
A BILL FOR AN ACT

RELATING TO THE FILM INDUSTRY.

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

1 SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended
2 by adding a new section to part V to be appropriately designated
3 and to read as follows:

4 "§46- Motion picture, digital media, and film
5 production income tax credit; waiver of permitting fees. (a)
6 Notwithstanding any law to the contrary, each county shall waive
7 any applicable permitting fees for film activity conducted on
8 county lands by a qualified production that qualifies for the
9 tax credit under section 235-17.

10 (b) For the purposes of this section, "qualified
11 production" shall have the same meaning as in section 235-17."

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

14 1. By amending subsection (h) to read:

15 "(h) Every taxpayer claiming a tax credit under this
16 section for a qualified production shall, no later than ninety
17 days following the end of each taxable year in which qualified



1 production costs were expended, submit a written, sworn
2 statement to the department of business, economic development,
3 and tourism that identifies:

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

11 If the qualified production costs of a taxpayer exceed
12 \$1,000,000 in a taxable year, the written, sworn statement shall
13 be accompanied by an independent third-party certificate, issued
14 by a qualified certified public accountant, that verifies all
15 representations made for the purpose of claiming the credit
16 under this section. The certificate shall be prepared and
17 submitted in accordance with standards and procedures prescribed
18 by the department of business, economic development, and tourism
19 and the department of taxation. This information may be
20 reported from the department of business, economic development,
21 and tourism to the legislature pursuant to subsection (i)(4)."



1 2. By amending subsections (n) and (o) to read:

2 "(n) The total amount of tax credits allowed under this
3 section in any particular year shall be [~~\$50,000,000; however,~~
4 ~~if the total amount of credits applied for in any particular~~
5 ~~year exceeds the aggregate amount of credits allowed for that~~
6 ~~year under this section, the excess shall be treated as having~~
7 ~~been applied for in the subsequent year and shall be claimed in~~
8 ~~the subsequent year; provided that no excess shall be allowed to~~
9 ~~be claimed after December 31, 2032.] \$ _____.~~

10 (o) For the purposes of this section:

11 "Commercial":

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

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

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

20 "Digital media" means production methods and platforms
21 directly related to the creation of cinematic imagery and



1 content, specifically using digital means, including but not
2 limited to digital cameras, digital sound equipment, and
3 computers, to be delivered via film, videotape, interactive game
4 platform, or other digital distribution media.

5 "Post-production" means production activities and services
6 conducted after principal photography is completed, including
7 but not limited to editing, film and video transfers,
8 duplication, transcoding, dubbing, subtitling, credits, closed
9 captioning, audio production, special effects (visual and
10 sound), graphics, and animation.

11 "Production" means a series of activities that are directly
12 related to the creation of visual and cinematic imagery to be
13 delivered via film, videotape, or digital media and to be sold,
14 distributed, or displayed as entertainment or the advertisement
15 of products for mass public consumption, including but not
16 limited to scripting, casting, set design and construction,
17 transportation, videography, photography, sound recording,
18 interactive game design, and post-production.

19 "Qualified production":

20 (1) Means a production, with expenditures in the State,
21 for the total or partial production of a feature-



1 length motion picture, short film, made-for-television
2 movie, commercial, music video, interactive game,
3 television (including broadcast and streaming
4 platforms) series pilot, single season (up to
5 twenty-two episodes[+]) for broadcast television; and
6 up to eight episodes for an ongoing series for
7 streaming platforms) of a [~~television~~] series
8 [~~regularly~~] filmed in the State [~~if~~]. If the number
9 of episodes per single season for a broadcast series
10 exceeds twenty-two, and if the number of episodes per
11 single season for a streaming series exceeds eight,
12 additional episodes for the same season shall
13 constitute a separate qualified production[+].
14 "Qualified production" also includes a television or
15 streaming platform special, single [~~television~~]
16 episode that is not part of a television or streaming
17 platform series regularly filmed or based in the
18 State, national magazine show, [~~or~~] and national talk
19 show. For the purposes of subsections (d) and (l),
20 each of the aforementioned qualified production



