner, after requested by the commissioner.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 826.
- (b) Senate Bill No. 827.
- (c) Senate Bill No. 828.
- (d) Senate Bill No. 829.
- (e) Senate Bill No. 830.
- (f) Senate Bill No. 831.
- (g) Senate Bill No. 833.
- (h) House Bill No. 5287.
- (i) House Bill No. 5288.
- (j) House Bill No. 5289.
- (k) House Bill No. 5290.
- (l) House Bill No. 5291.

This act is ordered to take immediate effect.

Approved April 2, 2008.

Filed with Secretary of State April 3, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 826 was filed with the Secretary of State April 3, 2008, and became 2008 PA 64, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 827 was filed with the Secretary of State April 3, 2008, and became 2008 PA 65, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 828 was filed with the Secretary of State April 3, 2008, and became 2008 PA 66, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 829 was filed with the Secretary of State April 3, 2008, and became 2008 PA 67, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 830 was filed with the Secretary of State April 3, 2008, and became 2008 PA 68, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 831 was filed with the Secretary of State April 3, 2008, and became 2008 PA 69, Imd. Eff. Apr. 3, 2008.
Senate Bill No. 833 was filed with the Secretary of State April 3, 2008, and became 2008 PA 71, Imd. Eff. Apr. 3, 2008.
House Bill No. 5287 was filed with the Secretary of State April 3, 2008, and became 2008 PA 59, Imd. Eff. Apr. 3, 2008.
House Bill No. 5288 was filed with the Secretary of State April 3, 2008, and became 2008 PA 60, Imd. Eff. Apr. 3, 2008.
House Bill No. 5289 was filed with the Secretary of State April 3, 2008, and became 2008 PA 61, Imd. Eff. Apr. 3, 2008.
House Bill No. 5290 was filed with the Secretary of State April 3, 2008, and became 2008 PA 62, Imd. Eff. Apr. 3, 2008.
House Bill No. 5291 was filed with the Secretary of State April 3, 2008, and became 2008 PA 63, Imd. Eff. Apr. 3, 2008.

[No. 71]**(SB 833)**

AN ACT to amend 1987 PA 173, entitled “An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers; to prescribe the powers and duties of the financial institutions bureau and certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties,” by amending section 29 (MCL 445.1679), as amended by 1996 PA 210.

The People of the State of Michigan enact:

445.1679 Prohibited conduct; misdemeanor; penalty; violation of act or rules; civil fine; suspension or revocation of license or registration; refusal to issue or renew license or registration; proceedings subject to MCL 24.201 to 24.328; bona fide error; violation of MCL 445.1672b(e)(ii).

Sec. 29. (1) An owner, partner, member, officer, director, trustee, employee, agent, broker, or other person, or a representative acting on the authority of that person that willfully or intentionally does any of the following is guilty of a misdemeanor punishable by a fine of not more than \$15,000.00 or imprisonment for not more than 1 year, or both:

(a) Engages in this state in the business of a mortgage broker, mortgage lender, or mortgage servicer without a license or registration required under this act or acts as a loan officer in this state without a loan officer registration required under this act.

(b) Transfers or assigns a mortgage loan or a security directly representing an interest in 1 or more mortgage loans before the disbursement of 75% or more of the proceeds of the mortgage loan to, or for the benefit of, the borrower. This subdivision does not apply to any of the following:

(i) A land contract not considered to be an equitable mortgage.

(ii) A loan made under a state or federal government program that allows the lender to escrow more than 25% of the loan proceeds for a limited period of time.

(iii) A construction loan.

(iv) A loan that provides in writing that the loan proceeds shall be disbursed to or for the benefit of the borrower in installments or upon the request of the borrower or upon the completion of renovations or repairs to the dwelling situated on the real property subject to the mortgage loan.

(c) Transfers or assigns a mortgage loan or a security representing an interest in 1 or more mortgage loans to an individual investor unless 1 or more of the following apply:

(i) The transfer or assignment is made through a broker-dealer which is a member of the New York stock exchange.

(ii) The transfer or assignment is made through a broker-dealer who meets all of the following criteria:

(A) The broker-dealer is registered under the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818.

(B) The broker-dealer is not an affiliate of the mortgage lender unless the person acquired the broker-dealer registration, directly or indirectly, before September 1, 1987 under the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818, was affiliated with a mortgage lender before September 1, 1987, and has continuously maintained that registration subsequent to September 1, 1987. For purposes of this subparagraph, if an aggregate of

more than 10% of the outstanding voting stock or interest in a corporation, unincorporated organization, partnership, or other legal entity that is a broker-dealer or mortgage lender is sold, transferred, assigned, or otherwise conveyed subsequent to September 1, 1987, the registration shall be considered to not have been continuously maintained.

(C) The broker-dealer acquired the mortgage loan or security on a firm commitment.

(iii) The transfer or assignment is made to a person who the transferor or assignor believes, or has reasonable grounds to believe, is 1 of the following:

(A) A business entity having either net income from operations after taxes in excess of \$100,000.00 in its last fiscal year or its latest 12-month period, or a net worth in excess of \$1,000,000.00 at the time of purchase.

(B) An individual who, after the purchase, has an investment of more than \$50,000.00 in such loans or securities, including installment payments to be made within 1 year after purchase by the individual, has either personal income before taxes in excess of \$100,000.00 for his or her last fiscal year or latest 12-month period and is capable of bearing the economic risk, or net worth in excess of \$1,000,000.00, and has the knowledge and experience in financial and business matters that he or she is capable of evaluating the merits and risks of the prospective investment, or has obtained the advice of an attorney, certified public accountant, or investment adviser registered under the investment advisers act of 1940, or an investment adviser registered under the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818, with respect to the merits and risks of the prospective investment.

(iv) A transferor or assignor does not maintain its principal place of business in this state and the transferee or assignee is not a resident of this state and does not maintain its principal place of business in this state.

(2) Subject to subsections (4) and (5), if the commissioner finds that a licensee, registrant, or loan officer registrant has violated this act or the rules promulgated under this act, the commissioner may do 1 or more of the following:

(a) Assess a civil fine against the licensee, registrant, or loan officer registrant or a person who controls the licensee, registrant, or loan officer registrant of not more than \$1,000.00 for each violation, except that the licensee, registrant, or loan officer registrant or the person shall not be fined more than \$10,000.00 for a transaction resulting in more than 1 violation, plus the costs of investigation.

(b) Suspend or revoke a license, registration, or loan officer registration or refuse to issue a license or renew a license, registration, or loan officer registration.

(c) Require the licensee, registrant, or loan officer registrant or a person who controls the licensee, registrant, or loan officer registrant to make restitution to each injured individual, if the commissioner finds that the violation of this act or a rule promulgated under this act resulted in an injury to 1 or more individuals.

(3) A civil fine assessed under subsection (2) may be sued for and recovered by and in the name of the commissioner and may be collected and enforced by summary proceedings by the attorney general. Each individual injured by a violation of this act or a rule shall constitute a separate violation. In determining under subsection (2) the amount of a fine, whether to suspend or revoke a license, registration, or loan officer registration, whether to refuse to issue or renew a license or loan officer registration, or the amount of restitution, the commissioner shall consider the extent to which the violation was a knowing and willful violation, the extent of the injury suffered because of the violation, the corrective action taken by the licensee, registrant, or loan officer registrant to ensure that the violation will not be repeated, and the record of the licensee, registrant, or loan officer registrant in complying with this act. Any proceedings under this subsection are subject to the procedures of the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) Subsection (2) does not apply to a violation of this act that results from a bona fide error that occurs notwithstanding the adoption and observance of reasonable procedures intended to prevent the occurrence of the error.

(5) If a loan officer registrant violates section 22b(e)(ii), the commissioner shall revoke his or her loan officer registration. Revocation of a loan officer registration under this subsection does not affect the commissioner's authority to pursue any other remedy available under subsection (2) for that violation.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 826.
- (b) Senate Bill No. 827.
- (c) Senate Bill No. 828.
- (d) Senate Bill No. 829.
- (e) Senate Bill No. 830.
- (f) Senate Bill No. 831.
- (g) Senate Bill No. 832.
- (h) House Bill No. 5287.
- (i) House Bill No. 5288.
- (j) House Bill No. 5289.
- (k) House Bill No. 5290.
- (l) House Bill No. 5291.

This act is ordered to take immediate effect.

Approved April 2, 2008.

Filed with Secretary of State April 3, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 826 was filed with the Secretary of State April 3, 2008, and became 2008 PA 64, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 827 was filed with the Secretary of State April 3, 2008, and became 2008 PA 65, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 828 was filed with the Secretary of State April 3, 2008, and became 2008 PA 66, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 829 was filed with the Secretary of State April 3, 2008, and became 2008 PA 67, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 830 was filed with the Secretary of State April 3, 2008, and became 2008 PA 68, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 831 was filed with the Secretary of State April 3, 2008, and became 2008 PA 69, Imd. Eff. Apr. 3, 2008.
 Senate Bill No. 832 was filed with the Secretary of State April 3, 2008, and became 2008 PA 70, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5287 was filed with the Secretary of State April 3, 2008, and became 2008 PA 59, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5288 was filed with the Secretary of State April 3, 2008, and became 2008 PA 60, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5289 was filed with the Secretary of State April 3, 2008, and became 2008 PA 61, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5290 was filed with the Secretary of State April 3, 2008, and became 2008 PA 62, Imd. Eff. Apr. 3, 2008.
 House Bill No. 5291 was filed with the Secretary of State April 3, 2008, and became 2008 PA 63, Imd. Eff. Apr. 3, 2008.

