
A BILL FOR AN ACT

RELATING TO FILM AND DIGITAL MEDIA INDUSTRY DEVELOPMENT.

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

1 SECTION 1. The legislature finds that the film industry in
2 Hawaii is an important component of a diversified economy. The
3 legislature also finds that the motion picture, digital media,
4 and film production income tax credit has been effective in
5 stimulating the economy and creating quality jobs in a clean
6 industry while promoting Hawaii as a visitor destination.

7 The legislature further finds that the film production
8 process can extend over several years due to extensive planning
9 and development in the preproduction stage. The motion picture,
10 digital media, and film production income tax credit's current
11 sunset date of January 1, 2019, will discourage new productions
12 that may be in the development and preproduction phases at that
13 point in time.

14 The legislature also finds that additional amendments to
15 the motion picture, digital media, and film production income
16 tax credit are needed to ensure it continues to benefit the
17 State.



- 1 The purpose of this Act is to, among other things:
- 2 (1) Extend the motion picture, digital media, and film
3 production income tax credit for an additional five
4 years to provide stability and economic incentive
5 predictability for the film industry, so Hawaii
6 remains competitive and comparable to other
7 jurisdictions in attracting qualified productions,
8 which generates additional revenue, jobs, and tourism
9 marketing exposure;
- 10 (2) Clarify that qualifying production costs are those
11 costs incurred and expended within the State;
- 12 (3) Require that to qualify for the tax credit, a
13 production must provide evidence of recognition,
14 ability to understand, and efforts to respect and
15 comply with cultural and environmental sensitivities
16 and guidelines for filming in sensitive locations;
- 17 (4) Require that to qualify for the tax credit, a
18 production must employ or contract for the services of
19 cultural resources or historical, cultural, or
20 language experts to advise the production; and



1 (5) Require that to qualify for the tax credit, a
2 production must agree that if the production claims a
3 credit of more than \$8,000,000, the production will
4 provide an advanced screening of the finished product
5 in the county of the island in which the majority of
6 the production took place.

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

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

10 "(a) Any law to the contrary notwithstanding, there shall
11 be allowed to each taxpayer subject to the taxes imposed by this
12 chapter, an income tax credit that shall be deductible from the
13 taxpayer's net income tax liability, if any, imposed by this
14 chapter for the taxable year in which the credit is properly
15 claimed. The amount of the credit shall be:

16 (1) Twenty per cent of the qualified production costs
17 incurred and expended within the State by a qualified
18 production filmed in any county of the State with a
19 population of over seven hundred thousand; or

20 (2) Twenty-five per cent of the qualified production costs
21 incurred and expended within the State by a qualified



1 production filmed in any county of the State with a
2 population of seven hundred thousand or less.

3 A qualified production occurring in more than one county may
4 prorate its expenditures based upon the amounts spent in each
5 county, if the population bases differ enough to change the
6 percentage of tax credit.

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

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

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

20 2. By amending subsection (d) to read:

21 "(d) To qualify for this tax credit, a production shall:



- 1 (1) Meet the definition of a qualified production
2 specified in subsection (1);
- 3 (2) Have qualified production costs totaling at least
4 \$200,000;
- 5 (3) Provide the State, at a minimum, a shared-card, end-
6 title screen credit, where applicable;
- 7 (4) Provide evidence of reasonable efforts to hire local
8 talent and crew; [~~and~~]
- 9 (5) Provide evidence of financial or in-kind contributions
10 or educational or workforce development efforts, in
11 partnership with related local industry labor
12 organizations, educational institutions, or both,
13 toward the furtherance of the local film and
14 television and digital media industries[-];
- 15 (6) Provide evidence of ability to understand and navigate
16 cultural and environmental sensitivities unique to
17 Hawaii;
- 18 (7) Provide evidence of recognition of cultural and
19 environmental sensitivities, including those
20 regarding:



- 1 (A) Public lands adjacent to communities who have
2 concerns about using the area for filming;
- 3 (B) Nature preserves, wildlife sanctuaries, or areas
4 that are homes to endangered marine life;
- 5 (C) Ancient burial sites;
- 6 (D) Forested areas containing ancient taro terraces,
7 religious temples, or other architectural sites;
- 8 (E) Natural area reserves, marine reserves, Iolani
9 Palace, Washington Place, Mauna Ala, the King
10 Kamehameha statue in Honolulu, and Aliiolani
11 Hale; and
- 12 (F) Endangered marine mammals and other species;
- 13 (8) Provide evidence of reasonable efforts to comply with
14 the guidelines for filming in sensitive locations
15 established by the Hawaii film office;
- 16 (9) Employ or contract for the services of cultural
17 resources or historical, cultural, or language experts
18 to advise the production; and
- 19 (10) Agree that if any production claims a credit of more
20 than \$8,000,000 under this section, the production
21 shall provide a community screening of the finished



1 production in advance of its world premiere and within
2 the county of the island in which the majority of the
3 production took place; provided that at the time that
4 the final Hawaii production report is submitted, the
5 plans for this community screening shall be verified
6 with the Hawaii film office within the department of
7 business, economic development, and tourism, and the
8 plans are coordinated with the state and county film
9 office in advance of the screening."

