

ACT 93

S.B. NO. 3044

A Bill for an Act Relating to Tobacco Manufacturer Qualified Escrow Funds.

Be It Enacted by the Legislature of the State of Hawaii:

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

“§675- Assignment of interest in qualified escrow fund to the State. (a)

A tobacco product manufacturer that elects to place funds into a qualified escrow fund pursuant to section 675-3(b) may assign to the State the tobacco product manufacturer’s interest in any moneys in the qualified escrow fund.

(b) An assignment executed pursuant to subsection (a) shall be permanent and irrevocable and shall apply to all moneys in the qualified escrow fund, including all moneys deposited into the qualified escrow fund before the tobacco product manufacturer executes the assignment, all moneys deposited into the qualified escrow fund after the tobacco product manufacturer executes the assignment, and any interest or other appreciation earned on any moneys in the qualified escrow fund.

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

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

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

(f) Nothing in this section shall operate to:

- (1) Waive the right of the State to bring a claim against a tobacco product manufacturer, except that any funds assigned to the State under this section shall be credited on a dollar-for-dollar basis against any judgment or settlement; or
- (2) Relieve a tobacco product manufacturer from any obligation or duty imposed pursuant to chapter 245, chapter 486P, or this chapter.

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

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

SECTION 2. New statutory material is underscored.¹

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

(Approved June 17, 2022.)

Note

1. Edited pursuant to HRS §23G-16.5.