[No. 72]

(HB 4596)

AN ACT to amend 1987 PA 173, entitled "An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers; to prescribe the powers and duties of the financial institutions bureau and certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties," by amending sections 6, 7, 8, and 25 (MCL 445.1656, 445.1657, 445.1658, and 445.1675), sections 6, 7, and 8 as amended by 1996 PA 210 and section 25 as amended by 1998 PA 371.

The People of the State of Michigan enact:

445.1656 Registration required; applicability of certain provisions; licensing or registration of real estate broker or salesperson; improper use of business name.

Sec. 6. (1) The following shall register with the commissioner on a form prescribed by the commissioner:

(a) A mortgage broker, mortgage lender, or mortgage servicer approved as a seller or servicer by the federal national mortgage association or the federal home loan mortgage corporation.

(b) A mortgage broker, mortgage lender, or mortgage servicer approved as an issuer or servicer by the government national mortgage association.

(c) A real estate broker or real estate salesperson licensed under article 25 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518, who acts as a mortgage broker for not more than 1 licensee or 1 registrant, or who acts as a mortgage broker, mortgage lender, or mortgage servicer only in connection with real estate sales in which the real estate broker or salesperson affiliated with the real estate broker is engaged and who receives for those services additional compensation beyond the customary commission on real estate sales.

(d) A mortgage broker, mortgage lender, or mortgage servicer that is a subsidiary or affiliate of a depository financial institution or a depository financial institution holding company if the depository institution does not maintain a main office or a branch office in this state.

(2) A registrant is not required to comply with section 3, 4, or 5 and is not subject to annual examination by the commissioner.

(3) A mortgage broker, mortgage lender, or a mortgage servicer that is a subsidiary or affiliate of a depository financial institution or a subsidiary or affiliate of a holding company of a depository financial institution is not subject to section 29(1)(b) or (c).

(4) Notwithstanding section 25(m), a mortgage broker, mortgage lender, or a mortgage servicer that is a subsidiary or affiliate of a depository financial institution or a subsidiary or affiliate of a holding company of a depository financial institution may register and become subject to the provisions of the act applicable to registrants.

(5) If a real estate broker or real estate salesperson acts as a mortgage broker, mortgage lender, or mortgage servicer not in connection with real estate sales in which the real estate broker or real estate salesperson affiliated with the real estate broker is engaged, the real estate broker or real estate salesperson shall be licensed or registered as otherwise required under this act.

(6) A real estate broker or real estate salesperson, in connection with real estate sales in which the real estate broker or real estate salesperson affiliated with the real estate broker is engaged, who acts as a mortgage broker on 10 or fewer mortgage loans in any 12-month period from January 1 to December 31 and who receives for such services additional compensation beyond the customary commission on real estate sales shall be exempt from the registration or licensing requirements of this act for that 12-month period. If the broker and all real estate salespersons affiliated with the broker in aggregate brokered more than 30 mortgage loans as described in this subsection in the same 12-month period from January 1 to December 31, then that broker shall obtain a license or shall register as required by this act.

(7) A registration accepted by the commissioner under this section does not approve the use of or indemnify the registrant against claims for the improper use of the business name stated in the registration.

445.1657 Expiration of registration or license; renewal; application; fee; limitation; financial statement.

Sec. 7. (1) A registration or license, unless it is renewed, shall expire December 31 of each year. A registration or license may be renewed by filing a registration or an application for license renewal and paying the annual operating fee for the succeeding year. The registration or application and payment shall be received by the commissioner on, or before, a date prescribed by the commissioner.

(2) Not later than 90 days after the close of the fiscal year of a licensee or registrant, the licensee or registrant shall annually deliver to the commissioner a financial statement for the fiscal year prepared from the licensee's or registrant's books and records. At the licensee's or registrant's option, the financial statement may be any of the following:

(a) A form prescribed by the commissioner.

(b) A report substantially similar to the form prescribed by the commissioner, which the licensee or registrant must represent to the commissioner to be true and complete.

(c) In a format prepared and certified by an independent certified public accountant licensed by a regulatory authority of any state or political subdivision of the United States.

445.1658 Payment of investigation and annual operating fees; establishment of annual fee schedule; limitations; fees nonrefundable; action for delinquent payment; licensee or registrant report; penalties; establishment and administration of MBLSLA fund; basis for setting annual operating fee.

Sec. 8. (1) At the time of making an initial application for a license under this act, and at the time of making the first-application for a license after the suspension or revocation of a license, an applicant for licensure under this act shall pay to the commissioner a fee for investigating the applicant and the minimum annual operating fee established by the commissioner in subsection (3). To renew a license that is not suspended or revoked, the applicant shall only pay to the commissioner the annual operating fee established in subsection (3). At the time of filing a registration or a renewal of a registration, a registrant shall pay to the commissioner an annual operating fee established in subsection (3).

(2) If an initial or renewed license or registration described in subsection (1) will have an effective date within 6 months of the expiration date described in section 7, the initial or renewal annual operating fee for that license or registration is 1/2 of the annual operating fee.

(3) The commissioner shall annually establish a schedule of fees that are sufficient to pay, but not to exceed, the office of financial and insurance regulation's reasonably anticipated costs of administering and enforcing this act. Subject to subsection (2), the fees are as follows:

(a) For the investigation of an applicant for a license, a fee of not less than \$400.00 or more than \$1,000.00.

(b) Except as set forth in subdivision (c), a licensee or registrant annually shall pay an operating fee based upon the number of closed mortgage loans the licensee or registrant brokered to other parties, the number of mortgage loans closed by the licensee or registrant during the previous calendar year, and the dollar volume of loans serviced by the licensee or registrant as of December 31 of the previous calendar year. In the 1-year period beginning July 2, 1996, the operating fee shall be not less than \$250.00 and not more than \$2,500.00. Beginning July 2, 1997, in the discretion of the commissioner, subject to the limitation set forth in this subsection, the commissioner may increase the maximum operating

fee at an annual rate of not more than 10% in the second, third, and fourth 1-year periods after the 1-year period beginning July 2, 1996, and in the fifth and subsequent years, at an annual rate of not more than the annual increase for the immediately preceding 12-month period in the Detroit consumer price index as reported by the United States department of labor. For purposes of this subdivision, “mortgage loan” includes only mortgage loans subject to this act.

(c) For amending or reissuing a license, registration, or loan officer registration, a fee of not less than \$15.00 or more than \$200.00.

(d) A licensee or registrant shall pay the actual travel, lodging, and meal expenses incurred by employees of the office of financial and insurance regulation who travel out of state to examine the records of the licensee or investigate the licensee or registrant and the cost of independent investigators employed under section 20(1)(e).

(e) A loan officer registrant shall pay an annual fee established by the commissioner. For purposes of this subdivision, the commissioner shall establish an amount for the annual fee that is sufficient to defray the estimated cost of administering and enforcing the loan officer registration provisions of this act.

(4) Fees received under this act are not refundable.

(5) If any fees or penalties provided for in this act are not paid when required, the attorney general may maintain an action against the delinquent licensee or registrant for the recovery of the fees or penalties together with interest and costs.

(6) A licensee or registrant who fails to submit to the commissioner a report required under section 7 or section 21 is subject to a penalty of \$25.00 for each day the report is delinquent or \$1,000.00, whichever is less.

(7) A licensee or registrant whose license or registration renewal fee is not received on or before December 31 is subject to a penalty of \$25.00 for each day the fee is delinquent or \$1,000.00, whichever is less.

(8) The department of treasury shall establish and administer a restricted account in the general fund named the MBLSLA fund. The department of treasury shall credit to the account all fees collected under this act or under the commissioner’s authority under this act and money appropriated or received from any source. The department of treasury shall use the money in the account only to provide money to the commissioner, to administer and enforce this act and other costs associated with the commissioner’s regulatory obligations. Money in the account at the end of a state fiscal year shall not revert to the general fund but shall be carried over in the account to the next state fiscal year.

(9) The annual operating fee set by the commissioner under subsection (3)(b) shall be based upon information in reports filed under section 21.

445.1675 Applicability of act.

Sec. 25. This act does not apply to any of the following:

(a) A depository financial institution whether or not the depository financial institution is acting in a capacity of a trustee or fiduciary.

(b) A salesperson acting as an agent for a residential builder or residential maintenance and alteration contractor, or a residential builder or residential maintenance and alteration contractor licensed under article 24 of the occupational code, 1980 PA 299, MCL 339.2401 to 339.2412, if a mortgage is made or negotiated in connection with the sale or financing of a residential structure or improvement constructed or improved by that residential builder or residential maintenance and alteration contractor.

(c) A real estate broker or real estate salesperson who is not a mortgage broker, mortgage lender, or mortgage servicer, or who only acts as a mortgage broker in connection with a real estate sale or lease and acts without additional compensation beyond the customary commission on the sales or leases.

(d) A real estate salesperson who acts for a real estate broker as a mortgage broker, mortgage lender, or mortgage servicer and who receives for the services compensation only from the real estate broker for which the salesperson is an agent or employee.

(e) A person licensed under the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, not making, brokering, or servicing mortgage loans as described in this act in a 12-month period from January 1 to December 31.

(f) Agencies or corporate instrumentalities of the United States and of this state and its political subdivisions, including the public employees' retirement system.

(g) A mortgage lender that in the aggregate with any affiliates makes 10 or fewer mortgage loans in a 12-month period from January 1 to December 31.

(h) A mortgage servicer that in the aggregate with any affiliates services 10 or fewer mortgage loans in a 12-month period from January 1 to December 31.

(i) A mortgage servicer that in the aggregate with any affiliates services only 75 or fewer land contracts, of which 10 or fewer require the collection of money for the payment of taxes or insurance. This subdivision and subdivision (h) do not exempt a mortgage servicer who collects money for the payment of taxes or insurance from the provisions of 1966 PA 125, MCL 565.161 to 565.164. All fees shall be returned to any mortgage servicer described in this subdivision who applied for a license and paid the fees required by this act and who on December 27, 1988 is exempted from licensing.

