
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. The purpose of this Act is to amend the motion
2 picture, digital media, and film production income tax credit.

3 Specifically, this Act:

4 (1) Extends the credit to January 1, 2025, from January 1,
5 2016;

6 (2) Increases the credit ceiling per qualified production
7 to \$16,000,000 from \$8,000,000; and

8 (3) Provides for the separate calculation of the credit
9 amount on wages and salaries included in qualified
10 production costs. The credit amount is calculated at
11 fifteen per cent of the wages and salaries in any
12 county of the State, plus an additional five per cent
13 of the wages and salaries paid to state residents and
14 Hawaii vendors and suppliers.

15 SECTION 2. Section 235-17, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§235-17 Motion picture, digital media, and film**
18 **production income tax credit.** (a) Any law to the contrary



1 notwithstanding, there shall be allowed to each taxpayer subject
2 to the taxes imposed by this chapter, an income tax credit which
3 shall be deductible from the taxpayer's net income tax
4 liability, if any, imposed by this chapter for the taxable year
5 in which the credit is properly claimed.

6 The amount of the credit shall be[+] the sum of all of the
7 applicable of the following:

- 8 (1) Fifteen per cent of the qualified production costs,
9 other than wages and salaries of cast, crew, and
10 musicians, incurred by a qualified production in any
11 county of the State with a population of over seven
12 hundred thousand; [~~or~~]
- 13 (2) [~~Twenty~~] Twenty-five per cent of the qualified
14 production costs, other than wages and salaries of
15 cast, crew, and musicians, incurred by a qualified
16 production in any county of the State with a
17 population of seven hundred thousand or less[~~-~~];
- 18 (3) Fifteen per cent of the wages and salaries of all
19 cast, crew, and musicians that are included in the
20 qualified production costs incurred by a qualified
21 production in any county of the State; and



1 (4) An additional five per cent of the wages and salaries
2 of cast, crew, and musicians included in the qualified
3 production costs incurred by a qualified production in
4 the State who are residents of the State and to Hawaii
5 vendors and Hawaii suppliers; provided that:

6 (A) Any law to the contrary notwithstanding, for the
7 purposes of this section, legal residency is
8 demonstrated by:

9 (i) Evidence that an individual has filed a
10 Hawaii income tax return for the previous
11 taxable year; and

12 (ii) A valid Hawaii driver's license or other
13 state-issued identification confirming
14 residency; and

15 (B) Hawaii vendors and Hawaii suppliers are vendors
16 and suppliers that are registered with the State,
17 have a physical location in the State, and employ
18 one or more legal residents of this State.

19 A qualified production occurring in more than one county may
20 prorate its expenditures based upon the amounts spent in each
21 county[7] if the population bases differ enough to change the
22 percentage of tax credit.



1 In the case of a partnership, S corporation, estate, or
2 trust, the tax credit allowable is for qualified production
3 costs incurred by the entity for the taxable year. The cost
4 upon which the tax credit is computed shall be determined at the
5 entity level. Distribution and share of credit shall be
6 determined by rule.

7 If a deduction is taken under section 179 (with respect to
8 election to expense depreciable business assets) of the Internal
9 Revenue Code of 1986, as amended, no tax credit shall be allowed
10 for those costs for which the deduction is taken.

11 The basis for eligible property for depreciation of
12 accelerated cost recovery system purposes for state income taxes
13 shall be reduced by the amount of credit allowable and claimed.

14 (b) The credit allowed under this section shall be claimed
15 against the net income tax liability for the taxable year. For
16 the purposes of this section, "net income tax liability" means
17 net income tax liability reduced by all other credits allowed
18 under this chapter.

19 (c) If the tax credit under this section exceeds the
20 taxpayer's income tax liability, the excess of credits over
21 liability shall be refunded to the taxpayer; provided that no
22 refunds or payment on account of the tax credits allowed by this



1 section shall be made for amounts less than \$1. All claims,
2 including any amended claims, for tax credits under this section
3 shall be filed on or before the end of the twelfth month
4 following the close of the taxable year for which the credit may
5 be claimed. Failure to comply with the foregoing provision
6 shall constitute a waiver of the right to claim the credit.

7 (d) To qualify for this tax credit, a production shall:

8 (1) Meet the definition of a qualified production
9 specified in subsection [~~(l)~~] (m);

10 (2) Have qualified production costs totaling at least
11 \$200,000;

12 (3) Provide the State, at a minimum, a shared-card, end-
13 title screen credit, where applicable;

14 (4) Provide evidence of reasonable efforts to hire local
15 talent and crew; and

16 (5) 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 (e) On or after July 1, 2006, no qualified production cost
2 that has been financed by investments for which a credit was
3 claimed by any taxpayer pursuant to section 235-110.9 is
4 eligible for credits under this section.

