



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**
KA 'OIHANA HO'OMOHALA PĀ'OIHANA, 'IMI WAIWAI
A HO'OMĀKA'IKA'I

JOSH GREEN, M.D.
GOVERNOR

CHRIS J. SADAYASU
DIRECTOR

DANE K. WICKER
DEPUTY DIRECTOR

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Statement of
CHRIS J. SADAYASU
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT
Friday, February 10, 2023
10:30 AM
State Capitol, Conference Room 423
In consideration of
HB1314
RELATING TO TAXES.

Chair Holt, Vice Chair Lamosao and members of the Committee. The Department of Business, Economic Development, and Tourism (DBEDT) supports HB 1314 which requires productions to provide evidence of reasonable efforts to comply with all applicable requirements to qualify for the motion picture, digital media, and film production income tax credit, providing filers the ability to cure and remedy required aspects of Act 217, SLH 2022, HRS 235-17, Section 1 (d) of the Hawai'i Motion Picture, Digital Media and Film Production Income Tax Credit program.

This measure addresses the withholding and related aspects which went into effect January 1, 2023, requiring all filers to pay monthly to the Department of Taxation (DoTAX) the required withholding for loan outs and payroll companies during the production timeframe.

DBEDT conducted briefings with industry and DoTAX to address multiple questions for this new requirement, including a demonstration of a new online system for payment and reporting. The ability to cure provides industry the ability to ensure

compliance of the loan out companies and inserts language which further clarifies the ability to cure within the 90-day time period as prescribed in the law.

The motion picture, digital media, and film production income tax credit program is a critical tool for developing Hawai'i's film industry and since its inception in 2006, the incentive has grown from \$100M-a-year industry to a \$400M+ year economic driver, and with it, more than 4,000 direct and induced jobs annually.

A thriving film and digital media industry has broadened Hawai'i's tax base, helped to strengthen the state's economy, created high-paying jobs in the creative sector, and made Hawai'i a production center of the Pacific.

Thank you for the opportunity to testify.

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR
Choose an item.



STATE OF HAWAII
DEPARTMENT OF TAXATION
Ka 'Oihana 'Auhau
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

H.B. No. 1314, Relating to Taxes

BEFORE THE:

House Committee on Economic Development

DATE: Friday, February 10, 2023

TIME: 10:30 a.m.

LOCATION: State Capitol, Room 423

Chair Holt, Vice-Chair Lamosao, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding H.B. 1314 for your consideration.

H.B. 1314 amends section 235-17(d), Hawaii Revised Statutes (HRS), relating to the motion picture, digital media, and film production income tax credit ("film credit"), by obligating taxpayers to provide evidence of reasonable efforts to comply with all applicable requirements under title 14, HRS, and requiring that taxpayers be given notice and an opportunity to cure any of the requirements in subsection (d). The measure is effective on January 1, 2023.

The Department notes that the amendments to section 235-17(d), HRS, may render the applicability of deadlines and other requirements in section 235-17, HRS, to be ambiguous. For example, it may be unclear whether a taxpayer is required to claim the film credit within 12 months following the close of the taxable year, as required by section 235-17(c), HRS, or whether the taxpayer is merely required to make a reasonable effort to claim the film credit within the 12-month period, and will thereafter be allowed to cure the failure to timely file pursuant to section 235-17(d), HRS.

Department of Taxation Testimony
H.B. 1314
February 10, 2023
Page 2 of 2

To address this possible issue, the Department suggests adding a proviso at the end of section 235-17(d), HRS, that reads: “provided further that nothing in this subsection shall be interpreted as waiving any requirement or extending the time to perform any act required in this section.”

The Department further notes that it is able to administer this measure by the current effective date.

Thank you for the opportunity to provide comments on this measure.



UNIVERSITY OF HAWAII SYSTEM

‘ŌNAEHANA KULANUI O HAWAII

Legislative Testimony

Hō'ike Mana'o I Mua O Ka 'Aha'ōlelo

Testimony Presented Before the
House Committee on Economic Development
Friday, February 10, 2023 at 10:30 a.m.

by

Christopher P. Lee, Founder/Director
Academy for Creative Media System

on behalf of

Vassilis L. Syrmos, Vice President for Research and Innovation
University of Hawai'i System

HB 1314 – RELATING TO TAXES

Chair Holt, Vice Lamosao, and Members of the Committee:

The University of Hawai'i (UH), supports the intent of HB 1314 to enhance the state's successful motion picture/television/streaming production industry tax credit.

Hawai'i's Film Production Tax Credit has been a success. "...Since the passage of the film credit in 2006, spending in Hawai'i on TV/film productions has soared, with inflation adjusted spending increasing by 116 percent between 2007 (\$164.5 million) and 2019 (\$355.6 million). This is much larger than the overall increase in Hawai'i real gross domestic product over the same period, a modest 17 percent..." noted by Sumner La Croix and James Mak in their March 2021 UHERO report, *Understanding the Role of the Hawaii Film/TV/Digital Production Tax Credit in Diversifying the Hawaii Economy*.

