

JAN 25 2006

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# A BILL FOR AN ACT

RELATING TO ARTIST RECORDING CONTRACTS.

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

1           SECTION 1. The legislature finds that the recording  
2 industry is an important industry to the State of Hawaii.  
3 Artistic labor is vital to maintaining a healthy and vibrant  
4 recording industry and is an important resource to the people of  
5 Hawaii. Every royalty artist should have the ability to conduct  
6 an audit to verify earnings reported under a recording contract.

7           The establishment of a set of basic audit practices will  
8 advance the interests of the artists, the recording industry,  
9 and the State as a whole. The purpose of this Act is to  
10 implement important public policy by establishing minimum audit  
11 procedures that apply to all royalty contracts in the recording  
12 industry in the State.

13           SECTION 2. Hawaii Revised Statutes is amended by adding a  
14 new section to be appropriately designated and to read as  
15 follows:

16           "§ - Royalty recipient; auditing. (a) For the  
17 purpose of this section:



1       "Contract" means the furnishing of services in the  
2 production of sound recordings or audiovisual works, or both, as  
3 defined in section 101, Title 17 of the United States Code,  
4 containing the musical performances of a royalty recipient.

5       "Royalty recipient" means a party to a contract who has the  
6 right to receive royalties under that contract.

7       "Royalty reporting party" means the party obligated to pay  
8 royalties to the royalty recipient under a contract.

9       (b) Notwithstanding any provision of a contract, a royalty  
10 recipient may audit the books and records of the royalty  
11 reporting party to determine if the royalty recipient earned all  
12 of the royalties due the royalty recipient pursuant to the  
13 contract, provided that the royalty recipient:

- 14       (1) May conduct an audit not more than once per year;
- 15       (2) Shall request an audit within three years after the  
16 end of a royalty earnings period under the contract;  
17       and
- 18       (3) May not audit a particular royalty earnings period  
19 more than once.

20       (c) The royalty recipient shall retain a qualified royalty  
21 auditor of the royalty recipient's choice to conduct an audit  
22 described in this section.



1        (d) The royalty recipient may enter into a contingency fee  
2 agreement with the qualified royalty auditor.

3        (e) A qualified royalty auditor may conduct individual  
4 audits of the books and records of a royalty reporting party on  
5 behalf of different royalty recipients simultaneously.

6        (f) Except as otherwise required by law, a qualified  
7 royalty auditor shall not disclose any confidential information  
8 obtained solely during an audit without the express consent of  
9 the party or parties to whom the information is confidential.  
10 An auditor is not prohibited from disclosing, to the royalty  
11 recipient or an agent of the recipient on behalf of whom the  
12 auditor is conducting the audit, information directly pertaining  
13 to the royalty recipient's contract.

14        (g) The provisions of this section are in addition to any  
15 other rights provided by the contract between a royalty  
16 recipient and a royalty reporting party.

17        (h) Nothing in this section shall be deemed to extend any  
18 limitations period applicable to royalty accounting or payments  
19 not specifically addressed in this section.

20        (i) Nothing in this section shall be deemed to limit any  
21 rights provided by collective bargaining agreement or by  
22 applicable state or federal law."



- 1 SECTION 3. New statutory material is underscored.
- 2 SECTION 4. This Act shall take effect upon its approval.
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INTRODUCED BY: Carol Furumaga  
Anil J. Jee  
Bob Rogue  
Jala L. L.  
F. K. C. G. S. H.  
H. S. L. J.

**Report Title:**

Recording Contracts; Royalties; Audits

**Description:**

Authorizes recording artist royalty recipients to audit books and records of royalty reporting party; establishes conditions.

