

JAN 25 2017

A BILL FOR AN ACT

RELATING TO THE MOTION PICTURE, DIGITAL MEDIA, AND FILM
PRODUCTION INCOME TAX CREDIT.

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

1 SECTION 1. The legislature finds that the film industry in
2 Hawaii is an important component of a diversified economy. The
3 legislature also finds that the motion picture, digital media,
4 and film production income tax credit has been effective in
5 stimulating the economy and creating quality jobs in a clean
6 industry while promoting Hawaii as a visitor destination.

7 The legislature further finds that the film production
8 process can extend over several years due to extensive planning
9 and development in the preproduction stage. The motion picture,
10 digital media, and film production income tax credit's current
11 sunset date of January 1, 2019, will discourage new productions
12 that may be in the development and preproduction phases at that
13 point in time.

14 The legislature also finds that additional amendments to
15 the motion picture, digital media, and film production income



1 tax credit are needed to ensure it continues to benefit the
2 State.

3 The purpose of this Act is to, among other things:

- 4 (1) Extend the motion picture, digital media, and film
5 production income tax credit for an additional five
6 years to provide stability and economic incentive
7 predictability for the film industry, so Hawaii
8 remains competitive and comparable to other
9 jurisdictions in attracting qualified productions,
10 which generates additional revenue, jobs, and tourism
11 marketing exposure; and
- 12 (2) Place a cap on the annual aggregate amount of the
13 credit; and
- 14 (3) Clarify that qualifying expenditures are those made
15 within the State.

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

18 1. By amending subsection (a) to read:

19 "(a) Any law to the contrary notwithstanding, there shall
20 be allowed to each taxpayer subject to the taxes imposed by this
21 chapter, an income tax credit that shall be deductible from the



1 taxpayer's net income tax liability, if any, imposed by this
2 chapter for the taxable year in which the credit is properly
3 claimed. The amount of the credit shall be:

4 (1) Twenty per cent of the qualified production costs
5 incurred and expended within the State by a qualified
6 production filmed in any county of the State with a
7 population of over seven hundred thousand; or

8 (2) Twenty-five per cent of the qualified production costs
9 incurred and expended within in the State by a
10 qualified production filmed in any county of the State
11 with a population of seven hundred thousand or less.

12 A qualified production occurring in more than one county may
13 prorate its expenditures based upon the amounts spent in each
14 county, if the population bases differ enough to change the
15 percentage of tax credit.

16 In the case of a partnership, S corporation, estate, or
17 trust, the tax credit allowable is for qualified production
18 costs incurred by the entity for the taxable year. The cost
19 upon which the tax credit is computed shall be determined at the
20 entity level. Distribution and share of credit shall be
21 determined by rule.



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

5 The basis for eligible property for depreciation of
6 accelerated cost recovery system purposes for state income taxes
7 shall be reduced by the amount of credit allowable and claimed."

8 2. By amending subsection (j) to read:

9 "(j) Total tax credits claimed per qualified production
10 shall not exceed \$15,000,000[-]; provided that the aggregate
11 annual cap amount for all tax credits claimed under this section
12 shall not exceed \$50,000,000."

13 SECTION 3. Act 88, Session Laws of Hawaii 2006, as amended
14 by Act 89, Session Laws of Hawaii 2013, is amended by amending
15 section 4 to read as follows:

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

18 (1) Section 2 of this Act shall apply to qualified
19 production costs incurred on or after July 1, 2006,
20 and before January 1, [~~2019,~~] 2024; and



1 (2) This Act shall be repealed on January 1, [~~2019,~~] 2024,
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. No rule shall be adopted pursuant to chapter 91
6 to expand scope of section 235-17, Hawaii Revised Statutes, if
7 so the rule conflicts with the legislative intent of that
8 section.

9 SECTION 5. The department of business, economic
10 development, and tourism shall submit an annual report on the
11 activities and expenditures of the motion picture, digital
12 media, and film production income tax credit to the legislature
13 no later than twenty days prior to each regular session until
14 the tax credit expires.

15 SECTION 6. Beginning January 1, 2018, and each January 1
16 thereafter, the department of business, economic development,
17 and tourism shall hire an independent third party to conduct a
18 financial audit of each film production claiming a tax credit
19 pursuant to section 235-17, Hawaii Revised Statutes, for the
20 preceding year.



S.B. NO. 1086

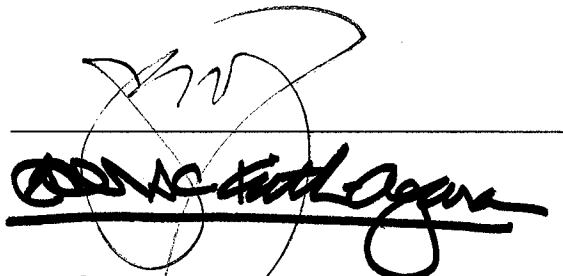
1 SECTION 7. Beginning January 1, 2018, the department of
 2 business, economic development, and tourism, in collaboration
 3 with department of taxation, shall submit to the governor and
 4 the legislature an annual report on the number of jobs created
 5 in the State and the fiscal impact to the State of every film
 6 production in the State; provided that each report shall be
 7 independently verified and audited for accuracy.

8 SECTION 8. Statutory material to be repealed is bracketed
 9 and stricken. New statutory material is underscored.

10 SECTION 9. This Act shall take effect on July 1, 2017.

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INTRODUCED BY:



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S.B. NO. 1086

Report Title:

Motion Picture, Digital Media, and Film Production Income Tax Credit

Description:

Limits the aggregate motion picture, digital media, and film production income tax credit to \$50,000,000 per taxable year. Clarifies that qualified expenditures are required to be expended within this State. Amends Act 88, Session Laws of Hawaii 2006, to extend the sunset date from January 1, 2019, to January 1, 2024. Requires DBEDT to submit an annual report to the legislature regarding the activities and expenditures of the tax credit. Clarifies that no rule shall be adopted to expand the scope of the tax credit where the rule conflicts with legislative intent. Requires DBEDT to conduct a financial audit of every film production in the State. Requires DBEDT, in collaboration with Department of Taxation, to submit to the governor and the legislature a report on the number of jobs created in the State and the fiscal impact of every film production in the State; provided that each report shall be independently verified and audited for accuracy.

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