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MICHIGAN ECONOMIC DEVELOPMENT (MEDC)

[Editor's note: the draft of ARTICLE VII is included in this document. To assist in orienting the reader, remaining articles of the draft Michigan economic development code, including source statutes, are outlined in a separate document.]

**ARTICLE VII – ENCOURAGING MICHIGAN AS A DESTINATION FOR
TOURISM, CONVENTIONS AND THE FILM INDUSTRY****DIVISION I – DEFINITIONS**

(1) As used in this article,

(a) “Accommodations”

Except as otherwise provided, "accommodations" means the room or other space provided to transient guests for dwelling, lodging, or sleeping, including furnishings and other accessories, in a facility that is not a campground, hospital, nursing home, emergency shelter, or community mental health or community substance abuse treatment facility. Accommodations do not include food or beverages. [Sections 17322-17340 of this Code, formerly of PA 106 of 1985 – State Convention Facility Development Act.]

As used in sections 17352 – 17359 of this code, "accommodations" means the room or other space provided for sleeping, including furnishings and other accessories in the room but not including the provision of food, beverages, telephone services, television or movie services, or other similar services, in a facility that is not a hospital, nursing home, emergency shelter, community mental health or community substance abuse treatment facility, or campground. [Sections 17352 – 17359 of this Code formerly PA 180 of 1991 – Stadia or Convention Facility Development Act.]

(b) “Assessment”

Except as otherwise provided, “assessment” means the amount levied against an owner of a transient facility within an assessment district, computed by application of the applicable percentage against aggregate room charges with respect to that transient facility during the applicable assessment period. [Sections 17233 through 17238 of this Code, formerly the “convention and tourism promotion act”. (MCL 141.1321-1328); sections 17363-17370 of this code were previously the Community Convention or Tourism Marketing Act, PA 395 of 1980, formerly found at MCL 141.871-80; sections 17373 through 17378 of this Code, formerly the convention and tourism marketing act,

Act No. 383 of the Public Acts of 1980, being sections 141.881 to 141.889 of the Michigan Compiled Laws.]

As used in sections 17223 through 17230 of this Code, “assessment” means the amount levied against an owner under those sections. [Sections 17223 through 17230 of this Code, formerly PA 244 of 1991 – Regional Tourism Marketing Act.]

(c) “Assessment district”

Except as otherwise provided, “assessment district” means a municipality or a combination of municipalities as described in a marketing program. [Sections 17233 through 17238 of this Code, formerly the “convention and tourism promotion act” (MCL 141.1321-1328.)

As used in sections 17373 through 17378 of this code, “assessment district” means a county having a population of more than 1,500,000 and, if so designated by the bureau in the marketing program notice, any county or counties contiguous with it. [Sections 17373 through 17378 of this Code, formerly the convention and tourism marketing act, Act No. 383 of the Public Acts of 1980, being sections 141.881 to 141.889 of the Michigan Compiled Laws

As used in sections 17363 through 17370 of this code, “assessment district” means a municipality or combination of municipalities as described in a marketing program. A combination of municipalities is not required to be contiguous. [Sections 17363-17370 of this code were previously the Community Convention or Tourism Marketing Act, PA 395 of 1980, formerly found at MCL 141.871-80.]

(d) “Assessment revenues”

Except as otherwise provided, “assessment revenues” means the money derived from the assessment, including any interest and penalties on the assessment, imposed by sections 17233 through 17238, 17363 through 17370, and 17373 through 17378 of this code. [Sections 17233 through 17238 of this Code, formerly the “convention and tourism promotion act”.(MCL 141.1321-1328); Sections 17363-17370 of this code were previously the Community Convention or Tourism Marketing Act, PA 395 of 1980, formerly found at MCL 141.871-80; and sections 17373 through 17378 of this Code, formerly the convention and tourism marketing act, Act No. 383 of the Public Acts of 1980, being sections 141.881 to 141.889 of the Michigan Compiled Laws.]

As used in sections 17223 through 17230 of this code, “assessment revenues” means the money collected by a regional marketing organization from the assessment, including any interest and penalties on the assessment, imposed under sections 17223 through 17230 of this code. [Sections 17223 through 17230 of this Code, formerly PA 244 of 1991 – Regional Tourism Marketing Act.]

(e) "Base investment" means the cost, including fabrication and installation, paid or accrued in the taxable year of tangible assets of a type that are, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated capital cost recovery for federal income tax purposes, provided that the assets are physically located in this state for use in a business activity in this state and are not mobile tangible assets expended by a person in the development of a qualified film and digital media infrastructure project. Base investment does not include a direct production expenditure or qualified personnel expenditure eligible for a credit under section 17451 of this Code. [\[Section 17453 of this Code, formerly, PA 86 of 2008, MCL 208.1457\]](#)

(f) "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.

(g) "Bureau"

Except as otherwise provided, "bureau" means a nonprofit corporation incorporated under the laws of this state existing solely to promote convention business and tourism within this state or a portion of this state and that complies with all of the following:

- (i) Has not less than 200 dues-paying members, of which not fewer than 25 are owners of transient facilities.
- (ii) Has been actively engaged in promoting convention business and tourism for not less than 10 years.
- (iii) Has a board of directors elected by its members.
- (iv) Has a full-time chief executive officer and not fewer than 14 full-time equivalent employees.
- (v) Is a member of 1 or more nationally recognized associations of travel and convention bureaus.

(vi) Regularly books conventions at the community's largest convention center, which generate hotel room nights throughout the surrounding area. [Sections 17233 through 17238 of this Code, formerly the “convention and tourism promotion act”(MCL 141.1321-1328)]

As used in sections 17363 through 17370 of this code, “bureau” means a nonprofit corporation existing to promote convention business or tourism within this state or a portion of this state. [Sections 17363-17370 of this code were previously the Community Convention or Tourism Marketing Act, PA 395 of 1980, formerly found at MCL 141.871-80.]

As used in sections 17452 through 17359 of this code, “bureau” means a nonprofit corporation incorporated under the laws of this state existing solely to promote convention business and tourism within this state or a portion of this state, and which complies with all of the following:

- (i) Has not less than 400 dues paying members, of which not less than 50 are owners of transient facilities.
- (ii) Has been actively engaged in promoting convention business and tourism for not less than 10 years.
- (iii) Has a board of directors elected by its members.
- (iv) Has a full-time chief operating officer and not less than 10 full-time employees.
- (v) Is a member of 1 or more nationally recognized associations of travel and convention bureaus. [Sections 17373 through 17378 of this Code, formerly the convention and tourism marketing act, Act No. 383 of the Public Acts of 1980, being sections 141.881 to 141.889 of the Michigan Compiled Laws.]

(h) Except as otherwise provided, “chief executive officer” means for a county the county executive of a county or, if the county does not have an elected county executive, the chairperson of the county board of commissioners and for a city, the mayor. [Sections 17352 – 17359 of this Code formerly PA 180 of 1991 – Stadia or Convention Facility Development Act.]

(i) “Community Convention Board” means the board of directors elected by the members of a bureau. A majority of the members of a board shall be owners of transient facilities. [Sections 17363-17370 of this code were previously the Community Convention or Tourism Marketing Act, PA 395 of 1980, formerly found at MCL 141.871-80.]

(j) “Convention and Tourism Marketing Board” means the board of directors of a bureau. [Sections 17373 through 17378 of this Code, formerly the convention and tourism marketing act, Act No. 383 of the Public Acts of 1980, being sections 141.881 to 141.889 of the Michigan Compiled Laws.]

(k) “Convention Authority” means a convention facility authority created under section 17381. [Sections 17381 through 17391 of this Code, formerly PA 203 of 1999, The Convention Facility Authority Act, which was found at MCL 141.1401 *et seq.*]

(l) “Convention Facility”

Except as otherwise provided, "convention facility" means 1 or more facilities owned or leased by a local governmental unit that are any combination of a convention hall, auditorium, meeting rooms, and exhibition areas that are separate and distinct and contiguous to each other, and related adjacent public areas generally available to members of the public for lease on a short-term basis for holding conventions, meetings, exhibits, and similar events and the necessary site or sites, together with appurtenant properties necessary and convenient for use in connection with the facility. [Sections 17322-17340 of this Code, formerly PA 106 of 1985 – State Convention Facility Development Act]

As used in sections 17352 through 17359 of this code, "convention facility" means a convention exhibition facility, including meeting rooms and necessary sites, related parking lots or structures, and appurtenant properties and facilities, if the facility itself contains not less than 50,000 square feet of exhibition space and if the eligible municipality is a county, the facility is located within the boundaries of the most populous city in the county. [Sections 17352 – 17359 of this Code formerly PA 180 of 1991 – Stadia or Convention Facility Development Act]

As used in sections 17381 through 17391 of this code, “convention facility” means all or any part of, or any combination of, a convention hall, auditorium, arena, meeting rooms, exhibition area, and related adjacent public areas that are generally available to the public for lease on a short-term basis for holding conventions, meetings, exhibits, and similar events, together with appurtenant property, including parking lots or structures, necessary and convenient for use in connection with the convention facility. [Sections 17381 through 17391 of this Code, formerly PA 203 of 1999, The Convention Facility Authority Act, which was found at MCL 141.1401 *et seq.*]

As used in sections 17393 through 17399e of this code, "convention facility" means all or any part of, or any combination of, a convention hall, auditorium, arena, meeting rooms, exhibition area, and related adjacent public areas that are generally available to the public for lease on a short-term basis for holding conventions, meetings, exhibits, and similar events, together with real or personal property, and easements above, on, or under the surface of real or personal property, used or intended to be used for holding conventions, meetings, exhibits, and similar events, together with appurtenant property, including covered walkways, parking lots, or structures, necessary and

convenient for use in connection with the convention facility. Convention facility includes an adjacent arena with a seating capacity not exceeding 10,000. Convention facility does not include an adjacent arena with a seating capacity exceeding 10,000. [Sections 17393 through 17399e, formerly PA 554 of 2008, Regional Convention Facility Authority Act, which was found at MCL 141.1351 -1379.]

(m) "Convention facility board" means the board of directors of a convention authority. [Sections 17381 through 17391 of this Code, formerly PA 203 of 1999, The Convention Facility Authority Act, which was found at MCL 141.1401 *et seq.*]

(n) "Convention hotel" means a facility used in the business of providing accommodations that has more than 80 rooms for providing accommodations to transient guests and that complies with all of the following:

(i) Located within a county having a population according to the most recent decennial census of 700,000 or more.

(ii) Located within a county that is 1 or more of the following:

(A) A county that has a convention facility with 350,000 square feet or more of total exhibit space.

(B) A county that has 2,000 or more rooms to provide accommodations for transient guests. [Sections 17322-17340 of this Code, formerly State Convention Facility Development Act]

(o) "Core community" means a qualified local governmental unit as defined under section 17451 of this Code (formerly section 2 of the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2782).

(p) "Develop"

Except as otherwise provided, "develop", unless the context clearly indicates a different meaning, means to acquire, market, promote, construct, improve, enlarge, renew, renovate, replace, lease, equip, furnish, or operate. [Sections 17381 through 17391 of this Code, formerly PA 203 of 1999, The Convention Facility Authority Act, which was found at MCL 141.1401 *et seq.*]

As used in Sections 17393 through 17399e of this code, "develop" means to plan, acquire, construct, improve, enlarge, maintain, renew, renovate, repair, replace, lease, equip, furnish, market, promote, manage, or operate. [Sections 17393 through 17399e, formerly PA 554 of 2008, Regional Convention Facility Authority Act, which was found at MCL 141.1351 -1379.]

(q) "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 section 17451 of this code 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.

(r) “Director”

Except as otherwise provided, “director” means the director of commerce. [Sections 17223 through 17230 of this Code, formerly PA 244 of 1991 – Regional Tourism Marketing Act; Sections 17363-17370 of this code were previously the Community Convention or Tourism Marketing Act, PA 395 of 1980, formerly found at MCL 141.871-80; Sections 17373 through 17378 of this Code, formerly the convention and tourism marketing act, Act No. 383 of the Public Acts of 1980, being sections 141.881 to 141.889 of the Michigan Compiled Laws].

(s) "Eligible county" means a county with a population of 1,500,000 or more persons that adopts or has adopted a charter under 1966 PA 293, MCL 45.501 to 45.521, and that intends to impose the tax authorized by [sections 17352 through 17359 of this code](#) for purposes related to a stadium as defined under subdivision (i)(i). [[Sections 17352 – 17359 of this Code formerly PA 180 of 1991 – Stadia or Convention Facility Development Act](#)]

(t) "Eligible municipality" means any of the following:

(i) An eligible county that intends to impose a tax under [sections 17352 through 17359 of this code](#) for purposes related to a stadium as defined under subdivision (i)(i).

(ii) A county that is not a charter county that has a population of more than 500,000 and contains a city with a population of 180,000 or more persons, or the most populous city in that county if either intends to impose a tax under [sections 17352 through 17359 of this code](#) for purposes related to a stadium as defined under subdivision (i)(ii) or a convention facility.

(iii) A county with a population of less than 200,000 that contains a city with a population of more than 40,000 but less than 50,000, or the most populous city in that county if either intends to impose a tax under [sections 17352 through 17359 of this code](#) for purposes related to a stadium as defined under subdivision (i)(ii) or a convention facility.

(iv) A county with a population of less than 300,000 with a city with a population of more than 100,000 persons, or the most populous city within that county if either intends to impose a tax under [sections 17352 through 17359 of this code](#) for purposes related to a stadium as defined under subdivision (i)(ii) or a convention facility.

(v) A county with a population of more than 250,000 with an optional unified form of government or a city within that county that levies a city income tax if either intends to impose a tax under [sections 17352 through 17359 of this code](#) for purposes related to a stadium as defined under subdivision (i)(ii) or a convention facility.

(vi) A county with a population of less than 300,000 with a city with a population of more than 70,000 persons, or the most populous city within that county if either intends to impose a tax under [sections 17352 through 17359 of this code](#) for purposes related to a stadium as defined under subdivision (i)(ii). [[Sections 17352 – 17359 of this Code formerly PA 180 of 1991 – Stadia or Convention Facility Development Act](#)]

(u) "Eligible production company" or " [production](#) 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.

(v) "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.

(w) "Film Commissioner" means the Michigan film commissioner created in section 17429b.

(x) "Film Council" means the Michigan film office advisory council created in section 17429c.

(y) "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.

(z) "Fiscal year" means an annual period that begins on July 1 and ends on June 30 or the fiscal year for a regional convention authority established by the regional convention facility board of the authority. [[Sections 17393 through 17399e, formerly PA 554 of 2008, Regional Convention Facility Authority Act, which was found at MCL 141.1351 - 1379.](#)]

(aa) "Fund" means the convention facility authority fund created for each convention authority as provided in section 17387 of this code. [[Sections 17381 through 17391 of this Code, formerly PA 203 of 1999, The Convention Facility Authority Act, which was found at MCL 141.1401 et seq.](#)]

(bb) "Gross receipts" means that term as defined in former section 7 of 1975 PA 228, or section 111 of the Michigan business tax act, 2007 PA 36, MCL 208.1111. Gross receipts do not include any amount received as reimbursement of sales tax or as charges for use tax. [[Sections 17352 – 17359 of this Code formerly PA 180 of 1991 – Stadia or Convention Facility Development Act.](#)]

(cc) "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. [section 17451 of this Code. \[Formerly PA 77 of 2008, added MCL 208.1455.\]](#)

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

(ee) "Legislative body" means the elected body of a local government possessing the legislative power of the local government. [\[Sections 17393 through 17399e, formerly PA 554 of 2008, Regional Convention Facility Authority Act, which was found at MCL 141.1351 -1379.\]](#)

(ff) "Local chief executive officer" means the mayor or city manager of a city or the county executive of a county or, if a county does not have a county executive, the chairperson of the county board of commissioners. [\[Sections 17393 through 17399e , formerly PA 554 of 2008, Regional Convention Facility Authority Act, which was found at MCL 141.1351 -1379.\]](#)

(gg) "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.

(hh) "Local governmental unit" means a county, township, city, village, or a metropolitan authority formed under [sections 17393 through 17399e of this Code , formerly PA 554 of 2008, Regional Convention Facility Authority Act, which was found at MCL 141.1351 - 1379. sections 17322-17340 of this Code, formerly PA 106 of 1985 – State Convention Facility Development Act](#)

(ii) "Local government"

Except as otherwise provided, "local government" means any county, township, city, village, or intergovernmental entity in this state. [\[Sections 17393 through 17399e, formerly PA 554 of 2008, Regional Convention Facility Authority Act, which was found at MCL 141.1351 -1379.\]](#)

As used in sections 17393 through 17399e of this code, "local government" means a county or city. For purposes of sections 17398(1)(t) and 17399 other than section 17399(1)(f), local government includes a building authority or downtown development authority created by a county or city under 1975 PA 197, MCL 125.1651 to 125.1681. [\[Sections 17393 through 17399e, formerly PA 554 of 2008, Regional Convention Facility Authority Act, which was found at MCL 141.1351 -1379.\]](#)

(jj) “Marketing Program”

Except as otherwise provided, “marketing program” means a program established by a bureau to develop, encourage, solicit, and promote convention business and tourism within this state or a portion of this state within which the bureau operates. The encouragement and promotion of convention business and tourism shall include any service, function, or activity, whether or not performed, sponsored, or advertised by a bureau, that intends to attract transient guests to the assessment district. [Sections 17233 through 17238 of this Code, formerly the “convention and tourism promotion act”(MCL 141.1321-1328); Sections 17373 through 17378 of this Code, formerly the convention and tourism marketing act, Act No. 383 of the Public Acts of 1980, being sections 141.881 to 141.889 of the Michigan Compiled Laws.]

As used in sections 17363 through 17370 of this code, “marketing program” means a program established by a bureau to develop, encourage, solicit, and promote convention business or tourism within this state or a portion of this state within which the bureau operates. The encouragement and promotion of convention business or tourism includes any service, function, or activity, whether or not performed, sponsored, or advertised by a bureau, that intends to attract transient guests to the assessment district. For a bureau described in section 17363(8), a marketing program includes a contract with a nonprofit organization formed to promote convention business or tourism that receives funding from a tax levied under Act No. 263 of the Public Acts of 1974, being sections 141.861 to 141.867 of the Michigan Compiled Laws, in a contiguous county to provide for the promotion of convention business or tourism. [Sections 17363-17370 of this code were previously the Community Convention or Tourism Marketing Act, PA 395 of 1980, formerly found at MCL 141.871-80.]

(kk) "Marketing program notice"

As used in sections 17233 through 17238 of this code, “marketing program notice” means the notice described in section 17233 of this code. [Sections 17233 through 17238 of this Code, formerly the “convention and tourism promotion act” MCL 141.1321-1328)].

As used in sections 17363 through 17370 of this code, “marketing program notice” means the notice described in section 17363 of this code. [Sections 17363-17370 of this code were previously the Community Convention or Tourism Marketing Act, PA 395 of 1980, formerly found at MCL 141.871-80.]

As used in sections 17373 through 17378 of this code, “marketing program notice” means the notice described in section 17373 of this code. [Sections 17373 through 17378 of this Code, formerly the convention and tourism marketing act, Act No. 383 of the Public Acts of 1980, being sections 141.881 to 141.889 of the Michigan Compiled Laws.]

(ll) "Michigan film office," "film office," and "office" means the office created under section 17429a of this Code.

(mm) "Michigan film promotion fund" or "Promotion fund" means the fund created under 17429d of this Code.

(nn) "Motor vehicle" means a motor vehicle subject to registration and certificate of title under section 216 of the Michigan vehicle code, 1949 PA 300, MCL 257.216, that is designed and intended to be used primarily in the transportation of passengers. Motor vehicle does not include a road tractor, school bus, special mobile equipment, tank vehicle, truck tractor, implement of husbandry, or farm tractor as these terms are defined by the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923. [\[Sections 17352 – 17359 of this Code formerly PA 180 of 1991 – Stadia or Convention Facility Development Act.\]](#)

(oo) "Municipality"

Except as otherwise provided, "municipality" means a city, county, village, or township. [\[Sections 17233 through 17238 of this Code, formerly the "convention and tourism promotion act" MCL 141.1321-1328\)\].](#)

As used in sections 17363 through 17370 of this code, "municipality" means a county with a population of less than 650,000 or a city, village, or township within a county with a population of less than 650,000. Municipality does not include a special charter, fourth class city. [\[Sections 17363-17370 of this code were previously the Community Convention or Tourism Marketing Act, PA 395 of 1980, formerly found at MCL 141.871-80.\]](#)

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

(qq) "Owner"

Except as otherwise provide, "owner" means the owner of a transient facility located within the assessment district or, if the transient facility is operated or managed by a person other than the owner, then the operator or manager of that transient facility. [\[Sections 17233 through 17238 of this Code, formerly the "convention and tourism promotion act" MCL 141.1321-1328\); Sections 17363-17370 of this code were previously the Community Convention or Tourism Marketing Act, PA 395 of 1980, formerly found at MCL 141.871-80 and Sections 17373 through 17378 of this Code, formerly the convention and tourism marketing act, Act No. 383 of the Public Acts of 1980, being sections 141.881 to 141.889 of the Michigan Compiled Laws.\]](#)

As used in sections 17223 through 17230 of this code, "owner" means the owner of a transient facility that is located within the regional assessment district or, if the transient facility is operated or managed by a person other than the owner, then the

operator or manager of that transient facility. Owner includes a person electing to come under the provisions of pursuant to section 17229 of this code. [Sections 17223 through 17230 of this Code, formerly PA 244 of 1991 – Regional Tourism Marketing Act.]

(rr) “Person”

Except as otherwise provided, "person" means a natural person, partnership, fiduciary, association, corporation, or other entity. [Sections 17322-17340 of this Code, formerly PA 106 of 1985 – State Convention Facility Development Act]

As used in sections 17352 through 17359 of this code, "person" means an individual, partnership, corporation, association, or other legal entity. [Sections 17352 – 17359 of this Code formerly PA 180 of 1991 – Stadia or Convention Facility Development Act.]

(ss) "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. [Section 17451 of this Code.]

(tt) “Qualified city”

As used in sections 17381 through 17391 of this code, “qualified city” means a city with a population of more than 170,000 that is the most populous city in a qualified county. [Sections 17381 through 17391 of this Code, formerly PA 203 of 1999, The Convention Facility Authority Act, which was found at MCL 141.1401 *et seq.*]

As used in sections 17393 through 173883 of this code, "qualified city" means a city with a population of more than 700,000 according to the most recent decennial census that contains a qualified convention facility. [Sections 17393 through 17399e, formerly PA 554 of 2008, Regional Convention Facility Authority Act, which was found at MCL 141.1351 -1379.]

(uu) “Qualified county”

As used in sections 17381 through 17391 of this code, ‘qualified county’ means a county with a population of more than 500,000 that contains a qualified city, and that is not a charter county or a county with an optional unified form of government. [Sections 17381 through 17391 of this Code, formerly PA 203 of 1999, The Convention Facility Authority Act, which was found at MCL 141.1401 *et seq.*]

As used in sections 17393 through 17399e of this code, "qualified county" means a county that contains a qualified city. [Sections 17393 through 17399e, formerly PA 554 of 2008, Regional Convention Facility Authority Act, which was found at MCL 141.1351 -1379.]

(vv) "Qualified convention facility" means a publicly owned convention facility with not less than 600,000 square feet of usable exhibition area and that is located in a qualified city. [Sections 17393 through 17399e, formerly PA 554 of 2008, Regional Convention Facility Authority Act, which was found at MCL 141.1351 -1379.]

(ww) "Qualified film and digital media infrastructure project" means a film, video, television, or digital media production and postproduction facility located in this state, movable and immovable property and equipment related to the facility, and any other facility that is a necessary component of the primary facility. A qualified film and digital media infrastructure project does not include a movie theater or other commercial exhibition facility, a facility used to produce obscene matter or an obscene performance as described in 1984 PA 343, MCL 752.361 to 752.374, or a facility used for a production for which records are required to be maintained with respect to any performer in the production under 18 USC 2257. [Section 17453 of this Code, formerly, qualified film and digital media infrastructure project; tax credit. (From PA 86 of 2008, MCL 208.1457).]

(xx) "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. As used in section 17455 of this code, formerly eligible production company; tax credit (from MCL 208.1459, Michigan Business Tax Act, PA 74 of 2008).

(yy) "Qualified local governmental unit" means a city, village, township, county, or authority that is located in, or includes within its territory or jurisdiction, a county in which convention hotels are located and that either is the owner or lessee of a convention facility with 350,000 square feet or more of total exhibit space on July 30, 1985 or, if such a convention facility does not exist, will be the owner or lessee of a convention facility with 350,000 square feet or more of total exhibit space through the application of distributions under this section to the purchase or lease of a convention facility.

(zz) "Qualified lodging facility" means 1 or more of the following:

- (i) Lodging facilities that constitute a portion of a tourism attraction facility and represent less than 50% of the total cost of the tourism attraction facility, or the lodging facilities are to be located on recreational property owned or leased by the municipal, state, or federal government.

(ii) The lodging facilities involve the restoration or rehabilitation of a structure that is listed individually in the national register of historic places or are located in a national register historic district and certified by this state as contributing to the historic significance of the district, and the rehabilitation or restoration project has been approved in advance by this state.

[Sections 17201 through 17203a of this Code, formerly the Michigan Tourism Policy Act, 106 of 1945, MCL 2.101 *et seq.*]

(aaa) "Qualified metropolitan area" means a geographic area of this state that includes a qualified city, a qualified county, and the 2 counties bordering the qualified county with the largest populations according to the most recent decennial census. [Sections 17393 through 17399e, formerly PA 554 of 2008, Regional Convention Facility Authority Act, which was found at MCL 141.1351 -1379.]

(bbb) "Regional assessment district" means a region of this state composed of a number of counties in which a regional marketing organization operates. Regional assessment district does not include a portion of the region that is a special charter, fourth class city. [Sections 17223 through 17230 of this Code, formerly PA 244 of 1991 – Regional Tourism Marketing Act.]

(ccc) "Regional convention authority" means a regional convention facility authority created under section 17393 of this code. [Sections 17393 through 17399e, formerly PA 554 of 2008, Regional Convention Facility Authority Act, which was found at MCL 141.1351 -1379.]

(ddd) "Regional Convention Facility Board" means the board of directors of an authority. [Sections 17393 through 17399e, formerly PA 554 of 2008, Regional Convention Facility Authority Act, which was found at MCL 141.1351 -1379.]

(eee) "Regional marketing organization" means a nonprofit corporation that promotes tourism within a region of this state. Regional marketing organization includes only an organization that has been operating for 10 or more years and that operates in a region composed of 15 counties. [Sections 17223 through 17230 of this Code, formerly PA 244 of 1991 – Regional Tourism Marketing Act.]