(j) An individual licensed to practice law in this state and not engaged in the business of negotiating loans secured by real property, if the individual renders services in the course of his or her practice as an attorney-at-law.

(k) A person who makes mortgage loans exclusively for the benefit of employees of that person if the proceeds of the loan are used to assist the employee in meeting his or her housing needs.

(l) A person acting as a fiduciary with respect to any employee pension benefit plan qualified under the internal revenue code who makes mortgage loans solely to plan participants from plan assets.

(m) A mortgage broker, mortgage lender, or a mortgage servicer that is a subsidiary or affiliate of a depository financial institution or a subsidiary or affiliate of a holding company of a depository financial institution, if the depository financial institution maintains its main office or a branch office in this state.

(n) A nonprofit corporation that makes, brokers, or services mortgage loans in connection with a neighborhood housing program assisted under the neighborhood reinvestment corporation act, 42 USC 8101 to 8107.

(o) A person determined by the commissioner to meet the qualifications established under section 25a.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2009.

This act is ordered to take immediate effect.

Approved April 2, 2008.

Filed with Secretary of State April 3, 2008.

[No. 73]**(HB 5861)**

AN ACT to amend 1951 PA 51, entitled “An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, local bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts,” by amending sections 11e and 11f (MCL 247.661e and 247.661f), section 11e as amended by 2007 PA 26 and section 11f as amended by 2007 PA 27.

The People of the State of Michigan enact:

247.661e Local program fund; creation; purpose; distribution of funds; local federal match program; use.

Sec. 11e. (1) There is created within the state trunk line fund a local program fund for the purpose of receiving funds allocated from the Michigan transportation fund and from the state trunk line fund. Funds received shall be distributed 64.2% to the county road commissions of the state to be administered according to section 12 and 35.8% to the cities and villages of the state to be administered according to section 13.

(2) There is created within the state trunk line fund a local federal match program for the purpose of receiving the proceeds of bonds issued under section 18b that are to be repaid under section 11(1)(a)(iii). Funds deposited into the local federal match program shall not exceed \$80,000,000.00.

(3) The legislature intends that funds in the local federal match program be used for 1 or more of the following:

(a) Except for those projects described in section 11f(d)(iv), projects that are the subject of a federal appropriation in the safe, accountable, flexible, efficient transportation equity

act, a legacy for users (SAFETEA-LU), Public Law 109-59, or the transportation equity act for the 21st century, Public Law 105-178, and have been designated as high priority road and bridge projects that have received earmarks in the federal budget, so long as those projects are under construction or let for bid on or before September 5, 2008.

(b) Projects scheduled to be under construction or let for bid during the fiscal year that begins on October 1, 2006 and that can be advanced to the fiscal year that began on October 1, 2005.

(c) Any project scheduled for any fiscal year after the fiscal year that begins on October 1, 2006 that can be advanced and under construction or let for bid during the fiscal year that begins on October 1, 2005, October 1, 2006, or October 1, 2007.

247.661f Funds received under local federal match program; projects; submission; grant awards; criteria; unused bond proceeds; reports; distribution of remaining funds; additional criteria.

Sec. 11f. (1) Funds received under the local federal match program created in section 11e shall be granted to local municipalities and other local road agencies to match federal aid projects as provided in this subsection. Projects shall be submitted to the state transportation department by the local municipality or other local road agency. The department shall review the submittals and apply criteria that take into account the needs of highway, road, and street systems and an equitable allocation of available funds considering the geographic location of the proposed project. If the projects meet the criteria, the state transportation department shall award grants to the extent of available funds. An individual grant shall not exceed 25% of the amount of federal funds available for the project. Projects selected for funding shall meet all of the following criteria:

(a) Except for projects described in subdivision (d)(iv), the project shall be under construction or let for bid no later than September 5, 2008.

(b) The applicant shall have identified all of the necessary funding to complete the project.

(c) The project shall be for the opening, widening, improving, construction, or reconstruction of a federal aid eligible road or street, including the work incidental to that opening, widening, improving, construction, or reconstruction.

(d) The project shall be 1 or more of the following:

(i) Projects that are the subject of a federal appropriation in the safe, accountable, flexible, efficient transportation equity act, a legacy for users (SAFETEA-LU), Public Law 109-59, or the transportation equity act for the 21st century, Public Law 105-178, and have been designated as high priority road and bridge projects and that can be let for bid no later than April 4, 2008.

(ii) Projects that are not the subject of a federal appropriation in the safe, accountable, flexible, efficient transportation equity act, a legacy for users (SAFETEA-LU), Public Law 109-59, or the transportation equity act for the 21st century, Public Law 105-178, that have received earmarks in the federal budget and that can be let for bid no later than April 4, 2008.

(iii) Projects that are for federal aid eligible roads and that are scheduled to be under construction or let for bid during the fiscal year that begins October 1, 2008 or a later fiscal year and that can be advanced to the fiscal year that begins October 1, 2007 and can be let for bid no later than September 5, 2008.

(iv) Projects that are the subject of a federal appropriation in the safe, accountable, flexible, efficient transportation equity act, a legacy for users (SAFETEA-LU), Public Law 109-59,

or the transportation equity act for the 21st century, Public Law 105-178, and have been designated as high priority road and bridge projects from the following list as determined by the department:

(A) Romeo Plank, construction of 5 lane concrete pavement with curb, gutter, and sewer on Romeo Plank Road from M-59 to 23 Mile Road in Macomb Township.

(B) Finkbeiner Road, construct improvements to Crane & Finkbeiner Road from Patterson Road to Whitneyville Road in Barry County, and new bridge over Thornapple River.

(C) CR 492, Marquette County, realignment of 3200 feet of County Road 492 from U.S. 41 north to County Road HD.

(D) H-58, Alger County, reconstruct, pave, and some realignment of H-58 from 2600 feet south of Little Beaver Lake Road to 4600 feet east of Hurricane River.

(E) Westland, Ann Arbor Trail between Farmington and Inkster, Warren/Newburgh intersection, reconstruction.

(F) Port Huron, NAFTA corridor congestion mitigation project, grade separation, integrated highway realignment at Port Huron, Michigan to eliminate road blockages from NAFTA rail traffic.

(G) Muskegon County, City of Muskegon: study and implement transportation system alternatives in the vicinity of U.S. 31/M 46. Quarterline Rd, Laketon to McArthur, US-31/M-46 vicinity. Transportation system improvements on Quarterline Road from Laketon Avenue to Stebbins Road. Project description; right-of-way acquisition, road relocation, road reconstruction/resurfacing and signal improvements.

(2) Except for projects described in subsection (1)(d)(iv), all bond proceeds not used to fund grants awarded by September 5, 2008 are appropriated for the purposes described in section 11(1)(f).

(3) Beginning February 1, 2007, the department shall submit a written report to the legislature by each February 1 containing all of the following information:

(a) The balance contained in the program.

(b) A list of all projects currently funded under the program.

(c) A list of all federal high priority projects eligible for funding under the program.

(d) A list of pending requests for funding under the program, if any.

(4) The department shall submit a written report to the legislature no later than 30 days after the program has expended \$40,000,000.00. The report shall contain all of the following:

(a) A list of all projects currently funded under the program.

(b) A list of federal high priority projects eligible to receive funding from the program.

(c) A list of pending requests for funding under the program, if any.

(5) The department shall provide additional criteria if necessary for selecting the remaining projects to be funded in a fiscal year no later than 30 days after the report required under subsection (4) is issued. In determining the additional criteria to apply to the remaining funds, the department shall consult with interested local road agencies, the Michigan municipal league, and the county road association of Michigan and shall utilize any recommendations made on additional criteria by these entities unless the department determines that the additional criteria are inequitable or impractical. If the additional criteria are deemed inequitable or impractical, the department is directed to work with the interested parties to develop equitable and practical criteria. The department shall apply those criteria that most equitably distribute the remaining funds considering the geographic location of the

funded projects. In applying criteria, the department shall take into account the needs of highway, road, and street systems and an equitable allocation of available funds considering the geographic location of the funded project.

This act is ordered to take immediate effect.

Approved April 7, 2008.

Filed with Secretary of State April 7, 2008.

[No. 74]

(SB 1176)

AN ACT to amend 2007 PA 36, entitled “An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations,” (MCL 208.1101 to 208.1601) by adding section 459.

The People of the State of Michigan enact:

208.1459 Eligible production company; tax credit.

Sec. 459. (1) Until September 30, 2015, the Michigan film office, with the concurrence of the state treasurer, may enter into an agreement with an eligible production company providing the company with a credit against the tax imposed by this act for qualified job training expenditures, as provided under this section. To qualify for the credit under this section, a company shall meet all of the following requirements:

(a) Make qualified job training expenditures for a state certified qualified production.

(b) After completion of the production of the state certified qualified production in this state, submit to the office an application in a form determined by the office with information regarding the qualified job training expenditures, including employment, salary, and related information required by the office.

(c) Receive a qualified job training expenditures certificate from the office under subsection (5).

(d) Submit the qualified job training expenditure certificate issued by the office under subsection (5) to the department under subsection (7).

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

(2) For a qualified job training expenditure made by a company, the company may claim a tax credit equal to 50% of the qualified job training expenditure. A company shall not claim a credit under this section for any of the following:

(a) A direct expenditure, or qualified personnel expenditure, for which the company claims a credit under section 455.

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

(c) A direct expenditure, or qualified personnel expenditure, for which another taxpayer claims a credit under this section, a credit under section 455, or a credit under section 367 of the income tax act of 1967, 1967 PA 281, MCL 206.367.

