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

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

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

16           (1) Infuse significant amounts of new money into the  
17 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 and digital media industries by allowing Hawaii to compete  
12 with other film production centers in attracting a greater  
13 number of significant projects to the islands; continuing to  
14 build the State's local film and digital media industries; and  
15 encouraging the growth of the film and digital media industries  
16 by providing enhanced incentives to attract more film and  
17 digital media productions to Hawaii, thereby generating  
18 increased tax revenues.

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

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



1           "(h) Every taxpayer claiming a tax credit under this  
2 section for a qualified production shall, no later than ninety  
3 days following the end of each taxable year in which qualified  
4 production costs were expended, submit a written, sworn  
5 statement to the department of business, economic development,  
6 and tourism, identifying:

7           (1) All qualified production costs as provided by  
8 subsection (a), if any, incurred in the previous  
9 taxable year;

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

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

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

15          "(1) For the purposes of 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 Internet-  
2 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, videotape, interactive game  
8 platform, or other digital distribution media [~~excluding~~  
9 ~~Internet only distribution~~].

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

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



1 transportation, videography, photography, sound recording,  
2 interactive game design, and [~~post-production.~~] post-production.

3 "Qualified production":

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

21 (2) Does not include: [~~daily news,~~]

22 (A) News; [~~public~~]



- 1            (B)   Public affairs programs; [~~non-national~~]
- 2            (C)   Non-national magazine or talk shows; [~~televised~~]
- 3            (D)   Televised sporting events or activities;
- 4                            [~~productions~~]
- 5            (E)   Productions that solicit funds; [~~productions~~]
- 6            (F)   Productions produced primarily for industrial,
- 7                            corporate, institutional, or other private
- 8                            purposes; and [~~productions~~]
- 9            (G)   Productions that include any material or
- 10                           performance prohibited by chapter 712.

11            "Qualified production costs" means the costs incurred by a

12   qualified production within the State that are subject to the

13   general excise tax under chapter 237 or income tax under this

14   chapter and that have not been financed by any investments for

15   which a credit was or will be claimed pursuant to section

16   235-110.9. Qualified production costs include but are not

17   limited to:

- 18            (1)   Costs incurred during preproduction such as location
- 19                           scouting and related services;
- 20            (2)   Costs of set construction and operations, purchases or
- 21                           rentals of wardrobe, props, accessories, food, office



- 1 supplies, transportation, equipment, and related  
2 services;
- 3 (3) Wages or salaries of cast, crew, and musicians;
- 4 (4) Costs of photography, sound synchronization, lighting,  
5 and related services;
- 6 (5) Costs of editing, visual effects, music, other post-  
7 production, and related services;
- 8 (6) Rentals and fees for use of local facilities and  
9 locations[+], but excluding state and county facility  
10 and location fees that are not subject to general  
11 excise tax under chapter 237 or state income tax under  
12 this chapter;
- 13 (7) Rentals of vehicles and lodging for cast and crew;
- 14 (8) Airfare for flights to or from Hawaii, and interisland  
15 flights;
- 16 (9) Insurance and bonding;
- 17 (10) Shipping of equipment and supplies to or from Hawaii,  
18 and interisland shipments; and
- 19 (11) Other direct production costs specified by the  
20 department in consultation with the department of  
21 business, economic development, and tourism."



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

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

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

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

12 SECTION 4. The department of business, economic  
13 development, and tourism shall submit an annual report to the  
14 legislature twenty days prior to each regular session beginning  
15 with the 2014 regular session. The report shall contain a cost  
16 benefit analysis of the motion picture, digital media, and film  
17 production income tax credit, 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 the  
21 film production tax credit; and





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

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

9           SECTION 5. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11           SECTION 6. This Act shall take effect on July 1, 2050, and  
12 apply to taxable years beginning after December 31, 2012.



**Report Title:**

Motion Picture, Digital Media, and Film Production Tax Credit;  
Extension

**Description:**

Extends the Motion Picture, Digital Media, and Film Production  
Income Tax Credit from 2016 to 2025. Deletes the Internet-only  
distribution exclusion for qualifying digital media. Clarifies  
definitions of qualified production costs. Requires analysis  
and reporting by DBEDT. Effective July 1, 2050. (SB463 HD1)

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