5 (f) To receive the tax credit, the taxpayer shall first
6 prequalify the production for the credit by registering with the
7 department of business, economic development, and tourism during
8 the development or preproduction stage. To prequalify for the
9 credit amount under subsections (a)(3) and (a)(4), the taxpayer
10 shall submit a written pledge of the intent to comply with the
11 requirement to receive that credit amount. Failure to comply
12 with this [~~provision~~] subsection may constitute a waiver of the
13 right to claim the credit.

14 (g) The director of taxation shall prepare forms as may be
15 necessary to claim a credit under this section. The director
16 may also require the taxpayer to furnish information to
17 ascertain the validity of the claim for credit made under this
18 section and may adopt rules necessary to effectuate the purposes
19 of this section pursuant to chapter 91.

20 (h) Every taxpayer claiming a tax credit under this
21 section for a qualified production [~~shall~~], no later than ninety
22 days following the end of each taxable year in which qualified



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

- 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 [~~i.e.,~~] such as by department[+] and by county.

12 (i) The department of business, economic development, and
13 tourism shall:

- 14 (1) Maintain records of the names of the taxpayers and
15 qualified productions thereof claiming the tax credits
16 under subsection (a);
- 17 (2) Obtain and total the aggregate amounts of all
18 qualified production costs per qualified production
19 and per qualified production per taxable year; and
- 20 (3) Provide a letter to the director of taxation
21 specifying the amount of the tax credit per qualified
22 production for each taxable year that a tax credit is



1 claimed and the cumulative amount of the tax credit
2 for all years claimed.

3 Upon each determination required under this subsection, the
4 department of business, economic development, and tourism shall
5 issue a letter to the taxpayer, regarding the qualified
6 production, specifying the qualified production costs and the
7 tax credit amount qualified for in each taxable year a tax
8 credit is claimed. The taxpayer for each qualified production
9 shall file the letter with the taxpayer's tax return for the
10 qualified production to the department of taxation.

11 Notwithstanding the authority of the department of business,
12 economic development, and tourism under this section, the
13 director of taxation may audit and adjust the tax credit amount
14 to conform to the information filed by the taxpayer.

15 (j) The department of business, economic development, and
16 tourism shall submit a report to the governor and legislature no
17 later than twenty days prior to the convening of the regular
18 sessions of 2015, 2020, and 2025, on the economic impact of the
19 tax credit offered pursuant to this section. The reports shall
20 include an estimate of the following for each year since 2012 or
21 the last year covered by the preceding report, as applicable:



- 1 (1) Capital from out-of-state sources expended in the
- 2 State on qualified production costs;
- 3 (2) Total expenditures for qualified production costs in
- 4 the State;
- 5 (3) Total full-time equivalent jobs created by qualified
- 6 productions in the State;
- 7 (4) Number of those full-time equivalent jobs filled by
- 8 residents of the State;
- 9 (5) Total wages and salaries paid in the State for
- 10 qualified productions;
- 11 (6) Amount of the total wages and salaries paid in the
- 12 State to residents of the State for qualified
- 13 productions; and
- 14 (7) Any contributions resulting from qualified productions
- 15 that the department of business, economic development,
- 16 and tourism deems necessary, including donations to
- 17 improve the education and communities of the State.

18 The report shall also include any other information that the
19 department of business, economic development, and tourism deems
20 necessary.

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



1 ~~(k)~~ (l) Qualified productions shall comply with
2 subsections (d), (e), (f), and (h).

3 ~~(l)~~ (m) For the purposes of this section:

4 "Animation" means animation or special and visual effects
5 created primarily with digital technologies for designing,
6 modeling, rendering, lighting, painting, animating, motion
7 capture, and compositing for qualified productions, but does not
8 include:

- 9 (1) Audio effects;
10 (2) In-camera effects;
11 (3) Credit rolls;
12 (4) Subtitles; or
13 (5) Animation or special and visual effects for use in
14 promotional material for a production eligible for the
15 tax credit established under this section.

16 "Commercial":

- 17 (1) Means an advertising message that is filmed using
18 film, videotape, or digital media, for dissemination
19 via television broadcast or theatrical distribution;
20 (2) Includes a series of advertising messages if all parts
21 are produced at the same time over the course of six
22 consecutive weeks; and



1 (3) Does not include an advertising message with
2 [~~Internet only~~] internet-only distribution.

