

# H.B. NO. 1039

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## A BILL FOR AN ACT

RELATING TO FUNDING FOR CREATIVE MEDIA AND FILM DEVELOPMENT.

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

1           SECTION 1. Hawaii's film industry brings in an estimated  
2     \$250,000,000 in production revenues per year, providing the  
3     State with an estimated economic impact of \$437,000,000  
4     annually. Hawaii must keep pace to support the new platforms of  
5     creative media, which require purpose-built or renovated  
6     facilities in order to support these expanding sectors.  
7     According to the Motion Picture Association of America, the  
8     entertainment industry in the United States is comprised of  
9     108,000 businesses and represents \$104,000,000,000 in total job  
10    wages across all fifty states and includes film, television, and  
11    digital or creative media sectors. Hawaii is well-positioned to  
12    compete in the global entertainment industry arena, but must  
13    explore ways in which to leverage current and future  
14    infrastructure assets to self-fund maintenance of existing and  
15    future facilities.

16           The Hawaii film office in the creative industries division  
17    of the department of business, economic development, and tourism  
18    is involved in all aspects of the film industry, including

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1 fulfilling its statutory duties for film permitting, tax  
2 incentive management, and studio operations and management.

3 With the passage of Act 88, Session Laws of Hawaii 2006 and  
4 Act 89, Session Laws of Hawaii 2013, which included enhancements  
5 to the motion picture, digital media, and film production income  
6 tax credit program, the demands on the Hawaii film office's  
7 responsibilities increased. Without a provision in the measure  
8 to provide additional professional staff to manage the multi-  
9 million dollar program, the film office has been handling all  
10 aspects of the credit with limited staff and resources that are  
11 stretched to capacity. While two positions and a percentage of  
12 the base funding have been restored, the costs to offer  
13 facilitation for productions, manage the motion picture, digital  
14 media, and film production income tax credit program, and  
15 maintain the Hawaii film studio far exceed the existing general  
16 fund allocations of funding and staffing.

17 This Act broadens the sources of revenue for and renames  
18 the special fund created in section 201-113, Hawaii Revised  
19 Statutes. By capturing revenues from the Hawaii film studio and  
20 other potential revenue sources such as grants, the special fund  
21 will provide a necessary funding mechanism for ongoing basic  
22 repair and maintenance of the Hawaii film studio, which average

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1 \$150,000 per year, as well other new infrastructure to support  
2 the creative media and film industries. With anticipated gross  
3 revenues generated by current film studio rental of \$600,000  
4 annually, the department of business, economic development, and  
5 tourism will have the means to maintain the studio facility and  
6 related infrastructure that it currently is unable to do.

7 SECTION 2. Chapter 201, Hawaii Revised Statutes, is  
8 amended by amending the title of part IX to read as follows:

9 " ~~[ ]~~ **PART IX. ~~[ ] HAWAII TELEVISION~~ CREATIVE MEDIA AND FILM**  
10 **~~[DEVELOPMENT]~~ INFRASTRUCTURE SPECIAL FUND"**

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

13 " ~~[ ]~~ **\$201-113 ~~[ ] Hawaii television~~ Creative media and film**  
14 **~~[development]~~ infrastructure special fund.** (a) There is  
15 established in the state treasury the ~~[Hawaii television]~~  
16 creative media and film ~~[development]~~ infrastructure special  
17 fund into which shall be deposited:

- 18 (1) Appropriations by the legislature;  
19 (2) Donations and contributions made by private  
20 individuals or organizations for deposit into the  
21 fund;

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1 (3) Grants provided by governmental agencies or any other  
2 source; [and

3 ~~(4) Any profits or other amounts received from venture~~  
4 ~~capital investments.]~~

5 (4) Revenues, fees, and charges from the rental and  
6 operation of the Hawaii film studio;

7 (5) Revenues, fees, and charges from the processing of  
8 film permits pursuant to section 201-14; and

9 (6) Revenues, fees, and charges from the processing of the  
10 motion picture, digital media, and film production  
11 income tax credit pursuant to section 235-17.

