

ACT 285

H.B. NO. 37

A Bill for an Act Relating to Film Production Funding.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that film and television productions in Hawaii provide an invaluable source of advertisement and promotion for the State. Over the last four years, Hawaii's film and television industry has experienced double-digit growth with annual production expenses reaching \$100,000,000, which translates into tax contributions of approximately \$15,000,000. Within the next five to ten years, film and television in Hawaii have the potential to grow to a \$300,000,000 per year industry, generating up to \$45,000,000 in tax revenues.

The legislature further finds that there is a need to encourage and lend support to Hawaii's local film and television industry. While film and television production from the United States mainland provides a needed and invaluable source of support for Hawaii's economy, the legislature finds that Hawaii's local film and television industry performs a vital role, both in terms of furthering cultural and artistic expression in the State as well as providing a strong foundation for the future of Hawaii's economy. Accordingly, to maximize film and television exposure, and to assist the local film and video industries, it is essential to provide film and television producers with incentives and assistance to encourage them to produce their projects in Hawaii.

The purpose of this Act is to assist Hawaii's television and film industries by providing incentives to both in-state and out-of-state television and film production by:

- (1) Creating the Hawaii television and film development special fund and the Hawaii television and film development board to administer the fund; and
- (2) Establishing the following programs, under the direction of the board, to provide needed assistance to facilitate the acquisition of production capital for film and television producers in the form of:
 - (A) A grant program; and
 - (B) A venture capital program.

SECTION 2. Chapter 201, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . HAWAII TELEVISION AND FILM DEVELOPMENT

§201-A 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 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 development special fund.

“Venture capital investment” means any of the following investments in a project:

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

§201-B Hawaii television and film development board. (a) There is established the Hawaii television and film development board. The board shall be attached to the department of business, economic development, and tourism for administrative purposes only. The board shall administer the grant and venture capital investment programs and the Hawaii television and film development special fund established under this part. The board shall also assess and consider the overall viability and development of the television and film industries and make recommendations to appropriate state or county agencies.

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

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

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

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

§201-C Hawaii television and film development special fund. (a) There is established in the state treasury the Hawaii television and film development special fund into which shall be deposited:

- (1) Appropriations by the legislature;
- (2) Donations and contributions made by private individuals or organizations for deposit into the fund;
- (3) Grants provided by governmental agencies or any other source; and
- (4) Any profits or other amounts received from venture capital investments.

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

- (1) A grant program. The board shall adopt rules pursuant to chapter 91 to provide conditions and qualifications for grants. Applications for grants shall be made to the board and shall contain such information as the board shall require by rules adopted pursuant to chapter 91. At a minimum, the applicant shall agree to the following conditions:
 - (A) The grant shall be used exclusively for eligible Hawaii projects;
 - (B) The applicant shall have applied for or received all applicable licenses and permits;
 - (C) The applicant shall comply with applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, or physical handicap;
 - (D) The applicant shall comply with other requirements as the board may prescribe;
 - (E) All activities undertaken with funds received shall comply with all applicable federal, state, and county statutes and ordinances;
 - (F) The applicant shall indemnify and save harmless the State of Hawaii and its officers, agents, and employees from and against any and all claims arising out of or resulting from activities carried out or projects undertaken with funds provided hereunder, and procure sufficient insurance to provide this indemnification if requested to do so by the department;
 - (G) The applicant shall make available to the board all records the applicant may have relating to the project, to allow the board to monitor the applicant's compliance with the purpose of this chapter; and
 - (H) The applicant, to the satisfaction of the board, shall establish that sufficient funds are available for the completion of the project for the 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

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reasonable, appropriate, and consistent with the purposes and objectives of this part.

§201-D 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 3. In codifying the new part added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 30, 2000.)