

JAN 18 2008

A BILL FOR AN ACT

RELATING TO DIGITAL MEDIA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 235-17, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) Any law to the contrary notwithstanding, there shall
5 be allowed to each taxpayer subject to the taxes imposed by this
6 chapter, an income tax credit which shall be deductible from the
7 taxpayer's net income tax liability, if any, imposed by this
8 chapter for the taxable year in which the credit is properly
9 claimed. The amount of the credit shall be:

10 (1) Fifteen per cent of the qualified production costs
11 incurred by a qualified production in any county of
12 the State with a population of over seven hundred
13 thousand; or

14 (2) Twenty per cent of the qualified production costs
15 incurred by a qualified production in any county of
16 the State with a population of seven hundred thousand
17 or less[-]; and



1 (3) Fifty per cent of the wages or salaries paid to below-
2 the-line crew members; provided that the below-the-
3 line crew member:

4 (A) Is a Hawaii resident;

5 (B) Has participated in below-the-line crew on-the
6 job-training or attended a below-the-line crew
7 training course established under section 394-8
8 or approved by the film industry branch of the
9 department of business, economic development, and
10 tourism; and

11 (C) Has been certified as a film and multimedia
12 trainee by the film industry branch of the
13 department of business, economic development, and
14 tourism;

15 provided further that any credit claimed under this
16 paragraph shall first be applied to a qualified
17 production's qualified production costs prior to
18 calculating any credit under paragraph (1) or (2).

19 [A] For the purposes of calculating a tax credit amount under
20 paragraphs (1) or (2), qualified production occurring in more
21 than one county may prorate its expenditures based upon the



1 amounts spent in each county, if the population bases differ
2 enough to change the percentage of tax credit.

3 In the case of a partnership, S corporation, estate, or
4 trust, the tax credit allowable is for qualified production
5 costs incurred by the entity for the taxable year. The cost
6 upon which the tax credit is computed shall be determined at the
7 entity level. Distribution and share of credit shall be
8 determined by rule.

9 If a deduction is taken under section 179 (with respect to
10 election to expense depreciable business assets) of the Internal
11 Revenue Code of 1986, as amended, no tax credit shall be allowed
12 for those costs for which the deduction is taken.

13 The basis for eligible property for depreciation of
14 accelerated cost recovery system purposes for state income taxes
15 shall be reduced by the amount of credit allowable and claimed."

16 2. By amending subsection (1) to read:

17 "(1) For the purposes of this section:

18 "Below-the-line crew" includes production, art
19 construction, set dressing, props, camera, sound, stage and
20 studio, electrical, grip, wardrobe, makeup, special effects,
21 laboratory and film, food transportation, locations, editorial
22 and other hires based upon industry standards.



1 "Commercial":

2 (1) Means an advertising message that is filmed using
3 film, videotape, or digital media, for dissemination
4 via television broadcast or theatrical distribution;

5 (2) Includes a series of advertising messages if all parts
6 are produced at the same time over the course of six
7 consecutive weeks; and

8 (3) Does not include an advertising message with
9 Internet-only distribution.

10 "Digital media" means production methods and platforms
11 directly related to the creation of cinematic imagery and
12 content, specifically using digital means, including but not
13 limited to digital cameras, digital sound equipment, and
14 computers, to be delivered via film, videotape, interactive game
15 platform, or other digital distribution media (excluding
16 Internet-only distribution).

17 "Post production" means production activities and services
18 conducted after principal photography is completed, including
19 but not limited to editing, film and video transfers,
20 duplication, transcoding, dubbing, subtitling, credits, closed
21 captioning, audio production, special effects (visual and
22 sound), graphics, and animation.



1 "Production" means a series of activities that are directly
2 related to the creation of visual and cinematic imagery to be
3 delivered via film, videotape, or digital media and to be sold,
4 distributed, or displayed as entertainment or the advertisement
5 of products for mass public consumption, including but not
6 limited to scripting, casting, set design and construction,
7 transportation, videography, photography, sound recording,
8 interactive game design, and post production.

