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# A BILL FOR AN ACT

RELATING TO ACTIVITY DESKS.

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

1           SECTION 1. Chapter 468M, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§468M- Record keeping requirements for client trust  
5 accounts. (a) An activity desk shall maintain all books and  
6 records necessary to comply with this chapter and any rules  
7 adopted pursuant to this chapter and shall make all records  
8 relating to client trust accounts available for inspection and  
9 audit within three business days of a written request by the  
10 director. Nothing in this section shall prevent the director  
11 from inspecting or auditing the books and records of an activity  
12 desk as otherwise provided pursuant to this chapter or rules  
13 adopted by the director pursuant to chapter 91.

14           (b) An activity desk shall keep and maintain copies of all  
15 bank statements, deposit slips, cancelled checks, drafts, and  
16 wire or electronic transaction documents relating to client  
17 trust accounts for a period of at least two years."

1 SECTION 2. Section 468M-3, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[~~§~~§468M-3[~~§~~] **Prohibited acts.** No activity desk shall  
4 engage in any of the following practices:

5 (1) Covering, concealing, or obscuring the name, address,  
6 or telephone number of an activity provider in any  
7 card or brochure;

8 (2) Placing a telephone number, address, or other  
9 information on any card, brochure, or other  
10 advertising material produced or published by an  
11 activity provider, whether by decal, sticker, stamp,  
12 or otherwise, without identifying the activity desk by  
13 name [~~and~~], address[~~+~~], and registration number;

14 (3) Using a promotional card or brochure that does not  
15 clearly display the name and telephone number of the  
16 activity provider whose activity is being sold or  
17 booked when the activity is located in this State;

18 (4) Withdrawing any funds of a consumer from a client  
19 trust account, other than a sales commission up to a  
20 maximum of fifteen per cent or to make a refund to the  
21 consumer, until the activity provider has been paid;

22 [~~or~~]

1 (5) Failing to possess a current and valid registration  
2 prior to engaging in business or advertising as an  
3 activity desk[~~7~~]; or

4 (6) Failing to obtain full payment for activities prior to  
5 or at the time activity reservations are booked or  
6 placed with the activity provider or within three  
7 business days thereafter, except where the reservation  
8 specifically provides for direct payment of the  
9 amounts owed to the activity provider at the time of  
10 the activity."

11 SECTION 3. Section 468M-9, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "[~~7~~]**\$468M-9[~~7~~]** **Client trust accounts; maintenance of and**  
14 **withdrawal from such accounts.** (a) Within three business days  
15 of receipt, an activity desk shall deposit all sums received  
16 from a consumer[~~7~~] for excursions or activities offered by the  
17 activity desk in a trust account maintained in a federally  
18 insured financial institution located in Hawaii. All sums paid  
19 by any person to an activity desk for activities furnished by an  
20 activity provider shall be held in trust for the benefit of the  
21 person making the payment and the activity provider. The

1 activity desk shall be considered the trustee of the funds paid  
2 into the client trust account, less any commission.

3 (b) The trust account required by this section shall be  
4 established and maintained for the benefit of the consumers  
5 paying money to the activity desk~~[=]~~ and the activity provider.

6 The activity desk shall not in any manner encumber the amounts  
7 in trust and shall not withdraw money therefrom except:

8 (1) In partial or full payment for excursion or activities  
9 to the activity provider directly providing the  
10 services; or

11 (2) To make refunds as required by this chapter.

12 (c) This section shall not prevent the withdrawal from the  
13 trust account of:

14 (1) The amount of the sales commission, up to a maximum of  
15 fifteen per cent;

16 (2) Any interest earned and credited to the trust account;

17 (3) Refunds; or

18 (4) Remaining funds of a consumer once the activity  
19 provider has been paid.

20 (d) At the time of registration, the activity desk shall  
21 file with the department the account number and the name of the  
22 financial institution at which the trust account is held [~~or~~

1 ~~submit a bond or letter of credit as provided in section~~  
2 ~~468M-10].~~ The activity desk shall notify the department of any  
3 change in the account number or location within one business day  
4 of the change.

5 ~~[(e) The director may, by rule, allow for the use of other~~  
6 ~~types of funds or accounts provided that the protection for~~  
7 ~~consumers is no less than that provided by this section.]"~~

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

10 SECTION 5. This Act shall take effect on July 1, 2010.

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**Report Title:**

Activity Desks; Client Trust Accounts

**Description:**

Establishes record keeping requirements for client trust accounts held by activity desks. Clarifies that activity desks shall include registration numbers on all advertising materials. Prohibits an activity desk from failing to obtain full payment for activities prior to or at the time activity reservations are booked or placed with the activity provider, or within three business days, except where the reservation specifically provides for direct payment of the amounts owed. (SD1)

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