

SUMMARY OF PROPOSED COMMITTEE DRAFT:
Bill 59 (2023), CD1
RELATING TO INCENTIVES FOR FILM STUDIO FACILITIES.

The **PROPOSED CD2** makes the following amendments:

- A. In SECTION 2 of the bill:
 - 1. Amends the definition of "Qualifying Construction work" by adding the requirement that the new film studio facilities must be on real property that has been leased or purchased from the United States, the State, or the county within five years of the application for the exemption.
 - 2. Adds a new ROH Section 8-10.__(b)(3) to require that claims for the exemption be accompanied by appropriate documentation showing the real property was leased or purchased from the United States, State, or the county within five years of the application for the exemption, and renumbers the subsequent subdivisions.

- B. In SECTION 3 of the bill:
 - 1. Adds a new ROH Section 8-10.__(b)(2) to require that the film studio facilities be located on real property that has been leased or purchased from the United States, State, or county within five years of the application for the exemption, and renumbers the subsequent subdivisions.
 - 2. Adds a new ROH Section 8-10.__(c)(2) to require that claims for the exemption be accompanied by appropriate documentation showing that the real property was leased or purchased from the United States, State, or the county within five years of the application for the exemption, and renumbers the subsequent subdivisions.

- C. Makes miscellaneous technical and nonsubstantive amendments.



HONOLULU CITY COUNCIL
KE KANIHELA O KE KALANA O HONOLULU
CITY AND COUNTY OF HONOLULU

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BILL 59 (2023), CD2

PROPOSED

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RELATING TO INCENTIVES FOR FILM STUDIO FACILITIES.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Findings and purpose. The purpose of this ordinance is to provide incentives for eligible film studio facilities.

The City Council ("Council") finds that the economies of the State of Hawai'i ("State") and the City and County of Honolulu ("City") need diversification in order to increase their resilience. While tourism is and will remain one of the main drivers of the local economy, there is both a need and a growing call for other industries to grow in their contribution to the economy. One such industry that is ideal for growth and expansion is the film industry. With Hawai'i's diverse landscapes and breathtaking views, there are many opportunities for traditional and nontraditional media to be created here. Television shows and movies that have been filmed in Hawai'i include "NCIS: Hawaii," "Magnum P.I.," "Hawaii 5-0," "White Lotus," "Doogie Kamealoha, M.D.," "Aquaman," and "Lost Kingdom," among countless others over the past decades.

At the State level, many bills at the State Legislature have sought to encourage film production in the State by offering tax credits and other financial incentives. During the 2023 legislative session alone, 13 bills were introduced relating to film tax credits and other incentives for film and media production in the State. Moreover, a look back reveals that similar bills have been introduced even as far back as 2000, so there can be no question that encouraging film production in the State has been a long term diversification strategy. Given the delicate economic situation in both the City and the State, it is time for more attention and resources to be focused on promoting this important segment of the economy.

The Council further finds that film production has a much wider economic impact than merely that of the dollars spent locally for individual film productions. The State's Department of Business, Economic Development, and Tourism reported that in 2020, 17 film productions claimed \$24.7 million of the Hawai'i film tax credit, and qualified film expenditures amounted to \$128.1 million. The impact of filming in Hawai'i stretches far beyond just the direct revenues from the filming itself; each production also brings about an economic ripple effect on the hundreds of local individuals and companies working on the productions, as well as on the related service industries that benefit from such productions in the State.



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The Council additionally finds that situating a local production and filming facility on O‘ahu would provide an important benefit to and serve as a staging point for young actors and other local talent interested in pursuing film production careers. With the launch of the Academy for Creative Media, located at the University of Hawai‘i – West O‘ahu campus, there is expected to be an increasing number of local students prepared to enter the media world. Encouraging local film production is just one avenue for both supporting these young creative individuals as well as further diversifying and bolstering the local economy.

The Council seeks to provide real property tax incentives for the dedication of real property for eligible film studios facilities. The substantial nature of the investments required to qualify for the real property tax incentive is a reflection of this Council's dedication to the future of film projects in the City. The hope is that the film studio facilities constructed as a result of this bill will contribute to both the growth and the health of the film industry in the City, especially with regards to supporting local talent and encouraging students to embark upon careers in the industry.

SECTION 2. Chapter 8, Article 10, Revised Ordinances of Honolulu 2021 ("Exemptions"), is amended by adding a new section to be appropriately designated by the Revisor of Ordinances and to read as follows:

"§ 8-10. Exemption—Qualifying construction—Film studio facilities.

