

JAN 20 2012

A BILL FOR AN ACT

RELATING TO DIGITAL MEDIA INDUSTRY DEVELOPMENT.

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

SECTION 1. Chapter 201, part IX, Hawaii Revised Statutes,
is amended to read as follows:

**"[~~§~~]PART IX.~~§~~] HAWAII [~~TELEVISION AND~~] FILM AND DIGITAL
MEDIA DEVELOPMENT**

[~~§~~]§201-111[~~§~~] Definitions. As used in this part:

"Applicant" means a person applying for a grant [~~or venture~~
~~capital investment~~] from the board under this part.

"Board" means the Hawaii [~~television and~~] film and digital
media development board.

"Eligible Hawaii project" or "project" means an
entertainment project in which at least seventy-five per cent of
the budget for the production costs, excluding salaries and
costs for the producer, director, writer, screenplay, and actors
in the project, is dedicated for the purchase or lease of goods
or services from a vendor or supplier who is located and doing
business in the State.

"Fund" means the Hawaii [~~television and~~] film and digital
media development special fund.



1 ~~["Venture capital investment" means any of the following~~
2 ~~investments in a project.~~

3 ~~(1) Common or preferred stock and equity securities~~
4 ~~without a repurchase requirement for at least five~~
5 ~~years;~~

6 ~~(2) A right to purchase stock or equity securities;~~

7 ~~(3) Any debenture, whether or not convertible or having~~
8 ~~stock purchase rights, which is subordinated, together~~
9 ~~with security interests against the assets of the~~
10 ~~borrower, by their terms to all borrowings of the~~
11 ~~borrower from other institutional lenders, and that is~~
12 ~~for a term of not less than three years, and that has~~
13 ~~no part amortized during the first three years; and~~

14 ~~(4) General or limited partnership interests.]~~

15 ~~[+]§201-112[+] Hawaii [television and] film and digital~~
16 media development board. (a) There is established the Hawaii
17 ~~[television and] film and digital media~~ development board. The
18 board shall be attached to the department of business, economic
19 development, and tourism for administrative purposes only. The
20 board shall administer the grant ~~[and venture capital investment~~
21 ~~programs]~~ program and the Hawaii ~~[television and] film and~~
22 digital media development special fund established under this



1 part[. ~~The board shall also assess and consider the overall~~
2 ~~viability and development of the television and film industries~~
3 ~~and make recommendations to appropriate state or county~~
4 ~~agencies.~~] to promote digital media industry development.

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

19 The chairperson and vice chairperson of the board shall be
20 selected by the board by majority vote. [~~Five~~] Six members
21 shall constitute a quorum, whose affirmative vote shall be
22 necessary for all actions by the board. The members shall serve



1 without compensation but shall be reimbursed for expenses,
2 including travel expenses, necessary for the performance of
3 their duties.

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

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

8 **[+]§201-113[+]** **Hawaii [~~television and~~] film and digital**
9 **media development special fund.** (a) There is established in
10 the state treasury the Hawaii [~~television and~~] film and digital
11 media development special fund into which shall be deposited:

12 (1) Appropriations by the legislature;

13 (2) Donations and contributions made by private
14 individuals or organizations for deposit into the
15 fund;

16 (3) Grants provided by governmental agencies or any other
17 source; and

18 (4) Any [~~profits or~~] other amounts received from [~~venture~~
19 ~~capital investments.~~] international or national
20 funding sources.

21 (b) The fund shall be used [~~by the board~~] to assist in,
22 and provide incentives for, the production of eligible Hawaii



1 projects that are in compliance with criteria and standards
2 established by the board in accordance with rules adopted by the
3 board pursuant to chapter 91. In particular, the board shall
4 adopt rules to provide for the implementation of ~~[the following~~
5 ~~programs:]~~ a grant program.

6 ~~[(1) A grant program. The board shall adopt rules pursuant~~
7 ~~to chapter 91 to provide conditions and qualifications~~
8 ~~for grants.]~~ Applications for grants shall be made to
9 the board and shall contain such information as the
10 board shall require ~~[by rules adopted pursuant to~~
11 ~~chapter 91]~~. At a minimum, the applicant shall agree
12 to the following conditions:

13 ~~[(A)]~~ (1) The grant shall be used exclusively for
14 eligible Hawaii projects;

15 ~~[(B)]~~ (2) The applicant shall have applied for or
16 received all applicable licenses and permits;

17 ~~[(C)]~~ (3) The applicant shall comply with applicable
18 federal and state laws prohibiting discrimination
19 against any person on the basis of race, color,
20 national origin, religion, creed, sex, age, or
21 physical handicap;



1 ~~[(D)]~~ (4) The applicant shall comply with other
2 requirements as the board may prescribe;

3 ~~[(E)]~~ (5) All activities undertaken with funds
4 received shall comply with all applicable federal,
5 state, and county statutes and ordinances;

6 ~~[(F)]~~ (6) The applicant shall indemnify and save
7 harmless the State of Hawaii and its officers, agents,
8 and employees from and against any and all claims
9 arising out of or resulting from activities carried
10 out or projects undertaken with funds provided
11 hereunder, and procure sufficient insurance to provide
12 this indemnification if requested to do so by the
13 department;

14 ~~[(G)]~~ (7) The applicant shall make available to the
15 board all records the applicant may have relating to
16 the project, to allow the board to monitor the
17 applicant's compliance with the purpose of this
18 chapter; and

19 ~~[(H)]~~ (8) The applicant, to the satisfaction of the
20 board, shall establish that sufficient funds are
21 available for the completion of the project for the
22 purpose for which the grant is awarded~~[, and~~



