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# 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)  
11       shall be permanent and irrevocable and shall apply to all moneys  
12       in the qualified escrow fund, including all moneys deposited  
13       into the qualified escrow fund before the tobacco product  
14       manufacturer executes the assignment, all moneys deposited into  
15       the qualified escrow fund after the tobacco product manufacturer  
16       executes the assignment, and any interest or other appreciation  
17       earned on any moneys in the qualified escrow fund.



1        (c) A qualified escrow agreement, as referenced in section  
2        486P-5(c)(4), may be amended by the parties to the agreement for  
3        the purpose of executing an assignment pursuant to subsection  
4        (a).

5        (d) An assignment executed pursuant to subsection (a)  
6        shall be in writing and shall be signed by the assignee and the  
7        assignor or by an authorized agent or representative thereof.  
8        An executed assignment becomes enforceable after a copy of the  
9        assignment is delivered to the attorney general and the  
10       financial institution where the qualified escrow fund is  
11       maintained.

12       (e) Notwithstanding the provisions of section 675-3(b),  
13       funds assigned to the State shall be deposited in the Hawaii  
14       tobacco settlement special fund established pursuant to section  
15       328L-2.

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

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



1       (2) Relieve a tobacco product manufacturer from any  
2       obligation or duty imposed pursuant to chapter 245,  
3       chapter 486P, or this chapter.

4       (g) When a qualified escrow fund has been deemed abandoned  
5       by a tobacco product manufacturer according to the criteria set  
6       by each financial institution, the financial institution  
7       maintaining the qualified escrow fund and acting as the escrow  
8       agent may file a petition in circuit court for an order  
9       authorizing a transfer of funds in the qualified escrow fund to  
10       the State. The petition shall state the factual and legal bases  
11       for the relief sought. The financial institution shall serve  
12       the petition on the attorney general at the time the petition is  
13       filed. Upon a finding that the fund has been abandoned, the  
14       court may order the transfer of funds in the qualified escrow  
15       fund to the Hawaii tobacco settlement special fund established  
16       pursuant to section 328L-2.

17       (h) The department of the attorney general may adopt rules  
18       pursuant to chapter 91 necessary to implement this section."

19       SECTION 2. New statutory material is underscored.

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



**Report Title:**

Tobacco Manufacturer Qualified Escrow Funds; Assignment to the State

**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. (HD1)

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