(fff) "Regional Tourism Marketing Board" means the board of directors elected by the members of a regional marketing organization. [Sections 17223 through 17230 of this Code, formerly PA 244 of 1991 – Regional Tourism Marketing Act.]

(ggg) "Room"

As used in sections 17223 through 17230 and 17363 through 17370 of this code, "room" means a room or other space provided for sleeping that can be rented independently, including the furnishings and other accessories in the room. Room

includes, but is not limited to, a condominium or time-sharing unit that, pursuant to a management agreement, may be used to provide dwelling, lodging, or sleeping quarters for a transient guest. [Sections 17223 through 17230 of this Code, formerly PA 244 of 1991 – Regional Tourism Marketing Act and Sections 17363-17370 of this code were previously the Community Convention or Tourism Marketing Act, PA 395 of 1980, formerly found at MCL 141.871-80.]

As used in sections 17233 through 17238 and 17373 through 17378 of this code, “room” means a room or other space provided for sleeping, including the furnishings and other accessories in the room. [Sections 17233 through 17238 of this Code, formerly the “convention and tourism promotion act” MCL 141.1321-1328) and Sections 17373 through 17378 of this Code, formerly the convention and tourism marketing act, Act No. 383 of the Public Acts of 1980, being sections 141.881 to 141.889 of the Michigan Compiled Laws.]

(hhh) “Room charge”

Except as otherwise provided, “room charge” means the charge imposed for the use or occupancy of a room, excluding charges for food, beverages, state use tax, telephone service or like services paid in connection with the charge, and reimbursement of the assessment imposed by sections 17233 through 17238 and 17373 through 17378 of this code. [Sections 17233 through 17238 of this code formerly the “convention and tourism promotion act” MCL 141.1321-1328; and sections 17373 through 17378 of this code, formerly the convention and tourism marketing act, Act No. 383 of the Public Acts of 1980, being sections 141.881 to 141.889 of the Michigan Compiled Laws.]

As used in sections 17223 through 17320 of this code, “room charge” means the charge imposed for the use or occupancy of a room, excluding charges for food, beverages, state use tax, telephone service, or like services paid in connection with the room charge, and reimbursement of the assessment as allowed in section 17226 of this code. [Sections 17223 through 17230 of this Code, formerly PA 244 of 1991 – Regional Tourism Marketing Act.]

As used in sections 17322 through 17340 of this code, "room charge" means the charge imposed for the use or occupancy of accommodations, excluding charges for food, beverages, telephone services, the use tax imposed under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, or like services paid in connection with the charge. Room charge does not include reimbursement of the assessment imposed by sections 17363-17370 of this code, previously the Community Convention or Tourism Marketing Act, PA 395 of 1980, formerly found at MCL 141.871-80, sections 17373 through 17378 of this Code, formerly the convention and tourism marketing act, Act No. 383 of the Public Acts of 1980, being sections 141.881 to 141.889 of the Michigan Compiled Laws, or sections 17322-17340 of this Code. [Sections 17322-17340 of this Code, formerly PA 106 of 1985 – State Convention Facility Development Act.]

As used in sections 17363 through 17370 of this code, “room charge” means the charge imposed for the use or occupancy of a room, excluding charges for food, beverages, state use tax, telephone service, or like services paid in connection with the charge, and excluding reimbursement of the assessment imposed by [sections 17363-17370 of this code](#). [[Sections 17363-17370 of this code were previously the Community Convention or Tourism Marketing Act, PA 395 of 1980, formerly found at MCL 141.871-80.](#)]

(iii) "Stadium" means a facility, including necessary sites, related parking lots or structures, and appurtenant properties and facilities, that is intended to provide space for any of the following:

(i) A professional baseball franchise, if the facility itself contains not less than 25,000 seats and is located in the downtown area of the most populous city in the eligible county.

(ii) Professional sports or entertainment, if the facility itself contains not less than 3,000 seats, is not a facility as defined by subparagraph (i). [[Sections 17352 – 17359 of this Code formerly PA 180 of 1991 – Stadia or Convention Facility Development Act.](#)]

(jjj) "Tourism attraction facility" means a cultural or historical site, a recreation or entertainment facility, an area of natural phenomena or scenic beauty, or an entertainment destination center as determined by the Michigan economic growth authority as follows:

(i) In making a determination, the Michigan economic growth authority shall consider all of the following:

(A) Whether the facility will actually attract tourists.

(B) Whether 50% or more of the persons using the facility reside outside a 100-mile radius.

(C) Whether 50% or more of the gross receipts are from admissions, food, or nonalcoholic drinks.

(D) Whether the facility offers a unique experience

(ii) The Michigan economic growth authority shall not determine any of the following as a tourism attraction facility:

(A) Facilities, other than an entertainment destination center, that are primarily devoted to the retail sale of goods, a theme restaurant destination attraction, or a tourism attraction where the attraction is a secondary and subordinate component to the sale of goods.

(B) Recreational facilities that do not serve as a likely destination where individuals who are not residents of the state would remain overnight in commercial lodging at or near the facility.

[Sections 17201 – 17203a of this Code, formerly the Michigan Tourism Policy Act, 106 of 1945, MCL 2.101 *et seq.*]

(kkk) "Transfer date" means the date 90 days after the creation of an authority under section 17397 on which the right, title, interest, ownership, and control of a qualified convention facility are conveyed and transferred from a qualified city to an authority if the transfer is not disapproved as provided under section 17399(1). [Sections 17393 through 17399e, formerly PA 554 of 2008, Regional Convention Facility Authority Act, which was found at MCL 141.1351 -1379.]

(lll) "Transient facility"

Except as otherwise provided, "transient facility" means a building that contains 35 or more rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, whether or not membership is required for the use of the rooms. A transient facility shall not include a hospital or nursing home. [Sections 17233 through 17238 of this Code, formerly the "convention and tourism promotion act" MCL 141.1321-1328; and sections 17373 through 17378 of this Code, formerly the convention and tourism marketing act, Act No. 383 of the Public Acts of 1980, being sections 141.881 to 141.889 of the Michigan Compiled Laws.]

As used in sections 17223 through 17230 of this code, "transient facility" means a building or combination of buildings under common ownership, operation, or management that contains 10 or more rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, whether or not membership is required for the use of the rooms. Transient facility includes a building or combination of buildings, the owner of which has elected to come under the provisions of sections 17223 through 17230 of this code pursuant to section 17229 of this code. Transient facility does not include a college or school dormitory; a hospital; a nursing home; a hospice; a building or combination of buildings that is otherwise a transient facility, but that is located within 1 mile of a ski lift as defined in section 2 of the ski area safety act of 1962, Act No. 199 of the Public Acts of 1962, being section 408.322 of the Michigan Compiled Laws; or a facility owned and operated by an organization qualified for an exemption from federal taxation under section 501(c) of the internal revenue code. [Sections 17223 through 17230 of this Code, formerly PA 244 of 1991 – Regional Tourism Marketing Act.]

As used in sections 17363 through 17370 of this code, "transient facility" means a building or combination of buildings under common ownership, operation, or management that contains 10 or more rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, whether or not membership is required for the use of the rooms. Transient facility does not include a college or school dormitory, a hospital,

a nursing home, or a facility owned and operated by an organization qualified for an exemption from federal taxation under section 501(c) of the internal revenue code. [Sections 17363-17370 of this code were previously the Community Convention or Tourism Marketing Act, PA 395 of 1980, formerly found at MCL 141.871-80.]

(mmm) “Transient guest”

Except as otherwise provided, “transient guest” means a person who occupies a room in a transient facility for less than 30 consecutive days. [Sections 17223 through 17230 of this Code, formerly PA 244 of 1991 – Regional Tourism Marketing Act; sections 17233 through 17238 of this Code, formerly the “convention and tourism promotion act” MCL 141.1321-1328; sections 17352 – 17359 of this Code formerly PA 180 of 1991 – Stadia or Convention Facility Development Act]; sections 17363-17370 of this code were previously the Community Convention or Tourism Marketing Act, PA 395 of 1980, formerly found at MCL 141.871-80; and sections 17373 through 17378 of this Code, formerly the convention and tourism marketing act, Act No. 383 of the Public Acts of 1980, being sections 141.881 to 141.889 of the Michigan Compiled Laws.]

As used in sections 17322 through 17340 of this code, "transient guest" means a natural person staying less than 30 consecutive days. [Sections 17322-17340 of this code]

(nnn) “Tourism marketing program” means a program established by a regional marketing organization to develop, encourage, solicit, and promote tourism within a region of this state. The encouragement and promotion of tourism includes a service, function, or activity, whether or not performed, sponsored, or advertised by a regional marketing organization, that intends to attract transient guests to the regional assessment district. [Sections 17223 through 17230 of this Code, formerly PA 244 of 1991 – Regional Tourism Marketing Act.]

(ooo) “Tourism marketing program notice” means the notice described in section 17223. [Sections 17223 through 17230 of this Code, formerly PA 244 of 1991 – Regional Tourism Marketing Act.]

(ppp) "Use tax" means the tax imposed under the use tax act, 1937 PA 94, MCL 205.91 to 205.111. [Sections 17233 through 17238 of this Code, formerly the “convention and tourism promotion act” MCL 141.1321-1328.]

DIVISION II PROMOTION OF TOURISM

Part A. State Activities

Sec. 17201. Short title; legislative findings; intent. [Sections 17201 – 17203a of this code, formerly the Michigan Tourism Policy Act, 106 of 1945, MCL 2.101 *et seq.*]

[Editor's note: In general, the drafters intended to omit sections relating to legislative findings and purposes. In some cases, such as the text below, these provisions were provisionally included, pending a discussion regarding the need for such provisions when the government provides funds that provide apparent benefit to private business.]

(2) The legislature finds all of the following:

- (a) Tourism is a major source of employment, income, and tax revenues in this state, and the expansion of the tourism industry is vital to the growth of the state's economy.
- (b) The tourism industry is important to the state, not only because of the numbers of people it serves and the vast human, financial, and physical resources it employs, but because of the benefits tourism and related activities confer on individuals and on society as a whole.
- (c) Investment of state resources is needed to provide a more effective means of marketing travel to, and within, the state, and to optimize the considerable investment of time, energy, capital, and resources being made by the tourism industry.
- (d) Coordination of existing state government involvement in tourism promotion at the state level and with local government and the private sector will maximize the economic and employment benefits of the tourism industry.

(3) Through sections 17201-17203a of this code the legislature intends to encourage all of the following:

- (a) A commitment to the fostering of the economic activity inherent in tourism promotion.
- (b) Development of a means to promote and market the state as a destination for tourists on a worldwide basis.
- (c) Tourism growth to assist this state in remaining competitive in the world tourism marketplace.
- (d) Maximization of the contribution of the tourism-related industries to the state's economic prosperity and expansion of employment opportunities.
- (e) Recognition of historic, natural, and scenic environments, and the development of cultural and heritage tourism programs and international marketing strategies, to enhance the state's appeal as a destination for domestic and international tourism.

(f) Provision of timely, up-to-date travel and tourism information on urban and rural locations in various regions of the state to enable state residents to take maximum advantage of travel opportunities within the state.

(g) Health, education, and intercultural appreciation of the geography, natural resources, history, arts, and ethnicity of the state.

(h) The welcome entry of individuals traveling to the state to enhance international understanding and goodwill, consistent with immigration laws, laws protecting the public health, laws governing the importation of goods into the United States, and other applicable laws and regulations.

(i) The collection, analysis, and timely dissemination of data which accurately measures the economic impact of tourism on the state in order to facilitate planning in the public and private sectors.

(j) The establishment of a program to market the travel vacation opportunities available in this state to residents and nonresidents by using any medium or means that the travel bureau, in consultation with the travel commission, determines appropriate.

(k) Public interest in protection of the natural resources and the cultural heritage of the state.

(l) Recognition of state and locally managed recreational opportunities including camping, hunting, fishing, boating, snowmobiling, golfing, skiing, and other outdoor recreation experiences.

Sec. 17202. Michigan travel commission; creation; appointment, qualifications, and terms of members; vacancies; compensation and expenses; travel bureau director; chair and vice-chair; meetings; removal from office; quorum; voting; public meeting; documents subject to freedom of information act.

(1) The Michigan travel commission is created within the department of commerce.

(2) The commission shall consist of 13 members appointed by the governor with the advice and consent of the senate. The governor shall select members who are experienced in the travel, tourism, and recreation industry or an associated field. Members of the commission shall be representative of all geographic areas of the state. Not less than 7 members of the commission shall be owners and operators of for-profit businesses from the private sector of the travel, tourism, and recreation industry and shall be experienced in the travel, tourism, and recreation industry. Of the 7 members appointed from the private sector not less than 4 members shall be owners and operators of small businesses. As used in this section, “small businesses” means business concerns incorporated or doing business in this state which employ not more than 100 full-time or part-time employees.

(3) A member of the commission shall be appointed for a term of 4 years. No member may serve more than 2 full 4-year terms. A vacancy on the commission shall be filled in the same manner as the original appointment.

(4) The members of the commission shall serve without compensation. However, members of the commission may be reimbursed for their expenses incurred in the performance of their official duties not to exceed 25 days in a fiscal year pursuant to the standard travel regulations of the department of management and budget.

(5) The commission shall recommend by name the appointment of the travel bureau director to the director of the department of commerce, and elect from its membership annually a chair and vice-chair. The commission shall meet at least quarterly, or more frequently if requested by 8 or more members, or at the call of the chair.

(6) A member of the commission may be removed from office by the governor in accordance with section 10 of article V of the state constitution of 1963.

(7) A majority of the commission constitutes a quorum for the transaction of business at a meeting of the commission. A majority vote of the members present and serving is required for official action of the Michigan travel commission.

(8) The business of the Michigan travel commission shall be conducted at a public meeting of that commission, held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(9) A document prepared, owned, used, in the possession of, or retained by the Michigan travel commission in the performance of an official function is subject to the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

[Editor's Comment: The subsections (8) and (9) above are similar to provisions appearing in Article I Division V and should be deleted.]

Sec. 17202a. Travel bureau; creation; duties.

The travel bureau is created within the department of commerce and shall do all of the following:

(a) Implement programs to market this state as a desirable travel destination.

(b) Before funding a promotional effort, identify and document those benefits to the state that the travel bureau determines likely to result from the promotional effort.

- (c) Withhold funds for any proposed promotional effort that in the travel bureau's determination will not likely benefit the travel industry in the state or conform with the goals of the master plan described in section 17202c.
- (d) If the travel bureau expends funds for a promotional effort, identify and document the actual benefits, if any, conferred upon the state by that promotional effort.
- (e) Use reasonable means to identify, review, and comment upon the policies and programs of state agencies which directly affect the achievement of the duties and responsibilities of the travel bureau.
- (f) Facilitate travel to and within this state to the maximum extent feasible.
- (g) From time to time, convene interagency committees, consisting of representatives of units of state government that may be required to devise recommendations to identify and solve tourism problems.
- (h) Provide informational assistance and guidance to regional, county, and city tourism development organizations and similar private organizations in planning programs to attract visitors.

Sec. 17202b. Employee acceptance of free meals or lodging; policy.

The travel bureau shall develop with the department of commerce a formal, written policy governing travel bureau employee acceptance of free meals or lodging, and implement that policy within 1 year of the effective date of the amendatory act that added this section.

Sec. 17202c. Master plan.

(1) In consultation with the appropriate divisions of the Michigan department of commerce, the travel bureau and Michigan travel commission shall develop a comprehensive, long-range master plan for a period of not less than 2 years and not more than 5 years that identifies each of the following:

- (a) Tourism development and management goals.
- (b) Programs proposed to be implemented during the term of the master plan.

(2) The master plan shall be updated as the travel bureau, Michigan travel commission, and the appropriate divisions of the department of commerce determine necessary.

Sec. 17202d. Annual report.

~~Beginning 1 year after the effective date of the amendatory act that added this section,~~
 The travel bureau shall submit to the travel commission, the governor, and the legislature an annual report containing all of the following: [Drafter's note; in case the reference to the amendatory act is desired it is PA 109 of 1993, effective July 16, 1993.]

- (a) A statement identifying and analyzing expenditures authorized by the travel bureau during the preceding 12 months, and a summary of the results of those expenditures.
- (b) A tourism marketing plan for the next fiscal year.

Sec. 17203. Michigan travel commission; duties.

(1) The Michigan travel commission shall do all of the following:

- (a) Assist the Michigan travel bureau with the development of a comprehensive long-range master plan.
- (b) Annually assess the activities and accomplishments of the Michigan travel bureau, and convey each assessment in writing to the director of the department of commerce.
- (c) Work to the maximum extent practicable with those private associations, nonprofit corporations, organizations, or other private entities which promote tourism in this state.
- (d) Promulgate rules for the implementation of sections [17201-17203a of this code](#) pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws.
- (e) Conduct public hearings to obtain input concerning policy development from a broad cross section of travel interests.
- (f) Withhold expenditure of state funds otherwise authorized sections 17201-17203a of this code if the Michigan travel bureau determines that the proposed expenditure is for an activity that does not conform with the goals of the master plan described in section 17202c or does not benefit the travel industry in the state.

(2) The commission shall authorize the expenditure of funds necessary to carry out sections [17201-17203a of this code](#), and shall be authorized to incur necessary expenses, in accordance with the accounting laws of the state.

(3) The commission, in cooperation with the Michigan travel bureau, may convene committees consisting of qualified professionals and experts in various segments of the

tourism industry that may be required to aid in the preparation of, or revision of, all or part of a marketing plan.

Sec. 17203a. Appropriation; basic support and discretionary grants.

The legislature shall annually appropriate the sums necessary to implement [sections 17201 through 17203a of this code](#). Amounts as appropriated by the legislature shall be made available for basic support and discretionary grants to eligible local and regional travel authorities and agencies in accordance with the following:

(a) Basic support grants shall be made to eligible agencies and authorities to provide continuing support of advertising and promotional efforts designed to encourage travel for purposes of resort and recreational tourism, business and conventions, and sightseeing and entertainment. Grant funds shall be utilized to fund the operating expenses of eligible agencies and the direct cost of advertising and promotion. The specific amount of grants, matching requirements, eligible applicants, application procedure, and administrative and reporting requirements shall be established within the guidelines of rules promulgated by the Michigan travel commission.

~~(b) Basic support grants for the fiscal year ending June 30, 1976, shall be made in accordance with sections 26(a), 26(b), and 26(c) of Act No. 239 of the Public Acts of 1974, and section 6 of this act. [Drafter's Comment: This subsection seems unnecessary based on the fact that it only covers the fiscal year ending on June 30, 1976.]~~

(b) Discretionary grants shall be made to eligible applicants for travel development and marketing projects based upon the extent of impact upon employment, economic stability, and increase in real per capita income. The specific application procedure and project grant requirements shall be established in rules promulgated by the Michigan travel commission.

[Drafter's Comment: sections 201.104 – 108 of the original act have been previously repealed, therefore they were not included here.]

*

Sec. 17209. Legislative findings; intent; scope of activities. [PA 100 of 2008; As formerly found at MCL 125.2089 of the Michigan Strategic Fund]

[Editor's note: In general, the drafters intended to omit sections relating to legislative findings and purposes. In some cases, such as the text below, these provisions were provisionally included, pending a discussion regarding the need for such provisions when the government provides funds that provide apparent benefit to private business.]

(1) The legislature finds and declares that the activities authorized under [sections 17209 through 17209d of this code](#) to promote this state and the creation of jobs in this state are a public purpose and of paramount concern in the interest of the health, safety, and

general welfare of the citizens of this state. It is the intent of the legislature that the economic benefits and the creation of jobs resulting from [sections 17209 through 17209d of this code](#) shall accrue substantially within this state.

(2) Activities authorized under [sections 17209 through 17209d of this code](#) shall not be considered a project, economic development project, or a product assisted by the fund for purposes of part 1 or 2 of Article II of this code, formerly of the Michigan Strategic Fund Act. [Drafter's Comment: Does the proviso language that activities are not to be considered an economic development project take this out of the code?]

Sec. 17209a. Michigan promotion program; establishment; tourism promotion explained; funding; use of appropriation provided from 21st century jobs trust fund.

(1) The [Michigan strategic fund](#) board shall establish a Michigan promotion program to promote tourism in Michigan and pay business development and marketing costs to promote business development in Michigan. Tourism promotion shall include, but is not limited to, cultural, vacation, recreational, leisure, hunting-related, motor sports entertainment-related, and agriculture-related travel across this state that includes activities that promote tourism in all 4 seasons.

(2) The funding provided under [sections 17209 through 17209d of this code](#) for tourism promotion is intended to enhance funding beyond that included in the annual appropriation for travel Michigan to attract additional tourism expenditures and development of the tourism industry in this state.

(3) Not more than 4% of the annual appropriation as provided by law from the 21st century jobs trust fund established in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, may be used for the purpose of administering the program authorized under [sections 17209 through 17209d of this code](#) [PA 100 of 2008; As formerly found at [MCL 125.2089a of the Michigan Strategic Fund](#)]

Sec. 17209b. Michigan promotion program; appropriation and transfer of funds; appropriation as work project; carrying forward unencumbered or unallotted funds; compliance with MCL 18.1451a. [PA 98 of 2008, as formerly found at [MCL 125.2089b of the Michigan Strategic Fund](#)]

(1) For the fiscal year ending September 30, 2008, there is appropriated and transferred from the general fund to the 21st century jobs trust fund \$60,000,000.00 and there is appropriated from the 21st century jobs trust fund to the fund \$50,000,000.00 for carrying out the purposes of [sections 17209 through 17209d of this code](#). Not more than 1/4 of the total amount appropriated from the net proceeds described in section 8(2) of the Michigan tobacco settlement finance authority act, 2005 PA 226, MCL 129.268, shall be used to promote business development in this state.

(2) Upon request from the board, the state treasurer shall transfer appropriated funds from the 21st century jobs trust fund established under section 7(1)(b) of the Michigan trust fund act, 2000 PA 489, MCL 12.257, in the amounts designated by the board at the time and as necessary to fund disbursements required for the Michigan promotion program.

(3) The appropriation authorized in subsection (1) is a work project appropriation and any unencumbered or unallotted funds are carried forward into the following fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

- (a) The purpose of the project is to provide economic benefits and job creation within this state through the promotion of tourism.
- (b) The work project will be accomplished through the use of interagency agreements, grants, state employees, and contracts.
- (c) The total estimated completion cost of the project is \$50,000,000.00.
- (d) The expected completion date is December 31, 2010.

Sec. 17209c. Selection of vendors; request for proposal; evaluation of proposals; establishment of standard process; appointment of committee to review proposals; use of funds; limitation. [PA 98 of 2008, MCL, as formerly found at 125.2089c of the Michigan Strategic Fund]

(1) The [strategic](#) fund board shall select vendors for Michigan promotion program expenditures under [sections 17209 through 17209d of this code](#) exceeding \$250,000.00 by issuing a request for proposal. At a minimum, the request for proposal shall require the responding entities to disclose any conflict of interest, disclose any criminal convictions, disclose any investigations by the internal revenue service or any other federal or state taxing body or court, disclose any pertinent litigation regarding the conduct of the entity, and maintain records and evidence pertaining to work performed for at least 5 years. The [strategic](#) fund board shall establish a standard process to evaluate proposals submitted as a result of a request for proposal and appoint a committee to review the proposals. Members of any committee or individuals working on behalf of the Michigan strategic fund, paid or unpaid, shall have no conflict of interest as determined by the office of the chief compliance officer established in section [11588i of this code](#). This subsection does not apply to a contract that was in existence on March 25, 2008 or to the extension of a contract in which the right to extend was in existence on or before March 25, 2008.

(2) Not less than 75% of the funds appropriated under [sections 17209 through 17209d of this code](#) shall be targeted to persons or entities outside of this state. No funds may be used for any Michigan promotion program effort that includes a reference to or the image or voice of an elected official, appointed state employee, state employee governed by a

senior executive service limited term employment agreement, or a candidate for elective office, and that is targeted to a media market in this state.

Sec. 17209d. Reports; mechanism to report return on investment for agriculture-related tourism; use of data to establish baseline. [PA 98 of 2008, MCL, as formerly found at 125.2089d of the Michigan Strategic Fund]

(1) In addition to any reporting requirements under section 11209 of this code (formerly, section 9 of the Michigan Strategic Fund Act, MCL 125.2009), on or before April 15, 2009, and each succeeding April 15, the Michigan strategic fund shall report to the senate and house appropriations subcommittees that have jurisdiction over economic development issues, the senate and house standing committees that have jurisdiction over economic development issues, and the senate and house fiscal agencies on the programs established in part 8b of Article II, formerly chapter 8b of the Michigan Strategic Fund Act. The report shall include, but is not limited to, the following information:

(a) For tourism promotion efforts, all of the following:

(i) The amount spent for promotion outside of this state.

(ii) An itemized list by market of how much was spent, when the promotion occurred, the types of media purchased, and the type of tourism promoted, specifically cultural, vacation, recreational, leisure, hunting-related, or agriculture-related.

(iii) The return on investment analysis that utilizes existing baseline data and compares results with prior outcome evaluations funded by travel Michigan.

(b) For business development efforts, all of the following:

(i) The amount spent for business development outside of this state.

(ii) An itemized list by market of how much was spent, when the promotion occurred, and the types of media purchased.

(iii) A performance analysis that compares the program or campaign objectives and outcome of the campaign or program. Outcome measures may include, but are not limited to, businesses relocated to this state, impact on the business community's perception of the quality of life in this state, jobs created, increases in export sales, impact on the number of retailers carrying Michigan commodities, both within and outside of this state, and increased sales of Michigan products at chain grocers.

(2) The fund shall work with the department of agriculture to develop a mechanism to report the return on investment for agriculture-related tourism and compare results with prior outcome evaluations conducted by the department of agriculture if applicable.

(3) The fund shall ensure data reported on or before April 15, 2009 can be used to establish a baseline for future comparison.

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Part B. Local Activities

[PA 244 of 1989, formerly found at MCL 141.891 et seq. of the Regional Tourism and Marketing Act. The last digit of the section number in the proposed code is the same as that in the original act.]

Sec. 17223. Tourism marketing program notice; filing; contents; copies; list of transient facilities.

(1) In order to establish a tourism marketing program within a regional assessment district, a regional marketing organization shall file a tourism marketing program notice with the director of commerce.

(2) The tourism marketing program notice shall contain all of the following:

(a) A statement that the regional marketing association proposes to create a tourism marketing program under sections 17223 through 17230 of this code.

(b) A statement that the regional marketing association proposes to levy and collect an assessment from owners to pay the costs of the tourism marketing program.

(c) A description of the structure, membership, and activities of the regional marketing organization, including a statement that the regional marketing organization is governed by a regional tourism marketing board and that a majority of the members of the regional tourism marketing board are owners. The description shall include the business name and address of the person designated by the regional marketing organization to receive the payment of assessments under section 17226 and the independent certified public accountants who audit the financial statements of the regional marketing organization.

