UFISINAN I MAGA'HÅGA
OFFICE OF THE GOVERNOR

LOURDES A. LEON GUERRERO
MAGA'HÅGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÅHI • LIEUTENANT GOVERNOR

35GL-19-1222
Speaker Tina Rose Muña Barnes

November 12, 2019

NOV 12 2019
Time 5:46 ( )AM (X)PM
Received By: MA

HONORABLE TINA ROSE MUÑA BARNES
Speaker
I Mina'trentai Singko Na Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96932

2019 NOV 13 AM 8:22

Re: Substitute Bill No. 152-35 (COR) – *An Act to Repeal Article 4 of Chapter 50, and to Add a New Article 2, and a New § 3103(h) to Chapter 3, All of Title 12, Guam Code Annotated, Relative to Establishing the Guam Film Office Within the Guam Educational Telecommunications Corporation*

Dear Madame Speaker:

Guam is home to great talent--talent which our people have shared throughout the world. In music and theater, dance and the visual arts, literature and film--our People have shown brightly.

Approximately twelve years ago, the Legislature sought to showcase Guam itself through film projects of every manner and type. Recognizing that film was a multi-billion dollar industry, and that many tourists make vacation decisions based on the films they see, it was hoped that a Guam Film Office could invite film related investment to Guam, create jobs, and expand our visitor portfolio.

This is why I am excited to sign Bill 152-35 into **Public Law 35-48**.

By placing the Guam Film Office under the auspices of Guam Educational Telecommunications Corporation ("PBS Guam"), we are now pairing it with an agency more appropriate for its operations.

Furthermore, with the help and guidance of PBS Guam, the Guam Film Office is now poised to achieve its mission after seven long years of dormancy.

1222

RICARDO J. BORDALLO GOVERNOR'S COMPLEX • HAGÅTÑA, GUAM 96910
P.O. BOX 2950 • HAGÅTÑA, GUAM 96932
671.472.8931 • 671.472.8932/6

At its core, the Guam Film Office is an economic driver. Guam presently hosts numerous small and medium-scale film productions throughout the year, and this year saw its first million-dollar Netflix production. The island's strategic geographical location, US legal structure, and favorable business environment act as significant incentives to make projects like these more than a rare occurrence.

Yet, taking advantage of this industry's job-creating potential requires that entities like the Guam Film Office become more than an idea on a page. This is why I also appreciate the amendments made to the original bill as introduced which work to protect and promote Guam's cultural identity to the world.

In signing this measure into law, I also stress that the scope of this legislation must not be expanded beyond the reasonable limits of commonsense. I expect that the Guam film office will help film productions meet the requirements of regulatory agencies and the laws of Guam. Further, the rulemaking process will clarify that the film office's role and authority are limited only to film projects seeking to do business on Guam.

We will also work government-wide to ensure a successful experience for film projects while ensuring that our basic regulatory and permitting requirements are followed.

I look forward to the success of this measure and the many good this it will bring to Guam.

Senseremente,

LOURDES A. LEON GUERRERO
Maga'hågan Guåhan
Governor of Guam

Enclosure(s): Substitute Bill No. 152-35 *nka* Public Law 35-48

cc via email: *Sigundo Maga'låhen Guåhan*
Compiler of Laws

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN*

This is to certify that **Substitute Bill No. 152-35 (COR), "AN ACT TO *REPEAL* ARTICLE 4 OF CHAPTER 50, AND TO *ADD* A NEW ARTICLE 2 AND A NEW § 3103(h) TO CHAPTER 3, ALL OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM FILM OFFICE WITHIN THE GUAM EDUCATIONAL TELECOMMUNICATIONS CORPORATION,"** was on the 31st day of October 2019, duly and regularly passed.

Tina Rose Muña Barnes
Speaker

Attested:

Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 31ST day of October, 2019, at 6:00 o'clock P.M.

Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 11/12/2019

Public Law No. 35-48

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

Bill No. 152-35 (COR)
As substituted by the Committee on Heritage and the Arts,
Parks, Guam Products, Hagåtña Revitalization,
Self-Determination, and Regional Affairs;
and amended on the Floor.