(a) Definitions. For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

Film Studio Facilities. A building or complex of buildings and associated backlot facilities on real property in which qualified production and post-production activities occur, and which contain at least one sound stage.

Property Owner or Owner. Has the same meaning as defined in § 8-6.3; except that the remaining term of the lease of a lessee claiming an exemption must have 20 years or more; provided that the lease:

- (1) Has been duly entered into and recorded in the State bureau of conveyances or filed in the office of the assistant registrar of the land court, as appropriate; and
- (2) Provides that the lessee shall pay all real property taxes levied on the property during the term of the lease.



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Qualifying Construction Work. The construction or development of new film studio facilities on real property, comprising at least 10 acres, which has been leased or purchased from the United States, the State, or the county within five years of the application for the exemption, in accordance with the land use statutes or ordinances as they may apply, the actual construction costs of which are, at a minimum, \$100,000,000.

- (b) The assessed building values of the film studio facilities during the construction will be exempt from property taxes; provided that the owner files a claim for exemption with the director on or before September 30 preceding the first tax year for which the exemption is claimed on a form prescribed by the director. The claim for exemption must be accompanied by documentation reflecting that the construction of the film studio facilities is qualifying construction work, including:
- (1) A financial commitment of a minimum of \$100,000,000 to construct film studio facilities in the city;
 - (2) Approved building permit(s) for the construction of new film studio facilities with projected costs equal to or greater than \$100,000,000;
 - (3) Appropriate documentation showing the real property was leased or purchased from the United States, State, or county within five years of the application for the exemption;
 - (4) The owner is registered and in good standing with the State department of commerce and consumer affairs; and
 - (5) A site plan of the film studio facilities to be constructed.

If the construction of new film studio facilities involves more than one lot or parcel, the owner shall also submit a separate claim for exemption for each lot or parcel, along with a copy of a conditional use permit for joint development and a joint development agreement approved pursuant to § 21-5.380.

- (c) The claim for exemption, once allowed, will expire:
- (1) Within five calendar years after approval of building permits for new production facilities; or



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(2) Upon the issuance of a certificate of completion by the department of planning and permitting, whichever occurs first. The director may extend this exemption for an additional year for good cause.

(d) The owner has a duty to report to the director within 30 days after the owner or property ceases to qualify for such an exemption. The report has the effect of voiding the claim for exemption previously filed. The report is sufficient if it identifies the property involved, states the change in facts or status, and requests that the claim for exemption previously filed be voided.

Failure to file the requisite report within 60 days after the owner or property ceases to qualify for the exemption may subject the owner to a penalty. Failure to file the report prior to the following November 1 will subject the owner to a penalty of \$1,000 on the November 2 preceding the tax year for which the owner or the property no longer qualifies for the exemption and on November 2 of each year thereafter that the change in facts remains unreported. In addition to this penalty, the taxes due on the property plus any additional penalties and interest thereon will be a paramount lien on the property as provided for by this chapter.

(e) The claim for exemption may be cancelled by the director:

(1) When the building permit is closed or cancelled by the applicable land use agency at the request of the owner; or

(2) When the building permit is closed by the applicable land use agency for lack of response by the owner or its agents, or otherwise deemed abandoned.

If the exemption is cancelled by the director under this subsection, the owner shall be subject to and assessed the difference in the amount of taxes that were paid and the taxes that would have been due retroactive to the first year of the exemption, together with a penalty in the form of interest at 10 percent per annum, from the respective dates that these payments would have been due. The taxes and penalties due will be a paramount lien upon the real property."

SECTION 3. Chapter 8, Article 10, Revised Ordinances of Honolulu 2021 ("Exemptions"), is amended by adding a new section to be appropriately designated by the Revisor of Ordinances and to read as follows:



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"§ 8-10. Exemption—Film studio facilities.

(a) Definitions. For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

City-Approved Logo. The official seal or logotype of a city agency, as designated by the mayor, pursuant to § 2-31.1.

Digital Media. 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.

Film Studio Facilities. A building or complex of buildings and associated backlot facilities on real property in which qualified production and post-production activities occur, and which contain at least one sound stage.

Local Workforce Development. Programs conducted in the city that have a primary mission of helping individuals acquire and retain employment, increasing wages, and providing advancement in careers within the motion picture, film, and digital media industry.

Property Owner or Owner. Has the same meaning as defined in § 8-6.3; except that the remaining term of the lease of a lessee claiming an exemption must have 20 years or more; provided that the lease:

- (1) Has been duly entered into and recorded in the State bureau of conveyances or filed in the office of the assistant registrar of the land court, as appropriate; and
- (2) Provides that the lessee shall pay all real property taxes levied on the property during the term of the lease.

