
A BILL FOR AN ACT

RELATING TO THE CREATIVE MEDIA INDUSTRY.

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

- 1 SECTION 1. The purpose of this Act is to:
- 2 (1) Establish a statewide creative industries advisory
- 3 group within the department of business, economic
- 4 development, and tourism to support the development of
- 5 the creative and media industries;
- 6 (2) Repeal the Hawaii television and film development
- 7 board, which has been inactive for about ten years,
- 8 along with the grant and venture capital programs that
- 9 were implemented by the board;
- 10 (3) Rename the Hawaii television and film development
- 11 special fund as the creative media and film
- 12 infrastructure special fund;
- 13 (4) Broaden the sources of revenue for the creative media
- 14 and film infrastructure special fund; and
- 15 (5) Amend the purposes for which the creative media and
- 16 film infrastructure special fund may be used, in order
- 17 to enable the department of business, economic



1 development, and tourism to fulfill its statutory and
2 business development duties regarding the creative
3 industries, film and media programs.

4 SECTION 2. Chapter 201, Hawaii Revised Statutes, is
5 amended by adding two new sections to part IX to be
6 appropriately designated and to read as follows:

7 "§201- Hawaii creative industries advisory group;
8 establishment. (a) There is established the Hawaii creative
9 industries advisory group, which shall be placed within the
10 department for administrative purposes only.

11 (b) The Hawaii creative industries advisory group shall be
12 composed of seven members, representing a cross section of
13 creative and media sectors, recommended through a process to be
14 developed in collaboration with state and county economic
15 development leadership and county and state film offices. The
16 creative industries administrator, and its branch chiefs will
17 convene the group, which shall include representatives of two
18 labor organizations whose members provide services to the film
19 and music industries and the director or the director's
20 designee.



1 (c) The director shall serve as chairperson of the Hawaii
2 creative industries advisory group and all members shall serve
3 without compensation.

4 §201- Powers and duties. The Hawaii creative industries
5 advisory group shall:

6 (1) Recommend programs and initiatives for creative and
7 media industry development;

8 (2) Recommend programs that expand the skill sets of
9 Hawaii's resident workforce in the creative and media
10 industries; and

11 (3) Establish an advisory group that includes persons with
12 a working knowledge of the film industry, the county
13 film commissions, and government departments and
14 agencies controlling resources necessary to support
15 development of the creative and media industries in
16 the State; provided that the advisory group shall be
17 exempt from section 26-34 and chapter 92."

18 SECTION 3. Chapter 237, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:



1 ~~or services from a vendor or supplier who is located and doing~~
2 ~~business in the State.~~

3 ~~"Fund" means the Hawaii television and film development~~
4 ~~special fund.~~

5 ~~"Venture capital investment" means any of the following~~
6 ~~investments in a project:~~

- 7 ~~(1) Common or preferred stock and equity securities~~
8 ~~without a repurchase requirement for at least five~~
9 ~~years;~~
- 10 ~~(2) A right to purchase stock or equity securities;~~
- 11 ~~(3) Any debenture, whether or not convertible or having~~
12 ~~stock purchase rights, which is subordinated, together~~
13 ~~with security interests against the assets of the~~
14 ~~borrower, by their terms to all borrowings of the~~
15 ~~borrower from other institutional lenders, and that is~~
16 ~~for a term of not less than three years, and that has~~
17 ~~no part amortized during the first three years; and~~
- 18 ~~(4) General or limited partnership interests.]~~

19 ~~"Creative media" includes film, motion pictures,~~
20 ~~television, and digital media as defined in section 235-17.~~



1 "Department" means the department of business, economic
2 development, and tourism."

3 SECTION 6. Section 201-113, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[~~+~~] §201-113 [~~-~~ ~~Hawaii television~~] Creative media and film
6 [~~development~~] infrastructure special fund. (a) There is
7 established in the state treasury the [~~Hawaii television~~]
8 creative media and film [~~development~~] infrastructure special
9 fund into which shall be deposited:

- 10 (1) Appropriations by the legislature;
- 11 (2) Donations and contributions made by private
12 individuals or organizations for deposit into the
13 fund;
- 14 (3) Grants provided by governmental agencies or any other
15 source; [and
- 16 ~~(4) Any profits or other amounts received from venture~~
17 ~~capital investments.]~~
- 18 (4) All revenues, fees, and charges from the rental and
19 operation of the Hawaii film studio;
- 20 (5) All revenues, fees, and charges from the processing of
21 film permits pursuant to section 201-14; and



1 (6) All revenues, fees, and charges from the processing of
2 the motion picture, digital media, and film production
3 income tax credit pursuant to section 235-17.

