

JAN 24 2007

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# A BILL FOR AN ACT

RELATING TO CABLE TELEVISION.

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

1           SECTION 1. Section 26-9, Hawaii Revised Statutes, is  
2 amended by amending subsection (o) to read as follows:  
3           "(o) Every person licensed under any chapter within the  
4 jurisdiction of the department of commerce and consumer affairs  
5 and every person licensed subject to chapter 485A or registered  
6 under chapter 467B shall pay upon issuance of a license, permit,  
7 certificate, or registration a fee and a subsequent annual fee  
8 to be determined by the director and adjusted from time to time  
9 to ensure that the proceeds, together with all other fines,  
10 income, and penalties collected under this section, do not  
11 surpass the annual operating costs of conducting compliance  
12 resolution activities required under this section. The fees may  
13 be collected biennially or pursuant to rules adopted under  
14 chapter 91, and shall be deposited into the special fund  
15 established under this subsection. Every filing pursuant to  
16 chapter 514E or section [†]485A-202(a)(26) [†] shall be assessed,  
17 upon initial filing and at each renewal period in which a



1 renewal is required, a fee that shall be prescribed by rules  
2 adopted under chapter 91, and that shall be deposited into the  
3 special fund established under this subsection. Any unpaid fee  
4 shall be paid by the licensed person, upon application for  
5 renewal, restoration, reactivation, or reinstatement of a  
6 license, and by the person responsible for the renewal,  
7 restoration, reactivation, or reinstatement of a license, upon  
8 the application for renewal, restoration, reactivation, or  
9 reinstatement of the license. If the fees are not paid, the  
10 director may deny renewal, restoration, reactivation, or  
11 reinstatement of the license. The director may establish,  
12 increase, decrease, or repeal the fees when necessary pursuant  
13 to rules adopted under chapter 91. The director may also  
14 increase or decrease the fees pursuant to section 92-28.

15 There is created in the state treasury a special fund to be  
16 known as the compliance resolution fund to be expended by the  
17 director's designated representatives as provided by this  
18 subsection. Notwithstanding any law to the contrary, all  
19 revenues, fees, and fines collected by the department shall be  
20 deposited into the compliance resolution fund. Unencumbered  
21 balances existing on June 30, 1999, in the cable television fund  
22 under chapter 440G, the division of consumer advocacy fund under



1 chapter 269, the financial institution examiners' revolving  
2 fund, section 412:2-109, the special handling fund, section  
3 414-13, and unencumbered balances existing on June 30, 2002, in  
4 the insurance regulation fund, section 431:2-215, shall be  
5 deposited into the compliance resolution fund. This provision  
6 shall not apply to the drivers education fund underwriters fee,  
7 section 431:10C-115, insurance premium taxes and revenues,  
8 revenues of the workers' compensation special compensation fund,  
9 section 386-151, the captive insurance administrative fund,  
10 section 431:19-101.8, the insurance commissioner's education and  
11 training fund, section 431:2-214, the medical malpractice  
12 patients' compensation fund as administered under section 5 of  
13 Act 232, Session Laws of Hawaii 1984, and fees collected for  
14 deposit in the office of consumer protection restitution fund,  
15 section 487-14, the real estate appraisers fund, section 466K-1,  
16 the real estate recovery fund, section 467-16, the real estate  
17 education fund, section 467-19, the contractors recovery fund,  
18 section 444-26, the contractors education fund, section 444-29,  
19 and the condominium education trust fund, section 514B-71. Any  
20 law to the contrary notwithstanding, the director may use the  
21 moneys in the fund to employ, without regard to chapter 76,  
22 hearings officers and attorneys. All other employees may be



1 employed in accordance with chapter 76. Any law to the contrary  
2 notwithstanding, the moneys in the fund shall be used to fund  
3 the operations of the department. Any law to the contrary  
4 notwithstanding, the director may use moneys in the fund  
5 deposited under chapter 440G to support public, educational, and  
6 governmental access facilities, equipment, and operations  
7 pursuant to the standards and conditions adopted in accordance  
8 with section 440G-15. The moneys in the fund may be used to  
9 train personnel as the director deems necessary and for any  
10 other activity related to compliance resolution.

