

---

---

# A BILL FOR AN ACT

RELATING TO HEALTH.

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

1           SECTION 1. The legislature finds that federal civil  
2 monetary penalties may be assessed on medicare certified skilled  
3 nursing facilities by the Department of Health and Human  
4 Services Centers for Medicare and Medicaid Services and shared  
5 with states. Monetary penalties are assessed when facilities  
6 are cited for non-compliance with federal certification  
7 requirements as found during federal recertification surveys  
8 conducted in Hawaii on behalf of the Centers for Medicare and  
9 Medicaid Services by the department of health office of health  
10 care assurance. Further, the legislature finds that the Centers  
11 for Medicare and Medicaid Services have implemented the civil  
12 money penalty reinvestment program, a three-year effort to  
13 reduce adverse events, improve staffing quality, and improve  
14 dementia care in nursing homes. The Centers for Medicare and  
15 Medicaid Services must approve any initiatives that are aimed to  
16 improve the health and well-being of residents such as music and



1 memory and education programs. Facilities are not allowed to  
2 use funds to pay staff salaries or for construction purposes.

3 Further, the Centers for Medicare and Medicaid Services  
4 asks that states not have statutes limiting the dollar amount of  
5 federal civil monetary penalty funds awarded to projects that  
6 benefit nursing home residents. The Centers for Medicare and  
7 Medicaid Services considers it a reasonable goal for states to  
8 award at least fifty per cent of the fund balance to these  
9 projects, beyond funds that are held in an emergency reserve  
10 fund. Further, the legislature finds that a civil monetary  
11 penalty special fund, into which monetary penalties shared with  
12 Hawaii are deposited and expended, was created in the department  
13 of health. The civil monetary penalty special fund currently  
14 has a spending ceiling of \$30,000 per year. The ceiling was  
15 determined during a time of infrequent and lower amounts of  
16 assessed monetary penalties. However, during recent years, the  
17 special fund balance has increased significantly and, after the  
18 deposit of \$371,324 during fiscal year 2018-2019, the balance as  
19 of June 30, 2019, was \$1,051,157.

20 The purpose of this Act is to amend the civil monetary  
21 penalty special fund statute to eliminate the spending ceiling



1 to align with the federal civil money penalty reinvestment  
2 program, thus allowing the department of health to establish an  
3 appropriate spending ceiling through the state budget process.

4 SECTION 2. Section 321-30.2, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6 "(a) There is established the civil monetary penalty  
7 special fund, to be administered by the department of health.  
8 The fund shall consist of moneys collected by the United States  
9 Department of Health and Human Services Centers for Medicare and  
10 Medicaid Services as federally imposed civil monetary penalty  
11 funds when health care facilities or agencies do not meet  
12 medicare certification requirements as determined by the  
13 department of health when it conducts medicare certification  
14 surveys and complaint investigations on health care facilities  
15 or agencies in Hawaii in accordance with section 1864 of the  
16 Social Security Act. Moneys in the fund shall be expended by  
17 the department of health as approved by the Centers for Medicare  
18 and Medicaid Services. [~~Not more than \$30,000 of the moneys]~~  
19 Moneys in the fund may be used during any fiscal year for the  
20 activities carried out by the department of health as approved  
21 by the Centers for Medicare and Medicaid Services."



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

3 SECTION 4. This Act shall take effect upon its approval.



**Report Title:**

DOH; Medicare; Civil Monetary Penalties; Civil Monetary Penalty Special Fund

**Description:**

Repeals the spending ceiling for moneys in the civil monetary penalty special fund for use by the Department of Health for Centers for Medicare and Medicaid Services-approved compliance activities. (SD2)

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

