

STAND. COM. REP. NO. 562 -22

Honolulu, Hawaii

FEB 18 , 2022

RE: H.B. No. 1982
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committee on Economic Development, to which was referred
H.B. No. 1982 entitled:

"A BILL FOR AN ACT RELATING TO TAXES,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Require taxpayers claiming the motion picture, digital media, and film production tax credit to withhold payments to loan-out companies;
- (2) Prohibit the defense of erroneous claim for a refund or credit if the claim was generated by a tax credit and set the penalty for such case to ten percent;
- (3) Require a taxpayer claiming the film tax credit to submit a sworn statement and verification review only if qualified production costs exceed \$1,000,000;
- (4) Require the report by the Department of Business, Economic Development, and Tourism to include the dollar amount claimed, name of the company, and name of the qualified production of the taxpayers claiming the film tax credit;

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- (5) Require taxpayers for each qualified production to withhold a certain amount and remit that amount to the Department of Taxation; and
- (6) Amend the uses of the Tax Administration Special Fund.

Your Committee received testimony in support of this measure from the University of Hawai'i System; Rideback; and Motion Picture Association - America, Inc. Your Committee received comments on this measure from the Department of Taxation; Department of Business, Economic Development, and Tourism; Tax Foundation of Hawaii; and one individual.

Your Committee finds that the motion picture, digital media, and film production income tax credit (film tax credit) attracts film productions to Hawaii from all over the world. The film tax credit has brought hundreds of millions of dollars in revenue for the State and created thousands of jobs. The Department of Business, Economic Development, and Tourism reported that in 2021, the film industry brought \$432,000,000 in direct expenditures and created nearly 4,500 jobs in the State. However, your Committee believes that the tax structure of the film tax credit needs to be updated to ensure that the State receives its fair share of tax revenue.

Your Committee has heard the concerns raised in testimony by the Department of Taxation regarding some aspects of this measure that need further clarification. Your Committee concludes that amendments to this measure are necessary to address these concerns.

Accordingly, your Committee has amended this measure by:

- (1) Specifying that every person making payment to a loan-out company and claiming the film tax credit shall deduct and withhold ten percent of all payments made to a loan-out company for services performed in the State;
- (2) Requiring a person making a payment to a loan-out company to file a return with the Department of Taxation no later than thirty calendar days from when the payment was made to the loan-out company;




- (3) Requiring the Department of Taxation to prescribe forms and procedures necessary to administer the withholdings required by this measure;
- (4) Requiring all taxes withheld to be held in trust by the person withholding for the State;
- (5) Clarifying that a person who fails to properly withhold or remit taxes shall be liable for the failure as provided under existing law;
- (6) Authorizing the Director of Taxation to process and impose fees for qualified production applications for the film tax credit and deposit these fees in the Tax Administration Special Fund;
- (7) Deleting language that would have exempted qualified productions with qualified production costs that exceed \$1,000,000 from the requirements to submit a written statement and verification review;
- (8) Clarifying that the person who makes the payment to the loan-out company, rather than each qualified production, shall withhold an amount equal to 4.5 percent of qualified production costs, rather than withholding the general excise tax rate on manufacturing or producing;
- (9) Authorizing the Department of Taxation to establish four full-time equivalent tax auditor positions to examine claims for the film tax credit and other tax expenditures; and
- (10) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Economic Development that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1982, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1982, H.D. 1, and be referred to your Committee on Finance.

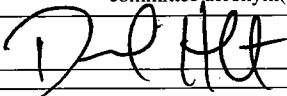


Respectfully submitted on
behalf of the members of the
Committee on Economic
Development,



SEAN QUINLAN, Chair

Record of Votes of the Committee on Economic Development

Bill/Resolution No.: HB 1982	Committee Referral: ECD, FIN	Date: 2/11/22		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
ECD Members	Ayes	Ayes (WR)	Nays	Excused
1. QUINLAN, Sean (C)	✓			
2. HOLT, Daniel (VC)	✓			
3. BELATTI, Della Au	✓			
4. KOBAYASHI, Dale T.	✓			
5. ONISHI, Richard H.K.	✓			
6. SAYAMA, Jackson D.	✓			
7. TAKAYAMA, Gregg	✓			
8. OKIMOTO, Val	✓			
TOTAL (8)	8	0	0	0
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align:center; font-size: small;">committee acronym(s)</div>				
Vice Chair's or designee's signature: <u></u>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				