(d) A description of the tourism marketing program to be implemented by the regional marketing organization with the assessment revenues.

(e) A statement specifying the amount of the assessment proposed to be levied. The assessment shall not exceed 1% of the room charges in the applicable payment period.

(f) A list of the counties comprising the regional assessment district.

(g) Other information considered necessary by the director of commerce.

(3) On the same day the tourism marketing program notice is filed under subsection (1), the regional marketing organization shall mail a copy of the tourism marketing program notice to each owner of a transient facility located in the regional assessment district. The tourism marketing program notice shall be mailed by registered or certified mail to the owner at the last known address of the transient facility. The regional marketing organization shall use any information that is reasonably available to the regional marketing organization to establish the list of all transient facilities within the regional assessment district.

Sec. 17224. Tourism marketing program; approval or disapproval; written referendum; effective date; failure of referendum.

(1) The director of commerce shall approve or disapprove a tourism marketing program within 30 days after a tourism marketing program notice is filed. The director of commerce shall not disapprove a tourism marketing program unless the tourism marketing program violates sections 17223 through 17230 of this code.

(2) Within 40 days after approval of a tourism marketing program under subsection (1), the director of commerce shall conduct among all owners a written referendum by mail on whether the tourism marketing program should be approved. For the purpose of the referendum and except as provided in section 17229 of this code, each owner has 1 vote for each room in the owner's transient facility.

(3) If the tourism marketing program is approved by a majority of the votes actually cast in the regional assessment district, the tourism marketing program and assessment set forth in the tourism marketing program notice become effective on the first day of the month that is more than 30 days after certification by the director of commerce of the results of the referendum. A regional marketing organization may file and serve another tourism marketing program notice under section 17223 no sooner than 1 year after certification by the director of commerce of the results of a referendum if the referendum failed.

Sec. 17225. Tourism marketing program; scope.

A tourism marketing program may include 1 or more of the following:

- (a) A provision for establishing and paying the costs of advertising, marketing, and promotional programs to encourage tourism in the regional assessment district.
- (b) A provision for assisting a transient facility within the regional assessment district to promote tourism.

- (c) A provision for the acquisition of personal property considered appropriate by the regional marketing organization to achieve the purpose of the tourism marketing program.
- (d) A provision for the hiring of and payment for personnel employed by the regional marketing organization to implement the tourism marketing program.
- (e) A provision for contracting with organizations, agencies, or persons to carry out activities to achieve the purpose of the tourism marketing program.
- (f) A program to establish and pay for the costs of research designed to encourage tourism in the regional assessment district.
- (g) A provision to incur any other expense or cost that the regional tourism marketing board, in the exercise of its reasonable business judgment, considers reasonably related to the promotion of tourism within the regional assessment district.
- (h) A procedure for election of the regional tourism marketing board that requires that a majority of the members of the regional tourism marketing board are owners.

Sec. 17226. Assessments generally.

(1) Upon the effective date of an assessment under section 17224 of this code, each owner is liable for payment of the assessment computed by multiplying the percentage set forth in the tourism marketing program notice by the aggregate room charges imposed by the transient facility during a calendar month. Except as provided in subsection (2), the owner shall pay the assessment, within 30 days after the end of each calendar month, to the person designated by the regional marketing organization, which person is independent of the accountants who audit the financial statements of the regional marketing organization. A payment shall be accompanied by a statement of room charges imposed by the transient facility for that calendar month. [Sections 17223 through 17230 of this code](#) do not prohibit an owner from reimbursing the transient facility by adding the assessment imposed under [sections 17223 through 17230 of this code](#) to room charges payable by a transient guest. However, the owner shall disclose that the transient facility has been reimbursed for the assessment imposed under [sections 17223 through 17230 of this code](#) on the bill presented to the transient guest.

(2) A regional marketing organization may enter into an agreement with a bureau established under [sections 17363-17370 of this code](#) ~~the community convention or tourism marketing act, Act No. 395 of the Public Acts of 1980, being sections 141.871 to 141.880 of the Michigan Compiled Laws,~~ to accept assessments levied under [sections 17223 through 17230 of this code](#). If an owner is subject to assessments under [sections 17223 through 17230 of this code](#) and [sections 17363-17370 of this code](#) ~~Act No. 395 of the Public Acts of 1980,~~ and an agreement is entered into under this subsection, the owner may satisfy the payment requirements under subsection (1) by paying the assessment under [sections 17223 through 17230 of this code](#) to the bureau or the person

designated by the bureau under [sections 17363-17370 of this code](#) ~~Act No. 395 of the Public Acts of 1980~~ at the same time the assessment under [sections 17363-17370 of this code](#) ~~Act No. 395 of the Public Acts of 1980~~ is paid by the owner. The regional marketing organization shall reimburse a bureau or the person designated by the bureau under [sections 17363-17370 of this code](#) ~~Act No. 395 of the Public Acts of 1980~~ for reasonable administrative costs incurred to receive and forward assessments due a regional marketing organization under [sections 17223 through 17230 of this code](#). The regional marketing organization may agree with the bureau to allow the bureau or the person designated by the bureau under [sections 17363-17370 of this code](#) ~~Act No. 395 of the Public Acts of 1980~~ to withhold a portion of an assessment received on behalf of the regional marketing organization as reimbursement for the reasonable administrative costs incurred.

(3) Within 30 days after the close of each calendar quarter, each owner shall forward to the independent certified public accountants who audit the financial statements of the regional marketing organization copies of the state use tax returns of the transient facility for the preceding quarter. The copies of the state use tax returns shall be used solely by the certified public accountants to verify and audit the payment of the assessment by the owner under [sections 17223 through 17230 of this code](#), and shall not be disclosed to the regional marketing organization except as the director determines necessary to enforce [sections 17223 through 17230 of this code](#).

(4) An owner shall pay interest to the regional marketing organization on any assessment not paid within the time required under [sections 17223 through 17230 of this code](#). The interest shall accrue at the rate of 1.5% per month. An owner delinquent for more than 90 days in paying an assessment, in addition to interest, shall pay a penalty of 1.5% per month or fraction of a month on the amount of the delinquent assessment. The regional marketing organization may sue in its own name to collect the assessment, interest, and penalty.

(5) An owner is not liable for payment of an assessment until a tourism marketing program notice and, if the owner is eligible to vote, the referendum ballot has been mailed to the owner at the last known address of the transient facility pursuant to sections 17223 and 17224 of this code.

Sec. 17227. Disposition of assessment revenues; financial statements; certified report; copies.

(1) The assessment revenues collected under [sections 17223 through 17230 of this code](#) are not state funds. The regional marketing organization shall deposit assessment revenues collected under [sections 17223 through 17230 of this code](#) in a bank or other depository in this state in the name of the regional marketing organization. The assessment revenues shall be disbursed only for the expenses properly incurred by the regional marketing organization with respect to the tourism marketing program developed by the regional marketing organization under [sections 17223 through 17230 of this code](#).

(2) The financial statements of the regional marketing organization shall be audited at least annually by an independent certified public accountant. The regional marketing organization shall mail a copy of the audited financial statements to each owner 150 days or less after the close of the regional marketing organization's fiscal year. The financial statements shall include a statement of all assessment revenues received by the regional marketing organization during the fiscal year and shall be accompanied by a detailed report, certified as correct by the chief operating officer of the regional marketing organization, describing the tourism marketing programs implemented or, to the extent then known, to be implemented by the regional marketing organization.

(3) On the same day copies of the audited financial statements and certified report are mailed under subsection (2), the regional marketing organization shall file a copy of the audited financial statements and certified report with the director of commerce.

Sec. 17228. Discontinuance of assessment; referendum.

1) A regional marketing organization shall conduct a referendum on whether an assessment levied under a tourism marketing program shall be discontinued if both of the following requirements are met:

(a) The tourism marketing program levying the assessment has been in effect for 2 years or more.

(b) Forty percent or more of the total number of owners in the regional assessment district, or owners representing 40% or more of the total number of rooms in transient facilities within the regional assessment district, file with the regional marketing organization a written request for a referendum under this section.

(2) The regional marketing organization shall conduct a written referendum, by mail or in person, among all owners within 60 days after receipt of the written request for a referendum under subsection (1). For the purpose of the referendum, each owner has 1 vote for each room in the owner's transient facility.

(3) If a majority of the votes actually cast at the referendum approves the discontinuance of the assessment, the assessment under a tourism marketing program shall be discontinued on the first day of the month that is more than 60 days after certification by the regional marketing organization of the results of the referendum.

(4) The discontinuance of an assessment under this section does not prevent a regional marketing organization from filing and serving a new tourism marketing program notice under section 17223 during or after the 60-day period under subsection (3).

(5) If a referendum held under this section does not result in the discontinuance of the assessment under a tourism marketing program, a further referendum on the discontinuance of that assessment shall not be held until the expiration of 1 year after the date of the referendum under this section.

Sec. 17229. Building or combination of buildings; agreement to be subject to tourism marketing program; assessment.

(1) An owner of a building or combination of buildings that is within a regional assessment district, that has less than 10 rooms or is located within 1 mile of a ski lift, and that otherwise meets the definition of a transient facility under [sections 17223 through 17230 of this code](#) may agree in writing to be subject to a tourism marketing program under [sections 17223 through 17230 of this code](#). If an owner of a building or combination of buildings agrees to be subject to the tourism marketing program, the building or combination of buildings is considered a transient facility for the purposes of [sections 17223 through 17230 of this code](#). The owner of the building or combination of buildings is considered an owner for the purposes of [sections 17223 through 17230 of this code](#) except that the owner is not eligible to vote in the referendum on the tourism marketing program. The owner shall otherwise participate in the tourism marketing program for that regional assessment district.

(2) A building or combination of buildings that is considered a transient facility under subsection (1) shall remain subject to an assessment imposed under [sections 17223 through 17230 of this code](#) until the assessment is discontinued as provided in [section 17228 of this code](#).

Sec. 17230. Effect of assessment or tax based on room charge.

A regional marketing organization is not prohibited from levying an assessment under [sections 17221 through 17230 of this code](#) because an assessment or tax based on a room charge under another law of this state is or may be levied on a transient facility.

[Drafter’s Comment: This language originated from. Sections 17233 through 17238 of this code, formerly the “convention and tourism promotion act”.]

Sec. 17233. Marketing program notice; filing; contents; assessment; limitation; mailing; form; effectiveness; referendum; effective date of assessment.

(1) A bureau that has its principal place of business in an assessment district may file a marketing program notice with ~~the director~~ [the chief executive officer of the Michigan economic development corporation or his or her designee](#). The notice shall state that the bureau proposes to create a marketing program under [sections 17233 through 17238 of this code](#) and cause an assessment to be collected from owners of transient facilities within the assessment district to pay the costs of the program.

(2) The marketing program notice shall describe the structure, history, membership, and activities of the bureau in sufficient detail to enable ~~the director~~ [the chief executive officer of the Michigan economic development corporation or his or her designee](#) to determine whether the bureau satisfies all of the requirements of [section 17101\(1\)\(g\)](#) of this code. [Drafter’s Comment: this refers to a definition that was previously contained

within the statute itself, but now appears in division 1 of this article. I think it would be more beneficial to list the requirements again here.]

(3) The marketing program notice shall describe the marketing program to be implemented by the bureau with the assessment revenues and specify the amount of the assessment proposed to be levied, which shall not exceed 2% of the room charges in the applicable payment period, and the municipality or municipalities composing the assessment district. In an assessment district composed of more than 1 municipality, the assessment may be different in each of the municipalities that compose the assessment district.

(4) A bureau may impose an assessment not to exceed 2% of the room charges in the applicable payment period if either of the following conditions is met:

(a) The assessment district includes a municipality having a population of more than 570,000 and less than 775,000.

(b) The assessment district includes a municipality within which is levied a 4% marketing assessment under 1980 PA 395, MCL 141.871 to 141.880.

(5) Simultaneously with the filing of the marketing program notice with ~~the director~~ **the chief executive officer of the Michigan economic development corporation or his or her designee**, the bureau shall cause a copy of the notice to be mailed by registered or certified mail to each owner of a transient facility located in the assessment district specified in the notice in care of the respective transient facility. In assembling the list of owners to whom the notices shall be mailed, the bureau shall use any data that are reasonably available to the bureau.

(6) The form of the marketing program notice, in addition to the information required by subsections (1), (2), and (3), shall set forth the right of referendum prescribed in subsection (7).

(7) Except as otherwise provided in subsection (9), the assessment set forth in the notice shall become effective on the first day of the month following the expiration of 40 days after the date the notice is mailed, unless ~~the director~~ **the chief executive officer of the Michigan economic development corporation or his or her designee**, within the 40-day period, receives written requests for a referendum by owners of transient facilities located within the assessment district representing not less than 40% of the total number of owners or not less than 40% of the total number of rooms in all of the transient facilities.

(8) If ~~the director~~ **the chief executive officer of the Michigan economic development corporation or his or her designee** receives referendum requests in the time and number set forth in subsection (7), ~~the director~~ **the chief executive officer of the Michigan economic development corporation or his or her designee** shall cause a written referendum to be held by mail or in person, as ~~the director~~ **the chief executive officer of the Michigan economic development corporation or his or her designee** chooses, among

all owners of transient facilities in the assessment district within 20 days after the expiration of the 40-day period. For the purposes of the referendum, each owner of a transient facility shall have 1 vote for each room in each of the owner's transient facilities within the assessment district. If a majority of votes actually cast at the referendum approve the assessment, as proposed by the bureau in its marketing program notice, the assessment shall become effective, except as otherwise provided in subsection (9), as to all owners of transient facilities located in the assessment district on the first day of the month following expiration of 30 days after certification of the results of the referendum by ~~the director~~ [the chief executive officer of the Michigan economic development corporation or his or her designee](#). If a majority of votes actually cast at the referendum are opposed to the assessment, the assessment shall not become effective. If the assessment is defeated by the referendum, the bureau may file and serve a new notice of intention if at least 60 days have elapsed from the date of certification of the results of the earlier referendum. Not more than 2 referenda or notices may be held pursuant to this subsection or filed pursuant to this section in any 1 calendar year. Only 1 assessment under [sections 17233 through 17238 of this code](#) may be in existence in an assessment district, or any part of an assessment district, at any 1 time.

(9) [\[Editor's note, this subsection should be omitted as it is no longer relevant due to the passage of time.\] The assessment described in sections 17233 through 17238 of this code shall not be effective before January 1, 2007.](#)

Sec 17234. Marketing program; provisions.

A marketing program may include all or any of the following:

- (a) Provisions for establishing and paying the costs of advertising, marketing, and promotional programs to encourage convention business and tourism in the assessment district.
- (b) Provisions for assisting transient facilities within the assessment district in promoting convention business and tourism.
- (c) Provisions for the acquisition of personal property considered appropriate by the bureau in furtherance of the purposes of the marketing program.
- (d) Provisions for the hiring of and payment for personnel employed by the bureau to implement the marketing program.
- (e) Provisions for contracting with organizations, agencies, or persons for carrying out activities in furtherance of the purposes of the marketing program.
- (f) Programs for establishing and paying the costs of research designed to encourage convention business and tourism in the assessment district.

Sec. 17235. Payment by owner of transient facility in assessment district; copies of use tax returns; forwarding to certified public accountants; interest; liability for payment; notice required.

(1) Upon the effective date of an assessment, each owner of a transient facility in the assessment district shall be liable for payment of the assessment, computed using the percentage set forth in the marketing program notice. The assessment shall be paid by the owner of each such transient facility to the bureau within 30 days after the end of each calendar month and shall be accompanied by a statement of room charges imposed with respect to the transient facility for that month. [Sections 17233 through 17238 of this code](#) shall not prohibit a transient facility from reimbursing itself by adding the assessment imposed pursuant to [sections 17233 through 17238 of this code](#) to room charges payable by transient guests, provided that the transient facility discloses that it has done so on any bill presented to a transient guest.

(2) Within 30 days after the close of each calendar quarter, each owner within an assessment district shall forward to the independent certified public accountants who audit the financial statements of the bureau copies of its use tax returns for the preceding quarter. These copies of the use tax returns shall be used solely by the certified public accountants to verify and audit the owner's payment of the assessments and shall not be disclosed to the bureau except as necessary to enforce this [sections 17233 through 17238 of this code](#).

(3) Interest shall be paid by an owner to the bureau on any assessments not paid within the time called for under [sections 17233 through 17238 of this code](#). The interest shall accrue at the rate of 1.5% per month. Owners delinquent for more than 90 days in paying assessments, in addition to the 1.5% interest, shall pay a delinquency charge of 10% per month or fraction of a month on the amount of the delinquent assessments. The bureau may sue in its own name to collect the assessments, interest, and delinquency charges.

(4) The owner of a transient facility shall not be liable for payment of an assessment until a notice has been mailed to the transient facility of the owner pursuant to [section 17233\(5\) of this code](#).

Sec. 17236. State funds prohibited; disposition of money; disbursement; financial statements; audit; mailing.

(1) The assessment revenues collected pursuant to [sections 17233 through 17238 of this code](#) shall not be state funds. The money shall be deposited in a bank or other depository in this state, in the name of the bureau, and disbursed only for the expenses properly incurred by the bureau with respect to the marketing programs developed by the bureau under [sections 17233 through 17238 of this code](#).

(2) The financial statements of the bureau shall be audited at least annually by a certified public accountant. A copy of the audited financial statements shall be mailed to each owner not more than 150 days after the close of the bureau's fiscal year. The financial

statements shall include a statement of all assessment revenues received by the bureau during the fiscal year in question and shall be accompanied by a detailed report, certified as correct by the chief operating officer of the bureau, describing the marketing programs implemented or, to the extent then known, to be implemented by the bureau.

(3) Copies of the audited financial statements and the certified report shall simultaneously be mailed to ~~the director~~ [the chief executive officer of the Michigan economic development corporation or his or her designee.](#)

Sec. 17237. Advisory committee.

(1) Upon the effective date of the establishment of an assessment under [sections 17231 through 17238 of this code](#), the bureau shall cause an advisory committee to be elected consisting of representatives of the owners of transient facilities located within the assessment district, together with ~~the director~~ [the chief executive officer of the Michigan economic development corporation or his or her designee.](#)

(2) The advisory committee shall consist of not fewer than 5 or more than 9 persons, at least 1 of whom shall not be affiliated with a bureau member. The advisory committee shall include at least 1 member who is affiliated with a transient facility of 120 rooms or fewer. Procedures for the election and terms of the office of the members of the advisory committee shall be established by the bureau.

(3) The bureau at regular intervals, but not less than quarterly, shall cause a formal meeting of the advisory committee to be held at which the bureau shall present its current and proposed marketing programs. At these formal meetings the advisory committee shall review and either approve or reject any proposed marketing programs. An approved marketing program shall be instituted by the bureau. A rejected marketing program shall not be instituted by the bureau.

(4) The advisory committee may make recommendations to the bureau and the board from time to time with respect to current or proposed marketing programs.

Sec. 17238. Discontinuance of assessment; referendum; resolution; further referendum.

(1) At any time 2 years or more after the effective date of an assessment, and upon the written request of owners of transient facilities located within the assessment district representing not less than 40% of the total number of owners or not less than 40% of the total number of rooms in all the transient facilities, the bureau shall conduct a referendum on whether the assessment shall be discontinued. The bureau shall cause a written referendum to be held by mail or in person, as the bureau chooses, among all owners of transient facilities in the assessment district within 60 days of the receipt of the requests. For the purposes of the referendum, each owner shall have 1 vote for each room in each of the owner's transient facilities within the assessment district. If a majority of the total votes eligible to be cast at the referendum supports discontinuance of the assessment, the

assessment shall be discontinued on the first day of the month following expiration of 90 days after the certification of the results of the referendum by the bureau.

(2) Passage of a resolution discontinuing the assessment shall not prevent a bureau from proposing a new marketing program notice during or after the 90-day period, in which case the procedures set forth in section 17233 shall be followed.

(3) If a referendum is conducted under subsection (1) and if a resolution to discontinue the assessment is not adopted, a further referendum on the discontinuation of that assessment shall not be held for a period of 2 years.

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DIVISION III – PROMOTION OF MICHIGAN AS A TOURIST DESTINATION

PART A. STATE ACTIVITIES

[Drafter’s Comment: sections 17322-17340, were formerly found at 207.621, State Convention Facility Development Act, PA 106 of 1985.]

Sec. 17322. Legislative Finding.

[Editor’s note: In general, the drafters intended to omit sections relating to legislative findings and purposes. In some cases, such as the text below, these provisions were provisionally included, pending a discussion regarding the need for such provisions when the government provides funds that provide apparent benefit to private business.]

The legislature of this state finds that there exists in this state a continuing need for programs to promote tourism and convention business in order to assist in the prevention of unemployment and the alleviation of the conditions of unemployment, to preserve existing jobs, and to create new jobs to meet the employment demands of population growth. To achieve these purposes, it is necessary to assist and encourage local units of government to acquire, construct, improve, enlarge, renew, replace, repair, furnish, and equip convention facilities and the real property on which they are located and to refinance these activities.

Sec. 17324. Excise tax; rates; exemption.

(1) There is hereby levied upon and there shall be collected from any person engaged in the business of providing accommodations to transient guests in a convention hotel, whether or not membership is required, an excise tax at the following rates:

(a) For a convention hotel located within a qualified local governmental unit under section 17329(3), the following:

(i) A rate of 3% of the room charge for accommodations in a convention hotel with 81 to 160 rooms.

(ii) A rate of 6% of the room charge for accommodations in a convention hotel with more than 160 rooms.

(b) For all other convention hotels not subject to the tax rates imposed by subdivision (a), the following:

(i) A rate of 1.5% of the room charge for accommodations in a convention hotel with 81 to 160 rooms.

(ii) A rate of 5% of the room charge for accommodations in a convention hotel with more than 160 rooms.

(2) Beginning with the state fiscal year 1987, a person engaged in the business of providing accommodations to transient guests in a convention hotel is exempt from the tax imposed by [sections 17322-17340 of this code](#) for any state fiscal year in which appropriations of the tax collections pursuant to [sections 17322-17340 of this code](#) from that convention hotel have not been made for distributions pursuant to section 17329 that would be received by a qualified local governmental unit from the collections of the tax under [sections 17322 through 17340](#) ~~or the convention facility promotion tax act~~ [\[struck because the act was repealed\]](#) that the qualified local governmental unit is eligible to receive.

[Drafter's Comment: the Convention Facility Promotion Tax Act was repealed effective April 14, 1998]

Sec. 17325. Excise tax; time and manner of collection; administration of tax.

(1) The excise tax shall be collected at the same time and in the same manner as the use tax pursuant to the use tax act, Act No. 94 of the Public Acts of 1937, being sections 205.91 to 205.111 of the Michigan Compiled Laws.

(2) The tax imposed by [sections 17322 through 17340](#) of this code shall be administered by the revenue division of the department of treasury pursuant to Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.30 of the Michigan Compiled Laws.

Sec. 17326. Tax cumulative.

The excise tax imposed and levied by the state pursuant to [sections 17322 through 17340](#) of this code shall be in addition to any other taxes, charges, or fees imposed by law upon accommodations.

[Drafter's Comment- section 8 of the State Convention Facility Development Act, 108 of 1985 has been amended and the below in Sec. 17328 of the Code is the new language.]

Sec. 17328. State convention facility development fund; creation; disposition of collections; use of fund; contract requirement; appropriation to authority created under sections 17393 through 17399e of this code ~~regional convention facility authority act.~~

1) The collections from the tax imposed by section 4 shall be deposited in the state treasury, to the credit of the convention facility development fund, which is hereby created within the state treasury. Collections from the additional tax imposed under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, funds appropriated from the 21st century jobs trust fund under subsection (4), and amounts designated under section 5(b)(iii) of the health and safety fund act, 1987 PA 264, MCL 141.475, shall also be deposited to the credit of the convention facility development fund.

(2) The convention facility development fund shall be distributed for certain state purposes and to local governmental units for use only for 1 or more of the following purposes:

- (a) Acquiring, constructing, improving, enlarging, renewing, replacing, or leasing a convention facility.
- (b) In conjunction with an activity listed in subdivision (a), repairing, furnishing, and equipping the convention facility.
- (c) Refinancing an activity listed in subdivision (a) or (b).
- (d) General fund expenditures.
- (e) In the case of a local governmental unit that is a metropolitan authority, for any purpose authorized under sections 17393 through 17399e of this code ~~the regional convention facility authority act.~~

(3) A contract made by a local governmental unit for the purposes included in subsection (2)(a) or (b) concerning a convention facility funded by distributions pursuant to section 17329 of this code shall contain a fixed price or guaranteed maximum price for the total cost of activities conducted for these purposes pursuant to that contract.

(4) For the fiscal year ending September 30, 2009, \$9,000,000.00 is appropriated from the 21st century jobs trust fund described in section 2 of the Michigan trust fund act, 2000 PA 489, MCL 12.252, to an authority created under sections 17393 through 17399e of this code ~~the regional convention facility authority act~~ for the purpose of developing a qualified convention facility as defined under section 17101(1)(vv) of this code.

[Drafter's Comment- section 9 of the State Convention Facility Development Act, 108 of 1985 has been amended and the new text and is found in Sec. 17329 of the Code.]

Sec. 17329. Distribution of fund; "qualified local governmental unit" defined; certain payments prohibited.

(1) Except as provided in subsection (4), on or before the thirtieth day of each month, the state treasurer shall make a distribution from the convention facility development fund to a qualified local governmental unit. The distribution shall be an amount equal to the sum of the collections from the excise tax levied for accommodations under [sections 17322 through 17340 of this code](#) for the previous month from the convention hotels in the county in which the convention facility is or is to be located and in any county in which convention hotels are located that is contiguous to the county in which the convention facility is located, or is to be located, the additional tax imposed under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, for the previous month received in the fund, and any distribution received under section 5(b)(iii) of the health and safety fund act, 1987 PA 264, MCL 141.475, and from the 21st century jobs trust fund under section 17328(4). However, distributions for any state fiscal year to any qualified local governmental unit under this section shall not exceed an amount equal to the amount pledged, assigned, or dedicated by the qualified local governmental unit pursuant to section 17331 for the payment during that state fiscal year of bonds, obligations, or other evidences of indebtedness incurred for the purposes specified in [sections 17322 through 17340](#) or [sections 17393 through 17399e of this code](#) ~~the regional convention facility authority act,~~ plus operating deficit cost expenditures under section 17330, plus any amount necessary to maintain a fully funded debt reserve or other reserves intended to secure the principal and interest on the bonds, obligations, or other evidences of indebtedness as contained in the resolution or ordinance authorizing their issuance.

