

JAN 24 2013

A BILL FOR AN ACT

RELATING TO CREATIVE MEDIA DEVELOPMENT.

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

1 SECTION 1. The legislature finds that the film,
2 television, and digital media industries in Hawaii are important
3 components of a diversified economy and that their financial
4 impact can be strengthened significantly if existing incentives
5 for the industries are adjusted.

6 The legislature also finds that nearly every country and
7 state has implemented tax incentives to attract film,
8 television, and digital media productions. These jurisdictions
9 have experienced dramatic increases in in-state spending and
10 significant growth in workforce and infrastructure development.
11 More productions in Hawaii would stimulate more direct and
12 indirect tax revenue.

13 The legislature further finds that it is desirable to
14 provide incentives to the film, television, and digital media
15 industries to encourage similar dramatic growth in Hawaii
16 because the film, television, and digital media industries:

17 (1) Infuse significant amounts of new money into the

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1 economy, which are dispersed across many communities
2 and businesses and which benefit a wide array of
3 residents;

4 (2) Create skilled, high-paying jobs;

5 (3) Have a natural dynamic synergy with Hawaii's top
6 industry (tourism) and are used as a destination
7 marketing tool for the visitor industry; and

8 (4) Are clean, nonpolluting industries that value the
9 natural beauty of Hawaii and its diverse multicultural
10 population and wide array of architecture.

11 The purpose of this Act is to continue to encourage the
12 film, television, and digital media industries, to allow Hawaii
13 to compete with other film production centers in attracting a
14 greater number of significant projects to the islands, and to
15 continue to build the State's local film, television, and
16 digital media industries. The purpose of this Act is also to
17 encourage the growth of the film, television, and digital media
18 industries by providing enhanced incentives to attract more
19 film, television, and digital media productions to Hawaii,
20 thereby generating increased tax revenues.

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

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1 1. By amending its title to read:

2 "§235-17 Motion picture, television, digital media, and
3 film production income tax credit."

4 2. By amending subsections (g) and (h) to read:

5 "(g) The director of taxation shall prepare forms as may
6 be necessary to claim a credit under this section. The director
7 of taxation may also require the taxpayer to furnish information
8 to ascertain the validity of the claim for credit made under
9 this section and may adopt rules necessary to effectuate the
10 purposes of this section pursuant to chapter 91.

11 (h) Every taxpayer claiming a tax credit under this
12 section for a qualified production shall, no later than ninety
13 days following the end of each taxable year in which qualified
14 production costs were expended, submit a written, sworn
15 statement to the department of business, economic development,
16 and tourism, identifying:

17 (1) All qualified production costs as provided by
18 subsection (a), if any, incurred in the previous
19 taxable year;

20 (2) The amount of tax credits claimed pursuant to this
21 section, if any, in the previous taxable year; and

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1 (3) The number of total hires versus the number of local
2 hires by category [~~i.e., department~~] and by county."

3 3. By amending subsection (j) to read:

4 "(j) Total tax credits claimed per qualified production
5 shall not exceed [~~\$8,000,000.~~] \$12,000,000."

6 4. By amending subsection (l) to read:

7 "(l) For the purposes of this section:

8 "Commercial":

9 (1) Means an advertising message that is filmed using
10 film, videotape, or digital media, for dissemination
11 via television broadcast [~~or~~], theatrical
12 distribution[+], or Internet distribution; and

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

16 ~~(3) Does not include an advertising message with Internet-~~
17 ~~only distribution].~~

18 "Digital media" means production methods and platforms
19 directly related to the creation of cinematic imagery and
20 content, specifically using digital means, including but not
21 limited to digital cameras, digital sound equipment, and
22 computers, to be delivered via film, videotape, interactive game

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1 platform, or other digital distribution media. [~~excluding~~
2 ~~Internet-only distribution~~].]

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

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

17 "Qualified production":

18 (1) Means a production, with expenditures in the State,
19 for the total or partial production of a feature-
20 length motion picture, short film, made-for-television
21 movie, commercial, music video, interactive game,
22 television series pilot, single season (up to twenty-

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1 two episodes) of a television series regularly filmed
2 in the State (if the number of episodes per single
3 season exceeds twenty-two, additional episodes for the
4 same season shall constitute a separate qualified
5 production), television special, single television
6 episode that is not part of a television series
7 regularly filmed or based in the State, national
8 magazine show, or national talk show. For the
9 purposes of subsections (d) and (j), each of the
10 aforementioned qualified production categories shall
11 constitute separate, individual qualified productions;
12 and

