
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 State. (a) A tobacco product manufacturer that elects to
6 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 all moneys deposited into the
13 qualified escrow fund before the tobacco product manufacturer
14 executes the assignment, all moneys deposited into the qualified
15 escrow fund after the tobacco product manufacturer executes the
16 assignment, and any interest or other appreciation earned on any
17 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 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 486P, or 675.

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

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

19 SECTION 2. New statutory material is underscored.

20 SECTION 3. This Act shall take effect on January 1, 2222.



H.B. NO. 2076 H.D. 1

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. Effective 1/1/2222. (HD1)

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