HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

ORDINANCE _____

BILL **59 (2023), CD2, FD1**

A BILL FOR AN ORDINANCE

RELATING TO INCENTIVES FOR FILM STUDIO FACILITIES.

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

SECTION 1. Purpose and findings. 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 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 increase 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.," and "Aquaman and the Lost Kingdom," among 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 as far back as 2000, providing ample evidence 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 2022, 26 film productions claimed $34.4 million **of the Hawai'i film tax credit, and qualified film** expenditures amounted to $333.7 million that generated over $577 million in economic activity, and resulted in over $36 million in tax revenues and over $133 million in household income. **The impact of filming in Hawai'i stretches far beyond the direct** revenues from the filming itself; each production also results in 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, resulting in a net increase in State GDP and Earnings of $3.82 and $2.34 respectively for every dollar spent on the film tax credit.

The Council additionally finds that situating a local production and filming facility on O'ahu that engages in workforce development initiatives tied to Hawai'i-based educational programs 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, an increase in the number of local students prepared to enter the media world is anticipated. 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 wishes to provide real property tax incentives for the development of eligible film studios facilities. The substantial nature of the investment 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 expectation is that the film studio facilities developed as a result of this bill will contribute to both the growth and the health of the film industry in the City, especially with regard to supporting local talent and encouraging students to embark upon careers in the film 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.A Exemption—Qualifying construction—Film studio facility.**

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

Film Studio Facility. A building or complex of buildings and associated back-lot facilities on real property situated within the geographic boundary of the city in which pre-production, production, and post-production activities occur, which contain at least one sound stage; pre-production, production, and post-production offices; catering or dining facilities; parking; facades; and mill space, and which is closed to the general public and is within a footprint of the site plan that forms a secure compound that is clearly delineated with a tall perimeter enclosure. The term excludes buildings and facilities that are not used for pre-production, production, and post-production activities, but are constructed or used in connection with the film studio facility, including hotel and lodging facilities, or portions thereof.

Post-Production. Has the same meaning as defined in § 8-10.B(a).

Pre-Production. Has the same meaning as defined in § 8-10.B(a).

Production. Has the same meaning as defined in § 8-10.B(a).

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 be a minimum of 20 years; provided that the lease:

(1) Has been duly entered into and recorded in the State bureau of conveyances, or the office of the assistant registrar of the land court, or both, as appropriate; and

(2) Provides that the lessee shall pay all real property taxes levied on the property during the term of the lease.

Qualifying Construction. The construction of a new film studio facility that:

(1) Is located on real property a minimum of 10 acres in size and situated within the geographic boundary of the city, that has been leased or purchased from the United States, the State, or the city within five years of the application for the exemption;

(2) Is constructed in accordance with land use and labor statutes, ordinances, rules, and regulations, as applicable, including Title 12, Chapter 22, Hawaii Administrative Rules; provided that if specialty construction is involved, a project labor agreement for the specialty construction work must be negotiated and executed between the applicable construction unions and the specialty construction contractors or subcontractors; and

(3) Has a minimum of $100,000,000 in actual costs to design and construct a film studio facility.

Specialty Construction. The construction, assembly, or installation of equipment or systems for which a specific vendor or supplier has notable expertise, and local labor is not trained or experienced to construct, assemble, or install.

(b) The assessed building value of a new film studio facility will be exempt from property taxes during construction; provided that the owner files a claim for

exemption with the director, on a form prescribed by the director, on or before September 30 preceding the first tax year for which the exemption is claimed. The claim for exemption must be accompanied by documentation evidencing that the construction of the film studio facility is qualifying construction, including documents evidencing that:

(1) A minimum $100,000,000 financial commitment was made to design and construct the film studio facility in the city;

(2) Building permits were issued for the development and construction of the new film studio facility, in accordance with the construction and building permit plans for the film studio facility;

(3) The land on which the film studio facility is located was leased or purchased from the United States, State, or city 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;