11 As used in this subsection, unless otherwise required by  
12 the context, "compliance resolution" means a determination of  
13 whether:

- 14 (1) Any licensee or applicant under any chapter subject to  
15 the jurisdiction of the department of commerce and  
16 consumer affairs has complied with that chapter;
- 17 (2) Any person subject to chapter 485A has complied with  
18 that chapter;
- 19 (3) Any person submitting any filing required by chapter  
20 514E or section [f]485A-202(a)(26) [f] has complied  
21 with chapter 514E or section [f]485A-202(a)(26) [f];



1 (4) Any person has complied with the prohibitions against  
2 unfair and deceptive acts or practices in trade or  
3 commerce; or

4 (5) Any person subject to chapter 467B has complied with  
5 that chapter;

6 and includes work involved in or supporting the above functions,  
7 licensing, or registration of individuals or companies regulated  
8 by the department, consumer protection, and other activities of  
9 the department.

10 The director shall prepare and submit an annual report to  
11 the governor and the legislature on the use of the compliance  
12 resolution fund. The report shall describe expenditures made  
13 from the fund including non-payroll operating expenses."

14 SECTION 2. Section 440G-15, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "§440G-15 Annual fees. (a) Each cable operator shall pay  
17 an annual fee to be determined by the director. The fees so  
18 collected under this section shall be deposited into the  
19 compliance resolution fund established under section 26-9(o).

20 (b) The director shall adjust the fees assessed under this  
21 section, as necessary from time to time, pursuant to rules  
22 adopted in accordance with chapter 91.



1        (c) The fees collected under this section and deposited to  
2 the compliance resolution fund may be used to support public,  
3 educational, or governmental access facilities, equipment, and  
4 operations pursuant to the standards and conditions established  
5 by a decision and order issued by the director; provided that  
6 notwithstanding any law to the contrary:

7        (1) The decision and order shall not be subject to any of  
8 the requirements of chapter 91; and

9        (2) Use of the funds to support public, educational, or  
10 governmental access facilities, equipment, and  
11 operations shall not be subject to any of the  
12 requirements of chapter 42F."

13        SECTION 3. Act 164, Session Laws of Hawaii 2004, is  
14 amended by amending section 5 to read as follows:

15        "SECTION 5. Section 26-9, Hawaii Revised Statutes, is  
16 amended by amending subsection (o) to read as follows:

17        "(o) Every person licensed under any chapter within the  
18 jurisdiction of the department of commerce and consumer affairs  
19 and every person licensed subject to chapter 485 or registered  
20 under chapter 467B shall pay upon issuance of a license, permit,  
21 certificate, or registration a fee and a subsequent annual fee  
22 to be determined by the director and adjusted from time to time



1 to ensure that the proceeds, together with all other fines,  
2 income, and penalties collected under this section, do not  
3 surpass the annual operating costs of conducting compliance  
4 resolution activities required under this section. The fees may  
5 be collected biennially or pursuant to rules adopted under  
6 chapter 91, and shall be deposited into the special fund  
7 established under this subsection. Every filing pursuant to  
8 chapter 514E or section 485-6(15) shall be assessed, upon  
9 initial filing and at each renewal period in which a renewal is  
10 required, a fee that shall be prescribed by rules adopted under  
11 chapter 91, and that shall be deposited into the special fund  
12 established under this subsection. Any unpaid fee shall be paid  
13 by the licensed person, upon application for renewal,  
14 restoration, reactivation, or reinstatement of a license, and by  
15 the person responsible for the renewal, restoration,  
16 reactivation, or reinstatement of a license, upon the  
17 application for renewal, restoration, reactivation, or  
18 reinstatement of the license. If the fees are not paid, the  
19 director may deny renewal, restoration, reactivation, or  
20 reinstatement of the license. The director may establish,  
21 increase, decrease, or repeal the fees when necessary pursuant



1 to rules adopted under chapter 91. The director may also  
2 increase or decrease the fees pursuant to section 92-28.