Introduced by: Tina Rose Muña Barnes
Kelly Marsh (Taitano), PhD
Jose "Pedo" Terlaje
William M. Castro
Régine Biscoe Lee
James C. Moylan
Louise B. Muña
Telena Cruz Nelson
Sabina Flores Perez
Clynton E. Ridgell
Joe S. San Agustin
Amanda L. Shelton
Telo T. Taitague
Therese M. Terlaje
Mary Camacho Torres

AN ACT TO *REPEAL* ARTICLE 4 OF CHAPTER 50, AND TO *ADD* A NEW ARTICLE 2 AND A NEW § 3103(h) TO CHAPTER 3, ALL OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM FILM OFFICE WITHIN THE GUAM EDUCATIONAL TELECOMMUNICATIONS CORPORATION.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Article 4 of Chapter 50, Title 12, Guam Code Annotated, is hereby *repealed.*

Section 2. A new Article 2 is *added* to Chapter 3, Title 12, Guam Code Annotated, to read:

"**ARTICLE 2**

GUAM FILM OFFICE

§ 3201. Definitions.

§ 3202. Guam Film Office.

§ 3203. Rules and Regulations.

§ 3204. Powers and Duties.

§ 3205. Guam Film Office Fund.

§ 3206. Permits Required.

§ 3207. General Exemptions.

§ 3208. Local Production Companies Exempt.

§ 3209. Applicants and Issuance.

§ 3210. Indemnification of Government Against Liability.

§ 3211. Insurance and Bonding Required.

§ 3212. Effective Date.

§ 3213. Severability.

§ 3201. Definitions.

(a) *Administrator* means the Administrator of the Guam Film Office, who *shall* be the Station Manager of the Guam Educational Telecommunications Corporation or his/her designee.

(b) *Board* means the Guam Educational Telecommunications Corporation Board of Trustees.

(c) *Charitable* or *student films* means commercials, motion pictures, television, videotapes, or still photography produced by a nonprofit organization that is registered with the Guam Department of Revenue and Taxation or the Internal

Revenue Service as a charitable organization, or is produced by students of an educational institution, and for which no person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing the films, tapes, or photos.

(d) *Commercial films* means and includes all activity attendant to filming any entertainment or advertising programs for any media now known or hereafter created.

(e) *Committee* means an Advisory Committee established by the Station Manager.

(f) *Contractors' Registry* means a list of all Guam licensed businesses, and their contact information, who provide services to companies engaged in the film industry.

(g) *Corporation* means the Guam Educational Telecommunications Corporation.

(h) *Filming/production* means and includes all activity attendant to staging or shooting commercial motion pictures, television shows or programs, and commercial still photography, videotapes, computer-based programs, or other visual reproduction technology now known or hereafter created. The period of filming includes the set-up, strike, and time of photography.

(i) *Government* means the government of Guam, its authorized agents, officers, representatives, and employees of departments, agencies, autonomous agencies, offices, or instrumentalities.

(j) *News media* means the photographing, filming or videotaping for the purpose of spontaneous, unplanned television news broadcasts, or reporting for print media by journalists, reporters, photographers, or camera operators.

(k) *Person* means an individual or business.

(l) *Private property* means any property *not* owned by the government of Guam on which filming would *not* interfere with the public's right-of-way, access, or safety.

(m) *Station Manager* means a person appointed in accordance with § 3107 of this Chapter.

(n) *Studio* means a fixed place of business where filming activities (motion or still photography) are regularly conducted upon the premises.

§ 3202. Guam Film Office.

There is hereby established the Guam Film Office as a division within the Guam Educational Telecommunications Corporation. The Station Manager of the Corporation *shall* be responsible for the administration of the Guam Film Office and serve as the fiduciary to the Corporation. The Station Manager *shall* submit a strategic plan to the Board for approval *no later than* thirty (30) days after the adoption of rules and regulations. The plan *shall* be updated every three (3) years.

§ 3203. Rules and Regulations.

Rules and Regulations. The Station Manager *shall* establish an Advisory Committee that is responsible for the promulgation of rules, regulations, and fees to govern the form, time, and location of filming activity set forth within Guam. The composition of the Advisory Committee *shall* be as follows:

(a) no less than three (3) individuals and representatives of non-governmental organizations that have substantial experience in the film, video, and media fields;

(b) one (1) member *shall* be *I Ge'helo'* (the Chair) or a designated alternate from *I Kumision I Fino' CHamoru yan I Fina'nå'guen I Historia yan I Lina'la' I Taotao Tåno*;

(c) one (1) member *shall* be the Guam Historic Preservation Officer or his/her designee;

(d) one (1) member *shall* be from the Guam Visitors Bureau; and

(e) one (1) member *shall* be from the Guam Economic Development Authority.

