
A BILL FOR AN ACT

RELATING TO THE HAWAII FILM INDUSTRY.

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

1 SECTION 1. The legislature finds that the Hawaii film
2 industry is an important component of a diversified economy.
3 The legislature also finds that motion picture, digital media,
4 and film production have been effective in stimulating the
5 economy and creating quality jobs in the State. Strategic focus
6 and organization are paramount in developing and maintaining
7 Hawaii as a premier filming location and the development of a
8 local film workforce to provide both above the line and below
9 the line expertise in pre-production, production, and
10 post-production.

11 The purpose of this Act is to:

- 12 (1) Establish the Hawaii film commission;
- 13 (2) Establish a new film studio tax credit;
- 14 (3) Amend the administration and extend the sunset date of
15 the motion picture, digital media, and film production
16 income tax credit to January 1, 2038;



1 (4) Request and appropriate funds for the auditor to
2 conduct a performance and financial audit of the
3 Hawaii state film office;

4 (5) Transfer the rights, powers, functions, and duties of
5 the Hawaii state film office to the Hawaii film
6 commission; and

7 (6) Appropriate funds for one full-time equivalent
8 (1.0 FTE) executive director position within the
9 Hawaii film commission.

10 SECTION 2. Chapter 201, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§201- Hawaii film commission; established. (a) There
14 is established within the department of business, economic
15 development, and tourism for administrative purposes only a
16 commission to be known as the Hawaii film commission. The
17 commission shall consist of five members who shall be appointed
18 by the governor in the manner prescribed in section 26-34,
19 except as otherwise provided in this section; provided that:

20 (1) One member shall reside in the county of Hawaii;



- 1 (2) One member shall reside in the city and county of
2 Honolulu;
- 3 (3) One member shall reside in the county of Kauai;
- 4 (4) One member shall reside in the county of Maui; and
- 5 (5) The director of business, economic development, and
6 tourism or the director's designated representative
7 shall serve as an ex officio, voting member of the
8 commission.
- 9 (b) Each member identified in paragraphs (1) through (4)
10 of subsection (a) shall have knowledge, interest, and proven
11 expertise in one or more of the following fields:
- 12 (1) Accounting;
- 13 (2) Banking;
- 14 (3) Corporate management;
- 15 (4) Finance;
- 16 (5) Film production;
- 17 (6) Management;
- 18 (7) Marketing and promotion; or
- 19 (8) Real estate.
- 20 (c) Members shall be subject to the gift reporting
21 requirements of section 84-11.5.



1 (d) Notwithstanding any law to the contrary, the
2 commission shall be subject to chapter 92.

3 (e) The commission shall appoint an executive director and
4 other additional personnel as necessary to enable the commission
5 to perform the duties of the commission. Employees of the
6 commission shall be exempt from chapter 76.

7 (f) The commission shall establish the compensation of the
8 executive director and other commission personnel.

9 (g) The executive director shall:

10 (1) Report to the commission; and

11 (2) Be subject to the oversight of the commission."

12 SECTION 3. Chapter 235, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§235- Film studio tax credit. (a) There shall be
16 allowed to each taxpayer subject to the taxes imposed by this
17 chapter, an income tax credit that shall be deductible from the
18 taxpayer's net income tax liability, if any, imposed by this
19 chapter for the taxable year in which the credit is properly
20 claimed.



1 In the case of a partnership, S corporation, estate, trust,
2 the tax credit allowable is for film studio costs incurred by
3 the entity for the taxable year. The cost upon which the tax
4 credit is computed shall be determined at the entity level.
5 Distribution and share of credit shall be determined by rule.

6 If a deduction is taken under section 179 (with respect to
7 election to expense depreciable business assets) of the Internal
8 Revenue Code of 1986, as amended, no tax credit shall be allowed
9 for that portion of the film studio costs for which the
10 deduction is taken.