The Academy for Creative Media at UH now supports 16 programs across all ten campuses. Thanks to the foundational and continuing support of the Legislature, students and graduates from ACM on every island are contributing to Hawai'i's creative economy with living wage jobs. With the stable and reliable film tax credit it seeks to extend, HB 1314 will help to keep these students here, and at the same time, help to diversify the local economy.

Thank you for the opportunity to testify today.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Motion Picture, Digital Media, and Film Production Income Tax Credit; Opportunity to Cure Deficiencies

BILL NUMBER: SB 795, HB 1314

INTRODUCED BY: SB by DECOITE; HB by KITAGAWA

EXECUTIVE SUMMARY: Relaxes the current requirement that a production comply with “all applicable requirements” under the tax laws to “provide evidence of reasonable efforts to comply.” Requires taxpayers be given notice and an opportunity to cure requirements for the motion picture, digital media, and film production income tax credit.

SYNOPSIS: Amends section 235-17(d), HRS, to change the requirement that a qualified production “Be compliant with all applicable requirements under title 14, including tax return filing and payments” to “Provide evidence of reasonable efforts to comply” with those requirements.

Adds a proviso that a taxpayer shall be given notice and an opportunity to cure any of the requirements in section 235-17(d).

EFFECTIVE DATE: January 1, 2023.

STAFF COMMENTS: The legislature by Act 107, SLH 1997, enacted an income tax credit of 4% for costs incurred as a result of producing a motion picture or television film in the state and 7.25% for transient accommodations rented in connection with such activity. The credit was adopted largely to address the impost of the state’s general excise tax on goods and services used by film producers.

The legislature by Act 88, SLH 2006, increased the 4% credit to 15% in a county with a population over 700,000 and to 20% in a county with a population of 700,000 or less. Act 88 also repealed the income tax credit for transient accommodations and expanded the credit to include commercials and digital media productions, and limited the credit to \$8 million per qualified production. Act 89, SLH 2013, increased the motion picture, digital media, and film production tax credit from 15% to 20% for the costs incurred in a county with a population over 700,000 and from 20% to 25% for costs incurred in a county with a population of 700,000 or less. Act 89 also increased the total tax credits that may be claimed per qualified production from \$8 million to \$15 million. Act 143, SLH 2017, imposed a statewide cap on such credits of \$35 million; Act 275, SLH 2019, increased the statewide cap to \$50 million.

Act 217, SLH 2022, increased the credit percentage for Oahu production costs from 20% to 22% and Neighbor Island production costs from 25% to 27%, but it also inserted two additional requirements in subsection (d), namely that a production “Be compliant with all applicable requirements under title 14, including tax return filing and payments; and ... Provide complete

responses to the department of taxation's inquiries and document requests, in the form prescribed by the department, no later than ninety days from the inquiry or request."

At the time the 2022 amendment was passed, we were concerned that these new requirements could be used to disqualify a production from all credits for relatively minor issues such as a single late return or failure to respond to a Department inquiry made informally or by mail to an address that was no longer effective.

We view the amendments by this bill as a way to restore some sanity to the administration of this credit.

Digested: 1/30/2023



MPA

Memo in Support of House Bill 1314

The Motion Picture Association (“MPA”) and its member companies support House Bill 1314, legislation regarding the film and television production tax credit program to clarify the production and taxpayer’s obligations and responsibilities under the program. MPA’s members* are the leading producers and distributors of filmed entertainment across all platforms, including motion picture theaters, cable, satellite, broadcast and internet exhibition.

In 2022, Hawaii enacted amendments to the film and television production tax credit program, Act 217, SLH 2022, HRS 235-17. Among other provisions, the amendments imposed new requirements regarding the employer’s responsibility to withhold and remit in accordance with the General Excise Tax (“GET”) for loan-out corporations. The employer, or payroll services company on behalf of the employer, cannot remit amounts withheld to the Department of Taxation (“DoTAX”) without a GET identification number provided by the loan-out corporation. The language of the 2022 amendments requires that the employer “be compliant” with all requirements. However, if the loan-out corporation does not provide the employer, or payroll services company, with a GET identification number, the employer could be determined to be out of compliance with this requirement, potentially putting the tax credit at risk.

This bill amends the 2022 law to allow the employer to make reasonable efforts to comply with all the requirements of the film and television production tax credit program, and to have an opportunity to rectify any compliance issues, should they arise. This will allow employers, and payroll services companies, to work with the loan-out corporations to encourage them to obtain a GET identification number. And these amendments will ensure that productions will not be at risk to be found not compliant over a minor technical issue.

* MPA member companies include: The Walt Disney Studios Motion Pictures; Netflix Studios, LLC; Paramount Pictures Corporation; Sony Pictures Entertainment Inc.; Universal City Studios LLC; and Warner Bros. Entertainment Inc.

For these reasons, MPA supports HB 1314 and urges the Members of the Committee to support the bill.