The Committee *shall* allow for the full participation of any member of the public during its deliberations. The rules and regulations *shall* also provide for the issuance of permits, notification of permit denial, and a process of appeal. The rules and regulations may also include requirements for non-local production companies to provide local apprenticeships within the film industry during the course of film production on Guam. The rules, regulations, and fees *shall* be adopted by the Board of the Guam Educational Telecommunications Corporation and comply with the provisions of the Administrative Adjudication Law, 5 GCA Chapter 9, within ninety (90) days upon the enactment of this Article. The rules and regulations *shall* be based upon the following criteria:

(a) the health and safety of all persons;

(b) avoidance of undue disruption of all persons within the affected area;

(c) the safety of property in Guam;

(d) traffic congestion at particular locations in Guam; and

(e) to foster to the maximum extent possible, the accuracy or appropriateness of the presentation, interpretation, and/or usage of tangible and intangible aspects of the *CHamoru* culture and heritage that may be practicable in the production of films, videos, audio recordings, music recordings, computer-generated imagery and other media-related products.

§ 3204. Powers and Duties.

The Guam Film Office *shall* have the following powers and duties:

(a) to promote, encourage and advertise the use of Guam facilities and services for the production of films, videos, television programs, audio recordings, music recordings, computer-generated imagery and other media-related products;

(b) to provide support services to visiting and local production companies, including assistance to film, video, audio, and media producers in securing necessary permits or permissions from government of Guam authorized agents, officers, representatives and employees of departments, agencies, autonomous agencies, offices or instrumentalities;

(c) to develop and update annually a resource guide of viable filming locations in Guam, available video and media production facilities, permitting requirements, and tax incentives;

(d) to work in coordination with the Guam Visitors Bureau to conduct and attend trade shows and production workshops to promote Guam to the national and international film industries;

(e) to promote and attract business activities in film, video, computer-generated and other media production activity in Guam, and take any other administrative action which may improve Guam's film, video and media production industries in national and international markets;

(f) to work in coordination with *I Kumision I Fino' CHamoru yan I Fina'nå'guen I Historia yan I Lina'la' I Taotao Tåno* to ensure, to the maximum extent possible, the accuracy or appropriateness of the presentation, interpretation, and usage of tangible and intangible aspects of the *CHamoru* culture and heritage in the production of films, videos, audio recordings,

music recordings, computer-generated imagery and other media-related products;

(g) to accept any funds, gifts, donations, bequests or grants of funds from private, federal, and public sources for the purposes of this Article;

(h) to create a "one stop permitting" process for the film industry by formulating and proposing rules and regulations for standardized permits which *shall* be used by the government of Guam, its authorized agents, officers, representatives and employees of departments, agencies, autonomous agencies, offices, or instrumentalities, in accordance with the requirements set forth in this Article;

(i) to work in coordination with the Guam Historic Preservation Officer to ensure the integrity of historic and cultural sites;

(j) to require at its discretion, non-local production companies to provide local apprenticeships within the film industry during the course of film production on Guam. Such requirements may take into account the size of the production and other factors the Guam Film Office deems appropriate; and

(k) to establish a Contractors' Registry, which *shall* be provided to all potential film companies upon written request and made available via the Guam Film Office's website.

§ 3205. Guam Film Office Fund.

There is established a Fund to be known as the Guam Film Office Fund, which *shall* be administered by the Board for the Guam Film Office and be maintained separate and apart from any other funds of the government of Guam, including the General Fund. Independent records and accounts *shall* be maintained in connection therewith. All proceeds deposited in the Guam Film Office Fund *shall* be

appropriated to the Corporation for the administration, equipment, operations, the development of facilities, and for other purposes necessary to carry out this Article. All funds collected from fees, charges, or fines levied pursuant to this Article *shall* be deposited in the Guam Film Office Fund, and all interest earned by the Guam Film Office Fund *shall* accrue. Any unencumbered funds remaining in the Guam Film Office Fund at the end of each fiscal year *shall* remain in the Fund. The Guam Film Office Fund *shall* be subject to audits by the Office of Public Accountability.

§ 3206. Permits Required.

(a) Permit Required. No person shall use any government street, alley, sidewalk, park, pier, way, or other public property owned or controlled by the government of Guam for the purpose of making commercial films without first applying for and receiving a permit from the Guam Film Office Administrator or his/her designee; provided, that the provisions of this Article *shall not* apply to or be construed to affect (1) news media; and (2) filming solely for private/family use.