9 "Qualified production":

10 (1) Means a production, with expenditures in the State,
11 for the total or partial production of a feature-
12 length motion picture, short film, made-for-television
13 movie, commercial, music video, interactive game,
14 television series pilot, single season (up to
15 twenty-two episodes) of a television series regularly
16 filmed in the State (if the number of episodes per
17 single season exceeds twenty-two, additional episodes
18 for the same season shall constitute a separate
19 qualified production), television special, single
20 television episode that is not part of a television
21 series regularly filmed or based in the State,
22 national magazine show, or national talk show. For



1 the purposes of subsections (d) and (j), each of the
2 aforementioned qualified production categories shall
3 constitute separate, individual qualified productions;
4 and

5 (2) Does not include: daily news; public affairs programs;
6 non-national magazine or talk shows; televised
7 sporting events or activities; productions that
8 solicit funds; productions produced primarily for
9 industrial, corporate, institutional, or other private
10 purposes; and productions that include any material or
11 performance prohibited by chapter 712.

12 "Qualified production costs" means the costs incurred by a
13 qualified production within the State that are subject to the
14 general excise tax under chapter 237 or income tax under this
15 chapter and that have not been financed by any investments for
16 which a credit was or will be claimed pursuant to section
17 235-110.9. Qualified production costs include but are not
18 limited to:

19 (1) Costs incurred during preproduction such as location
20 scouting and related services;

21 (2) Costs of set construction and operations, purchases or
22 rentals of wardrobe, props, accessories, food, office



- 1 supplies, transportation, equipment, and related
2 services;
- 3 (3) Wages or salaries of cast, crew, and musicians;
- 4 (4) Costs of photography, sound synchronization, lighting,
5 and related services;
- 6 (5) Costs of editing, visual effects, music, other post-
7 production, and related services;
- 8 (6) Rentals and fees for use of local facilities and
9 locations;
- 10 (7) Rentals of vehicles and lodging for cast and crew;
- 11 (8) Airfare for flights to or from Hawaii, and interisland
12 flights;
- 13 (9) Insurance and bonding;
- 14 (10) Shipping of equipment and supplies to or from Hawaii,
15 and interisland shipments; and
- 16 (11) Other direct production costs specified by the
17 department in consultation with the department of
18 business, economic development, and tourism."

19 SECTION 2. Section 383-128, Hawaii Revised Statutes, is
20 amended by amending subsection (c) to read as follows:

21 "(c) The director shall require employers who use or who
22 are assisted by any of these programs to contribute fifty per



1 cent of the cost of the assistance in cash or in-kind
2 contributions[-]; provided that this subsection shall not apply
3 to section 394-8(c)."

4 SECTION 3. Section 394-8, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[+]§394-8[+] **New industry training program.** (a) There
7 is hereby established the new industry training program, which
8 shall be administered by the department of labor and industrial
9 relations. Program moneys may be used to tailor training or
10 retraining programs to meet the needs of qualifying businesses,
11 to reimburse instructors for valid and approved expenditures in
12 delivering instruction under the program, to rent appropriate
13 training facilities and equipment, when necessary, to purchase
14 or develop materials required to deliver the instruction, and
15 for any other training-related expenses.

16 (b) The department shall utilize the resources of the
17 University of Hawaii, including the community college system,
18 the high technology development corporation, and other
19 educational and training resources in the public and private
20 sectors throughout the State as may be appropriate to be used to
21 provide preemployment or employment training or on-the-job
22 training for local residents hired by businesses relocating to



1 Hawaii or expanding their local operations. The department may
2 contract for these training needs from public agencies including
3 the various University of Hawaii campuses, private educational
4 institutions, nonprofit corporations, or private entities in
5 order to provide the required training.

6 (c) The department shall be authorized to implement and
7 operate media production training programs under this section;
8 provided that the media production training programs shall be
9 developed and administered under the guidance of an advisory
10 group consisting of members from the University of Hawaii,
11 including the community colleges and the academy of creative
12 media, the Hawaii film office, and trade unions."

13 SECTION 4. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 5. This Act shall take effect on July 1, 2008;
16 provided that:

17 (1) Section 1 of this Act shall apply to wages and
18 salaries paid to Hawaii residents in below-the-line
19 crew positions on or after July 1, 2008, and before
20 January 1, 2016; and

21 (2) Section 1 of this Act shall be repealed on January 1,
22 2016, and section 235-17, Hawaii Revised Statutes,



1 shall be reenacted in the form in which it read on the
2 day before the effective date of this Act.
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Report Title:

Digital Media; Tax Credit

Description:

Authorizes the department of labor and industrial relations to implement and operate media production training programs. Amends the motion picture, digital media, and film production income tax credit to allow a tax credit on fifty per cent of wages paid to below-the-line crew who are Hawaii residents that meet certain training and certification requirements.

