
A BILL FOR AN ACT

RELATING TO TOBACCO MANUFACTURER QUALIFIED ESCROW FUNDS.

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

1 SECTION 1. Chapter 675, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§675- Assignment of interest in qualified escrow fund
5 to the State. (a) A tobacco product manufacturer that elects
6 to place funds into a qualified escrow fund pursuant to section
7 675-3(b), may assign to the State the tobacco product
8 manufacturer's interest in any moneys in the qualified escrow
9 fund.

10 (b) An assignment executed pursuant to subsection (a) is
11 permanent and irrevocable and applies to all moneys in the
12 qualified escrow fund, including:

13 (1) All moneys deposited into the qualified escrow fund
14 before the tobacco product manufacturer executes the
15 assignment;



1 (2) All moneys deposited into the qualified escrow fund
2 after the tobacco product manufacturer executes the
3 assignment; and

4 (3) Any interest or other appreciation earned on any
5 moneys in the qualified escrow fund.

6 (c) A qualified escrow agreement, as referenced in section
7 486P-5(c)(4), may be amended by the parties to the agreement for
8 the purpose of executing an assignment pursuant to subsection
9 (a).

10 (d) An assignment executed pursuant to subsection (a)
11 shall be in writing and be signed by the assignee and the
12 assignor or by an authorized agent or representative thereof.

13 An executed assignment becomes enforceable after a copy of the
14 assignment is delivered to the attorney general and the
15 financial institution where the qualified escrow fund is
16 maintained.

17 (e) Notwithstanding the provisions of section 675-3(b),
18 funds assigned to the State shall be deposited in the Hawaii
19 tobacco settlement special fund established pursuant to section
20 328L-2.

21 (f) Nothing in this section shall operate to:



1 (1) Waive the right of the State to bring a claim against
2 a tobacco product manufacturer, except that any funds
3 assigned to the State under this section shall be
4 credited on a dollar-for-dollar basis against any
5 judgment or settlement; or

6 (2) Relieve a tobacco product manufacturer from any
7 obligation or duty imposed pursuant to chapters 245,
8 486P, or this chapter.

9 (g) The department of the attorney general may adopt rules
10 pursuant to chapter 91 necessary to implement this section.

11 (h) When a qualified escrow fund has been deemed abandoned
12 by a tobacco product manufacturer according to the criteria
13 established by the applicable financial institution, the
14 financial institution maintaining the qualified escrow fund and
15 acting as the escrow agent may file a petition in circuit court
16 for an order authorizing a transfer of funds in the qualified
17 escrow fund to the State. The petition shall state the factual
18 and legal basis for the relief sought. The financial
19 institution shall serve the petition on the attorney general at
20 the time the petition is filed. Upon a finding that the fund
21 has been abandoned, the court may order the transfer of funds in



1 the qualified escrow fund to the Hawaii tobacco settlement
2 special fund established pursuant to section 328L-2."

3 SECTION 2. New statutory material is underscored.

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



Report Title:

Tobacco Manufacturer Qualified Escrow Funds; Assignment

Description:

Provides a mechanism to assign nonparticipating tobacco manufacturers' qualified escrow fund balances to the State. Provides a mechanism for the financial institution acting as the escrow agent of the qualified escrow fund to petition the courts to authorize transfer of funds to the State when the qualified escrow fund is abandoned. (SD2)

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