11 The basis of eligible property for depreciation or
12 accelerated cost recovery system purposes for state income taxes
13 shall be reduced by the amount of credit allowable and claimed.
14 In the alternative, the taxpayer shall treat the amount of the
15 credit allowable and claimed as a taxable income item for the
16 taxable year in which it is properly recognized under the method
17 of accounting used to compute taxable income.

18 (b) The amount of the credit shall be per cent of
19 film studio costs incurred during the taxable year for each film
20 studio located in Hawaii.



1 (c) The credit allowed under this section shall be claimed
2 against the net income tax liability for the taxable year.

3 (d) The director of taxation:

4 (1) Shall prepare any forms that may be necessary to claim
5 a tax credit under this section;

6 (2) May require the taxpayer to furnish reasonable
7 information to ascertain the validity of the claim for
8 the tax credit made under this section; and

9 (3) May adopt rules under chapter 91 necessary to
10 effectuate the purposes of this section.

11 (e) If the tax credit under this section exceeds the
12 taxpayer's income tax liability, the excess of the credit over
13 liability may be used as a credit against the taxpayer's income
14 tax liability in subsequent years until exhausted.

15 All claims for the tax credit under this section, including
16 amended claims, shall be filed on or before the end of the
17 twelfth month following the close of the taxable year for which
18 the credit may be claimed. Failure to comply with the foregoing
19 provision shall constitute a waiver of the right to claim the
20 credit.



1 (f) No taxpayer that claims a credit under this section
2 shall claim any other credit for the same film studio costs
3 under this chapter.

4 (g) This section shall not apply to taxable years
5 beginning after December 31, .

6 (h) As used in this section:

7 "Film studio costs" means costs incurred after ,
8 to plan, design, and construct film studio infrastructure.

9 "Film studio infrastructure" means:

10 (1) A large area of external works with significant areas
11 of hard standing adjacent to the studios for
12 production companies' support gallery vans, trailers,
13 general parking and back lots;

14 (2) Permanent space for:

15 (A) Actors, presenters, and other on-screen
16 personnel, including dressing rooms, hair and
17 make-up areas, green rooms;

18 (B) Catering and laundry facilities; and

19 (C) Production spaces, including editing suites,
20 galleries, screening room and control rooms;

21 (3) Spaces for:



- 1 (A) Set design and set building;
- 2 (B) Costume planning and script writing;
- 3 (C) Set building workshops located next to the studio
4 or stage that they are supporting; and
- 5 (D) Office accommodation for pre-production
6 activities,
- 7 regardless of whether they are in a single location
8 and adjacent to individual studios or stages, or
9 spread across the development;
- 10 (4) Sound insulation required between studios and other
11 spaces inside and outside the building, or acoustic
12 isolation to avoid bleed into the space from nearby
13 traffic or industrial activity;
- 14 (5) Electrical power infrastructure:
- 15 (A) To support demand of up to one megawatt in a
16 standard thirty-thousand foot production stage;
- 17 (B) That is provided in a dimmer room that is
18 duplicated within the stages;
- 19 (C) Through which power connectivity is typically
20 delivered via a combination of various-sized
21 commando sockets and Powerlock 400A connectors;



- 1 (D) That, to the extent necessary to respond to high
- 2 electrical loads, employs backup generators and a
- 3 high-voltage power network; and
- 4 (E) That employs a utility-owned high-voltage
- 5 substation as the point of connection to the
- 6 studio site;
- 7 (6) Potable water and fire system infrastructures that
- 8 employ:
- 9 (A) A single point of connection, which is then
- 10 distributed across the development, unless this
- 11 configuration is inappropriate for the purposes
- 12 of the studio;
- 13 (B) A fire hydrant network to comply with applicable
- 14 laws, and fed either by:
- 15 (i) A direct connection to the private network
- 16 from the utility provider, dependent on
- 17 guaranteed flow rate and pressure; or
- 18 (ii) An indirect connection to the private
- 19 network via storage tanks and a booster set;
- 20 and
- 21 (C) A sprinkler system,



