
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 further finds that extending the motion
15 picture, digital media, and film production income tax credit
16 for an additional five years will provide stability and



1 predictability for the film industry. The legislature believes
2 that the extension will enable Hawaii to remain competitive, and
3 comparable to other jurisdictions, in attracting qualified
4 productions that generate additional revenue, jobs, and tourism
5 marketing exposure.

6 The purpose of this Act is to amend the motion picture,
7 digital media, and film production income tax credit by:

8 (1) Providing additional options to claim a workforce
9 development tax credit of either:

10 (A) Ten per cent of qualified payroll costs for local
11 hires; or

12 (B) Thirty-five per cent of qualified production
13 costs of a qualified production that employs a
14 crew composed of at least fifty-five per cent of
15 local workers,

16 incurred in a county with a population of seven
17 hundred thousand or less;

18 (2) Granting a production the option of providing
19 alternative marketing opportunities to the State as a
20 condition of claiming the credit;



1 (3) Requiring evidence of reasonable efforts to secure and
2 use products and services locally, as a condition of
3 claiming the tax credit;

4 (4) Requiring a verification review of the information
5 submitted to the department of business, economic
6 development, and tourism for determination of credit
7 amounts; and

8 (5) Extending the repeal of the credit until January 1,
9 2024.

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

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

13 "(a) Any law to the contrary notwithstanding, there shall
14 be allowed to each taxpayer subject to the taxes imposed by this
15 chapter, an income tax credit that shall be deductible from the
16 taxpayer's net income tax liability, if any, imposed by this
17 chapter for the taxable year in which the credit is properly
18 claimed. The amount of the credit shall be:

19 (1) Twenty per cent of the qualified production costs
20 incurred by a qualified production in any county of



1 the State with a population of over seven hundred
2 thousand; [~~or~~]

3 (2) Twenty-five per cent of the qualified production costs
4 incurred by a qualified production in any county of
5 the State with a population of seven hundred thousand
6 or less[-];

7 (3) Thirty-five per cent of the qualified production costs
8 incurred by a qualified production in any county of
9 the State with a population of seven hundred thousand
10 or less; provided that:

11 (A) At least fifty-five per cent of the production's
12 crew shall be hired from the county in which the
13 qualified production costs are incurred; and

14 (B) This requirement shall not apply to hired
15 individuals who principally add to the creative
16 direction, process, voice, and narrative of the
17 production, including the screenwriter, producer,
18 and on-camera, microphone, or voice-over talent;
19 or

20 (4) Ten per cent of the payroll costs incurred by a
21 qualified production in any county of the State with a



1 population of seven hundred thousand or less; provided

2 that:

3 (A) The employer carries appropriate workers'
4 compensation coverage and pays all applicable
5 state payroll taxes for every employee for whose
6 wages and salary the tax credit is claimed;

7 (B) Every employee for whose wages and salary the tax
8 credit is claimed, filed a Hawaii state income
9 tax return for the year prior to the year in
10 which the credit is claimed; and

11 (C) Every employee for whose wages and salary the tax
12 credit is claimed, is a resident of a county with
13 a population of seven hundred thousand or less.

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

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



1 entity level. Distribution and share of credit shall be
2 determined by rule.

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

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

10 2. By amending subsection (d) to read:

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

12 (1) Meet the definition of a qualified production
13 specified in subsection (1);

14 (2) Have qualified production costs totaling at least
15 \$200,000;

16 (3) Provide the State [~~at~~] a qualified Hawaii promotion,
17 which shall be:

18 (A) At a minimum, a shared-card, end-title screen
19 credit, where applicable; or

20 (B) Alternative marketing opportunities, approved by
21 the department of business, economic development,



1 and tourism, that offer equal or greater
2 promotional value to the State than the shared-
3 card, end-title screen credit;

4 (4) Provide evidence of reasonable efforts to hire local
5 talent and crew; [~~and~~]

6 (5) Provide evidence when making any claim for products or
7 services acquired or rendered outside of this State
8 that reasonable efforts were unsuccessful to secure
9 and use comparable products or services within this
10 State; and

11 ~~[(5)]~~ (6) Provide evidence of financial or in-kind
12 contributions or educational or workforce development
13 efforts, in partnership with related local industry
14 labor organizations, educational institutions, or
15 both, toward the furtherance of the local film and
16 television and digital media industries."