(2) Notwithstanding the distributions provided by subsection (1), if a local governmental unit becomes a qualified local governmental unit entitled to receive distributions from the tax imposed under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, or from the tax imposed by [sections 17322 through 17340 of this code](#) in counties in which the convention facility is located or in a county in which a convention hotel is located that is contiguous to the county in which the convention facility is located, and from any distribution under section 5(b)(iii) of the health and safety fund act, 1987 PA 264, MCL 141.475, no other qualified local governmental unit is entitled to distributions pursuant to this section for which that qualified local governmental unit has previously become entitled, until such time as that qualified local governmental unit ownership or leasehold interest described in subsection (3) is transferred to another local governmental unit. If that transfer renders the transferee a qualified local governmental unit, the transferee shall, immediately upon that transfer, be entitled to the distributions to a qualified local governmental unit provided in subsection (1) and the priority provided to a qualified local governmental unit in this subsection,

notwithstanding that the amount of the distributions may increase as a result of that transfer.

~~(3) As used in sections 17322 through 17340 of this code, "qualified local governmental unit" means a city, village, township, county, or authority that is located in, or includes within its territory or jurisdiction, a county in which convention hotels are located and that either is the owner or lessee of a convention facility with 350,000 square feet or more of total exhibit space on July 30, 1985 or, if such a convention facility does not exist, will be the owner or lessee of a convention facility with 350,000 square feet or more of total exhibit space through the application of distributions under this section to the purchase or lease of a convention facility. [Drafter's Comment: Removed and placed in definitions division.]~~

(4) Before the 2015-2016 fiscal year, collections from the excise tax levied for accommodations under sections 17322 through 17340 of this code and collections from the tax imposed under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, shall not be paid to a qualified local governmental unit for the repayment of bonds, obligations, or other evidences of indebtedness incurred after 2007.

[Drafter's Comment- section 10 of the State Convention Facility Development Act, 108 of 1985 has been amended and the new text is in Sec. 17330 of the Code.]

Sec. 17330. Distribution of money remaining in fund; priority; substance abuse treatment; quarterly distributions.

(1) Any money remaining in the convention facility development fund that is not used for the bonds, obligations, or other evidences of indebtedness described in section 17329 shall be distributed pursuant to subsection (2).

(2) Money in the convention facility development fund shall be distributed as provided in subsection (4) in the following order of priority in the following amounts:

(a) For each of the following fiscal years, the following amounts shall be distributed to a metropolitan authority created under sections 17393 through 17399e of this code ~~the regional convention facility authority act~~ for the operational deficit costs of a qualified convention facility operated by the authority under those sections:

(i) \$9,400,000.00 for the fiscal year ending September 30, 2009.

(ii) \$11,000,000.00 each fiscal year for the fiscal years ending September 30, 2010 and September 30, 2011.

(iii) \$9,000,000.00 each fiscal year for the fiscal years ending September 30, 2012 and September 30, 2013.

(iv) \$8,000,000.00 each fiscal year for the fiscal years ending September 30, 2014 and September 30, 2015.

(v) \$7,000,000.00 for the fiscal year ending September 30, 2016.

(vi) \$6,000,000.00 for the fiscal year ending September 30, 2017.

(vii) \$5,000,000.00 each fiscal year for the fiscal years ending September 30, 2018 and September 30, 2019.

(viii) \$5,000,000.00 for the fiscal year ending September 30, 2020.

(ix) \$5,000,000.00 for the fiscal year ending September 30, 2021.

(x) \$5,000,000.00 for the fiscal year ending September 30, 2022.

(xi) \$5,000,000.00 for the fiscal year ending September 30, 2023.

(b) For fiscal years ending before October 1, 2009, an amount equal to the difference, if any, between the tax imposed under [sections 17322 through 17340 of this code](#) in the preceding state fiscal year that is designated under section 17329 to a qualified local governmental unit and the tax imposed under [sections 17322 through 17340 of this code](#) that is designated under section 17329 in the state fiscal year immediately preceding the preceding state fiscal year for the same local governmental unit shall be distributed to that local governmental unit. This subdivision does not apply unless a tax has been imposed under [sections 17322 through 17340 of this code](#) in the entire 2 state fiscal years immediately preceding the state fiscal year in which a distribution under this subdivision is made. Any amount distributed under this subdivision shall be used by the local governmental unit only for the retirement of outstanding bonds, obligations, or other evidences of indebtedness incurred for which distributions under section 17329 are pledged. A distribution under this subdivision shall not be made to the extent that the obligations, bonds, or other evidences of indebtedness cannot be retired or are not outstanding.

(c) For fiscal years ending before October 1, 2015, an amount equal to that portion of the liquor tax collected under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, from licensees in counties in which convention hotels are not located shall be distributed to those counties in which convention hotels are not located in the same proportion that the amount of tax collected under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, in the preceding state fiscal year from the licensees in a county bears to the total tax collections under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, in the preceding state fiscal year from all counties in which convention hotels are not located.

(d) For fiscal years ending before October 1, 2015, the remaining money available after distributions under subdivisions (a), (b), and (c) shall be distributed to each county in the following amounts:

(i) The amount of money available to be distributed under this subdivision multiplied by the percentage of collections in the preceding state fiscal year under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, from licensees in counties in which convention hotels are not located shall be distributed to each county in which convention hotels are not located in the same proportion that the amount of tax collected pursuant to section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, in the preceding state fiscal year from licensees in that county bears to the total tax collections from section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, in the preceding state fiscal year from all counties in which convention hotels are not located.

(ii) The amount of money available to be distributed under this subdivision multiplied by the percentage of collections in the preceding state fiscal year under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, from licensees in counties in which convention hotels are located shall be distributed to each county in which convention hotels are located in the same proportion that the amount of tax collected pursuant to section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, in the preceding state fiscal year from licensees in that county bears to the total tax collections from section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, in the preceding state fiscal year from all counties in which convention hotels are located. However, in the calculation of the proportion represented by a county's share of distributions under this subparagraph, the amount of the tax collected from licensees in the qualified local governmental unit that received distributions under section [17329](#) in fiscal year 2007-2008 shall not be included.

(e) For the fiscal year ending September 30, 2016, an amount equal to the product of the total amount of tax collected under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, and distributed to all counties in the 2014-2015 fiscal year multiplied by 1.01 shall be distributed to all counties as provided in this subdivision. For fiscal years beginning after September 30, 2016, an amount equal to the product of the amount of liquor tax distributions in the immediately preceding fiscal year multiplied by 1.01, not to exceed the total amount of tax collected under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, shall be distributed to counties. Distributions to each county under this subdivision shall be calculated as follows:

(i) The amount of money available to be distributed under this subdivision multiplied by the percentage of collections in the immediately preceding state fiscal year under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, from licensees in counties in which convention hotels are not located shall be distributed to each county in which convention hotels are not located in the same proportion that the amount of tax collected pursuant to section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, in the immediately preceding state fiscal year from licensees in that county bears to the total tax collections from section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, in the immediately preceding state fiscal year from all counties in which convention hotels are not located.

(ii) The amount of money available to be distributed under this subdivision multiplied by the percentage of collections in the immediately preceding state fiscal year under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, from licensees in counties in which convention hotels are located shall be distributed to each county in which convention hotels are located in the same proportion that the amount of tax collected pursuant to section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, in the immediately preceding state fiscal year from licensees in that county bears to the total tax collections from section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, in the immediately preceding state fiscal year from all counties in which convention hotels are located. However, in the calculation of the proportion represented by a county's share of distributions under this subparagraph, the amount of the tax collected from licensees in the qualified local governmental unit that received distributions under section 17329 in the 2007-2008 state fiscal years shall not be included.

(f) Beginning with the fiscal year ending on September 30, 2016, and each fiscal year thereafter, if the revenue in the convention facility development fund exceeds the amounts distributed under section 17329 and the distributions under subdivision (e), the excess shall be distributed to a qualified local governmental unit that is a metropolitan authority to be used by that qualified local governmental unit only for the retirement of outstanding bonds, obligations, or other evidences of indebtedness incurred for which distributions under section 17329 are pledged and for a qualified governmental unit that is a metropolitan authority or next for the payment of any unfunded operational deficit costs incurred during the prior fiscal year by a metropolitan authority created under [sections 17393 through 17399e of this code](#) ~~the regional convention facility authority act~~ for the operation of a qualified convention facility under [those sections](#).

(3) A distribution to a county pursuant to this section shall be included for purposes of the calculations required to be made by section 24e of the general property tax act, 1893 PA 206, MCL 211.24e. If the governing body of a taxing unit approves the additional millage rate under section 24e of the general property tax act, 1893 PA 206, MCL 211.24e, which is due to distributions pursuant to this section, then an amount equal to 50% of the distribution under this section shall be used for substance abuse treatment within the taxing unit.

(4) Beginning October 1, 2007 and each year thereafter, from the revenue collected during the previous quarter, after distributing the monthly payments under section 17329(1), the state treasurer shall make quarterly distributions under subsection (2)(b) and (c) or under subsection (2)(e). From the revenue collected in the last quarter of the state fiscal year, the state treasurer shall make the distribution under subsection (2)(a) prior to any distributions under subsection (2)(b) and (c) or (e).

Sec. 17331. Refunding bonds, obligations, or other evidences of indebtedness; purposes for issuance; dedication of tax distributions from convention facility development fund; determination by state treasurer; effect of unlawful expenditure.

1) Refunding bonds, obligations, or other evidences of indebtedness described in subsection (2) are issued subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) Pursuant to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, a local governmental unit may issue refunding bonds, obligations, or other evidences of indebtedness to refund all or a portion of the bonds, obligations, or other evidences of indebtedness issued for purposes specified in [sections 17322 through 17340 of this code](#). If refunding bonds, obligations, or other evidences of indebtedness are issued, an assignment or pledge of distributions of taxes from the convention facility development fund for the payment of principal or interest on the refunded bonds, obligations, or other evidences shall apply, after the issuance of the refunding bonds, only to the refunding bonds, obligations, or other evidences of indebtedness and to any bonds, obligations, or other evidences of indebtedness that were not refunded and to which the assignment or pledge previously applied.

(3) A local governmental unit that refunds bonds, obligations, or other evidences of indebtedness pursuant to subsection (2) may dedicate distributions of taxes from the convention facility development fund to the payment of principal, interest, or credit support fees or other costs of issuance or of the maintenance of any required reserves for general obligation bonds, obligations, or other evidences of indebtedness issued or to be issued for purposes specified in [sections 17322 through 17340 of this code](#) but not pursuant to the authority granted in [sections 17322 through 17340 of this code](#) or may reimburse itself for such payments from such distributions. However, distributions to a local governmental unit pursuant to this subsection in any state fiscal year shall not exceed the lesser of the following:

- (a) Principal, interest, or credit support fees or other costs of issuance or of the maintenance of required reserves payable in the state fiscal year on the bonds, obligations, or other evidences of indebtedness to which the distributions are dedicated.
- (b) The difference between the amount that would have been distributed to the local governmental unit had it not issued refunding bonds pursuant to subsection (2) and the amount of distribution of taxes to which an assignment or pledge applies under subsection (2).
- (4) After September 30, 1999, taxes shall not be distributed from the convention facility development fund pursuant to subsection (3).
- (5) If bonds, obligations, or other evidences of indebtedness are to be issued for the purposes set forth in section 17328(2), for which all or a portion of the distribution of taxes that the local governmental unit is eligible to receive are pledged or assigned as set forth in subsection (1) or (2), and if as a direct result of the acquiring, constructing, improving, enlarging, renewing, replacing, or in conjunction with these activities, repairing, furnishing, equipping, or leasing of a convention facility financed from the proceeds of the bonds, obligations, or other evidences of indebtedness, it is necessary for the state to expend money from the state trunk line fund from the proceeds of bonds issued by this state payable from deposits into the state trunk line fund, or from direct appropriations for the costs of relocating, constructing, or reconstructing highways, roads, streets, or bridges, and costs ancillary thereto, then before the issuance of the bonds, obligations, or other evidences of indebtedness, the state treasurer shall determine that the total amount of these costs to be paid from the state trunk line fund, from the proceeds of bonds or notes payable from deposits into the state trunk line fund, or from direct appropriations of this state, excluding any of the cost to be reimbursed to this state by the federal government, any local unit of government or authority or agency thereof, or any other person or entity, shall not exceed 25% of the total cost of the relocation, construction, or reconstruction of highways, roads, streets, and bridges, and costs ancillary to those costs, directly resulting from the convention facility project purposes described in section 17328(2). For purposes of the validity of the bonds, obligations, or other evidences of indebtedness, the determination of the state treasurer is conclusive as to the matters stated in the determination. If after the determination by the state treasurer the total costs of relocating, constructing, and reconstructing highways, roads, streets, and bridges, and costs ancillary thereto, increase, this state shall not expend from the state trunk line fund, from the proceeds from bonds payable from deposits in the state trunk line fund, or from direct appropriations of this state, any additional funds that cause the total expenditure by this state from these sources, after any reimbursement, to exceed 25% of the total cost, as increased, of the relocation, construction, and reconstruction, including ancillary costs. An expenditure by this state in violation of this subsection does not invalidate or otherwise adversely affect any previously issued bonds, obligations, or other evidences of indebtedness described in this section or any security therefor.

Drafter's Comment- section 12 of the State Convention Facility Development Act, 108 of 1985 has been amended and text and the text below in Sec. 17332 of the Code reflects the new language.

Sec. 17332. Transmitting payment to trustee or trustees for bonds, obligations, or other evidences of indebtedness; prohibition; exception.

(1) Subject to approval pursuant to section 17331, a local governmental unit may assign or pledge all or a portion of the distribution of taxes that the local governmental unit is eligible to receive under sections 17322 through 17340 of this code for payment of bonds, obligations, or other evidences of indebtedness for the purposes specified in section 17328(2). If a local governmental unit assigns, pledges, or, pursuant to section 17331(3), dedicates all or a portion of the distribution of taxes that the local governmental unit is eligible to receive under sections 17322 through 17340a of this code for payment of bonds, obligations, or other evidences of indebtedness incurred for the purposes specified in sections 17322 through 17340 of this code, the state treasurer may transmit to the duly appointed trustee or trustees for the bonds, obligations, or other evidences of indebtedness, if any, the payment of the distribution assigned, pledged, or dedicated by the local governmental unit.

(2) A local governmental unit that becomes a qualified local governmental unit before May 1, 2008 shall not issue bonds, obligations, or other evidences of indebtedness to which distributions under section 17329 are pledged in a principal amount greater than \$180,000,000.00. This limit does not apply to refunding bonds, obligations, or other evidences of indebtedness issued pursuant to section 17331(2) or to bonds, obligations, or other evidences of indebtedness to which distributions of taxes from the convention facility development fund are dedicated under section 17331(3). A local governmental unit that becomes a qualified local governmental unit after December 1, 2008 shall not issue bonds, obligations, or other evidences of indebtedness to which distributions under section 17329 are pledged in order to finance a total cost for all projects undertaken by the qualified local governmental unit that exceeds \$299,000,000.00. The cost of a project in addition to construction and acquisition costs may include an allowance for legal, engineering, architectural, and consulting services. The following shall not be considered costs of a project and may be financed with the proceeds of bonds, obligations, or other evidences of indebtedness for which section 17329 distributions are pledged:

(a) Interest on revenue obligations issued to finance the project becoming due before the collection of the first revenues available for the payment of those revenue obligations.

(b) A reserve for the payment of principal, interest, and redemption premiums on the revenue obligations of the qualified local governmental unit, and other necessary incidental expenses including, but not limited to, placement fees, fees or charges for insurance, letters of credit, lines of credit, remarketing agreements, or commitments to purchase obligations issued pursuant to in sections 17322 through 17340 of this code.

(c) Fees or charges associated with an agreement to manage payment, revenue, or interest rate exposure.

(d) Any other fees or charges for any other security provided to assure timely payment of the obligations.

(e) Refunding bonds.

Sec. 17333. When pledge effective, valid, and binding; lien of pledge; filing or recording of instrument creating pledge; construction of section.

(1) Any pledge of the distributions of the tax imposed under [sections 17322 through 17340 of this code](#) shall be effective, valid, and binding from the time when the pledge is made. The pledged distributions received shall be immediately subject to the lien of the pledge, whether or not there has been physical delivery. The lien of any pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against any person receiving the distributions of the tax, whether or not the parties have notice of the pledge. The ordinance, the resolution, or any other instrument of the local governmental unit by which a pledge of the proceeds of the tax imposed pursuant to [sections 17322 through 17340 of this code](#) is created is not required to be filed or recorded except in the records of the local governmental unit to be subject to this section.

(2) This section does not constitute a continuing appropriation and shall not be construed to create an indebtedness of the state.

Sec. 17334. Bonds, obligations, or other evidences of indebtedness not debt, liability, or obligation of state; payment or refunding; statement.

Bonds, obligations, or other evidences of indebtedness of the local governmental unit issued for the purposes specified in [sections 17322 through 17340 of this code](#) shall not be in any way a debt or liability of the state and shall not create or constitute any indebtedness, liability, or obligation of the state or be or constitute a pledge of the faith and credit of the state. However, all bonds, obligations, or other evidences of indebtedness issued by the local governmental unit for the purposes specified in [sections 17322 through 17340 of this code](#), unless paid or refunded by bonds, obligations, or other evidences of indebtedness of a local governmental unit, shall be payable from the funds pledged or available for their payment as authorized in [sections 17322 through 17340 of this code](#) or as otherwise provided by law. Each bond, obligation, or other evidence of indebtedness issued for the purposes specified in [sections 17322 through 17340 of this code](#) shall contain on its face a statement to the effect that the local governmental unit is obligated to pay the principal, of the premium, if any, and the interest on the bonds, obligations, or other evidences of indebtedness from distributions under [sections 17322 through 17340 of this code](#) or as otherwise provided by law, that the state is not obligated to pay the principal of, the premium, if any, and the interest on the bonds, obligations, or other evidences of indebtedness, and that neither the faith and credit nor the taxing power

of the state is pledged to the payment of the principal of, the premium, if any, and the interest on the bonds, obligations, or other evidences of indebtedness issued by the local governmental unit.

Sec. 17335. State pledge and agreement; construction of section.

(1) The state pledges to and agrees with the holders of bonds, obligations, or other evidences of indebtedness issued by a local governmental unit in accordance with law that the state shall not limit or restrict the rights vested in any person or local governmental unit to do any 1 or more of the following:

(a) Establish and collect fees or other charges as are convenient or necessary to produce sufficient revenues to meet the expenses of the local governmental unit for operating the convention facilities.

(b) Fulfill the terms of any agreement made with the holders of bonds, obligations, or other evidences of indebtedness issued by the local governmental unit, or in any way impair the rights or remedies of the holders of bonds, obligations, or other evidences of indebtedness issued by the local governmental unit until the principal amount of the bonds, obligations, or other evidences of indebtedness, together with interest, and premiums, if any, on the bonds, obligations, or other evidences of indebtedness and interest on any unpaid installments of interest, and all costs and expenses in connection with an action or proceedings by or on behalf of the holders are fully met, paid, and discharged.

(2) This section shall not be construed to obligate or restrict any future legislature to make or from making the appropriation of distributions made under [sections 17322 through 17340a of this code](#) and shall not be construed to limit or prohibit the state from repealing or amending any law enacted for the imposition of taxes being distributed by [sections 17322 through 17340 of this code](#).

Sec. 17336. Liberal construction.

[Sections 17322 through 17340 of this code](#) shall be construed liberally to effectuate the legislative intent and purposes of [sections 17322 through 17340 of this code](#) as complete and independent authority for the performance of each and every act and thing authorized by [sections 17322 through 17340 of this code](#) and all powers granted shall be broadly interpreted to effectuate the intent and purposes of [sections 17322 through 17340 of this code](#) and not as a limitation of powers.

Sec. 17337. Powers cumulative.

The powers conferred in [sections 17322 through 17340 of this code](#) upon any county or local governmental unit shall be in addition to any other powers the county or local governmental unit shall possess by charter or statute

Sec. 17338. Annual appropriation.

There is appropriated each year from the convention facility development fund an amount sufficient to make the distributions under section 17329.

Sec. 17339. Effective date of excise tax.

The excise tax imposed pursuant to sections 17322 through 17340 of this code shall take effect on the first day of the calendar month, but not less than 29 days, after a facility becomes a convention hotel as certified by the state treasurer.

[Drafter's Comment- section 20 of the State Convention Facility Development Act, 108 of 1985 has been amended and the text below in Sec. 17328 of the Code reflects the new language.]

Sec. 17340. Levy of tax; time period.

The tax imposed by sections 17322 through 17340 of this code shall not be levied after the earlier of December 31, 2039 or 30 days after all bonds, notes, or other obligations issued by a metropolitan authority formed sections 17393 through 17399e of this code ~~the regional convention facility authority act~~ for purposes authorized under those sections are retired.

PART B. LOCAL ACTIVITIES

[Sections 17352 – 17359 of this code formerly known as the – Stadia or Convention Facility Development Act, PA 180 of 1991, MCL 207.751-759. The last two digits of each section have been preserved to allow for ease of comparison.]

Sec. 17352. Municipal excise tax on certain businesses; maximum rate; ordinance; question presented to voters; expiration of excise tax; initiative and referendum; limitation.

(1) The governing body of an eligible municipality, by ordinance, may levy, assess, and collect an excise tax on the privilege of operating the following businesses in the eligible municipality:

- (a) A person engaged in the business of preparation and delivery of food or alcoholic or nonalcoholic beverages for immediate consumption either on or off the premises, who is licensed to operate within the eligible municipality as a food service establishment under part 129 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.12901 to 333.12922 of the Michigan Compiled Laws. This subdivision does not apply to a school district, to a nonprofit organization exempt from paying sanitation fees under section 12906(3) of part 129 of Act No. 368 of the Public Acts of 1978, being section 333.12906 of

the Michigan Compiled Laws, or to a grocery store licensed under the food processing act of 1977, Act No. 328 of the Public Acts of 1978, being sections 289.801 to 289.810 of the Michigan Compiled Laws, whose sale of food or beverages for immediate consumption is in a volume incidental to the volume of its business as a grocery store.

(b) A person engaged in the business of the leasing or rental of motor vehicles of which delivery is made in the eligible municipality.

(c) A person engaged in the business of providing accommodations for dwelling, lodging, or sleeping purposes in an eligible municipality to transient guests, whether or not membership is required for the use of the accommodations.

(2) The rate of tax imposed pursuant to subsection (1) shall not exceed the following amounts:

(a) 1% of the gross receipts received by the person subject to tax under subsection (1)(a) from the sale of food and beverages, including alcoholic beverages, for immediate consumption either on or off the premises.

(b) 2% of the gross receipts received by the person subject to tax under subsection (1)(b) from the leasing or rental of motor vehicles for periods of less than 30 consecutive days.

(c) 1% of the gross receipts received by a person subject to tax under subsection (1)(c) from the charges imposed for the use or occupancy of accommodations provided in the eligible municipality to transient guests, but excluding charges imposed as reimbursement for the tax levied under [sections 17323 through 17340 of this code](#) the state convention facility development act, Act No. 106 of the ~~Public Acts of 1985, being sections 207.621 to 207.640 of the Michigan~~ ~~Compiled Laws~~, or for assessments imposed under [sections 17373 through 17378 of this code](#) the convention and tourism marketing act, Act No. 383 of the ~~Public Acts of 1980, being sections 141.881 to 141.889 of the Michigan Compiled Laws,~~ ~~sections 17223 through 17230 of this code~~ the regional tourism marketing act, ~~Act No. 244 of the Public Acts of 1989, being sections 141.891 to 141.900 of the Michigan Compiled Laws,~~ and [sections 17363-17370 of this code](#) the community ~~convention or tourism marketing act, Act No. 395 of the Public Acts of 1980,~~ ~~being sections 141.871 to 141.880 of the Michigan Compiled Laws.~~

(3) The ordinance shall specify the date on which the ordinance becomes effective, which shall not be earlier than 30 days after the date on which the ordinance is approved by a vote of a majority of the electors of the eligible municipality voting on the ordinance at a primary or general election or at a special election called for that purpose. Any ordinance under [sections 17352 through 17359 of this code](#) shall not be submitted to the electors of an eligible municipality more than 2 times. The county clerk and all local election officials within the county shall take those steps necessary to conduct the election, the

incremental expense of which shall be reimbursed by the eligible county. The question presented to the voters shall state the rates at which the tax is authorized and that the purpose of the tax is principally to secure and fund the payment of rentals by the eligible municipality to an authority organized for the purpose of acquiring a stadium or convention facility and leasing it to the eligible municipality. The question presented may also request approval of the leasing and subleasing of the stadium or convention facility by the eligible municipality. However, if the question presented does not include a request for approval of the leasing and subleasing of the stadium or convention facility, a right of initiative and referendum exists, pursuant to the terms of the local charter, in relation to the adoption or execution of any contract, lease, or sublease for the stadium or convention facility or of any amendment to any contract of lease or sublease of any local unit of government necessary to allow the eligible municipality to lease or sublease the stadium or convention facility.

(4) The ordinance imposing the excise tax authorized by [sections 17352 through 17359 of this code](#) shall provide for the expiration of the excise tax not later than the end of the fiscal year of the eligible municipality in which obligations issued by an authority to which the revenues of the excise tax are pledged as rentals under [section 17356 of this code](#) or any obligations that may refund those obligations, in whole or in part, are retired.

(5) A right of initiative and referendum exists in relation to any issue related to an ordinance adopted in a county that is not a charter county. To invoke that initiative or referendum, petitions signed by not less than 5% of the registered electors in the county shall be filed with the county clerk of that county. The county board of commissioners shall provide the time and manner of submitting the question at the election and of determining the result of the election.

(6) An eligible municipality shall not levy the tax under [sections 17352 through 17359 of this code](#) on businesses upon which another eligible municipality has imposed the tax.

Sec. 17352a. Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

A petition under [section 17352 of this code](#), including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

Sec. 17353. Ordinance; required provisions.

The ordinance adopted pursuant to [section 17352 of this code](#) shall provide for the following:

- (a) The rates of the tax.

- (b) The manner of imposition of the tax, including the dates on which the tax is due, the period covered by each collection, and the method or methods of payment.
- (c) The rates and manner of the imposition of interest and penalties for delinquency in filing returns, payment of taxes, or violations of the ordinance, which shall not exceed interest and penalty charges imposed under Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws, for a tax levied by the state.
- (d) The determination and allowance of exemptions, abatements, and refunds.
- (e) The designation of the collector of the tax.
- (f) Procedures for the appeal of any assessment, including the period in which a person may appeal the assessment. All appeals shall be made to the tax tribunal subject to the tax tribunal act, Act No. 186 of the Public Acts of 1973, being sections 205.701 to 205.779 of the Michigan Compiled Laws.
- (g) That if any 1 or more provisions of the ordinance for any reason are adjudged invalid or unenforceable, that judgment does not affect, impair, or invalidate the remaining provisions of the ordinance.

Sec. 17354. Administration and collection of excise tax; agreement with state treasurer; remittance to municipality; ordinance provisions; confidentiality of taxpayer information; violation; penalties.