- 1 to the extent appropriate for the purposes of a
- 2 studio;
- 3 (7) Heating infrastructure for a studio;
- 4 (8) Ventilation or cooling infrastructure for a production
- 5 stage, through the use of displacement ventilation
- 6 through low-level displacement outlets;
- 7 (9) Information and communications technology and data
- 8 infrastructure that:
- 9 (A) Ensures the provision of a site-wide information
- 10 and communications technology network, with
- 11 appropriate storage capabilities;
- 12 (B) Provides pre-production and post-production
- 13 facilities with connectivity, as appropriate; and
- 14 (C) Provides wi-fi connectivity across the site; and
- 15 (10) Security infrastructure that provides perimeter
- 16 protection that includes:
- 17 (A) Secure perimeter fencing, to provide a physical
- 18 and visual barrier;
- 19 (B) Perimeter closed circuit television to monitor
- 20 activities around the site boundary;



1 (C) External lighting to provide secure and safe
 2 routes around the development and improved
 3 visibility for closed circuit television
 4 monitoring; and

5 (D) Secure and managed entrances and exits for the
 6 site, to monitor all access.

7 "Net income tax liability" means income tax liability
 8 reduced by all other credits allowed under this chapter."

9 SECTION 4. Section 23-92, Hawaii Revised Statutes, is
 10 amended by amending subsection (c) to read as follows:

11 "(c) This section shall apply to the following:

12 (1) Sections 235-12.5 and 241-4.6--Credit for renewable
 13 energy technology system installed and placed in
 14 service in the State. For the purpose of
 15 section 23-91(b)(5), this credit shall be deemed to
 16 have been enacted for an economic benefit; and

17 (2) Section 235-17--Credit for ~~qualified~~ qualifying
 18 production ~~[costs]~~ expenditures incurred for a
 19 qualified motion picture, digital media, or film
 20 production."



1 SECTION 5. Section 121-19, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§121-19 Regulations governing armories, etc. Any law to
4 the contrary notwithstanding, the adjutant general may make
5 regulations to establish procedures governing the care and
6 custody of department of defense facilities that are either set
7 aside to the department of defense or on license from the
8 federal government. The adjutant general may permit the use of
9 or may temporarily rent to national guard units or other county,
10 state, or federal government agency sponsoring or co-sponsoring
11 meetings, classes, or other activities; hosting athletic events
12 or competitions; billeting personnel in conjunction with
13 sanctioned events such as agency-sponsored conferences or
14 classes, agency-sponsored athletic or recreation programs,
15 government-sponsored public hearings or meetings, unit-sponsored
16 youth organizations and activities, or public school sponsored
17 classes, dances, plays, and concerts; nonprofit or eleemosynary
18 organizations conducting a community or group activity; and film
19 production enterprise activities promoted and coordinated
20 through the [~~Hawaii film industry branch, department of~~
21 ~~business, economic development, and tourism, such~~] Hawaii film



1 commission, portions as will not interfere with the military use
2 thereof. The adjutant general shall establish the rentals to be
3 charged for their use and all net proceeds received from the
4 rentals shall be deposited into the general fund of the State.
5 Chapter 91 shall not apply."

6 SECTION 6. Section 235-17, Hawaii Revised Statutes, is
7 amended as follows:

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

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

15 [~~(1) Twenty two per cent of the qualified production costs~~
16 ~~incurred by a qualified production in any county of~~
17 ~~the State with a population of over seven hundred~~
18 ~~thousand; or~~

19 [~~(2) Twenty seven per cent of the qualified production~~
20 ~~costs incurred by a qualified production in any county~~



1 ~~of the State with a population of seven hundred~~
2 ~~thousand or less.~~
3 ~~A qualified production occurring in more than one county may~~
4 ~~prorate its expenditures based upon the amounts spent in each~~
5 ~~county, if the population bases differ enough to change the~~
6 ~~percentage of tax credit.]~~