4 ~~(b) The fund shall be used by the [board to assist in, and~~
5 ~~provide incentives for, the production of eligible Hawaii~~
6 ~~projects that are in compliance with criteria and standards~~
7 ~~established by the board in accordance with rules adopted by the~~
8 ~~board pursuant to chapter 91. In particular, the board shall~~
9 ~~adopt rules to provide for the implementation of the following~~
10 ~~programs:~~

11 ~~(1) A grant program. The board shall adopt rules pursuant~~
12 ~~to chapter 91 to provide conditions and qualifications~~
13 ~~for grants. Applications for grants shall be made to~~
14 ~~the board and shall contain such information as the~~
15 ~~board shall require by rules adopted pursuant to~~
16 ~~chapter 91. At a minimum, the applicant shall agree~~
17 ~~to the following conditions:~~

- 18 ~~(A) The grant shall be used exclusively for eligible~~
19 ~~Hawaii projects;~~
- 20 ~~(B) The applicant shall have applied for or received~~
21 ~~all applicable licenses and permits;~~

- 1 ~~(C) The applicant shall comply with applicable~~
- 2 ~~federal and state laws prohibiting discrimination~~
- 3 ~~against any person on the basis of race, color,~~
- 4 ~~national origin, religion, creed, sex, age, or~~
- 5 ~~physical handicap;~~
- 6 ~~(D) The applicant shall comply with other~~
- 7 ~~requirements as the board may prescribe;~~
- 8 ~~(E) All activities undertaken with funds received~~
- 9 ~~shall comply with all applicable federal, state,~~
- 10 ~~and county statutes and ordinances;~~
- 11 ~~(F) The applicant shall indemnify and save harmless~~
- 12 ~~the State of Hawaii and its officers, agents, and~~
- 13 ~~employees from and against any and all claims~~
- 14 ~~arising out of or resulting from activities~~
- 15 ~~carried out or projects undertaken with funds~~
- 16 ~~provided hereunder, and procure sufficient~~
- 17 ~~insurance to provide this indemnification if~~
- 18 ~~requested to do so by the department;~~
- 19 ~~(G) The applicant shall make available to the board~~
- 20 ~~all records the applicant may have relating to~~
- 21 ~~the project, to allow the board to monitor the~~



1 ~~applicant's compliance with the purpose of this~~
2 ~~chapter, and~~
3 ~~(H) The applicant, to the satisfaction of the board,~~
4 ~~shall establish that sufficient funds are~~
5 ~~available for the completion of the project for~~
6 ~~the purpose for which the grant is awarded, and~~
7 ~~(2) A venture capital program. The board shall adopt~~
8 ~~rules pursuant to chapter 91 to provide conditions and~~
9 ~~qualifications for venture capital investments in~~
10 ~~eligible Hawaii projects. The program may include a~~
11 ~~written agreement between the borrower and the board,~~
12 ~~as the representative of the State, that as~~
13 ~~consideration for the venture capital investment made~~
14 ~~under this part, the borrower shall share any~~
15 ~~royalties, licenses, titles, rights, or any other~~
16 ~~monetary benefits that may accrue to the borrower~~
17 ~~pursuant to terms and conditions established by the~~
18 ~~board by rule pursuant to chapter 91. Venture capital~~
19 ~~investments may be made on such terms and conditions~~
20 ~~as the board shall determine to be reasonable,~~



1 ~~appropriate, and consistent with the purposes and~~
2 ~~objectives of this part.]~~

3 department to provide for:

- 4 (1) Operations, repair, and maintenance of the Hawaii film
5 studio;
6 (2) Support for the operations of the department's film
7 industry branch;
8 (3) Programs and initiatives for creative media industry
9 development; and
10 (4) Programs that expand the skill sets of Hawaii's
11 resident workforce in the creative media and film
12 industries."