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

10 "Post production" means production activities and services
11 conducted after principal photography is completed, including
12 but not limited to editing, film and video transfers,
13 duplication, transcoding, dubbing, subtitling, credits, closed
14 captioning, audio production, [~~special effects (visual and~~
15 ~~sound)~~] sound effects, graphics, and animation[-] or special
16 and visual effects.

17 "Production" means a series of activities that are directly
18 related to the creation of visual and cinematic imagery to be
19 delivered via film, videotape, or digital media and to be sold,
20 distributed, or displayed as entertainment or the advertisement
21 of products for mass public consumption, including but not
22 limited to production-related activities, scripting, casting,



1 set design and construction, transportation, videography,
2 photography, sound recording, interactive game design, animation
3 or special and visual effects, and [~~post-production.~~] post-
4 production.

5 "Qualified production":

6 (1) Means a production, with expenditures in the State,
7 for the total or partial production of a feature-
8 length motion picture, short film, made-for-television
9 movie, commercial, music video, interactive game,
10 television series pilot, single season (up to
11 twenty-two episodes) of a television series regularly
12 filmed in the State (if the number of episodes per
13 single season exceeds twenty-two, additional episodes
14 for the same season shall constitute a separate
15 qualified production), television special, single
16 television episode that is not part of a television
17 series regularly filmed or based in the State,
18 national magazine show, or national talk show. For
19 the purposes of subsections (d) and [~~(j)~~] (k), each
20 of the aforementioned qualified production categories
21 shall constitute separate, individual qualified
22 productions; and



1 (2) Does not include: daily news; public affairs programs;
2 non-national magazine or talk shows; televised
3 sporting events or activities; productions that
4 solicit funds; productions produced primarily for
5 industrial, corporate, institutional, or other private
6 purposes; and productions that include any material or
7 performance prohibited by chapter 712.

8 "Qualified production costs" means the costs incurred by a
9 qualified production within the State that are subject to the
10 general excise tax under chapter 237 or income tax under this
11 chapter and that have not been financed by any investments for
12 which a credit was or will be claimed pursuant to section
13 235-110.9. Qualified production costs include but are not
14 limited to:

- 15 (1) Costs incurred during preproduction such as location
16 scouting and related services;
- 17 (2) Costs of set construction and operations, purchases or
18 rentals of wardrobe, props, accessories, food, office
19 supplies, transportation, equipment, and related
20 services;
- 21 (3) Wages or salaries of cast, crew, and musicians;



- 1 (4) Costs of photography, sound synchronization, lighting,
2 and related services;
- 3 (5) Costs of editing, visual effects, music, other post-
4 production, and related services;
- 5 (6) Rentals and fees for use of local facilities and
6 locations;
- 7 (7) Rentals of vehicles and lodging for cast and crew;
- 8 (8) Airfare for flights to or from Hawaii, and interisland
9 flights;
- 10 (9) Insurance and bonding;
- 11 (10) Shipping of equipment and supplies to or from Hawaii,
12 and interisland shipments; and
- 13 (11) Other direct production costs specified by the
14 department in consultation with the department of
15 business, economic development, and tourism."

16 SECTION 3. Act 88, Session Laws of Hawaii 2006, is amended
17 by amending section 4 to read as follows:

18 "SECTION 4. This Act shall take effect on July 1, 2006;
19 provided that:

- 20 (1) Section 2 of this Act shall apply to qualified
21 production costs incurred on or after July 1, 2006,
22 and before January 1, [~~2016,~~] 2025; and



1 (2) This Act shall be repealed on January 1, [~~2016,~~] 2025,
2 and section 235-17, Hawaii Revised Statutes, shall be
3 reenacted in the form in which it read on the day
4 before the effective date of this Act."

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

7 SECTION 5. This Act shall take effect on January 1, 2112,
8 and shall apply to taxable years beginning after December 31,
9 2112.



Report Title:

Film Tax Credit; Amendments

Description:

Extends the motion picture, digital media, and film production tax credit to January 1, 2025, from January 1, 2016. Raises the qualified production tax credit ceiling to \$16,000,000 from \$8,000,000. Separates the calculation of the credit amount based on wages and salaries from the credit amount based on other qualified production costs, plus an additional five per cent credit amount on wages and salaries of cast, crew, and musicians who are state residents and qualified production costs paid to Hawaii vendors and suppliers. Effective January 1, 2112. (SB2111 HD1)

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