7 (1) With respect to productions not within a designated
8 enhanced film production zone:

9 (A) Twenty per cent of the approved company's:
10 (i) Qualifying non-resident payroll expenditures
11 for employees who are not resident
12 taxpayers, not to exceed \$1,000,000 in
13 payroll expenditures per person; and

14 (ii) Qualifying production expenditures; or
15 (B) Twenty-five per cent of the approved company's
16 qualifying resident payroll expenditures, not to
17 exceed \$1,000,000 in payroll expenditures per
18 person; or

19 (2) With respect to productions within a designated
20 enhanced film production zone:

21 (A) Twenty per cent of the approved company's:



- 1 (i) Qualifying non-resident payroll expenditures
- 2 for employees who are not resident
- 3 taxpayers, not to exceed \$1,000,000 in
- 4 payroll expenditures per person; and
- 5 (ii) Qualifying production expenditures; or
- 6 (B) Thirty per cent of the approved company's
- 7 qualifying resident payroll expenditures for
- 8 employees who are Hawaii resident taxpayers, not
- 9 to exceed \$1,000,000 in payroll expenditures per
- 10 person.

11 In the case of a partnership, S corporation, estate, or
 12 trust, the tax credit allowable is for [~~qualified~~] qualifying
 13 production [~~costs~~] expenditures incurred by the entity for the
 14 taxable year. The [~~cost~~] expenditures upon which the tax credit
 15 is computed shall be determined at the entity level.

16 Distribution and share of credit shall be determined by rule.

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



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

4 Tax incentive agreements for approved companies under the
5 tax credit program shall include a listing of the enhanced film
6 production zones as of the date of the Hawaii state film
7 office's approval of the project. Once an approved company
8 enters into a tax incentive agreement, the listed enhanced film
9 production zones shall maintain the enhanced benefits for the
10 term of the agreement, regardless of any change in the status of
11 the enhanced film production zones.

12 The approved company shall separately account for the
13 requisite expenditures within enhanced film production zones.
14 If the approved company demonstrates to the satisfaction of the
15 department of taxation that it is not practical to use a
16 separate accounting method to determine the expenditures within
17 the enhanced film production zones, the approved company shall
18 determine the correct expenditures within the enhanced film
19 production zones using an alternative method approved by the
20 department of taxation.



1 All previously approved tax credits shall remain valid
2 until the stated expiration date."

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

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

5 (1) Meet the definition of a qualified production

6 specified in subsection (o);

7 (2) Have [~~qualified~~] qualifying production [~~costs~~]

8 expenditures totaling at least \$100,000;

9 (3) Provide the State a qualified Hawaii promotion, which
10 shall be at a minimum, a shared-card, end-title screen
11 credit, where applicable;

12 (4) Provide evidence of reasonable efforts to hire local
13 talent and crew;

14 (5) Provide evidence when making any claim for products or
15 services acquired or rendered outside of this State
16 that reasonable efforts were unsuccessful to secure
17 and use comparable products or services within this
18 State;

19 (6) Provide evidence of financial or in-kind contributions
20 or educational or workforce development efforts, in
21 partnership with related local industry labor



1 organizations, educational institutions, or both,
2 toward the furtherance of the local film and
3 television and digital media industries;

4 (7) Provide proof of contact for every supporting union -
5 signatory or non-signatory (including IATSE, SAG,
6 Teamsters, IBEW, DGA AFM, and others), and a list of
7 all members and their position titles that will be
8 employed on the production; provided that, for all
9 other production staff, the production shall provide a
10 list of names, position titles and state resident
11 status;

12 (8) Provide proof of contact for every supporting union -
13 signatory or non-signatory (including IATSE, SAG,
14 Teamsters, IBEW, DGA AFM, and others), and a list of
15 all members and their position titles that will be
16 employed on the production, to qualify for an open and
17 accessible epermit or standard film permit; provided
18 that, for all other production staff, the production
19 shall provide a list of names, position titles and
20 state resident status;



1 ~~[(7)]~~ (9) Be compliant with all applicable requirements
2 under title 14, including tax return filing and
3 payments; and

4 ~~[(8)]~~ (10) Provide complete responses to the department of
5 taxation's inquiries and document requests, in the
6 form prescribed by the department, no later than
7 ninety days from the inquiry or request.