Post-Production. Production activities and services conducted at the film studio facilities after the principal visual and cinematic imagery 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.



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Pre-Production. The process of preparation for actual physical production that begins after a movie or film has received a firm agreement of financial commitment with, for example, the establishment of a dedicated production office, the hiring of key crew members such as a unit production manager and location manager, and includes but is not limited to activities such as location scouting, hiring of crew, and execution of contracts with vendors of equipment and stage space.

Production. 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, and interactive game design for post-production in the city.

Qualified Production. A series of pre-production, production, or post-production activities at the film studio facilities that are directly related to the creation of visual and cinematic imagery for films, videos, or digital media to be sold, distributed, or displayed as entertainment or the advertisement of products for mass public consumption, and which films, videos, or digital media display an official seal or logotype described in subsection (b)(4).

- (b) Real property that is improved with film studio facilities for qualified production or post-production will be exempted of the assessed building value of the film studio facilities; provided that:
- (1) The owner has expended a minimum of \$100,000,000 to construct or develop new film studio facilities on real property comprising a minimum of 10 acres, for which the exemption is claimed;
 - (2) The film studio facilities is located on real property that has been leased or purchased from the United States, State, or county within five years of applying for the exemption contained in this section;
 - (3) The owner is registered and in good standing with the State department of commerce and consumer affairs, and holds a general excise tax license under HRS Chapter 237 throughout the exemption period;
 - (4) The film studio facilities annually promote local workforce development in the field of motion picture, film, and digital media by partnering with its film lease production companies, studio partners, and other users of the film studio facilities to provide paid on-set, production, or post-production



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internship programs arranged with local colleges, universities, or vocational schools for their students who are pursuing a degree or career in film or media studies, or to provide on-set, production, or postproduction apprenticeships arranged with local labor union chapters or guilds;

- (5) The owner agrees to contract with the city for a license to use the city-approved logo. The owner further agrees to include, at a minimum, a five-second-long static or share-card of the city logo in the end credits of all film, video, or digital media it produces or creates at the film studio facilities during the exemption period, and to include such provision in all contracts with the users of the film studio facilities during the exemption period; and
- (6) By the fifth year of the exemption, establish and operate public tours of the film studio facilities.
- (c) An owner who has been approved an exemption under § 8-10. for the qualifying construction of film studio facilities shall file an initial claim for exemption under this section within 60 days of the earlier of the expiring events in § 8-10. (c), and if approved by the director, the exemption is retroactive to the date the qualifying construction exemption expired. Otherwise, the owner shall file an initial claim for exemption by September 30 preceding the tax year for which the exemption is claimed. The owner shall include with its claim for exemption:
- (1) Evidence reflecting that the owner has expended at least \$100,000,000 to construct the film studio facilities;
- (2) Appropriate documentation that the land on which the film studio facilities is located was leased or purchased from the United States, State, or county within five years of applying for the exemption contained within this section;
- (3) A printout of the owner's business registration showing it is in good standing with the State department of commerce and consumer affairs business registration and general excise tax identification number;
- (4) A preliminary plan to provide incentives to filmmakers and digital media artists who conduct and engage in commercial activities in the city, or those who are engaged in the development of film or digital products relating to Hawaiian and local culture, history, traditions, or customs to



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promote expansion of the motion picture, film, and digital media industry in the city;

- (5) A preliminary plan for creating and annually maintaining local workforce development programs through film-lease production companies, studio partners, loan-out companies, or other users of the film studio facilities; and
- (6) Affirmation that the owner has executed a license agreement with the city to use the city-approved logo and has required, or will require, a five-second-long static or share-card of the licensed city logo in the end credits on all film, video, or digital media of its film-lease production companies, studio partners, loan-out companies, or other users of the film studio facilities.

If the film studio facilities were constructed on more than one lot or parcel, the owner shall also submit a separate claim for exemption for each lot or parcel that has an assigned tax map key, and a copy of the conditional use permit for joint development and joint development agreement approved pursuant to § 21-5.380.