(3) A taxpayer seeking a credit under this section may submit an application to enter into an agreement under this section to the Michigan film office. The application shall be submitted, prior to making qualified job training expenditures, in a form prescribed by the Michigan film office and shall be accompanied by a \$100.00 application fee and all of the information and records requested by the office. An application fee received by the office under this subsection shall be deposited in the Michigan film promotion fund. The office shall not process the application until it is complete. If the office, with the concurrence of the state treasurer, determines to enter into an agreement under this section, the agreement shall provide for all of the following:

(a) A unique number assigned to the state certified qualified production for which qualified job training expenditures were incurred by the company.

(b) A detailed description of the state certified qualified production and the qualified job training expenditures.

(c) A requirement that the company provide the office with the information and independent certification the office and the department deem necessary to verify qualified job training expenditures and eligibility for the credit under this section.

(4) In determining whether to authorize a credit under this section, the Michigan film office and the state treasurer shall consider all of the following:

(a) The extent to which the state certified qualified production and qualified job training expenditure may have the effect of promoting economic development or job creation in this state.

(b) The extent to which the credit may assist in attracting additional private investment for the production of motion pictures, videos, television programs, and digital media in this state.

(c) The extent to which the credit will encourage the development of film, video, television, and digital media production and postproduction expertise in this state.

(5) If the Michigan film office determines that a company has complied with the terms of an agreement entered into under this section, the office shall issue a qualified job training expenditure certificate to the company. The company shall submit a request to the office for a qualified job training expenditure certificate on a form prescribed by the office, along with any information or independent certification the office or the department deems necessary. The office shall process each request within 60 days after the request is complete. However, the office may request additional information or independent certification before issuing a certificate and need not issue the certificate until satisfied that qualified job training expenditures and eligibility are adequately established. The additional information requested may include a report of expenditures audited and certified by an independent certified public accountant. Each qualified job training expenditure certificate shall be signed by the Michigan film commissioner and shall include the following information:

(a) The name of the taxpayer.

(b) A description of the state certified qualified production and the qualified job training expenditures.

(c) The amount of the company's qualified job training expenditures for the state certified qualified production.

(d) The date on which production of the state certified qualified production began in this state, the date on which production of the state certified qualified production ended in this

state, the total number of production days in this state, and the approximate total crew size for the state certified qualified production.

(e) The unique number assigned to the state certified qualified production by the office under subsection (3).

(f) The company's federal employer identification number or Michigan treasury number.

(g) Any independent certification required by the department or the Michigan film office.

(6) Information, records, or other data received, prepared, used, or retained by the Michigan film office under this section that are submitted by an eligible production company and considered by the taxpayer and acknowledged by the office as confidential shall not be subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Information, records, or other data shall only be considered confidential to the extent that the information or records describe the commercial and financial operations or intellectual property of the company, the information or records have not been publicly disseminated at any time, and disclosure of the information or records may put the company at a competitive disadvantage.

(7) To claim a credit under this section, a company shall submit a qualified job training expenditure certificate issued under subsection (5) to the department. If the credit allowed under this section exceeds the amount of taxes owed by the company under this act for a tax year, that portion of the credit that exceeds the tax liability of the company for the tax year shall not be refunded but may be carried forward as a credit against tax liability under this act in subsequent tax years for a period not to exceed 10 tax years.

(8) The credit under this section shall be claimed after all other credits under this act. The amount of the credit under this section shall be reduced by a credit application and redemption fee equal to 0.5% of the credit claimed, which shall be deducted from the credit otherwise payable to the taxpayer claiming the credit and be deposited by the department in the Michigan film promotion fund.

(9) A taxpayer that willfully submits information under this section that the taxpayer knows to be fraudulent or false, shall, in addition to any other penalties provided by law, be liable for a civil penalty equal to the amount of the taxpayer's credit under this section. A penalty collected under this section shall be deposited in the Michigan film production promotion fund.

(10) As used in this section:

(a) "Below the line crew" means persons employed by an eligible production company for state certified qualified production expenditures made after production begins and before production is completed, including, but not limited to, a best boy, boom operator, camera loader, camera operator, assistant camera operator, compositor, dialogue editor, film editor, assistant film editor, focus puller, Foley operator, Foley editor, gaffer, grip, key grip, lighting crew, lighting board operator, lighting technician, music editor, sound editor, sound effects editor, sound mixer, steadicam operator, first assistant camera operator, second assistant camera operator, digital imaging technician, camera operator working with a director of photography, electric best boy, grip best boy, dolly grip, rigging grip, assistant key for makeup, assistant key for hair, assistant script supervisor, set construction foreperson, lead set dresser, assistant key for wardrobe, scenic foreperson, assistant propmaster, assistant audio mixer, assistant boom person, assistant key for special effects, and other similar personnel. Below the line crew does not include a producer, director, writer, actor, or other similar personnel.

(b) "Eligible production company" means that term as defined in section 455.

(c) “Michigan film office” or “office” means the Michigan film office created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.

(d) “Michigan film promotion fund” means the fund created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.

(e) “Qualified job training expenditure” means salary and other expenditures paid by an eligible production company to provide qualified personnel with on-the-job training as a member of the below the line crew for a state certified qualified production that is intended to upgrade or enhance the skills of the qualified personnel and address deficiencies in skills among residents of this state as determined by the office.

(f) “Qualified personnel” means a person who has resided in this state for not less than 12 months, who has legal status for employment, and who demonstrates sufficient prior experience or training in the film and digital media industry, as certified by the Michigan film office. Qualified personnel includes, but is not limited to, a person who has completed a training program at a Michigan proprietary school licensed by the department of labor and economic growth that offers a program of instruction in film and video production and has been designated with a classification of instructional programs code of 50 by the department of labor and economic growth and a person in an advanced crew position that meets the residency requirements of this subdivision and is hired and mentored by a key or supervisor. Qualified personnel do not include a person with fewer than 1 or more than 4 film credits in the same below the line crew position for which the eligible production company claimed a credit under this section.

(g) “Qualified personnel expenditure” means that term as defined under section 455.

(h) “State certified qualified production” means that term as defined in section 455.

This act is ordered to take immediate effect.

Approved April 7, 2008.

Filed with Secretary of State April 8, 2008.

[No. 75]

(SB 1177)

AN ACT to amend 1984 PA 270, entitled “An act relating to the economic development of this state; to create the Michigan strategic fund and to prescribe its powers and duties; to transfer and provide for the acquisition and succession to the rights, properties, obligations, and duties of the job development authority and the Michigan economic development authority to the Michigan strategic fund; to provide for the expenditure of proceeds in certain funds to which the Michigan strategic fund succeeds in ownership; to provide for the issuance of, and terms and conditions for, certain notes and bonds of the Michigan strategic fund; to create certain boards and funds; to create certain permanent funds; to exempt the property, income, and operation of the fund and its bonds and notes, and the interest thereon, from certain taxes; to provide for the creation of certain centers within and for the purposes of the Michigan strategic fund; to provide for the creation and funding of certain accounts for certain purposes; to impose certain powers and duties upon certain officials, departments, and authorities of this state; to make certain loans, grants, and investments; to provide penalties; to make an appropriation; and to repeal acts and parts of acts,” (MCL 125.2001 to 125.2094) by adding chapter 2A; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

CHAPTER 2A

125.2029 Definitions.

Sec. 29. As used in this chapter:

- (a) “Commissioner” means the Michigan film commissioner created in section 29b.
- (b) “Council” means the Michigan film office advisory council created in section 29c.
- (c) “Local film office” means an office, agency, bureau, or department of a political subdivision of this state that seeks to promote film production within the political subdivision and that is funded principally by the political subdivision.
- (d) “Office” means the Michigan film office created in section 29a.
- (e) “Promotion fund” means the Michigan film promotion fund created under section 29d.

125.2029a Michigan film office; creation in fund; successor office; duties; powers; budget, procurement, and management functions; administration by commissioner and president of fund; support staff; cooperation with departments, agencies, boards, commissions, and officers.

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

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

- (a) Promote and market locations, talent, crews, facilities, and technical production and other services related to film, digital media, and television production in this state.
- (b) Provide to interested persons descriptive and pertinent information on locations, talent, crews, facilities, and technical production and other services related to film, digital media, and television production in this state.
- (c) Provide technical assistance to the film, television, and digital media industry in locating and securing the use of locations, talent, crews, facilities, and services in this state.
- (d) Encourage community and Michigan film, digital media, and television production industry participation in, and coordination with, state and local efforts to attract film, digital media, and television production in this state.
- (e) Serve as this state’s chief liaison with the film, digital media, and television production industry and with other governmental units and agencies for the purpose of promoting, encouraging, and facilitating film, digital media, and television production in this state.
- (f) Explain the benefits and advantages of producing films, digital media, and television productions in this state.
- (g) Assist film, digital media, and television producers with securing location authorization and other appropriate services connected with film, digital media, and television production in this state.
- (h) Scout potential film locations for national and international film, digital media, and television prospects.
- (i) Escort film, digital media, and television producers on location scouting trips.

(j) Serve as a liaison between film, digital media, and television producers, state agencies, local agencies, federal agencies, community organizations and leaders, and the film, digital media, and television industry in this state.

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

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

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

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

(o) Coordinate activities with local film offices.

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

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

(r) Prepare, maintain, and distribute a digital library depicting the variety and extent of the locations within this state for film, digital media, and television productions.

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

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

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

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

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

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

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

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

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

(i) Section 88d.

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

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

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

(y) All other things necessary or convenient to achieve the objectives and purposes of the office, this chapter, or other laws that relate to the purposes and responsibilities of the office.

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

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

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

125.2029b Michigan film commissioner; member of state classified service; terms and conditions of employment; agreement; term; oath of office; service as advisor; duties; meetings; exercise of powers, duties, functions, and responsibilities; rules.