(1) The chief executive officer and the state treasurer may enter into an agreement providing that the tax imposed pursuant to sections 17352 through 17359 of this code be administered and collected by the revenue division under Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws. If there is agreement, the department of treasury shall administer and collect the tax imposed by sections 17352 through 17359 of this code on behalf of the eligible municipality, and the ordinance shall provide for the administration and collection of the tax imposed by sections 17352 through 17359 of this code in the same manner as state taxes are administered and collected under Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws, except for procedures for the appeal of any assessment as provided by the ordinance. Not more than 15 days after their due date, taxes, interest, and penalties collected by the revenue division of the department of treasury pursuant to that agreement shall be remitted to the eligible municipality that imposed the tax. Any remittance to the eligible municipality by the department of treasury after that date shall include interest earned on the gross collections after that deadline and before transmittal to the eligible county, calculated on the basis of the rate of interest accrued for this period on the common cash fund of the state.

(2) The ordinance may provide for 1 or more of the following:

- (a) The adoption and enforcement of rules by the eligible municipality to apply, interpret, and effectuate the provision and purposes of the tax.
 - (b) The prescribing and furnishing to taxpayers of forms, instructions, manuals, and other materials necessary or convenient for the administration of the tax.
 - (c) The requiring of taxpayers to file returns, provide information, and maintain records that are reasonable for enforcement of the tax and auditing of the returns.
 - (d) The examination of the books and records of a taxpayer for purposes of determining the correctness of a tax return or information filed, or for the determination of any further tax liability.
- (3) Information obtained pursuant to a provision in the ordinance authorized under subsection (2)(d) or through any return, investigation hearing, or verification required or authorized by the ordinance is confidential, except for official purposes in connection with the administration of the ordinance and except pursuant to a proper judicial order. A person who divulges this confidential information, except for official purposes, is guilty of a violation of the ordinance punishable by a fine of not more than \$5,000.00, or imprisonment for not more than 5 years, or both. Additionally, if the offense is committed by an employee of the eligible municipality or the state, the person shall be dismissed from office or discharged from employment upon conviction.

Sec. 17355. Excise tax levied in addition to other lawful taxes.

The excise tax levied under [sections 17352 through 17359 of this code](#) is in addition to any other taxes, charges, or fees and may be levied notwithstanding any other law to the contrary.

Sec. 17356. Disposition and use of excise tax revenues

The revenues from the tax imposed under [sections 17352 through 17359 of this code](#) shall be deposited in a special fund and shall be used and may be pledged by the eligible municipality only for the following purposes or paid to the following entities in the following order of priority:

- (a) Costs borne by the eligible municipality for the election required under section [17352\(3\) of this code](#) and in the administration and enforcement of the ordinance.
- (b) Costs associated with the acquisition and construction of a stadium as defined by section [17101\(1\)\(iii\) of this code](#) or with the acquisition, improvement, enlargement, and construction of a stadium as defined by section [17101\(1\)\(iii\) of this code](#) or convention facility as defined by section [17101\(1\)\(l\) of this code](#), including the reimbursement of those costs paid by an eligible municipality, and costs of current or future annual rental payable for a stadium or convention facility by an eligible municipality, or reimbursement of the eligible municipality

for rentals paid, to an authority that is incorporated by the eligible municipality pursuant to Act No. 31 of the Public Acts of the First Extra Session of 1948, being sections 123.951 to 123.965 of the Michigan Compiled Laws.

(c) To the extent not needed for purposes identified in subdivision (a) or (b) in any year or to maintain a reserve for those purposes in future years, costs associated with the clearance and improvement of land for assembly and development purposes.

Sec. 17357. Entering into contract for lease of stadium or convention facility payable from excise tax revenues; conditions.

An eligible municipality imposing an excise tax pursuant to [sections 17352 through 17359 of this code](#) shall not enter into a contract for lease of a stadium or convention facility payable in whole or in part from the revenues of the excise tax unless the eligible municipality takes action to insure the proceeds of any obligations issued by an authority to which rentals are payable, whether or not secured by a pledge of revenues from the excise tax, and any other available money are sufficient to defray the cost of the stadium or convention facility. This action may include the appointment of officials or employees of a local governmental unit as members of the authority to which revenues of the excise tax may be pledged under [sections 17352 through 17359 of this code](#). An official or employee of a local governmental unit appointed to an authority to which revenues of the excise tax may be pledged under [sections 17352 through 17359 of this code](#) is not considered to be concurrently holding incompatible offices or to be in breach of a duty of his or her public office by reason of the power of the position or because of a contract for lease of the stadium or convention facility between the authority and the eligible municipality.

Sec. 17358. Legislative intent.

(1) It is the intent of this legislature that state funds shall not be used for the construction, maintenance, or operation of stadia or convention facilities.

(2) It is the intent of this legislature that state funds shall not be used as a subsidy or to subsidize a shortfall of revenues collected from nonstate sources.

Sec. 17359. Repeal of MCL 141.851 to 141.855. [Deleted]

[Drafter’s Comment: sections 17363-17370 of this code were previously the Community Convention or Tourism Marketing Act, PA 395 of 1980, formerly found at MCL 141.871-80. Sections 17363 through 17370 of this code were formerly known and cited as the “community convention or tourism marketing act”.]

Sec. 17363. Marketing program and assessment district; establishment; filing marketing program notice; contents of notice; assessment; exclusion; excise or other tax; copies of notice; list of owners; transient facilities; imposition of assessment; conditions.

- (1) A bureau that intends to establish a marketing program and assessment district shall file a marketing program notice with the director of commerce. The marketing program notice shall state that the bureau proposes to create a marketing program under [sections 17363 through 17370 of this code](#) and cause an assessment to be collected from owners of transient facilities within the assessment district to pay the costs of the marketing program.
- (2) The marketing program notice shall describe the structure, membership, and activities of the bureau.
- (3) The marketing program notice shall describe the marketing program to be implemented by the bureau with the assessment revenues, specify the amount of the assessment proposed to be levied, which, except as provided in this subsection, shall not exceed 2% of the room charges in the applicable payment period, and describe the municipalities comprising the assessment district. A bureau described in subsection (8) may impose an assessment of 4% if the assessment and marketing program are approved by a majority of the transient facilities located within a township described in subsection (8) at a written referendum held by the [director of commerce](#) pursuant to section [17363a](#) by mail or in person for the purpose of which each owner shall have 1 vote for each room in an owner's transient facility.
- (4) Except as provided in section [17370](#), an area shall not be included in the marketing program notice filed under [sections 17363 through 17370 of this code](#) and the assessment district specified in the notice if the area is part of an existing assessment district under [sections 17363 through 17370 of this code](#) is act for which a marketing program is in effect.
- (5) If on the date of the mailing of the marketing program notice under [sections 17363 through 17370 of this code](#) an excise tax or other tax based on a room charge is not being collected, a municipality included in the marketing program notice shall not be subject to the collection of an excise tax imposed under Act No. 263 of the Public Acts of 1974, being sections 141.861 to 141.867 of the Michigan Compiled Laws, or another tax based on a room charge.
- (6) If a part of a municipality is subject to an assessment under [sections 17373 through 17378 of this code](#) ~~the convention and tourism marketing act, Act No. 383 of the Public Acts of 1980, being sections 141.881 to 141.889 of the Michigan Compiled Laws,~~ that part of the municipality shall not be included in a marketing program notice or assessment district under [sections 17363 through 17370 of this code](#).
- (7) Simultaneously with the filing of the marketing program notice with the director of commerce, the bureau shall mail a copy of the notice, by registered or certified mail, to each owner of a transient facility located in the assessment district specified in the notice, in care of the respective transient facility. In assembling the list of owners to whom the notices shall be mailed, the bureau shall use any data that is reasonably available to the bureau.

(8) A bureau that is located within a township that is a municipality and, except for the assessment made under this subsection, that does not assess a room charge on the owners of a transient facility may impose an assessment of 4% if it meets all of the following:

(a) The assessment district is a township that is contiguous to a county that levies an excise tax of 5% under Act No. 263 of the Public Acts of 1974.

(b) The owners representing not less than 80% of the rooms in the assessment district are members of a nonprofit organization formed to promote convention business or tourism that receives funding from a tax levied under Act No. 263 of the Public Acts of 1974, in the contiguous county.

(c) The bureau contracts with the nonprofit organization formed to promote convention business or tourism that receives funding from a tax levied under Act No. 263 of the Public Acts of 1974, in the contiguous county to promote convention business or tourism and pays that nonprofit organization all of the assessment revenues collected under sections 17363 through 17370 of this Code for the promotion of convention business or tourism.

(d) The owners representing not less than 80% of the rooms in the assessment district voluntarily contributed during the nonprofit organization's preceding fiscal year to the nonprofit organization formed to promote convention business or tourism that receives funding from a tax levied under Act No. 263 of the Public Acts of 1974, in the contiguous county, an amount equivalent to the 2% assessment permitted under [sections 17363 through 17370 of this code](#) for the promotion of convention business or tourism.

Sec. 17363a. Marketing program; approval or disapproval; referendum; effective date of marketing program and assessment; filing and serving another marketing program notice.

(1) Within 30 days after a marketing program notice is filed, the [director of commerce](#) shall approve or disapprove the marketing program. The [director of commerce](#) shall not disapprove a marketing program unless the program violates [sections 17363 through 17370 of this code](#).

(2) Within 40 days after approval of a marketing program, the [director of commerce](#) shall require a written referendum to be held by mail or in person, as determined by the director of commerce, among all owners of transient facilities in each municipality in the proposed assessment district. For the purpose of the referendum, each owner shall have 1 vote for each room in an owner's transient facility.

(3) The marketing program and assessment set forth in the notice shall become effective on the first day of the month that is more than 30 days after certification by the [director of commerce](#) that the program was approved by a majority of the votes actually cast in each municipality in the assessment district. If a majority of the votes actually cast in any

municipality counted separately is not in favor of the program and assessment, the program and assessment shall not go into effect in the assessment district. However, for purposes of tabulating the votes in the referendum for a marketing program proposed on or after April 12, 1984, each municipality in the proposed assessment district requiring a majority of votes cast in favor of the proposed assessment district shall be defined in the marketing program notice required under section 17363. A bureau may file and serve another marketing program notice not less than 60 days after certification of the results of a referendum.

Sec. 17364. Marketing program; contents.

A marketing program may include all or any of the following:

- (a) Provisions for establishing and paying the costs of advertising, marketing, and promotional programs to encourage convention business or tourism in the assessment district.
- (b) Provisions for assisting transient facilities within the assessment district in promoting convention business or tourism.
- (c) Provisions for the acquisition of personal property considered appropriate by the bureau in furtherance of the purposes of the marketing program.
- (d) Provisions for the hiring of and payment for personnel employed by the bureau to implement the marketing program.
- (e) Provisions for contracting with organizations, agencies, or persons for carrying out activities in furtherance of the purposes of the marketing program.
- (f) Programs for establishing and paying the costs of research designed to encourage convention business or tourism in the assessment district.
- (g) Provisions for incurring any other expense or cost which the Community Convention Board, in the exercise of its reasonable business judgment, considers reasonably related to promotion of the convention business or tourism within the assessment district.
- (h) Procedures for election of the Community Convention Board.

Sec. 17365. Assessment; computation; payment; reimbursement; agreement to accept payment of assessments; forwarding money; withholding portion of assessment for administrative costs; verification and audit of owner's assessment payments; state use tax returns; unpaid assessments; interest and delinquency charges; suit to collect; notice.

(1) Upon the effective date of an assessment under section 17363a, each owner of a transient facility in the assessment district shall be liable for payment of the assessment, computed by multiplying the percentage set forth in the marketing program notice by the aggregate room charges imposed by the transient facility during a calendar [spelling correction] month. The assessment shall be paid by the owner of each such transient facility to the bureau or the person designated by the bureau within 30 days after the end of each calendar month, and shall be accompanied by a statement of room charges imposed by the transient facility for that calendar month. Sections 17363 through 17370 of this code does not prohibit an owner from reimbursing the transient facility by adding the assessment imposed under sections 17363 through 17370 of this code to room charges payable by transient guests. However, the owner shall disclose that the transient facility has been reimbursed for the assessment imposed under sections 17363 through 17370 of this code on the bill presented to the transient guest.

(2) A bureau or person designated by the bureau may enter into an agreement with a regional tourism marketing organization established under sections 17223 through 17230 of this code ~~the regional tourism marketing act~~ to accept from owners subject to an assessment under sections 17363 through 17370 of this code the payment of assessments that are levied by a regional marketing organization ~~section 17226 of this code section 6 of the regional tourism marketing act~~. A bureau or the person designated by the bureau shall forward the money received in payment of an assessment levied by a regional marketing organization ~~sections 17223 through 17230 of this code under the regional tourism marketing act~~ to the person designated by the regional marketing organization to receive the payment of assessments under ~~section 17226 of this code section 6 of the regional tourism marketing act~~. The bureau may withhold the portion of an assessment received on behalf of a regional marketing organization under this subsection and ~~section 17226 of this code section 6 of the regional tourism marketing act~~ as agreed upon between the bureau and the regional marketing organization to reimburse the bureau or person designated by the bureau for reasonable administrative costs to receive and forward assessments due a regional marketing organization.

(3) Within 30 days after the close of each calendar quarter, each owner within an assessment district shall forward to the independent certified public accountants who audit the financial statements of the bureau, copies of the state use tax returns of the transient facility for the preceding quarter. The copies of the state use tax returns shall be used solely by the certified public accountants to verify and audit the payment by the owner of the assessments under sections 17363 through 17370 of this code, and shall not be disclosed to the bureau except as the director of commerce determines necessary to enforce sections 17363 through 17370 of this code.

(4) Interest shall be paid by an owner to the bureau on any assessments not paid within the time required under sections 17363 through 17370 of this code. The interest shall accrue at the rate of 1.5% per month. Owners delinquent for more than 90 days in paying assessments, in addition to the 1.5% interest, shall pay a delinquency charge of 1.5% per month or fraction of a month on the amount of the delinquent assessments. The bureau may sue in its own name to collect the assessments, interest, and delinquency charges.

(5) The owner of a transient facility shall not be liable for payment of an assessment until a marketing program notice has been mailed to the transient facility of the owner pursuant to section [17363](#).

Sec. 17366. Assessment revenues not state funds; deposit and disbursement; financial statements; audit; report; copies.

(1) The assessment revenues collected pursuant to [sections 17363 through 17370 of this code](#) shall not be state funds. The money shall be deposited in a bank or other depository in this state, in the name of the bureau, and shall be disbursed only for the expenses properly incurred by the bureau with respect to the marketing programs developed by the bureau under [sections 17363 through 17370 of this code](#).

(2) The financial statements of the bureau shall be audited at least annually by a certified public accountant. A copy of the audited financial statements shall be mailed to each owner not more than 150 days after the close of the bureau's fiscal year. The financial statements shall include a statement of all assessment revenues received by the bureau during the fiscal year in question and shall be accompanied by a detailed report, certified as correct by the chief operating officer of the bureau, describing the marketing programs implemented or, to the extent then known, to be implemented by the bureau.

(3) Copies of the audited financial statements and the certified report shall simultaneously be mailed to the director [of commerce](#).

Sec. 17367. Repealed. 1984, Act 59, Imd. Eff. Apr. 12, 1984.

Sec. 17368. Discontinuance of assessment; referendum; proposing new marketing program notice; failure to adopt resolution discontinuing assessment; further referendum.

(1) At any time 2 years or more after the effective date of an assessment, and upon the written request of owners of transient facilities located within an assessment district representing not less than 40% of the total number of owners or not less than 40% of the total number of rooms in all of the transient facilities in the assessment district, the bureau shall conduct a referendum on whether the assessment shall be discontinued. The bureau shall cause a written referendum to be held by mail or in person, as the bureau chooses, among all owners of transient facilities in the petitioning assessment district within 60 days of the receipt of the requests. For the purposes of the referendum, each owner shall have 1 vote for each room in each of the owner's transient facilities within the petitioning assessment district. If a majority of the votes actually cast at the referendum for the assessment district supports discontinuance of the assessment, the assessment shall be discontinued for that area or county on the first day of the month following expiration of 60 days after the certification of the results of the referendum by the bureau.

(2) Passage of a resolution discontinuing the assessment shall not prevent a bureau from proposing a new marketing program notice during or after the 60-day period, in which case the procedures set forth in section 17363 shall be followed.

(3) If a referendum is conducted under subsection (1) and if a resolution to discontinue the assessment is not adopted, a further referendum on the discontinuation of that assessment for the assessment district for which the referendum was held shall not be held for a period of 2 years.

Sec. 17369. Building or combination of buildings with less than 10 rooms; agreement to be subject to assessment; participation in marketing program; duration of assessment.

(1) The owner of a building or combination of buildings, which is within an assessment district, has less than 10 rooms, and otherwise meets the definition of transient facility, may agree in writing to be subject to the assessment. If an owner agrees to be subject to the assessment, the building or combination of buildings shall be considered a transient facility for the purposes of sections 17363 through 17370 of this code. The owner and transient facility shall participate in the marketing program for that assessment district.

(2) A building or combination of buildings which becomes a transient facility under this section shall remain subject to the assessment unless the assessment is discontinued as provided in section 17368.

Sec. 17370. Existing assessment district and marketing program.

An assessment district and marketing program under sections 17363 through 17370 of this code which is in effect before the effective date of this section shall remain in effect for 365 days after the effective date of this section or until a new marketing program and assessment district, which includes any portion of an existing assessment district and which is established under sections 17363 through 17370 of this code, becomes effective, whichever is sooner.

Sections 17371-17378 were formerly known as, PA 383 of 1980 – Convention and Tourism Marketing Act, found at MCL 141.883 et seq. Last digit in the section corresponds to the last digit in the Convention and Tourism Marketing act for ease of comparison.]

[Sections 17373 through 17378 of this code were formerly known and cited as the “convention and tourism marketing act”.]

Sec. 17373. Marketing program notice; contents; assessment; mailing copy of notice to owner of transient facility; referendum.

- (1) A bureau which has its principal place of business in a county having a population of more than 1,500,000 may file a marketing program notice with the director. The notice shall state that the bureau proposes to create a marketing program under [sections 17373 through 17378 of this code](#) and cause an assessment to be collected from owners of transient facilities within the assessment district to pay the costs of the program.
- (2) The marketing program notice shall describe the structure, history, membership, and activities of the bureau in sufficient detail to enable the director to determine if the bureau satisfies all of the requirements of a “bureau” under [section 17101\(1\)\(g\)](#). [**Drafter’s Comment: this refers to a definition that was previously contained within the statute itself, but now appears in division 1 of the article. I think it would be more beneficial to list the requirements again here.**]
- (3) The marketing program notice shall describe the marketing program to be implemented by the bureau with the assessment revenues, specify the amount of the assessment proposed to be levied which shall not exceed 2% of the room charges in the applicable payment period, and the county or counties comprising the assessment district. A county shall not be included in the marketing program notice and the assessment district specified in the notice if on the date the notice is mailed the county is collecting a tax pursuant to Act No. 263 of the Public Acts of 1974, being sections 141.861 to 141.867 of the Michigan Compiled Laws.
- (4) Simultaneously with the filing of the marketing program notice with the director, the bureau shall cause a copy of the notice to be mailed by registered or certified mail to each owner of a transient facility located in the assessment district specified in the notice in care of the respective transient facility. In assembling the list of owners to whom the notices shall be mailed, the bureau shall use any data which is reasonably available to the bureau.
- (5) The form of the marketing program notice, in addition to the information required by subsections (1), (2), and (3), shall set forth the right of referendum prescribed in subsection (6).
- (6) The assessment set forth in the notice shall become effective on the first day of the month following the expiration of 40 days after the date the notice is mailed, unless the director, within the 40-day period, receives written requests for a referendum by owners of transient facilities located within the assessment district representing not less than 40% of the total number of owners or not less than 40% of the total number of rooms in all the transient facilities.
- (7) If the director receives referendum requests in the time and number set forth in subsection (6), the director shall cause a written referendum to be held by mail or in person, as the director chooses, among all owners of transient facilities in the assessment district within 20 days after the expiration of the 40-day period. For the purposes of the referendum, each owner of a transient facility shall have 1 vote for each room in each of the owner’s transient facilities within the assessment district. If a majority of votes

actually cast at the referendum approve the assessment, as proposed by the bureau in its marketing program notice, the assessment shall become effective as to all owners of transient facilities located in the assessment district on the first day of the month following expiration of 30 days after certification of the results of the referendum by the director. If a majority of votes actually cast at the referendum are opposed to the assessment, the assessment shall not become effective. If the assessment is defeated by the referendum, the bureau may file and serve a new notice of intention if at least 60 days have elapsed from the date of certification of the results of the earlier referendum. Not more than 2 referenda or notices may be held pursuant to this subsection or filed pursuant to this section in any 1 calendar year. Only 1 assessment may be in existence in an assessment district, or any part of an assessment district, at any 1 time.

Sec. 17374. Marketing program; Contents.

A marketing program may include all or any of the following:

- (a) Provisions for establishing and paying the costs of advertising, marketing, and promotional programs to encourage convention business and tourism in the assessment district.
- (b) Provisions for assisting transient facilities within the assessment district in promoting convention business and tourism.
- (c) Provisions for the acquisition of personal property considered appropriate by the bureau in furtherance of the purposes of the marketing program.
- (d) Provisions for the hiring of and payment for personnel employed by the bureau to implement the marketing program.
- (e) Provisions for contracting with organizations, agencies, or persons for carrying out activities in furtherance of the purposes of the marketing program.
- (f) Programs for establishing and paying the costs of research designed to encourage convention business and tourism in the assessment district.

Sec. 17375. Assessment; payment; statement of room charges; reimbursement from room charges; verification and audit of owner's assessment payments; state use tax returns; unpaid assessments; interest and delinquency charges; suit to collect; notice.

(1) Upon the effective date of an assessment, each owner of a transient facility in the assessment district shall be liable for payment of the assessment, computed using the percentage set forth in the marketing program notice. The assessment shall be paid by the owner of each such transient facility to the bureau within 30 days after the end of each calendar month, and shall be accompanied by a statement of room charges imposed with respect to the transient facility for that month. [Sections 17373 through 17378 of this code](#)

shall not prohibit a transient facility from reimbursing itself by adding the assessment imposed pursuant to [sections 17373 through 17378 of this code](#) to room charges payable by transient guests, provided the transient facility discloses that it has done so on any bill presented to a transient guest.

(2) Within 30 days after the close of each calendar quarter, each owner within an assessment district shall forward to the independent certified public accountants who audit the financial statements of the bureau, copies of its state use tax returns for the preceding quarter. These copies of the state use tax returns shall be used solely by the certified public accountants to verify and audit the owner's payment of the assessments, and shall not be disclosed to the bureau except as necessary to enforce [sections 17373 through 17378 of this code](#).

(3) Interest shall be paid by an owner to the bureau on any assessments not paid within the time called for under [sections 17373 through 17378 of this code](#). The interest shall accrue at the rate of 1.5% per month. Owners delinquent for more than 90 days in paying assessments, in addition to the 1.5% interest, shall pay a delinquency charge of 10% per month or fraction of a month on the amount of the delinquent assessments. The bureau may sue in its own name to collect the assessments, interest, and delinquency charges.

(4) The owner of a transient facility shall not be liable for payment of an assessment until a notice has been mailed to the transient facility of the owner pursuant to section 17373(4) of this code.

Sec. 17376. Assessment revenues not state funds; deposit and disbursement; financial statements; audit; report; copies.

(1) The assessment revenues collected pursuant to [sections 17373 through 17378 of this code](#) shall not be state funds. The money shall be deposited in a bank or other depository in this state, in the name of the bureau, and disbursed only for the expenses properly incurred by the bureau with respect to the marketing programs developed by the bureau under [sections 17373 through 17378 of this code](#).

(2) The financial statements of the bureau shall be audited at least annually by a certified public accountant. A copy of the audited financial statements shall be mailed to each owner not more than 150 days after the close of the bureau's fiscal year. The financial statements shall include a statement of all assessment revenues received by the bureau during the fiscal year in question and shall be accompanied by a detailed report, certified as correct by the chief operating officer of the bureau, describing the marketing programs implemented or, to the extent then known, to be implemented by the bureau.

(3) Copies of the audited financial statements and the certified report shall simultaneously be mailed to the director.

Sec. 17377. Advisory committee; election and terms of members; formal meetings; review of proposed marketing program; approval or rejection; recommendations; Convention and Tourism Marketing Board of directors.

(1) Upon the effective date of the establishment of an assessment under [sections 17373 through 17378 of this code](#), the bureau shall cause an advisory committee to be elected consisting of representatives of the owners of transient facilities located within the assessment district, together with the director or the director's designated representative.

(2) The advisory committee shall consist of not less than 9 nor more than 15 persons, at least 1 of whom shall not be affiliated with a bureau member. The advisory committee shall include at least 3 persons from each county within the assessment district, at least 1 of whom, from each county, is affiliated with a transient facility of 75 rooms or less. Procedures for the election and terms of the office of the members of the advisory committee shall be established by the bureau.

(3) The bureau at regular intervals, but not less than quarterly, shall cause a formal meeting of the advisory committee to be held at which the bureau shall present its current and proposed marketing programs. At these formal meetings the advisory committee shall review and either approve or reject any proposed marketing programs. An approved marketing program shall be instituted by the bureau. A rejected marketing program shall not be instituted by the bureau.

(4) The advisory committee may make recommendations to the bureau and the Convention and Tourism Marketing Board from time to time with respect to current or proposed marketing programs.

(5) The bureau shall cause to be elected to its of directors, from the members of the advisory committee, 1 person from each of the counties within the assessment district.

Sec. 17378. Discontinuance of assessment; referendum; proposing new marketing program notice; failure to adopt resolution discontinuing assessment; further referendum.

(1) At any time 2 years or more after the effective date of an assessment, and upon the written request of owners of transient facilities located within the assessment district representing not less than 40% of the total number of owners or not less than 40% of the total number of rooms in all the transient facilities, the bureau shall conduct a referendum on whether the assessment shall be discontinued. The bureau shall cause a written referendum to be held by mail or in person, as the bureau chooses, among all owners of transient facilities in the assessment district within 60 days of the receipt of the requests. For the purposes of the referendum, each owner shall have 1 vote for each room in each of the owner's transient facilities within the assessment district. If a majority of the total votes eligible to be cast at the referendum supports discontinuance of the assessment, the assessment shall be discontinued on the first day of the month following expiration of 90 days after the certification of the results of the referendum by the bureau.

(2) Passage of a resolution discontinuing the assessment shall not prevent a bureau from proposing a new marketing program notice during or after the 90-day period, in which case the procedures set forth in section 3 shall be followed.

(3) If a referendum is conducted under subsection (1), and if a resolution to discontinue the assessment is not adopted, a further referendum on the discontinuation of that assessment shall not be held for a period of 2 years.

