

S.B. NO. 2770

JAN 24 2018

A BILL FOR AN ACT

RELATING TO HEALTH CLUBS.

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

SECTION 1. Chapter 486N, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§486N- Surety bond requirements for health clubs. (a)
Every health club shall maintain a surety bond naming the
director as the obligee, unless the health club:

(1) Does not collect payment for more than one month of
service;

(2) Does not collect annual, initiation, enrollment, or
other fees that total more than \$200; and

(3) Does not collect payments that are
identified as payment for specific future monthly
services.

(b) The surety bond shall be:

(1) In an amount not less than \$100,000;

(2) Conditioned to provide payment to any buyer who:

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1 (A) Is contractually obligated to pay for services
2 more than one month in advance of the date the
3 services are provided to the buyer; and

4 (B) Suffers loss of money paid to a health club due
5 to the insolvency of the health club or cessation
6 of operation of the health club;

7 (3) In a form approved by the director; and

8 (4) Issued by a surety authorized to do business in the
9 State.

10 (c) A health club shall not provide the required coverage
11 through multiple surety bonds but shall provide a single surety
12 bond.

13 (d) A change in ownership shall not release, cancel, or
14 terminate liability under any surety bond previously filed
15 unless the director agrees in writing to the release,
16 cancellation, or termination. The director may agree to the
17 release, cancellation, or termination of the bond if:

18 (1) The new owner has filed a new surety bond in
19 accordance with subsection (b); or

20 (2) The former owner has refunded all unearned
21 advance fees paid by the buyers.

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1 (e) The surety on a surety bond filed under the provisions
2 of this section shall be released sixty days after the surety
3 serves written notice of the release to the director at the
4 director's office by certified mail. Service shall be effective
5 upon the receipt of the written notice by the director.

6 (f) The surety shall provide payment to any buyer whom the
7 director finds to have met the conditions of subsection (b) (2),
8 but only if the buyer files a claim no later than one year from
9 the date in which the health club ceases operation.

10 (g) The health club shall provide the following
11 information to the director within fifteen business days of the
12 insolvency or cessation of operation of the health club:

13 (1) A list of the names, electronic mail addresses, and
14 postal mail addresses of all members of the health
15 club;

16 (2) The original or a copy of all membership agreements;
17 and

18 (3) A record of all payments received under the membership
19 agreements."

20 SECTION 2. Section 486N-10, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:

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"(a) No health club shall be considered fully operative until [~~substantially~~]:

(1) Substantially all of the equipment and services listed in accordance with section 486N-9 are actually available for use by buyers[-]; and

(2) The health club:

(A) Has provided the director with a surety bond meeting the requirements of section 486N- ; or

(B) Is exempt from the surety bond requirement pursuant to section 486N- (a)."

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

SECTION 4. This Act, upon its approval, shall take effect on January 1, 2019.

INTRODUCED BY: _____



BY REQUEST

S.B. NO. 2170

Report Title:

Health Clubs; Surety Bond Requirement

Description:

Requires health clubs to maintain a surety bond of at least \$100,000 to be paid to any member who suffers loss of money paid due to the insolvency or cessation of operation of a health club.

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

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO HEALTH CLUBS.

PURPOSE: The purpose of this bill is to require health clubs that collect more than one month of service from a buyer to maintain a \$100,000 surety bond that names the Director of the Department of Commerce and Consumer Affairs (Department) as the obligee, to operate. The bond provides consumers a means to recover loss of money paid in advance for fees and dues paid to a health club.

MEANS: Add a new section to chapter 486N and amend section 486N-10(a), Hawaii Revised Statutes (HRS).

JUSTIFICATION: As currently written, chapter 486N, HRS, does not protect consumers when a health club goes out of business. Recently, Hawaii consumers experienced several health club closures. In those instances, consumers who paid for services had no recourse in recovering dues and fees paid in advance.

Impact on the public: This proposed measure will enhance consumer protection by providing consumers a means to recover loss of money paid to a health club for membership dues and initiation fees if a health club ceases operation.

Impact on the department and other agencies: The Department will need to create procedures to accept, review, and maintain records of the surety bonds submitted by the health clubs and to adjudicate claims made by individuals under the security bond. It is not anticipated that this bill will impact other governmental agencies.

GENERAL FUNDS: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: CCA-110.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: January 1, 2019.