- 1 categories shall constitute separate, individual
2 qualified productions; and
- 3 (2) Does not include:
- 4 (A) News;
 - 5 (B) Public affairs programs;
 - 6 (C) Non-national magazine or talk shows;
 - 7 (D) Televised sporting events or activities;
 - 8 (E) Productions that solicit funds;
 - 9 (F) Productions produced primarily for industrial,
10 corporate, institutional, or other private
11 purposes; and
 - 12 (G) Productions that include any material or
13 performance prohibited by chapter 712.

14 "Qualified production costs" means the costs incurred by a
15 qualified production within the State that are subject to the
16 general excise tax under chapter 237 at the highest rate of tax
17 or income tax under this chapter if the costs are not subject to
18 general excise tax and that have not been financed by any
19 investments for which a credit was or will be claimed pursuant
20 to section 235-110.9. "Qualified production costs" include but
21 are not limited to:



- 1 (1) Costs incurred during preproduction such as location
2 scouting and related services;
- 3 (2) Costs of set construction and operations, purchases or
4 rentals of wardrobe, props, accessories, food, office
5 supplies, transportation, equipment, and related
6 services;
- 7 (3) Wages or salaries of cast, crew, and musicians;
- 8 (4) Costs of photography, sound synchronization, lighting,
9 and related services;
- 10 (5) Costs of editing, visual effects, music, other post-
11 production, and related services;
- 12 (6) Rentals and fees for use of local facilities and
13 locations, including rentals and fees for use of state
14 and county facilities and locations that are not
15 subject to general excise tax under chapter 237 or
16 income tax under this chapter;
- 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;



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

3 (11) Other direct production costs specified by the
 4 department in consultation with the department of
 5 business, economic development, and tourism;
 6 provided that any government-imposed fines, penalties, or
 7 interest that are incurred by a qualified production within the
 8 State shall not be "qualified production costs". "Qualified
 9 production costs" ~~does~~ do not include any costs funded by any
 10 grant, forgivable loan, or other amounts not included in gross
 11 income for purposes of this chapter.

12 "Streaming platform" means an online provider of media
 13 content that delivers the content via internet connection to the
 14 subscriber's computer, television, or mobile device."

15 SECTION 3. Act 143, Session Laws of Hawaii 2017, is
 16 amended by amending section 6 to read as follows:

17 ~~"SECTION 6. [No later than January 1, 2018, and each~~
 18 ~~January 1 thereafter, each film production that has production~~
 19 ~~expenditures of \$1,000,000 or more and is claiming a tax credit~~
 20 ~~pursuant to section 235-17, Hawaii Revised Statutes, shall~~
 21 ~~obtain an independent third party certification of qualified~~



1 ~~production costs eligible for the motion picture, digital media,~~
2 ~~and film production income tax credit in the form of a tax~~
3 ~~opinion, as required under section 235-17(h), Hawaii Revised~~
4 ~~Statutes, submitted to the department of business, economic~~
5 ~~development, and tourism.] Repealed."~~

6 SECTION 4. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect on July 1, 2050;
9 provided that section 2 shall apply to taxable years beginning
10 after December 31, 2025.



Report Title:

Motion Picture, Digital Media, and Film Production Income Tax Credit; Broadcast and Streaming Platforms; Counties; Fees

Description:

Requires each county to waive applicable permitting fees for film activity conducted on county lands by a qualified production that qualifies for the film production tax credit. Requires qualified production costs of a taxpayer that exceed \$1,000,000 to be certified by an independent third-party certified public accountant to qualify for the film production tax credit. Increases to an unspecified amount the aggregate cap amount of film production tax credits allowed in any given year. Repeals language authorizing film production tax credit claims to be applied to subsequent taxable years when the aggregate cap amount has been reached. Includes broadcast and streaming platform productions under the film production tax credit. Defines "streaming platform". Effective 7/1/2050.
(SD2)

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