

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Motion Picture, Digital Media, and Film Production Income Tax Credit; Opportunity to Cure Deficiencies

BILL NUMBER: SB 795 SD 1

INTRODUCED BY: Senate Committee on Energy, Economic Development, and Tourism

EXECUTIVE SUMMARY: Relaxes the current requirement that a production comply with “all applicable requirements” under the tax laws to “provide evidence of reasonable efforts to comply.” Requires taxpayers be given notice and an opportunity to cure requirements for the motion picture, digital media, and film production income tax credit.

SYNOPSIS: Amends section 235-17(d), HRS, to change the requirement that a qualified production “Be compliant with all applicable requirements under title 14, including tax return filing and payments” to “Provide evidence of reasonable efforts to comply” with those requirements.

Adds a proviso that a taxpayer shall be given notice and an opportunity to cure any of the requirements in section 235-17(d).

EFFECTIVE DATE: January 6, 2050.

STAFF COMMENTS: The legislature by Act 107, SLH 1997, enacted an income tax credit of 4% for costs incurred as a result of producing a motion picture or television film in the state and 7.25% for transient accommodations rented in connection with such activity. The credit was adopted largely to address the impost of the state’s general excise tax on goods and services used by film producers.

The legislature by Act 88, SLH 2006, increased the 4% credit to 15% in a county with a population over 700,000 and to 20% in a county with a population of 700,000 or less. Act 88 also repealed the income tax credit for transient accommodations and expanded the credit to include commercials and digital media productions, and limited the credit to \$8 million per qualified production. Act 89, SLH 2013, increased the motion picture, digital media, and film production tax credit from 15% to 20% for the costs incurred in a county with a population over 700,000 and from 20% to 25% for costs incurred in a county with a population of 700,000 or less. Act 89 also increased the total tax credits that may be claimed per qualified production from \$8 million to \$15 million. Act 143, SLH 2017, imposed a statewide cap on such credits of \$35 million; Act 275, SLH 2019, increased the statewide cap to \$50 million.

Act 217, SLH 2022, increased the credit percentage for Oahu production costs from 20% to 22% and Neighbor Island production costs from 25% to 27%, but it also inserted two additional requirements in subsection (d), namely that a production “Be compliant with all applicable requirements under title 14, including tax return filing and payments; and ... Provide complete

responses to the department of taxation's inquiries and document requests, in the form prescribed by the department, no later than ninety days from the inquiry or request."

At the time the 2022 amendment was passed, we were concerned that these new requirements could be used to disqualify a production from all credits for relatively minor issues such as a single late return or failure to respond to a Department inquiry made informally or by mail to an address that was no longer effective.

We view the amendments by this bill as a way to restore some sanity to the administration of this credit.

Digested: 2/12/2023

**SB-795-SD-1**

Submitted on: 2/12/2023 10:45:44 AM

Testimony for WAM on 2/15/2023 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Patrick Brian Gilhooly II	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Dela Cruz, Vice-Chair Keith-Agaran, and members of the Senate Committee on Ways and Means,

My name is Patrick Brian Gilhooly II. I'm a member of IATSE Local 665, the union that represents entertainment technicians in the state of Hawai'i. I submit this testimony in support of SB 795 SD 1. I've been a member of IATSE 665 for almost 2 years and worked in the Film/TV sector of Hawai'i's entertainment industry for almost 6. We depend on the motion picture, digital media, and film production income tax credit to remain competitive in the global market. It is equally important to me that the recipients of this incentive provide evidence of compliance with all applicable qualifying requirements. Transparency is key in the fair administration of this incentive. It's for these reasons that I support SB 795 SD 1. Thank you for the opportunity to testify.

Sincerely,

Patrick Brian Gilhooly II

Member, IATSE 665

**SB-795-SD-1**

Submitted on: 2/12/2023 12:25:34 PM

Testimony for WAM on 2/15/2023 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Christina Fitzgerald	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Dela Cruz, Vice-Chair Keith-Agaran, and members of the Senate Committee on Ways and Means

My name is Christina Fitzgerald. My husband is a member of IATSE Local 665, the union that represents entertainment technicians in the state of Hawai'i. I submit this testimony in support of SB 795 SD 1. My husband has worked in the Film/TV sector of Hawai'i's entertainment industry for 5 years. We depend on the motion picture, digital media, and film production income tax credit to remain competitive in the global market. It is equally important to me that the recipients of this incentive provide evidence of compliance with all applicable qualifying requirements. Transparency is key in the fair administration of this incentive. It's for these reasons that I support SB 795 SD 1. Thank you for the opportunity to testify.

