
A BILL FOR AN ACT

RELATING TO THE MOTION PICTURE, DIGITAL MEDIA, AND FILM
PRODUCTION INCOME TAX CREDIT.

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

1 SECTION 1. The legislature finds that the State has been
2 building its film industry for decades. Hawaii is an attractive
3 film destination due to desired scenic landscapes, deep cultural
4 ties, and the feeling of aloha experienced by all members of a
5 production cast and crew. However, Hawaii is also an expensive
6 place to produce film and television, which is largely due to
7 the State's isolated geographic location. Additionally, many
8 other jurisdictions are becoming more friendly and fiscally
9 enticing for motion picture, digital media, and film production
10 decision makers.

11 The legislature further finds that the motion picture,
12 digital media, and film production income tax credit was
13 established by Act 107, Session Laws of Hawaii 1997, to promote
14 the Hawaii film industry and make the State more attractive for
15 motion picture, digital media, and film production decision
16 makers. Initially, the income tax credit was limited to four



1 per cent of production costs and six per cent of transient
2 accommodation expenditures incurred in the State, and there was
3 no cap on the amount. However, the tax credit's existing
4 \$50,000,000 annual spending cap is not reflective of the current
5 volume of business of the State's film industry and does not
6 provide enough room for growth. Film production in the State
7 presently generates roughly \$90,000,000 in credit claims, which
8 creates approximately \$500,000,000 in revenue for the State's
9 economy and an estimated five thousand jobs. These credit
10 claims that exceed the \$50,000,000 cap are spread over multiple
11 years to comply with the cap amount. This rolling cap means
12 that once claims reach \$50,000,00, filers can apply the claim to
13 subsequent years to secure their credit claim. Currently,
14 claims have reached the \$50,000,000 cap for 2022 and 2023 and
15 are well into depleting 2024 funding, with approximately only
16 \$30,000,000 left to allocate.

17 The legislature further finds that with the growth of the
18 motion picture, digital media, and film industry, including the
19 creation and addition of streaming platforms, the State's film
20 industry would benefit from increasing the tax credit's cap
21 while also expanding the definition of qualified productions to



1 include streaming episodes and features. Expanding Hawaii's
2 film industry will diversify the economy and increase
3 opportunities for residents by increasing revenues to the State
4 and creating quality, high-paying jobs.

5 Accordingly, the purpose of this Act is to:

- 6 (1) Clarify requirements for film productions with
7 production expenditures of \$1,000,000 or more claiming
8 the motion picture, digital media, and film production
9 income tax credit;
- 10 (2) Increase the annual cap from \$50,000,000 to
11 \$75,000,000 for the total amount of the motion
12 picture, digital media, and film production tax
13 credit;
- 14 (3) Require qualified productions to meet certain local
15 hire and local vendor quotas; and
- 16 (4) Expand the definition of qualified production for the
17 motion picture, digital media, and film production
18 income tax credit to include streaming platforms.

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

- 21 1. By amending subsection (d) to read:



- 1 "(d) To qualify for this tax credit, a production shall:
- 2 (1) Meet the definition of a qualified production
- 3 specified in subsection (o);
- 4 (2) Have qualified production costs totaling at least
- 5 \$100,000;
- 6 (3) Provide the State a qualified Hawaii promotion, which
- 7 shall be at a minimum, a shared-card, end-title screen
- 8 credit, where applicable;
- 9 (4) Provide evidence of reasonable efforts to hire local
- 10 talent and crew;
- 11 (5) Provide evidence when making any claim for products or
- 12 services acquired or rendered outside of this State
- 13 that reasonable efforts were unsuccessful to secure
- 14 and use comparable products or services within this
- 15 State;
- 16 (6) Provide evidence of financial or in-kind contributions
- 17 or educational or workforce development efforts, in
- 18 partnership with related local industry labor
- 19 organizations, educational institutions, or both,
- 20 toward the furtherance of the local film and
- 21 television and digital media industries;



- 1 (7) Be compliant with all applicable requirements under
2 title 14, including tax return filing and payments;
3 [and]
- 4 (8) Provide complete responses to the department of
5 taxation's inquiries and document requests, in the
6 form prescribed by the department, no later than
7 ninety days from the inquiry or request [-];
- 8 (9) Have not less than seventy-five per cent local hires;
- 9 (10) Utilize one hundred per cent local vendors; provided
10 that employment of vendors shall be seventy-five per
11 cent local under contract; provided further that if a
12 local vendor does not have the necessary inventory on-
13 hand or in the State:
- 14 (A) The production shall first allow the local vendor
15 the opportunity to import any equipment,
16 materials, or supplies before outsourcing to an
17 out-of-state company; and
- 18 (B) Provide the local vendor adequate and reasonable
19 notice to allow for the vendor to ship any
20 equipment, materials, or supplies to the State,
21 which shall be provided, at a minimum:



- 1 (i) Not later than fifteen days after
- 2 confirmation of production; and
- 3 (ii) Not later than thirty days prior to shoot
- 4 date; and
- 5 (11) Submit a notarized statement that lists out-of-state
- 6 hires and vendors utilized and the reasons why local
- 7 hires and vendors were not utilized."

8 2. By amending subsection (h) to read:

9 "(h) Every taxpayer claiming a tax credit under this

10 section for a qualified production that has production

11 expenditures of \$1,000,000 or more shall, no later than ninety

12 days following the end of each taxable year in which qualified

13 production costs were expended, submit a written, sworn

14 statement to the department of business, economic development,

15 and tourism [~~that identifies:~~], together with an independent

16 third party certification performed by a qualified certified

17 public accountant, that verifies certain representations made

18 for the purposes of claiming the credit under this chapter,

19 using procedures prescribed by the department of business,

20 economic development, and tourism, and the department of

21 taxation, that includes:



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

8 This information may be reported from the department of
9 business, economic development, and tourism to the legislature
10 pursuant to subsection (i) (4)."