Sec. 29b. (1) The head of the office shall be the Michigan film commissioner. The commissioner shall be a member of the state classified service. The terms and conditions of the employment of the commissioner shall be governed by a senior executive service limited term employment agreement and the rules and regulations of the civil service commission governing the senior executive service. The term of the agreement shall not exceed 2 years and shall end on December 31 of an even-numbered year consistent with the rules and regulations of the civil service commission. The governor shall be the appointing authority for the commissioner. Before entering upon the duties of his or her office, the commissioner shall take and file the constitutional oath of office provided in section 1 of article XI of the state constitution of 1963.

(2) The commissioner shall serve as an advisor to the governor on matters relating to films and other digital media. The commissioner may report directly to the governor and the president of the fund on matters relating to the office, to the council, and to films and digital media generally.

(3) The commissioner shall supervise, and be responsible for, the performance of the functions of the office under this chapter. The commissioner shall perform all duties vested in the commissioner under the laws of this state. The commissioner shall consult with the president of the fund on activities of the office affecting the fund.

(4) The commissioner shall attend the meetings of the council and provide the council and the president of the fund with regular reports and other information describing the activities of the office.

(5) Except as otherwise provided in this chapter, the commissioner shall exercise his or her powers, duties, functions, and responsibilities under this chapter independently of the fund.

(6) The commissioner may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as the commissioner deems necessary to execute the duties and responsibilities of the office.

125.2029c Michigan film office advisory council; creation; membership; chairperson, vice-chairperson, and officers; terms; vacancy; compensation; duties; public meeting; quorum; writings; confidentiality; use of information for personal gain prohibited; adoption of code of ethics.

Sec. 29c. (1) The Michigan film office advisory council is created in the office. The council shall consist of the following members:

(a) Fourteen individuals appointed by the governor as follows:

(i) Five members associated with broad areas of film, digital media, and motion picture making, production of television programs and commercials, and related industries in Michigan.

(ii) Two members from film, television, digital media, or related industry unions.

(iii) One member representing theater owners based in this state.

(iv) One member representing local film offices or local units of government.

(v) One individual selected from a list of 3 or more nominees submitted by the speaker of the house of representatives.

(vi) One individual selected from a list of 3 or more nominees submitted by the senate majority leader.

(vii) Three other residents of this state, including at least 2 residents not active in the film, television, digital media, and related industries.

(b) The commissioner, who shall serve as an ex officio nonvoting member of the council.

(c) The president of the fund.

(2) The governor shall designate 1 member of the council to serve as chairperson of the council at the pleasure of the governor. The members of the council may elect a member of the council to serve as vice-chairperson of the council and may elect other members of the council as officers of the council as the council considers appropriate.

(3) Except as provided in subsection (4), the term of office of each member of the council appointed by the governor under subsection (1)(a) shall be 4 years.

(4) Of the members of the council initially appointed by the governor under subsection (1)(a), 4 shall be appointed for terms expiring on September 30, 2008, 4 shall be appointed for terms expiring on September 30, 2009, 3 shall be appointed for terms expiring on September 30, 2010, and 3 shall be appointed for terms expiring on September 30, 2011.

(5) If a vacancy occurs on the council other than by expiration of a term, the vacancy shall be filled in the same manner as the original appointment for the remainder of the term.

(6) Members of the council shall serve without compensation but, subject to available appropriations, may receive reimbursement for their actual and necessary expenses while attending meetings or performing other authorized official business of the council.

(7) The council may do 1 or more of the following:

(a) Advise the office, the fund, the governor, and the legislature on how to promote and market this state's locations, crews, facilities, and technical production facilities and other services used by film, television, digital media, and related industries.

(b) Encourage community and Michigan film, digital media, and television production industry participation in, and coordination with, state efforts to attract film, digital media, television, and related production to this state.

(c) Assist the office and the fund in promoting, encouraging, and facilitating film, digital media, television, and related production in this state.

(d) Develop strategies and methods to attract film, digital media, television, and related business to this state.

(e) Under direction of the office, provide assistance to film, digital media, television, and related service personnel who use this state as a business location.

(f) Sponsor and support official functions for film, digital media, television, and related industries.

(g) Assist in the establishment of film, digital media, and television ventures and such related matters as the office considers appropriate.

(h) Make inquiries, studies, and investigations, hold hearings, and receive comments from the public. The council may also consult with outside experts in order to perform its duties, including, but not limited to, experts in the private sector, organized labor, government agencies, and at institutions of higher education.

(i) Provide other assistance or advice relating to the duties of the council under this chapter as requested by the commissioner.

(8) The council shall meet not less than 3 times per year and at the call of its chairperson.

(9) A meeting of the council shall be conducted as a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Notice of the date, time, and place of a public meeting of the council shall be given as prescribed in the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A majority of the members of the council serving constitute a quorum for the transaction of the council's business. The council shall act by a majority vote of its serving members.

(10) A writing prepared, owned, used, in the possession of, or retained by the council when performing business of the council is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except that such a writing may be kept confidential for up to 6 months after the date a request to inspect, obtain, or copy the writing is received, if, in the judgment of the chairperson of the council, disclosure of the record would compromise or otherwise undermine the ability of Michigan industry to compete in the promotion and marketing of Michigan's locations, crews, facilities, and technical production and other services.

(11) A member of the council shall not use for personal gain information obtained by the member while performing business of the council, nor shall a member of the council disclose confidential information obtained by the member while conducting council business, except as necessary to perform council business. The council shall adopt a code of ethics for its members and establish policies and procedures requiring the disclosure of relationships that may give rise to a conflict of interest. The council shall require that any member of the council with a direct or indirect interest in any matter before the council disclose the member's interest to the council before the council takes any action on the matter.

125.2029d Michigan film promotion fund; creation within state treasury; receipt of money or other assets; investment; money remaining in fund at close of fiscal year; expenditure.

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

(2) The state treasurer may receive money or other assets from any source for deposit into the promotion fund, including federal funds, other state revenues, gifts, bequests, and other donations, including, but not limited to, all of the following:

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

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

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

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

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

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

125.2029e Michigan economic development corporation; joint exercise of power.

Sec. 29e. The powers and duties of the fund under this chapter may be exercised and performed by the Michigan economic development corporation as a joint exercise of power authorized under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, pursuant to the contractual interlocal agreement effective April 5, 1999, as amended, between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the fund, or under an intergovernmental agreement with local film offices or other governmental entities. This section does not authorize the office to exercise the powers and duties of the fund.

125.2029f Representation as employee or agent of office, commissioner, or council; authorization required; violation as misdemeanor; penalty.

Sec. 29f. (1) A person who is not an agent or employee of the office, commissioner, or council shall not represent that the person is an employee or agent of the office, commissioner, or council without the express authorization of the commissioner.

(2) A person who violates this section is guilty of a misdemeanor and may be imprisoned for not more than 93 days and shall be fined not more than \$5,000.00.

125.2029g Transfer of records, personnel, property, grants, and unexpended balances.

Sec. 29g. (1) All records, personnel, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to any entity for the activities, powers, duties, functions, and responsibilities vested in the office under this chapter are transferred to the office. The state budget director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system for the remainder of the fiscal year ending September 30, 2008.

(2) The unexpended balances of appropriations transferred to the office under subsection (1) include, but are not limited to, any funds appropriated to the office under section 88j(3)(e) remaining in a work project on the effective date of the amendatory act that added this subsection.

Repeal of MCL 399.721 and 399.722.

Enacting section 1. Sections 21 and 22 of the history, arts, and libraries act, 2001 PA 63, MCL 399.721 and 399.722, are repealed effective May 4, 2008.

Effective date.

Enacting section 2. This amendatory act takes effect May 4, 2008.

This act is ordered to take immediate effect.

Approved April 7, 2008.

Filed with Secretary of State April 8, 2008.

[No. 76]**(SB 1178)**

AN ACT to amend 1984 PA 431, entitled “An act to prescribe the powers and duties of the department of management and budget; to define the authority and functions of its director and its organizational entities; to authorize the department to issue directives; to provide for the capital outlay program; to provide for the leasing, planning, constructing, maintaining, altering, renovating, demolishing, conveying of lands and facilities; to provide for centralized administrative services such as purchasing, payroll, record retention, data processing, and publishing and for access to certain services; to provide for a system of internal accounting and administrative control for certain principal departments; to provide for an internal auditor in certain principal departments; to provide for certain powers and duties of certain state officers and agencies; to codify, revise, consolidate, classify, and add to the powers, duties, and laws relative to budgeting, accounting, and the regulating of appropriations; to provide for the implementation of certain constitutional provisions; to create funds and accounts; to make appropriations; to prescribe remedies and penalties; to rescind certain executive reorganization orders; to prescribe penalties; and to repeal certain acts and parts of acts,” (MCL 18.1101 to 18.1594) by adding section 125.

The People of the State of Michigan enact:

18.1125 Film production located in state; use of state property; information about potential film locations; definitions.

Sec. 125. (1) The director may authorize a person engaged in the production of a film in this state to use without charge property owned by or under the control of the department for the purpose of producing a film under terms and conditions established by the director. The economic and other benefits to this state of film production located in this state shall be considered to be the value received by this state in exchange for the use of property under this section.

(2) The director shall not authorize the use of property owned by or under the control of the department for the production of a film that includes obscene matter or an obscene performance or for a production for which records are required to be maintained with respect to any performer under 18 USC 2257.

(3) The department shall cooperate with the Michigan film office in providing the office with information about potential film locations owned by or under the control of the department and the use of property owned by or under the control of the department.

(4) As used in this section:

(a) “Film” means single media or multimedia entertainment content for distribution or exhibition to the general public by any means and media in any digital media format, film, or video tape, including, but not limited to, a motion picture, a documentary, a television series, a television miniseries, a television special, interstitial television programming, long-form

television, interactive television, music videos, interactive games, video games, commercials, internet programming, an internet video, a sound recording, a video, digital animation, or an interactive website.

