

JAN 19 2012

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. 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]~~ Twenty-five per cent of the qualified
11 production costs incurred by a qualified production in
12 any county of the State with a population of over
13 seven hundred thousand; or

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



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

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

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 (j) to read:

21 "(j) Total tax credits claimed per qualified production
22 shall not exceed [~~\$8,000,000.~~] \$16,000,000."



3. By amending subsection (1) to read:

"(1) For the purposes of this section:

"Commercial":

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

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

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

"Digital media" means production methods and platforms directly related to the creation of cinematic imagery and content, specifically using digital means, including but not limited to digital cameras, digital sound equipment, and computers, to be delivered via film, videotape, interactive game platform, or other digital distribution media [~~excluding Internet-only distribution~~].

"Post production" means production activities and services conducted after principal photography is completed, including but not limited to editing, film and video transfers, duplication, transcoding, dubbing, subtitling, credits, closed



1 captioning, audio production, special effects (visual and
2 sound), graphics, and animation.

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

11 "Qualified production":

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



1 series regularly filmed or based in the State,
2 national magazine show, or national talk show. For
3 the purposes of subsections (d) and (j), each of the
4 aforementioned qualified production categories shall
5 constitute separate, individual qualified
6 productions[+]. Notwithstanding the foregoing, for
7 purposes of satisfying the criteria of subsection (d),
8 a taxpayer shall claim as part of a qualified
9 production the creation of related content intended
10 for distribution over the Internet, wireless network,
11 or similar methods of distribution; and

- 12 (2) Does not include: daily news; public affairs programs;
13 non-national magazine or talk shows; televised
14 sporting events or activities; productions that
15 solicit funds; productions produced primarily for
16 industrial, corporate, institutional, or other private
17 purposes; and productions that include any material or
18 performance prohibited by chapter 712.

19 "Qualified production costs" means the costs incurred by a
20 qualified production within the State that are subject to the
21 general excise tax under chapter 237 or income tax under this
22 chapter and that have not been financed by any investments for



1 which a credit was or will be claimed pursuant to section
2 235-110.9. Qualified production costs include but are not
3 limited to:

4 (1) Costs incurred during preproduction such as location
5 scouting and related services;

6 (2) Costs of set construction and operations, purchases or
7 rentals of wardrobe, props, accessories, food, office
8 supplies, transportation, equipment, and related
9 services;

10 (3) Wages or salaries of cast, crew, and musicians;

11 (4) Costs of photography, sound synchronization, lighting,
12 and related services;

13 (5) Costs of editing, visual effects, music, other post-
14 production, and related services;

15 (6) Rentals and fees for use of local facilities and
16 locations;

17 (7) Rentals of vehicles and lodging for cast and crew;

18 (8) Airfare for flights to or from Hawaii, and interisland
19 flights;

20 (9) Insurance and bonding;

21 (10) Shipping of equipment and supplies to or from Hawaii,
22 and interisland shipments; and



S.B. NO. 2111

(11) Other direct production costs specified by the department in consultation with the department of business, economic development, and tourism."

SECTION 2. Act 88, Session Laws of Hawaii 2006, is amended by amending section 4 to read as follows:

"SECTION 4. This Act shall take effect on July 1, 2006; provided that[+]

~~(1) Section]~~ section 2 of this Act shall apply to qualified production costs incurred on or after July 1, 2006, and before January 1, [2016; and

~~(2) This Act shall be repealed on January 1, 2016, and section 235-17, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act.] 2012."~~

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2012; provided that:

(1) Section 1 of this Act shall apply to qualified production costs incurred on or after January 1, 2012, and before January 1, 2027; and



S.B. NO. 2111

(2) This Act shall be repealed on January 1, 2027;
provided further that section 235-17, Hawaii Revised
Statutes, shall be reenacted in the form in which it
read on the day before the effective date of Act 88,
Session Laws of Hawaii 2006.

INTRODUCED BY:

Clarence W. Nickerson
Daniel K. Koko
A.S.T.

Carrie Fukushima
[Signature]
[Signature] David Y. Lee
[Signature]
Randy H. Baker
Will Enger
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]



S.B. NO. 2111

Report Title:

Taxation; Motion Picture, Digital Media, and Film Production Credit

Description:

Increases the motion picture, digital media, and film production income tax credit to twenty-five per cent of qualified production costs for any county with a population over 700,000 and thirty per cent of qualified production costs for all other counties; increases the total tax credit cap to \$16,000,000; applies to qualified production costs incurred on or after January 1, 2012, and before January 1, 2027; repeals on January 1, 2027.

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