Sincerely,

Christina Fitzgerald

**SB-795-SD-1**

Submitted on: 2/12/2023 1:57:42 PM

Testimony for WAM on 2/15/2023 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Keahi Kuikahi	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Dela Cruz, Vice-Chair Keith-Agaran, and members of the Senate Committee on Ways and Means

My name is Keahi Kuikahi. I'm a member of IATSE Local 665, the union that represents entertainment technicians in the state of Hawai'i. I submit this testimony in support of SB 795 SD 1. I've been a member of IATSE 665 for 4 years worked in the Film/TV sector of Hawai'i's entertainment industry for 4 years. We depend on the motion picture, digital media, and film production income tax credit to remain competitive in the global market. It is equally important to me that the recipients of this incentive provide evidence of compliance with all applicable qualifying requirements. Transparency is key in the fair administration of this incentive. It's for these reasons that I support SB 795 SD 1. Thank you for the opportunity to testify.

Sincerely,

Keahi Kuikahi

Member, IATSE 665

**SB-795-SD-1**

Submitted on: 2/12/2023 2:18:03 PM

Testimony for WAM on 2/15/2023 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Nicholas Masciangelo	Individual	Support	Written Testimony Only

Comments:

My name is Nicholas Masciangelo. I'm a member of IATSE Local 665, the union that represents entertainment technicians in the state of Hawai'i. I submit this testimony in support of SB 795 SD 1. I've been a member of IATSE 665 for 5 years and worked in the Film/TV sector of Hawai'i's entertainment industry for 15 years. We depend on the motion picture, digital media, and film production income tax credit to remain competitive in the global market. It is equally important to me that the recipients of this incentive provide evidence of compliance with all applicable qualifying requirements. Transparency is key in the fair administration of this incentive. It's for these reasons that I support SB 795 SD 1. Thank you for the opportunity to testify.

Sincerely,

Nicholas Masciangelo

Member, IATSE 665

**SB-795-SD-1**

Submitted on: 2/13/2023 8:04:44 AM

Testimony for WAM on 2/15/2023 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kevin Kersting	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Dela Cruz, Vice Chair Keith-Aragan, and members of the Senate Committee on Ways and Means

My Name is Kevin Kersting. I'm a member of IATSE Local 665, the union that represents entertainment technicians in the State of Hawaii. I submit this testimony in support of SB 795 SD 1. I've been a member of IATSE Local 665 for 37 years, and worked in the Film/TV sector of Hawaii's entertainment industry for 45 years, We depend on the motion Picture, digital media, and film/video Income Tax Credit to remain competitive in the global market. It is equally important to me that the recipients of this incentive provide evidence of compliance with all applicable qualifying requirements. Transparency is key in the fair administration of this incentive. It's for these reasons that I support SB 795 SD 1 Thank you for the opportunity to testify.

Sincerely,

Kevin Kersting

Member, IATSE Local 665

**SB-795-SD-1**

Submitted on: 2/13/2023 10:51:20 AM

Testimony for WAM on 2/15/2023 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Raimar Bylaardt II	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Dela Cruz, Vice-Chair Keith-Agaran, and members of the Senate Committee on Ways and Means

My name is RaimarBylaardtII. I'm a member of IATSE Local 665, the union that represents entertainment technicians in the state of Hawai'i. I submit this testimony in support of SB 795 SD 1. I've been a member of IATSE 665 for 88 years and worked in the Film/TV sector of Hawai'i's entertainment industry for 19 years. We depend on the motion picture, digital media, and film production income tax credit to remain competitive in the global market. It is equally important to me that the recipients of this incentive provide evidence of compliance with all applicable qualifying requirements. Transparency is key in the fair administration of this incentive. It's for these reasons that I support SB 795 SD 1. Thank you for the opportunity to testify.

Sincerely,

Raimar Bylaardt II



Member, IATSE 665

**SB-795-SD-1**

Submitted on: 2/13/2023 11:45:54 AM

Testimony for WAM on 2/15/2023 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Fabio Bylaardt	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Dela Cruz, Vice-Chair Keith-Agaran, and members of the Senate Committee on Ways and Means.

I support SB 795 SD 1.

Thank you for the opportunity to testify.