
A BILL FOR AN ACT

RELATING TO FRANCHISE TAX.

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

1 SECTION 1. Section 26-9, Hawaii Revised Statutes, is
2 amended by amending subsection (o) to read as follows:

3 "(o) Every person licensed under any chapter within the
4 jurisdiction of the department of commerce and consumer affairs
5 and every person licensed subject to chapter 485A or registered
6 under chapter 467B shall pay upon issuance of a license, permit,
7 certificate, or registration a fee and a subsequent annual fee
8 to be determined by the director and adjusted from time to time
9 to ensure that the proceeds, together with all other fines,
10 income, and penalties collected under this section, do not
11 surpass the annual operating costs of conducting compliance
12 resolution activities required under this section. The fees may
13 be collected biennially or pursuant to rules adopted under
14 chapter 91, and shall be deposited into the special fund
15 established under this subsection. Every filing pursuant to
16 chapter 514E or section 485A-202(a)(26) shall be assessed, upon
17 initial filing and at each renewal period in which a renewal is
18 required, a fee that shall be prescribed by rules adopted under

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1 chapter 91, and that shall be deposited into the special fund
2 established under this subsection. Any unpaid fee shall be paid
3 by the licensed person, upon application for renewal,
4 restoration, reactivation, or reinstatement of a license, and by
5 the person responsible for the renewal, restoration,
6 reactivation, or reinstatement of a license, upon the
7 application for renewal, restoration, reactivation, or
8 reinstatement of the license. If the fees are not paid, the
9 director may deny renewal, restoration, reactivation, or
10 reinstatement of the license. The director may establish,
11 increase, decrease, or repeal the fees when necessary pursuant
12 to rules adopted under chapter 91. The director may also
13 increase or decrease the fees pursuant to section 92-28.

14 There is created in the state treasury a special fund to be
15 known as the compliance resolution fund to be expended by the
16 director's designated representatives as provided by this
17 subsection. Notwithstanding any law to the contrary, and as
18 provided by section 241-7, all revenues, fees, and fines
19 collected by the department shall be deposited into the
20 compliance resolution fund. Unencumbered balances existing on
21 June 30, 1999, in the cable television fund under chapter 440G,



1 the division of consumer advocacy fund under chapter 269, the
2 financial institution examiners' revolving fund, section
3 412:2-109, the special handling fund, section 414-13, and
4 unencumbered balances existing on June 30, 2002, in the
5 insurance regulation fund, section 431:2-215, shall be deposited
6 into the compliance resolution fund. This provision shall not
7 apply to the drivers education fund underwriters fee, sections
8 431:10C-115 and 431:10G-107, insurance premium taxes and
9 revenues, revenues of the workers' compensation special
10 compensation fund, section 386-151, the captive insurance
11 administrative fund, section 431:19-101.8, the insurance
12 commissioner's education and training fund, section 431:2-214,
13 the medical malpractice patients' compensation fund as
14 administered under section 5 of Act 232, Session Laws of Hawaii
15 1984, and fees collected for deposit in the office of consumer
16 protection restitution fund, section 487-14, the real estate
17 appraisers fund, section 466K-1, the real estate recovery fund,
18 section 467-16, the real estate education fund, section 467-19,
19 the contractors recovery fund, section 444-26, the contractors
20 education fund, section 444-29, the condominium education trust
21 fund, section 514B-71, and the mortgage foreclosure dispute



1 resolution special fund, section 667-86. Any law to the
2 contrary notwithstanding, the director may use the moneys in the
3 fund to employ, without regard to chapter 76, hearings officers
4 and attorneys. All other employees may be employed in
5 accordance with chapter 76. Any law to the contrary
6 notwithstanding, the moneys in the fund shall be used to fund
7 the operations of the department. The moneys in the fund may be
8 used to train personnel as the director deems necessary and for
9 any other activity related to compliance resolution.

10 A separate special subaccount of the compliance resolution
11 fund, to be known as the post-secondary education authorization
12 special subaccount, shall be established for fees collected by
13 the department of commerce and consumer affairs pursuant to
14 chapter 305J. The special subaccount shall be governed by
15 section 305J-19.

16 As used in this subsection, unless otherwise required by
17 the context, "compliance resolution" means a determination of
18 whether:

- 19 (1) Any licensee or applicant under any chapter subject to
20 the jurisdiction of the department of commerce and
21 consumer affairs has complied with that chapter;



(2) Any person subject to chapter 485A has complied with that chapter;

(3) Any person submitting any filing required by chapter 514E or section 485A-202(a)(26) has complied with chapter 514E or section 485A-202(a)(26);

(4) Any person has complied with the prohibitions against unfair and deceptive acts or practices in trade or commerce; or

(5) Any person subject to chapter 467B has complied with that chapter;

and includes work involved in or supporting the above functions, licensing, or registration of individuals or companies regulated by the department, consumer protection, and other activities of the department.

The director shall prepare and submit an annual report to the governor and the legislature on the use of the compliance resolution fund. The report shall describe expenditures made from the fund including non-payroll operating expenses."

SECTION 2. Section 241-7, Hawaii Revised Statutes, is amended to read as follows:



1 "§241-7 Disposition of funds. ~~[All taxes collected under~~
2 ~~this chapter shall be state realizations; provided that, by~~
3 ~~June 30 of]~~ From the revenues collected under this chapter each
4 fiscal year, the sum [of] representing the first \$2,000,000 of
5 such revenues shall be deposited with the director of finance to
6 the credit of the compliance resolution fund as established
7 pursuant to section 26-9(o) ~~[-]~~ before tax credits are realized.
8 Any revenues collected under this chapter in excess of
9 \$2,000,000 at the close of any fiscal year shall be deposited
10 into the general fund."

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

13 SECTION 4. This Act shall take effect upon its approval;
14 provided that section 2 of this Act shall apply to taxable years
15 beginning after December 31, 2021.



Report Title:

Franchise Tax; Compliance Resolution Fund; Division of Financial Institutions

Description:

Ensures that the Compliance Resolution Fund receives \$2,000,000 of the revenues collected under the franchise tax for use by the Division of Financial Institutions of the Department of Commerce and Consumer Affairs. Requires excess revenues collected under the franchise tax to be deposited into the general fund. (CD1)

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

