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# A BILL FOR AN ACT

RELATING TO TELEVISION AND FILM PRODUCTION.

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

1           SECTION 1. Section 201-14, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§201-14 Consolidated film permit processing.** (a) The  
4 department shall consult with state and county agencies [~~in~~  
5 ~~order~~] to identify sites that can be used for making visually  
6 recorded productions under terms and conditions as may be  
7 determined by the state or county agency having jurisdiction  
8 over the sites.

9           (b) The department may accept an application from any  
10 person who proposes to make a motion picture, television show,  
11 television commercial, or other visually recorded production at  
12 one or more sites on state or county lands, whether or not set  
13 aside under section 171-11.

14           (c) The applicant shall identify the sites to be covered  
15 by the permit and provide other information as may be required  
16 by the department.

17           (d) The department may approve and issue a permit to film  
18 at any of the sites identified by the appropriate state or



1 county agency under subsection (a). If any site requested for  
2 use by the applicant is not identified under subsection (a), the  
3 department shall consult with the appropriate state or county  
4 agency having jurisdiction over the site to obtain a permit. If  
5 the matter of a permit cannot be resolved in this manner, the  
6 department shall refer the application to the appropriate state  
7 or county agency to obtain a permit.

8 (e) The department is authorized to make changes to, and  
9 extensions of, any approved permits so long as the changes and  
10 extensions do not conflict with the policies, terms, and  
11 conditions set forth by the agency having jurisdiction over the  
12 site in question.

13 (f) The department may establish memoranda of agreement or  
14 adopt rules to implement the intent and purposes of this  
15 section.

16 (g) Nothing in this section shall be construed as waiving  
17 the authority of any county or the department of transportation  
18 of the State to require a person to obtain a permit from the  
19 department or county where the production takes place on or from  
20 a public highway.

21 (h) A vessel engaged in temporary use for film production  
22 purposes in accordance with a film permit issued by the



1 department shall not be considered to be a "commercial vessel"  
2 within the meaning of section 200-9, 200-10, or 200-39; provided  
3 that:

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

8 (2) The department may make allowances to include weekends  
9 for film production purposes due to inclement weather  
10 conditions during the weekday period.

11 (i) The department shall establish and collect a surcharge  
12 of \$ \_\_\_\_\_ on each film permit application it processes. The  
13 revenues received from the surcharge shall be deposited into the  
14 Hawaii television and film development special fund pursuant to  
15 section 201-113."

16 SECTION 2. Section 201-112, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

18 "(a) There is established the Hawaii television and film  
19 development board. The board shall be attached to the  
20 department of business, economic development, and tourism for  
21 administrative purposes only. The board shall administer the  
22 grant and venture capital investment programs and the Hawaii



1 television and film development special fund established under  
2 this part[-]; provided that the director of business, economic  
3 development, and tourism shall determine the use of moneys in  
4 the fund to the extent provided for in section 201-113(c). The  
5 board shall also assess and consider the overall viability and  
6 development of the television and film industries and make  
7 recommendations to appropriate state or county agencies."

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

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

- 14 (1) Appropriations by the legislature;
- 15 (2) Donations and contributions made by private  
16 individuals or organizations for deposit into the  
17 fund;
- 18 (3) Grants provided by governmental agencies or any other  
19 source; [~~and~~]
- 20 (4) Any profits or other amounts received from venture  
21 capital investments[-];



1       (5) Revenues collected by the department of business,  
2       economic development, and tourism for film permit  
3       surcharges assessed under section 201-14;

4       (6) Revenues received from the rental of the Hawaii film  
5       studio;

6       (7) Film permit violation fees assessed by the department  
7       of business, economic development, and tourism; and

8       (8) Fees for processing tax incentive applications  
9       pursuant to section 235-17.

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

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



1 chapter 91. At a minimum, the applicant shall agree  
2 to the following conditions:

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

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

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

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

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

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



1 insurance to provide this indemnification if  
2 requested to do so by the department;

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

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

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



1 board by rule pursuant to chapter 91. Venture capital  
2 investments may be made on such terms and conditions  
3 as the board shall determine to be reasonable,  
4 appropriate, and consistent with the purposes and  
5 objectives of this part.

6 (c) Revenues collected from:

7 (1) The film permit surcharge pursuant to section 201-  
8 14(i);

9 (2) The rental of the Hawaii film studio;

10 (3) Film permit violation fees assessed by the department  
11 of business, economic development, and tourism; and

12 (4) Fees for processing tax incentive applications  
13 pursuant to section 235-17,

14 and deposited into the fund shall be used to fund the department  
15 of business, economic development, and tourism's creative  
16 industries division; provided that revenues generated pursuant  
17 to this subsection shall not supplant general funds appropriated  
18 by the legislature and allocated to the creative industries  
19 division by the department."

20 SECTION 4. There is appropriated out of the Hawaii  
21 television and film development special fund the sum of \$ or  
22 so much thereof as may be necessary for fiscal year 2012-2013 to





1 be used for the purposes of the fund pursuant to section 201-  
2 113, Hawaii Revised Statutes.

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

6 SECTION 5. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 6. This Act shall take effect on July 1, 2112.



**Report Title:**

Film Permits; Surcharge; Creative Industries Division

**Description:**

Requires DBEDT to establish a surcharge for each permit processed and issued by the department and deposits revenue collected into the Hawaii Television and Film Development Special Fund. Includes additional revenue sources for the Hawaii Television and Film Development Special Fund. Requires that revenues collected from the surcharge and other revenue sources contained in this measure be used to support DBEDT's Creative Industries Division. Effective July 1, 2112. (HB986 HD1)

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