10 3. By amending subsection (f) to read:

11 "(f) To receive the tax credit, the taxpayer shall first
12 prequalify the production for the credit by registering with the
13 Hawaii film office within the department of business, economic
14 development, and tourism during the development or preproduction
15 stage. Failure to comply with this provision may constitute a
16 waiver of the right to claim the credit. The taxpayer shall be
17 responsible for receiving a certification from the Hawaii film
18 office and shall include the certification in the taxpayer's tax
19 return to claim the tax credit."

20 4. By amending subsection (h) to read:



1 "(h) Every taxpayer claiming a tax credit under this
2 section for a qualified production shall, no later than ninety
3 days following the end of each taxable year in which qualified
4 production costs were expended, submit a written, sworn
5 statement to the department of business, economic development,
6 and tourism, identifying:

- 7 (1) All qualified production costs as provided by
8 subsection (a), if any, incurred in the previous
9 taxable year;
- 10 (2) The amount of tax credits claimed pursuant to this
11 section, if any, in the previous taxable year; and
- 12 (3) The number of total hires versus the number of local
13 hires by category and by county.

14 Failure to comply with this provision may constitute a waiver of
15 the right to claim the credit. This information may be reported
16 from the department of business, economic development, and
17 tourism to the legislature in redacted form pursuant to
18 subsection (i)(4)."

19 SECTION 3. Act 88, Session Laws of Hawaii 2006, as amended
20 by Act 89, Session Laws of Hawaii 2013, is amended by amending
21 section 4 to read as follows:



1 "SECTION 4. This Act shall take effect on July 1, 2006;
2 provided that:

3 (1) Section 2 of this Act shall apply to qualified
4 production costs incurred on or after July 1, 2006,
5 and before January 1, [~~2019,~~] 2024; and

6 (2) This Act shall be repealed on January 1, [~~2019,~~] 2024,
7 and section 235-17, Hawaii Revised Statutes, shall be
8 reenacted in the form in which it read on the day
9 before the effective date of this Act [~~-~~]; provided
10 that a taxpayer may claim any unused credit in
11 accordance with section 235-17(1), Hawaii Revised
12 Statutes, through calendar year 2024."

13 SECTION 4. No rule shall be adopted pursuant to chapter
14 91, Hawaii Revised Statutes, to expand the scope of section
15 235-17, Hawaii Revised Statutes, if the rule conflicts with the
16 legislative intent of that section.

17 SECTION 5. The department of business, economic
18 development, and tourism shall submit an annual report on the
19 activities and expenditures of the motion picture, digital
20 media, and film production income tax credit to the legislature



1 no later than twenty days prior to each regular session until
2 the tax credit expires.

3 SECTION 6. Beginning January 1, 2018, and each January 1
4 thereafter, the department of business, economic development,
5 and tourism shall hire an independent third party to conduct a
6 financial audit of each film production claiming a tax credit
7 pursuant to section 235-17, Hawaii Revised Statutes, for the
8 preceding year.

9 SECTION 7. Beginning January 1, 2018, the department of
10 business, economic development, and tourism, in collaboration
11 with the department of taxation, shall submit to the governor
12 and the legislature an annual report on the number of jobs
13 created in the State by, and the fiscal impact to the State of,
14 those film productions receiving the motion picture, digital
15 media, and film production income tax credit in the State;
16 provided that each report shall be independently verified and
17 audited for accuracy.

18 SECTION 8. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



1 SECTION 9. This Act shall take effect on July 1, 2050;
2 provided that section 2 shall apply to taxable years beginning
3 after December 31, 2050.

4



Report Title:

Film; Digital Media Industry; Tax Credit

Description:

Requires that to qualify for the tax credit, a production must provide evidence of recognition, ability to understand, and efforts to respect and comply with cultural and environmental sensitivities in sensitive locations; including employing or contracting for the services of cultural resources or historical, cultural, or language experts to advise the production. Requires that to qualify for the tax credit a production must agree that if the production claims a credit of more than \$8,000,000, the production will provide an advanced screening of the finished product in the county of the island in which the majority of the production took place. Clarifies that qualified expenditures are required to be expended within this State. Amends Act 88, Session Laws of Hawaii 2006, to extend the sunset date from 1/1/2019, to 1/1/24. Requires DBEDT to submit an annual report to the legislature regarding the activities and expenditures of the tax credit. Clarifies that no rule shall be adopted to expand the scope of the tax credit where the rule conflicts with legislative intent. Requires DBEDT to conduct a financial audit of every film production in the State. Requires DBEDT, in collaboration with Department of Taxation, to submit to the governor and the legislature a report on the number of jobs created in the State and the fiscal impact of every film production receiving the tax credit in the State; provided that each report shall be independently verified and audited for accuracy. Effective 7/1/2050. (SD1)

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