8 3. By amending subsection (f) to read:

9 "(f) To receive the tax credit, the taxpayer shall first
10 prequalify the production for the credit by registering with the
11 department of business, economic development, and tourism during
12 the development or preproduction stage. Each prequalified
13 production shall provide the department of business, economic
14 development, and tourism a shooting schedule not later than
15 seven days before the commencement of filming. If there are
16 changes to the production schedule, an updated schedule shall be
17 submitted to the department of business, economic development,
18 and tourism. The department of business, economic development,
19 and tourism shall conduct unannounced on-site audits based on
20 the information the production submitted in the preproduction
21 registration. If discrepancies are found between the



1 preproduction submission and the actual onsite production, the
2 production shall have seven working days to comply with the
3 certified preproduction documentation. A follow-up onsite audit
4 shall be conducted within one week of the seven-working day
5 deadline. If the production remains noncompliant, the tax
6 credit under this section shall be forfeited."

7 4. By amending subsections (h) to (j) to read:

8 "(h) Every taxpayer claiming a tax credit under this
9 section for a qualified production shall, no later than ninety
10 days following the end of each taxable year in which [~~qualified~~]
11 qualifying production [~~costs~~] expenditures were expended, submit
12 a written, sworn statement, verified by an independent
13 third-party auditor, to the department of business, economic
14 development, and tourism that identifies:

- 15 (1) All [~~qualified~~] qualifying production [~~costs~~]
16 expenditures as provided by subsection (a), if any,
17 incurred in the previous taxable year;
- 18 (2) The amount of tax credits claimed pursuant to this
19 section, if any, in the previous taxable year; and
- 20 (3) The number of total hires versus the number of local
21 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]~~ qualifying production ~~[costs]~~ expenditures
11 per qualified production and per qualified production
12 per taxable year;

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

18 (4) Submit a report to the legislature no later than
19 twenty days prior to the convening of each regular
20 session detailing the non-aggregated ~~[qualified]~~
21 qualifying production ~~[costs]~~ expenditures that form



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

7 (5) Publish on its website:

8 (A) A detailed list of film production goods and
9 services vendor requirements; and

10 (B) The names of qualified productions and the amount
11 of the tax credits certified per qualified
12 production per filing year; and

13 (6) Provide the legislature with an annual rolling six-
14 year forecast that details future productions,
15 proposed schedule, and corresponding infrastructure,
16 workforce, goods, and service needs.

17 (j) Upon each determination required under subsection (i),
18 the department of business, economic development, and tourism
19 shall issue a letter to the taxpayer, regarding the qualified
20 production, specifying the [~~qualified~~] qualifying production
21 [~~costs~~] expenditures and the tax credit amount qualified for in



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

12 5. By amending subsections (n) and (o) to read:

13 "(n) The total amount of tax credits allowed under this
14 section in any particular year shall be [~~\$50,000,000,~~] \$ _____ ;
15 however, if the total amount of credits applied for in any
16 particular year exceeds the aggregate amount of credits allowed
17 for that year under this section, the excess shall be treated as
18 having been applied for in the subsequent year and shall be
19 claimed in the subsequent year; provided that no excess shall be
20 allowed to be claimed after December 31, [~~2032,~~] 2038.

21 (o) For the purposes of this section:



1 "Above-the-line production crew" means employees involved
2 with the production of a motion picture or entertainment
3 production whose salaries are negotiated before the commencement
4 of production, including actors, directors, producers, and
5 writers.

6 "Approved company" means an eligible production company
7 approved for incentives under this section.

8 "Below-the-line production crew" means employees involved
9 with the production of a motion picture or entertainment
10 production, except above-the-line production crew.

