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# A BILL FOR AN ACT

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RELATING TO THE FILM INDUSTRY.

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

1           SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended  
2   by adding a new section to part V to be appropriately designated  
3   and to read as follows:

4           "§46-       Motion picture, digital media, and film  
5   production income tax credit; waiver of permitting fees.   (a)  
6   Notwithstanding any law to the contrary, each county shall waive  
7   any applicable permitting fees for film activity conducted on  
8   county lands by a qualified production that qualifies for the  
9   tax credit under section 235-17.

10           (b) For the purposes of this section, "qualified  
11   production" shall have the same meaning as in section 235-17."

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

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

15           "(h) Every taxpayer claiming a tax credit under this  
16   section for a qualified production shall, no later than ninety  
17   days following the end of each taxable year in which qualified



1 production costs were expended, submit a written, sworn  
2 statement to the department of business, economic development,  
3 and tourism that identifies:

4 (1) All qualified production costs as provided by  
5 subsection (a), if any, incurred in the previous  
6 taxable year;

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

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

11 If the qualified production costs of a taxpayer exceed  
12 \$1,000,000 in a taxable year, the written, sworn statement shall  
13 be accompanied by an independent third-party certificate, issued  
14 by a qualified certified public accountant, that verifies all  
15 representations made for the purpose of claiming the credit  
16 under this section. The certificate shall be prepared and  
17 submitted in accordance with standards and procedures prescribed  
18 by the department of business, economic development, and tourism  
19 and the department of taxation. This information may be  
20 reported from the department of business, economic development,  
21 and tourism to the legislature pursuant to subsection (i)(4)."



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

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

(o) For the purposes of this section:

"Commercial":

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

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

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

"Digital media" means production methods and platforms directly related to the creation of cinematic imagery and



1 content, specifically using digital means, including but not  
2 limited to digital cameras, digital sound equipment, and  
3 computers, to be delivered via film, videotape, interactive game  
4 platform, or other digital distribution media.

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

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

19 "Qualified production":

20 (1) Means a production, with expenditures in the State,  
21 for the total or partial production of a feature-



length motion picture, short film, made-for-television movie, commercial, music video, interactive game, television (including broadcast and streaming platforms) series pilot, single season (up to twenty-two episodes~~[+]~~ for broadcast television; and up to eight episodes for an ongoing series for streaming platforms) of a ~~[television]~~ series ~~[regularly]~~ filmed in the State ~~[-if]~~. If the number of episodes per single season for a broadcast series exceeds twenty-two, and if the number of episodes per single season for a streaming series exceeds eight, additional episodes for the same season shall constitute a separate qualified production~~[+]~~.  
"Qualified production" also includes a television or streaming platform special, single ~~[television]~~ episode that is not part of a television or streaming platform series regularly filmed or based in the State, national magazine show, ~~[or]~~ and national talk show. For the purposes of subsections (d) and (l), each of the aforementioned qualified production



categories shall constitute separate, individual  
qualified productions; and

(2) Does not include:

(A) News;

(B) Public affairs programs;

(C) Non-national magazine or talk shows;

(D) Televised sporting events or activities;

(E) Productions that solicit funds;

(F) Productions produced primarily for industrial,  
corporate, institutional, or other private  
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 but  
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]~~ do 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 "Streaming platform" means an online provider of media  
13 content that delivers the content via internet connection to the  
14 subscriber's computer, television, or mobile device."

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

17 ~~"SECTION 6. [No later than January 1, 2018, and each~~  
18 ~~January 1 thereafter, each film production that has production~~  
19 ~~expenditures of \$1,000,000 or more and is claiming a tax credit~~  
20 ~~pursuant to section 235-17, Hawaii Revised Statutes, shall~~  
21 ~~obtain an independent third party certification of qualified~~





1 ~~production costs eligible for the motion picture, digital media,~~  
2 ~~and film production income tax credit in the form of a tax~~  
3 ~~opinion, as required under section 235-17(h), Hawaii Revised~~  
4 ~~Statutes, submitted to the department of business, economic~~  
5 ~~development, and tourism.] Repealed."~~

6 SECTION 4. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect on July 1, 2050;  
9 provided that section 2 shall apply to taxable years beginning  
10 after December 31, 2025.



**Report Title:**

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

**Description:**

Requires each county to waive applicable permitting fees for film activity conducted on county lands by a qualified production that qualifies for the film production tax credit. 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 film production tax credit. Increases to an unspecified amount the aggregate cap amount of film production tax credits allowed in any given year. Repeals language authorizing film production tax credit claims to be applied to subsequent taxable years when the aggregate cap amount has been reached. Includes broadcast and streaming platform productions under the film production tax credit. Defines "streaming platform". Effective 7/1/2050.  
(SD2)

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