THE SENATE
TWENTY-NINTH LEGISLATURE, 2018
STATE OF HAWAII

S.B. NO. 2770 S.D. 1 H.D. 1

A BILL FOR AN ACT

RELATING TO HEALTH CLUBS.

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

SECTION 1. Chapter 486N, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**§486N- Security requirements for health clubs.** (a) Every health club shall maintain a surety bond, irrevocable letter of credit, or a guaranty agreement secured by a certificate of deposit naming the director as the obligee, unless the health club:

(1) Does not collect payment for more than one month of service;

(2) Does not collect annual, initiation, enrollment, or other fees that total more than $200; and

(3) Does not collect payments that are identified as payment for specific future monthly services.

(b) The surety bond, irrevocable letter of credit, or certificate of deposit shall be:

(1) In an amount no less than $100,000;

(2) Conditioned to provide payment to any buyer who:

(A) Is contractually obligated to pay for services more than one month in advance of the date the services are provided to the buyer; and

(B) Suffers loss of money paid to a health club due to the cessation of operation of the health club;

(3) In a form approved by the director; and

(4) Issued by a surety authorized to do business in the State or from a Hawaii state or federally chartered bank.

(c) A health club shall not provide the required coverage through multiple surety bonds, irrevocable letters of credit, or certificates of deposit but shall provide a single surety bond, letter of credit, or certificate of deposit.

(d) A change in ownership shall not release, cancel, or terminate liability under any surety bond, irrevocable letter of credit, or certificate of deposit previously filed unless the director agrees in writing to the release, cancellation, or termination. The director may agree to the release, cancellation, or termination of the bond, letter of credit, or certificate of deposit if:

(1) The new owner has filed a new surety bond, irrevocable letter of credit, or guaranty agreement secured by a certificate of deposit in accordance with subsection (b); or

(2) The former owner has refunded all unearned advance fees paid by the buyers.

(e) The surety on a surety bond, bank extending the line of credit, or guarantor of a guaranty agreement secured by a certificate of deposit filed under the provisions of this section shall be released sixty days after the surety, bank, or guarantor serves written notice of the release to the director at the director's office by certified mail. Service shall be effective upon the receipt of the written notice by the director.

(f) The surety, bank, or guarantor shall provide payment to any buyer whom the director finds to have met the conditions of subsection (b)(2), but only if the buyer files a claim no later than one year from the date on which the health club ceases operation.

(g) The health club shall provide the following information to the director within fifteen business days of the cessation of operation of the health club:

(1) A list of the names, electronic mail addresses, and postal mail addresses of all members of the health club;

(2) The original or a copy of all health club contracts; and

(3) A record of all payments received under the membership agreements."

SECTION 2. Section 486N-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No health club shall be considered fully operative until [~~substantially~~]:

(1) Substantially all of the equipment and services listed in accordance with section 486N-9 are actually available for use by buyers[~~.~~]; and

(2) The health club:

(A) Has provided the director with a surety bond, irrevocable letter of credit, or guaranty

agreement secured by a certificate of deposit meeting the requirements of section 486N- ; or

(B) Is exempt from the security requirement pursuant to section 486N- (a)."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2050.

S.B. NO. 2770 S.D. 1 H.D. 1

Report Title:
Health Clubs; Security Requirement

Description:
Requires health clubs to maintain a surety bond, letter of credit, or guaranty agreement secured by a certificate of deposit of at least $100,000 to be paid to any member who suffers loss of money paid due to the cessation of operation of a health club. (SB2770 HD1)

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