11 "Below-the-line production crew" includes:

- 12 (1) Casting assistants;
- 13 (2) Costume design;
- 14 (3) Extras;
- 15 (4) Gaffers;
- 16 (5) Grips;
- 17 (6) Location managers;
- 18 (7) Production assistants;
- 19 (8) Set construction staff;
- 20 (9) Set design staff; and
- 21 (10) Transportation staff.



1 "Commercial":

2 (1) Means an advertising message that is filmed using
3 film, videotape, or digital media, for dissemination
4 via television broadcast or theatrical distribution;

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

8 (3) Does not include an advertising message with
9 Internet-only distribution.

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

16 "Enhanced film production zone" means an area:

17 (1) That is a designated film production zone that follows
18 a same geographic area as a state enterprise zone
19 under chapter 209E; and

20 (2) In which qualifying production expenditures and
21 qualifying payroll expenditures are made.



1 "Excluded expenditures" means:

2 (1) Post-production expenditures for footage shot outside
3 of the State, marketing, publicity, story tights, or
4 distribution;

5 (2) Any expenditures for work or services not conducted or
6 rendered in the State;

7 (3) In any instance in which services are conducted or
8 rendered both in the State and outside the State, the
9 work that is conducted or rendered outside of the
10 State;

11 (4) Expenditures for services not performed at the filming
12 site, unless the vendor is based in the State;

13 (5) Expenditures for goods that were not purchased or
14 rented or leased in the State from a vendor based in
15 Hawaii, including goods shipped or delivered from the
16 Hawaii vendor's location outside of the State, unless
17 more than a de minimis amount of the type of goods
18 held and shipped or delivered from outside the State
19 are normally held in inventory in the ordinary course
20 of business in the State by the Hawaii vendor;
21 provided that, for the purposes of this paragraph, a



1 vendor that acts as a conduit to enable purchases or
2 rentals to qualify that would not otherwise qualify
3 shall not be considered to be vendor based in the
4 State;

5 (6) Expenditures for goods not used in the State;

6 (7) Freight or shipping charges incurred relating to a
7 vendor not based in the State; or

8 (8) Any transaction subject to taxation under chapter 238,
9 for which taxes have not been demonstrably paid;
10 provided that, for the purposes of this paragraph, use
11 taxes paid by the production company itself shall be
12 considered to have been demonstrably paid.

13 "Hawaii-based company" means a business:

14 (1) That has its principal place of business in the State;
15 or

16 (2) With not less than fifty per cent of:

17 (A) Its property located in the State; and

18 (B) Its payroll paid in the State.

19 "Payroll" means salary, wages, or other compensation
20 including related benefits, paid to employees and withheld and
21 paid pursuant to section 235-62.



1 "Post-production" means production activities and services
2 conducted after principal photography is completed, including
3 but not limited to editing, film and video transfers,
4 duplication, transcoding, dubbing, subtitling, credits, closed
5 captioning, audio production, special effects (visual and
6 sound), graphics, and animation.

7 "Production" means a series of activities that are directly
8 related to the creation of visual and cinematic imagery to be
9 delivered via film, videotape, or digital media and to be sold,
10 distributed, or displayed as entertainment or the advertisement
11 of products for mass public consumption, including but not
12 limited to scripting, casting, set design and construction,
13 transportation, videography, photography, sound recording,
14 interactive game design, and post-production.

15 "Production partner" means a director, producer, production
16 supervisor or manager, director of photography, production
17 designer, casting director, production company, production
18 services company, or post-production services company.

19 "Qualified production":

20 (1) Means [~~a production,~~] an approved company, with
21 expenditures in the State, for the total or partial



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

- 16 (2) Does not include:
- 17 (A) News;
 - 18 (B) Public affairs programs;
 - 19 (C) Non-national magazine or talk shows;
 - 20 (D) Televised sporting events or activities;
 - 21 (E) Productions that solicit funds;



1 (F) Productions produced primarily for industrial,
2 corporate, institutional, or other private
3 purposes; and

4 (G) Productions that include any material or
5 performance prohibited by chapter 712.