~~(2) A venture capital program. The board shall adopt rules pursuant to chapter 91 to provide conditions and qualifications for venture capital investments in eligible Hawaii projects. The program may include a written agreement between the borrower and the board, as the representative of the State, that as consideration for the venture capital investment made under this part, the borrower shall share any royalties, licenses, titles, rights, or any other monetary benefits that may accrue to the borrower pursuant to terms and conditions established by the board by rule pursuant to chapter 91. Venture capital investments may be made on such terms and conditions as the board shall determine to be reasonable, appropriate, and consistent with the purposes and objectives of this part].~~

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



SECTION 2. Section 201-3, Hawaii Revised Statutes, is amended to read as follows:

"§201-3 Specific research and promotional functions of the department. Without prejudice to its general functions and duties, the department of business, economic development, and tourism shall have specific functions in the following areas:

(1) Industrial development. The department shall:

(A) Determine through technical and economic surveys the profit potential of new or expanded industrial undertakings;

(B) Develop through research projects and other means new and improved industrial products and processes;

(C) Promote studies and surveys to determine consumer preference as to design and quality and to determine the best methods of packaging, transporting, and marketing the State's industrial products;

(D) Disseminate information to assist the present industries of the State, to attract new industries to the State, and to encourage capital



investment in present and new industries in the
State;

(E) Assist associations of producers and distributors
of industrial products to introduce these
products to consumers; and

(F) Make grants or contracts as may be necessary or
advisable to accomplish the foregoing;

(2) Land development. The department shall:

(A) Encourage the most productive use of all land in
the State in accordance with a general plan
developed by the department;

(B) Encourage the improvement of land tenure
practices on leased private lands;

(C) Promote an informational program directed to
landowners, producers of agricultural and
industrial commodities, and the general public
regarding the most efficient and most productive
use of the lands in the State; and

(D) Make grants or contracts as may be necessary or
advisable to accomplish the foregoing;

(3) Credit development. The department shall:



- 1 (A) Conduct a continuing study of agricultural and
2 industrial credit needs;
- 3 (B) Encourage the development of additional private
4 and public credit sources for agricultural and
5 industrial enterprises;
- 6 (C) Promote an informational program to acquaint
7 financial institutions with agricultural and
8 industrial credit needs and the potential for
9 agricultural and industrial expansion, and inform
10 producers of agricultural and industrial products
11 as to the manner in which to qualify for loans;
12 and
- 13 (D) Make grants or contracts as may be necessary or
14 advisable to accomplish the foregoing;
- 15 (4) Promotion. The department shall:
- 16 (A) Disseminate information developed for or by the
17 department pertaining to economic development to
18 assist present industry in the State;
- 19 (B) Attract new industry and investments to the
20 State; and



1 (C) Assist new and emerging industry with good growth
2 potential or prospects in jobs, exports, and new
3 products.

4 The industrial and economic promotional activities of
5 the department may include the use of literature,
6 advertising, demonstrations, displays, market testing,
7 lectures, travel, motion picture and slide films, and
8 other promotional and publicity devices as may be
9 appropriate; and

10 (5) Self-sufficiency standard. The department shall
11 establish and update biennially a self-sufficiency
12 standard that shall incorporate existing methods of
13 calculation, and shall reflect, at a minimum, costs
14 relating to housing, food, child care, transportation,
15 health care, clothing and household expenses, federal
16 and state tax obligations, family size, children's
17 ages, geography, and the number of household wage
18 earners. The department shall report to the
19 legislature concerning the self-sufficiency standard
20 no later than twenty days prior to the convening of
21 the regular session of 2009, and every odd-numbered
22 year thereafter. The recommendations shall address,



1 among other things, the use of any federal funding
2 that may be available for the purposes of establishing
3 and updating the self-sufficiency standard.

4 The department shall be the central agency to coordinate
5 film and digital media permit activities in the State."

6 SECTION 3. Section 201-14, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By amending the title to read:

9 **"§201-14 Consolidated film and digital media permit**
10 **processing."**

11 2. By amending subsection (d) to read:

12 "(d) The department may approve and issue a permit to
13 [~~film~~] visually record at any of the sites identified by the
14 appropriate state or county agency under subsection (a). If any
15 site requested for use by the applicant is not identified under
16 subsection (a), the department shall consult with the
17 appropriate state or county agency having jurisdiction over the
18 site to obtain a permit. If the matter of a permit cannot be
19 resolved in this manner, the department shall refer the
20 application to the appropriate state or county agency to obtain
21 a permit."

22 3. By amending subsection (h) to read:



(h) A vessel engaged in temporary use for film and digital media production purposes in accordance with a [~~film~~] permit issued by the department shall not be considered to be a "commercial vessel" within the meaning of section 200-9, 200-10, or 200-39; provided that:

(1) The period of temporary use does not exceed fourteen hours per day, five days per week, excluding weekends, and for a period not to exceed thirty calendar days; and

(2) The department may make allowances to include weekends for film and digital media production purposes due to inclement weather conditions during the weekday period."

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

SECTION 5. This Act shall take effect on July 1, 2012.

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S.B. NO. 2461

Report Title:

Hawaii Film and Digital Media Development

Description:

Amends chapter 201, part IX, Hawaii Revised Statutes, to change all references to Hawaii television and film development to Hawaii film and digital media development; deletes the venture capital program; increases the Hawaii film and digital media development board from nine to eleven members; authorizes moneys received from international and national sources to be deposited into the Hawaii film and digital media development special fund; makes additional conforming amendments.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