(b) No person shall use any private property for the purpose of making commercial films without first applying for and receiving a permit from the Guam Film Office Administrator or his/her designee. Notwithstanding the foregoing, the provisions of this Article *shall not* apply to or be construed to affect the following filming on private property:

(1) filming which requires *no* parking variances and uses *no* public property or rights-of-way on public property;

(2) filming which *does not* impair the quiet enjoyment of the surrounding properties;

(3) filming which *does not* involve the use of any pyrotechnic devices;

(4) a licensed business which regularly employs a licensed pyrotechnic operator;

(5) filming by news media;

(6) filming solely for private/family use; or

(7) filming which *does not* interfere with the public's use of government property.

(c) *Except* as provided herein, each applicant must comply with all local and federal laws and regulations and must obtain all necessary permits and licenses as a precondition for the commencement of commercial film production hereunder. Thereafter, the permittee *shall* remain in full compliance with all local and federal laws, regulations, permits and licenses throughout the filming.

(d) Upon reasonable notice by the applicant, the Administrator or his/her designee is authorized, upon showing of good cause, to change the conditions under which a permit has been issued; provided, that the requirements of this Article are met and the government of Guam department, agency, autonomous agency, office or instrumentality can undertake all necessary administrative review within the time requested.

§ 3207. General Exemptions.

The provisions of this Article *shall not* apply to or affect:

(a) Guam Educational Telecommunications Corporation and companies providing services or partnering on station projects.

(b) News Media. Reporters, photographers, or camera operators in the employ of a newspaper, news service, or similar entity, engaged in the on-the-spot broadcasting of news events concerning those persons, scenes or occurrences which are in the news and of general public interest, including sporting events.

(c) Private/Family Use. The filming or videotaping of motion pictures solely for private/family use.

(d) Charitable Films and Student Films. Projects produced by a nonprofit organization that is registered with the Guam Department of Revenue and Taxation or the Internal Revenue Service as a charitable organization or produced by a student(s) of an educational institution.

(e) Small Crews. If the crew *does not* exceed four (4) persons and there is *no* extensive use of props, equipment, cast or other participants, the small crew *shall* be exempt if the following conditions are met:

(1) the crew is filming a parade, demonstration or other special event, and has obtained all permission that may be required. The exemption *shall* allow them to operate on the same basis as a citizen with a camera;

(2) pedestrian and vehicular traffic is *not* altered;

(3) no special parking provisions are included;

(4) no stunt work is performed;

(5) permission is obtained from controlling authorities to use government of Guam property, other than sidewalks and streets;

(6) permission is obtained from owners to use private property where applicable; and

(7) the production company or film crew ensures, to the maximum extent possible, the accuracy or appropriateness of the presentation, interpretation, and usage of tangible and intangible aspects of the *CHamoru* culture and heritage as may be practicable in the production of films, videos, audio recordings, music recordings, computer-generated imagery and other media-related products.

§ 3208. Local Production Companies Exempt.

In addition to the General Exemptions authorized in § 3207 of this Article, the provisions of this Article and the rules, regulations, and requirements authorized herein *shall not* apply to or affect local production companies if:

(a) the production company was incorporated in Guam;

(b) the principal owner(s) is a resident of Guam and has filed individual tax returns in Guam for a period of at least three (3) years;

(c) the production company maintains its headquarters in Guam;

(d) the production company is licensed to do business in Guam;

(e) the daily operations of the production company are managed by a resident of Guam; and

(f) the production company ensures, to the maximum extent possible, the accuracy or appropriateness of the presentation, interpretation, and usage of tangible and intangible aspects of the *CHamoru* culture and heritage as may be practicable in the production of films, videos, audio recordings, music recordings, computer-generated imagery and other media-related products.

§ 3209. Applicants and Issuance.

(a) Issuing Authority. The issuing authority *shall* be the Guam Film Office Administrator.

(b) Applications. Each application for filming under this Article must be completed in full and filed with the Administrator or his/her designee.

(c) The permit application *shall* be in a form the Administrator or his/her designee may reasonably require. In lieu of the foregoing, the applicant may submit the permit application on the form adopted and in use by the Guam Film Office.

(d) The Administrator or his/her designee may refer the application to such appropriate government department, agency, autonomous agency, office or instrumentality as are directly impacted by the application, and as he/she deems necessary from the nature of the application for review, evaluation, investigation, and recommendations by the department, agency, autonomous agency, office or instrumentality regarding approval or disapproval of the application.

(e) The Administrator or his/her designee *shall* issue a permit under this Article if it is determined that the following criteria have been met:

(1) the proposed use will *not* unreasonably interfere with or endanger the public peace or rights of nearby residents to the quiet, peaceful enjoyment of their property, or otherwise be detrimental to the public peace, health, safety or general welfare;

(2) the proposed use will *not* unduly impede, obstruct or interfere with the operation of emergency vehicles or equipment in or through the permit area, or adversely affect the government's ability to perform municipal functions or furnish government services in the vicinity of the permitted area; and

(3) the proposed use will *not* constitute a fire or safety hazard and all proper safety precautions will be taken as is reasonably necessary to protect the public peace, health, safety or general welfare.