6 "Qualifying nonresident payroll expenditure" means payroll
7 paid to nonresident cast and crew:

8 (1) Whose wages are subject to Hawaii income tax
9 withholding for that portion of their salary that is
10 earned in the State; and

11 (2) For their work on a project:

12 (A) That:

13 (i) Is produced by a Hawaii-based company;

14 (ii) Is produced by a Hawaii subsidiary company
15 of the applicant production company;

16 (iii) Is produced by a production company in which
17 an owner, member, or principal is a Hawaii
18 resident taxpayer; or

19 (iv) Engages a Hawaii resident taxpayer or
20 company to serve as a production partner to
21 the applicant production company; and



1 (B) For which the applicant company, or the
2 individual or company serving as its production
3 partner, has been associated with the production
4 in Hawaii of at least two nationally-distributed
5 motion pictures within the previous ten years and
6 has filed Hawaii state income taxes for the three
7 most recent taxable years, as verified by the
8 department of taxation.

9 "Qualifying payroll expenditure" means compensation that
10 is:

11 (1) Paid to above-the-line production crew and
12 below-the-line production crew for services performed
13 in the State for work on a motion picture or
14 entertainment production; and

15 (2) Verified for proper remittance of withholding by the
16 approved company or payroll service.

17 ~~["Qualified]~~ "Qualifying production [~~costs~~]" expenditures"
18 means the costs incurred by a qualified production within the
19 State that are subject to the general excise tax under
20 chapter 237 at the highest rate of tax or income tax under this
21 chapter if the costs are not subject to general excise tax and



1 that have not been financed by any investments for which a
2 credit was or will be claimed pursuant to section 235-110.9.

3 [~~Qualified~~] Qualifying production [~~costs~~] expenditures include
4 [~~but are not limited to~~]:

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



- 1 (8) Airfare for flights to or from Hawaii, and interisland
2 flights;
- 3 (9) Insurance and bonding;
- 4 (10) Shipping of equipment and supplies to or from Hawaii,
5 and interisland shipments; and
- 6 (11) Other direct production costs specified by the
7 department in consultation with the department of
8 business, economic development, and tourism;
- 9 provided that any government-imposed fines, penalties, or
10 interest that are incurred by a qualified production within the
11 State shall not be [~~qualified~~] qualifying production [costs].
12 Qualified expenditures. "Qualifying production [costs]"
13 expenditures" does not include any costs funded by any grant,
14 forgivable loan, or other amounts not included in gross income
15 for purposes of this chapter. "Qualifying production
16 expenditures" does not include excluded expenditures.
- 17 "Qualifying resident payroll expenditure" means payroll
18 paid to resident cast and crew:
- 19 (1) Domiciled in the State and physically present in the
20 State for not fewer than nine months of the qualified
21 production's taxable year; and



1 (2) Whose wages are subject to section 235-61."

2 SECTION 7. Act 88, Session Laws of Hawaii 2006, as amended
3 by Act 89, Session Laws of Hawaii 2013, as amended by Act 143,
4 Session Laws of Hawaii 2017, as amended by Act 217, Session laws
5 of Hawaii 2022, is amended by amending section 4 to read as
6 follows:

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

9 (1) Section 2 of this Act shall apply to qualified
10 production costs incurred on or after July 1, 2006,
11 and before January 1, [~~2033~~] 2038; and

12 (2) This Act shall be repealed on January 1, [~~2033~~] 2038,
13 and section 235-17, Hawaii Revised Statutes, shall be
14 reenacted in the form in which it read on the day
15 before the effective date of this Act."

