

**ACT 228**

S.B. NO. 989

A Bill for an Act Relating to the Department of Business, Economic Development, and Tourism.

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

SECTION 1. Chapter 201, Hawaii Revised Statutes, is amended by amending the title of part IX to read as follows:

**“[PART IX.] HAWAII [TELEVISION AND] FILM AND CREATIVE INDUSTRIES DEVELOPMENT”**

SECTION 2. Section 201-111, Hawaii Revised Statutes, is amended to read as follows:

**“[§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 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.]

“Creative industries” means those sectors that comprise Hawaii’s creative economy, including media, arts, culture, music, design, fashion, publishing, animation, interactive, and emerging media.

“Department” means the department of business, economic development, and tourism.

“Fund” means the Hawaii [television and] film and creative industries development special fund.

“Media” means film, motion pictures, television, interactive, over-the-top television productions, virtual reality, augmented reality and other forms of emerging media, multi-player videogame publishing, and other digitally-developed content for theatrical or digital distribution via streaming, mobile, and broadcast media.

“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;”]

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

**“[§201-113] Hawaii [television and] film and creative industries development special fund.** (a) There is established in the state treasury the Hawaii [television and] film and creative industries 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;]
- (4) Effective January 2, 2021, all revenues, fees, and charges from the processing of the motion picture, digital media, and film production income tax credit pursuant to section 235-17.

(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:<sup>1</sup>
  - (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 reasonable, appropriate, and consistent with the purposes and objectives of this part.]

department to provide for:

- (1) A program to provide seed capital for film, media, and creative industries intellectual property development projects for export, as determined by the department;
- (2) Programs that expand the skills of the State's resident workforce in the film, media, and creative industries; and

- (3) Marketing programs that attract business opportunities within the film, media, and creative industries in the State.”

SECTION 4. Section 201-112, Hawaii Revised Statutes, is repealed.

SECTION 5. Section 201-114, Hawaii Revised Statutes, is repealed.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,200,000 or so much thereof as may be necessary for fiscal year 2019-2020 for the University of Hawaii creative media program for the purposes of strengthening the pipeline of students to the creative media industry.

The sum appropriated shall be expended by the University of Hawaii for the purposes of this Act.

SECTION 7. Statutory material to be repealed is bracketed and stricken.<sup>2</sup> New statutory material is underscored.

SECTION 8. This Act shall take effect on July 1, 2019.

(Approved July 2, 2019.)

#### Notes

1. So in original.

2. Edited pursuant to HRS §23G-16.5.