
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 spending and significant
10 growth in workforce and infrastructure development. More
11 productions in Hawaii would stimulate more direct and indirect
12 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
18 economy, which are dispersed across many communities



- 1 and businesses and which benefit a wide array of
2 residents;
- 3 (2) Create skilled, high-paying jobs;
- 4 (3) Have a natural dynamic synergy with Hawaii's top
5 industry (tourism) and are used as a destination
6 marketing tool for the visitor industry; and
- 7 (4) Are clean, nonpolluting industries that value the
8 natural beauty of Hawaii and its diverse multicultural
9 population and wide array of architecture.

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

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

22 1. By amending its title to read:



1 "§235-17 Motion picture, television, digital media, and
2 film production income tax credit."

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

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

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

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

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

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



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

2 "(j) Total tax credits claimed per qualified production
3 shall not exceed [~~\$8,000,000.~~] \$ _____."

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

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

6 "Commercial":

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

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

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

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



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

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

15 "Qualified production":

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



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

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

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

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

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

15 (D) Televised sporting events or activities;

16 [~~productions~~]

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

18 (F) Productions produced primarily for industrial,
19 corporate, institutional, or other private
20 purposes; and [~~productions~~]

21 (G) Productions that include any material or
22 performance prohibited by chapter 712.



1 "Qualified production costs" means the costs incurred by a
2 qualified production within the State that are subject to the
3 general excise tax under chapter 237 or income tax under this
4 chapter and that have not been financed by any investments for
5 which a credit was or will be claimed pursuant to section
6 235-110.9. Qualified production costs include but are not
7 limited to:

- 8 (1) Costs incurred during preproduction such as location
9 scouting and related services;
- 10 (2) Costs of set construction and operations, purchases or
11 rentals of wardrobe, props, accessories, food, office
12 supplies, transportation, equipment, and related
13 services;
- 14 (3) Wages or salaries of cast, crew, and musicians;
- 15 (4) Costs of photography, sound synchronization, lighting,
16 and related services;
- 17 (5) Costs of editing, visual effects, music, other post-
18 production, and related services;
- 19 (6) Rentals and fees for use of local facilities and
20 locations[?], but excluding state and county facility
21 and location fees that are not subject to general



1 excise tax under chapter 237 or state income tax under
2 this chapter;

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

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

6 (9) Insurance and bonding;

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

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

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

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

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

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



1 SECTION 4. The department of business, economic
2 development, and tourism shall submit an annual report to the
3 legislature twenty days prior to each regular session beginning
4 with the 2014 regular session. The report shall contain a cost
5 benefit analysis of the motion picture, television, digital
6 media, and film production income tax credit, including but not
7 limited to the following:

- 8 (1) The total number of full-time, part-time, and contract
9 personnel on the payroll necessary to administer the
10 film production tax credit; and
11 (2) The average wage of each of the above personnel groups
12 and total earnings for the year.

13 The department of business, economic development, and
14 tourism shall report the data collected under this section along
15 with a cumulative total of tax credits granted for each
16 qualified production. The legislature may use the information
17 to determine whether the tax credits are meeting the objectives
18 of the film production tax credit and 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



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



Report Title:

Creative Media Development; Tax Credit

Description:

Amends motion picture, digital media, and film production tax credits. Deletes Internet-only distribution exclusion for advertising; clarifies definitions of qualified production costs; amends the ceiling on total tax credit claim; and extends the sunset date to January 1, 2025. (HB799 HD1)

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