
A BILL FOR AN ACT

RELATING TO INCOME TAX CREDITS.

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 existing income tax credit is
4 not reflective of the current volume of business of the State's
5 film industry. Additionally, other jurisdictions are becoming
6 more friendly and fiscally enticing for motion picture, digital
7 media, and film production decision makers.

8 Hawaii can look to the recent success in Georgia, where its
9 exemplar film tax credit provided \$8.55 billion in economic
10 impact in 2022. Georgia's film tax credit currently has a
11 return on investment of \$6.30 per every \$1 issued as a tax
12 credit. Georgia's tax incentive was the most important factor
13 in attracting production companies into the state and
14 influencing their decision to film in the state. Further,
15 Georgia's tax credit created almost sixty thousand jobs within
16 the state in 2022.



1 The purpose of this Act is to stimulate the motion picture,
2 digital media, and film production industry in Hawaii and
3 incentivize hiring Hawaii residents by amending the amount of
4 total income tax credits available and providing the State with
5 alternative marketing opportunities in lieu of a shared-card,
6 end-title screen credit.

7 SECTION 2. Section 235-17, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§235-17 Motion picture, digital media, and film**
10 **production income tax credit.** [*Repeal and reenactment on*
11 *January 1, 2033. L 2022, c 217, §4.*] (a) Any law to the
12 contrary notwithstanding, there shall be allowed to each
13 taxpayer subject to the taxes imposed by this chapter, an income
14 tax credit that shall be deductible from the taxpayer's net
15 income tax liability, if any, imposed by this chapter for the
16 taxable year in which the credit is properly claimed. The
17 amount of the credit shall be:

18 (1) Twenty-two per cent of the qualified production costs
19 incurred by a qualified production in any county of
20 the State with a population of over seven hundred
21 thousand; [~~or~~]



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

5 (3) Thirty per cent of the qualified production costs
6 incurred by a qualified production in any county of
7 the State if twenty-five per cent of talent and crew
8 paid for services performed relating to the qualified
9 production are individuals residing in Hawaii.

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

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

20 If a deduction is taken under section 179 (with respect to
21 election to expense depreciable business assets) of the Internal



1 Revenue Code of 1986, as amended, no tax credit shall be allowed
2 for those costs for which the deduction is taken.

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

6 (b) The credit allowed under this section shall be claimed
7 against the net income tax liability for the taxable year. For
8 the purposes of this section, "net income tax liability" means
9 net income tax liability reduced by all other credits allowed
10 under this chapter.

11 (c) If the tax credit under this section exceeds the
12 taxpayer's income tax liability, the excess of credits over
13 liability shall be refunded to the taxpayer; provided that no
14 refunds or payment on account of the tax credits allowed by this
15 section shall be made for amounts less than \$1. All claims,
16 including any amended claims, for tax credits under this section
17 shall be filed on or before the end of the twelfth month
18 following the close of the taxable year for which the credit may
19 be claimed. Failure to comply with any of the foregoing
20 provision shall constitute a waiver of the right to claim the
21 credit.



- 1 (d) To qualify for this tax credit, a production shall:
- 2 (1) Meet the definition of a qualified production
- 3 specified in subsection (o);
- 4 (2) Have qualified production costs totaling at least
- 5 \$100,000;
- 6 (3) Provide the State a qualified Hawaii promotion, which
- 7 shall be ~~[a]~~:
- 8 (A) At minimum, a shared-card, end-title screen
- 9 credit, where applicable; or
- 10 (B) Alternative marketing opportunities, approved by
- 11 the department of business, economic development,
- 12 and tourism, that offer equal or greater
- 13 promotional value to the State than the shared-
- 14 card, end-title screen credit;
- 15 (4) Provide evidence of reasonable efforts to hire local
- 16 talent and crew;
- 17 (5) Provide evidence when making any claim for products or
- 18 services acquired or rendered outside of this State
- 19 that reasonable efforts were unsuccessful to secure
- 20 and use comparable products or services within this
- 21 State;



1 (6) Provide evidence of financial or in-kind contributions
2 or educational or workforce development efforts, in
3 partnership with related local industry labor
4 organizations, educational institutions, or both,
5 toward the furtherance of the local film and
6 television and digital media industries;

7 (7) Be compliant with all applicable requirements under
8 title 14, including tax return filing and payments;
9 and

10 (8) Provide complete responses to the department of
11 taxation's inquiries and document requests, in the
12 form prescribed by the department, no later than
13 ninety days from the inquiry or request.