(b) “Michigan film office” means the office created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.

(c) “Obscene matter or an obscene performance” means matter described in 1984 PA 343, MCL 752.361 to 752.374.

This act is ordered to take immediate effect.

Approved April 7, 2008.

Filed with Secretary of State April 8, 2008.

[No. 77]

(HB 5841)

AN ACT to amend 2007 PA 36, entitled “An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations,” (MCL 208.1101 to 208.1601) by adding section 455.

The People of the State of Michigan enact:

208.1455 Michigan film office; agreement with eligible production company; tax credit; requirements; application; form; fee; considerations; determination of compliance with terms of agreement; issuance of postproduction certificate; confidentiality of information, records, or other data; assignment of credit; submission of fraudulent or false information; annual report; definitions.

Sec. 455. (1) The Michigan film office, with the concurrence of the state treasurer, may enter into an agreement with an eligible production company providing the company with a credit against the tax imposed by this act or against taxes withheld under chapter 7 of the income tax act of 1967, 1967 PA 281, MCL 206.351 to 206.367, as provided under this section and section 367 of the income tax act of 1967, 1967 PA 281, MCL 206.367. To qualify for the credit under this section, a company shall meet all of the following requirements:

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

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

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

(d) Submit the postproduction certificate of completion issued by the office under subsection (5) to the department under subsection (7).

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

(2) For direct production expenditures or qualified personnel expenditures made after February 29, 2008, an agreement under this section may provide for an eligible production company to claim a tax credit equal to 42% of direct production expenditures for a state certified qualified production in a core community, 40% of direct production expenditures for a state certified qualified production in part of this state other than a core community, and 30% for qualified personnel expenditures. A taxpayer shall not claim a credit under this section for any of the following:

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

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

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

(3) An eligible production company intending to produce a qualified production in this state, or that initiated production of a qualified production after February 29, 2008 and before the effective date of the amendatory act that added this section, may submit an application to enter into an agreement under this section to the Michigan film office. Except for a qualified production for which production was initiated after February 29, 2008 and before the effective date of the amendatory act that added this section, direct production expenditures and qualified personnel expenditures incurred prior to approval of an agreement under this section are not eligible for the credit under this section. The request shall be submitted in a form prescribed by the Michigan film office and shall be accompanied by a \$100.00 application fee and all of the information and records requested by the office. An application fee received by the office under this subsection shall be deposited in the Michigan film promotion fund. The office shall not process the application until it is complete. As part of the application, the company shall estimate direct production expenditures and qualified personnel expenditures for an identified qualified production. If the office, with the concurrence of the state treasurer, determines to enter into an agreement under this section, the agreement shall provide for all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) If the Michigan film office determines that an eligible production company has complied with the terms of an agreement entered into under this section, the office shall issue a postproduction certificate to the company. The company shall submit a request to the office for a postproduction certificate on a form prescribed by the office, along with any information or independent certification the office or the department deems necessary. The office shall process each request within 60 days after the request is complete. However, the office may request additional information or independent certification before issuing a postproduction certificate of completion and need not issue the postproduction certificate until satisfied that direct production expenditures, qualified personnel expenditures, and eligibility are adequately established. The additional information requested may include a report of direct production expenditures and qualified personnel expenditures for the qualified production audited and certified by an independent certified public accountant. Each postproduction certificate of completion shall be signed by the Michigan film commissioner and shall include the following information:

(a) The name of the eligible production company.

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

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

(d) The date of completion for the qualified production in this state.

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

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

(g) Any independent certification required by the department or the Michigan film office.

(6) Information, records, or other data received, prepared, used, or retained by the Michigan film office under this section that are submitted by an eligible production company and considered by the taxpayer and acknowledged by the office as confidential shall not be subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Information, records, or other data shall only be considered confidential to the extent that the information or records describe the commercial and financial operations or intellectual property of the company, the information or records have not been publicly disseminated at any time, and disclosure of the information or records may put the company at a competitive disadvantage.

(7) An eligible production company shall submit a postproduction certificate of completion issued under subsection (5) to the department. If the credit allowed under this section

exceeds the tax liability of the company for the tax year or if the company claiming the credit does not have a tax liability under this act for the tax year, the department shall refund the excess or pay the amount of the credit to the company. The credit under this section shall be claimed after all other credits under this act.

(8) An eligible production company may assign all or a portion of a credit under this section to any assignee. An assignee may subsequently assign a credit or any portion of a credit assigned under this subsection to 1 or more assignees. A company may claim a portion of a credit and assign the remaining credit amount. A credit assignment under this subsection is irrevocable. The credit assignment under this subsection shall be made on a form prescribed by the department. The qualified taxpayer shall send a copy of the completed assignment form to the department in the tax year in which the assignment is made and shall attach a copy of the form to the return on which the credit is claimed.

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

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

(11) Not later than March 1 of each year after 2008, the Michigan film office shall submit to the governor, the president of the Michigan strategic fund, the chairperson of the senate finance committee, and the house tax policy committee an annual report concerning the operation and effectiveness of the credit under this section. The requirements of section 28(1)(f) of 1941 PA 122, MCL 205.28, do not apply to disclosure of tax information required by this subsection. The report shall include all of the following:

(a) A brief assessment of the overall effectiveness of the credit under this section at attracting qualified productions to this state during the immediately preceding calendar year.

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

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

(d) An estimate of the number of persons employed in this state by eligible production companies that qualified for the credit under this section in the immediately preceding calendar year.

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

(12) As used in this section:

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

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

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

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

(A) Expenditures for optioning or purchasing intellectual property including, but not limited to, books, scripts, music, or trademarks relating to the development or purchase of a script, story, scenario, screenplay, or format, including all expenditures generally associated with the optioning or purchase of intellectual property, including option money, agent fees, and attorney fees relating to the transaction, but not including deferrals, deferments, royalties, profit participation, or recourse or nonrecourse loans negotiated by the eligible production company to obtain the rights to the intellectual property.

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

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

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

(E) Use of vehicles, which may include chartered aircraft based in this state used for transportation in this state directly attributable to production of a qualified production, but may not include the chartering of aircraft for transportation outside of this state.

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

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

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

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

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

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

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

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

(B) Payment to a personal services corporation or professional employer organization for the services of a performing artist or crew member if the personal services corporation or professional employer organization is subject to the tax levied under this act on the

portion of the payment qualifying for the tax credit under this section and the payments received by the performing artist or crew member that are subject to taxation under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, and are withheld and paid to this state in the amount provided under section 351 of the income tax act of 1967, 1967 PA 281, MCL 206.351.

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

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

(f) “Michigan film office” or “office” means the Michigan film office created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.

(g) “Michigan film promotion fund” means the fund created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.

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

(i) “Postproduction expenditure” means a direct expenditure for editing, Foley recording, automatic dialogue replacement, sound editing, special or visual effects including computer-generated imagery or other effects, scoring and music editing, beginning and end credits, negative cutting, soundtrack production, dubbing, subtitling, or addition of sound or visual effects. Postproduction expenditure includes direct expenditures for advertising, marketing, distribution, or related expenses.

(j) “Qualified personnel expenditure” means an expenditure made in this state directly attributable to the production or distribution of a qualified production that is a transaction subject to taxation in this state and is a payment or compensation payable to below the line crew for below the line crew members who were not residents of this state for at least 60 days before approval of the agreement for the qualified production under subsection (3), not to exceed \$2,000,000.00 for any 1 employee or contractual or salaried employee who performs service in this state for the production of a qualified production, including both of the following:

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

(ii) Payment to a personal services corporation or professional employer organization for the services of a performing artist or crew member if the personal services corporation or professional employer organization is subject to the tax levied under this act on the portion of the payment qualifying for the tax credit under this section and the payments received by the performing artist or crew member that are subject to taxation under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, and are withheld and paid to this state in the amount provided under section 351 of the income tax act of 1967, 1967 PA 281, MCL 206.351.

(k) “State certified qualified production” or “qualified production” means single media or multimedia entertainment content created in whole or in part in this state for distribution or exhibition to the general public in 2 or more states by any means and media in any digital media format, film, or video tape, including, but not limited to, a motion picture, a documentary, a television series, a television miniseries, a television special, interstitial television

programming, long-form television, interactive television, music videos, interactive games, video games, commercials, internet programming, an internet video, a sound recording, a video, digital animation, or an interactive website. Qualified production also includes any trailer, pilot, video teaser, or demo created primarily to stimulate the sale, marketing, promotion, or exploitation of future investment in a production. Qualified production does not include any of the following:

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

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

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

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

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

(vi) A radio program.

(vii) A weather show.

(viii) A financial market report.

(ix) A talk show.

(x) A game show.

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

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

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

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

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

(m) “State certified qualified production” means a qualified production for which a post-production certificate has been issued by the office under subsection (5).

This act is ordered to take immediate effect.

Approved April 7, 2008.

Filed with Secretary of State April 8, 2008.

[No. 78]

(HB 5842)

AN ACT to amend 1933 PA 167, entitled “An act to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this 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:

205.54cc Motion picture production company; tax credit.

Sec. 4cc. (1) For tax years that begin after December 31, 2006 through February 29, 2008, the Michigan film office, with the concurrence of the state treasurer, may enter into an agreement with a motion picture production company providing a credit against the tax imposed by this act as provided under subsection (2). To qualify for the credit under this section, a motion picture production company shall meet all of the following requirements:

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

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

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

(d) Shall submit a postproduction certificate of completion issued under subsection (5) to the department of treasury under subsection (7).