11 3. By amending subsections (n) and (o) to read:

12 "(n) The total amount of tax credits allowed under this
13 section in any particular year shall be [~~\$50,000,000~~]
14 \$75,000,000; however, if the total amount of credits applied for
15 in any particular year exceeds the aggregate amount of credits
16 allowed for that year under this section, the excess shall be
17 treated as having been applied for in the subsequent year and
18 shall be claimed in the subsequent year; provided that no excess
19 shall be allowed to be claimed after December 31, 2032."

20 (o) For the purposes of this section:

21 "Commercial":



- 1 (1) Means an advertising message that is filmed using
2 film, videotape, or digital media, for dissemination
3 via television broadcast or theatrical distribution;
- 4 (2) Includes a series of advertising messages if all parts
5 are produced at the same time over the course of six
6 consecutive weeks; and
- 7 (3) Does not include an advertising message with Internet-
8 only distribution.

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

15 "Post-production" means production activities and services
16 conducted after principal photography is completed, including
17 but not limited to editing, film and video transfers,
18 duplication, transcoding, dubbing, subtitling, credits, closed
19 captioning, audio production, special effects (visual and
20 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 (inclusive of broadcast and streaming
15 platforms) series pilot, single season (up to twenty-
16 two episodes [+] for broadcast television and up to ten
17 episodes for an ongoing series for streaming
18 platforms) of a [television] series [regularly] filmed
19 in the State [+if]. If the number of episodes per
20 single season for a broadcast television series
21 exceeds twenty-two, or if a single season for a



1 streaming series exceeds ten episodes, additional
2 episodes for the same season shall constitute a
3 separate qualified production[~~7~~]. A "qualified
4 production" also includes a television or streaming
5 platform special, single [~~television~~] episode that is
6 not part of a television or streaming platform series
7 regularly filmed or based in the State, national
8 magazine show, [~~or~~] and national talk show. For the
9 purposes of subsections (d) and (l), each of the
10 aforementioned qualified production categories shall
11 constitute separate, individual qualified productions;
12 and

- 13 (2) Does not include:
- 14 (A) News;
 - 15 (B) Public affairs programs;
 - 16 (C) Non-national magazine or talk shows;
 - 17 (D) Televised sporting events or activities;
 - 18 (E) Productions that solicit funds;
 - 19 (F) Productions produced primarily for industrial,
20 corporate, institutional, or other private
21 purposes; and



1 (G) Productions that include any material or
2 performance prohibited by chapter 712.

3 "Qualified production costs" means the costs incurred by a
4 qualified production within the State that are subject to the
5 general excise tax under chapter 237 at the highest rate of tax
6 or income tax under this chapter if the costs are not subject to
7 general excise tax and that have not been financed by any
8 investments for which a credit was or will be claimed pursuant
9 to section 235-110.9. Qualified production costs include but
10 are not limited to:

- 11 (1) Costs incurred during preproduction such as location
12 scouting and related services;
- 13 (2) Costs of set construction and operations, purchases or
14 rentals of wardrobe, props, accessories, food, office
15 supplies, transportation, equipment, and related
16 services;
- 17 (3) Wages or salaries of cast, crew, and musicians;
- 18 (4) Costs of photography, sound synchronization, lighting,
19 and related services;
- 20 (5) Costs of editing, visual effects, music, other post-
21 production, and related services;



- 1 (6) Rentals and fees for use of local facilities and
2 locations, including rentals and fees for use of state
3 and county facilities and locations that are not
4 subject to general excise tax under chapter 237 or
5 income tax under this chapter;
- 6 (7) Rentals of vehicles and lodging for cast and crew;
- 7 (8) Airfare for flights to or from Hawaii, and interisland
8 flights;
- 9 (9) Insurance and bonding;
- 10 (10) Shipping of equipment and supplies to or from Hawaii,
11 and interisland shipments; and
- 12 (11) Other direct production costs specified by the
13 department in consultation with the department of
14 business, economic development, and tourism;
- 15 provided that any government-imposed fines, penalties, or
16 interest that are incurred by a qualified production within the
17 State shall not be "qualified production costs". "Qualified
18 production costs" does not include any costs funded by any
19 grant, forgivable loan, or other amounts not included in gross
20 income for purposes of this chapter."



1 SECTION 3. Section 6 of Act 143, Session Laws of Hawaii
2 2017, is repealed.

3 [~~SECTION 6. No later than January 1, 2018, and each
4 January 1 thereafter, each film production that has production
5 expenditures of \$1,000,000 or more and is claiming a tax credit
6 pursuant to section 235-17, Hawaii Revised Statutes, shall
7 obtain an independent third party certification of qualified
8 production costs eligible for the motion picture, digital media,
9 and film production income tax credit in the form of a tax
10 opinion, as required under section 235-17(h), Hawaii Revised
11 Statutes, submitted to the department of business, economic
12 development, and tourism.~~"]

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 January 6, 2050;
16 provided that sections 2 and 3 shall apply to taxable years
17 beginning after December 31, 2023.



Report Title:

Motion Picture, Digital Media, and Film Production Income Tax Credit

Description:

Clarifies requirements for film productions with production expenditures of \$1,000,000 or more claiming the motion picture, digital media, and film production income tax credit. Increases the annual cap from \$50,000,000 to \$75,000,000 for the total amount of the motion picture, digital media, and film production tax credit. Requires productions to meet certain local hire and local vendor quotas. Expands the definition of qualified production for the motion picture, digital media, and film production income tax credit to include streaming platforms. Takes effect 1/6/2050. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