13 SECTION 7. Section 238-1, Hawaii Revised Statutes, is
14 amended by amending the definition of "use" to read as follows:

15 ""Use" (and any nounal, verbal, adjectival, adverbial, and
16 other equivalent form of the term) herein used interchangeably
17 means any use, whether the use is of such nature as to cause the
18 property, services, or contracting to be appreciably consumed or
19 not, or the keeping of the property or services for such use or
20 for sale, the exercise of any right or power over tangible or
21 intangible personal property incident to the ownership of that



1 property, and shall include control over tangible or intangible
 2 property by a seller who is licensed or who should be licensed
 3 under chapter 237, who directs the importation of the property
 4 into the State for sale and delivery to a purchaser in the
 5 State, liability and free on board (FOB) to the contrary
 6 notwithstanding, regardless of where title passes, but the term
 7 "use" shall not include:

8 (1) Temporary use of property, not of a perishable or
 9 quickly consumable nature, where the property is
 10 imported into the State for temporary use (not sale)
 11 therein by the person importing the same and is not
 12 intended to be, and is not, kept permanently in the
 13 State. For example, without limiting the generality
 14 of the foregoing language:

15 (A) In the case of a contractor importing permanent
 16 equipment for the performance of a construction
 17 contract, with intent to remove, and who does
 18 remove, the equipment out of the State upon
 19 completing the contract;

20 (B) In the case of moving picture films imported for
 21 use in theaters in the State with intent or under



- 1 contract to transport the same out of the State
2 after completion of such use; and
- 3 (C) In the case of a transient visitor importing an
4 automobile or other belongings into the State to
5 be used by the transient visitor while therein
6 but which are to be used and are removed upon the
7 transient visitor's departure from the State;
- 8 (2) Use by the taxpayer of property acquired by the
9 taxpayer solely by way of gift;
- 10 (3) Use which is limited to the receipt of articles and
11 the return thereof, to the person from whom acquired,
12 immediately or within a reasonable time either after
13 temporary trial or without trial;
- 14 (4) Use of goods imported into the State by the owner of a
15 vessel or vessels engaged in interstate or foreign
16 commerce and held for and used only as ship stores for
17 the vessels;
- 18 (5) The use or keeping for use of household goods,
19 personal effects, and private automobiles imported
20 into the State for nonbusiness use by a person who:



- 1 (A) Acquired them in another state, territory,
- 2 district, or country;
- 3 (B) At the time of the acquisition was a bona fide
- 4 resident of another state, territory, district,
- 5 or country;
- 6 (C) Acquired the property for use outside the State;
- 7 and
- 8 (D) Made actual and substantial use thereof outside
- 9 this State;
- 10 provided that as to an article acquired less than
- 11 three months prior to the time of its importation into
- 12 the State, it shall be presumed, until and unless
- 13 clearly proved to the contrary, that it was acquired
- 14 for use in the State and that its use outside the
- 15 State was not actual and substantial;
- 16 (6) The leasing or renting of any aircraft or the keeping
- 17 of any aircraft solely for leasing or renting to
- 18 lessees or renters using the aircraft for commercial
- 19 transportation of passengers and goods or the
- 20 acquisition or importation of any such aircraft or
- 21 aircraft engines by any lessee or renter engaged in



1 interstate air transportation. For purposes of this
 2 paragraph, "leasing" includes all forms of lease,
 3 regardless of whether the lease is an operating lease
 4 or financing lease. The definition of "interstate air
 5 transportation" is the same as in 49 U.S.C. 40102;

6 (7) The use of oceangoing vehicles for passenger or
 7 passenger and goods transportation, from one point to
 8 another within the State, as a public utility as
 9 defined in chapter 269;

10 (8) The use of material, parts, or tools that are imported
 11 or purchased by a person licensed under chapter 237
 12 [~~which~~] and are used for aircraft service and
 13 maintenance [7] or the construction of an aircraft
 14 service and maintenance facility as those terms are
 15 defined in section 237-24.9;

16 (9) The use of services or contracting imported for resale
 17 where the contracting or services are for resale,
 18 consumption, or use outside the State pursuant to
 19 section 237-29.53(a); [~~and~~]

20 (10) The use of property, services, or contracting imported
 21 by foreign diplomats and consular officials who are



1 holding cards issued or authorized by the United
2 States Department of State granting them an exemption
3 from state taxes [-]; and

4 (11) The use of material, parts, or tools that are imported
5 or purchased by a person licensed under chapter 237
6 and are used for the Hawaii film studio, including any
7 improvements made to the Hawaii film studio under a
8 financing agreement pursuant to chapter 37D.

9 With regard to purchases made and distributed under the
10 authority of chapter 421, a cooperative association shall be
11 deemed the user thereof."