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

(2) An agreement under this section may provide for a motion picture production company to claim a tax credit under this section as follows:

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

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

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

(3) A motion picture production company intending to engage in motion picture production in this state may submit an application to enter into an agreement under this section to the Michigan film office. The request shall be submitted in a form prescribed by the Michigan film office and shall be accompanied by all of the information and records requested by the Michigan film office. The Michigan film office shall not process the application until it is complete. As part of the application, the motion picture production company shall estimate its expected production spending for an identified motion picture. If the Michigan film office with the concurrence of the state treasurer determines to enter into an agreement under this section, the agreement shall provide for all of the following:

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

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

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

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

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

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

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

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

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

(5) If the Michigan film office determines that a motion picture production company has complied with the terms of an agreement entered into under this section, the office shall issue a postproduction certificate to that motion picture production company. The motion picture production company shall submit a request to the Michigan film office on a form prescribed by the Michigan film office for a postproduction certificate, along with any documentation the Michigan film office requires. The office shall process each request within 60 days after it is complete. However, the office may request additional information and documentation before issuing a postproduction certificate of completion and need not issue the postproduction certificate until satisfied that production spending is adequately established. Each postproduction certificate of completion shall be signed by the Michigan film commissioner or his or her designee and shall include the following information:

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

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

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

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

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

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

(6) Information and records submitted by a motion picture production company to the Michigan film office under this section shall be considered confidential and exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, to the extent that they describe the commercial and financial operations of the company, they have not been publicly disseminated at any time, and their disclosure might put the company at a competitive disadvantage. A company submitting materials under this section shall specifically designate any information and records that the company deems confidential. The Michigan film office may release any information and records submitted under this section that have not been designated confidential by the company.

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

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

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

(10) Not later than March 1 of each year, the Michigan film office shall submit to the governor, the chairperson of the senate finance committee, and the house tax policy committee an annual report concerning the operation and effectiveness of the credit under this section. The requirements of section 28(1)(f) of 1941 PA 122, MCL 205.28, do not apply to disclosure of tax information required by this subsection. The report shall include all of the following:

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

(b) The number of motion picture productions requesting tax credit approval during the immediately preceding year, the names of the motion pictures produced in this state for which credits were begun or completed in the immediately preceding year, and the locations in this state that were used in the production of approved motion pictures in the immediately preceding year.

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

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

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

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

(11) As used in this section:

(a) “Michigan film office” or “office” means the Michigan film office housed within the department of history, arts, and libraries before May 4, 2008, and housed within the Michigan strategic fund after May 3, 2008.

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

(i) Televised news or current events programs.

(ii) Live sporting events.

(iii) Political advertising.

(iv) Radio programs.

(v) Weather shows.

(vi) Financial market reports.

(vii) Talk shows.

(viii) Game shows.

(ix) Product or service marketing.

(x) Awards shows or other events.

(c) “Motion picture production company” or “company” means an entity in the business of producing motion pictures. However, motion picture production company does not include an entity that is more than 30% owned, affiliated, or controlled by an entity or individual who is in default on a loan made by this state, a loan guaranteed by this state, or a loan made or guaranteed by any other state.

(d) “Obscene matter or an obscene performance” means matter described in 1984 PA 343, MCL 752.361 to 752.374.

(e) “Production spending” means the following expenditures made in this state to film or produce a single motion picture:

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

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

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

Repeal of MCL 205.54cc.

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

This act is ordered to take immediate effect.

Approved April 7, 2008.

Filed with Secretary of State April 8, 2008.

[No. 79]

(HB 5844)

AN ACT to amend 1967 PA 281, entitled “An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts,” (MCL 206.1 to 206.532) by adding section 367.

The People of the State of Michigan enact:

206.367 State certified qualified production; tax credit.

Sec. 367. (1) An eligible production company may claim a credit for a state certified qualified production against the tax deducted and withheld under this chapter equal to the amount of the credit the eligible production company is eligible to claim for the state certified qualified production under section 455 of the Michigan business tax act, 2007 PA 36, MCL

208.1455. An eligible production company shall not claim a credit under this section for any of the following:

(a) A credit or portion of a credit the eligible production company claims under section 455 of the Michigan business tax act, 2007 PA 36, MCL 208.1455.

(b) A credit or portion of a credit that another taxpayer claims under this section or under section 455 of the Michigan business tax act, 2007 PA 36, MCL 208.1455.

(2) The credit allowed under this section shall not exceed the tax liability of the eligible production company under this act for the tax year. The credit under this section shall be claimed after all other credits under this act.

(3) The amount of the credit under this section shall be reduced by a credit application and redemption fee equal to 0.5% of the credit claimed, which shall be paid by the taxpayer claiming the credit and be deposited by the department in the Michigan film promotion fund.

(4) To the extent not withheld by a professional services corporation or professional employer organization, payments to the professional services corporation or professional employer organization for the services of a performing artist or a crew member that qualify for the credit under this section or section 455 of the Michigan business tax act, 2007 PA 36, MCL 208.1455, are subject to withholding by the eligible production company as provided under section 351.

(5) As used in this section, “eligible production company”, “Michigan film promotion fund”, and “state certified qualified production” mean those terms as defined under section 455 of the Michigan business tax act, 2007 PA 36, MCL 208.1455.

This act is ordered to take immediate effect.

Approved April 7, 2008.

Filed with Secretary of State April 8, 2008.

[No. 80]

(HB 5848)

AN ACT to amend 1984 PA 270, entitled “An act relating to the economic development of this state; to create the Michigan strategic fund and to prescribe its powers and duties; to transfer and provide for the acquisition and succession to the rights, properties, obligations, and duties of the job development authority and the Michigan economic development authority to the Michigan strategic fund; to provide for the expenditure of proceeds in certain funds to which the Michigan strategic fund succeeds in ownership; to provide for the issuance of, and terms and conditions for, certain notes and bonds of the Michigan strategic fund; to create certain boards and funds; to create certain permanent funds; to exempt the property, income, and operation of the fund and its bonds and notes, and the interest thereon, from certain taxes; to provide for the creation of certain centers within and for the purposes of the Michigan strategic fund; to provide for the creation and funding of certain accounts for certain purposes; to impose certain powers and duties upon certain officials, departments, and authorities of this state; to make certain loans, grants, and investments; to provide penalties; to make an appropriation; and to repeal acts and parts of acts,” by amending section 88d (MCL 125.2088d), as added by 2005 PA 225.

The People of the State of Michigan enact:

125.2088d Loan enhancement program; loan guarantee program; small business capital access program; Michigan film and digital media investment loan program; choose Michigan film and digital media loan fund; definitions

Sec. 88d. (1) The fund shall create and operate a loan enhancement program.

(2) As a separate and distinct part of the loan enhancement program, the fund may create a loan guarantee program that does all of the following:

(a) Provide a loan guarantee mechanism to financial institutions located in this state that provide commercial loans to qualified businesses, public authorities, and local units of government.

(b) Ensures that participating financial institutions do not refinance prior debt.

(c) Provide that a qualified business is only eligible for a loan guarantee under this section if it has a documented growth opportunity. As used in this subdivision, “documented growth opportunity” means a plant expansion, capital equipment investment, acquisition of intellectual property or technology, or the hiring of new employees to meet or satisfy a new business opportunity.

(d) Provide that a qualified business that engages primarily in retail sales is not eligible for a loan guarantee under this chapter unless the fund board makes a specific finding that the loan guarantee supports a new concept that has significant growth potential.

(e) Provide repayment provisions for a loan or a guarantee given to a qualified business that leaves Michigan within 3 years of the provision of the loan or guarantee or otherwise breaches the terms of an agreement with the fund.

(3) As a separate and distinct part of the loan enhancement program, the fund shall reestablish the small business capital access program that was previously operated by the fund for small businesses in a manner similar to how that program was operated before January 1, 2002. The small business capital access program shall operate on a market-driven basis and provide for premium payments by borrowers into a special reserve fund. The small business capital access program established by the board shall prohibit an officer, director, principal shareholder of a participating financial institution, or his or her immediate family members from receiving a small business capital access program loan from the financial institution. A loan under the small business capital access program may be issued to an eligible production company or film and digital media private equity fund even if the eligible production company or film and digital media private equity fund is not a small business. A loan under the small business capital access program shall provide that the proceeds of a loan may only be used for a business purpose within this state and may not be used for any of the following:

(a) The construction or purchase of residential housing.

(b) To finance passive real estate ownership.

(c) To refinance prior debt from the participating financial institution that is not part of the small business capital access program.

(4) As a separate and distinct part of the loan enhancement program, the fund shall establish a Michigan film and digital media investment loan program to invest in loans from the investment fund to eligible production companies or film and digital media private equity funds. The fund board shall make investments under this subsection only upon approval of the chief compliance officer and the Michigan film office after a review by the investment advisory committee. If an investment is made under this section, not more than \$15,000,000.00

may be loaned to any 1 eligible production company or film and digital media private equity fund for any 1 qualified production. The fund board may make an investment in a qualified production if all of the following are satisfied:

(a) The production is filmed wholly or substantially in this state.

(b) The eligible production company or the film and digital media private equity fund has shown to the satisfaction of the Michigan film office that a distribution contract or plan is in place with a reputable distribution company.

(c) The eligible production company or film and digital media private equity fund agrees that, while filming in this state, a majority of the below the line crew for the qualified production will be residents of this state.

(d) The eligible production company or film and digital media private equity fund posts a completion bond approved by the Michigan film office and has obtained no less than 1/3 of the estimated total production costs from other sources as approved by the chief compliance officer and the Michigan film office or has obtained a full, unconditional, and irrevocable guarantee of the repayment of the amount invested by the fund in favor of the investment fund that satisfies 1 or more of the following:

(i) The guarantee is from an entity that has a credit rating of not less than BAA or BBB from a national rating agency.

(ii) The guarantee is from a substantial subsidiary of an entity that has a credit rating of not less than BAA or BBB from a national rating agency.

