

HI S 732, Introduced

Hawaii

SUMMARY: Requires qualified production costs of a taxpayer that exceed a certain amount 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 to a certain amount; includes broadcast and streaming platform productions under the tax credit; defines streaming platform; extends the sunset date for the tax credit to January 1, 2039; makes conforming amendments.~SAME AS:

Changes in Bill text reflected as:

~~Text Deleted~~

Text Added

~~Text Vetoed~~

Current Legislative Status

01/17/2025 INTRODUCED.

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session: Hawaii The 33rd Legislature

cite: 2025 HI S 732

Introduced

January 17, 2025

DeCoite

THE SENATE

S.B. NO.

732

THIRTY-THIRD LEGISLATURE, 2025

STATE OF HAWAII

A BILL FOR AN ACT

RELATING TO THE FILM INDUSTRY.

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

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

1. By amending subsection (h) to read:

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

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

If the qualified production costs of a taxpayer exceed \$1,000,000 in a taxable year, the written, sworn statement shall be accompanied by an independent third-party certificate, issued by a qualified certified public accountant, that verifies all representations made for the purpose of claiming the credit under this section. The certificate shall be prepared and submitted in accordance with standards and procedures prescribed by the department of business, economic development, and tourism and the department of taxation. This information may be reported from the department of business, economic development, 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;~~ **\$60,000,000;** 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.~~ **2038.**

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

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

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

"Qualified production":

(1) Means a production, with expenditures in the State, 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 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 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;
- (6) Rentals and fees for use of local facilities and locations, including rentals and fees for use of state and county facilities and locations that are not subject to general excise tax under chapter 237 or income tax under this chapter;
- (7) Rentals of vehicles and lodging for cast and crew;
- (8) Airfare for flights to or from Hawaii, and interisland flights;
- (9) Insurance and bonding;
- (10) Shipping of equipment and supplies to or from Hawaii, and interisland shipments; and
- (11) Other direct production costs specified by the department in consultation with the department of business, economic development, and tourism;

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

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

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

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

- (1) Section 2 of this Act shall apply to qualified production costs incurred on or after July 1, 2006, and before January 1, ~~2033~~ **2039**; and
- (2) This Act shall be repealed on January 1, ~~2033~~ **2039**, and section 235-17, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act."

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

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

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

SECTION 5. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2025.