

Honolulu, Hawaii

FEB - 1 2022

RE: S.B. No. 2079  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2022  
State of Hawaii

Sir:

Your Committee on Energy, Economic Development, and Tourism,  
to which was referred S.B. No. 2079 entitled:

"A BILL FOR AN ACT RELATING TO TAXES,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Establish a tax withholding requirement for all payments to loan-out companies for services performed in Hawaii for persons claiming the motion picture, digital media, and film production income tax credit;
- (2) Prohibit the defense against an erroneous claim for refund or credit that the claim for refund was generated by a tax credit;
- (3) Set the penalty for an erroneous claim for refund or credit that was generated by a tax credit at ten percent;
- (4) Require taxpayers claiming the motion picture, digital media, and film production income tax credit to submit a sworn statement and verification review to the Department of Business, Economic Development, and Tourism only if qualified production costs exceed \$1,000,000;



- (5) Require reports by the Department of Business, Economic Development, and Tourism to the Legislature on the motion picture, digital media, and film production income tax credit to identify the dollar amount claimed, name of company, and name of program claiming the credit;
- (6) Extend the period during which excess motion picture, digital media, and film production income tax credits may be claimed to December 31, 2032;
- (7) Require qualified productions that claim the motion picture, digital media, and film production income tax credit to withhold a certain amount and remit that amount within thirty calendar days to the Department of Taxation to the credit of the general excise tax account of the loan-out company; and
- (8) 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; Motion Picture Association - America, Inc.; International Alliance of Theatrical Stage Employees Local 665; and one individual. Your Committee received testimony in opposition of this measure from the Island Film Group and one individual. Your Committee received comments on this measure from the Department of Business, Economic Development, and Tourism; Department of Taxation; and Tax Foundation of Hawaii.

Your Committee finds that the motion picture, digital media, and film production income tax credit (income tax credit) stimulates the economy and creates quality employment while promoting Hawaii as a premier destination for both the film industry and visitors. According to testimony from the Department of Business, Economic Development, and Tourism, 2021 was a record year for motion picture, digital media, and film production in the State with \$432,000,000 in direct expenditures and the creation of four thousand five hundred new jobs. Your Committee further finds that amending certain criteria for the income tax credit will enable the State to continue this production momentum and diversify its economy.



Accordingly, your Committee has amended this measure by:

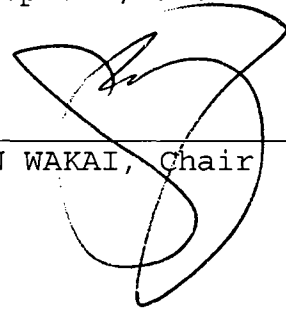
- (1) Relocating the language of the tax withholding requirement from chapter 235, Hawaii Revised Statutes, relating to income tax to chapter 237, Hawaii Revised Statutes, relating to general excise tax;
- (2) Clarifying the language of the tax withholding requirement to:
  - (A) Apply to persons that make payments to a loan-out company;
  - (B) Establish the withholding amount at the rate of ten percent of all payments to loan-out companies; and
  - (C) Establish deadlines for remitting payment and penalties for non-compliance;
- (3) Amending the amount for qualified productions that claim the income tax credit to withhold at 4.5 percent of the qualified production costs;
- (4) Adding language allowing the Department of Taxation to:
  - (A) Impose application processing fees for the income tax credit; and
  - (B) Establish four full-time equivalent tax auditor positions funded by the Tax Administration Special Fund to examine claims for the income tax credit and other tax expenditures;
- (5) Removing language that prohibits a taxpayer from invoking the defense against an erroneous claim for a refund or credit if the claim or refund was generated by a tax credit; and
- (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Energy, Economic Development, and Tourism that is



attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2079, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2079, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on  
behalf of the members of the  
Committee on Energy, Economic  
Development, and Tourism,



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GLENN WAKAI, Chair