(iii) The eligible production company or the film and digital media private equity fund provides a full, unconditional letter of credit from a bank with a credit rating of not less than A from a national rating agency.

(iv) The guarantee is from a substantial and solvent entity as determined by the investment advisory committee.

(e) The fund board may make a loan under this subsection at a market rate of interest for a qualified production of up to 80% of expected and estimated tax credits available to the eligible production company or film and digital media private equity fund under sections 455 to 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1455 to 208.1459, if the eligible production company or the film and digital media private equity fund agrees to name the fund as its agent for the purpose of filing for the tax credits should the eligible production company not apply for the tax credits. The Michigan film office and the state treasurer shall determine the estimated amount of tax credits for purposes of this subsection. The fund board shall approve guidelines for the initiation of a loan and the terms of the loan under this subsection.

(f) A loan under this subsection may be converted to an equity investment by the fund board with the approval of the chief compliance officer and the Michigan film office.

(g) An eligible production company or film and digital media production company that receives a loan under this subsection is not also eligible for a loan for the same qualified production under subsection (5).

(h) Fifty percent of any earnings on a loan or investment under this subsection shall be deposited in the investment fund and the remainder of the earnings shall be deposited in the Michigan film promotion fund created under chapter 2A. One hundred percent of principal repaid under this subsection shall be deposited in the investment fund upon repayment.

(5) As a separate and distinct part of the loan enhancement program, the fund shall establish the choose Michigan film and digital media loan fund to invest in loans from the investment fund to eligible production companies or film and digital media private equity funds eligible for a tax credit under the Michigan economic growth authority act, 1995 PA 24,

MCL 207.801 to 207.810, or sections 455 to 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1455 to 208.1459. The fund board shall make investments under this subsection only upon approval of the chief compliance officer and the Michigan film office. A loan issued under this subsection is subject to all of the following requirements:

(a) A loan shall be provided at an interest rate of not less than 1%.

(b) The minimum amount of a loan under this subsection is \$500,000.00.

(c) The maximum term of a loan under this subsection is 10 years, including up to 3 years of deferred principal payments to align principal payments with receipt of primary incentives, as determined by the fund board.

(d) The value of the loan may not exceed the value of the primary incentive that the eligible production company or film and digital media private equity fund is eligible to receive over 7 years, as discounted by the fund board. A loan authorized by the fund board may provide for a loan amount equal to a portion or all of the discounted value of the primary incentives, as discounted by the fund board.

(e) The eligible production company or film and digital media private equity fund is responsible for repayment of the loan regardless of actual primary incentive amounts received.

(f) The eligible production company or film and digital media private equity fund is responsible for loan preparation and closing costs.

(g) An eligible production company or film and digital media private equity fund that receives a loan under this subsection is not also eligible for a loan for the same qualified production under subsection (4).

(h) The eligible production company or film and digital media private equity fund also obtains an additional loan from an accredited financial institution or other approved lending market.

(i) The loan shall be issued consistent with guidelines for the initiation of a loan and the terms of the loan under this subsection approved by the fund board.

(j) Fifty percent of any earnings on a loan under this subsection shall be deposited in the investment fund and the remainder of the earnings shall be deposited in the Michigan film promotion fund created under chapter 2A. One hundred percent of principal repaid under this subsection shall be deposited in the investment fund upon repayment.

(6) As used in this section:

(a) “Below the line crew” means that term as defined under section 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1459.

(b) “Eligible production company” means that term as defined under section 455 of the Michigan business tax act, 2007 PA 36, MCL 208.1455.

(c) “Film and digital media private equity fund” means any limited partnership, limited liability company, or corporation organized and operating in the United States that satisfies all of the following:

(i) Has as its primary business activity the investment of funds in return for equity in qualified productions.

(ii) Holds out the prospect for capital appreciation from the investments.

(iii) Accepts investments only from accredited investors as that term is defined in section 2 of the federal securities act of 1963 and rules promulgated under that act.

(d) “Investment advisory committee” means the committee created within the department under section 91 of the executive organization act of 1965, 1965 PA 380, MCL 16.191.

(e) “Michigan film office” means the office created under chapter 2A.

(f) “Primary incentive” means a tax credit an eligible production company is eligible to receive under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, or under sections 455 to 459 of the Michigan business tax act, 2007 PA 36, MCL 208.1455 to 208.1459.

(g) “Qualified production” means that term as defined under section 455 of the Michigan business tax act, 2007 PA 36, MCL 208.1455.

This act is ordered to take immediate effect.

Approved April 7, 2008.

Filed with Secretary of State April 8, 2008.

[No. 81]

(HB 5852)

AN ACT to amend 1967 PA 150, entitled “An act to provide for the militia of this state and its organization, command, personnel, administration, training, supply, discipline, deployment, employment, and retirement; and to repeal acts and parts of acts,” (MCL 32.501 to 32.851) by adding section 337.

The People of the State of Michigan enact:

32.737 Use of property for production of film; authorization; prohibited use; cooperation with Michigan film office; definitions.

Sec. 337. (1) The adjutant general may authorize a person engaged in the production of a film in this state to use without charge property owned by or under the control of the department of military and veterans affairs for the purpose of producing a film under terms and conditions established by the adjutant general. The economic and other benefits to this state of film production located in this state shall be deemed to be the value received by this state in exchange for the use of property under this section.

(2) The adjutant general shall not authorize the use of property owned by or under the control of the department of military and veterans affairs for the production of a film that includes obscene matter or an obscene performance or for a production for which records are required to be maintained with respect to any performer under 18 USC 2257.

(3) The department of military and veterans affairs shall cooperate with the Michigan film office in providing the office with information about potential film locations owned by or under the control of the department of military and veterans affairs and the use of property owned by or under the control of the department of military and veterans affairs.

(4) As used in this section:

(a) “Film” means single media or multimedia entertainment content for distribution or exhibition to the general public by any means and media in any digital media format, film, or videotape, including, but not limited to, a motion picture, a documentary, a television series, a television miniseries, a television special, interstitial television programming, long-form television, interactive television, music videos, interactive games, video games, commercials, internet programming, an internet video, a sound recording, a video, digital animation, or an interactive website.

(b) “Michigan film office” means the office created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.

(c) “Obscene matter or an obscene performance” means matter described in 1984 PA 343, MCL 752.361 to 752.374.

This act is ordered to take immediate effect.

Approved April 7, 2008.

Filed with Secretary of State April 8, 2008.

[No. 82]

(HB 5853)

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” (MCL 324.101 to 324.90106) by adding section 512.

The People of the State of Michigan enact:

324.512 Film production located in state; authorization by director or commission to use property; exception; cooperation with Michigan film office; definitions.

Sec. 512. (1) The director may authorize a person engaged in the production of a film in this state to use without charge property owned by or under the control of the department for the purpose of producing a film under terms and conditions established by the director. The economic and other benefits to this state of film production located in this state shall be considered to be the value received by this state in exchange for the use of property under this section.

(2) The director or the commission shall not authorize the use of property owned by or under the control of the department for the production of a film that includes obscene matter or an obscene performance or for a production for which records are required to be maintained with respect to any performer under 18 USC 2257.

(3) The department shall cooperate with the Michigan film office in providing the office with information about potential film locations owned by or under the control of the department and the use of property owned by or under the control of the department.

(4) As used in this section:

(a) “Film” means single media or multimedia entertainment content for distribution or exhibition to the general public by any means and media in any digital media format, film, or videotape, including, but not limited to, a motion picture, a documentary, a television series, a television miniseries, a television special, interstitial television programming, long-form television, interactive television, music videos, interactive games, video games, commercials, internet programming, an internet video, a sound recording, a video, digital animation, or an interactive website.

(b) “Michigan film office” means the Michigan film office created in section 29a of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029a.

(c) “Obscene matter or an obscene performance” means matter described in 1984 PA 343, MCL 752.361 to 752.374.

This act is ordered to take immediate effect.

Approved April 7, 2008.

Filed with Secretary of State April 8, 2008.

[No. 83]

(HB 5854)

AN ACT to amend 1964 PA 286, entitled “An act to provide for the organization, powers, and duties of the state transportation commission and the state transportation department; to provide for the appointment, powers, and duties of the state transportation director; to abolish the office of state highway commissioner and the commissioner’s advisory board and to transfer their powers and duties; to provide for penalties and remedies; and to repeal certain acts and parts of acts,” (MCL 247.801 to 247.816) by adding section 6b.

The People of the State of Michigan enact:

247.806b Film production located in state; authorization by director or commission to use property; exception; cooperation with Michigan film office; definitions.

Sec. 6b. (1) The director or the commission may authorize a person engaged in the production of a film in this state to use without charge property owned by or under the control of the commission for the purpose of producing a film under terms and conditions established by the director or commission. The economic and other benefits to this state of film production located in this state shall be deemed to be the value received by this state in exchange for the use of property under this section.

(2) The director or the commission shall not authorize the use of property owned by or under the control of the commission for the production of a film that includes obscene matter or an obscene performance or for a production for which records are required to be maintained with respect to any performer under 18 USC 2257.

(3) The department and the commission shall cooperate with the Michigan film office in providing the office with information about potential film locations owned by or under the control of the commission and the use of property owned by or under the control of the commission.

(4) As used in this section:

(a) “Film” means single media or multimedia entertainment content for distribution or exhibition to the general public by any means and media in any digital media format, film, or videotape, including, but not limited to, a motion picture, a documentary, a television series, a television miniseries, a television special, interstitial television programming, long-form television, interactive television, music videos, interactive games, video games, commercials, internet programming, an internet video, a sound recording, a video, digital animation, or an interactive website.

(b) “Michigan film office” means the office created under chapter 2A of the Michigan strategic fund act, 1984 PA 270, MCL 125.2029 to 125.2029g.