

---

# A BILL FOR AN ACT

RELATING TO THE FILM INDUSTRY.

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

1       SECTION 1. Section 235-17, Hawaii Revised Statutes, is  
2 amended as follows:

3       1. By amending subsection (h) to read:

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

10       (1) All qualified production costs as provided by  
11       subsection (a), if any, incurred in the previous  
12       taxable year;

13       (2) The amount of tax credits claimed pursuant to this  
14       section, if any, in the previous taxable year; and

15       (3) The number of total hires versus the number of local  
16       hires by category and by county.



1 If the qualified production costs of a taxpayer exceed  
2 \$1,000,000 in a taxable year, the written, sworn statement shall  
3 be accompanied by an independent third-party certificate, issued  
4 by a qualified certified public accountant, that verifies all  
5 representations made for the purpose of claiming the credit  
6 under this section. The certificate shall be prepared and  
7 submitted in accordance with standards and procedures prescribed  
8 by the department of business, economic development, and tourism  
9 and the department of taxation. This information may be  
10 reported from the department of business, economic development,  
11 and tourism to the legislature pursuant to subsection (i)(4)."

12 2. 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 \$60,000,000; however, if the total amount of credits applied for  
16 in any particular year exceeds the aggregate amount of credits  
17 allowed for that year under this section, the excess shall be  
18 treated as having been applied for in the subsequent year and  
19 shall be claimed in the subsequent year; provided that no excess  
20 shall be allowed to be claimed after December 31, [~~2032~~] 2038.

21 (o) For the purposes of this section:



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



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

9 "Qualified production":

10 (1) Means a production, with expenditures in the State,  
11 for the total or partial production of a feature-  
12 length motion picture, short film, made-for-television  
13 movie, commercial, music video, interactive game,  
14 television (including broadcast and streaming  
15 platforms) series pilot, single season (up to  
16 twenty-two episodes~~[+]~~ for broadcast television; and  
17 up to eight episodes for an ongoing series for  
18 streaming platforms) of a ~~[television]~~ series  
19 ~~[regularly]~~ filmed in the State ~~[-if]~~. If the number  
20 of episodes per single season for a broadcast series  
21 exceeds twenty-two, and if a streaming series exceeds



1 eight, additional episodes for the same season shall  
2 constitute a separate qualified production[~~77~~].  
3 "Qualified production" also includes a television or  
4 streaming platform special, single [~~television~~]  
5 episode that is not part of a television or streaming  
6 platform series regularly filmed or based in the  
7 State, national magazine show, [~~or~~] and national talk  
8 show. For the purposes of subsections (d) and (l),  
9 each of the aforementioned qualified production  
10 categories shall constitute separate, individual  
11 qualified productions; and

12 (2) Does not include:

- 13 (A) News;  
14 (B) Public affairs programs;  
15 (C) Non-national magazine or talk shows;  
16 (D) Televised sporting events or activities;  
17 (E) Productions that solicit funds;  
18 (F) Productions produced primarily for industrial,  
19 corporate, institutional, or other private  
20 purposes; and



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

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

- (1) Costs incurred during preproduction such as location scouting and related services;
- (2) Costs of set construction and operations, purchases or rentals of wardrobe, props, accessories, food, office supplies, transportation, equipment, and related services;
- (3) Wages or salaries of cast, crew, and musicians;
- (4) Costs of photography, sound synchronization, lighting, and related services;
- (5) Costs of editing, visual effects, music, other post-production, and related services;



1       (6)   Rentals and fees for use of local facilities and  
2           locations, including rentals and fees for use of state  
3           and county facilities and locations that are not  
4           subject to general excise tax under chapter 237 or  
5           income tax under this chapter;  
6       (7)   Rentals of vehicles and lodging for cast and crew;  
7       (8)   Airfare for flights to or from Hawaii, and interisland  
8           flights;  
9       (9)   Insurance and bonding;  
10      (10)   Shipping of equipment and supplies to or from Hawaii,  
11           and interisland shipments; and  
12      (11)   Other direct production costs specified by the  
13           department in consultation with the department of  
14           business, economic development, and tourism;  
15   provided that any government-imposed fines, penalties, or  
16   interest that are incurred by a qualified production within the  
17   State shall not be "qualified production costs". "Qualified  
18   production costs" does not include any costs funded by any  
19   grant, forgivable loan, or other amounts not included in gross  
20   income for purposes of this chapter.



1       "Streaming platform" means an online provider of media  
2       content that delivers the content via internet connection to the  
3       subscriber's computer, television, or mobile device through a  
4       paid subscription."

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

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

12       (1) Section 2 of this Act shall apply to qualified  
13       production costs incurred on or after July 1, 2006,  
14       and before January 1, ~~[2033,]~~ 2039; and

15       (2) This Act shall be repealed on January 1, ~~[2033,]~~ 2039,  
16       and section 235-17, Hawaii Revised Statutes, shall be  
17       reenacted in the form in which it read on the day  
18       before the effective date of this Act."

19       SECTION 3. Act 143, Session Laws of Hawaii 2017, is  
20       amended by amending section 6 to read as follows:





1       "SECTION 6. [~~No later than January 1, 2018, and each~~  
2     ~~January 1 thereafter, each film production that has production~~  
3     ~~expenditures of \$1,000,000 or more and is claiming a tax credit~~  
4     ~~pursuant to section 235-17, Hawaii Revised Statutes, shall~~  
5     ~~obtain an independent third party certification of qualified~~  
6     ~~production costs eligible for the motion picture, digital media,~~  
7     ~~and film production income tax credit in the form of a tax~~  
8     ~~opinion, as required under section 235-17(h), Hawaii Revised~~  
9     ~~Statutes, submitted to the department of business, economic~~  
10    ~~development, and tourism.] Repealed."~~

11       SECTION 4. Statutory material to be repealed is bracketed  
12     and stricken. New statutory material is underscored.

13       SECTION 5. This Act shall take effect on July 1, 2050, and  
14     shall apply to taxable years beginning after December 31, 2025.



**Report Title:**

Motion Picture, Digital Media, and Film Production Income Tax  
Credit; Broadcast and Streaming Platforms

**Description:**

Requires qualified production costs of a taxpayer that exceed \$1,000,000 to be certified by an independent third-party certified public accountant to qualify for the tax credit. Increases the total amount of tax credits allowed in any given year from \$50,000,000 to \$60,000,000. Includes broadcast and streaming platform productions under the tax credit. Defines "streaming platform". Extends the sunset date for the tax credit to 1/1/2039. Makes conforming amendments. 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.*