17 3. By amending subsections (h) and (i) to read:

18 "(h) Every taxpayer claiming a tax credit under this
19 section for a qualified production shall, no later than ninety
20 days following the end of each taxable year in which qualified
21 production costs were expended, submit a written, sworn



1 statement to the department of business, economic development,
2 and tourism, together with a verification review by a qualified
3 certified public accountant using procedures prescribed by the
4 department of business, economic development, and tourism,
5 identifying:

- 6 (1) All qualified production costs as provided by
7 subsection (a), if any, incurred in the previous
8 taxable year;
- 9 (2) The amount of tax credits claimed pursuant to this
10 section, if any, in the previous taxable year; and
- 11 (3) The number of total hires versus the number of local
12 hires by category and by county.

13 This information may be reported from the department of
14 business, economic development, and tourism to the legislature
15 in redacted form pursuant to subsection (i) (4).

16 (i) The department of business, economic development, and
17 tourism shall:

- 18 (1) Maintain records of the names of the taxpayers and
19 qualified productions thereof claiming the tax credits
20 under subsection (a);



- 1 (2) Obtain and total the aggregate amounts of all
- 2 qualified production costs per qualified production
- 3 and per qualified production per taxable year;
- 4 (3) Provide a letter to the director of taxation
- 5 specifying the amount of the tax credit per qualified
- 6 production for each taxable year that a tax credit is
- 7 claimed and the cumulative amount of the tax credit
- 8 for all years claimed; and
- 9 (4) Submit a report to the legislature no later than
- 10 twenty days prior to the convening of each regular
- 11 session detailing ~~the~~:
- 12 (A) The non-aggregated qualified production costs
- 13 that form the basis of the tax credit claims and
- 14 expenditures, itemized by taxpayer, in a redacted
- 15 format to preserve the confidentiality of the
- 16 taxpayers claiming the credit[-]; and
- 17 (B) The marketing opportunities the department of
- 18 business, economic development, and tourism has
- 19 approved under subsection (d) (3) (B), including:



- 1 (i) The goals and strategy justifying each
2 approved marketing opportunity, pursuant to
3 the provisions of subsection (d) (3) (B); and
- 4 (ii) The names of all production companies who
5 opted to include a shared-card, end-title
6 screen credit in their final production
7 instead of offering the State an alternative
8 marketing opportunity.

9 Upon each determination required under this subsection, the
10 department of business, economic development, and tourism shall
11 issue a letter to the taxpayer, regarding the qualified
12 production, specifying the qualified production costs and the
13 tax credit amount qualified for in each taxable year a tax
14 credit is claimed. The taxpayer for each qualified production
15 shall file the letter with the taxpayer's tax return for the
16 qualified production to the department of taxation.
17 Notwithstanding the authority of the department of business,
18 economic development, and tourism under this section, the
19 director of taxation may audit and adjust the tax credit amount
20 to conform to the information filed by the taxpayer."

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

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

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

9 (2) This Act shall be repealed on January 1, [~~2019~~] 2024;
10 and section 235-17, Hawaii Revised Statutes, shall be
11 reenacted in the form in which it read on the day
12 before the effective date of this Act."

13 SECTION 4. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 5. This Act shall take effect on July 1, 2038.



Report Title:

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

Description:

Amends the Motion Picture, Digital Media, and Film Production Income Tax Credit by providing additional tax credit options for payroll costs and 35 percent of qualified production costs for qualified productions employing local workers in a county with a population of 700,000 or less; permitting the option of offering the State an alternative marketing opportunity; adding new verification and reporting requirements; and extending the repeal of the tax credit until January 1, 2024. (SB1086 HD1)

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