12 (b) The fund shall be used by the [~~board to assist in, and~~  
13 ~~provide incentives for, the production of eligible Hawaii~~  
14 ~~projects that are in compliance with criteria and standards~~  
15 ~~established by the board in accordance with rules adopted by the~~  
16 ~~board pursuant to chapter 91. In particular, the board shall~~  
17 ~~adopt rules to provide for the implementation of the following~~  
18 ~~programs:~~

19 ~~(1) A grant program. The board shall adopt rules pursuant~~  
20 ~~to chapter 91 to provide conditions and qualifications~~  
21 ~~for grants. Applications for grants shall be made to~~  
22 ~~the board and shall contain such information as the~~

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1 ~~board shall require by rules adopted pursuant to~~  
2 ~~chapter 91. At a minimum, the applicant shall agree~~  
3 ~~to the following conditions:~~

4 ~~(A) The grant shall be used exclusively for eligible~~  
5 ~~Hawaii projects;~~

6 ~~(B) The applicant shall have applied for or received~~  
7 ~~all applicable licenses and permits;~~

8 ~~(C) The applicant shall comply with applicable~~  
9 ~~federal and state laws prohibiting discrimination~~  
10 ~~against any person on the basis of race, color,~~  
11 ~~national origin, religion, creed, sex, age, or~~  
12 ~~physical handicap;~~

13 ~~(D) The applicant shall comply with other~~  
14 ~~requirements as the board may prescribe;~~

15 ~~(E) All activities undertaken with funds received~~  
16 ~~shall comply with all applicable federal, state,~~  
17 ~~and county statutes and ordinances;~~

18 ~~(F) The applicant shall indemnify and save harmless~~  
19 ~~the State of Hawaii and its officers, agents, and~~  
20 ~~employees from and against any and all claims~~  
21 ~~arising out of or resulting from activities~~  
22 ~~carried out or projects undertaken with funds~~

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1           ~~provided hereunder, and procure sufficient~~  
2           ~~insurance to provide this indemnification if~~  
3           ~~requested to do so by the department;~~

4           ~~(C) The applicant shall make available to the board~~  
5           ~~all records the applicant may have relating to~~  
6           ~~the project, to allow the board to monitor the~~  
7           ~~applicant's compliance with the purpose of this~~  
8           ~~chapter; and~~

9           ~~(H) The applicant, to the satisfaction of the board,~~  
10           ~~shall establish that sufficient funds are~~  
11           ~~available for the completion of the project for~~  
12           ~~the purpose for which the grant is awarded; and~~

13           ~~(2) A venture capital program. The board shall adopt~~  
14           ~~rules pursuant to chapter 91 to provide conditions and~~  
15           ~~qualifications for venture capital investments in~~  
16           ~~eligible Hawaii projects. The program may include a~~  
17           ~~written agreement between the borrower and the board,~~  
18           ~~as the representative of the State, that as~~  
19           ~~consideration for the venture capital investment made~~  
20           ~~under this part, the borrower shall share any~~  
21           ~~royalties, licenses, titles, rights, or any other~~  
22           ~~monetary benefits that may accrue to the borrower~~

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1 ~~pursuant to terms and conditions established by the~~  
2 ~~board by rule pursuant to chapter 91. Venture capital~~  
3 ~~investments may be made on such terms and conditions~~  
4 ~~as the board shall determine to be reasonable,~~  
5 ~~appropriate, and consistent with the purposes and~~  
6 ~~objectives of this part.] department of business,~~  
7 economic development, and tourism to provide for:

- 8 (1) Operations, repair, and maintenance of the Hawaii film  
9 studio;
- 10 (2) Support for new infrastructure development;
- 11 (3) Programs and initiatives for creative media industry  
12 development; and
- 13 (4) Programs that expand the skill sets of Hawaii's  
14 resident workforce in the creative media and film  
15 industries."

16 SECTION 4. Section 201-111, Hawaii Revised Statutes, is  
17 repealed.

18 [~~§201-111~~] ~~Definitions.~~ As used in this part:

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

21 ~~"Board" means the Hawaii television and film development~~  
22 ~~board.~~

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

8       ~~"Fund" means the Hawaii television and film development~~  
9       ~~special fund.~~

10       ~~"Venture capital investment" means any of the following~~  
11       ~~investments in a project:~~

12       ~~(1) Common or preferred stock and equity securities~~  
13       ~~without a repurchase requirement for at least five~~  
14       ~~years;~~

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

16       ~~(3) Any debenture, whether or not convertible or having~~  
17       ~~stock purchase rights, which is subordinated, together~~  
18       ~~with security interests against the assets of the~~  
19       ~~borrower, by their terms to all borrowings of the~~  
20       ~~borrower from other institutional lenders, and that is~~  
21       ~~for a term of not less than three years, and that has~~  
22       ~~no part amortized during the first three years; and~~

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1 ~~(4) General or limited partnership interests."~~

2 SECTION 5. Section 201-112, Hawaii Revised Statutes, is  
3 repealed.

4 ~~["§201-112] Hawaii television and film development board.~~

5 ~~(a) There is established the Hawaii television and film~~  
6 ~~development board. The board shall be attached to the~~  
7 ~~department of business, economic development, and tourism for~~  
8 ~~administrative purposes only. The board shall administer the~~  
9 ~~grant and venture capital investment programs and the Hawaii~~  
10 ~~television and film development special fund established under~~  
11 ~~this part. The board shall also assess and consider the overall~~  
12 ~~viability and development of the television and film industries~~  
13 ~~and make recommendations to appropriate state or county~~  
14 ~~agencies.~~