12 SECTION 8. Section 201-112, Hawaii Revised Statutes, is
13 repealed.

14 ~~["§201-112] Hawaii television and film development board.~~

15 ~~(a) There is established the Hawaii television and film~~
16 ~~development board. The board shall be attached to the~~
17 ~~department of business, economic development, and tourism for~~
18 ~~administrative purposes only. The board shall administer the~~
19 ~~grant and venture capital investment programs and the Hawaii~~
20 ~~television and film development special fund established under~~
21 ~~this part. The board shall also assess and consider the overall~~



1 ~~viability and development of the television and film industries~~
2 ~~and make recommendations to appropriate state or county~~
3 ~~agencies.~~

4 ~~(b) The board shall be composed of nine members, four of~~
5 ~~whom shall be appointed by the governor pursuant to section 26-~~
6 ~~34, and all of whom shall serve four year staggered terms. One~~
7 ~~of the governor's appointments shall be made from a list of~~
8 ~~nominees submitted by the president of the senate and another~~
9 ~~appointment shall be made from a list of nominees submitted by~~
10 ~~the speaker of the house of representatives. The four appointed~~
11 ~~members shall possess a current working knowledge of the film,~~
12 ~~television, or entertainment industry. The director of~~
13 ~~business, economic development, and tourism, and the chairs of~~
14 ~~the four county film commissions or its equivalent, shall serve~~
15 ~~as ex officio voting members, who may be represented on the~~
16 ~~board by designees.~~

17 ~~The chairperson and vice chairperson of the board shall be~~
18 ~~selected by the board by majority vote. Five members shall~~
19 ~~constitute a quorum, whose affirmative vote shall be necessary~~
20 ~~for all actions by the board. The members shall serve without~~



1 ~~compensation but shall be reimbursed for expenses, including~~
2 ~~travel expenses, necessary for the performance of their duties.~~

3 ~~(c) The film industry branch development manager shall~~
4 ~~serve as the executive secretary of the board.~~

5 ~~(d) The board may adopt rules pursuant to chapter 91 to~~
6 ~~effectuate the purposes of this part."]~~

7 SECTION 9. Section 201-114, Hawaii Revised Statutes, is
8 repealed.

9 ~~"[§201-114] Inspection of premises and records. The~~
10 ~~board shall have the right to inspect, at reasonable hours, the~~
11 ~~plant, physical facilities, equipment, premises, books, and~~
12 ~~records of any applicant in connection with the processing of a~~
13 ~~grant to the applicant."]~~

14 SECTION 10. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$ or so much
16 thereof as may be necessary for fiscal year 2017-2018 and the
17 same sum or so much thereof as may be necessary for fiscal year
18 2018-2019 to be deposited into the creative media and film
19 infrastructure special fund.

20 SECTION 11. There is appropriated out of the creative
21 media and film infrastructure special fund the sum of \$



1 or so much thereof as may be necessary for fiscal year 2017-2018
2 and the same sum or so much thereof as may be necessary for
3 fiscal year 2018-2019 for the purposes of the fund.

4 The sums appropriated shall be expended by the department
5 of business, economic development, and tourism for the purposes
6 of this Act.

7 SECTION 12. Notwithstanding the establishment of the
8 Hawaii creative industries advisory group as provided in this
9 Act, the film industry branch within the department of business,
10 economic development, and tourism and the creative industries
11 division shall continue to be maintained without any reduction
12 in staffing or funding and all officers and employees in the
13 branch shall continue to perform their functions and duties
14 under this Act.

15 SECTION 13. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 14. This Act shall take effect on July 1, 2038.



Report Title:

Creative Media Industry; Creative Media and Film Infrastructure Special Fund; General Excise Tax; Use Tax; Appropriation

Description:

Establishes the Hawaii Creative Industries Advisory Group while retaining the Film Industry Branch and Creative Industries Division of DBEDT. Repeals the Hawaii Television and Film Development Board along with the grant and venture capital programs that were implemented by the Board. Renames the Hawaii Television and Film Development Special Fund as the Creative Media and Film Infrastructure Special Fund. Expands funding sources for the Creative Media and Film Infrastructure Special Fund to support creative industries development within DBEDT. Amends the purposes for which the Creative Media and Film Infrastructure Special Fund may be used. Provides general excise and use tax exemptions for operations and improvements of the Hawaii Film Studio. Makes an appropriation. (HB590 HD1)

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