February 9, 2023

HB-1314

Submitted on: 2/9/2023 10:30:54 AM

Testimony for ECD on 2/10/2023 10:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|----------------|
| Irish Barber | IATSE Local 665 | Comments | In Person |

Comments:

The Thirty-Second Legislature, State of Hawai'i
Hawai'i House of Representatives, Regular Session 2023
Hawaii State Capitol, 415 South Beretania Street, Honolulu, HI

COMMITTEE ON ECONOMIC DEVELOPMENT

Rep. Daniel Holt, Chair

Rep. Rachele F. Lamosao, Vice Chair

Rep. Natalia Hussey-Burdick

Rep. Sam Satoru Kong

Rep. Nadine K. Nakamura

Rep. Elijah Pierick

Rep. Sean Quinlan

DATE: Friday, February 10, 2023

TIME: 10:30 AM

PLACE: Conference Room 423 & Videoconference

RE: HOUSE BILL 1314 – RELATING TO TAXES

Mahalo Chair Holt, Vice Chair Lamosao, and Members of the House Committee for allowing us to provide COMMENTS regarding **H.B. 932**.

IATSE Local 665 represents Entertainment Technicians in the Stagecraft, Tradeshow, Convention, Film and TV industries across the State of Hawaii, and we truly appreciate the continued support the State has shown toward the growth of our film industry. We have approximately 1,450 workers in our database that we send out onto jobs. Almost 700 of those are members, and the rest are trainees. Although our members are usually hired because they have the most experience, being a trainee does not prevent them from being referred to work. We have been able to accommodate at least four large projects occurring simultaneously.

For the most part, production companies do contact our Local for film technicians and crew, and we supply them with qualified workers in accordance with our collective bargaining agreement. If we are unable to fill the job call from our current database, we have recruited skilled workers or allowed other IATSE workers to enter our jurisdiction with our permission.

A simple remedy to confirm that a company has contacted us would be to send us the signed affidavit, and allow us to reply that the company did contact us. We could further state whether we were able to fulfill their labor needs with local hires or allowed mainland hires to work on the show. We had a similar process with the Hawaii International Film Association pilot visa waiver program before it was shutdown in 2020. This process required that a fax or email be sent to the proper labor union for permission and confirmation that local hires would be hired and at least had parity with the incoming crew.

We are encourage by this discussion, and a simple revision to the current language is all that is needed, in our opinion.

Respectfully submitted,

Irish Barber

Business Representative

Testimony of Walea Constantinou,
Film Commissioner, Honolulu Film Office
City and County of Honolulu

COMMITTEE ON ECONOMIC DEVELOPMENT

February 10, 2023

10:30 AM

State Capitol, via Videoconference and Conference Room 423

RE: HB 1314 RELATING TO TAXES

Dear Chair Holt, Vice-chair Lamosao, and members of the committees:

The Honolulu Film Office **supports the measure** which seeks to offer notice and gives the opportunity for taxpayers to cure any requirements to be in compliance with DoTAX.

Thank you for your kind attention and the opportunity to provide these comments.



House of Representatives
The Thirty-Second Legislature
Regular Session of 2023

COMMITTEE ON ECONOMIC DEVELOPMENT
Rep. Daniel Holt, Chair
Rep. Rachele F. Lamosao, Vice Chair

RE: HB 1314 RELATING TO TAXES

Date: Friday, February 10, 2023
Time: 10:30 a.m.

VIA VIDEOCONFERENCE
Conference Room 423
State Capitol
415 South Beretania Street

February 9, 2023

From: Roy Tjioe and Ricardo Galindez
Island Film Group
99-1245 Halawa Valley St.
Aiea, HI 96701
808-536-7955

Aloha Chair Holt, Vice Chair Lamosao, and Members of the Committee:

Our Background

Island Film Group is a locally owned and operated production company. We began working in Hawaii's film and television industry in 2001 as attorneys at Goodwill Anderson Quinn & Stifel, where we represented filmmakers and other production companies. Since our formation of Island Film Group in 2007, we have been working full-time as producers of feature films such as "Princess Ka'iulani" and "Soul Surfer", network and cable

television movies and series, as well as a variety of commercial productions.

We SUPPORT HB 1314, which allows the production claiming the tax credit to provide evidence of reasonable efforts to comply with all applicable requirements under title 14, as opposed to the current language which could be used to unfairly penalize productions that do not strictly comply with the requirements despite their good faith efforts to do so.

We SUPPORT the intent of the proposed language providing for notice and an opportunity to cure any of the requirements for claiming the tax credit. We respectfully request, however, that the term “taxpayer” be replaced with “production” since the statutory section and indeed the film tax credit itself focuses instead on the production and not the taxpayer. As such, we propose that the language in HB 1314, page 2, line 14 and 15, be revised to read as follows:

“; provided that a **production** shall be given notice and an opportunity to cure any of the requirements of this subsection.” (emphasis added.)

Me ke aloha,

Two handwritten signatures in black ink, one on the left and one on the right, positioned above the typed names.

Roy Tjioe and Ricardo Galindez
Co-Founders
Island Film Group
Honolulu, Hawaii