(f) The Administrator or his/her designee *shall* deny the permit if the conditions of this Article and all applicable laws and regulations have not been met or if the application contains incomplete or false information. No permit shall be denied without a clear written explanation of the reasons compelling a denial and the process by which said denial may be appealed.

(g) The Administrator or his/her designee may immediately revoke or suspend a permit which has been granted if the conditions of this Article and all applicable laws and regulations are no longer being met, or if the information supplied by the applicant becomes, or is determined to be, false or incomplete, or if any substantial change in circumstances results in the proposed use becoming detrimental to the public peace, health, safety or general welfare.

(h) The Administrator or his/her designee *shall* conduct production site inspections, monitoring, and enforcement of this Article.

(i) Reimbursement for Personnel. The production company *shall* reimburse the relevant government of Guam agency for any personnel provided to the company (i.e. police, fire, traffic control, medical personnel) for the purpose of assisting the production. Any cost *shall* be negotiated, and approved, prior to the shoot date. A fee for issuance of the permit *shall* be set by the Advisory Committee.

§ 3210. Indemnification of Government Against Liability.

Prior to and as a condition precedent to the granting of a permit under this Article, each applicant *shall* agree to indemnify, defend and hold the government of Guam, its authorized agents, officers, representatives and employees harmless from and against any and all losses, damages, claims, causes of action, costs, liabilities, penalties, judgments and expenses, including without limitation, defense costs and reasonable legal fees, resulting from any and all claims or damage of any nature, including any accident, loss or damage to persons or property which the government may incur and which arise from or relate to any activity conducted by the permittee or any of its agents, employees, representatives, contractors or consultants in connection with the rights granted in the permit or under this Article. The form of the indemnification agreement *shall* be as determined by the Attorney General of Guam.

§ 3211. Insurance and Bonding Required.

(a) Liability Insurance. As a condition of the issuance of a permit hereunder, every permittee must procure and maintain in full force and effect during the term of the permit a policy (or policies) of insurance from an insurance company licensed to do business in Guam, naming the government of Guam, its officers, employees and agents as coinsured for protection against claims of third persons for any and all liability of permittee with respect to its obligations and liabilities under its permit and this Article, and its indemnities, including, but *not* limited to, commercial general liability insurance on an "occurrence" basis against claims for personal injury, including death, bodily injury or property damage liability, and in an amount *no less than* One Million Dollars ($1,000,000), or which otherwise provides sufficient coverage that the Administrator or his/her designee determines to be necessary and adequate under the circumstances. The certificate of insurance *shall not* be subject to cancellation or modification until after thirty (30) days' written notice to the Guam Film Office. Prior to the issuance of any permit, a copy of the certificate of insurance *shall* be provided to the Insurance Commissioner. A copy of the certificate will remain on permanent file.

(b) Worker's Compensation Insurance. An applicant *shall* conform to all applicable federal and local requirements for worker's compensation insurance for all persons operating under a permit.

(c) Hold Harmless Agreement. An applicant *shall* execute a hold harmless agreement as provided by the government of Guam and incorporated within the permit issued under this Article.

(d) Faithful Performance Bond. To ensure cleanup and restoration of any public property involved in the filming, the permittee may be required to post a refundable faithful performance bond (amount to be determined by the rules and

regulations), cash surety or other comparable form of security guarantee at the time the application is submitted. Upon completion of filming, cleanup and restoration, and a satisfactory inspection of the site by the Guam Film Office Administrator or his/her designee, the bond may be returned to the applicant.

§ 3212. Effective Date.

This Article *shall* be effective one hundred eighty (180) days after the date of enactment.

§ 3213. Severability.

If any provision of this Article or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity *shall not* affect other provisions or applications of this Article that can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable."

Section 3. A new § 3103(h) is *added* to Chapter 3, Title 12, Guam Code Annotated, to read:

"(h) The Corporation is authorized to create and administer the Guam Film Office in order to advocate for the *Håfa Adai* spirit globally."

Section 4. Transfer of Assets. Any property and assets of the Guam Film Office which is held by the Guam Economic Development Authority *shall* be transferred immediately to the Guam Educational Telecommunications Corporation.

Section 5. Severability. If any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity *shall not* affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.