[Sections 17381 through 17391 of this code, formerly PA 203 of 1999, The Convention Facility Authority Act, which was found at MCL 141.1401 *et seq.*]

Sec. 17381. Establishment of convention authority by county and city; resolution; organization.

(1) A qualified county and a qualified city may by resolutions of their respective legislative governing bodies jointly establish an convention authority under [sections 17381 through 17391 of this code](#). On the date on which all the certified copies of the resolutions establishing the convention authority are filed with the secretary of state, the convention authority is created as a body corporate and politic.

(2) A convention authority under [sections 17381 through 17391 of this code](#) is an authority organized pursuant to state law for purposes of 1974 PA 263, MCL 141.861 to 141.867.

Sec. 17382. Convention facility board of directors; powers, duties, and functions; membership; terms; oath of office; vacancy; eligibility of legislative member or city official.

(1) The powers, duties, and functions of a convention authority are vested in and shall be exercised by a convention facility board of directors. The convention facility board shall consist of 7 members as follows:

(a) Two members who are residents of the qualified county appointed by the county board of commissioners of the qualified county, 1 of whom is from the private sector with experience in economic development.

(b) Two members who are residents of the qualified county appointed by the mayor of the qualified city with approval by the legislative body of the qualified city, 1 of whom is from the private sector with experience in economic development.

(c) One member who is a resident of the qualified county appointed by the governor.

(d) Two members who are residents of the qualified county appointed by the 5 members described in subdivisions (a), (b), and (c) at the first meeting of the

convention facility board as the first item of business, both of whom shall be selected from a list of not fewer than 3 individuals provided by the local convention and visitors bureau. Every 2 years after the first appointment under this subdivision, 1 member shall be appointed at the first meeting of the convention facility board following the expiration of the member's term as the first item of business.

(2) Except as otherwise provided in this subsection, members of the convention facility board shall be appointed for a term of 4 years. One of the convention facility board members first appointed by the county board of commissioners of the qualified county and 1 of the convention facility board members first appointed by the mayor of the qualified city with the approval of the legislative body of the qualified city shall be appointed for a term of 2 years. The first member appointed under subsection 1(d) shall be appointed for a term of 2 years. A person is not eligible to be a member of the convention facility board if that person has served 12 or more consecutive years as a member of that convention facility board.

(3) Upon appointment to a convention facility board under subsection (1) and upon taking and the filing of the constitutional oath of office, a member of the convention facility board shall enter office and exercise the duties of the office to which he or she is appointed.

(4) A vacancy on a convention facility board of a member serving for a fixed term shall be filled in the same manner as the original appointment for the balance of the unexpired term. A member of the convention facility board holds office until a successor is appointed and qualified.

(5) Notwithstanding a charter provision of a qualified city to the contrary, a member of the legislative body or other city official of the qualified city is eligible to serve as a member of a convention facility board established [sections 17381 through 17391 of this code](#).

Sec. 17383. Convention facility board of directors; discharge of duties; actions; meetings; compensation. [Editor's note: This section and the following one are similar to provisions found in article I, division V, and, if reconciled with those provisions, this one may be struck.]

(1) Members of a convention facility board and officers and employees of the convention authority are subject to 1968 PA 317, MCL 15.321 to 15.330. A member of the convention facility board or an officer, employee, or agent of the convention authority shall discharge the duties of his or her position in a nonpartisan manner, in good faith, and with the degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging his or her duties, a member of the convention facility board or an officer, employee, or agent of the convention authority, when acting in good faith, may rely upon any of the following:

- (a) The opinion of counsel for the convention authority.
- (b) The report of an independent appraiser selected by the convention facility board.
- (c) Financial statements of the convention authority represented to the member of the convention facility board, officer, employee, or agent to be correct by the officer of the convention authority having charge of its books of account or stated in a written report by the state auditor general or a certified public accountant, or a firm of certified accountants, to reflect the financial condition of the convention authority.

(2) A convention facility board shall organize and make its own policies and procedures and shall adopt bylaws governing its operations. A majority of the members of a convention facility board constitutes a quorum for transaction of business, notwithstanding the existence of 1 or more vacancies on the convention facility board. Except as otherwise provided in sections 17381 through 17391 of this code, actions taken by the convention facility board shall be by a majority vote of the members present in person at a meeting of the convention facility board or, if authorized by the bylaws, by the use of amplified telephonic or video conferencing equipment. The convention authority shall meet at the call of the chairperson and as may be provided in the bylaws.

(3) Members of a convention facility board shall serve without compensation for their membership on the convention facility board, but members of the convention facility board may receive reasonable reimbursement for necessary travel and expenses.

Sec. 17384. Conduct of business at public meetings; disclosure requirements.

(1) A convention facility board shall conduct all business at public meetings held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of each meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(2) A record or a portion of a record, material, or other data received, prepared, used, or retained by the convention authority that relates to financial or proprietary information that is identified in writing by the person submitting the information and acknowledged by the convention facility board as confidential is not subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The convention facility board may meet in closed session pursuant to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, to make a determination of whether it acknowledges as confidential any financial or proprietary information submitted and considered by the person submitting the information as confidential. For the purpose of this subsection, “financial or proprietary information” means information that has not been publicly disseminated or that is unavailable from other sources, the release of which might cause the person submitting

Sec. 17385. Powers of convention authority; limitation.

(1) A convention authority may do all things necessary or convenient to carry out the purposes, objectives, and provisions of [sections 17381 through 17391 of this code](#) and the purposes, objectives, and powers delegated to the convention authority or the convention facility board by other laws or executive orders, including, without limitation, all of the following:

- (a) Adopt bylaws for the regulation of its affairs and alter the bylaws at its pleasure.
- (b) Sue and be sued in its own name.
- (c) Enter into contracts and other instruments necessary, incidental, or convenient to the performance of its duties and the exercise of its powers and designate the person or persons who have authority to execute those contracts and investments on behalf of the convention authority.
- (d) Solicit, receive, and accept from any source gifts, grants, loans, or contributions of money, property, or other things of value, and other aid or payment, or participate in any other way in a federal, state, or local government program.
- (e) Procure insurance against loss in connection with the property, assets, or activities of the convention authority.
- (f) Invest money of the convention authority under 1943 PA 20, MCL 129.91 to 129.96, and deposit money of the convention authority under 1932 (1st Ex Sess) PA 40, MCL 129.11 to 129.16.
- (g) Engage, on a contract basis, the services of private consultants, managers, legal counsel, and auditors for rendering professional or technical assistance and advice payable out of any money of the convention authority.
- (h) Indemnify and procure insurance indemnifying members of the convention facility board from personal loss or accountability for liability asserted by a person with regard to bonds or other obligations of the convention authority, or from any personal liability or accountability by reason of the issuance of the bonds or other obligations or by reason of any other action taken or the failure to act by the convention authority.
- (i) Establish and maintain an office and employ and fix compensation for personnel of the convention authority. To hire an executive director or other chief administrative officer who is authorized to establish and fix a schedule of rents, admission fees, or other charges for occupancy, use of, or admission to any

convention facility operated by the convention authority and provide for the collection and enforcement of those rents, admission fees, or other charges.

(j) Hold, clear, remediate, improve, maintain, manage, control, sell, exchange, mortgage and hold mortgages on and other security interests in, lease, as lessor or lessee, and obtain or grant easements and licenses on property that the convention authority acquires. A sale, exchange, lease, or other disposition of convention authority property shall be to a person or persons for a project or projects involving a convention facility. Property acquired by the convention authority and later determined by the convention authority to be not necessary for a convention facility may be sold or otherwise disposed of for use or uses not inconsistent with the purposes of [sections 17381 through 17391 of this code](#). Temporary or permanent easements or licenses or other appropriate interests in property acquired by the convention authority may be conveyed or granted by the convention authority for utility, vehicular, or pedestrian traffic facilities, or related purposes not inconsistent with [sections 17381 through 17391 of this code](#). The convention authority does not have the power to condemn property.

(k) Issue negotiable revenue bonds under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. Revenue bonds issued by the convention authority are not a debt of the qualified county, qualified city, or this state.

(l) Develop a convention facility.

(m) Do all other acts and things necessary or convenient to carrying out the purposes for which the convention authority was established.

(2) A convention authority established under [sections 17381 through 17391 of this code](#) shall not levy a tax.

Sec. 17386. Employment of staff; audits; budget.

(1) A convention authority may employ staff, including legal and technical experts, and other officers, or employees, permanent or temporary, paid from the funds of the convention authority.

(2) The accounts of a convention authority are subject to annual audits by the state auditor general or a certified public accountant selected by the convention authority. Copies of the audits shall be forwarded annually to the state treasurer as provided in the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a. Records shall be maintained according to generally accepted accounting principles.

(3) The convention authority shall prepare and adopt an annual budget.

Sec. 17387. Convention facility convention authority fund; creation; disposition of money.

A convention facility convention authority fund is created for each convention authority. A convention authority shall deposit all money received and generated by the convention facility into the fund.

Sec. 17388. Payment of costs from certain revenues.

The payment of principal, interest, and other costs including engineering, financial, and issuance costs, associated with bonds issued by the convention authority may be made by the convention authority from any of the following revenues:

- (a) Federal grants, loans, appropriations, payments, or contributions.
- (b) The proceeds from the sale, exchange, mortgage, lease, or other disposition of property that the convention authority has acquired.
- (c) Grants, loans, appropriations, payments, proceeds from repayments of loans made by the convention authority, or contributions from public or private sources.
- (d) Money in the fund including rents, admission fees, or other charges for use of the convention facility.
- (e) Investment earnings on the revenues described in subdivisions (a) to (d).

Sec. 17389. Issuance of negotiable revenue bonds; limitations.

(1) A convention authority may only issue negotiable revenue bonds under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. A convention authority may not issue any other kinds of bonds, notes, or other obligations.

(2) A convention authority may authorize and issue its negotiable revenue bonds payable solely from the revenues or funds available to the convention authority under section 17387 of this code. Bonds, notes, or other obligations of a convention authority are not a debt or liability of this state, a qualified county that established the convention authority, or a qualified city that established the convention authority and do not create or constitute an indebtedness, liability, or obligation or constitute a pledge of faith and credit of this state, the qualified county that established the convention authority, or a qualified city that established the convention authority. Bonds issued by a convention authority are payable solely from revenues or funds pledged or available for their payment as authorized by [sections 17381 through 17391 of this code](#) or as provided in the resolution of the convention facility board authorizing the bonds.

Sec. 17390. Property of convention authority.

(1) Property of a convention authority is public property devoted to an essential public and governmental function and purpose. Income of the convention authority is for a public purpose.

(2) Except as otherwise provided in this subsection, the property of the convention authority and its income and operations are exempt from all taxes and special assessments of this state or a political subdivision of this state. Property of the convention authority and its income and operations that are leased to private persons are not exempt from any tax or special assessment of this state or a political subdivision of this state. Property of the convention authority is exempt from any ad valorem property taxes levied under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(3) Bonds issued by the convention authority, and the interest on or income from those bonds, are exempt from all taxation of this state or a political subdivision of this state.

Sec. 17391. Use of funds received pursuant to section 301 of 1999 PA 137.

Funds received by the convention authority pursuant to section 301 of 1999 PA 137 shall not be used by the convention authority to defray costs incurred before the date on which the funds are released by the state treasurer.

[Sections 17393 through 17399e, formerly PA 554 of 2008, Regional Convention Facility Authority Act, which was found at MCL 141.1351 -1379.]

Sec. 17393. Qualified metropolitan area; creation of regional convention authority; regional convention authority as municipal public body corporate and politic; powers, duties, and jurisdictions; name; transfer of qualified convention facility from qualified city to regional convention authority; exemption from taxes and special assessments; presumption of validity.

(1) For an area of this state that is a qualified metropolitan area on the effective date of [sections 17393 through 17399e of this code](#), a regional convention authority is created for the qualified metropolitan area on the effective date of [sections 17393 through 17399e of this code](#). For an area of this state that becomes a qualified metropolitan area after the effective date of [sections 17393 through 17399e of this code](#), a regional convention authority is created for the qualified metropolitan area on the date the area became a qualified metropolitan area. A regional convention authority created under this section shall be a municipal public body corporate and politic and a metropolitan authority authorized by section 27 of article VII of the state constitution of 1963 and shall possess the powers, duties, and jurisdictions vested in the regional convention authority under [sections 17393 through 17399e of this code](#) and other laws. The regional convention authority shall not be an authority or agency of this state. The name of a regional convention authority created under this section shall include the name of the qualified city located within the qualified metropolitan area and the phrase "regional convention facility authority".

(2) Before the transfer date, a regional convention authority may organize and exercise all powers, duties, and jurisdictions granted under [sections 17393 through 17399e of this code](#), except the powers, duties, and jurisdictions related to the management, operation, and development of a qualified convention facility. On the transfer date, a regional convention authority is vested with the additional powers, duties, and jurisdictions under [sections 17393 through 17399e of this code](#) related to the management, operation, and development of a qualified convention facility.

(3) It is the intent of the legislature that the transfer of a qualified convention facility from a qualified city to a regional convention authority under [sections 17393 through 17399e of this code](#) and any payment required [section 17399 \(9\)](#) represents at least a fair exchange of value for value for the qualified city considering, without limitation, all of the following:

(a) The net value of the qualified convention facility prior to the transfer date after deducting deferred maintenance obligations, operational deficits, repair or expansion needs, and other liabilities related to the qualified convention facility that are obligations of the qualified city.

(b) The benefits to the qualified city resulting from the transfer of the qualified convention facility to the regional convention authority, including, but not limited to, assumption or payment of debt obligations of the qualified city by the regional convention authority, reductions in costs, liabilities or other obligations of the qualified city, additional revenues or other money not otherwise available for the qualified convention facility, and the positive economic impact to the qualified city likely to be generated by the operation of the qualified convention facility by the regional convention authority or any expansion or improvement of the qualified convention facility by the regional convention authority, especially economic impact resulting in the creation or retention of jobs and capital investment.

(c) Any bond proceeds, debt service payments, or other money payable directly or indirectly to the qualified city after the transfer date under [sections 17393 through 17399e of this code](#), ~~t [sections 17323 through 17340 of this code](#) state convention facility development act, 1985 PA 106, MCL 207.621 to 207.640,~~ or the health and safety fund act, 1987 PA 264, MCL 141.471 to 141.479.

(4) The property of a regional convention authority created under [sections 17393 through 17399e of this code](#) is public property devoted to an essential public and governmental purpose. Income of the regional convention authority is for a public and governmental purpose.

(5) Except as otherwise provided in this subsection, the property of the regional convention authority created under [sections 17393 through 17399e of this code](#) and its income, activities, and operations are exempt from all taxes and special assessments of this state or a political subdivision of this state. Property of a regional convention

authority and its income, activities, and operations that are leased to private persons are not exempt from any tax or special assessment of this state or a political subdivision of this state. Property of a regional convention authority is exempt from any ad valorem property taxes levied under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, or other law of this state authorizing the taxation of real or personal property. A regional convention authority is an entity of government for purposes of section 4a(1)(a) of the general sales tax act, 1933 PA 167, MCL 205.54a, and section 4h of the use tax act, 1937 PA 94, MCL 205.94h.

(6) The validity of the creation of a regional convention authority shall be conclusively presumed unless questioned in an original action filed in the court of appeals within 60 days after the creation of the regional convention authority under this section. The court of appeals has original jurisdiction to hear an action under this subsection. The court shall hear the action in an expedited manner.

Sec. 17394. Regional convention facility board of directors; membership; qualifications; "local government" defined; terms; vacancy; filing of appointment; oath; compensation; individuals prohibited from appointment.

1) A regional convention authority created under [sections 17393 through 17399e of this code](#) shall be directed and governed by a regional convention facility board of directors consisting of 5 members. The members of a regional convention authority regional convention facility board shall include all of the following:

- (a) One individual appointed by the governor of this state with the advice and consent of the senate.
- (b) One individual appointed by the local chief executive officer of the qualified city.
- (c) One individual appointed by the local chief executive officer of the qualified county.
- (d) One individual appointed by the local chief executive officer of the county bordering the qualified county with the highest population according to the most recent decennial census bordering the qualified county.
- (e) One individual appointed by the local chief executive officer of the county bordering the qualified county with the second highest population according to the most recent decennial census.

(2) Regional convention facility board members appointed under this section shall possess business, financial, or professional experience relevant to the operation of a corporation or a convention facility. No regional convention facility board member shall be an employee or officer of any local government or of this state. For purposes of this

subsection, "local government" includes any county, township, city, village, or intergovernmental entity in this state.

(3) Except as otherwise provided in this subsection, regional convention facility board members shall be appointed for a term of 6 years. Initial appointments under subsection (1) shall be made within 30 days of the creation of the regional convention authority. Of the regional convention facility board members initially appointed under subsection (1), the members appointed under subsection (1)(a) and (c) shall be appointed for a term expiring on the second August 31 following the creation of the regional convention authority, the members appointed under subsection (1)(b) and (d) shall be appointed for a term expiring on the third August 31 following the creation of the regional convention authority, the member appointed under subsection (1)(e) shall be appointed for a term expiring on the fourth August 31 following the creation of the regional convention authority. If a vacancy occurs on the regional convention facility board 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. Regional convention facility board members may continue to serve until a successor is appointed and qualified.

(4) Each officer appointing a regional convention facility board member under this section shall file the appointment with the secretary of state and the county clerk of each county in the qualified metropolitan area. Notwithstanding any law or local charter provision to the contrary, appointments by an officer are not subject to approval or rejection by a legislative body.

(5) Upon appointment to a regional convention facility board under this section, and upon taking and filing of the oath of office required by section 1 of article XI of the state constitution of 1963, a regional convention facility board member shall enter office and exercise the duties of the office of regional convention facility board member.

(6) Regional convention facility board members shall serve without compensation but may be reimbursed for actual and necessary expenses incurred while attending regional convention facility board meetings or performing other authorized official business of the regional convention authority.

(7) An individual who is not of good moral character or who has been indicted or charged with, convicted of, pled guilty or no contest to, or forfeited bail concerning a felony under the laws of this state, any other state, or the United States shall not be appointed or remain as a member of the regional convention facility board.

Sec. 17395. Regional convention facility board; meeting; election of chairperson and officers; actions requiring unanimous consent; business conducted at public meeting; availability of records and documents to public; system of accounts; annual audit; budget; contracts; use of competitive procurement methods; exceptions; purchases; preferences; procedures to monitor performance of contracts; employment of personnel; certain actions prohibited.

(1) Within not more than 30 days following appointment of the members of a regional convention facility board, the regional convention facility board shall hold its first meeting at a date and time determined by the individual appointed under section [17394\(1\)\(a\)](#). The regional convention facility board members shall elect from among the regional convention facility board members an individual to serve as chairperson of the regional convention facility board and may elect other officers as the regional convention facility board considers necessary. All officers shall be elected annually by the regional convention facility board. All actions of the regional convention facility board under [sections 17393 through 17399e of this code](#) shall require the unanimous consent of all serving members of the regional convention facility board, excluding any members prohibited from voting on an action due to a conflict of interest under [section 17397](#).

(2) The business of the regional convention facility board shall be conducted at a public meeting of the regional convention facility board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A regional convention facility board shall adopt bylaws consistent with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, governing its procedures and the holding of meetings. After organization, a regional convention facility board shall adopt a schedule of regular meetings and adopt a regular meeting date, place, and time. A special meeting of the regional convention facility board may be called by the chairperson of the regional convention facility board or as provided in bylaws adopted by the regional convention facility board. Notice of a special meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) A regional convention facility board shall keep a written or printed record of each meeting, which record and any other document or record prepared, owned, used, in the possession of, or retained by the regional convention authority in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) A regional convention facility board shall provide for a system of accounts for the regional convention authority to conform to a uniform system required by law and for the auditing of the accounts of an regional convention authority. The regional convention facility board shall obtain an annual audit of the regional convention authority by an independent certified public accountant and report on the audit and auditing procedures in the manner provided by sections 6 to 13 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.433. The audit also shall be in accordance with generally accepted government auditing standards and shall satisfy federal regulations relating to federal grant compliance audit requirements.

(5) Before the beginning of each fiscal year, a regional convention facility board shall cause to be prepared a budget for the regional convention authority containing an itemized statement of the estimated current operational expenses and the expenses for capital outlay including funds for the operation and development of convention facilities

under the jurisdiction of the regional convention facility board, including the amount necessary to pay the principal and interest of any outstanding bonds or other obligations of the regional convention authority maturing during the next fiscal year or that have previously matured and are unpaid, and an estimate of the estimated revenue of the regional convention authority from all sources for the next fiscal year. The regional convention facility board shall adopt a budget as for the fiscal year in accordance with the uniform budget and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(6) A regional convention facility board shall provide for the purchase of, the contracting for, and the providing of supplies, materials, services, insurance, utilities, third-party financing, equipment, printing, and all other items as needed by the regional convention authority to efficiently and effectively meet the needs of the regional convention authority using competitive procurement methods to secure the best value for the regional convention authority. The regional convention facility board shall make all discretionary decisions concerning the solicitation, award, amendment, cancellation, and appeal of regional convention authority contracts. A regional convention facility board shall provide for the acquisition of professional services, including, but not limited to, architectural services, engineering services, surveying services, accounting services, services related to the issuance of bonds, and legal services, in accordance with a competitive, qualifications-based selection process and procedure for the type of professional service required by the regional convention authority. A regional convention authority is not required to use competitive bidding when acquiring proprietary services, equipment, or information available from a single source, such as a software license agreement. A regional convention authority may enter into a cooperative purchasing agreement with the federal government, this state, or other public entities for the purchase of goods or services necessary for the regional convention authority. A regional convention authority may enter into lease purchases or installment purchases for periods not exceeding the anticipated useful life of the items purchased unless otherwise prohibited by law. In all purchases made by the regional convention authority, all other things being equal, preference shall be given first to products manufactured or services offered by firms based in the regional convention authority's qualified metropolitan area, including, but not limited to, each qualified city and qualified county in the qualified metropolitan area, and next to firms based in this state, if consistent with federal law. Except as otherwise provided in this section, the regional convention authority shall utilize competitive solicitation for all purchases authorized under [sections 17393 through 17399e of this code](#) unless 1 or more of the following apply:

- (a) Procurement of goods or services is necessary for the imminent protection of public health or safety or to mitigate an imminent threat to public health or safety, as determined by the regional convention authority or its chief executive officer.
- (b) Procurement of goods or services is for emergency repair or construction caused by unforeseen circumstances when the repair or construction is necessary to protect life or property.

- (c) Procurement of goods or services is in response to a declared state of emergency or state of disaster under the emergency management act, 1976 PA 390, MCL 30.401 to 30.421.
- (d) Procurement of goods or services is in response to a declared state of emergency under 1945 PA 302, MCL 10.31 to 10.33.
- (e) Procurement of goods or services is in response to a declared state of energy emergency under 1982 PA 191, MCL 10.81 to 10.89.
- (f) Procurement of goods or services is under a cooperative purchasing agreement with the federal government, this state, or more public entities for the purchase of goods and services necessary at fair and reasonable prices using a competitive procurement method for regional convention authority operations.
- (g) The value of the procurement is less than \$5,000.00, and the regional convention facility board has established policies or procedures to ensure that goods or services with a value of less than \$5,000.00 are purchased by the regional convention facility board at fair and reasonable prices. Procurement of goods or services with a value of less than \$5,000.00 may be negotiated with or without using competitive bidding as authorized in a procurement policy adopted by the regional convention facility board.
- (7) A regional convention facility board may not enter into any cost plus construction contract unless all of the following apply:
- (a) The contract cost is less than \$50,000.00.
 - (b) The contract is for emergency repair or construction caused by unforeseen circumstances.
 - (c) The repair or construction is necessary to protect life or property.
 - (d) The contract complies with requirements of applicable state or federal law.
- (8) The regional convention facility board shall adopt a procurement policy consistent with the requirements of [sections 17393 through 17399e of this code](#) and federal and state laws relating to procurement. The regional convention facility board shall adopt a policy to govern the control, supervision, management, and oversight of each contract to which the regional convention authority is a party. The regional convention facility board shall adopt procedures to monitor the performance of each contract including, but not limited to, a contract that exists on transfer date, to assure execution of the contract within the budget and time periods provided under the contract. The monitoring shall include oversight as to whether the contract is being performed in compliance with the terms of the contract, [sections 17393 through 17399e of this code](#), and federal and state law procurement law. The chief executive officer or other authorized employee of a regional

convention authority shall not sign or execute a contract until the contract is approved by the regional convention facility board. A regional convention facility board for a regional convention authority shall establish policies to ensure that the regional convention authority does not enter into a procurement or employment contract with a person who has been convicted of a criminal offense incident to the application for or performance of a contract or subcontract with a governmental entity in this state. A regional convention facility board for a regional convention authority shall establish policies to ensure that the regional convention authority does not enter into a procurement or employment contract with a person who has been convicted of a criminal offense, or held liable in a civil proceeding, that negatively reflects on the person's business integrity, based on a finding of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or violation of state or federal antitrust statutes, or similar laws. As used in this subsection, if a person is a business entity, person includes affiliates, subsidiaries, officers, directors, managerial employees, and any person who, directly or indirectly, holds a pecuniary interest in that business entity of 20% or more.

(9) A regional convention facility board may employ personnel as the regional convention facility board considers necessary to assist the regional convention facility board in performing the power, duties, and jurisdictions of the regional convention authority, including, but not limited to, employment of a chief executive officer as authorized under section 17396.

(10) A regional convention facility board shall establish policies to assure that the regional convention facility board and the regional convention authority shall not do either of the following:

(a) Fail or refuse to hire, recruit, or promote; demote; discharge; or otherwise discriminate against a person with respect to employment, compensation, or a term, condition, or privilege of employment, or a contract with the regional convention authority because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's ability to perform the duties of a particular job, position, or contract.

(b) Limit, segregate, or classify an employee, a contractor, or applicant for employment or a contract in a way that deprives or tends to deprive the employee, contractor, or applicant of an employment opportunity or otherwise adversely affects the status of an employee, contractor, or applicant because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position.

Sec. 17396. Chief executive officer; appointment; compensation; duties; responsibilities; service; powers; bond; certain conduct prohibited.

(1) A regional convention facility board may appoint and fix the compensation of a chief executive officer for the authority. If the regional convention facility board appoints a chief executive officer, the regional convention facility board shall prescribe the duties and responsibilities of the chief executive officer in addition to any duties and responsibilities imposed upon the chief executive officer under [sections 17393 through 17399e of this code](#). A chief executive officer of a regional convention authority shall serve at the pleasure of the regional convention facility board.

