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# 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:**

1           SECTION 1. The legislature finds that the department of  
2 business, economic development, and tourism provides services  
3 and programs that promote economic development. Thus, the  
4 legislature finds that the continued operation of the department  
5 is imperative for the recovery of the economy of the State.

6           The legislature also finds that fees for business- and  
7 commerce-related permits and authorizations have a nexus to the  
8 business climate and economic performance of the State. The  
9 legislature believes, in general, that the success of the  
10 department of business, economic development, and tourism in  
11 promoting the economy logically should result in the increase of  
12 the business activities of most of the fee payers.

13 Consequently, the legislature finds that imposing a surcharge  
14 upon these fees to fund the department is appropriate.

15           The purpose of this Act is to:



- 1 (1) Establish a new special fund for the operation of the  
2 department of business, economic development, and  
3 tourism;
- 4 (2) Impose a surcharge on certain business- and commerce-  
5 related fees; and
- 6 (3) Require the surcharge revenues and \$2,000,000 of  
7 moneys in the compliance resolution fund of the  
8 department of commerce and consumer affairs to be  
9 deposited into the special fund.

10 SECTION 2. Chapter 92, Hawaii Revised Statutes, is amended  
11 by adding a new section to be appropriately designated and to  
12 read as follows:

13 "§92- Surcharge upon fees for certain business- and  
14 commerce-related services by certain departments. (a)

15 Beginning July 1, 2010 through June 30, 2015, there shall be  
16 added a surcharge of \$20 upon every fee charged by:

17 (1) The department of commerce and consumer affairs for  
18 the:

19 (A) Application, issuance, renewal, or reissuance of  
20 a license, permit, or other authorization for a  
21 profession, business, or occupation;



- 1           (B) Examination or audit of a person engaged in a  
2           profession, business, or occupation;
- 3           (C) Filing, registration, or renewal of a corporate  
4           or other business document;
- 5           (D) Application for or registration of a trade name,  
6           trademark, or service mark; or
- 7           (E) Tax on insurance premiums;
- 8       (2) The public utilities commission pertaining to the  
9       regulation of a public utility or the filing of any  
10       document; provided that this paragraph shall not apply  
11       to a telecommunications carrier that is the carrier of  
12       last resort;
- 13       (3) The department of labor and industrial relations  
14       pertaining to the regulation of a hoisting machine  
15       operator, blaster or pyrotechnics operator, safety and  
16       health professional, boiler installer or installation,  
17       and elevator mechanic or installation; and
- 18       (4) The department of taxation for the application,  
19       issuance, renewal, or reissuance of a license, permit,  
20       certificate, or other authorization required under the  
21       following taxes:
- 22       (A) General excise;



- 1           (B) Transient accommodations;  
2           (C) Rental motor vehicle and tour vehicle;  
3           (D) Liquor; cigarette and tobacco;  
4           (E) Liquid fuel;  
5           (F) Public service company; and  
6           (G) Bank and financial corporation.

7           For the purpose of this section, "fee" means a monetary  
8 amount charged by a department for a specified service by the  
9 department, no matter the nomenclature used to describe the  
10 amount charged.

11           (b) Each department subject to subsection (a) shall impose  
12 and collect the appropriate surcharge and transmit the surcharge  
13 revenues to the director of finance for deposit into the  
14 department of business, economic development, and tourism  
15 operation special fund. The director of finance shall establish  
16 the deadlines by which the departments shall transmit the  
17 surcharge revenues to the director.

18           (c) No surcharge shall be added to the following:  
19           (1) Any service, no fee for which is charged;  
20           (2) Any fine for a violation of a state law;  
21           (3) Any fee for the dissemination or copying of a public  
22           record; or



1        (4) Any fee charged to a state, county, or federal  
2                    agency."

3            SECTION 3. Chapter 201, Hawaii Revised Statutes, is  
4 amended by adding a new section to part I to be appropriately  
5 designated and to read as follows:

6            "§201- Department of business, economic development, and  
7 tourism operation special fund. (a) There is established  
8 within the treasury of the State the department of business,  
9 economic development, and tourism operation special fund.

10           (b) Moneys required to be deposited into the special fund  
11 under sections 92- and 26-9(o) shall be so deposited by the  
12 director of finance.

13           Any interest earned on moneys on deposit in the special  
14 fund shall be the realization of the general fund.

15           (c) Moneys in the special fund shall be expended for the  
16 operations of the department, including the salary and fringe  
17 benefits costs of department personnel.