(5) A site plan has been prepared for the proposed film studio facility; and

(6) Construction of the film studio facility and all appurtenant buildings, facilities, and grounds within the film studio facility must be performed in accordance with land use and labor statutes, ordinances, rules, and regulations, as applicable, including the payment of wages that are not less than the rates for classifications stated in the wage rate schedule bulletin posted on the State department of labor and industrial relations website, or if a classification is not set forth in the wage rate schedule bulletin, then the prevailing local area standard wage; provided that if specialty construction is involved, a project labor agreement for the specialty construction work must be negotiated and executed between the construction unions holding the applicable jurisdiction over the scope of the work and the specialty construction contractors or subcontractors.

If the construction of the new film studio facility involves more than one zoning lot or parcel, the owner shall file a separate claim for exemption for each zoning lot or parcel that has an assigned tax map key number, together 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 the claim for exemption has been accepted by the director, if design of the new film studio facility has not commenced within the five-year period;

(2) Within 10 calendar years after the claim for exemption has been accepted by the director, if construction of the new film studio facility has not been completed within the 10-year period; or

(3) Upon the issuance of a certificate of occupancy for the new film studio facility by the department of planning and permitting;

whichever occurs first. The director may extend the exemption period for up to one year if the owner demonstrates good cause for the extension.

(d) The owner shall provide written notice to the director within 30 days after the owner or property ceases to qualify for an exemption.

(1) The written notice will have the effect of voiding the claim for exemption previously filed. The written notice 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.

(2) Failure to provide the requisite written notice to the director within 60 days after the owner or property ceases to qualify for the exemption may subject the owner to a penalty. Failure to provide the written notice to the director prior to the following November 1 will subject the owner to a penalty of $1,000 on 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 written notice of the change in exemption status is not provided to the director. 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 department of planning and permitting at the request of the owner; or

(2) When the building permit is closed by the department of planning and permitting 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:

"**§ 8-10.B 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.

Digital Media. Production methods and platforms to create cinematic imagery and content 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 Facility. Has the same meaning as defined in § 8-10.A(a).

Film Studio Name. The name associated with the film studio facility.

Local Workforce. Workers who have been determined to be residents as defined by the State department of taxation Tax Information Release No. 97-1.

Local Workforce Development. Programs conducted in the city that have the primary purpose of assisting members of the local workforce to acquire and retain employment, increase their wages and earning potential, and provide career advancement in the motion picture, film, and digital media industry. Programs include but are not limited to internships, apprenticeships, and other educational endeavors connected to an anchor institution, union or government training program, or nonprofit training program engaged in activities with the State or city.

Post-Production. Activities and services conducted at the film studio facility after production of the visual and cinematic imagery has been completed, including but not limited to editing, film and video transfers, duplication, transcoding, dubbing and sound mixing, subtitling, credits, closed captioning, audio production, special effects (audio and visual), graphics, and animation.

Pre-Production. The planning process and execution of every task that must occur before the production process begins, including but not limited to forming a new company, locking the script, breaking down the script, hiring key department heads, finalizing the budget, creating storyboards and shot lists for the scenes to be captured, scouting and securing locations, casting actors and hiring the crew, obtaining permits and insurance for the project, scheduling the shoot days, performing a technical scout, and arranging for equipment rentals.

Production. A stage in the process, also known as principal photography, in which the media project is captured, including but not limited to a series of activities to create and capture the visual and cinematic imagery that is to be delivered for mass consumption via various methods including film, video, or digital means, either for sale or display.

Property Owner or ***Owner.*** Has the same meaning as defined in § 8-10.A(a).

Qualified Production. A series of pre-production, production, and post-production activities at a film studio facility, with the primary purpose of creating and capturing visual and cinematic imagery to be delivered via film, video, or digital media for sale, distribution, or display as entertainment, or for the advertisement of products or services for mass public consumption, in which all film, videotape, or digital media produced at the film studio facility display the film studio name as required in subsection (b)(4).