(2) A chief executive officer shall supervise, and be responsible for, the day-to-day operation of the regional convention authority, including the control, supervision, management, and oversight of convention facilities, the issuance of bonds and notes approved by the regional convention facility board, the negotiation and establishment of compensation and other terms and conditions of employment for any employees of the regional convention authority, the negotiation, supervision, and enforcement of contracts entered into by the regional convention authority and approved by the regional convention facility board, and the supervision of contractors of the regional convention authority in their performance of their duties. A regional convention facility board may delegate to the chief executive officer of a regional convention authority the power and responsibility to execute and deliver, and sign for, contracts, leases, obligations, and other instruments as have been approved by the regional convention facility board.

(3) A chief executive officer of a regional convention authority shall have all powers as are incident to the performance of his or her duties that are prescribed by [sections 17393 through 17399e of this code](#) or by the regional convention facility board. All actions of the chief executive officer of a regional convention authority shall be in conformance with the policies of the regional convention facility board and in compliance with applicable law.

(4) A regional convention facility board shall require the chief executive officer of a regional convention authority and any treasurer or chief financial officer of the regional convention authority to post a suitable bond of not less than \$50,000.00 issued by a responsible bonding entity, with the cost of the premium of the bond paid by the regional convention authority.

(5) All actions of the chief executive officer of a regional convention authority shall be in conformance with policies adopted by the regional convention facility board and in compliance with applicable law.

(6) The regional convention facility board of a regional convention authority shall not authorize the chief executive officer of the regional convention authority to do any of the following:

- (a) Appoint a successor to the chief executive officer.
- (b) Approve of a contract or a contract amendment.

- (c) Appoint or hire legal counsel for the regional convention facility board.
- (d) Prescribe ethical standards for the regional convention facility board or regional convention authority employees.

Sec. 17397. Regional convention facility board member or officer, appointee, or employee of regional convention authority; discharge of duties; nonpartisan; reliance on certain opinions, reports, or statements; adoption of bylaws; personal liability; insurance; conflicts of interest; ethics manual; removal of regional convention facility board member from office; filing financial disclosure statement; rules; interest in or employment by entity after termination of regional convention facility board membership or employment.

(1) A regional convention facility board member or an officer, employee, or agent of a regional convention authority shall discharge the duties of his or her position in a nonpartisan manner, in good faith, and with the degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging his or her duties, a regional convention facility board member or an officer, employee, or agent of a regional convention authority, when acting in good faith, may rely upon any of the following:

- (a) The opinion of counsel for the regional convention authority.
- (b) The report of an independent appraiser selected by the regional convention facility board.
- (c) Financial statements of the regional convention authority represented to the member of the regional convention facility board, officer, employee, or agent to be correct by the officer of the regional convention authority having charge of its books of account or stated in a written report by the state auditor general or a certified public accountant, or a firm of certified accountants, to reflect the financial condition of the regional convention authority.

(2) A regional convention facility board shall organize and make its own policies and procedures and shall adopt bylaws not inconsistent with [sections 17393 through 17399e of this code](#) governing its operations. The regional convention facility board shall meet at the call of the chairperson and as may be provided in the bylaws.

(3) A member of a regional convention facility board or an officer, appointee, or employee of a regional convention authority shall not be subject to personal liability when acting in good faith within the scope of his or her authority or on account of liability of the regional convention authority, and the regional convention facility board may indemnify a member of the regional convention facility board or an officer, appointee, or employee of the regional convention authority against liability arising out of the discharge of his or her official duties. A regional convention authority may indemnify and procure insurance indemnifying members of the regional convention

facility board and other officers and employees of the regional convention authority from personal loss or accountability for liability asserted by a person with regard to bonds or other obligations of the regional convention authority, or from any personal liability or accountability by reason of the issuance of the bonds or other obligations or by reason of any other action taken or the failure to act by the regional convention authority. The regional convention authority also may purchase and maintain insurance on behalf of any person against any liability asserted against the person and incurred by the person in any capacity or arising out of the status of the person as a member of the regional convention facility board or an officer or employee of the regional convention authority, whether or not the regional convention authority would have the power to indemnify the person against that liability under this section. A regional convention authority, pursuant to bylaw, contract, agreement, or resolution of its regional convention facility board, may obligate itself in advance to indemnify persons.

(4) Regional convention facility board members and officers and employees of a regional convention authority are public servants subject to 1968 PA 317, MCL 15.321 to 15.330, and are subject to any other applicable law with respect to conflicts of interest. A regional convention facility board shall establish policies and procedures requiring periodic disclosure of relationships which may give rise to conflicts of interest. The regional convention facility board shall require that a regional convention facility board member or chief executive officer of the regional convention authority with a direct interest in any matter before the regional convention authority disclose the regional convention facility board member's or officer's interest and any reasons reasonably known to the regional convention facility board member or officer why the transaction may not be in the best interest of the public or the regional convention authority before the regional convention facility board takes any action with respect to the matter. The disclosure shall become part of the record of a regional convention authority's proceedings.

(5) A regional convention authority shall establish an ethics manual governing the conducting of regional convention authority business and the conduct of regional convention authority officers and employees. A regional convention authority shall establish policies that are no less stringent than those provided for public officers and employees by 1973 PA 196, MCL 15.341 to 15.348, and coordinate efforts for the regional convention authority to preclude the opportunity for and the occurrence of transactions by the regional convention authority that would create a conflict of interest involving regional convention facility board members and officers or employees of the regional convention authority. At a minimum, the policies shall include compliance by each regional convention facility board member and officer or employees who regularly exercises significant discretion over the award and management of regional convention authority procurements with policies governing all of the following:

- (a) Immediate disclosure of the existence and nature of any financial interest that could reasonably be expected to create a conflict of interest.
- (b) Withdrawal by an employee, officer, or regional convention facility board member from participation in or discussion or evaluation of any recommendation

or decision involving a regional convention authority procurement that would reasonably be expected to create a conflict of interest for that employee or member.

(c) Annual public financial disclosure of significant financial interests as provided under [sections 17393 through 17399e of this code](#).

(6) The appointing regional convention authority of a regional convention facility board member may remove the regional convention facility board member from office for gross neglect of duty, corrupt conduct in office, or any other misfeasance or malfeasance in office.

(7) Each member of the regional convention facility board of a regional convention authority, the chief executive officer, and each key employee as determined by the regional convention facility board shall file with the secretary of state a financial disclosure statement listing assets and liabilities, property and business interests, and sources of income of the member, chief executive officer, and each key employee and any of their spouses in a form determined by the secretary of state. The financial disclosure statement shall be under oath and shall be filed at the time of appointment or employment and annually thereafter. The secretary of state may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the implementation of this subsection.

(8) A member of the regional convention facility board of a regional convention authority or employee of a regional convention authority shall not hold any direct or indirect interest in, be employed by, or enter into a contract for services with any entity doing business with the regional convention authority for a period of 2 years after the date his or her membership on the regional convention facility board terminates or his or her employment with the regional convention authority terminates.

Sec. 17398. Regional convention authority; powers and duties; levy of tax.

(1) Except as otherwise provided in [sections 17393 through 17399e of this code](#), a regional convention authority may do all things necessary or convenient to implement the purposes, objectives, and provisions of [sections 17393 through 17399e of this code](#) and the purposes, objectives, and jurisdictions vested in the regional convention authority or the regional convention facility board by [sections 17393 through 17399e of this code](#) or other law, including, but not limited to, all of the following:

(a) Adopt and use a corporate seal.

(b) Adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business.

(c) Sue and be sued in its own name and plead and be impleaded.

(d) Borrow money and issue bonds and notes according to the provisions of [sections 17393 through 17399e of this code](#).

(e) Make and enter into contracts, agreements, or instruments necessary, incidental, or convenient to the performance of its duties and execution of its powers, duties, and jurisdictions under [sections 17393 through 17399e of this code](#) with any federal, state, local, or intergovernmental governmental agency or with any other person or entity, public or private, upon terms and conditions acceptable to the regional convention authority.

(f) Engage in collective negotiation or collective bargaining and enter into agreements with a bargaining representative as provided by 1947 PA 336, MCL 423.201 to 423.217.

(g) Solicit, receive, and accept gifts, grants, labor, loans, contributions of money, property, or other things of value, and other aid or payment from any federal, state, local, or intergovernmental government agency or from any other person or entity, public or private, upon terms and conditions acceptable to the regional convention authority, or participate in any other way in a federal, state, local, or intergovernmental government program.

(h) Make application for and receive loans, grants, guarantees, or other financial assistance in aid of a convention facility from any state, federal, local, or intergovernmental government or agency or from any other source, public or private, including, but not limited to, financial assistance for purposes of developing, planning, constructing, improving, and operating a convention facility.

(i) Procure insurance or become a self-funded insurer against loss in connection with the property, assets, or activities of the regional convention authority.

(j) Indemnify and procure insurance indemnifying regional convention facility board members from personal loss or accountability for liability asserted by a person with regard to bonds or other obligations of the regional convention authority, or from any personal liability or accountability by reason of the issuance of the bonds or other obligations or by reason of any other action taken or the failure to act by the regional convention authority.

(k) Invest money of the regional convention authority, at the discretion of the regional convention facility board, in instruments, obligations, securities, or property determined proper by the regional convention facility board and name and use depositories for regional convention authority money. Investments shall be made consistent with an investment policy adopted by the regional convention facility board that complies with [sections 17393 through 17399e of this code](#) and 1943 PA 20, MCL 129.91 to 129.96.

(l) Contract for goods and services as necessary and as provided under [sections 17393 through 17399e of this code](#). A regional convention authority may contract with a management firm, either corporate or otherwise, to operate a qualified convention facility, under the supervision of the regional convention authority.

(m) Employ legal and technical experts, other officers, agents, employees, or other personnel, permanent or temporary, as considered necessary by the regional convention facility board as provided under [sections 17393 through 17399e of this code](#).

(n) Contract for the services of persons or entities for rendering professional or technical assistance, including, but not limited to, consultants, managers, legal counsel, engineers, accountants, and auditors, as provided under [sections 17393 through 17399e of this code](#).

(o) Establish and maintain an office.

(p) Acquire by gift, devise, transfer, exchange, purchase, lease, or otherwise on terms and conditions and in a manner the regional convention authority considers proper property or rights or interests in property. Property or rights or interests in property acquired by a regional convention authority may be by purchase contract, lease purchase, agreement, installment sales contract, land contract, or otherwise. The acquisition of any property by a regional convention authority for a convention facility in furtherance of the purposes of the regional convention authority is for a public use, and the exercise of any other powers granted to the regional convention authority is declared to be public, governmental, and municipal functions, purposes, and uses exercised for a public purpose and matters of public necessity.

(q) Hold, clear, remediate, improve, maintain, manage, protect, control, sell, exchange, lease, or grant easements and licenses on property or rights or interests in property that the regional convention authority acquires, holds, or controls.

(r) Except as provided in [section 17399](#) (13), convey, sell, transfer, exchange, lease, or otherwise dispose of property or rights or interest in property, excluding the sale or transfer of a qualified convention facility, to any person or entity on terms and conditions, and in a manner and for consideration the regional convention authority considers proper, fair, and valuable.

(s) Develop a convention facility.

(t) Assume and perform the obligations and covenants of a local government related to a qualified convention facility.

- (u) Enter into contracts or other arrangements with persons or entities, for granting the privilege of naming or placing advertising on or in all or any portion of a convention facility.
 - (v) Receive financial or other assistance from a person licensed under section 6 of the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.206.
 - (w) Establish and fix a schedule of rents, admission fees, or other charges for occupancy, use of, or admission to any convention facility operated by the regional convention authority and provide for the collection and enforcement of those rents, admission fees, or other charges.
 - (x) Adopt reasonable rules and regulations for the orderly, safe, efficient, and sanitary operation and use of a convention facility owned by the regional convention authority or under its operational jurisdiction.
 - (y) Do all other acts and things necessary or convenient to exercise the powers, duties, and jurisdictions of the regional convention authority under [sections 17393 through 17399e of this code](#) or other laws that related to the purposes, powers, duties, and jurisdictions of the regional convention authority.
- (2) Notwithstanding any other provision of law to the contrary, a regional convention authority shall not have the power to impose or levy a tax.

Sec. 17399. Transfer of qualified convention facility to regional convention authority; resolution disapproving transfer; actions to occur on transfer date; duties and obligations of regional convention authority; certain contracts, agreements, conveyances, rights, obligations, or liabilities as voidable; cancellation or termination of agreement to which local government is party; reversion.

(1) Within 45 days of the effective date of [sections 17393 through 17399e of this code](#) or the date on which a metropolitan area becomes a qualified metropolitan area and prior to a transfer date, the legislative body of the qualified city in which a qualified convention facility is located may disapprove the transfer of the qualified convention facility to the authority by adopting a resolution disapproving the transfer. If the transfer is not disapproved, the qualified convention facility is transferred to the authority on the ninetieth day after the effective date of [sections 17393 through 17399e of this code](#) or the date on which a convention facility becomes a qualified convention facility. All of the following shall occur on a transfer date:

- (a) All right, title, and interest of a local government in and to a qualified convention facility located in a qualified metropolitan area shall by operation of [sections 17393 through 17399e of this code](#) be conveyed and transferred from the local government to the regional convention authority for the qualified metropolitan area, and the regional convention authority shall receive, succeed to,

and assume the exclusive right, responsibility, and authority to own, occupy, operate, control, develop, and use the qualified convention facility from and after the transfer date, including, but not limited to, all real property, buildings, improvements, structures, easements, rights of access, and all other privileges and appurtenances pertaining to the qualified convention facility, subject only to those restrictions imposed by [sections 17393 through 17399e of this code](#).

(b) All right, title, and interest in and to the fixtures, equipment, materials, furnishings, and other personal property of a local government owned or controlled and used for purposes of the qualified convention facility by the local government shall by operation of [sections 17393 through 17399e of this code](#) be conveyed and transferred from the local government to the regional convention authority for the qualified metropolitan area, and the regional convention authority shall receive, succeed to, and assume the exclusive right, responsibility, and authority to possess and control the property from and after the transfer date.

(c) All licenses, permits, approvals, or awards of a local government related to the ownership, occupancy, operation, control, development, or use of a qualified convention facility by the local government shall by operation of [sections 17393 through 17399e of this code](#) be conveyed and transferred from the local government to the regional convention authority for the qualified metropolitan area and be assumed by the regional convention authority.

(d) All grant agreements, grant preapplications, grant applications, rights to receive the balance of any funds payable under the agreements or applications, the right to receive any amounts payable from and after the transfer date, and the benefits of contracts or agreements of a local government related to the ownership, occupancy, operation, control, development, or use of a qualified convention facility by the local government shall by operation of [sections 17393 through 17399e of this code](#) be conveyed and transferred from the local government to the regional convention authority for the qualified metropolitan area and be assumed by the regional convention authority.

(e) All of the duties, liabilities, responsibilities, and obligations of a local government related to the ownership, occupancy, operation, control, development, or use of a qualified convention facility by the local government shall by operation of [sections 17393 through 17399e of this code](#) be conveyed and transferred from the local government to the regional convention authority for the qualified metropolitan area and assumed by the regional convention authority, except for any liabilities, responsibilities, or obligations that are contested in good faith by, or, as of the transfer date, unknown to, the regional convention authority or as otherwise provided [sections 17393 through 17399e of this code](#).

(f) A regional convention authority for a qualified metropolitan area shall assume all of the outstanding securities of the local government that are special limited obligations payable from and secured by a lien on distributions received under

[sections 17323 through 17340 of this code](#) ~~the state convention facility development act, 1985 PA 106, MCL 207.621 to 207.640,~~ and were originally issued to finance the acquisition or construction of, development of, or improvements to the qualified convention facility conveyed and transferred to the regional convention authority for the qualified metropolitan area under this section, and the regional convention authority may refund or defease the securities. If the regional convention authority refunds the outstanding securities assumed under this subsection, that refunding shall be considered, as a matter of law, to be necessary to eliminate requirements of covenants applicable to the existing outstanding securities.

(2) A regional convention authority shall assume, accept, or become liable for lawful agreements, obligations, promises, covenants, commitments, and other requirements of a local government relating to operating a qualified convention facility conveyed and transferred under this section, except as provided in subsection (4). A regional convention authority shall perform all of the duties and obligations and shall be entitled to all of the rights of a local government and under any agreements expressly assumed and accepted by the regional convention authority related to the transfer of a qualified convention facility from the local government to the regional convention authority under this section.

(3) The local chief executive officer of a local government from which the rights, responsibility, and authority to own, occupy, operate, control, develop, and use a qualified convention facility are conveyed and transferred from the local government to a regional convention authority for a qualified metropolitan area under this section shall execute the instruments of conveyance, assignment, and transfer or other documents as may, in the regional convention authority's and the officer's reasonable judgment, as necessary or appropriate to recognize, facilitate, or accomplish the transfer of the qualified convention facility from the local government to the regional convention authority under this section.

(4) A regional convention authority for a qualified metropolitan area shall not assume any unfunded obligations of a local government transferring a qualified convention facility under this section to provide pensions or retiree health insurance. Upon request by the regional convention authority, the local government shall provide the regional convention authority with a statement of the amount of the unfunded obligations, determined by a professional actuary acceptable to the regional convention authority.

(5) All lawful actions, commitments, and proceedings of a local government made, given, or undertaken before the transfer date and assumed by a regional convention authority under this section are ratified, confirmed, and validated upon assumption. All actions, commitments, or proceedings of the local government relating to a qualified convention facility in the process of being undertaken by, but not yet a commitment or obligation of, the local government regarding the qualified convention facility may, from and after the date of assumption by the regional convention authority under this section, be undertaken and completed by the regional convention authority in the manner and at the times provided in [sections 17393 through 17399e of this code](#) or other applicable law and in

any lawful agreements made by the local government before the date of assumption by the regional convention authority under this section.

(6) The exclusive right and authorization to own, occupy, operate, control, develop, and use a qualified convention facility transferred under this section shall include, but not be limited to:

(a) Ownership and operational jurisdiction over all real property of the qualified convention facility, subject to any liens of record and legal restrictions and limitations on the use of the property.

(b) The local government's right, title, and interest in, and all of the local government's responsibilities arising under, operating leases and concessions relating to a qualified convention facility.

(7) The transfers described under this section shall include, but need not be limited to, all of the following:

(a) All contracts with licensees, franchisees, tenants, concessionaires, and leaseholders.

(b) All operating financial obligations secured by revenues and fees generated from the operations of the qualified convention facility.

(c) All cash balances and investments relating to or resulting from operations of the qualified convention facility, all funds held under an ordinance, resolution, or indenture related to or securing obligations of the local government assumed by the regional convention authority, and all of the accounts receivable or choses in action arising from operations of the qualified convention facility. Fund transfers under this subdivision are limited to funds received after the transfer date and funds necessary to pay obligations related to the operation of the qualified convention facility accrued before the transfer date and not paid by the local government.

(d) All office equipment, including, but not limited to, computers, records and files, software, and software licenses required for financial management, personnel management, accounting and inventory systems, and general administration.

(8) The transfer of the real and personal property and operational jurisdiction over a qualified convention facility to a regional convention authority may not in any way impair any contracts with licensees, franchisees, vendors, tenants, bondholders, or other parties in privity with the local government that owned a qualified convention facility transferred to an regional convention authority under this section, if the contracts were not entered into or modified in violation of [sections 17393 through 17399e of this code](#).

(9) From and after the transfer date, a local government from which a qualified convention facility has been transferred shall be relieved from all further costs, responsibility, and liability arising from, or associated with, control, operation, development, and maintenance of the qualified convention facility. The local government shall continue to be responsible for all costs associated with local municipal services, including, but not limited to, police, fire, and emergency medical services, without any additional compensation from the regional convention authority. The regional convention authority shall provide for the payment of compensation not exceeding \$20,000,000.00 to the qualified city for any revenue otherwise payable to the qualified city from parking facilities operated by the qualified city at the qualified convention facility and for other costs incurred by the qualified city associated with the transfer of the qualified convention facility to the regional convention authority under this section.

(10) A local government that owns a qualified convention facility subject to transfer under this section or that owned a qualified convention facility transferred to a regional convention authority under this section shall comply with all of the following, before and after the transfer:

(a) Refrain from any action to sell, transfer, or otherwise dispose of a qualified convention facility other than to the regional convention authority or incur new or expanded obligations related to qualified convention facility, without the consent of the regional convention authority.

(b) Refrain from any approval of or material modification to any collective bargaining agreement applicable to local government employees employed at or assigned to the qualified convention facility or to terms of employment for employees at or assigned to the qualified convention facility. Any approval or modification subject to this subsection shall be null and void.

(c) Refrain from any action that, in the regional convention authority's judgment, would impair the regional convention authority's exercise of the powers granted to the regional convention authority under [sections 17393 through 17399e of this code](#) or that would impair the efficient operation and management of the qualified convention facility by the regional convention authority.

(d) Take all actions reasonably necessary to cure any defects in title to the qualified convention facility and related property transferred under this section, including, but not limited to, providing documents, records, and proceedings in respect of title.

(e) At the request of a regional convention authority, grant any license, easement, or right-of-way in connection with the qualified convention facility to the extent the regional convention authority has not been empowered to take these actions.

(f) Upon creation, a regional convention authority for the qualified metropolitan area in which the local government is located and before the transfer date may

conduct operations, maintenance, and repair of the convention facility in the ordinary and usual course of business.

(11) Any contract, agreement, lease, sale, disposition, transfer, or other conveyance, easement, license, right, obligation, debt, or liability assumed, approved, entered into, amended, or modified in violation of this section shall be voidable as a matter of law to the extent that the regional convention authority would otherwise assume, become party to or transferee of, or otherwise be obligated under the contract, agreement, lease, sale, disposition, transfer, conveyance, easement, license, right, obligation, debt, or liability.

(12) Unless otherwise provided in [sections 17393 through 17399e of this code](#), the local chief executive officer of a local government that owns a qualified convention facility subject to transfer under this section is authorized and shall take all reasonable steps to cancel or terminate any agreement to which the local government is a party that relates to the qualified convention facility and meets all the following criteria:

(a) The agreement relates to the qualified convention facility and the regional convention authority has not expressly assumed or accepted the agreement under subsection (2).

(b) The agreement provides for cancellation or termination.

(c) In the absence of cancellation or termination, the regional convention authority would become a party to the agreement by succession, assignment, operation of law, or any other involuntary means.

(13) If real property transferred from a qualified city to a regional convention authority under this section is no longer used by the regional convention authority for the purpose of maintaining or operating a convention facility as determined by a vote of the regional convention facility board, all right, title, and interest of the regional convention authority in the real property shall revert from the regional convention authority to the qualified city with the consent of the qualified city and upon payment by the qualified city to the regional convention authority of an amount equal to the compensation paid to the qualified city under [section 17399 \(9\)](#).

Sec. 173199a. Transfer of employees to regional convention authority; reassignment of employees within local government; representation; rights and benefits; effect of transfer on pension benefits or credits.

(1) The regional convention authority, as of the transfer date, immediately shall assume and be bound by any existing collective bargaining agreements applicable to employees of the local government whose employment is transferred to the regional convention authority either as a result of the regional convention authority's express assumption of the employees or by application of [section 17399](#) for the remainder of the term of the collective bargaining agreement. Local government employees whose employment is not

transferred to the regional convention authority shall be reassigned within the local government, pursuant to the terms of any applicable collective bargaining agreements. A representative of the employees or a group of employees in the local government who represents or is entitled to represent the employees or a group of employees of the local government pursuant to 1947 PA 336, MCL 423.201 to 423.217, shall continue to represent the employee or group of employees after the employees transfer to the regional convention authority. This subsection does not limit the rights of employees, pursuant to applicable law, to assert that a bargaining representative protected by this subsection is no longer their representative. The rights and benefits protected by this subsection may be altered by a future collective bargaining agreement or, for employees not covered by collective bargaining agreements, by benefit plans as established and adopted by the regional convention authority.

(2) Transferred employees shall not by reason of the transfer have their accrued local government pension benefits or credits diminished. If a transferring employee is not vested in his or her local government pension rights at the time of transfer, his or her posttransfer service with the regional convention authority shall be credited toward vesting in any local government retirement system in which the transferring employee participated prior to the transfer, but posttransfer service with the regional convention authority shall not be credited for any other purpose under the local government's retirement system, except as provided in subsection (4).

(3) A transferred local government employee described in this section or a person hired by the regional convention authority as a new employee after the transfer date may remain or become a participant in the local government retirement system until the regional convention authority has established its own retirement system or pension plan. During the period the employee remains or is a participant in the local government system, the employee's posttransfer service with the regional convention authority and his or her posttransfer compensation from the regional convention authority shall be counted in determining both eligibility for and the amount of pension benefits that the employee will be eligible to receive from the local government system or plan.

(4) If the local government maintains a retirement system that provides for continuing participation and benefit accrual by local government employees who transfer their employment to another entity in conjunction with transfer of a local government function to that entity, then the transferred employee may elect to remain a participant in the local government retirement system in lieu of participation in any retirement system or pension plan of the regional convention authority. If the transferred employee elects to remain a participant in the local government system, the employee's posttransfer service with the regional convention authority and his or her posttransfer compensation from the regional convention authority shall be counted in determining both eligibility for and the amount of pension benefits that the employee will be eligible to receive from the local government system or plan. Any election to remain in a local government system or plan shall be made within 60 days following the date the regional convention authority has established its own retirement system or pension plan and shall be irrevocable. Employees eligible to make the election described in this subsection shall be those

employees who immediately before their transfer date were participating in the local government system and who agree to make any employee contributions required for continuing participation in the local government system and also agree to meet all requirements and be subject to all conditions that, from time to time, apply to employees of the local government who participate in the local government system.

(5) For each employee meeting the requirements of subsection (4) who elects to remain a participant in the local government retirement system, the regional convention authority shall, on a timely basis, contribute, as applicable, to the trustees of that retirement system an amount determined by the local government system's actuary to be sufficient to fund the liability for all of that employee's retirement and other postemployment benefits under the system on a current basis, as those liabilities are accrued from and after the transfer date.

Sec. 17399b. Revenue sources; establishment of regional convention facility operating trust fund; expenditures; limitation; financial obligation.

(1) Except as provided in subsection (3), a regional convention authority may raise revenues to fund all of its activities, operations, and investments consistent with its purposes. The sources of revenue available to the regional convention authority may include, but are not limited to, any of the following:

- (a) Rents, admission fees, or other charges for use of a convention facility which the regional convention authority may fix, regulate, and collect.
- (b) Federal, state, or local government grants, loans, appropriations, payments, or contributions.
- (c) The proceeds from the sale, exchange, mortgage, lease, or other disposition of property that the regional convention authority has acquired.
- (d) Grants, loans, appropriations, payments, proceeds from repayments of loans made by the regional convention authority, or contributions from public or private sources.
- (e) Distributions from the convention facility development fund of the state pursuant to [sections 17323 through 17340 of this code](#) ~~the state convention facility development act, 1985 PA 106, MCL 207.621 to 207.640.~~
- (f) Investment earnings on the revenues described in subdivisions (a) to (e).

