
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 485 shall pay upon
6 issuance of a license, permit, certificate, or registration a
7 fee and a subsequent annual fee to be determined by the director
8 and adjusted from time to time to ensure that the proceeds,
9 together with all other fines, income, and penalties collected
10 under this section, do not surpass the annual operating costs of
11 conducting compliance resolution activities required under this
12 section. The fees may be collected biennially or pursuant to
13 rules adopted under chapter 91, and shall be deposited into the
14 special fund established under this subsection. Every filing
15 pursuant to chapter 514E or section 485-6(15) shall be assessed,
16 upon initial filing and at each renewal period in which a
17 renewal is required, a fee that shall be prescribed by rules



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

14 There is created in the state treasury a special fund to be
15 known as the compliance resolution fund to be expended by the
16 director's designated representatives as provided by this
17 subsection. Notwithstanding any law to the contrary, all
18 revenues, fees, and fines collected by the department shall be
19 deposited into the compliance resolution fund. Unencumbered
20 balances existing on June 30, 1999, in the cable television fund
21 under chapter 440G, the division of consumer advocacy fund under
22 chapter 269, the financial institution examiners' revolving



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



1 notwithstanding, the moneys in the fund shall be used to fund
2 the operations of the department. Any law to the contrary
3 notwithstanding, the director may use moneys in the fund
4 deposited under chapter 440G to support public, educational, and
5 governmental access facilities, equipment, and operations in
6 underserved areas pursuant to the standards and conditions
7 adopted in accordance with section 440G-15; provided that the
8 use of moneys shall be allowable only if there are available
9 funds over and above any funds needed for the operation of the
10 department's cable television administration; and provided
11 further that the use does not negatively impact the development
12 of the institutional network, which allows education and
13 government to serve the public statewide. The moneys in the
14 fund may be used to train personnel as the director deems
15 necessary and for any other activity related to compliance
16 resolution.

17 As used in this subsection, unless otherwise required by
18 the context, "compliance resolution" means a determination of
19 whether:

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



- 1 (2) Any person subject to chapter 485 has complied with
2 that chapter;
- 3 (3) Any person submitting any filing required by chapter
4 514E or section 485-6(15) has complied with chapter
5 514E or section 485-6(15); or
- 6 (4) Any person has complied with the prohibitions against
7 unfair and deceptive acts or practices in trade or
8 commerce;

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

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

17 SECTION 2. Section 26-9, Hawaii Revised Statutes, is
18 amended by amending subsection (o) to read as follows:

19 "(o) Every person licensed under any chapter within the
20 jurisdiction of the department of commerce and consumer affairs
21 and every person licensed subject to chapter 485A or registered
22 under chapter 467B shall pay upon issuance of a license, permit,



1 certificate, or registration a fee and a subsequent annual fee
2 to be determined by the director and adjusted from time to time
3 to ensure that the proceeds, together with all other fines,
4 income, and penalties collected under this section, do not
5 surpass the annual operating costs of conducting compliance
6 resolution activities required under this section. The fees may
7 be collected biennially or pursuant to rules adopted under
8 chapter 91, and shall be deposited into the special fund
9 established under this subsection. Every filing pursuant to
10 chapter 514E or section [†]485A-202(a)(26)[†] shall be assessed,
11 upon initial filing and at each renewal period in which a
12 renewal is required, a fee that shall be prescribed by rules
13 adopted under chapter 91, and that shall be deposited into the
14 special fund established under this subsection. Any unpaid fee
15 shall be paid by the licensed person, upon application for
16 renewal, restoration, reactivation, or reinstatement of a
17 license, and by the person responsible for the renewal,
18 restoration, reactivation, or reinstatement of a license, upon
19 the application for renewal, restoration, reactivation, or
20 reinstatement of the license. If the fees are not paid, the
21 director may deny renewal, restoration, reactivation, or
22 reinstatement of the license. The director may establish,



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

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



1 patients' compensation fund as administered under section 5 of
2 Act 232, Session Laws of Hawaii 1984, and fees collected for
3 deposit in the office of consumer protection restitution fund,
4 section 487-14, the real estate appraisers fund, section 466K-1,
5 the real estate recovery fund, section 467-16, the real estate
6 education fund, section 467-19, the contractors recovery fund,
7 section 444-26, the contractors education fund, section 444-29,
8 and the condominium education trust fund, section 514B-71. Any
9 law to the contrary notwithstanding, the director may use the
10 moneys in the fund to employ, without regard to chapter 76,
11 hearings officers and attorneys. All other employees may be
12 employed in accordance with chapter 76. 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 in
18 underserved areas pursuant to the standards and conditions
19 adopted in accordance with section 440G-15; provided that the
20 use of moneys shall be allowable only if there are available
21 funds over and above any funds needed for the operation of the
22 department's cable television administration; and provided



1 further that the use does not negatively impact the development
2 of the institutional network, which allows education and
3 government to serve the public statewide. The moneys in the
4 fund may be used to train personnel as the director deems
5 necessary and for any other activity related to compliance
6 resolution.

7 As used in this subsection, unless otherwise required by
8 the context, "compliance resolution" means a determination of
9 whether:

- 10 (1) Any licensee or applicant under any chapter subject to
11 the jurisdiction of the department of commerce and
12 consumer affairs has complied with that chapter;
- 13 (2) Any person subject to chapter 485A has complied with
14 that chapter;
- 15 (3) Any person submitting any filing required by chapter
16 514E or section [‡]485A-202(a)(26) [‡] has complied
17 with chapter 514E or section [‡]485A-202(a)(26) [‡];
- 18 (4) Any person has complied with the prohibitions against
19 unfair and deceptive acts or practices in trade or
20 commerce; or
- 21 (5) Any person subject to chapter 467B has complied with
22 that chapter;



1 and includes work involved in or supporting the above functions,
2 licensing, or registration of individuals or companies regulated
3 by the department, consumer protection, and other activities of
4 the department.

5 The director shall prepare and submit an annual report to
6 the governor and the legislature on the use of the compliance
7 resolution fund. The report shall describe expenditures made
8 from the fund including non-payroll operating expenses."

9 SECTION 3. Section 440G-15, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§440G-15 Annual fees.** (a) Each cable operator shall pay
12 an annual fee to be determined by the director. The fees so
13 collected under this section shall be deposited into the
14 compliance resolution fund established under section 26-9(o).

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

18 (c) The fees collected under this section and deposited to
19 the compliance resolution fund may be used to support public,
20 educational, or governmental access facilities, equipment, and
21 operations for underserved areas pursuant to the standards and



1 conditions established by a decision and order issued by the
2 director; provided that notwithstanding any law to the contrary:

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

5 (2) Use of the funds to support public, educational, or
6 governmental access facilities, equipment, and
7 operations in underserved areas shall not be subject
8 to any of the requirements of chapter 42F."

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

11 SECTION 5. This Act shall take effect on July 1, 2007;
12 provided that section 2 shall take effect on July 1, 2008.



Report Title:

Cable Television

Description:

Allows the department of commerce and consumer affairs to provide additional funding to support public, educational, and governmental cable television access. (SD2)