3 There is created in the state treasury a special fund to be  
4 known as the compliance resolution fund to be expended by the  
5 director's designated representatives as provided by this  
6 subsection. Notwithstanding any law to the contrary, all  
7 revenues, fees, and fines collected by the department shall be  
8 deposited into the compliance resolution fund. Unencumbered  
9 balances existing on June 30, 1999, in the cable television fund  
10 under chapter 440G, the division of consumer advocacy fund under  
11 chapter 269, the financial institution examiners' revolving  
12 fund, section 412:2-109, the special handling fund, section 414-  
13 13, and unencumbered balances existing on June 30, 2002, in the  
14 insurance regulation fund, section 431:2-215, shall be deposited  
15 into the compliance resolution fund. This provision shall not  
16 apply to the drivers education fund underwriters fee, section  
17 431:10C-115, insurance premium taxes and revenues, revenues of  
18 the workers' compensation special compensation fund, section  
19 386-151, the captive insurance administrative fund, section  
20 431:19-101.8, the insurance commissioner's education and  
21 training fund, section 431:2-214, the medical malpractice  
22 patients' compensation fund as administered under section 5 of





1 Act 232, Session Laws of Hawaii 1984, and fees collected for  
2 deposit in the office of consumer protection restitution fund,  
3 section 487-14, the real estate appraisers fund, section 466K-1,  
4 the real estate recovery fund, section 467-16, the real estate  
5 education fund, section 467-19, the contractors recovery fund,  
6 section 444-26, the contractors education fund, section 444-29,  
7 and the condominium [management] education trust fund, section  
8 [~~514A-131-~~] 514B-76. Any law to the contrary notwithstanding,  
9 the director may use the moneys in the fund to employ, without  
10 regard to chapter 76, hearings officers, investigators,  
11 attorneys, accountants, and other necessary personnel to  
12 implement this subsection. Any law to the contrary  
13 notwithstanding, the moneys in the fund shall be used to fund  
14 the operations of the department. Any law to the contrary  
15 notwithstanding, the director may use moneys in the fund  
16 deposited under chapter 440G to support public, educational, and  
17 governmental access facilities, equipment, and operations  
18 pursuant to the standards and conditions adopted in accordance  
19 with section 440G-15. The moneys in the fund may be used to  
20 train personnel as the director deems necessary and for any  
21 other activity related to compliance resolution.



1 As used in this subsection, unless otherwise required by  
2 the context, "compliance resolution" means a determination of  
3 whether:

4 (1) Any licensee or applicant under any chapter subject to  
5 the jurisdiction of the department of commerce and  
6 consumer affairs has complied with that chapter;

7 (2) Any person subject to chapter 485 has complied with  
8 that chapter;

9 (3) Any person submitting any filing required by chapter  
10 514E or section 485-6(15) has complied with chapter  
11 514E or section 485-6(15);

12 (4) Any person has complied with the prohibitions against  
13 unfair and deceptive acts or practices in trade or  
14 commerce; or

15 (5) Any person subject to chapter 467B has complied with  
16 that chapter;

17 and includes work involved in or supporting the above functions,  
18 licensing, or registration of individuals or companies regulated  
19 by the department, consumer protection, and other activities of  
20 the department.

21 The director shall prepare and submit an annual report to  
22 the governor and the legislature on the use of the compliance



1 resolution fund. The report shall describe expenditures made  
2 from the fund including non-payroll operating expenses."

3 SECTION 4. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 5. This Act shall take effect on July 1, 2007;  
6 provided that section 1 shall take effect on July 1, 2008.

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INTRODUCED BY:

  
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**Report Title:**  
Cable Television

**Description:**  
Allows the DCCA to provide additional funding to support public, educational, and governmental cable television access.