15 ~~(b) The board shall be composed of nine members, four of~~  
16 ~~whom shall be appointed by the governor pursuant to section 26-~~  
17 ~~34, and all of whom shall serve four-year staggered terms. One~~  
18 ~~of the governor's appointments shall be made from a list of~~  
19 ~~nominees submitted by the president of the senate and another~~  
20 ~~appointment shall be made from a list of nominees submitted by~~  
21 ~~the speaker of the house of representatives. The four appointed~~  
22 ~~members shall possess a current working knowledge of the film,~~

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1 ~~television, or entertainment industry. The director of~~  
2 ~~business, economic development, and tourism, and the chairs of~~  
3 ~~the four county film commissions or its equivalent, shall serve~~  
4 ~~as ex officio voting members, who may be represented on the~~  
5 ~~board by designees.~~

6 ~~The chairperson and vice chairperson of the board shall be~~  
7 ~~selected by the board by majority vote. Five members shall~~  
8 ~~constitute a quorum, whose affirmative vote shall be necessary~~  
9 ~~for all actions by the board. The members shall serve without~~  
10 ~~compensation but shall be reimbursed for expenses, including~~  
11 ~~travel expenses, necessary for the performance of their duties.~~

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

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

16 SECTION 6. Section 201-114, Hawaii Revised Statutes, is  
17 repealed.

18 ~~["§201-114] Inspection of premises and records. The board~~  
19 ~~shall have the right to inspect, at reasonable hours, the plant,~~  
20 ~~physical facilities, equipment, premises, books, and records of~~  
21 ~~any applicant in connection with the processing of a grant to~~  
22 ~~the applicant. "]~~

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1 SECTION 7. There is appropriated out of the creative media  
2 and film infrastructure special fund the sum of \$1,000,000 or so  
3 much thereof as may be necessary for fiscal year 2017-2018 for  
4 the purposes of the fund. The sum appropriated shall be  
5 expended by the department of business, economic development,  
6 and tourism for the purposes of this Act.

7 SECTION 8. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 9. This Act, upon its approval, shall take effect  
10 on July 1, 2017.

11  
12 INTRODUCED BY: \_\_\_\_\_



13 BY REQUEST

14 JAN 23 2017

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**Report Title:**

Creative Media and Film Infrastructure Special Fund

**Description:**

Amends section 201-113, Hawaii Revised Statutes, to expand funding sources to support creative industries development within the Department of Business, Economic Development, and Tourism; and repeals sections 201-111, 201-112, and 201-114, Hawaii Revised Statutes.

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

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JUSTIFICATION SHEET

DEPARTMENT: Business, Economic Development, and Tourism

TITLE: A BILL FOR AN ACT RELATING TO FUNDING FOR CREATIVE MEDIA AND FILM DEVELOPMENT.

PURPOSE: To provide a dedicated source of funds for the operations, repair, and maintenance of the Hawaii film studio and to further support programs of the Hawaii Film Office within the Creative Industries Division.

MEANS: Amend the title of part IX of chapter 201 and section 201-113, Hawaii Revised Statutes, and repeal sections 201-111, 201-112, and 201-114, Hawaii Revised Statutes.

JUSTIFICATION: Establishing the "Creative Media and Film Infrastructure Special Fund" is critical to provide the mechanism to capture rental fees from the Hawaii Film Studio tenants and reinvest these funds to provide a dedicated revenue stream for repair and maintenance of the existing 7-acre studio site and future infrastructure expansion for the film and creative media industries.

Sections 201-111, 201-112, and 201-114, Hawaii Revised Statutes, should be repealed because the board created and governed by these sections has been inactive for over 10 years.

Impact on the public: Strengthens and maintains the infrastructure for the film and creative media industries which contribute over \$400,000,000 to the State's economy annually, from a clean industry which provides high-paying jobs for Hawaii's people.

Impact on the department and other agencies: Provides a sustainable model to streamline repair and maintenance for existing and new facilities.

GENERAL FUND: Reduction of an estimated gross of \$600,000 (i.e., film studio rental income of \$50,000 a month per year when the facility is occupied with a paying tenant).

OTHER FUNDS: \$1,000,000 appropriation ceiling for expenditure out of the special fund.

PPBS PROGRAM  
DESIGNATION: BED 105.

OTHER AFFECTED  
AGENCIES: Department of Taxation, Department of Budget and Finance.

EFFECTIVE DATE: July 1, 2017.