18           (d) If, on June 30, 2015, there are unexpended and  
19 unencumbered moneys in the special fund, the director of finance  
20 shall transfer those moneys to the general fund on July 1,  
21 2015."

1 SECTION 4. 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, upon  
17 initial filing and at each renewal period in which a renewal is  
18 required, a fee that shall be prescribed by rules adopted under  
19 chapter 91, and that shall be deposited into the special fund  
20 established under this subsection. Any unpaid fee shall be paid  
21 by the licensed person, upon application for renewal,  
22 restoration, reactivation, or reinstatement of a license, and by



1 the person responsible for the renewal, restoration,  
2 reactivation, or reinstatement of a license, upon the  
3 application for renewal, restoration, reactivation, or  
4 reinstatement of the license. If the fees are not paid, the  
5 director may deny renewal, restoration, reactivation, or  
6 reinstatement of the license. The director may establish,  
7 increase, decrease, or repeal the fees when necessary pursuant  
8 to rules adopted under chapter 91. The director may also  
9 increase or decrease the fees pursuant to section 92-28.

10 There is created in the state treasury a special fund to be  
11 known as the compliance resolution fund to be expended by the  
12 director's designated representatives as provided by this  
13 subsection. Notwithstanding any law to the contrary, all  
14 revenues, fees, and fines collected by the department shall be  
15 deposited into the compliance resolution fund. Unencumbered  
16 balances existing on June 30, 1999, in the cable television fund  
17 under chapter 440G, the division of consumer advocacy fund under  
18 chapter 269, the financial institution examiners' revolving  
19 fund, section 412:2-109, the special handling fund, section 414-  
20 13, and unencumbered balances existing on June 30, 2002, in the  
21 insurance regulation fund, section 431:2-215, shall be deposited  
22 into the compliance resolution fund. This provision shall not



1 apply to the drivers education fund underwriters fee, sections  
2 431:10C-115 and 431:10G-107, insurance premium taxes and  
3 revenues, revenues of the workers' compensation special  
4 compensation fund, section 386-151, the captive insurance  
5 administrative fund, section 431:19-101.8, the insurance  
6 commissioner's education and training fund, section 431:2-214,  
7 the medical malpractice patients' compensation fund as  
8 administered under section 5 of Act 232, Session Laws of Hawaii  
9 1984, and fees collected for deposit in the office of consumer  
10 protection restitution fund, section 487-14, the real estate  
11 appraisers fund, section 466K-1, the real estate recovery fund,  
12 section 467-16, the real estate education fund, section 467-19,  
13 the contractors recovery fund, section 444-26, the contractors  
14 education fund, section 444-29, and the condominium education  
15 trust fund, section 514B-71.

16 Any law to the contrary notwithstanding, the director may  
17 use the moneys in the fund to employ, without regard to chapter  
18 76, hearings officers and attorneys. All other employees may be  
19 employed in accordance with chapter 76. Any law to the contrary  
20 notwithstanding, the moneys in the fund shall be used to fund  
21 the operations of the department[-]; provided that by January 1  
22 of each fiscal year, or as soon thereafter as possible, the sum





1 of \$2,000,000 shall be deposited with the director of finance to  
2 the credit of the department of business, economic development,  
3 and tourism operation special fund established under section  
4 201- ; provided further that the moneys deposited shall not be  
5 derived from regulatory fees and shall be derived from taxes,  
6 penalties, and other levies set at statutorily prescribed rates  
7 or amounts. The moneys in the fund may be used to train  
8 personnel as the director deems necessary and for any other  
9 activity related to compliance resolution.

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

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



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 5. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 6. This Act shall take effect on July 1, 2010, and  
17 shall be repealed on June 30, 2015, and section 26-9(o), Hawaii  
18 Revised Statutes, shall be reenacted in the form in which it  
19 read on the day before the effective date of this Act.



**Report Title:**

Department Of Business, Economic Development, And Tourism  
Operation Special Fund

**Description:**

Establishes the Department of Business, Economic Development, and Tourism Operation Special Fund for the operation of the department. Imposes a surcharge on the fees charged by certain departments for certain business- and commerce-related authorizations and services. Requires the deposit of the surcharge revenues, as well as \$2 million annually from the Compliance Resolution Fund, into the special fund. Takes effect on July 1, 2010, and sunsets on June 30, 2015. (HB1926 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