(2) The revenues raised by a regional convention authority may be pledged, in whole or in part, for the repayment of bonded indebtedness and other expenditures issued or incurred by the regional convention authority.

(3) Notwithstanding any other provision of law to the contrary, a regional convention authority shall not have the power to impose or levy a tax.

(4) The regional convention facility board by resolution may establish a regional convention facility operating trust fund for the purpose of accumulating funds to pay for the cost of operating and maintaining a qualified convention facility. Money for operating and maintaining a qualified convention facility, at the regional convention authority's discretion, may be provided from this fund or any other money of the regional convention authority. The resolution establishing the fund shall include all of the following:

(a) The designation of a person or persons who shall act as the fund's investment fiduciary.

(b) A restriction of withdrawals from the fund solely for the payment of reasonable operating and maintenance expenses of a convention facility and the payment of the expenses of administration of the fund.

(5) An investment fiduciary shall invest the assets of the fund in accordance with an investment policy adopted by the regional convention facility board that complies with section 13 of the public employee retirement system investment act, 1965 PA 314, MCL 38.1133. However, the investment fiduciary shall discharge his or her duties solely in the interest of the regional convention authority. The regional convention authority may invest the fund's assets in the investment instruments and subject to the investment limitations governing the investment of assets of public employee retirement systems under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140m.

(6) A regional convention authority shall not expend more than \$279,000,000.00 to develop an expanded or renovated convention facility under [sections 17393 through 17399e of this code](#). Contracts for the development of an expanded or renovated convention facility shall be fixed price contracts and shall not exceed \$279,000,000.00 in total.

(7) A financial obligation of a regional convention authority is a financial obligation of the regional convention authority only and not a financial obligation of this state, a qualified city, a qualified county, or a county bordering a qualified county. A financial obligation of the regional convention authority shall not be transferred to this state, a qualified city, a qualified county, or a county bordering a qualified county.

Sec. 17399c. Bonds or municipal securities; issuance; interest rate exchange or swap, hedge, or similar agreements; creation of reserve fund; pledge; filing; issuance and delivery of notes; maturity; use of proceeds; exemptions.

(1) For the purpose of acquiring, purchasing, constructing, improving, enlarging, furnishing, equipping, reequipping, developing, refinancing, or repairing a convention facility transferred under section 17399 or subsequently acquired by a regional

convention authority, the regional convention authority may issue self-liquidating bonds of the regional convention authority in accordance with and exercise all of the powers conferred upon public corporations by the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. Revenue bonds issued by the regional convention authority are a debt of the regional convention authority and not a debt of any qualified county, county, qualified city, city, or this state.

(2) The regional convention authority may borrow money and issue municipal securities in accordance with and exercise all of the powers conferred upon municipalities by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) The regional convention authority may issue a bond or municipal security that bears no interest and appreciates as to principal amount. The bonds or municipal securities authorized by this subsection shall be exempt from section 305(2) and (3) of the revised municipal finance act, 2001 PA 34, MCL 141.2305.

(4) All bonds, notes, or other evidences of indebtedness issued by a regional convention authority under [sections 17393 through 17399e of this code](#), and the interest on the bonds or other evidences of indebtedness, are free and exempt from all taxation within this state, except for transfer and franchise taxes.

(5) The issuance of bonds, notes, or other evidences of indebtedness by a regional convention authority shall require approval of the regional convention facility board.

(6) For the purpose of more effectively managing its debt service, a regional convention authority may enter into an interest rate exchange or swap, hedge, or similar agreement or agreements in connection with the issuance or proposed issuance of bonds, notes, or other evidences of indebtedness or in connection with its then outstanding bonds, notes, or other evidences of indebtedness.

(7) In connection with entering into an interest rate exchange or swap, hedge, or similar agreement, the regional convention authority may create a reserve fund for the payment thereof.

(8) An agreement entered into pursuant to this section shall comply with all of the following:

(a) The agreement is not a debt of the regional convention authority entering into the agreement for any statutory or charter debt limitation purpose.

(b) The agreement is payable from general funds of the regional convention authority or, subject to any existing contracts, from any available money or revenue sources, including revenues specified by the agreement, securing the bonds, notes, or evidences of indebtedness in connection with which the agreement is entered into.

(9) A regional convention authority upon approval by resolution of the regional convention authority board may issue notes in anticipation of the proceeds of a proposed regional convention authority bond issuance. The regional convention authority may pledge for the payment of the principal, interest, or redemption premiums on the notes security from 1 or more of the sources to secure the bonds and the proceeds of the bonds to be issued to refund the notes. The pledge shall be valid and binding from the time made. The security pledged and received by a regional convention authority is immediately subject to the lien of the pledge without physical delivery of the security or further action. The lien is valid and binding against a person with a claim of any kind against the regional convention authority whether or not the person has notice of the pledge. Neither the resolution, trust indenture, nor any other instrument creating a pledge must be filed or recorded to establish and perfect a lien or security interest in the property pledged. In the resolution, the regional convention authority shall declare the necessity of the notes, the purpose of the notes, the principal amount of the notes to be issued, and an estimated principal payment schedule for and an estimated or maximum average annual interest rate on the notes. The issuance and delivery of the notes shall be conclusive as to the existence of the facts entitling the notes to be issued in the principal amount of the notes and shall not be subject to attack. The notes shall mature not more than the earlier of 3 years from the date of issuance or 90 days after the expected date of issuance of the bonds in anticipation of which the notes are issued and may bear no interest or interest at a fixed or variable rate or rates of interest per annum. The proceeds of notes issued under this subsection shall be used only for the purpose to which the proceeds of the bonds may be applied, the costs of issuance of the notes, and the payment of principal and interest on the notes. Notes issued under this section are exempt from the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

Sec. 17399d. Evidences of indebtedness or liability as contract; assumption and performance of obligations.

(1) Notwithstanding any other provisions of [sections 17393 through 17399e of this code](#) or any other law, the provisions of all ordinances, resolutions, and other proceedings of the local government in respect to any outstanding bonds, notes, or any and all evidences of indebtedness or liability assumed by a regional convention authority pursuant to [sections 17393 through 17399e of this code](#), if any, shall constitute a contract between the regional convention authority and the holders of the bonds, notes, or evidences of indebtedness or liability and are enforceable against the regional convention authority or any or all of its successors or assigns, by mandamus or any other appropriate suit, action, or proceeding in law or in equity in any court of competent jurisdiction in accordance with law.

(2) Bonds, notes, or any and all evidences of indebtedness or liability that are assumed by a regional convention authority under [sections 17393 through 17399e of this code](#) shall be payable from and secured by the sources of revenue that were pledged to those bonds, notes, or evidences of indebtedness or liability under the ordinance, resolution, or other

proceedings of the local government and shall not constitute a full faith and credit obligation of the regional convention authority or of this state.

(3) Nothing in [sections 17393 through 17399e of this code](#) or in any other law shall be held to relieve the local government from which a convention facility has been transferred from any bonded or other debt or liability lawfully contracted by the local government, to which the full faith and credit of the local government has been pledged and that remains outstanding as of the transfer date, notwithstanding that the proceeds of the debt or liability have been used by the local government in support of the convention facility.

(4) Upon the transfer of a convention facility to a regional convention authority, trustees, paying agents, and registrars for any obligation of the local government that has been expressly assumed by the regional convention authority under section 17399 shall perform all of their duties and obligations and provide all notices related to the obligations as if the regional convention authority were the issuer of the obligations. The trustees, paying agents, and registrars shall care for and consider all revenues and funds pledged to secure obligations of the local government that have been assumed by the regional convention authority under [section 17399](#) as revenues and funds of the regional convention authority. The regional convention authority shall indemnify and hold harmless these trustees, paying agents, and registrars from liability incurred in compliance with this subsection.

Sec. 17399e. Applicability of restrictions standards or prerequisites of local government; additional powers; construction of act.

(1) Unless permitted by [sections 17393 through 17399e of this code](#) or approved by a regional convention authority, any restrictions standards or prerequisites of a local government otherwise applicable to a regional convention authority and enacted after the effective date of [sections 17393 through 17399e of this code](#) shall not apply to a regional convention authority. This subsection is intended to prohibit special local legislation or ordinances applicable exclusively or primarily to a regional convention authority and not to exempt a regional convention authority from laws generally applicable to other persons or entities.

(2) The powers conferred in [sections 17393 through 17399e of this code](#) upon any regional convention authority or local government shall be in addition to any other powers the regional convention authority or local government possesses by charter or statute. The provisions of [sections 17393 through 17399e of this code](#) apply notwithstanding any resolution, ordinance, or charter provision to the contrary.

(3) [Sections 17393 through 17399e of this code](#) shall be construed liberally to effectuate the legislative intent and the purpose of [sections 17393 through 17399e of this code](#) as complete and independent authorization for the performance of each and every act and thing authorized in [sections 17393 through 17399e of this code](#), and all powers granted in [sections 17393 through 17399e of this code](#) shall be broadly interpreted to effectuate the

intent and purposes of [sections 17393 through 17399e of this code](#) and not as to limitation of powers.

DIVISION IV – STATE ACTIVITIES PROMOTING FILM INDUSTRY ACTIVITY IN MICHIGAN

PART A. FILM OFFICE

Sec. 17429a. Michigan film office; creation in fund; successor office; duties; powers; budget, procurement, and management functions; administration by film commissioner and president of fund; support staff; cooperation with departments, agencies, boards, commissions, and officers.

(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 section.

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

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

(i) [Section 17438d](#).

(ii) [Section 12288j\(3\)\(e\) of this code, formerly section 88j\(3\)\(e\) of the Michigan Strategic Fund Act, 1984 PA 270, MCL 125.088j\(3\)\(e\)](#).

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

(iv) Sections 17451, 17453, 17453 of this Code.

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

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

(4) The film 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 section.

Sec. 17429b. 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.

(1) The head of the office shall be the Michigan film commissioner. The film commissioner shall be a member of the state classified service. The terms and conditions of the employment of the film 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 film commissioner. Before entering upon the duties of his or her office, the film 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 film commissioner shall serve as an advisor to the governor on matters relating to films and other digital media. The film commissioner may report directly to the governor and the president of the fund on matters relating to the office, to the film council, and to films and digital media generally.

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

(4) The film commissioner shall attend the meetings of the film council and provide the film 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 section, the film commissioner shall exercise his or her powers, duties, functions, and responsibilities under this section independently of the fund.

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

Sec. 17429c. Michigan film office advisory film 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.

(1) The Michigan film office advisory film council is created in the office. The film 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 film commissioner, who shall serve as an ex officio nonvoting member of the film council.

(c) The president of the fund.

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

council and may elect other members of the film council as officers of the film council as the film council considers appropriate.

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

(4) Of the members of the film 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 film 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 film 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 film council.

(7) The film 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 film 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 film council under this section as requested by the film commissioner.
- (8) The film council shall meet not less than 3 times per year and at the call of its chairperson.

(9) A meeting of the film 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 film 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 film council serving constitute a quorum for the transaction of the film council's business. The film council shall act by a majority vote of its serving members. . **[Compilers' note: if sunshine provisions are universally adopted in Article I division V, this subsection and the next two (10-11) would be deleted.]**

(10) A writing prepared, owned, used, in the possession of, or retained by the film council when performing business of the film 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 film 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 film council shall not use for personal gain information obtained by the member while performing business of the film council, nor shall a member of the film council disclose confidential information obtained by the member while conducting film council business, except as necessary to perform film council business. The film 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 film council shall require that any member of the film council with a direct or indirect interest in any matter before the film council disclose the member's interest to the film council before the film council takes any action on the matter.

Sec. 17429d. 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.

- (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 [17451, 17453, and 17455 of this Code](#).

(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 17438d.

(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 section and other applicable law and for purposes authorized under this article.

Sec. 17429e. Michigan economic development corporation; joint exercise of power.

The powers and duties of the strategic fund under this article 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 strategic 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 strategic fund.

Sec. 17429f. Representation as employee or agent of office, film commissioner, or film council; authorization required; violation as misdemeanor; penalty.

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

Sec. 17429g. Transfer of records, personnel, property, grants, and unexpended balances.

(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 section 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 12288j\(3\)\(e\) of this code, formerly of the Michigan strategic fund act of 1984, 1984 public act 270](#), remaining in a work project on the effective date of the amendatory act that added this subsection.

Sec. 17438d 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; choose Michigan fund program; definitions. ([PA 80 & 223 of 2008 amending section 125.2088d of the Michigan Strategic Fund, as added by PA 225 of 2005](#))

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

(2) As a separate and distinct part of the loan enhancement program, the strategic 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 article unless the strategic 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 strategic fund.

(3) As a separate and distinct part of the loan enhancement program, the strategic fund shall reestablish the small business capital access program that was previously operated by the strategic 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 strategic 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 strategic 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 17451, 17453, 17453 of this Code, if the eligible production company or the film and digital media private equity fund agrees to name the strategic 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 strategic 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 section 17429d. 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 strategic fund shall establish and operate 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 17451, 17453, 17453 of this Code. 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 strategic 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 strategic fund board. A loan authorized by the strategic 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 strategic 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 strategic 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 [17429d of this Code](#). One hundred

percent of principal repaid under this subsection shall be deposited in the investment fund upon repayment.

(6) As a separate and distinct part of the loan enhancement program, the strategic fund shall operate the choose Michigan fund program to invest in loans from the investment fund to a qualified business. The choose Michigan fund program shall operate on an incentive basis and shall provide loans to qualified businesses to promote and enhance significant job creation or retention within this state. The choose Michigan fund shall not make a loan under this subsection after September 30, 2008. Notwithstanding any requirement imposed by the strategic fund before April 1, 2008, to receive a loan under this subsection, the strategic fund board may or may not require a qualified business to obtain an additional loan from an accredited financial institution or other approved lending market to obtain a loan under this subsection. At the discretion of the strategic fund board, not more than 2 loans provided through the choose Michigan fund may be forgivable. 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 any primary incentives, as determined by the strategic fund board.
- (d) Except as provided in subdivision (g), the qualified business is responsible for repayment of the loan regardless of any primary incentives received.
- (e) The qualified business is responsible for loan preparation and closing costs.
- (f) 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 strategic fund board.
- (g) A loan under this subsection may be converted to an equity investment by the strategic fund board.
- (h) The loan shall be subject to repayment provisions. If the loan is with a qualified business that closes down or relocates outside of Michigan anytime within 3 years after the term of the loan, then the provisions of the loan shall also include, at a minimum, immediate repayment of any outstanding principal, payment of a default interest rate, and repayment of any amounts forgiven.
- (i) In determining whether to forgive all or a portion of a loan to a qualified business, the strategic fund shall consider the net economic impact of the project on the state's economy. The loan agreement between the strategic fund and the

qualified business shall clearly enumerate the terms, conditions and requirements under which all or a portion of the loan may be forgiven, including, but not limited to, job creation and investment in this state. [Source: Section 88d of the Strategic Fund Act of 1984, MCL 125.2088d.]

PART B. FILM INDUSTRY TAX INCENTIVES

Subpart 1. Business Tax Incentives

Sec. 17451. 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. (PA 77 of 2008, added MCL 208.1455)

(1) The Michigan film office, with the concurrence of the state treasurer, may enter into an agreement with an eligible production company providing the [production](#) company with a credit against the tax imposed by [the Michigan business tax act of 2007, 2007 PA 36, MCL 208.1101 to 208.1601](#), 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 [production](#) 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 [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) 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 production company claims a credit under section 17455 of this Code.
- (b) A direct expenditure, or qualified personnel expenditure, for which the production 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 17455 of this Code, 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 production 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 production 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 production company and the qualified production that the production 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 [production](#) companies 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 [production](#) company. The [production](#) 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 of treasury 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 production company, the information or records have not been publicly disseminated at any time, and disclosure of the information or records may put the production company at a competitive disadvantage.
- (7) An eligible production company shall submit a postproduction certificate of completion issued under subsection (5) to the department of treasury. If the credit allowed under this section exceeds the tax liability of the production company for the tax year or if the production company claiming the credit does not have a tax liability under the Michigan business tax act of 2007, 2007 PA 36, MCL 208.1101 to 208.1601, for the tax year, the department of treasury shall refund the excess or pay the amount of the credit to the production company. The credit under this section shall be claimed after all other credits under the Michigan business tax act of 2007, 2007 PA 36, MCL 208.1101 to 208.1601,.
- (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 production 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 of treasury. 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.

Sec. 17453. Qualified film and digital media infrastructure project; tax credit.
 (From PA 86 of 2008, Amending Michigan business tax act of 2007, 2007 PA 26, by adding section 457, MCL 208.1457)

(1) Until September 30, 2015, the Michigan film office, with the concurrence of the state treasurer, may enter into an agreement with a taxpayer providing the taxpayer with a credit against the tax imposed by the Michigan business tax act of 2007, 2007 PA 36, MCL 208.1101 to 208.1601, for an investment in a qualified film and digital media infrastructure project, as provided under this section. To qualify for the credit under this section, a taxpayer shall meet all of the following requirements:

- (a) Before January 1, 2009, invest and expend at least \$100,000.00 for a qualified film and digital media infrastructure project in this state; after December 31, 2008, invest and expend at least \$250,000.00 for a qualified film and digital media infrastructure project in this state.
- (b) Enter into an agreement as provided in this section.
- (c) Receive an investment expenditure certificate from the office under subsection (5).
- (d) Submit the investment 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 investment expenditures made by a taxpayer for all qualified film and digital media infrastructure projects in this state, an agreement under this section may provide for the taxpayer to claim a tax credit equal to 25% of the taxpayer's base investment. The credit under this section shall be reduced by any credit claimed by the taxpayer under section 437 of the Michigan business tax act of 2007, 2007 PA 36, MCL 208.1437, for the same base investment. No more than \$20,000,000.00 in total credits under this section shall be authorized in a tax year. If all or a portion of a qualified film and digital media infrastructure project is a facility that may be used for purposes unrelated to production or postproduction activities, then the project is eligible for the credit only if the department determines that the facility will support and be necessary to secure production or postproduction activity for the production and postproduction facility and the taxpayer agrees to both of the following:

- (a) The facility will be used as a state of the art production or postproduction facility or as support and component of the facility for the useful life of the facility.
- (b) A credit will not be claimed under this section until the facility is complete.

(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 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 requirement that construction on the qualified film and digital media infrastructure project commence within 180 days of the date of the agreement or else the agreement shall expire. However, upon request submitted by the taxpayer based on good cause, the office may extend the period for commencement of work for up to an additional 90 days.
- (b) A unique number assigned to the qualified film and digital media infrastructure project.
- (c) A detailed description of the qualified film and digital media infrastructure project.
- (d) A detailed business plan and market analysis for the qualified film and digital media infrastructure project.
- (e) A projected budget for the qualified film and digital media infrastructure project.
- (f) Estimated start date and completion date for the qualified film and digital media infrastructure project.
- (g) A requirement that the taxpayer not file a claim for the credit under this section until at least 25% of the base investment in the qualified film and digital media infrastructure project identified in the agreement has been expended.
- (h) A requirement that the taxpayer provide the office with the information and independent certification the office and the department deem necessary to verify investment expenditures and eligibility for the credit under this section.
- (i) A requirement that if the cost of tangible assets described in subsection (11)(a) was paid or accrued in a tax year beginning after December 31, 2007, the taxpayer shall repay an amount equal to 25% of the gross proceeds or benefit derived from the sale or other disposition of the tangible assets minus the gain, multiplied by the apportionment factor for the taxable year as prescribed in chapter 3 of the Michigan business tax act of 2007, 2007 PA 36, MCL 208.1301 through 208.1311,

and plus the loss, multiplied by the apportionment factor for the taxable year as prescribed in chapter 3 of the Michigan business tax act of 2007, 2007 PA 36, MCL 208.1301 through 208.1311, from the sale or other disposition reflected in federal taxable income and minus the gain from the sale or other disposition added to the business income tax base in section 201 of the Michigan business tax act of 2007, 2007 PA 36, MCL 208.1201.

(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 film and digital media infrastructure project will be constructed in a location other than this state.
- (b) The extent to which the qualified film and digital media infrastructure project may have the effect of promoting economic development or job creation in this state.
- (c) The extent to which the credit will attract private investment for the production of motion pictures, videos, television programs, and digital media in this state.
- (d) The extent to which the credit will encourage the development of film, video, television, and digital media production and postproduction facilities in this state.

(5) If the Michigan film office determines that a taxpayer has complied with the terms of an agreement entered into under this section, the office shall issue an investment expenditure certificate to the taxpayer. The taxpayer shall submit a request to the office for an investment 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 an investment expenditure certificate and need not issue the investment expenditure certificate until satisfied that investment 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 investment 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 qualified film and digital media infrastructure project.
- (c) The taxpayer's eligible investment expenditures for the qualified film and digital media infrastructure project.

- (d) The unique number assigned to the qualified film and digital media infrastructure project by the office under subsection (3).
- (e) The taxpayer's federal employer identification number or Michigan treasury number.
- (f) 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 taxpayer shall submit an investment expenditure certificate issued under subsection (5) to the department. If the credit allowed under this section exceeds the amount of taxes owed by the taxpayer under the Michigan business tax act of 2007, 2007 PA 36, MCL 208.1101 to 208.1601, for a tax year, that portion of the credit that exceeds the tax liability of the taxpayer for the tax year shall not be refunded but may be carried forward to offset tax liability under the Michigan business tax of 2007, 2007 PA 36, MCL 208.1101 to 208.1601, in subsequent tax years for a period not to exceed 10 tax years or until used up, whichever occurs first.

(8) The credit under this section shall be claimed after all other credits under the Michigan business tax act of 2007, 2007 PA 36, MCL 208.1101 to 208.1601. A taxpayer eligible to claim a credit under this section 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 taxpayer 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 of treasury. A taxpayer claiming a credit under this section 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.

[Drafters Comment – How does this language interact with the credit provided by what was 2008 PA 77, Section 455 of the MBT, now section 17451 of this Code.? Is this credit still the last to be used after section 17453 and 17455 of this Code?]

(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 production promotion fund.

Sec.17455. Eligible production company; tax credit. (from [MCL 208.1459, Michigan Business Tax Act, PA 74 of 2008](#))

(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 [the Michigan business tax act of 2007, 2007 PA 36, MCL 208.1101 to 208.1601](#), 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 17451 of this Code.

(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 17451 of this Code, 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 of [treasury](#). If the credit allowed under this section exceeds the amount of taxes owed by the company

under the Michigan business tax act of 2007, 2007 PA 36, MCL 208.1101 to 208.1601, 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 the Michigan business tax act of 2007, 2007 PA 36, MCL 208.1101 to 208.1601, 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 the Michigan business tax act of 2007, 2007 PA 36, MCL 208.1101 to 208.1601. 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.

[Drafters Comment – How does this language interact with the credit provided by what was 2008 PA 77, Section 455 of the MBT, now section 17451 of this Code? Is this credit still the last to be used after section 17453 and 17455 of this Code?]

(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.

Subpart 2. Income Tax Incentives

Sec. 17457. State certified qualified production; tax credit. (PA 79 of 2008, adds MCL 206.367 to Michigan Income Tax Act of 1967.)

(1) An eligible production company may claim a credit for a state certified qualified production against the tax deducted and withheld under this article equal to the amount of the credit the eligible production company is eligible to claim for the state certified qualified production under section 17451 of this Code. 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 17451 of this Code.
- (b) A credit or portion of a credit that another taxpayer claims under this section or under section 17451 of this Code.

(2) The credit allowed under this section shall not exceed the tax liability of the eligible production company under the income tax act of 1967, 1967 PA 281, for the tax year. The credit under this section shall be claimed after all other credits under the income tax act of 1967, 1967 PA 281.

(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 17451 of this Code, are subject to withholding by the eligible production company as provided under section 351 of the income tax act of 1967, 1967 PA 281, MCL 206.351.

Subpart C. Michigan Economic Growth Authority Incentive

Sec. 17459 Film and Digital Media Production as an Eligible Business under the Michigan Economic Growth Authority Act, 1995 PA 24, MCL 207.801 to 207.810,

Film and digital media production as defined by section _____ of this code, (formerly section 3 of the Michigan Economic Growth Authority Act, 1995 PA 24, MCL 207.803, is an eligible business under division II of article XIV of this code, formerly the Michigan Economic Growth Authority Act, 1995 PA 24, MCL 207.801 to 207.810.

PART C. FILM INDUSTRY ACCESS INCENTIVES

Sec. 17463. Film production located in state; use of state property; information about potential film locations; definitions. (MCL 18.1125 of Management and Budget Act, 2008 PA 76.)

(1) The director of the department of management and budget 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 history 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 of the department of management and budget shall not authorize the use of property owned by or under the control of the department of the department of management and budget 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 management and budgets 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 management and budget and the use of property owned by or under the control of the department.

Sec.17465. Use of property for production of film; authorization; prohibited use; cooperation with Michigan film office; definitions. [PA 81 of 2008, Section 337, MCL 32.737, of Michigan Military Act]

(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.

Sec.17467. Film production located in state; authorization by director or commission to use property; exception; cooperation with Michigan film office; definitions. [PA 82 of 2008, adding section 512, as 324.512 to the Natural Resources and Environmental Protection Act]

(1) The director of the department of natural resources 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 natural resources for the purpose of producing a film under terms and conditions established by the director of the department of natural resources. 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 of the department of natural resources or the commission of natural resources shall not authorize the use of property owned by or under the control of the department of natural resources 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 natural resources 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 natural resources and the use of property owned by or under the control of the department of natural resources.

Sec. 17469 Film production located in state; authorization by director or commission to use property; exception; cooperation with Michigan film office; definitions. [From PA 83 of 2008, which adds Section 6b the State Transportation Commission Act, MCL 247.806b]

(1) The director of the department of transportation or the state transportation 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 state transportation commission for the purpose of producing a film under terms and conditions established by the director of the department of transportation or the state transportation 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 of the department of transportation or the state transportation 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 of transportation and the state transportation 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 state transportation commission and the use of property owned by or under the control of the state transportation commission.

Sec. 17471. Local Government Filming Location Access; Use of property for production of film; authorization by local unit of government; exception; cooperation with Michigan film office. [From Local Government Filming Location Access Act, as created by PA 84 of 2008, MCL 123.1191-95]

(1) Except as provided under subsection (2), a local unit of government 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 local unit of government for the purpose of producing a film under the terms and conditions established by the local unit of government. The economic and other benefits to the local unit of government and this state of film production located in the local unit of government or this state shall be considered the value received by the local unit of government and this state in exchange for the use of the property owned by or occupied by the local unit of government under this section.

(2) A local unit of government shall not authorize the use of property owned by or under the control of the local unit of government for the production of a film that includes obscene matter or an obscene performance or that requires that individually identifiable records be created and maintained for every performer as provided in 18 USC 2257.

(3) A local unit of government shall cooperate with the Michigan film office by providing the film office with information about potential film locations within the local unit of government and the use of property owned by or under the control of the local unit of government.