13 (2) Does not include: [~~daily~~]

14 (A) Daily news; [~~public~~]

15 (B) Public affairs programs; [~~non-national~~]

16 (C) Non-national magazine or talk shows; [~~televised~~]

17 (D) Televised sporting events or activities;

18 [~~productions~~]

19 (E) Productions that solicit funds; [~~productions~~]

20 (F) Productions produced primarily for industrial,

21 corporate, institutional, or other private

22 purposes; and [~~productions~~]

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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 or income tax under this
6 chapter and that have not been financed by any investments for
7 which a credit was or will be claimed pursuant to section
8 235-110.9. Qualified production costs include but are not
9 limited to:

- 10 (1) Costs incurred during preproduction such as location
11 scouting and related services;
- 12 (2) Costs of set construction and operations, purchases or
13 rentals of wardrobe, props, accessories, food, office
14 supplies, transportation, equipment, and related
15 services;
- 16 (3) Wages or salaries of cast, crew, and musicians;
- 17 (4) Costs of photography, sound synchronization, lighting,
18 and related services;
- 19 (5) Costs of editing, visual effects, music, other post-
20 production, and related services;
- 21 (6) Rentals and fees for use of local facilities and
22 locations[+], but excluding state and county facility

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1 and location fees that are not subject to general
2 excise tax under chapter 237 or state income tax under
3 this chapter;

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

5 (8) Airfare for flights to or from Hawaii, and interisland
6 flights;

7 (9) Insurance and bonding;

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

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

13 SECTION 3. The department of taxation shall submit an
14 annual report to the legislature twenty days prior to each
15 regular session beginning with the 2014 regular session. The
16 report shall contain a cost benefit analysis of the tax credits
17 established in this Act, including but not limited to the
18 following:

19 (1) The total number of full-time, part-time, and contract
20 personnel on the payroll necessary to administer this
21 Act; and

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1 (2) The average wage of each of the above personnel groups
2 and total earnings for the year.

3 The department of taxation shall report the data collected
4 under this section along with a cumulative total of tax credits
5 granted for each qualified production. The legislature may use
6 the information to determine whether the tax credits are meeting
7 the objectives of this Act.

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

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

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

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

19 SECTION 5. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 6. This Act, upon its approval, shall take effect
22 on July 1, 2013; provided that this Act shall apply to taxable

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1 years beginning after December 31, 2012, and before January 1,
2 2025.

3

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INTRODUCED BY: *Amie Mercado Ki*

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BY REQUEST

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Report Title:

Creative Media Development; Tax Credit

Description:

Amends section 235-17, Hawaii Revised Statutes, by deleting the Internet-only distribution exclusion for advertising messages; clarifying the definitions of qualified production costs to exclude state and county facility and location fees that are not subject to Hawaii general excise tax; raising the ceiling on total tax credit claim to \$12,000,000 per qualified production; and extending the sunset date for the tax credit to January 1, 2025.

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

JUSTIFICATION SHEET

DEPARTMENT: Business, Economic Development, and Tourism

TITLE: A BILL FOR AN ACT RELATING TO CREATIVE MEDIA DEVELOPMENT.

PURPOSE: To stimulate film and creative media industry growth by expanding tax credit so as to attract film, television, and digital media productions to Hawaii.

MEANS: Amend section 235-17, its title and subsections (g), (h), (j), and (l), Hawaii Revised Statutes, and section 4 of Act 88, Session Laws of Hawaii 2006.

JUSTIFICATION: It is the intent of this bill to increase industry and job growth supporting the development of Hawaii's film and creative media industries. From 2006-2011, the film production tax credit program has generated over \$1,100,000,000 in estimated production revenues and \$1,700,000,000 in estimated economic impact. The consistency of the production tax incentive has positioned Hawaii as one of the top destinations for location filming. Together with infrastructure development, the proposed amendments to the existing credit will provide an improved competitive advantage over other countries and states, stimulating more direct and indirect spending throughout the State.

Impact on the public: The proposed amendments to the existing incentive will increase Hawaii resident jobs, provide economic stimulation through business attraction and local industry development, translating to more tax revenues and jobs.

Impact on the department and other agencies: Minimal impact on other departments. The only affected agency is the Department of Taxation. Although there is an extended sunset date it

should not require additional resources than what is currently in place to manage the program.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: BED 105.

OTHER AFFECTED
AGENCIES: Department of Taxation.

EFFECTIVE DATE: July 1, 2013.