(b) Real property that is improved with a film studio facility for qualified production will be exempt from the assessed building value of the film studio facility during the exemption period; provided that:

(1) The owner has expended a minimum of $100,000,000 to develop and construct a new film studio facility on real property a minimum of 10 acres in size that is leased or purchased from the United States, State, or city;

(2) 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;

(3) The film studio facility annually promotes 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 facility 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;

(4) The owner agrees to:

(A) Include the film studio name in the end credits of all film, video, or digital media it produces or creates at the film studio facility during the exemption period; and

(B) Include in all contracts with the users of the film studio facility, including but not limited to film-lease production companies, studio partners, and loan-out companies, a requirement that they include the film studio name in the end credits of all film, video, or digital media they produce or create at the film studio facility during the exemption period;

(5) The film studio facility facilitates the creation of a minimum of 100 full-time equivalent local film industry jobs annually;

(6) To the extent permitted by law, throughout the exemption period, all employees responsible for the maintenance and operations of the film studio facility building and grounds must be paid wages that are no less than:

(A) The prevailing wage rates set forth in the current wage rate schedule bulletin posted on the State department of labor and industrial relations website if a wage classification exists for a particular scope of work; or

(B) If a prevailing wage rate classification is not listed on the State

department of labor and industrial relations wage rate schedule bulletin, in accordance with the local area standard wage if a standard wage exists for a particular scope of work,

unless a prevailing wage rate under a collective bargaining agreement applies; and

(7) In the event that public tours are conducted onsite at the film studio facility through the use of motorized or electric vehicles, all tour drivers or tour vehicle operators must be paid wages that are not less than:

(A) The prevailing wage rates stated in the current wage rate schedule bulletin posted on the State department of labor and industrial relations website if a wage classification exists for a particular scope of work; or

(B) If a prevailing wage rate classification is not listed on the State department of labor and industrial relations wage rate schedule bulletin, in accordance with the local area standard wage if a standard wage exists for a particular scope of work;

unless a prevailing wage rate under a collective bargaining agreement applies.

(c) An owner that has been allowed an exemption for a new film studio facility's qualifying construction under § 8-10.A shall file an initial claim for exemption under this section with the director, on a form prescribed by the director, within 60 days of the earliest of the expiring events in § 8-10.A(c). If approved by the director, the exemption is retroactive to the date the qualifying construction exemption expired. Alternatively, the owner shall file an initial claim for an exemption by September 30 preceding the tax year for which the exemption is claimed. The owner shall include with its claim for an exemption documents evidencing that:

(1) The owner has expended at least $100,000,000 to develop and construct the film studio facility;

(2) The land on which the film studio facility is located was leased or purchased from the United States, State, or city;

(3) The owner is registered and in good standing with the State department of commerce and consumer affairs, and has a general excise tax identification number;

(4) A preliminary plan has been prepared to provide incentives to filmmakers and digital media artists who are engaged in the development of film or digital products relating to the history of Hawaii, and local culture, traditions, or customs to promote expansion of the motion picture, film, and digital media industry in the city;

(5) A preliminary plan has been prepared 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 facility;

(6) The owner has required, or will require, the film studio name to appear in the end credits of all film, video, or digital media produced or created at the film studio facility by its film-lease production companies, studio partners, loan-out companies, or other users of the film studio facility; and

(7) To the extent permitted by law, throughout the exemption period, the owner has required, or will require the payment of prevailing wages to all employees responsible for the maintenance and operations of the film studio facility building and grounds, and all tour drivers or tour vehicle operators of motorized or electric vehicles used for public tours conducted onsite at the film studio facility.