14 (e) On or after July 1, 2006, no qualified production cost
15 that has been financed by investments for which a credit was
16 claimed by any taxpayer pursuant to section 235-110.9 is
17 eligible for credits under this section.

18 (f) To receive the tax credit, the taxpayer shall first
19 prequalify the production for the credit by registering with the
20 department of business, economic development, and tourism during
21 the development or preproduction stage.



1 (g) The director of taxation shall prepare forms as may be
2 necessary to claim a credit under this section. The director
3 may also require the taxpayer to furnish information to
4 ascertain the validity of the claim for credit made under this
5 section and may adopt rules necessary to effectuate the purposes
6 of this section pursuant to chapter 91.

7 (h) Every taxpayer claiming a tax credit under this
8 section for a qualified production shall, no later than ninety
9 days following the end of each taxable year in which qualified
10 production costs were expended, submit a written, sworn
11 statement to the department of business, economic development,
12 and tourism that identifies:

- 13 (1) All qualified production costs as provided by
14 subsection (a), if any, incurred in the previous
15 taxable year;
- 16 (2) The amount of tax credits claimed pursuant to this
17 section, if any, in the previous taxable year; and
- 18 (3) The number of total hires versus the number of local
19 hires by category and by county.



1 This information may be reported from the department of
2 business, economic development, and tourism to the legislature
3 pursuant to subsection (i)(4).

4 (i) The department of business, economic development, and
5 tourism shall:

6 (1) Maintain records of the names of the taxpayers and
7 qualified productions thereof claiming the tax credits
8 under subsection (a);

9 (2) Obtain and total the aggregate amounts of all
10 qualified production costs per qualified production
11 and per qualified production per taxable year;

12 (3) Provide a letter to the director of taxation
13 specifying the amount of the tax credit per qualified
14 production for each taxable year that a tax credit is
15 claimed and the cumulative amount of the tax credit
16 for all years claimed; and

17 (4) Submit a report to the legislature no later than
18 twenty days prior to the convening of each regular
19 session detailing ~~the~~:

20 (A) The non-aggregated qualified production costs
21 that form the basis of the tax credit claims and



1 expenditures, itemized by taxpayer, in a redacted
2 format to preserve the confidentiality and that
3 shall include the dollar amount claimed, name of
4 company, and name of the qualified production of
5 the taxpayers claiming the credit[-]; and

6 (B) The marketing opportunities the department of
7 business, economic development, and tourism has
8 approved under subsection (d) (3) (B), including:

9 (i) The goals and strategy justifying each of
10 those approved marketing opportunities; and

11 (ii) The names of all production companies who
12 opted to include a shared-cared, end-title
13 screen credit in their final production
14 instead of offering the State an alternative
15 marketing proposal.

16 (j) Upon each determination required under subsection (i),
17 the department of business, economic development, and tourism
18 shall issue a letter to the taxpayer, regarding the qualified
19 production, specifying the qualified production costs and the
20 tax credit amount qualified for in each taxable year a tax
21 credit is claimed; provided that the department of business,



1 economic development, and tourism shall issue the letter to the
2 taxpayer no later than seven months after receipt of the
3 taxpayer's statement under subsection (h). The taxpayer for
4 each qualified production shall file the letter with the
5 taxpayer's tax return for the qualified production to the
6 department of taxation. Notwithstanding the authority of the
7 department of business, economic development, and tourism under
8 this section, the director of taxation may audit and adjust the
9 tax credit amount to conform to the information filed by the
10 taxpayer.

11 (k) Each taxpayer claiming a tax credit under this section
12 shall submit to the department of business, economic
13 development, and tourism a fee for the motion picture, digital
14 media, and film production income tax credit in an amount equal
15 to 0.2 per cent of the tax credit claimed by the qualified
16 production no later than the deadline stated in subsection (c).
17 The department of business, economic development, and tourism
18 may prescribe the form and method by which this fee is remitted,
19 including through electronic means. The fees collected under
20 this subsection shall be deposited into the Hawaii film and



1 creative industries development special fund under section 201-
2 113.

3 (l) Total tax credits claimed per qualified production
4 shall not exceed \$17,000,000.

