
A BILL FOR AN ACT

RELATING TO EMPLOYMENT.

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

1 SECTION 1. Chapter 237, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§237- Successor employer general excise tax exemption.

5 Notwithstanding any provision of this chapter to the contrary,
6 this chapter shall not apply to a successor employer under
7 section 394B-B, for one year, beginning on the date that the
8 successor employer starts conducting business in this state."

9 SECTION 2. Chapter 394B, Hawaii Revised Statutes, is
10 amended by adding a two new sections to be appropriately
11 designated and to read as follows:

12 "§394B-A Worker retention in the event of a divestiture.

13 (a) In the event of a divestiture of a covered establishment,
14 the successor employer:

15 (1) Shall hire all incumbent nonsupervisory and
16 nonconfidential employees, unless otherwise provided
17 in this section;



- 1 (2) Shall not require incumbent employees to file
2 employment applications with the successor employer to
3 be considered for hire unless existing employee files
4 are incomplete;
- 5 (3) May conduct pre-hire screening of the incumbent
6 employees not prohibited by law, including criminal
7 history record checks executed in accordance with
8 section 378-2.5 and drug screening executed in
9 accordance with chapter 329B;
- 10 and
- 11 (4) May retain less than one hundred per cent of incumbent
12 employees if:
- 13 (A) The business of the successor employer is
14 substantially dissimilar to the former employer's
15 business; or
- 16 (B) The human resource needs of the successor
17 employer are reduced, resulting in the reduction
18 of employees needed;
- 19 provided that the number of employees to be dislocated
20 shall be in direct proportion to the reduction in the
21 total human resource needs of the successor employer.



1 For the purposes of this subsection, "covered establishment"
2 means any industrial, commercial, or other business entity that
3 employed one hundred or more persons at any time in the
4 preceding twelve-month period.

5 (b) This section shall not be construed to abrogate an
6 employer's right to manage the employer's employees.

7 (c) An employer found in violation of this section shall
8 pay to compensate the dislocated worker for the difference
9 between the employee's salary or wages earned under the
10 employee's former employer and the dislocated worker's
11 unemployment insurance benefits received for the covered period.

12 (d) The director shall adopt rules in accordance with
13 chapter 91 to carry out the purposes of this section.

14 **§394B-B Successor employer general excise tax exemption.**

15 A successor employer under section 394B-A, shall be exempt from
16 the tax under chapter 237 for one year, beginning on the date
17 that the successor employer starts conducting business in this
18 state, as provided in section 237- ."

19 SECTION 3. In codifying the new sections added by section
20 2 of this Act, the revisor of statutes shall substitute
21 appropriate section numbers for the letters used in designating
22 the new sections in this Act.



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2 SECTION 4. This Act does not affect rights and duties that
3 matured, penalties that were incurred, and proceedings that were
4 begun, before its effective date.

5 SECTION 5. New statutory material is underscored.

6 SECTION 6. This Act shall take effect on July 1, 2009.



Report Title:

Employment; Worker Retention

Description:

Establishes job security requirements upon the divestiture of a covered establishment employing 100 or more persons. Provides a general excise tax exemption for the first year in which a successor employer is subject to the requirements (SB688 HD2)