If the new film studio facility was constructed on more than one zoning lot or parcel, the owner shall submit a separate claim for exemption for each zoning lot or parcel that has an assigned tax map key number, 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 the director's approval of the initial claim for an exemption, the exemption will continue for a period of 20 consecutive years; provided that the owner annually certifies that in the preceding tax year, the film studio facility 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 facility 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;

(2) Required the film studio name to be included in the end credits of all film, video, digital media, or similar products developed or produced at the film studio facility by its film-lease production companies, studio partners, loan-out companies, or other users of the film studio facility; and

(3) To the extent permitted by law, paid prevailing wages to all employees responsible for the maintenance and operations of the film studio facility building and grounds, and all tour drivers or tour vehicle operators of motorized or electric vehicles used for public tours conducted onsite at the film studio facility.

(f) In order to maintain continuing eligibility for the exemption during the exemption period, the owner shall file with the director, on a form prescribed by the director, the annual certification and documents by September 30 of each year following the director's approval of the initial claim for an exemption. The owner shall provide information and evidence from the preceding tax year of:

(1) The internship or apprenticeship programs provided;

(2) The local filmmakers and media artists that used the film studio facility;

(3) The number of non-residents, State residents not living on Oahu, and city residents employed by the film studio facility, and employed by any user of the film studio facility;

(4) The films, videos, or digital media developed or produced at the film studio facility that included the film studio name in the end credits;

(5) To the extent permitted by law, the payment of prevailing wages to all employees responsible for the maintenance and operations of the film studio facility building and grounds, and all tour drivers or tour vehicle operators of motorized or electric vehicles used for public tours conducted onsite at the film studio facility; and

(6) Any other information required by the director.

(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 owner's interest in the film studio facility 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 a continued exemption within 30 days after the closing of the lease transfer or sale of the film studio facility;

(2) Certifies and agrees to comply with the qualifications and requirements set forth in subsections (b)(2) through (b)(7), and (c)(3) through (c)(7); and

(3) Understands and agrees to file an annual certification pursuant to subsection (f) on or before September 30 of the preceding the tax year that the film studio facility or its users:

(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 facility, 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;

(B) Fulfilled the requirement to include the film studio name in the end credits of all film, video, digital media, or similar products developed or created or produced at the film studio facility, including those created or produced by its film-lease production companies, studio partners, loan-out companies, and other users of the film studio facility during the exemption period; and

(C) To the extent permitted by law, paid prevailing wages to all employees responsible for the maintenance and operations of the film studio facility building and grounds, and all tour drivers or tour vehicle operators of motorized or electric vehicles used for public tours conducted onsite at the film studio facility.

(i) *Administration.*

(1) The director may prescribe the appropriate forms for the exemption.

(2) The director may request supporting documents to verify the owner's eligibility upon the filing of an initial claim for an exemption. The director may deny the claim for an exemption based on the owner's refusal to provide any supporting documents requested by the director.

(3) At any time during the exemption period, the director may, after giving the owner 30 days advance written notice, inspect the film studio facility and audit the records to verify compliance with the requirements 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).

(4) The director may adopt rules having the force and effect of law for the administration, implementation, and enforcement of this article, including rules that set forth procedures to appeal the denial or cancellation of the exemption.

(j) *Cancellation of exemption and rollback tax.* In the event the director finds that the initial claim for exemption, the claim for continued exemption by a new owner, or the 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 ("ROH"), the Revisor of Ordinances need not include the underscoring. In codifying the new ROH sections added by SECTIONS 2 and 3 of this ordinance, the Revisor of Ordinances shall substitute appropriate ROH section numbers for the letters used in designating the new ROH sections added by this ordinance.

HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

ORDINANCE _____

BILL **59 (2023), CD2, FD1**

A BILL FOR AN ORDINANCE

SECTION 5. This ordinance applies to the tax years beginning July 1, 2026, and ending on June 30, 2036. This ordinance is repealed as of July 1, 2036; provided that notwithstanding the repeal, any exemption approved under this ordinance, as it may be amended, before the July 1, 2036, repeal date will continue in effect 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 as set forth in SECTIONS 2 and 3 of this ordinance.

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