16 SECTION 8. (a) The auditor is requested to conduct a
17 performance and financial audit of the Hawaii state film office
18 of the creative industries branch of the department of business,
19 economic development, and tourism. The auditor is requested to
20 include in the audit the policies, procedures, and processes of
21 the Hawaii state film office as it pertains to the proper



1 facilitation oversight, auditing and approvals given to
2 productions qualifying them for the motion picture, digital
3 media, and film production income tax credit and incentives:

4 (1) From fiscal years 2018-2019 to 2022-2023; and

5 (2) In future fiscal years.

6 (b) The auditor is requested to submit the performance and
7 financial audit, including any findings, recommendations, and
8 proposed legislation, to the legislature no later than twenty
9 days prior to the convening of the regular session of 2024.

10 SECTION 9. All rights, powers, functions, and duties of
11 the Hawaii state film office are transferred to the Hawaii film
12 commission. The person who served as the Hawaii state film
13 commissioner immediately before the effective date of this Act
14 shall serve as the initial executive director of the Hawaii film
15 commission, until that person resigns or until the commission
16 appoints an executive director, whichever occurs first.

17 SECTION 10. All rules, policies, procedures, guidelines,
18 and other material adopted or developed by the Hawaii state film
19 office to implement provisions of the Hawaii Revised Statutes
20 that are reenacted or made applicable to the Hawaii film
21 commission by this Act shall remain in full force and effect



1 until amended or repealed by the Hawaii film commission pursuant
2 to chapter 91, Hawaii Revised Statutes. In the interim, every
3 reference to the Hawaii state film office or the Hawaii state
4 film commissioner in those rules, policies, procedures,
5 guidelines, and other material is amended to refer to the Hawaii
6 film commission or executive director of the Hawaii film
7 commission, as appropriate.

8 SECTION 11. All deeds, leases, contracts, loans,
9 agreements, permits, or other documents executed or entered into
10 by or on behalf of the Hawaii state film office which are
11 reenacted or made applicable to the Hawaii film commission by
12 this Act, shall remain in full force and effect. Upon the
13 effective date of this Act, every reference to the Hawaii state
14 film office or the Hawaii state film commissioner therein shall
15 be construed as a reference to the Hawaii film commission or
16 executive director of the Hawaii film commission, as
17 appropriate.

18 SECTION 12. All appropriations, records, equipment,
19 machines, files, supplies, contracts, books, papers, documents,
20 maps, and other personal property heretofore made, used,
21 acquired, or held by the Hawaii state film office relating to



1 the functions transferred to the Hawaii film commission shall be
2 transferred with the functions to which they relate.

3 SECTION 13. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so much
5 thereof as may be necessary for fiscal year 2023-2024 and the
6 same sum or so much thereof as may be necessary for fiscal year
7 2024-2025 to fund one full-time equivalent (1.0 FTE) executive
8 director position within the Hawaii film commission.

9 The sums appropriated shall be expended by the Hawaii film
10 commission for the purposes of this Act.

11 SECTION 14. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$ or so much
13 thereof as may be necessary for fiscal year 2023-2024 for a
14 performance and financial audit of the Hawaii film office

15 The sum appropriated shall be expended by the office of the
16 auditor for the purposes of this Act.

17 SECTION 15. This Act does not affect rights and duties
18 that matured, penalties that were incurred, and proceedings that
19 were begun before its effective date.

20 SECTION 16. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 17. This Act shall take effect on July 1, 2050.



Report Title:

Hawaii Film Commission; Hawaii State Film Office; DBEDT; Tax Credits; Appropriations

Description:

Establishes the Hawaii Film Commission in the Department of Business, Economic Development, and Tourism. Amends the administration and extends the sunset date of the motion picture, digital media, and film production income tax credit to 1/1/2038. Establishes a new film studio tax credit. Requests and appropriates funds for the Auditor to conduct a performance and financial audit of the Hawaii State Film Office. Transfers all rights, powers, functions, and duties of the Hawaii State Film Office to the Hawaii Film Commission. Appropriates funds for one full-time equivalent executive director position within the Hawaii Film Commission. Effective 7/1/2050. (SD1)

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

