

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:

PART I

1
2 SECTION 1. The purpose of this part is to extend the
3 sunset date of the motion picture, digital media, and film
4 production income tax credit from January 1, 2019, to January 1,
5 2026.

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

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

11 (1) Section 2 of this Act shall apply to qualified
12 production costs incurred on or after July 1, 2006,
13 and before January 1, [~~2019~~] 2026; and

14 (2) This Act shall be repealed on January 1, [~~2019~~] 2026,
15 and section 235-17, Hawaii Revised Statutes, shall be
16 reenacted in the form in which it read on the day
17 before the effective date of this Act."

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1 **PART II**

2 SECTION 3. The purpose of this part is to require
3 taxpayers to submit an independent certification by a certified
4 public accountant of the qualified production costs eligible for
5 the tax credit, as recommended by the Office of the Auditor's
6 Report No. 16-08 "Audit of Hawaii's Motion Picture, Digital
7 Media, and Film Production Income Tax Credit" issued in November
8 2016.

9 SECTION 4. Section 235-17, Hawaii Revised Statutes, is
10 amended by amending subsection (h) to read as follows:

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) A written, sworn statement identifying:

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

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1 ~~[(2)]~~ (B) The amount of tax credits claimed pursuant to
2 this section, if any, in the previous taxable
3 year; and

4 ~~[(3)]~~ (C) The number of total hires versus the number of
5 local hires by category and by county.

6 ~~[This information may be reported from the department of~~
7 ~~business, economic development, and tourism to the legislature~~
8 ~~in redacted form pursuant to subsection (i)(4).]~~

9 (2) An independent certification of the qualified
10 production costs eligible for the credit in the form
11 of a tax opinion. To satisfy this paragraph, a tax
12 opinion must reach a conclusion substantially similar
13 to the following: "It is more likely than not that at
14 least \$(insert appropriate amount) expended by the
15 taxpayer during (insert taxable year) would qualify as
16 qualified production costs within the meaning of
17 section 235-17, Hawaii Revised Statutes." To qualify
18 as a tax opinion acceptable under this paragraph, such
19 an opinion shall meet the requirements for covered
20 opinions as set forth in Treasury Circular 230, 31
21 Code of Federal Regulations, subtitle A, part 10,
22 section 10.35(c), which by this reference is

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1 incorporated herein, with conforming changes in
2 nomenclature and other wording as authorized by
3 chapter 235.

4 The information required in paragraph (1) may be reported from
5 the department of business, economic development, and tourism to
6 the legislature in redacted form pursuant to subsection (i)(4).
7 Failure to comply with this subsection shall constitute a waiver
8 of the right to claim the credit."

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 upon its approval.

12

13

INTRODUCED BY:

Wm. M. W. L.

14

BY REQUEST

15

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Report Title:

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

Description:

Amends Act 88, Session Laws of Hawaii 2006, to extend the sunset date for the amendments made to section 235-17, Hawaii Revised Statutes. Amends section 235-17(h), Hawaii Revised Statutes, to require taxpayers claiming the tax credit to submit an independent certification of the qualified production costs.

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

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JUSTIFICATION SHEET

DEPARTMENT: Business, Economic Development, and Tourism .

TITLE: A BILL FOR AN ACT RELATING TO THE MOTION PICTURE, DIGITAL MEDIA, AND FILM PRODUCTION INCOME TAX CREDIT.

PURPOSE: Amend Act 88, Session Laws of Hawaii (SLH) 2006, as amended by section 3 of Act 89, SLH 2013, to extend the sunset date of amendments made to section 235-17, Hawaii Revised Statutes (HRS).

Amend section 235-17(h), HRS, to require taxpayers claiming the credit to submit an independent certification of the qualified production costs.

MEANS: Amend section 4 of Act 88, SLH 2006, and section 235-17(h), HRS.

JUSTIFICATION: Hawaii's competition for location production is on a global scale. As Hawaii embarks on expansion of its infrastructure in film and creative and digital media, the current repeal date of January 1, 2019, will impact any ability to forge public-private partnerships, impacting production and any new facility development. In order to maintain Hawaii's competitive edge, it is important to extend the sunset date that is currently two years out ending December 2018. This has already impacted television series production and television pilots that depend on stability and predictability necessary for their fiscal and production planning. Similarly, studio executives will not engage Hawaii in location scouting or decisions to send productions to a jurisdiction whose tax credit sunset date is under a five-year period. The sunset date of January 1, 2019, provides limited business certainty for the industry-at-large, which will severely impact this

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economic driver for our State and our future infrastructure development.

The Office of the Auditor released Report No. 16-08 "Audit of Hawaii's Motion Picture, Digital Media, and Film Production Income Tax Credit" in November 2016. One of the Auditor's recommendations is that productions should be required "to obtain an independent review by a certified public accountant of qualified production costs and provide the report to the film office prior to being certified for the tax credit." The department is implementing this recommendation by amending the current statute.

Impact on the public: Supports continuance of high paying jobs for residents and small and mid-size businesses and offers stability to attract outside investment for infrastructure development and expansion. Maintains the production tax credit for the film industry that contributes over \$390,000,000 in economic impact on average annually.

The requirement for an independent certification will provide the public with confidence that the figures being certified are accurate as they have been reviewed and certified by a certified public accountant.

Impact on the department and other agencies:
None.

GENERAL FUND:

TBD.

OTHER FUNDS:

None.

PPBS PROGRAM
DESIGNATION:

BED 105.

OTHER AFFECTED
AGENCIES:

Department of Taxation, Department of Budget and Finance.

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EFFECTIVE DATE: Upon approval.