5 (m) Qualified productions shall comply with subsections
6 (d), (e), (f), (h), and (k).

7 (n) The total amount of tax credits allowed under this
8 section in any particular year shall be \$50,000,000; however, if
9 the total amount of credits applied for in any particular year
10 exceeds the aggregate amount of credits allowed for that year
11 under this section, the excess shall be treated as having been
12 applied for in the subsequent year and shall be claimed in the
13 subsequent year; provided that no excess shall be allowed to be
14 claimed after December 31, 2032.

15 (o) 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;



1 (2) Includes a series of advertising messages if all parts
2 are produced at the same time over the course of six
3 consecutive weeks; and

4 (3) Does not include an advertising message with Internet-
5 only distribution.

6 "Digital media" means production methods and platforms
7 directly related to the creation of cinematic imagery and
8 content, specifically using digital means, including but not
9 limited to digital cameras, digital sound equipment, and
10 computers, to be delivered via film, videotape, interactive game
11 platform, or other digital distribution media.

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

18 "Production" means a series of activities that are directly
19 related to the creation of visual and cinematic imagery to be
20 delivered via film, videotape, or digital media and to be sold,
21 distributed, or displayed as entertainment or the advertisement



1 of products for mass public consumption, including but not
2 limited to scripting, casting, set design and construction,
3 transportation, videography, photography, sound recording,
4 interactive game design, and post-production.

5 "Qualified production":

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



1 constitute separate, individual qualified productions;

2 and

3 (2) Does not include:

4 (A) News;

5 (B) Public affairs programs;

6 (C) Non-national magazine or talk shows;

7 (D) Televised sporting events or activities;

8 (E) Productions that solicit funds;

9 (F) Productions produced primarily for industrial,
10 corporate, institutional, or other private
11 purposes; and

12 (G) Productions that include any material or
13 performance prohibited by chapter 712.

14 "Qualified production costs" means the costs incurred by a
15 qualified production within the State that are subject to the
16 general excise tax under chapter 237 at the highest rate of tax
17 or income tax under this chapter if the costs are not subject to
18 general excise tax and that have not been financed by any
19 investments for which a credit was or will be claimed pursuant
20 to section 235-110.9. Qualified production costs include but
21 are not limited to:



- 1 (1) Costs incurred during preproduction such as location
2 scouting and related services;
- 3 (2) Costs of set construction and operations, purchases or
4 rentals of wardrobe, props, accessories, food, office
5 supplies, transportation, equipment, and related
6 services;
- 7 (3) Wages or salaries of cast, crew, and musicians;
- 8 (4) Costs of photography, sound synchronization, lighting,
9 and related services;
- 10 (5) Costs of editing, visual effects, music, other post-
11 production, and related services;
- 12 (6) Rentals and fees for use of local facilities and
13 locations, including rentals and fees for use of state
14 and county facilities and locations that are not
15 subject to general excise tax under chapter 237 or
16 income tax under this chapter;
- 17 (7) Rentals of vehicles and lodging for cast and crew;
- 18 (8) Airfare for flights to or from Hawaii, and interisland
19 flights;
- 20 (9) Insurance and bonding;



1 (10) Shipping of equipment and supplies to or from Hawaii,
2 and interisland shipments; and

3 (11) Other direct production costs specified by the
4 department in consultation with the department of
5 business, economic development, and tourism;

6 provided that any government-imposed fines, penalties, or
7 interest that are incurred by a qualified production within the
8 State shall not be "qualified production costs". "Qualified
9 production costs" does not include any costs funded by any
10 grant, forgivable loan, or other amounts not included in gross
11 income for purposes of this chapter."

12 SECTION 3. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

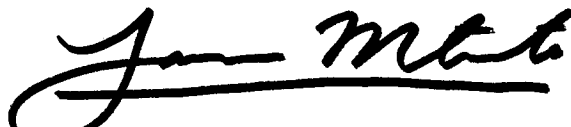
14 SECTION 4. This Act, upon its approval, shall apply to
15 taxable years beginning after December 31, 2024.

16

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INTRODUCED BY:











H.B. NO. 1707

Report Title:

Minority Caucus Package; Film Industry Tax Credit

Description:

Amends the amount of total income tax credits available.
Provides the State with alternative marketing opportunities in lieu of a shared-card, end-title screen credit.

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