- (d) The notice of assessment serves as the notification of the approval, approval in part, or disapproval of the claim for exemption. If the claim for exemption is disapproved by the director, the claimant may appeal the disapproval pursuant to § 8-12.1.
- (e) Upon approval of the initial claim for exemption by the director, the exemption will continue for a period of 20 consecutive years; provided that the owner annually reports and certifies that in the preceding tax year, the film studio facilities or its users:
 - (1) Promoted local workforce development in the field of motion picture, film, and digital media by partnering with its film-lease production companies, studio partners, and other users of the film studio facilities to provide paid on-set, production, or post-production internship programs arranged with local colleges, universities, or vocational schools for their students who are pursuing a degree or career in film or media studies, or to provide on-set, production, or post-production apprenticeships arranged with local labor union chapters or guilds;



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- (2) Required a minimum five-second-long static or share-card of the city-approved logo in the end credits of all film, video, digital media, or similar products developed or produced by its film-lease production companies, studio partners, loan-out companies, or other users of the film studio facilities; and
- (3) If required, established and operates public tours of the film studio facilities.
- (f) In order to maintain continuing eligibility for the exemption, the owner shall file the annual report, certification, and documents required by the director by September 30, and each successive year thereafter, during the exemption period. The owner shall provide in the report the details from the preceding tax year of (1) the internship or apprenticeship program(s) provided; (2) the local filmmakers and media artists that utilized the film studio facilities; (3) the number of non-residents and city and State residents hired; and (4) any other information required by the director. The director shall prescribe the form for the annual certification with the required reporting and documentation to confirm compliance with the continuing exemption requirements.
- (g) If an owner fails to file an annual certification with the required reporting and documentation by the September 30 deadline, the director will mail a notice to the owner at the owner's address of record stating that unless the annual certification, required reporting and documentation, and a late filing penalty of \$1,000 are received by the director by November 15 of the same year, the exemption will be canceled and the owner shall be subject to taxes and penalties pursuant to subsection (j).
- (h) In the event the real property is transferred to a new owner, the owner that held the exemption shall notify the director of the change in ownership as provided in § 8-10.1(d)(1). The new owner may qualify for a continued exemption; provided that the new owner:
- (1) Files a claim for continued exemption within 30 days of closing of the sale or transfer of the real property; and
- (2) Understands and agrees to file an annual report and certification pursuant to subsection (f) on or before September 30 of the preceding the tax year that the film studio facilities or its users:



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- (A) Promoted local workforce development in the field of motion picture, film, and digital media by partnering with its film-lease production companies, studio partners, and other users of the film studio facilities, to provide paid on-set, production, or post-production internship programs arranged with local colleges, universities, or vocational schools for their students who are pursuing a degree or career in film or media studies, or to provide on-set, production, or post-production apprenticeships arranged with local labor union chapters or guilds;
- (B) Fulfilled the requirement that a minimum five-second-long static or share-card of the city-approved logo in the end credits of all film, video, digital media, or similar products developed or produced by its film-lease production companies, studio partners, loan-out companies, or other users of the film studio facilities during the exemption period; and
- (C) If required, established and operates public tours of the film studio facilities.

(i) Administration.

- (1) The director may prescribe the appropriate form and rules for the exemption.
- (2) The director may request proof to verify the owner's eligibility upon the filing of an initial claim for exemption. The director may deny the claim for exemption based upon the owner's refusal to provide any proof requested by the director.
- (3) At any time during the exemption period, the director may, after 30 days written notice, inspect the real property and audit the records to verify compliance with the conditions in subsection (e). The owner's refusal or failure to cooperate, provide a site inspection, or produce all records requested by the director may result in the cancellation of the exemption and subject the real property to the rollback taxes and penalties determined in subsection (j).



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- (i) *Cancellation of exemption and rollback tax.* In the event the director finds that the initial claim for exemption, the claim for continued exemption by the new owner, or the report and certification for continuing exemption contains false or fraudulent information, or that the owner is not in compliance with the requirements set forth in subsection (e), the director shall cancel the exemption retroactive to five tax years preceding the year of cancellation. The difference in the amount of taxes that were paid, and taxes that would have been due but for the exemption allowed, will be due and payable, together with a penalty in the form of interest at 10 percent per annum. The taxes and penalties due will be a paramount lien upon the real property."

SECTION 4. New ordinance material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the underscoring.



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SECTION 5. This ordinance applies to the tax years beginning July 1, 2025 and ending on June 30, 2035. Any exemption approved before the June 30, 2035 repeal date will continue for the duration of the relevant exemption period stated in SECTIONS 2 and 3 of this ordinance, subject to the ongoing requirements and the consequences of failing to meet those requirements.

INTRODUCED BY:

Augie Tulba _____

DATE OF INTRODUCTION:

September 26, 2023
 Honolulu, Hawai'i

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

 Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

 RICK BLANGIARDI, Mayor
 City and County of Honolulu